

ORDINANCE NO. NS - 2526

AN ORDINANCE OF THE CITY COUNCIL AMENDING BEND MUNICIPAL CODE
CHAPTER 12.10, SYSTEM DEVELOPMENT CHARGES

Recitals

A. Oregon Revised Statutes (ORS) 223.297 through 223.316 provide a uniform framework for the imposition of system development charges (SDCs) by local governments, to provide equitable funding for orderly growth and development in Oregon's communities and to establish that the charges may be used only for capital improvements.

B. Bend Municipal Code (BMC) Chapter 12.10 authorizes and implements SDCs for development within the City of Bend for the City's transportation, sewer, and water systems. This chapter of the BMC was updated in January 2024, along with adoption of new methodologies and fees for the City's SDCs.

C. Additional administrative changes are now needed to adopt minor clarifications and changes to Chapter 12.10 and increase flexibility in terms for installment payments of SDCs, as allowed by statute.

Based on these findings, THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Chapter 12.10 of the Bend Municipal code is amended as shown on the attached Exhibit A.

Section 2. If any provision, section, phrase, or word of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

Section 3. All other provisions of the Bend Municipal Code remain unchanged by this ordinance and remain in effect.

First Reading Date: May 7, 2025

Second Reading and adoption by roll call vote: May 21, 2025

YES: Kebler, Franzosa, Méndez, Platt, Riley

NO:



Melanie Kebler, Mayor

ATTEST:

Ashley Bontje
Ashley Bontje, City Recorder's Office

Approved as to form:

Ian Leitheiser
Ian Leitheiser, City Attorney

EXHIBIT A

Note:

Underlined text are additions to the code

~~Strikethrough~~ text indicates deletions

***Indicates where text from the existing code has been omitted because it will remain unchanged.

Chapter 12.10

SYSTEM DEVELOPMENT CHARGES

12.10.040 System Development Charges Imposed – Method for Establishment.

12.10.100 Collection of Charge.

12.10.105 Payment Deferral.

12.10.110 Installment Payments.

12.10.130 Credits.

12.10.160 Refunds.

12.10.040 System Development Charges Imposed – Method for Establishment.

A. SDCs for water, wastewater, 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 that increases the usage of the water and/or sewer system or that contributes to the need for additional or enlarged capital improvements, unless the development is exempt from payment of SDCs by the provisions of this chapter or other State or local law. The owner of the property on which the activity for which an SDC is imposed is ultimately responsible for payment of SDCs, regardless of whether the owner is also the entity engaged in the activity requiring payment of SDCs. SDCs must be paid to the City at the time established under BC 12.10.100(A).

12.10.100 Collection of Charge.

A. The SDC is payable upon:

1. Notification by the City that a building permit is ready for issuance, commencement of any activity for which a building permit is required but not obtained, or commencement of any development that creates the need for or increases the demands on sewer, water, or transportation capital improvements but which does not require a building permit.
2. Issuance of a permit or approval of a development under a land use application not requiring the issuance of a building permit.
3. Issuance of a permit or approval to connect to the water system or actual connection to the water system if a permit is not obtained. For extraterritorial water connections payment is due as described in the agreement for service.
4. Issuance of a permit or approval to connect to the sewer system or actual connection to the sewer system if a permit is not obtained. For extraterritorial sewer connections payment is due as described in the agreement for service.
5. For manufactured home parks or similar development, the SDCs are payable upon issuance of a building permit for construction of the park facilities or commencement of construction or park facilities if no building permit is required or a building permit was required but not obtained, not placement of the manufactured dwelling. For a manufactured home park or similar development developed before July 1, 2024, for which SDCs were not paid prior to placement of a manufactured dwelling, the SDC charge is payable upon issuance of a building permit for the ~~on~~ placement of the manufactured dwelling.

E. The amount of SDC payable is the total amount calculated based on the fees in effect on the date an application was first submitted to the City for the permit or action for which the SDC first became payable for the development as outlined in this section.

