

BEND PARK AND RECREATION DISTRICT
Ordinance No. 12 - System Development Charges

**AN ORDINANCE ESTABLISHING DISTRICT SYSTEM DEVELOPMENT
CHARGES; AND REPEALING AND SUPERSEDING ORDINANCE NO. 8 AND
ORDINANCE NO. 10**

THE BEND PARK AND RECREATION DISTRICT ORDAINS AS FOLLOWS:

SECTION 1. PURPOSE AND SCOPE

- A. Future growth within the Bend Park and Recreation District ("District") should contribute its fair share to the cost of capacity-increasing acquisitions and improvements to parks, trails, and recreation facilities needed to accommodate such growth.
- B. System Development Charges will provide a source of revenue to finance the acquisition, construction, improvement, or expansion of District parks, trails, and recreation facilities to accommodate growth.
- C. ORS 223.297 - 223.314 authorize local governments, including special districts, to impose System Development Charges for parks and recreation.
- D. This Ordinance replaces Ordinance No. 8 - System Development Charges, and its modifying Ordinance No. 10.

SECTION 2. DEFINITIONS

- A. "Accessory Dwelling Unit" means a small Dwelling Unit on a Parcel of Land that contains a Single-family Dwelling Unit as the primary use, whether created at the same time as or subsequent to construction of the Single-family Dwelling. An Accessory Dwelling Unit may be attached to or detached from the Single-family Dwelling Unit.
- B. "Affordable Housing" means Deed Restricted Residential Development that is:
 - 1. Rental housing affordable to households with income at or below 60% of the area median income ("AMI") as defined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development;
 - 2. Owner-occupied or lease-to-own housing affordable to households with income at or below 80% of the AMI as defined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development; or

3. Homeless Shelter Developments.

- C. "Applicant" means the Owner or other person, including any business or entity, who applies for a residential Building Permit or Placement Permit from the City or County for Residential Development or Hotel/Motel development within the boundaries of the District.
- D. "Building" means any residential or Hotel/Motel structure built and maintained for the support, shelter or enclosure of persons. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintained only during the term of a Building Permit.
- E. "Building Permit" means an official permit or certificate issued by the City or County authorizing the construction of any Building.
- F. "Capital Improvements" means public parks, trails, recreation facilities, or other amenities used for parks and recreation purposes.
- G. "Capital Projects List" means the list of the Capital Improvements, based on the comprehensive plan or capital improvements plan adopted by the District Board, that the District intends to fund, in whole or in part, with revenues from an Improvement Fee and the estimated cost, timing and percentage of costs for each Capital Improvement eligible to be funded with Improvement Fee revenues.
- H. "Citizen or Other Interested Person" means any person whose legal residence is within the boundaries of the District, as evidenced by registration as a voter within the District or by other proof of residency; or a person who owns, occupies, or otherwise has an interest in real property which is located within District boundaries or is otherwise subject to the imposition of SDCs, as provided in Section 3 of this Ordinance.
- I. "City" means the City of Bend, Oregon.
- J. "County" means Deschutes County, Oregon.
- K. "Deed Restricted" means a Parcel of Land subject to a covenant, contained in a deed or other instrument recorded in the Deschutes County Official Records, that the Parcel of Land will be maintained or operated as Affordable Housing for a period of not less than 30 years.
- L. "District" means the Bend Park and Recreation District, an Oregon special district.
- M. "District Board" means the duly elected Board of Directors of the District.

