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Background Brief on...

# System Development Charges

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## Background

System Development Charges (SDCs) are one-time fees charged on new development, and certain types of redevelopment, to help pay for existing and planned infrastructure to serve the development. SDCs are one means of financing growth available to local governments. State law authorizes local governments to assess SDCs and specifies how, when, and for what improvements they can be imposed. Under ORS 223.297 – 223.314, SDCs may be used for capital improvements for:

- Water supply, treatment and distribution
- Waste water collection, transmission, treatment and disposal
- Drainage and flood control
- Transportation
- Parks and recreation

The fees may be a reimbursement by new development for a portion of unused infrastructure capacity and/or an improvement fee for planned infrastructure. The fees may not include an improvement fee portion if there is sufficient existing capacity. SDC revenues may be levied and used for capital costs, but not for ongoing facility or system maintenance or for projects that either fix existing system deficiencies or replace existing capacity.

State law also specifically prohibits SDCs to be based on numbers of employees or to be increased with the addition of employees.

Cities must establish their SDCs by ordinance or resolution. The methodology must provide a credit for any qualified capital improvement financed by the developer. The calculation methodology must be adopted through a public process and the ordinance must set up a review procedure through which anyone may challenge an expenditure of SDC revenue if it is out of compliance with state restrictions.

Prior to imposing SDCs the local body must have in place:

- A capital improvement plan
- A public facilities plan or comparable plan that lists improvements to be funded with the improvement fee portion of the SDC

- An estimate of the cost and timing for each listed improvement

Such plans may be modified by the jurisdiction.

SDCs are typically assessed when development or building permits are issued, but they can be collected at a later date, such as at the time of occupancy. They are collected from builders who may include the costs in their charges.

Local governments collected SDCs as early as the 1970s, originally for water and sewer improvements. Corvallis enacted an SDC ordinance in 1972. The state law regulating local SDCs was passed in 1989 in order to provide consistency in process and to limit SDC application to certain capital improvements.

Some jurisdictions have related fees, such as street maintenance or traffic impact fees, which do not necessarily meet SDC requirements.

### **SDC Calculations**

The state law does not specify the method of calculating SDC rates, but some standard methodologies have evolved. For instance, transportation SDCs are generally based on a standard trip-generation calculator for the type of dwelling, business, or facility. The methods calculate a maximum charge, and communities often charge some percentage of the maximum. The League of Oregon Cities has developed a model SDC ordinance. It does not specify a calculation method, but contains parameters and standard language establishing the authority.

### **Current Use of SDCs**

#### *Cities*

The League of Oregon Cities conducted a survey of the state's 240 cities in 2001 regarding their SDCs. They found 134 cities with SDCs, including 73 for parks, 121 for sewer, 120 for water, and 70 for transportation. These totals may be incomplete because not all cities responded. Fee levels vary by jurisdiction, being generally higher in cities with higher populations. Where multiple SDCs are assessed, the total can range from several thousand dollars to over \$20,000 on a single-family home. A 20,000 square-foot office building may be assessed from \$30,000 to over \$80,000. The variation is due to differences between cities in level of growth and extent of existing and planned infrastructure. Some city websites contain their SDC ordinances and rates.

#### *Counties*

At least five of Oregon's 36 counties impose SDCs. County SDCs are typically for roads or parks. Examples are park SDCs in Lane and Yamhill Counties and transportation SDCs in Clackamas, Jackson, and Marion Counties.

#### *Special Districts*

The most common types of special districts that collect SDCs are water, sewer, and parks districts. Except for the smaller districts, most water and sewer districts collect SDCs. Park district use of SDCs is less common.

### **Court Challenges**

Several cases involving SDCs were brought in the past few years. Fees were reduced in Bend and Newberg under challenges by builders' associations. A court found in favor of the Tualatin Hills Park and Recreation District in a challenge based partly on how current levels of service are calculated and applied to new development.

### **Recent Legislative Action**

Senate Bill 939 (2003) allowed an SDC to be a combination of improvement fee and reimbursement fee so long as the charge is not based on providing the same system capacity. The bill also strengthens the tie between the improvement plan and the list of projects eligible for SDCs, requiring local governments to provide notice and hold a hearing if requested when changes to list of projects results in an increase in the SDC. Further, the bill allows local governments to include an inflation index in their SDCs, and requires the locality to "demonstrate" that certain factors were taken into account in establishing fees.

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