



CITY OF OREGON CITY PLANNING COMMISSION (PC)- VIRTUAL ONLY AGENDA

**Virtual Only via Zoom
Monday, February 13, 2023 at 7:00 PM**

This meeting will be held online via Zoom; please contact ocplanning@orccity.org for the meeting link.

CALL TO ORDER & ROLL CALL

PUBLIC COMMENT

Citizens are allowed up to 3 minutes to present information relevant to the Planning Commission but not listed as an item on the agenda. Prior to speaking, citizens shall complete a comment form and deliver it to the Chair/City Staff. The Commission does not generally engage in dialog with those making comments but may refer the issue to the City Staff. Complaints shall first be addressed at the department level prior to addressing the Commission.

PUBLIC HEARING

1. Summary of Middle Housing Policy Discussion Topics (Package #2 of Legislative File: GLUA 22-0002/LEG-22-0001- HB 2001 Housing Choice Code Update)

APPROVAL OF MEETING MINUTES

2. Planning Commission Minutes Approval

COMMUNICATIONS

Discuss adding verbiage to Planning Commission agendas similar to that used on City Commission agendas with participation instructions and deadlines.

Ways to participate in this public meeting:

1. Attend in person, location listed above.
2. Register to provide electronic testimony email ocplanning@orccity.org or call 503-722-3789 by 3:00 PM on the day of the meeting to register
3. Email ocplanning@orccity.org(deadline to submit written testimony via email is 3:00 PM on the day of the meeting)
4. Mail to City of Oregon City, Attn: City Recorder, P.O. Box 3040, Oregon City, OR 97045

ADJOURNMENT

PUBLIC COMMENT GUIDELINES

Complete a Comment Card prior to the meeting and submit it to the City Recorder. When the Mayor/Chair calls your name, proceed to the speaker table, and state your name and city of residence into the microphone. Each speaker is given three (3) minutes to speak. To assist in tracking your speaking time, refer to the timer on the table.

As a general practice, the City Commission does not engage in discussion with those making comments.

Electronic presentations are permitted but shall be delivered to the City Recorder 48 hours in advance of the meeting.

ADA NOTICE

The location is ADA accessible. Hearing devices may be requested from the City Recorder prior to the meeting. Individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503-657-0891.

Agenda Posted at City Hall, Pioneer Community Center, Library, City Website.

Video Streaming & Broadcasts: The meeting is streamed live on the Oregon City's website at www.orcity.org and available on demand following the meeting. The meeting can be viewed on Willamette Falls Television channel 28 for Oregon City area residents as a rebroadcast. Please contact WFMC at 503-650-0275 for a programming schedule.



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

Item #1.

To: Planning Commission **Agenda Date:** 2.13.23
From: Christina Robertson-Gardiner, Senior Planner

SUBJECT:

Summary of Middle Housing Policy Discussion Topics (Package #2 of Legislative File: GLUA 22-0002/LEG-22-0001- HB 2001 Housing Choice Code Update)

STAFF RECOMMENDATION:

Review HB 2001 Package #2 draft memo providing an overview of the policy topics and Planning Commission recommendations. This memo will be shared with the City Commission at a future joint work session.

EXECUTIVE SUMMARY:

Hearings Process

The Package #2 code revision process generally followed the same method the Planning Commission utilized when adopting code revisions to the Thimble Creek Concept Plan area in 2019-2022. Policy topics will be assigned specific hearing dates in advance to allow Planning Commissioners, staff, and the public the ability to concentrate their efforts on a few issues at a time. Each topic started with a presentation of background information from staff, a review of oral and written public comments on the topic, and a discussion of whether the policy question should be addressed through code revisions. If the Planning Commission provided direction on the policy question, a policy tracker was updated to reflect the Planning Commission's direction. Toward the end of the hearings process- the Planning Commission reviewed the entire proposal to ensure that there was consensus on the package being forwarded to the City Commission. The Planning Commission reviewed these topics from November 2022- January 2023.

The recently released Oregon System Development Study was added to the end of the draft memo. Please review and let staff know if you would like to include this report in your final memo to the City Commission.

BACKGROUND:

[House Bill 2001](#), passed by the State Legislature in 2019, calls for cities to allow a range of middle housing types, including duplexes, triplexes, quadplexes, townhouses, and cottage clusters in single-family neighborhoods. The Planning Commission and City Commission held hearings in the Spring of 2022 to advance code revisions that met the requirements of HB 2001. These code revisions were required to be adopted by June 30, 2022, and effective by July 1, 2022. A second package of amendments was continued to the Fall of 2022 for code sections and policy questions that were not

required for inclusion in the June 30, 2022 deadline but are still linked to the larger middle housing implementation discussion.

Item #1.