- N. "Dormitory" means a college or university residential housing facility intended or used for occupancy of higher education students.
- O. "Dwelling Unit" means a unit within a Building, or any portion thereof, intended for use as a residence.
- P. "Executive Director" means the chief executive officer of the District.
- Q. "Hotel/Motel" means a Building, group of Buildings, or portion thereof, designed or used for temporary occupancy by individuals who are lodged, with or without meals. The definition shall include but not be limited to Buildings or groups of Buildings designed, intended, or used primarily for the accommodation of transient travelers; including hotels, motels, hostels, or similar designations.
- R. "Improvement Fee" means a fee for costs associated with capacity-increasing Capital Improvements to be constructed after the effective date of this Ordinance.
- S. "Manufactured Home" or "Mobile Home" means a Single-family Dwelling Unit that is constructed primarily at one location and is then transported to another location for either permanent or temporary siting. A Mobile Home shall be assessed the Single-Family SDC rate if sited on its own Parcel of Land. If placed in a mobile home park, a Mobile Home shall be assessed the Mobile Home SDC rate.
- T. "Methodology" means the System Development Charge methodology required by ORS 223.304(1) and (2).
- U. "Multi-family Dwelling" means a Building, or portion thereof, on a single Parcel of Land, designed or used as a residence by two or more households and containing two or more Dwelling Units with shared walls. Examples of Multi-family Dwellings include duplexes, triplexes, apartments, townhomes, condominiums, and assisted living residences.
- V. "Owner" means the owner or owners of record of real property as shown in the official records of the County, or a person purchasing a piece of property under a contract of sale. For the purposes of violations of this Ordinance and binding agreements between the District and the Owner, "Owner" shall also mean the leaseholder, tenant or other person in possession or control of the premises or property at the time of the binding agreement or violation of such agreement or the provisions of this Ordinance.
- W. "Parcel of Land" means a lot, parcel, block or other tract of land that, in accordance with city or county regulations, is occupied or may be occupied by

one or more Dwelling Units, a Hotel/Motel, or other use, and that includes the yards and other open spaces required under the zoning, subdivision, or other development ordinances.

- X. "Placement Permit" means an official permit or certificate issued by the City or County authorizing the siting of a Manufactured Home.
- Y. "Qualified Public Improvement" means a Capital Improvement that is:
1. Required as a condition of development approval; and
 2. Identified in the Capital Projects List adopted pursuant to Section 5 of this Ordinance; and either is:
 - a) Not located on or contiguous to a Parcel of Land that is the subject of the development approval; or
 - b) Located in whole or in part on or contiguous to a Parcel of Land that is the subject of development approval and required to be built larger or with greater capacity (over-capacity) than is necessary for the particular development project to which the Improvement Fee is related; and
 3. Approved/accepted by the District.
- For purposes of this definition, contiguous means property within a public way that abuts the Parcel of Land.
- Z. "Reimbursement Fee" means a fee for costs associated with Capital Improvements already constructed, or under construction when the fee is established, for which the local government determines that capacity exists.
- AA. "Residential Development" means all improvements on a Parcel of Land, including Buildings and other structures, which create Dwelling Units or other residential living space. Residential Development includes Single-family Dwellings, Multi-family Dwellings, Dormitories, duplexes, Condominiums, Manufactured Homes, Accessory Dwelling Units, and such other Buildings as may be designated as Residential Development by separate resolution of the District Board.
- BB. "Single-family Dwelling" means a Building designed or used for residential purposes and containing only one Dwelling Unit.
- CC. "System Development Charge" or "SDC" means a Reimbursement Fee or an Improvement Fee assessed or collected at the time of the issuance of a Placement

Permit or Building Permit, or at such other time as may be designated by resolution of the District Board.

SECTION 3. SYSTEM DEVELOPMENT CHARGE FRAMEWORK

- A. The District's SDC is hereby imposed upon all new Residential Development and Hotel/Motels within the District boundaries for which a Building Permit or Placement Permit is required. This shall include new construction or alteration of Dwelling Units, and expansion or replacement of Dwelling Units, if such alteration, expansion, or replacement results in an increase in the number of Dwelling Units compared to the number of Dwelling Units, or a change in the type of Dwelling Unit, existing on the Parcel of Land prior to such alteration, expansion, or replacement.
- B. For an increase in the number of Dwelling Units or a change in the type of Dwelling Unit, the amount of SDCs to be paid shall be the difference between the rate that would be imposed for the existing development and the new development.
- C. System Development Charge amounts, as well as related Capital Improvement projects, administrative review procedures, and other implementing measures related to this Ordinance shall be established, and may be revised from time to time, by separate resolution(s) of the District Board. A change in implementing procedures, fees, qualified projects, and the like shall not require an amendment of this Ordinance or the SDC Methodology.
- D. The SDCs imposed by this Ordinance are separate from and in addition to any applicable tax, assessment, charge or fee otherwise provided by law or imposed as a condition of development.

