

ORDINANCE NO. NS-2161

AN ORDINANCE AMENDING BEND CODE TITLE XII BY ADDING A NEW CHAPTER 12.10 SYSTEM DEVELOPMENT CHARGES AND AMENDING BEND CODE CHAPTER I BY DELETING SECTIONS 1.900 THROUGH 1.932

Findings

- A. The City of Bend is in the process of a thorough revision of the Bend Code.
- B. City staff has reviewed the current provisions relating to the City's System Development Charges in Bend Code Section 1.900 through 1.932 and proposes amendments, including moving the provisions to a new Chapter 12.10.
- C. Staff met with interested members of the public and briefed the Council regarding the amendments before bringing them to council.

Based on these findings

THE CITY OF BEND ORDAINS AS FOLLOWS:

- Section 1. Bend Code Chapter XII is amended by adding a new Chapter 12.10 System Development Charges to read as shown in Exhibit A.
- Section 2. Bend Code Chapter I is amended by deleting Sections 1.900 through 1.932.
- Section 3. The code amendments made by this ordinance supersede any inconsistent material in any previous ordinance or other enactment of the City.

Read for the first time on April 6, 2011.

Read for the second time on April 20, 2011.

Adopted by roll call vote on April 20, 2011.

YES: 4 NO: 2



Jeff Eager, Mayor

ATTEST:

Patricia S. Stell
Patricia Stell, City of Bend Recorder

Approved as to form:

Leary F. Heston
Legal Counsel

EXHIBIT A

CHAPTER 12.10 SYSTEM DEVELOPMENT CHARGES

12.10.010 Purpose

This subchapter is intended to authorize system development charges ("SDCs") to impose a portion of the cost of capital improvements for water, wastewater, storm drainage, and transportation on developments and redevelopments that create the need for or increase the demands on capital improvements, consistent with state law. The provisions of this chapter are to be interpreted to be consistent with state law.

12.10.020 Scope and Interpretation

The SDCs authorized by this ordinance are separate from and in addition to any applicable tax, assessment, charge, or fee. SDCs are not taxes on property or on a property owner as a direct consequence of ownership of property within the meaning of Article XI Section 11B, of the Oregon Constitution or the legislation implementing that section and are not subject to the limitations imposed by that section.

12.10.030 Definitions

The following definitions apply in this chapter.

- (1) "Active use" means day-to-day residential, commercial, industrial or institutional use.
- (2) "Applicant" means the person who applies for a residential, commercial, industrial, or other connection to the City's water supply system or sanitary sewer system and/or who develops property within the City or within the City's Urban Growth Boundary.
- (3) "Building" means any structure, either temporary or permanent, built for the support, shelter, or enclosure of persons or property of any kind and for any public, commercial, industrial, or other use. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintenance during the term of a building permit.
- (4) "Capital Improvements" means public facilities or assets used for:
 - (A) Wastewater collection, transmission, treatment and disposal, or any combination.
 - (B) Water supply, treatment, distribution, storage, metering, fire protection, or any combination.
 - (C) Drainage and flood control.
 - (D) Transportation facilities including vehicle and multi-modal.

(5) "Cost of a Qualified Public Improvement" means the actual cost of constructing the qualified public improvement, adjusted by the percentage that the public improvement is SDC improvement fee eligible (the growth portion). "Cost of a Qualified Public Improvement" does not include permit fees, administrative charges and similar charges.

(6) "Developer" means the person who constructs a qualified public improvement entitled to a credit for the cost of the qualified public improvement.

(7) "Development" means any construction of improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and water and sewer fixtures. Development includes redevelopment of property requiring a building permit. Development includes improved open areas such as plazas and walkways.

(8) "Owner" means the owner or owners of record title or the purchaser(s) under a recorded land sales agreement, and other persons having an interest of record in the described real property.

(9) "Permittee" means the person to whom a building permit, development permit, a permit or plan approval to connect to the sewer system, city water system, or right-of-way access permit is issued.

(10) "Qualified Public Improvement" means a capital improvement that is:

(A) Required as a condition of development approval;

(B) Included in an adopted SDC project list and:

1. Not located on or contiguous to a parcel of land that is the subject of the development approval; or
2. Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

For the purposes of this definition, "contiguous" includes improvements within a right of way that abuts the parcel.

12.10.040 System Development Charged Imposed; Method for Establishment

(1) The amount of system development charges may be set and revised by resolution of the City Council. Any resolutions setting or amending the amount of any SDC shall state the amount of the charge and the methodology used to set the amount of the charge.

