

SDC CODE

SUMMARY OF PROPOSED CHANGES

The City embarked on a project to update the methodologies and associated project lists and fee schedules in 2023. Updating SDC methodologies is a recurrent activity that typically follows updates to master plans so that project lists, upon which SDC fees are calculated, align to master plan capital project lists. After extensive community engagement, the City updated its Transportation System Plan in 2020 and the Integrated Water System Master Plan in 2021. Bend SDC fees were last designed over a decade ago, and so were due to be evaluated for synergy with current City Council goals and other local priorities. Under Oregon law, communities have some flexibility to choose methodological and policy approaches that align with community objectives.

Additionally, City Council goals for this biennium include updating the Transportation SDC methodology and continuing affordable housing initiatives such as the SDC exemption program. Other key goals of the SDC methodology update include increasing transparency and ease of understanding for those who pay SDCs, as well as supporting administrative efficiency, through enhancing consistency across SDC fee structures and streamlining nonresidential fee categories.

The City is also updating the SDC chapter of the Bend Municipal Code to align with the new methodologies and updates to state law. Bend first adopted system development charges in 1991, with an update in 2009. System Development Charge provisions of the code were moved into a new Chapter 12 of the Bend Municipal Code in 2011. The League of Oregon Cities updated a draft model code for cities in 2019. This code update is intended to simplify and clarify current City practice relating to SDCs, as well as update processes relating to deferrals and exemptions based on feedback heard from stakeholders throughout the 2023 SDC methodology update process.

These code changes were discussed with the Bend City Council at its December 6, 2023, work session.

A redline and a clean version of the proposed updates to the SDC Code are available on the City's website:

<https://www.bendoregon.gov/government/departments/community-development/online-permit-center/development-services/system-development-charges>.



Summary of changes, by section:

12.10.010 Purpose. Modernizes language; clarifies that City does not charge storm drainage (stormwater) SDCs.

12.10.020 Scope and Interpretation. Modernizes language; clarifies nature of charges and ability of City Manager and other department heads to adopt administrative rules and procedures for implementation of the chapter.

12.10.030 Definitions. Removes definitions not needed; add reference to Bend Development Code for terms not defined. Adds definitions for clarity. Includes conversion of commercial to residential (HB 2984 update).

12.10.040 System Development Charges Imposed – Method for Establishment. Adjusts language around establishment of SDCs, responsibly party for payment, and method of adoption. Adds clarity around application of development categories to specific development not clearly identified in fee resolution. Allows City staff to apply inflation adjustment administratively.

12.10.050 Methodology. Modernizes language.

12.10.060 Authorized Expenditures. Modernizes language.

12.10.070 Expenditure Restrictions. Modernizes language.

12.10.080 SDC Project List. Modernizes language to match model rules and statutes; clarify notice requirements for update to project list that does not change amount of SDC charged.

12.10.090 Adoption or Amendment of Methodology. Modernizes language to match model rules and statutes.

12.10.100 Collection of Charge. Clarifies when SDCs are due for various types of development; adds authority to stop work if SDCs not paid, no certificate of occupancy if SDCs not paid.

12.10.105 Payment Deferral. Clarifies when deferral application must be made. Changes timing of calculation of amount due from end of deferral to the time deferral is granted. Continues existing deferral for multi-unit residential, adds deferral for all residential dwelling units January 1, 2025, and all other development January 1, 2026.

12.10.110 Installment Payments. Modernizes language. Clarifies interest rates will be set by resolution.



12.10.120 Exemptions.

- Updates language to match proposed fee schedule and methodologies.
- Deletes credit for prior SDCs paid, adds calculation of exemption for SDCs for prior use under current fee schedule. Adds exemption for reconstruction after damage or destruction by natural causes, temporary uses. Adds exemption for temporary construction trailers, previously found in definition of “building”.
- References methodology for exemptions for certain uses. Clarifies that exemption is only available for portion of development that qualifies as exempt. Exemption requires a 20-year covenant for affordable housing, after which time a credit will be available for the existing residential use on conversion to a non-exempt use. Clarifies existing code that interest will be at 9% per annum for conversion of use before end of exemption period. For other exempt uses (childcare, shelters), a covenant is required providing that upon redevelopment or conversion to a non-exempt use, full SDCs will be due for the next use without credit for the existing, exempt use.
- Deletes requirement for the City’s Affordable Housing Advisory Committee (AHAC) to approve applications and allows City Manager and staff to process loan documents and deed restrictions for qualifying uses.