12.10.105 Payment Deferral.

B. An application for deferral must be submitted and the deferral approved by the City before the SDC is payable under BC 12.10.100(A) or before the building permit or other development approval is accepted. An application for a deferral under this section must be accompanied by ~~and pay a fee, if any~~ established by Council resolution to cover all the City's costs associated with the deferral. The City may charge interest on deferred SDCs, at a rate established by resolution. No additional agreement is necessary to receive a deferral under this section.

E. Beginning July 1, 2024, the amount of SDCs due is the amount due at the time the SDC became payable under BC 12.10.100(A), regardless of whether the SDC rates have increased by the time payment is due under a deferral under this section. For deferral agreements in place prior to July 1, 2024, the calculation of the amount due is as provided in the agreement. For deferral applications made before July 1, 2024, the amount of SDCs due shall be calculated based on the SDC fees in effect determined as of the date the occupancy permit is applied for.

12.10.110 Installment Payments.

A. The owner of the parcel of land subject to a systems development charge may apply for payment in ~~20 semi-annual~~ installments, over a period of ten or five years, to include interest on the unpaid balance, in accordance with State law. ~~A shorter payment plan is acceptable if approved by the City. The land is subject to a lien for the unpaid balance. Interest rates and late fees, if any, shall be as adopted by the City Council by resolution.~~

B. The City will provide application forms for installment payments, which must include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors.

C. An applicant for installment payment has 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.

D. The lien will be docketed in the City's lien docket. From that time, the City will have a lien on the described parcel for the unpaid balance, together with interest on the unpaid balance ~~at a rate established by the City Council by resolution~~. The lien may also be recorded in the Deschutes County property records. The City may enforce the lien in any manner authorized or permitted by State law.

12.10.130 Credits.

C. Credit of Cost of Qualified Public Improvement.

1. The City will grant a credit against the improvement fee due for a development for the construction of a qualified public improvement as set forth in this section. The credit may be a true credit, a pass-through credit (formerly reimbursement agreement), or an advance credit, or combination thereof. The credit is only for the improvement fee charged for the type of improvement being constructed and is not transferable from one type of SDC to another. The person seeking the credit has the burden of demonstrating that a particular improvement qualifies for credit under this section.

2. The amount of the credit for construction of a qualified public improvement is for the ~~cost of~~ Cost of the Public Improvement, as defined above, for that portion of such improvement that exceeds the City's minimum standard facility size or capacity needed to serve the particular development project or property. For sewer or water lift stations, pressure reducing valves, booster stations and similar improvements as determined by the City, and transportation improvements, the City may determine the amount of the credit by multiplying the cost of the qualified public improvement by the growth factor for the improvement shown in the most recently adopted SDC project list, or in any other manner reasonably calculated, in the sole discretion of the City, to measure the capacity provided by the improvement that exceeds the capacity needed to serve the particular development or property. For sewer and water pipelines, credit may be determined by difference in cost between the cost of the improvement needed to serve the development and cost of improvement needed to add capacity. The City will determine which method will be used to calculate the amount of the credit, in its sole discretion. Notwithstanding the foregoing, until June 30, 2024, the credit for transportation improvements shall be the full cost of the improvements as determined by the City.

a. ~~The cost of the qualified improvement is the actual cost of constructing the qualified public improvement, including only immediate acquisition, construction, design and engineering costs. Immediate acquisition costs include only the cost of acquiring rights of way or easements required as a condition of development approval, including costs of litigation if applicable, and do not include property already owned by the person seeking the credit at the time of the development approval. Engineering and design costs must not exceed 15 percent of actual construction costs. Permit fees, administrative charges, and similar charges are not included in the cost of a qualified public improvement.~~

b. a. The person seeking a credit based on providing a qualified public improvement has the burden of proving the cost of the qualified public improvement. The applicant must provide all documentation requested by the City to justify construction cost, including but not limited to receipts, cancelled checks or other written proof of actual costs incurred.

12.10.160 Refunds.

B. The City will not provide refunds if the applicant fails to claim a credit or fails to seek an alternative SDC rate calculation prior to paying an SDC, except for clerical errors as stated above or as a result of an objection or appeal as outlined in 12.10.170.C.3.