(2) Unless otherwise exempted, SDCs for water, wastewater, storm water, and transportation are imposed on all development within the City, on all development outside the City that connects to the water and/or sewer facilities of the City, and on all other development which increases the usage of the water and/or sewer system or that contributes to the need for additional or enlarged capital improvements. This shall include new construction and the alteration, expansion or replacement of a building or development if such alteration, expansion or replacement results in a change in any of the components of the formula for determining the amount of SDCs to be paid.

12.10.050 Methodology

(1) The methodology used to establish or modify a reimbursement fee shall be based on the cost of then-existing facilities, including design, financing and construction costs; the value of unused capacity available to future system users; rate-making principles employed to finance publicly owned capital improvements; and other relevant factors identified by the City Council, consistent with applicable law. The methodology shall promote the objective that future systems users shall contribute an equitable share of the cost of then-existing facilities.

(2) The methodology used to establish or modify the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related and other relevant factors identified by the Council. The methodology shall be calculated to obtain the cost of capital improvements for the projected need for available system capacity for future users.

(3) The methodology used to establish or modify improvement fees or reimbursement fees, or both, shall be adopted and may be amended by Council resolution.

12.10.060 Authorized Expenditures

(1) Reimbursement fees shall be applied only to capital improvements associated with the system for which the fees are assessed, including expenditures relating to repayment of debt for such improvements.

(2) Improvement fees shall be spent only on capacity increasing capital improvements associated with the system for which the fees are assessed, including expenditures relating to repayment of indebtedness. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or providing new facilities. The portion of the capital improvements funded by improvement fees must be related to demands created by current or projected development.

(3) SDC proceeds may be expended only on projects identified in the SDC capital improvement project list or on the direct costs of complying with the provisions of this

chapter (including the costs of developing SDC methodologies) system planning, providing an annual accounting of SDC expenditures and other costs directly related to or required for the administration and operation of this SDC program.

12.10.070 Expenditure Restrictions

- (1) SDCs shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.
- (2) SDCs shall not be expended for costs of the operation or routine maintenance of capital improvements.

12.10.080 SDC Projects List

- (1) The Council has adopted, and may amend by resolution, SDC Projects Lists for the various types of SDC that list:
 - (A) The capital improvements that the City intends to fund in whole or in part with the improvement fee revenues; and
 - (B) The estimated cost of each improvement and the percentage of that cost eligible to be funded with improvement fee revenues.

The project list included in the most recently adopted methodology shall be considered to be the SDC project list if no other list has been adopted.

- (2) In amending the SDC Projects Lists, the City may incorporate, by reference, all or a portion of any public facilities plan, master plan, capital improvement plan or similar plan that contains the information required by this section.
- (3) If the amount of SDC charges will be increased by a proposed modification to the SDC Projects List, the City shall:
 - (A) Provide at least 30 days' notice prior to adopting the modification to those who have requested notice; and
 - (B) Hold a public hearing if a written request for a hearing is received at least seven days prior to the date scheduled for adoption of the proposed modification.

12.10.090 Adoption or Amendment of Methodology

- (1) The Council shall hold a public hearing prior to adopting or amending the methodology on which any SDC is based.
- (2) The Council shall provide written notice to persons who have requested notice of any adoption or modification of SDC methodology at least 90 days before the hearing. If

no one has requested notice, the City shall publish notice in a newspaper of general circulation in the City at least 90 days before the hearing.

(3) The revised methodology shall be available to the public at least 60 days before the first public hearing of the adoption or amendment of the methodology. The failure of a person on the list to receive a notice that was mailed does not invalidate the action of the City. If the City fails to provide sufficient notice, it can cure the defect by issuing a new notice and holding a new hearing. The City may consider comments submitted at improperly noticed hearings.

(4) A change in the amount of a reimbursement fee or an improvement fee is not a modification of the SDC methodology if the change is based on a change in project costs, including cost of materials, labor and real property, or on a provision for a periodic adjustment included in the methodology or adopted by separate ordinance or resolution, consistent with state law.

(5) A change in the amount of an improvement fee is not a modification of the SDC methodology if the change is the result of a change in the SDC Projects List adopted in accord with this chapter.

12.10.100 Collection of Charge, Deferral, Appeal

(1) The SDC is payable on:

- (A) Issuance of a building permit or any construction activity for which a building permit is required but not obtained.
- (B) Issuance of a development permit or approval for development not requiring the issuance of a building permit.
- (C) Issuance of a permit to connect to the water system or actual connection to the water system if a permit is not obtained.
- (D) Issuance of a permit to connect to the sewer system or actual connection to the sewer system if a permit is not obtained.