(Note: AHAC discussed this section, and encouraged Council to consider whether there is a benefit to having SDC exemptions discussed and awarded in a public forum, and whether on conversion to a market rate or non-residential use, if no credit should be given for exempted SDCs, even if the requirements of a durational covenant had been met. AHAC did not make a recommendation on either topic.)

12.10.130 Credits.

A. Credit for Existing Use.

- Deleted credit calculation for SDCs previously paid; credit for existing or prior uses will be calculated using Fee Schedule in effect at the time of redevelopment.
- Credit will be given for the most intensive prior use within the past ten years. Clarifies that applicant has the burden to prove prior use, to the City’s satisfaction. Clarifies credit when existing or prior use was exempt from SDCs.
- Adds language about how to apply credits on land that has been subdivided or partially taken in condemnation. Clarifies credits for existing or prior use are not transferable to other properties.

B. Credit for Cost of Qualified Public Improvement.



- Renames previously existing credit options: true credit, pass-through credit, or advance credit and provides definitions.
- Clarifies that amount of credit will be determined by multiplying cost of construction by growth percentage on the SDC Project List, including for transportation. (Previously, code provided credit for full cost of construction of transportation improvements.) Adds option, at City's discretion, to calculate credit on the difference in cost between providing pipe at size and depth required to serve development and cost of depth and size pipe required to add capacity. Deleted examples, reference to deferral of payment of Improvement SDC.
- Moves method of calculating costs of construction from definitions to this section. Clarifies that applicant has burden of proof; applications must be submitted and approved prior to start of construction of the qualified public improvement.
- Allows advance credit agreement to proceed without Council approval if a performance bond or other financial guarantee of construction is provided.
- Allows pooling of credits in noncontiguous properties within the same Master Plan or Area Plan area. Clarifies that credits are transferrable to any other property owned by the Bend LaPine School District; continues prohibition on transfers among other properties.
- Clarifies that credits will be provided on a first-come, first-serve basis unless otherwise provided in the credit agreement.
- Adds that credits will not be given before the City accepts the public improvement, except under advance credit agreements. Clarifies dates credits are deemed given for calculating ten-year expiration period.

12.10.140 Interested Persons List (*formerly "Notice"*). Clarifies City obligations when no mailing address is provided.

12.10.150 Segregation and Use of Revenue. Modernizes language.

12.10.160 Refunds. Modernizes language.

12.10.170 Appeals.

A. Appeals of Expenditures. Adds requirement for appellant to provide reasons alleged expenditure of SDC revenues was improper in request for appeal. Adds City discretion to review expenditure and removes requirement for City Council hearing on the appeal.

B. Appeals of Methodology. New section stating statutory requirements for appeal.

C. Objections to Calculation of Amount Charged. Adds 60-day window for filing appeal



of calculation of amount of SDC or SDC credit, requirements for information to be included in objection. Updates City staff titles, clarifies initial review process and availability of meeting on the objection. Changes appeal of initial decision to review by City Manager, clarifies what information must be submitted, and how appellant may seek review of final City decision. Adds that no permit connected to the SDC objection or appeal will be issued without full payment of SDCs determined by the City to be payable. Deletes references to payment of “uncontested amount”. Deletes refund of appeal fee if amount of SDC is lowered through the appeal.

12.10.180 Prohibited Connection. Updates code references.

12.10.190 Deferral. Deleted (expired in 2015).

12.10.190 Enforcement (*replaces prior 12.10.190, Deferral*). Clarifies enforcement mechanisms available to the City if work begins without payment of SDCs, including stop work order, civil infraction, and liens on property.