SECTION 4. METHODOLOGY

- A. The Methodology used to establish or modify the Reimbursement Fee shall consider the cost of then-existing facilities including without limitation design, financing and construction costs, prior contributions by then-existing property Owners, gifts or grants from federal, state, municipal or quasi-municipal government or private persons, 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 District Board. The Methodology shall promote the objective that future Residential Development within the District shall contribute no more than an equitable share of the cost of then-existing facilities.
- B. The Methodology used to establish or modify the Improvement Fee also shall consider the estimated cost of projected Capital Improvements needed to

increase the capacity of the systems to which the fee is related, and the need for increased system capacity that will be required to serve the demands placed on the system by future users. The Methodology shall be calculated to obtain the cost of Capital Improvements for the projected need for available system capacity for future system users.

- C. The Methodology used to establish or modify the Improvement Fee or the Reimbursement Fee, or both, shall be adopted by separate resolution of the District Board.

SECTION 5. EXPENDITURES

- A. The District shall establish separate accounts for each type of SDC, i.e., Reimbursement Fees and Improvement Fees, which shall be maintained apart from all other accounts of the District. All SDC payments shall be deposited in the appropriate account immediately upon receipt.
- B. Reimbursement Fees shall be spent only on Capital Improvements, including replacements and major repairs, or expenditures relating to repayment of indebtedness.
- C. Improvement Fees shall be spent only on capacity-increasing Capital Improvements, including expenditures relating to repayment of future debt for such improvements. An increase in system capacity occurs if a Capital Improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the Capital Improvements funded by Improvement Fees shall be related to the need for increased capacity to provide service for future users. A Capital Improvement being funded wholly or in part from revenues derived from the Improvement Fee shall be included in the District's Capital Projects List.
- D. Notwithstanding subsections B and C of this section, SDC revenues may also be expended on the direct costs of complying with the provisions of this Ordinance and related state statutes, including, but not limited to, the costs of developing SDC Methodologies and providing an annual accounting system for SDC expenditures.
- E. The monies deposited in the above accounts shall be used solely for Capital Improvements allowed by ORS Chapter 223 including, but not limited to:
 - 1. design and construction plan preparation;
 - 2. permitting and fees;

3. land and material acquisition costs, including any costs related to costs of condemnation;
 4. construction of Capital Improvements;
 5. site preparation and grading and the design and construction of new drainage facilities or off-site improvements required as a condition for the construction of Capital Improvements;
 6. relocating utilities required by the construction of improvements;
 7. landscaping;
 8. construction management and inspection;
 9. surveying, soils and material testing;
 10. acquisition of capital fixtures and equipment;
 11. payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the District to fund adopted Capital Improvements;
 12. direct costs of complying with the provisions of ORS Chapter 223 including the consulting, legal, and administrative costs required for developing and updating the SDC Methodology report, resolution/ ordinance, and Capital Projects List; and the costs of collecting and accounting for SDC expenditures.
- F. Funds on deposit in SDC accounts shall not be used for:
1. any expenditure that would be classified as a maintenance or repair expense;
or
 2. costs associated with the construction of administrative office facilities that are more than an incidental part of other Capital Improvements.
- G. Capital Improvements being funded wholly or in part with SDC revenues shall be included in the District's Capital Projects List. The Capital Projects List shall be adopted by resolution of the District Board, and may be modified at any time by separate resolution adopted by the District Board. If the District's SDC will increase by a proposed modification of the Capital Projects List, the District shall provide notice, including the proposed adoption date, to persons who have requested notice. If the District receives a written request for a hearing on the proposed modification not less than seven (7) days prior to the proposed adoption date of the modification, the District shall hold a public hearing. If the

District does not receive such a request, no hearing is required. The District's decision to increase the SDC by modification of the Capital Projects List may be judicially reviewed only as provided in ORS 34.010 to 34.100.