OPTIONS:

1. Review HB 2001 Package #2 memo and provide direction on any needed revisions or additions.



To: City Commission
From: Planning Commission
RE: Package #2 of Legislative File: GLUA 22-0002/LEG-22-0001- HB 2001 Housing
Choice Code Update – Policy Questions.
Date: February 3, 2023

On June 1, 2022, the City Commission voted 4-0 to approve the second reading of ORDINANCE NO. 22-1001 for the HB 2001 Housing Choices Update and remand the LEG 22-001 to the October 24, 2022 Planning Commission Meeting to review the second package of outstanding policy questions. These questions ranged from reviewing changes to siting standards not mandated by HB2001 to potentially allowing new uses such as tiny homes on wheels and micro shelters in the city.

Copies of the 2021 HB2001-Middle Housing adopted code and application packets can be found by visiting the [Housing Choices Code Update project page](#). The [online municipal code](#) will be updated to include these changes in early 2023.

Hearings Process

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Housing in Oregon

The recently adopted [Oregon Housing Needs Analysis](#) provides a strong overview of issues facing both Oregon and Oregon City. *“Oregon's lack of housing threatens the very core of our common purpose. Decades of underbuilding have driven up home prices and rents and left too many without adequate housing choices. Too often, people can't afford housing at all. We won't be able to grow sustainably, move toward a more equitable economy, or address the full complexity of the homelessness crisis unless we substantially increase our pace of building new homes. ...We cannot equitably distribute what is being underproduced. The people who are suffering most acutely from our housing shortage are disproportionately lower income households and communities of color. The lack of housing options perpetuates segregation through economic exclusion. By restricting people's housing choices, we make Oregon less fair, deprive people of basic human dignity, and limit our collective growth and prosperity. Where housing is built and for whom dramatically impacts who prospers and how our neighborhoods function. We need a range of housing types for all income levels, distributed equitably around and within*

each region of the state, providing access to employment and critical services and reducing the overall cost-burden to families and individuals. “¹

PURPOSE OF MEMO

This memo is not intended to encapsulate every issue and idea relating to making housing more affordable in Oregon City; rather, it will attempt to frame some policy work to date on the subject and provide some initial background on the specific topics forwarded for further discussion after the initial approval of HB 2001 code amendments.

As the purpose of the Planning Commission is to serve as an advisory body to, and a resource for, the City Commission in land use matters, the Planning Commission framed their discussion on items or topics they believe the City Commission should pursue as a future work plan item. The topics addressed in this memo, affordable housing incentives, multiple Accessory Dwelling Units (ADUs), tiny homes, /RV hardship allowances, System Development Fees, and micro shelters, are just subsets of larger housing production strategies that cities can pursue to support the creation of housing for all income levels. The Planning Commission looks forward to further discussion of these items at a joint work session in March 2023.

Planning Commission Recommendation: *Accelerated schedule for technical revisions.*

Staff initially recommended, and the Planning Commission concurred that the following topics and revisions be forwarded to the City Commission for review at the next available City Commission Meeting. These revisions provide clarity to existing policies or are needed to process currently submitted building permit applications. The Planning Commission provided direction to Staff at the December 12, 2022 Hearing, with a formal vote at the January 9, 2023 Hearing, which provided the required 35 days' notice to the Department of Land Conservation and Development. At the January 9, 2023, Hearing, the Planning Commission voted 7-0 to forward this small package to the City Commission and continue the hearing to review the remainder of the policy topics.

Middle Housing Driveway Specifications

Coordinate with Public Works- Development Services to revise driveway widths to better align across code sections and meet policy goals.

Townhome Restriction in Middle Housing Land Division

Reduce the number of townhome units allowed through the Middle Housing Land Division process (four). Require review through the Subdivision or Expedited Land Division process for townhome proposals with more than four units.

Dimensional Standards Revisions for Mixed-Use Downtown and Mixed-Use Corridor Districts

Allowing an exemption of the maximum front yard setbacks and minimum density standards for standalone residential development of four units or less in the Mixed-Use Corridor and Mixed Use Downtown Zoning Districts.

¹ [Oregon Housing Needs Analysis Legislative Recommendations Report: Leading with Production \(2022\)](#) P.10

Planning Commission Recommendation: Future work plan item.

The Planning Commission is recommending the following topics for future work plans. The Planning Commission is looking for City Commission verification for these topics. If the City Commission supports adding any of these topics as a future city work plan, staff will initiate a new effort outside of LEG 22-0001 Housing Code Choices Update Package #2.

Land Use Affordability Incentives

City Commission recommended further discussion though some portions of the policy question may require additional direction or work plans.

Should the city create flexible code provisions for middle housing selectively targeted at projects meeting affordability requirements to improve those projects' feasibility and explicitly encourage affordable housing development?

Planning Commission Direction: The Planning Commission felt that providing siting and dimensional standard incentives for qualified affordable housing projects that remained affordable over the lifetime of the project would be valuable for the community. Outreach to non-profit developers to see what incentives provide the most benefit, along with general community engagement, will be needed in a future work plan.

Tiny Homes and Recreational Vehicle Occupancy Options

City Commission recommended further discussion. As this issue is complex, involves multiple city departments, and has future budgetary implications, the Planning Commission will discuss policy options and recommend workplan direction on this item.

Should the city expand options for housing that falls outside of traditional dwelling units that hook up to city utilities and pay System Development fees? Where and when are they of value to the City?