(2) SDCs are payable only for those types of improvements affected by the development, permit or connection. For example, a permit to connect an existing structure to the sewer system does not necessarily trigger an obligation to pay water or transportation SDCs.

(3) The amount of SDC payable shall be established by resolution relying on an approved methodology and SDC project list. The SDC Project List, methodology and amount of charge may be adopted in a single resolution, and more than one type of SDC (water, sewer, storm, and transportation) may be included in a single resolution. The resolution may allow for a case-by-case determination of the amount payable under specific circumstances.

(4) Unless payment is deferred under Subsection E, no permit or approval listed in Subsection A may be issued unless applicable SDCs have been paid or an agreement entered to pay over time as allowed by this chapter. No certificate of occupancy or final inspection approval may be issued for a structure if SDCs are unpaid, unless an agreement to pay over time has been entered into.

(5) The City Council may by an ordinance allow categorical deferral of SDC payments for a period of time not to extend beyond the occupancy date. Individual deferrals are not permitted.

(6) The City may also collect Parks SDCs payable to the Bend Metropolitan Parks and Recreation District at the time that City SDCs are payable.

12.10.110 Installment Payments

(1) The owner of the parcel of land subject to a systems development charge may apply for payment in 20 semi-annual installments, to include interest on the unpaid balance, in accordance with state law. A shorter payment plan is acceptable if approved by the City. The parcel of land shall be subject to a lien for the unpaid balance.

(2) Application forms for installment payments shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors.

(3) An applicant for installment payment shall have the burden of demonstrating the applicant's authority to assent to the imposition of a lien on the parcel and that the property interest of the applicant is adequate to secure payment of the lien.

(4) The lien shall be docketed in the City's lien docket. From that time, the City shall have a lien on the described parcel for the unpaid balance, together with interest on the unpaid balance. The lien shall be enforceable in any manner authorized or permitted by state law.

12.10.120 Exemptions

The following actions are exempt from payment of SDCs:

(1) Additions to single-family dwelling that do not constitute the addition of a dwelling unit.

(2) An alteration, addition, replacement, change in use or permit or connection that does not increase the parcel's or structure's use or potential use of a public improvement system is exempt from payment for the SDC payment applicable to that type of improvement. Some redevelopment may be subject to some types of SDCs and not to others.

12.10.130 Credits

(1) Credit at Time of Change in Use or Redevelopment. When redevelopment or change in use occurs, the amount of SDCs payable shall be determined by the following rules:

- (A) SDCs Previously Paid on Property. If SDCs had been previously paid for the property, a credit in the amount of the SDCs that would be payable for the existing structure and use under the current rate schedule shall be provided. For purposes of this section, "existing structure and use" means the structure and use for which SDCs have been paid. At the time of redevelopment, if the SDCs payable for the new structure and/or use exceed the amount of the credit, the difference shall be paid to the City. This rule applies regardless of the length of time between the end of the prior use and the redevelopment. Redevelopment to a use that results in a lower SDC amount does not reduce the amount of credit to be provided at the time of any future redevelopments. Any credits provided under Subsection C shall be deducted from the credits authorized by this section.

Examples:

1. SDCs had been paid for three dwelling units on a property and the property is redeveloped with five dwelling units. A credit for three dwelling units' worth of SDCs will be provided, so the amount payable would be the amount for two dwelling units.
2. SDCs had been paid for two dwelling units and the property is redeveloped with a large retail use, with both residential units eliminated. The SDCs would be the difference between the SDCs payable for the new commercial structure and use and the SDCs that would be charged for two dwelling units.
3. SDCs were paid based on restaurant use, but then the property was converted to another retail use with lower SDCs. The property is then reconverted back to restaurant use, using exactly the same configuration as the original restaurant. At the time of the conversion to retail use, no SDCs are payable, because the amount payable is less than the credit. The credit for restaurant use remains with the property, so at the time of reconversion to restaurant use, no additional SDCs are payable because the credit remained in effect and the credit for the original use is exactly the same as the amount that is owed. Thus, no payment is required, even if the SDC rates have increased in the interim.

