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Background Brief on ...

System Development Charges

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Background

System Development Charges (**SDCs**) are one-time charges on new development, and certain types of redevelopment, to help pay for existing and planned infrastructure to serve the development. SDCs are one means available to local governments for financing growth. State law creates a framework for local 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

System development charges may be charged to new development based on a fee to reimburse for unused infrastructure capacity and/or to make planned improvements that increase infrastructure capacity. SDC revenues may only be used for capital costs; they cannot be used for ongoing facility or system maintenance or projects that either fix existing system deficiencies or replace existing capacity. State law also explicitly prohibits SDCs based on numbers of employees or set to increase with the addition of employees.

Local governments must establish their SDCs by ordinance or resolution and through a public process. They must have a methodology to calculate a reimbursement fee and/or an improvement fee and provide credit if a developer finances a qualified capital improvement. They also must set provide 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 an SDC based on an improvement fee for capital facilities, the local government 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 (such plans and lists that may later be modified)
- An estimate of the cost and timing for each listed improvement

SDCs are typically assessed at the time of building permit issuance, but can be collected upon connection to a water or sewer system or at

the time of occupancy. Developers may pass some or all of the cost to buyers. Some jurisdictions have recurring street maintenance fees which are not covered by SDC law.

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 enacted in 1989 in order to provide a consistent process that would avoid litigation and to limit SDCs to certain capital improvements.

SDC Calculations

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 - Charges vary by jurisdiction. 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

While several challenges involving SDCs were brought in the past decade, few were decided by the court. Court challenges between local home builders and the cities of Bend and Newberg each resulted in settlements. 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. In March 2006, the Oregon Court of Appeals upheld West Linn's SDC methodology and level of fee for open space and parks.

Recent Legislative Action

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

Bills to expand local authority by allowing SDCs for education or public safety infrastructure have been introduced the past few sessions, but none have passed.

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