Planning Commission Direction: Allowing tiny homes (either on or off a chassis) can provide entry-level housing for residents. These units can be hooked up to city utilities and be seen as a permanent housing option. However, additional work will need to occur to see if system development fees could be further scaled to reflect the actual impact compared to a typical middle housing unit. The Planning Commission did not wish to pursue allowing RV use on residential lots, as it was worried about the transitory nature of these uses, their impact on the neighborhood as well as sanitary concerns relating to adequate dumping of grey and blackwater tanks. The Planning Commission does feel that recreational vehicles are one of the most affordable residential options, and additional opportunities for private commercially zoned RV parks that have access to sanitary sewer and city water could be a valuable low-cost entry option for the community.

Micro Shelters

While initially grouped into the above tiny home/RV category. The Planning Commission moved this item into a separate policy question as it is related more to transition housing in non-residential areas.

Should the City create a work plan to research/investigate allowing micro shelter villages as a transitional housing option in Oregon City?

Planning Commission Direction: Micro shelters could be a valuable tool in supporting those experiencing homelessness transition to more permanent housing. Additional outreach to Salem and Corvallis is needed to understand better the opportunity and impacts of this type of housing. Planning

Commissioners were intrigued about the City of Corvallis's approach that saw micro shelter approvals subject to revocation at any time, so they have, in effect, a continuous evaluation period.

Multiple Accessory Dwelling Units (ADUs) per Lot

City Commission did not recommend further consideration.

Consider the future role for ADUs and how ADU standards compare to plex standards. Consider permitting multiple ADUs per lot for greater parity with new provisions for plexes, which could be written to require one attached and one detached unit, or in any combination. Discuss the relationship between ADUs and detached middle housing, especially regarding accessory building setback standards and Middle Housing Land Division.

Planning Commission Direction: Planning Commission was initially hesitant to move this topic forward as it seemed to fit within the category of topics where the impact of the recent HB2001 code changes created uncertainty. However, after further discussion, the Planning Commission felt that there was value in looking into allowing more than one ADU on the property as ADUs are not subject to Middle Housing Land Divisions and remained on the parent parcel and could offer additional rental housing opportunities in the community.

System Development Fees

Planning Commission Direction: While not part of the initial list of topics, the Planning Commission found that the development cost associated with substantially smaller units contributed to the complexity of allowing them as a viable option in the city. The Planning Commission recommends the City Commission look into ways further break up residential system development fees for unit size and location. While a more comprehensive analysis will occur during the upcoming [Housing Production Strategy](#), required by 2027 and most likely initiated in 2025, some initial efforts could be made to support the construction of smaller units or qualified affordable housing.

Planning Commission Recommendation: No recommended code revisions or future work plan items at this time.

The Planning Commission does not recommend any revision or work plan for the following topics at this time. The Planning Commission found that the impact to the community from HB2001 Middle Housing projects was uncertain, and any revision to the code for the topics below was premature.

High-Density Zone Development Standards

With the introduction of middle housing at greater densities in the low and medium densities zone, there could be a broader discussion about the purpose and standards for the high-density R-2 zone.

Duplex Lot Coverage in Medium-Density Zones

Consider increasing maximum building lot coverage for duplexes to match the current allowance for a single-family dwelling plus an ADU.

Lot Coverage in Low-Density Zones

Consider increasing maximum building lot coverage for specific middle housing types in proportion to increased units.

Lot Averaging for Subdivisions

City Commission did not recommend further consideration.

Consider whether and how lot averaging should apply to middle housing options beyond duplexes and whether lot averaging remains a useful tool for new developments along with middle housing opportunities.

Exhibits

1. HB 2001 Package #2 Hearing Topic Timeline
2. Public Comment Matrix
3. [Oregon City Zoning Map](#)
4. [Dimensional Standards Chart](#)
5. [Housing Choices Code Update project page](#)

Planning Commission Agendas and Memos

1. [October 24, 2022 Planning Commission Agenda](#)
 - a. Planning Commission Memo
2. [November 14, 2022 Planning Commission Agenda](#)
 - a. Planning Commission Memo
3. [December 12, 2022 Planning Commission Agenda](#)
 - a. Planning Commission Memo
4. [January 9, 2023 Planning Commission Agenda](#)
 - a. Planning Commission Memo
5. [January 23, 2023 Planning Commission Agenda](#)
 - a. Planning Commission Memo
6. February 13, 2023 Planning Commission Agenda - TBD
 - a. Planning Commission Memo - TBD

Policy Resource Documents

1. Oregon SDC Final Report
2. Micro Shelters
 - a. [City of Salem: Learn about Micro Shelter Villages](#)
 - b. [Microshelters In Corvallis](#)
3. Tiny Home/Mobile Dwellings
 - a. [Tiny Home: Legislative Regulation Background Brief](#)
 - b. [Mobile Dwellings in Oregon: Legislative Opportunities for Interim Housing, Mobile Dwellings Policy Workgroup](#)
 - c. [Legalizing Mobile Dwellings: A guide for expanding a unique affordable housing option in your city, PSU Masters of Urban and Regional Planning Workshop 2022=](#)
 - d. [American Planning Association Zoning Practice- Tiny Homes](#)
 - e. [Tiny Home Industry Association: Groundbreaking Regulations: Tiny Houses and RVs Allowed As Housing In Portland](#)