- (B) SDCs Not Previously Paid

1. Vacant Land. If SDCs have not been previously paid for the property, a credit in the amount of the SDC charges under the current rate schedule shall be provided for any structure on the property during the 10 years immediately prior to the filing of the building permit application. No SDC credit shall be provided under this subsection if there has been no structure on the property for 10 years or more. The credits shall be based on the predominant use of the structure in the last 10 years, or if there has been no use in the last ten years, on the last use of the structure.
2. No Prior Water Connection. Even if there is or has been a structure on the property, no water SDC credit shall be provided if the property has never been connected to the City water system.
3. No Prior Sewer Connection. Even if there is or has been a structure on the property, no sewer SDC credit shall be provided if the property has never been connected to the City sewer system.
4. Burden of Proof. The property owner shall have the burden to establish the facts to support the granting of a credit.
5. No Refund. No refund or credit shall be given if the change in use or redevelopment results in a lower SDC.
6. Implementation. The 10 year time period referred to in Subsection (1)(B)1 starts on the date that a property is demolished or July 1, 2011, whichever occurs later.

(2) Credit of Cost of Qualified Public Improvement.

- (A) A credit for the improvement fee portion of the SDC shall be given to a Developer for the Cost of a Qualified Public Improvement on acceptance by the City of the Qualified Public Improvement and compliance with this section. For transportation improvements, the credit shall be the full cost of the improvements as determined by the City. For water, sewer and other non-transportation improvements, the amount of the credit shall be the cost of the portion of the qualified public improvement that exceeds the improvements needed to serve the development as determined by the City. An application for credit for the Cost of a Qualified Public Improvement must be submitted and approved prior to the start of construction of the Qualified Public Improvement. The City shall deny the credit if the City determines that the application does not meet the requirements of this section or if the improvement for which credit is sought is not included in the SDC Project List. No interest shall accrue on a credit for a Qualified Public Improvement.

- (B) The person seeking a credit based on providing a Qualified Public Improvement has the burden of proving the Cost of the Qualified Public Improvement. Only immediate acquisition, construction, design and engineering costs may be included in the Cost of a Qualified Public Improvement. Immediate acquisition costs include only the cost of acquiring rights-of-way or easements required as a condition of development approval and does not include property already owned by the applicant. Engineering and design costs shall not exceed 15 percent of actual construction costs. When the cost is the incremental cost of providing excess capacity, engineering and design costs shall be allocated in the same percentage as the qualified construction cost as a portion of the total construction costs. The City Engineer's determination of the Cost of a Qualified Public Improvement shall be final.
- (C) Credits for the Cost of Qualified Public Improvements shall not be transferable from one property to another but may be used for future phases of development, redevelopment or change in use of the property. For property owned by the Bend LaPine School District, "property" includes all properties owned by the Bend LaPine School District within the same High School attendance boundary.
- (D) Credit for qualified public improvements shall be only for the type of improvement provided and shall not be transferable from one type of capital improvement to another.
- (E) Credits for qualified public improvements may be used only within 10 years from the date the Qualified Public Improvement was accepted by the City.
- (F) The extent of the property to be considered in computing and allocating credit for construction of a Qualified Public Improvement shall be stated in the application for the credit, which will be accepted only if authorized in writing by the property owner(s). If properties under different ownership are developed together, the City may require specification where any credits for the provision of capital improvements may be used and under which circumstances. Two or more contiguous properties may pool existing SDC credit rights as part of a common scheme for development of the contiguous properties. Non-contiguous property may not be included as a property for determining where the credit may be issued or used.
- (G) At the time of application for the credit for a qualified public improvement, the applicant shall indicate which option for using the credit is to be used. Once an option is chosen, the option cannot be changed and will be applied to all SDC credits for Qualified Public Improvements of all types

for all phases of development on the property. The two options are:

1. A credit usable at the time SDCs become payable within the property to reduce the amount of the improvement fee payable; and
2. A credit personal to the person providing the Qualified Public Improvement to be paid from improvement fees collected for development on the property. If this option is chosen, payment amounts shall be payable annually by the City on or before January 31 for SDC improvement fees collected in the previous calendar year. If this option is chosen, the 10-year expiration applies to the date the SDC is paid to the City, not the date the City passes on the payment. No interest shall accrue on any amounts received by the City.

The following example is provided as an illustration of how the credit for Qualified Public Improvements under Option "1" are applied. A Developer plans to build an off-site qualified public transportation improvement. The Developer must apply for the credit before starting the improvement. If the City approves the credit and the Developer completes the project and proves that the qualified costs total \$400,000 for the qualified transportation public improvement that is 100% SDC eligible under the SDC project list, the Developer would be entitled to a credit of \$400,000 on acceptance of the completed capital improvement. If the amount of transportation improvement fees payable is less than \$400,000, no transportation improvement fees would be paid and a credit for the difference would be provided to be usable for future development of the property. If the amount of transportation improvement fees is more than \$400,000, the Developer would pay the difference between \$400,000 and the amount of the credit.