- H. Any SDC funds on deposit in accounts that are not immediately necessary for expenditure shall be invested or deposited in an interest-bearing account by the District. All income or interest derived from such investments shall be deposited in the SDC funds accounts and used as provided herein.
- I. The District shall prepare an annual accounting report for SDCs, including the total amount of SDC revenue collected in the accounts, and Capital Improvement projects that were funded.
- J. Any Citizen or Other Interested Person may challenge an expenditure of SDC revenues.
 - 1. Such challenge shall be submitted, in writing, to the Executive Director for review within two years following the subject expenditure, and shall include the following information:
 - a. The name and address of the Citizen or Other Interested Person challenging the expenditures;
 - b. The amount of the expenditure; the project, payee, or purpose; and the approximate date on which it was made; and
 - c. The reason why the expenditure is being challenged.
 - 2. If the Executive Director determines that the expenditure was not made in accordance with the provisions of this Ordinance and other applicable laws a reimbursement of SDC revenues shall be made from other revenue sources within one year following the determination that the expenditures were not appropriate.
 - 3. The Executive Director shall make written notification of the results of the expenditure review to the person who requested the review within ten (10) days of completion of the review.
 - 4. The person who makes a written objection to the calculation of a SDC has the right to petition for judicial review of the District's determination pursuant to ORS 34.010 to 34.100.

SECTION 6. COLLECTIONS

- A. For any Residential Development, except Multi-family Dwellings, or Hotel/Motel, the District's SDC shall be due and payable at the time of issuance of a Building Permit or Placement Permit. For Multi-family Dwellings, the District's SDC shall be assessed and due no later than the date that a certificate of occupancy is issued. The District Board shall have the authority to implement, by resolution, a new or alternative time of collection for SDCs; provided, however, any such new/alternative time of collection shall be consistent with the time of collection used by the City or County, as applicable. SDC fee(s) will be based on the rates in effect on the date that the Building Permit application is submitted, or, for Multi-family Dwellings, on the date that a certificate of occupancy is issued (or at such earlier date as the SDCs are actually paid), or as otherwise agreed to in writing by the Applicant, the District, and the City or County, as applicable. The SDC Methodology referenced in this Ordinance establishes fees for each type of Residential Development or Hotel/Motel. Responsibility for collecting charges may be delegated to the City or County by intergovernmental agreement.
- B. If SDCs are due and payable at the time of issuance of a Building Permit or Placement Permit, and if development is commenced without an appropriate permit, the SDC is immediately payable, together with interest at an annual rate of 12% from the earliest date that a permit was required.

SECTION 7. EXEMPTIONS

Notwithstanding Section 3A, the following development shall be exempt from payment of the District SDCs:

1. Non-residential development with the exception of Hotel/Motels.
2. Alteration, expansion, or replacement of an existing Dwelling Unit where no additional Dwelling Unit is created, except as may be determined by separate resolution of the District Board.
3. The construction of accessory Buildings or structures which will not create additional Dwelling Units, and which do not create additional demands on the District's capital facilities.
4. Hospice care facilities, Alzheimer's care facilities, and end of life residential care facilities.

Exemptions expire upon conversion of the original use to another use.