LEG 22-001 Package #2 Policy Questions		Issue	Potential Outcome	Hearing Date	Planning Commission Direction
Duplex Lot Coverage in Medium-Density Zones <ol style="list-style-type: none"> Should the City increase maximum building lot coverage for duplexes to match the current allowance for a single-family dwelling plus an ADU (60-65%) Should the City increase maximum building lot coverage across the board for specific middle housing types in rough proportion to increased numbers of units? If there is no consensus for code revisions for this topic, should the City review this question in 2-3 years to determine if lot coverage is a barrier to middle housing construction? 		Consider increasing building lot coverage for duplexes to match the current allowance for a single-family dwelling plus an ADU	None	November 14, 2022	<p>The Planning Commission did not recommend any code revision for this issue as part of Package #2.</p> <p>They found that there was a general uncertainty about the impact of the newly adopted middle housing code and, therefore, code revisions would be premature at this time.</p>
Lot Coverage in Low-Density Zones. <ol style="list-style-type: none"> Should the City increase maximum building lot coverage for duplexes to match the current allowance for a single-family dwelling plus an ADU (45%) Should the City increase maximum building lot coverage across the board for specific middle housing types in rough proportion to increased numbers of units? If there is no consensus for code revisions for this topic, should the City review this question 		Consider increasing maximum building lot coverage for specific middle housing types in rough proportion to increased numbers of units.	none	November 14, 2022	<p>The Planning Commission did not recommend any code revision for this issue as part of Package #2.</p> <p>They found that there was a general uncertainty about the impact of the newly adopted middle housing code and, therefore,</p>

LEG 22-001 Package #2 Policy Questions	Issue	Potential Outcome	Hearing Date	Planning Commission Direction
in 2-3 years to determine if lot coverage is a barrier to middle housing construction?				code revisions would be premature at this time.
<p>High-Density Zone Development Standards</p> <ol style="list-style-type: none"> 1. Should the City increase middle housing density standards in the R2 zone to match the allowed density of the medium-density (R3.5) residential zoning? Should it be higher? 2. Should the City increase the allowed density for multi-family projects in the R2 zone to be higher than the density for middle housing in the R2 zoning? If yes, should staff return with mitigation, location, or scaling strategies to reduce community impact? 3. Should the City remove or restrict townhomes/townhome subdivisions as an allowed use in the R2 zoning district but still allow tri/quad plexes on infill lots? 4. If there is no consensus for code revisions for this topic, should the City review this question in 2-3 years? 	With the introduction of middle housing at greater densities in the low and medium densities zone, there could be a broader discussion about the purpose and standards for the high density R-2 zone	None	November 14, 2022	<p>The Planning Commission did not recommend any code revision for this issue as part of Package #2.</p> <p>They found that there was a general uncertainty about the impact of the newly adopted middle housing code and, therefore, code revisions would be premature at this time.</p>
Land Use Affordability Incentives	More flexible code provisions for middle housing could be selectively targeted at projects meeting affordability requirements, both to improve feasibility of those projects and to	Policy or workplan request as this is a complex issue	November 28, 2022	The Planning Commission supported a recommendation to the City Commission for a work plan on this

LEG 22-001 Package #2 Policy Questions	Issue	Potential Outcome	Hearing Date	Planning Commission Direction
	explicitly encourage affordable housing development.		Moved to January 9, 2023	topic. A Planning/City Commission joint work session is scheduled for March 2023 to review the policy recommendations of Package #2 of Leg 22-01
Micro shlters, Tiny homes, RV hardship allowances, tiny home shelter/cluster homes (not hooked up to city sewer/water)	Additional options for housing should be discussed that fall outside of traditional dwelling units that hook up to city utilities and pay System Development Fees. Where and when are they a value to the city?	Policy or workplan request as this is a complex issue.	November 28, 2022 Moved to January 9, 2023	The Planning Commission supported a recommendation to the City Commission for a work plan on this topic. A Planning/City Commission joint work session is scheduled for March 2023 to review the policy recommendations of Package #2 of Leg 22-01
Parking Standards for Triplexes and Quadplexes	Technical clarifications to reflect that standards apply per development, not per unit, and consider increasing or eliminating the maximum parking ¹ standard. Consider relocating the standards to the triplex and quadplex design section. At this time, Staff does	None	December 12, 2022	the Planning Commission did not recommend any code revisions at this time for this topic.

¹ <https://www.oregon.gov/lcd/CL/Documents/ParkingReformOverview.pdf>. Code edits that address the requirements of Climate-Friendly and Equitable Communities Oregon Administrative Rules are recommended to be reviewed in a future separate package.