- (H) The credit for the cost of qualified public improvements is in addition to other methods of financing public improvements and may be combined with other means of financing public improvement agreements, including reimbursement agreements under Chapter 12.10 or Developer agreements, provided that the total amount of credit under a reimbursement agreement and a credit for Qualified Public Improvements shall not exceed the approved cost of the public improvement.
- (I) If a Developer has applied for a credit for qualified public improvements, the Developer may defer payment of the improvement fee for the type of improvement provided in an amount reasonably estimated to not exceed the amount of anticipated credit. Payment shall not be deferred more than one year unless an extension is provided and may not be deferred beyond the date of occupancy. An extension of the one-year deadline

may be provided if satisfactory progress is being made towards completion of the Qualified Public Improvement. Deferral under this section is available only if the development does not involve a land division.

(3) Advance Credit for Qualified Public Improvement

The City, by a development agreement approved by Council, may provide a credit for construction of a public improvement on the SDC project list. The credit shall be a credit only towards improvement fees of the same type of SDC. The locations where the credit may be used and transferability of the credits shall be established in the development agreement. The credit provided by this section shall be used only as a credit and the credit recipient shall not be provided the right to payment from SDCs collected by the City. The credit provided by this section may be used only within 10 years of the date the improvement was accepted by the City.

(4) On termination of a use for which SDCs have been paid, a credit certificate shall be issued on written request of the property owner.

- (A) The credit shall be for water, sewer and transportation SDC improvement fees only.
- (B) The credit shall be based on a "unit" basis, not on a "dollar" basis. The credit shall be for a specific number of trips, square footage, dwelling units or other units on which the SDC amount is calculated.
- (C) The amount of the credit issued in the certificate shall be deducted from the credit authorized by Subsection A.1 of this section for the property where the use was terminated. The deduction may not remove all credit from the property unless all structures are removed from the property. A credit in the lowest reasonable amount for any remaining structure must be maintained on the property. The credit in the certificate shall be the difference between the total amount of credit authorized by Subsection 4.1 and the amount to be retained on the property.
- (D) The credit certificate may be transferred and used anywhere in the City within five years of the date of issuance. If the credit is not used within five years, it shall be automatically applied to the property where the use was terminated.

(4) For all credits, the applicant has the burden of proof to justify the credit. For credits based on the Cost of a Qualified Public Improvement, the applicant shall provide receipts, cancelled checks or other written proof of actual costs incurred.

12.10.140 Notice

(1) The City shall maintain a list of persons who have made a written request for notification prior to adoption or modification of a methodology for any SDC. Written

notice shall be mailed to persons as provided in this chapter. The failure of a person on the list to receive notice that was mailed does not invalidate the action of the City.

(2) The City may periodically delete names from the list, but at least 30 days prior to removing a name from the list, the City must notify the person whose name is to be deleted that a new written request for notification is required if the person wishes to remain on the notification list.

12.10.150 Segregation and Use of Revenue

(1) All SDC proceeds are to be segregated by accounting practices from all other funds of the City. SDC proceeds shall be used only for capital improvement of the type for which they were collected and authorized costs and overhead.

(2) The City Manager shall provide the City Council with an annual accounting, based on the City's fiscal year, for SDCs showing the total amount of SDC revenues collected for each type of facility and the projects funded from each account in the previous fiscal year. A list of the amounts spent on each project funded in whole or in part with SDC revenues shall be included in the annual accounting.

(3) The moneys deposited into each SDC account shall be used solely as allowed by this chapter and state law, including, but not limited to:

- (A) Design and construction plan preparation;
- (B) Permitting and fees;
- (C) Land, easements, and materials acquisition, including any cost of acquisition or condemnation, including financing, legal and other costs;
- (D) Construction of capital improvements;
- (E) Design and construction of new utility facilities required by the construction of capital improvements and structures;
- (F) Relocating utilities required by the construction of improvements;
- (G) Landscaping;
- (H) Construction management and inspection;
- (I) Surveys, soils, and materials testing;
- (J) Acquisition of capital equipment;
- (K) Repayment of monies transferred or borrowed from any budgetary fund of the City which were used to fund any of the capital improvements as

herein provided; and

- (L) Payment of principal and interest, necessary reserves and cost of issuance under bonds or other indebtedness issued by the City to fund capital improvements.