SECTION 8. CREDITS

- A. The District may grant a credit against the SDCs imposed pursuant to Section 3 for the contribution of land for, or for the construction of, any Qualified Public Improvements.**
- B. Prior to issuance of a Building Permit or Placement Permit, the Applicant shall submit to the Executive Director a proposed plan and estimate of the cost for contributions of a Qualified Public Improvement for which a credit may be allowed. The proposed plan and estimate shall include:**
 - 1. a designation of the development for which the proposed plan is being submitted;**
 - 2. a legal description of any land proposed to be contributed and a written appraisal prepared in conformity with Section 8.E.1.;**
 - 3. a list of the contemplated Qualified Public Improvements contained within the plan;**
 - 4. an estimate of proposed construction costs certified by a professional architect or engineer; and**
 - 5. a proposed time schedule for completion of the proposed plan.**
- C. The Applicant shall have the burden of demonstrating that a particular Qualified Public Improvement qualifies for a credit. The amount of the credit to be applied shall be determined according to the following conditions:**
 - 1. When Residential Development occurs that is subject to SDCs, the SDC for the existing use, if applicable, shall be calculated and if it is less than the SDC for the use that will result from the new development, the difference between the SDCs applicable to the existing use and the SDCs applicable to the proposed use shall be the SDCs. If the change in the use results in the SDCs for the proposed use being less than the SDCs for the existing use, no SDCs shall be charged. No refund or credit shall be given unless provided for elsewhere in this Section 8.**
 - 2. If a Qualified Public Improvement is located in whole or in part on or contiguous to the property that is the subject of the development approval and is required to be built larger or with greater capacity than is necessary for the particular development project, a credit may be given only for the cost of the portion of the improvement that exceeds the District's minimum standard facility size or capacity needed to serve the particular development project or**

property. The Applicant shall have the burden of demonstrating that a particular improvement qualifies for a credit under this subsection.

- D. If the contribution of land or construction of a Qualified Public Improvement gives rise to a credit amount greater than the amount of the SDCs that would otherwise be levied against the project receiving development approval, the excess credit may be applied against SDCs that accrue in subsequent phases of the original development project. Any excess credit must be used not later than ten (10) years from the date it is given.
- E. Calculation of credits will be subject to the following standards:
 - 1. The value of contributed lands shall be based upon a written appraisal of fair market value by a qualified and professional appraiser based upon comparable sales of similar property between unrelated parties in an arms-length transaction; and
 - 2. The anticipated construction cost of the Qualified Public Improvements shall be based upon cost estimates certified by a professional architect or engineer.
- F. Upon approval of the District Board, the decision of the Executive Director, as to whether to accept the proposed plan of contribution and the value of such contribution, shall be in writing and issued to the Applicant within thirty (30) working days of the date all data is received for review.
- G. Any Applicant, who submits a proposed plan pursuant to this Section and desires the immediate issuance of a Building Permit or Placement Permit, shall pay the applicable SDCs. Said payment shall not be construed as a waiver of any credit. Any difference between the amount paid and the amount due, as determined by the Executive Director, shall be refunded to the Applicant. In no event shall refund by the District under this subsection exceed the amount originally paid by the Applicant.
- H. The District may, in its sole discretion, grant a credit for land transferred to the District for park and recreational use, which does not otherwise meet the requirements of this section.
- I. Credits shall not be transferable from one development to another.
- J. Credits shall be transferable within the same development if the development or portion of it is sold, prior to completion of the development, but after completion and dedication of the Qualified Public Improvements.
- K. Credits shall not be transferable from the District's SDC to any other governmental agency's system development charge.

- L. Credits shall be used within 10 years from the date the credit is given.

SECTION 9. DEVELOPER REIMBURSEMENT PROCEDURES AND PAYMENTS

- A. Upon approval of the District Board, the District may enter into agreements with developers who propose to expand the park system by dedicating or constructing park and recreation facilities. These agreements would allow the District to reimburse the developer for such improvements using a portion of the SDCs collected within a designated recovery area.
- B. Such facilities may serve the proposed development only (a "sole recovery area") or the proposed development and areas beyond it (a "shared recovery area").
- C. The District Board shall adopt, by separate resolution, procedures for entering into such agreements. The resolution shall address:
 - 1. Procedures for entering into such agreements.
 - 2. Applicable District, City, and County policies, standards, rules and regulations.
 - 3. Responsibilities for paying the cost of such improvements.
 - 4. Eligibility for SDC recovery payments.
 - 5. Procedures for determining the extent of the area served by proposed improvements.
 - 6. Procedures for remitting SDCs collected in the sole recovery area or shared recovery area to eligible developers.
 - 7. Payment schedules and conditions for SDC recovery fees.
 - 8. Procedures for calculating the amount of the recovery fees.
 - 9. Procedures for determining the value of qualified improvements.