LEG 22-001 Package #2 Policy Questions	Issue	Potential Outcome	Hearing Date	Planning Commission Direction
	not recommend any revisions to the parking sections for Triplexes and Quadplexes and will review for any needed technical corrections in preparation for any compliance with Climate-Friendly and Equitable Communities .			
Middle Housing Driveway Specifications.	Coordinate with Public works-Development Services to revise driveway widths to better align across code sections and meet policy goals.	Recommended redline code	December 12, 2022	<p>The Planning Commission provided general consensus to recommend approval to the City Commission.</p> <p>The Planning Commission formally recommended approval to the City Commission at the January 9, 2023 Public Hearing.</p>
Technical Revisions	<p>Reduce the number of townhome units allowed through the Middle Housing Land Division process (four). Require review through the Subdivision or Expedite Land Division process for townhome proposals with more than four units.</p> <p>Allowing an exemption of the maximum front yard setbacks and minimum</p>	Recommended redline code	December 12, 2022	<p>The Planning Commission provided general consensus to recommend approval to the City Commission.</p> <p>The Planning Commission formally recommended approval to the City Commission</p>

LEG 22-001 Package #2 Policy Questions	Issue	Potential Outcome	Hearing Date	Planning Commission Direction
	density standards for standalone residential development of four units or less in the Mixed Use Corridor and Mixed Use Downtown Zoning Districts and creating a Type II Modification process for projects that need an adjustment to the middle housing design standards.			at the January 9, 2023 Public Hearing.
Multiple Accessory Dwelling Units (ADUs) per Lot Currently, only one accessory dwelling unit is allowed per site.	Consider the future role of ADUs and how ADU standards compare to plex standards. Consider whether to permit multiple ADUs per lot for greater parity with new provisions for plexes, which could be written to require one attached and one detached unit, or in any combination. City Commission did not recommend further consideration as part of Package #1	Request for policy clarification	January 9, 2023 January 23, 2022	The Planning Commission supported the concept of multiple ADUs on a site- as they were within one ownership, could provide additional smaller rental housing, and could be commensurate in neighborhood impact as detached duplexes or triplexes. The Planning Commission is looking for clarification from the City Commission on the policy item. A Planning/City Commission joint work session is scheduled for

LEG 22-001 Package #2 Policy Questions	Issue	Potential Outcome	Hearing Date	Planning Commission Direction
				March 2023 to review the policy recommendations of Package #2 of Leg 22-01
Lot Averaging for Subdivisions	Consider whether and how lot averaging should apply to middle housing options beyond duplexes, and whether lot averaging remains a useful tool for new subdivisions along with middle housing opportunities	none	January 9, 2023 January 23, 2022	<p>The Planning Commission did not recommend any code revision for this issue as part of Package #2</p> <p>They found that there was a general uncertainty about the impact of the newly adopted middle housing code and, therefore, code revisions would be premature at this time.</p>

Date	Topic	Issue / Comment / Concern	Staff Comment	Has this been Addressed? How?
Paul Edgar 11.1.22 email 11.10.22 email 11.23.22 email 1.9.23 public testimony	Tiny homes, Clustered, Safe & Rest Communities	We could create and build new master planned communities within a Manufactured Home Park mindset of design, with conventional and most importantly, affordable manufactured homes, prefabbed modular homes and also create communities of where very, very affordable tiny homes of under 200 Sq. Ft. with post and beam. We need the codes and zoning for building communities of all sizes, that have one thing in common, that permanent and semi-permanent dwelling/houses - structures that are under \$100,000	This policy question is scheduled for the November 28, 2022 January 9, 2023 Planning Commission meeting	The Planning Commission supported a recommendation to the City Commission for a work plan on this topic. A Planning/City Commission joint work session is scheduled for March 2023 to review the policy recommendations of Package #2 of Leg 22-01
Jim Nicita 1.9.23 emails 1.9.23 public testimony 1.23.23 public testimony & emails	Tiny homes/ADUs, cost of development	Supporting more infill within Oregon City's core is a great opportunity to increase the housing supply in an area with transit and amenities. There are lots of open areas within Mcloughlin that can support additional small units. It also gives young families the ability to invest in the housing market with more affordable options. Cost of development (fees, SDc) is still a big barrier for this to occur	As part of the June 30, 2023 code amendments, Oregon City now allows detached duplexes and triplexes, if one of the units is older than five years old. Detached units can additionally be developed through the middle housing land division process. ADUs and Duplexes were also added to the permitted uses of the Mixed-Use Corridor zone. The current system development fee for ADUs and middle housing units is a base fee of \$25,167 and is currently not calculated on the size of the unit.	The Planning Commission supported a recommendation to the City Commission for a work plan on this topic. A Planning/City Commission joint work session is scheduled for March 2023 to review the policy recommendations of Package #2 of Leg 22-01

From: [Paul O. Edgar](#)
To: [Christina Robertson-Gardiner](#); [Aquilla Hurd-Ravich](#); [John M. Lewis](#); [Josh Wheeler](#)
Cc: [Denyse McGriff](#); [Dirk Schagenhauser - OC Planning](#)
Subject: Cluster Housing in Nigeria, and how we can learn from this
Date: Tuesday, November 1, 2022 12:40:50 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Can this be shared as comment and testimony to the Planning Commission and City Commission, as part of HB 2001 Middle Housing discussions and code revisions

Paul Edgar

[How One Architect Helped Imagine a Better Future for a Nigerian Village in Crisis - Dwell](#)

Middle Housing and Tiny Housing, became an answer for those displaced, where the United Nations stepped in and brought in a Nigerian Architect to design and build their type of a cluster housing community. These displaced people, needed security housing and roofs over their heads, and just think about this, as we have a parallel in Oregon, Clackamas County, and even Oregon City, with our homeless and houseless.