12.10.160 Refunds

(1) Refunds may be given by the City upon finding that there was a clerical error in the calculation of the SDC.

(2) Refunds shall not be allowed if the applicant fails to timely claim a credit or fails to timely seek an alternative SDC rate calculation.

(3) Refunds may be given on application of a permittee if the development did not occur and all permits for the development have been withdrawn.

12.10.170 Appeals

(1) Appeals of Expenditures

(A) A person challenging the propriety of an expenditure of SDC revenues may appeal the decision of the expenditure to the City Council by filing a written request with the City Manager describing with particularity the decision and the expenditure from which the person appeals. An appeal of the expenditure must be filed within two years of the date of the alleged improper expenditure.

(B) After providing notice to the appellant, the City Council shall determine whether the City Manager's decision or the expenditure is in accordance with this ordinance and state law. The Council may affirm, modify, or overrule the decision. If the Council determines that there has been an improper expenditure of SDC revenues, the Council shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent. The decision of the Council shall be reviewed only by writ or review.

(C) A legal action challenging the methodology adopted by the City Council shall not be filed later than 60 days after adoption and shall use the writ of review process.

(2) Appeal of Amount Charged

(A) A person responsible for paying SDCs (the "Payor") may request review of the amount of SDCs or SDC credits calculated by staff by submitting a written request for review to the Community Development Department Engineer ("CDD Engineer") prior to paying the SDCs, at the same time as

the SDCs are paid or, of appealing the credit calculation within five working days of being notified of the amount of SDC credits. The request for review must state the amount in dispute and must provide reasons why the amount charged is incorrect. The CDD Engineer shall respond to the request for review within ten working days unless a meeting between the Payor and CDD Engineer is requested. If a meeting is requested, the CDD Engineer shall meet with the Payor and issue the response no later than five working days after the meeting. The CDD Engineer's response may be to affirm the original amount, reduce the original amount, or require a traffic report prepared by a licensed traffic engineer. A decision requiring a traffic report is not a final decision. If a traffic report is requested and provided pursuant to parameters established by the City, the CDD Engineer shall provide a final decision within fifteen working days of receiving the report.

- (B) The Payor may appeal the final decision of the CDD Engineer to a panel comprised of the City Manager, the Community Development Director, and the Public Works Director, by submitting a written appeal to the Permit Center stating the amount in dispute and specifying why the amount charged is incorrect. The appeal must be filed with the City within five working days of delivery to Payor of the CDD Engineer's decision. A mailed decision shall be deemed to be delivered three days after mailing. If the SDCs have not been paid in full at the time of the appeal, the Payor shall pay an appeal fee in an amount set by Council resolution. The permittee may provide additional written argument or evidence regarding the amount within 10 days after filing the appeal. The City shall provide a final written decision on appeal within 30 days of the filing of the appeal. The appeal panel shall meet with the Payor if requested in the appeal document.
- (C) A Payor challenging the amount of SDCs may pay the SDCs in full any time after the request for review is filed. The Payor may also pay the uncontested portion of the SDCs any time after the request for review is filed provided the uncontested amount is reasonable as determined by the CDD Engineer. No building permit will be issued until the uncontested amount of the SDCs is paid unless deferral of payment is allowed under some other provision of law. If the uncontested amount of SDCs is paid and a building permit issued, the Payor shall pay any additional amounts determined to be payable within 30 days of the City's final decision on review or appeal. Failure to pay the additional amounts within 30 days will result in interest of 12% charged on the additional amounts from the date of the building permit. No certificate of occupancy will be issued or final inspection approved until SDCs are paid in full. If the amount originally charged by the City is paid in full and the final City decision reduces the amount payable, the City shall refund the difference. If the Payor has paid the \$250 appeal fee and the City reduces the amount payable on appeal,

the appeal fee shall be refunded. No interest shall accrue on the amounts to be refunded to the Payor.

(3) Delegation of Authority. The responsibilities of the CDD Director, CDD Engineer, City Manager and Public Works Director under this section may be exercised by the persons in those offices or their designees. Authority to act shall be delegated if needed to meet decision deadlines.

12.10.180 Prohibited Connection

No person may connect to the transportation, water or sewer system of the City or obtain a building permit or certificate of occupancy unless the appropriate SDCs have been paid, or the installment payment method has been applied for, approved, and the first payment made, unless the payment is deferred under a uniform system established by ordinance