SECTION 10. REFUNDS, WAIVERS, AND DEFERRALS

- A. Refunds.
 - 1. Refunds may be given by the Executive Director upon finding that there was a clerical error in the calculation of SDCs.

2. Refunds shall not be allowed for failure to timely claim a credit or for failure to seek an alternative SDC rate calculation in a timely manner prior to submission of an application for a Building Permit.
3. An Applicant or Owner shall be eligible to apply for a refund if:
 - a. The Building Permit or Placement Permit has expired, and the development authorized by such permit was not commenced; or
 - b. The SDCs have not been expended prior to the end of the fiscal year immediately following the tenth anniversary of the date upon which such charges were paid. For the purposes of this Section, first funds received shall be deemed to be the first funds expended.
4. An application for refund shall be filed with the District and contain the following:
 - a. The name and address of the Applicant;
 - b. The location of the property which was the subject of the SDCs;
 - c. A notarized sworn statement that the petitioner is the then-current Owner of the property on behalf of which the SDCs were paid; including proof of ownership, such as a certified copy of the latest recorded deed;
 - d. The date the SDCs were paid;
 - e. A copy of the receipt of payment for the SDCs; and, if appropriate,
 - f. The date the Building Permit or Placement Permit was issued, and the date of expiration.
5. The application for a refund shall be filed within ninety (90) days of the expiration of the Building Permit, Placement Permit, or within ninety (90) days of the end of the fiscal year following the tenth anniversary of the date upon which the SDCs were paid. Failure to timely apply for a refund of the SDCs shall waive any right to a refund.
6. Within thirty (30) days from the date of receipt of a petition for refund, the District will advise the petitioner of the status of the request for refund, and if such request is valid, the SDCs shall be returned to the petitioner.
7. A Building Permit or Placement Permit which is subsequently issued for a development on the same property which was the subject of a refund shall pay the systems development charges required by Section 3.

B. Waivers

1. The Executive Director may grant a waiver of District SDC fees upon finding that the subject development places no demand on the District park and recreation system.
2. The District Board may, by separate resolution, designate other types of Residential Development, including, but not limited to, Affordable Housing, for which SDC waivers may be applied.
3. If the property use under which a waiver was granted is modified or discontinued, the waiver will expire and the District's then-current SDCs will be due and payable by the Owner unless otherwise determined by the Executive Director.

C. Deferrals

1. A deferral of SDC fees may be granted by the Executive Director upon a finding that the subject development meets a category of special need in the district for which District and other service providers have agreed to grant special financial treatment in order to advance a specific public benefit.
2. Deferrals do not constitute a waiver of SDCs but rather a delay in the normal schedule for collection of the fee. Example development for which deferrals may be granted include but are not limited to the following:
 - a. Assisted living residences as may be further defined by resolution; and
 - b. Multi-family Dwellings may defer assessment and payment of SDCs to time of Certificate of Occupancy.

SECTION 11. ADOPTION OR AMENDMENT OF METHODOLOGY

- A. The District Board shall hold a public hearing prior to adopting or amending the methodology on which any SDC is based. Notice of the public hearing shall be given as provided in Section 12. If changes in the Methodology are undertaken by the District, the District shall coordinate such changes with the City and County prior to adoption pursuant to any intergovernmental agreements between the District and County or the City, as applicable.
- B. 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: (1) a change in project costs, including cost of materials, labor and real property applied to projects or project capacity as shown on the Capital Projects List; or (2) periodic

application of one or more specific cost indexes included in the methodology or adopted by separate ordinance or resolution, as provided in ORS 223.304.