We could create and build new master planned communities within a Manufactured Home Park mindset of design, with conventional and most importantly affordable manufactured homes, prefabricated modular homes and also create communities of where very, very affordable tiny homes of under 200 Sq. Ft. with post and beam foundations if we have places where they could be sited. We need the codes and zoning for building communities of all sizes, that have one thing in common, that permanent and semi-permanent dwelling/houses - structures that are under \$100,000 to where they could be located.

We could also have additional master planned communities that could have modular built Tiny Houses of under \$50,000 in cost and other community could be under \$25,000 in providing a starting places of what would be semi-permanent housing. Oregon Community Housing has funded opportunities to make things like this happen and even provide programs for home ownership. Metro also has programs that can provide funding to create these Master planned Communities, with funding. A one acre parcel, could be a site, that could support a beautifully designed of housing community for 24 to 40 people when it has access to public utilities, transportation, and retail stores. Re-Thinking Zoning, where there are the existence of critically required and needed utilities and public transportation and has limited negative "Not In My Back Yard" impacts and acceptance within the neighboring community, might require a greater ability to gain the ability to re-zone parcels to enable the high priority need of new affordable housing communities.

Very small Tiny Houses, of under 200 Sq. Ft. of foundations sizes may need to be expanded to 300 Sq. Ft. and the height of these affordable housing structures to 20' feet in height. Allowing things and changes to codes that enable housing structures that could be built on post and beam is equally important in reducing housing costs.

Envision mini housing structures that reduce building waste/costs, that are 8' x 20' that includes in its design a 4' x 8' porch, a 4' x 8' bathroom, 8' x 12 living space that includes &

mini-kitchen and a sleeping loft-bed area. These Tiny House Structures could have 12' ft. high walls that support a loft floor and a 8, 10, or 12-12 pitch roofs, thus creating a 1 and 1 half story Vernacular Type Design structures. Using this design a very, very affordable permanent tiny house structure, could be engineered that meets building codes, and is created without SDC fees and should only require, over the counter approval on and with pre approved plans.

This concept requires engineered and approved designs, that opens the ability of approval by the building department, to place these housing units into Master Planned and Built Out Communities, with in ground utilities.

Very, very affordable Tiny Houses of under 200 Sq. Ft. of foundation size could also be represented in an example of a 12' x 16' where the Tiny House is squared up, but again on post and beam, and with 12' ft. high walls that support larger loft sleeping areas that can be enhanced with 12-12 pitch roofs, and with a shed roof dorms. These type of type of permanent housing structures, going into a master planned manufacture home park, for middle housing, need to be allowed and zoned, to where the structure do not require SDC Fees, when coming from a modular home factory, with approved plans and assembled onsite.

These very, very affordable permanent housing units, could come from, a local modular housing factory that could also be part of Trade School Program, that builds student proficiency's in all of the trade skills needed within building housing. The key to this concept is within creating very, very affordable housing and educated students trade skills, within massively reducing costs, and creating affordable Master-Planned Community, that have small lots, will all of the utilities available and underground.

Within the creating these communities, there needs to be a focus on central common open spaces and areas that need to have park like settings, that enhance livability, walking paths, gardens, trees, and when possible central facilities like laundry facilities and parking lots that become part of limiting on-site cars. Doing this with a focus on having porches that connect people and make possible the building of a community atmosphere, as the people access these affordable Housing Structures all coming from a central common access areas.

We could also design and build Clustered, Safe & Rest Communities, where we centralized access to sanitary sewer, water, electricity, and communal structures, and have open common area's. These Safe & Rest developments become the first step away from the streets, parks and public properties where people in need are sleeping under a tarp or in a tent. We plan and create Safe & Rest Communities and provide a roof, insulated walls, wired to provide; lights, heat and cooling and lockable doors. These communities are to be controlled place where it becomes possible to transition the homeless and houseless and they must be very good looking & inviting, and in an analogy, "like a good fishing lure where the fish will bite at it". Stick built, shelter housing structure can cost less than tents structures, where the cost of each dwelling unit can be well under \$5,000 and as low as \$3,000. These Safe & Rest Communities need "Communal Buildings", can house and enable intervention specialist, with drug and addiction specialists, mental health specialists, limited health-first aid location & personal, kitchens, showers, sanitary toilets facilities, counseling facilities, administration facilities. Idealistically all structures where possible would have integrated "Solar Power Panels" to provide all of the electrical power needed whereby this community only adds to the local power grid.

From: [Paul O. Edgar](#)
 To: [Denyse McGriff](#)
 Cc: [Christina Robertson-Gardiner](#); [Aquila Hurd-Rayich](#)
 Subject: Affordable Housing opportunity, coming from Better Built Barns
 Date: Wednesday, November 23, 2022 1:06:16 PM
 Attachments: [untitled](#)

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Denyse, look at this for its potential, of a very affordable Tiny House structure that is pre cut and brought in assembled on the land in Oregon City. It is an example of a very affordable housing that could have a mini-kitchen and bathroom on the main floor, Ductless Heating/Air, Tank-less Hot Water, and the only thing is getting a potential waiver to exceed the height limitation of 15' feet. Have Solar Panels on the roof and make it very energy efficient with the new insulation and it is created as an example of what can be done in creating an affordable minimal living Model House.

This could be an ADU on an existing lot with a primary house, were it shares existing water and sewer, built without SDC Fees and require only Engineering Approval of the building department, and electrical inspection. An affordable Tiny House, can be this great, guest cottage, independent living for children or grandchildren and/or rental for someone in need of an affordable roof over their head.

To picture this structure go to www.betterbuiltbarns.com and it is on the upper left of this web site and it is barn red.

On 11/23/2022 11:03 AM, customerservice@betterbuiltbarns.com wrote:

Hello,

That building is our most expensive model. It is a 12x16 and runs about \$20,000.00

Thank you!
 -Julia



----- Original Message -----

Subject: Re: Live Chat offline message received from (Paul Edgar<pauloedgar1940@gmail.com>)
 From: "Paul O. Edgar" <pauloedgar1940@gmail.com>
 Date: 11/17/22 9:26 am
 To: "customerservice@betterbuiltbarns.com" <customerservice@betterbuiltbarns.com>

On your web site on the upper left is a barn red, basically 2 story structure design and what are the de-mentions and are there options like having only a 3.0 man-door centered more to the left windows. What would the price be for this structure? Can you send more and information and design drawings on that structure. It needs to be under 200 Sq. Ft for the foundation of the main structure to where it does not require building permits. However, to get an occupancy permit, we would need to validate its structural engineering.

Paul Edgar

On 11/17/2022 8:56 AM, customerservice@betterbuiltbarns.com wrote:

Hello,

Thank you for your shed inquiry!

We do not do electrical or interior finish work, however, we do build shells that some customer turn into finished rooms. For most customers, we can build up to a 10x20 without permits. At our website, you may wish to try our Build My 3D Shed option as this gives a good estimate and lets you place windows and doors.

We look forward to working with you on your outbuilding project!

Sincerely,
 - David



----- Original Message -----

Subject: Live Chat offline message received from (Paul Edgar<pauloedgar1940@gmail.com>)
From: "Paul Edgar via mylivechat" <sendmail@mylivechat.com>
Date: 11/14/22 9:38 pm
To: "<customerservice@betterbuiltbarns.com>" <customerservice@betterbuiltbarns.com>

My Live Chat

My Live Chat

LiveChat Offline Message Received

Dear Better Built,

You have received an offline message, sent from mylivechat.com with the following details:

Name: Paul Edgar
Email: pauloedgar1940@gmail.com
Time: 2022-11-14 22:37:49
Referrer: <https://www.mylivechat.com/>
IP: [97.120.29.144](#)
Location: Portland, Oregon, United States
Client: Android/ Chrome107/ en-US
Subject: Want to use to live in
Message: I am on a housing board and your company could be a supplier.

Thank you for using mylivechat.com for your Live Chat services.

Sincerely,
My Live Chat Team

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From: [Paul O. Edgar](#)
To: [recorderteam](#); [Christina Robertson-Gardiner](#); [Aquilla Hurd-Ravich](#); [Pete Walter](#)
Cc: [Dirk Schagenhauser - OC Planning](#); [Denyse McGriff](#)
Subject: Re: What are the impacts of Inflation in Oregon City going to be and what type of affordable housing options will we need, and please include this as part of the record of the Planning Commission on the Middle Housing Considerations
Date: Thursday, November 10, 2022 9:27:20 PM
Attachments: [UaX8RIC9H71IssDq.png](#)

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I would like to talk about this within Citizens Comments or as a member of Clackamas County's Community Action Board before the Planning Commission meeting, or in the Work Session 11/14/2022.

Below in this "Self-Sufficiency Standard Chart", prepared by the University of Washington are the numbers represented, specifically for Clackamas County.

This is about, more than housing and what it takes to live in Clackamas County, as we all know that we now have to look at this within the impacts of this 2022 inflation. What we have experienced dramatically changes this chart below, that represented costs that existed in 2021 time period. What we need to do is **envision with inflation** with what now exist within the 2022 Period for; Food, Housing, Property Tax, Utilities, Home or Rental Insurance, Transportation & Vehicle Cost, Car Insurance, and Vehicle Fuel Costs.