SECTION 12. NOTICE

- A. The District 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 on the list at least 90 days prior to the first hearing to establish or modify a SDC. The Methodology supporting the SDC shall be available at least 60 days prior to the first hearing to adopt or amend SDCs. The failure of a person on the list to receive a notice that was mailed shall not invalidate the action of the District. No legal action intended to contest the Methodology shall be filed after 60 days following adoption or modification of the SDC ordinance or resolution.
- B. The District may periodically delete names from the list, but at least 30 days prior to removing a name from the list, the District 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.

SECTION 13. APPEALS AND REVIEW HEARINGS

- A. An Applicant who is required to pay SDCs shall have the right to request a hearing before the District Board to review any of the following:
 - 1. The denial of a proposed credit for contribution of Qualified Public Improvements pursuant to Section 9.
 - 2. The calculation of a SDC, or the application of the SDC fee Methodology or adjustments of the SDC rate, provided, however, the SDC fee Methodology itself may not be appealed.
 - 3. The Executive Director's decisions regarding requests for an SDC refund, credit, waiver, or deferral.
- B. Such hearing shall be requested by the Applicant within thirty (30) days of the date of first receipt of the denial, calculation, or Executive Director's decision. Failure to request a hearing within the time provided shall be deemed a waiver of such right.
- C. The request for hearing shall be filed with the Executive Director and shall contain the following:
 - 1. The name and address of the Applicant;

2. The legal description of the property in question;
 3. If issued, the date the Building Permit or development permit was issued;
 4. A brief description of the nature of the development being undertaken pursuant to the Building Permit or development permit;
 5. If paid, the date the SDCs were paid; and
 6. A statement of the reasons why the Applicant is requesting review.
- D. Upon receipt of such request, the District shall schedule a hearing before the District Board at a regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the Applicant written notice of the time and place of the hearing. Such hearing shall be held within forty-five (45) days of the date the request for hearing was filed.
- E. Such hearing shall be conducted in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedure and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence.
- F. Any Applicant who requests a hearing pursuant to this Section and desires the immediate issuance of a Building Permit or Placement Permit shall pay prior to or at the time the request for hearing is filed the applicable SDCs pursuant to Section 3B. Said payment shall not be construed as a waiver of any review rights.
- G. An Applicant may request review under this Section without paying the applicable SDCs as long as no Building Permit or Placement Permit has been issued.
- H. The District shall advise any person who makes written objection to the calculation of a SDC of the right to petition for review pursuant to ORS 34.010 to 34.100.

SECTION 14. INTERPRETATION; SEVERABILITY; CORRECTIONS

All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the applicable context may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. Any reference to a particular law, statute, rule, regulation, code, or resolution includes the law, statute, rule, regulation, code, or resolution as now in force and

hereafter amended. The provisions of this Ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, or portion of this Ordinance is for any reason held invalid, unenforceable, or unconstitutional, such invalid, unenforceable, or unconstitutional section, subsection, sentence, clause, or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected at any time by resolution of the District Board to cure editorial or clerical errors, or to comply with applicable law.

SECTION 15. EFFECTIVE DATE

The SDCs authorized by this Ordinance shall be imposed on Building Permit or Placement Permit applications submitted on or after July 1, 2019 provided, however, that an application presented before that date, for which all necessary prior approvals have not been granted or other required predicates not met shall not be considered submitted for purposes of this section.

SECTION 16. REPEAL

This Ordinance supersedes, replaces, and restates Ordinance No. 8, as modified by Ordinance No. 10, in its entirety and supersedes all ordinances, resolutions, or policies in conflict with this Ordinance. Ordinance No. 8 and Ordinance No. 10 are hereby repealed.

Read for the first time the 15 day of May, 2019.

Read for the second time the 4 day of June, 2019.

Placed upon its passage this 4 day of June, 2019.

Yes 5 No

Authenticated by the Chair of the Board this 4 day of June, 2019.

R Brady Fuller
Brady Fuller, Board Chair

Attested by:
Don Horton
Don Horton, Recording Secretary