Look at what it took in 2021 income in the 7th column from the left to the right, representing 2 Adults, an infant and a preschooler.

Then attempt to apply the known 2022 inflation factors to each of the monthly costs and just think about keeping roof over the heads of the citizenry, impacted by the new local cost of housing, with property taxes, utilities, insurance in our marketplace it may well be double what is reflected from 2021 time frame.

What we must also attempt to do is calculate the cost changes with how to make this work with enough money to cover these costs within "Self-Sufficiency", I think we can all see that both adults will have to be working very hard and maybe with multiple jobs. Both kids will be in some type of childcare and then with all of this, think about the transportation implications and expense. Transportation costs surely will triple or quadruple over what is reflected, where both adults will needs cars with car or lease payments, insurance, and now fuel-gas prices up 38% and plus maintenance.

Some where through this, everyone has to eat and the cost of food and getting it to us - through the supply chain, has resulted in significant increases of prices in the 2022 time frame that have reached a 40 year high in inflated costs. The farmer or food producer has seen their operating expense triple and that is consistent with the increases in supply chain costs.

This leads me to believe that we are going have to get very creative and do whatever we can do to create roofs that can be made available that people can afford and it is more than "Middle Housing".

The Planning Commission, needs to envision what needs to be done, starting at and with Shelter Housing to get people off the street and go from there.

There are things that can be learned from the actions taken in the early 1930s, 1940s, and 1950s, 60s with HUD housing developments, and smaller housing units, some which currently exist in Oregon City. Semi-Permanent Housing Structures, under 200 Sq. Ft., 400 Sq. Ft., 600, 800, and 1,000 Sq. Ft. New minimal living structures, often clustered with central shared facilities need to be part of any considerations.

I think we must examine factory modular construction techniques, and years ago that was an available option with Sears Houses, bought from a catalog that still exist all over the Portland Region.

We could be going into a world where one little thing could set-off a chain of events, when 80% of the people are going paycheck to paycheck, trying to weather the storm, and it ends up they cannot. We have to enable this type of creativity within our codes, in our HB 2001, Middle Housing Revisions to address all of the conditions that might arise. How do we create housing options at price tags of: \$25K, \$50K, \$100K, \$150K, \$200K, \$300K and now is the time to start thinking about it. What has to be enabled to create housing at all of these price points?

Paul Edgar

On 11/5/2022 1:19 PM, Paul O. Edgar wrote:

TABLE 3. The Self-Sufficiency Standard for Clackamas County, OR 2021

	Adult	Adult Preschooler	Adult Infant Preschooler	Adult Preschooler School-Age	Adult School-Age Teenager	2 Adults Infant	2 Adults Infant Preschooler	2 Adults Preschooler School-Age
MONTHLY COSTS								
Housing	\$1,366	\$1,576	\$1,576	\$1,576	\$1,576	\$1,576	\$1,576	\$1,576
Child Care	\$0	\$1,070	\$2,365	\$1,821	\$751	\$1,296	\$2,365	\$1,821
Food	\$298	\$450	\$592	\$681	\$790	\$703	\$831	\$916
Transportation	\$311	\$319	\$319	\$319	\$319	\$614	\$614	\$614
Health Care (Net)	\$168	\$536	\$555	\$574	\$610	\$609	\$628	\$647
Premium	\$95	\$444	\$444	\$444	\$444	\$444	\$444	\$444
Out-of-Pocket	\$73	\$92	\$111	\$130	\$166	\$164	\$183	\$203
Miscellaneous	\$214	\$395	\$541	\$497	\$405	\$480	\$601	\$557
Taxes (Net)	\$636	\$819	\$1,132	\$913	\$559	\$1,047	\$1,123	\$1,001
Federal Income Taxes	\$217	\$408	\$737	\$584	\$390	\$475	\$644	\$572
Federal and Local Payroll Taxes	\$232	\$400	\$549	\$495	\$388	\$490	\$600	\$553
State Sales Taxes	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
State Income Taxes	\$187	\$311	\$446	\$385	\$281	\$382	\$479	\$427
Federal Child Tax Credit (-)	\$0	(\$300)	(\$600)	(\$550)	(\$500)	(\$300)	(\$600)	(\$550)
SELF-SUFFICIENCY WAGE								
Hourly (per worker)	\$17.00	\$29.35	\$40.22	\$36.26	\$28.47	\$17.96	\$21.98	\$20.26
Monthly	\$2,992	\$5,165	\$7,079	\$6,381	\$5,010	\$6,323	\$7,738	\$7,132
Annual	\$35,908	\$61,984	\$84,950	\$76,577	\$60,118	\$75,876	\$92,856	\$85,586
Emergency Savings Fund (Monthly)	\$36	\$125	\$313	\$263	\$134	\$51	\$70	\$66
ANNUAL REFUNDABLE TAX CREDITS								
Federal & Oregon Earned Income Tax Credit (EITC)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal Child and Dependent Care Tax Credit (CDCTC)	\$0	\$4,000	\$8,000	\$8,000	\$4,000	\$4,000	\$8,000	\$8,000
Oregon Working Family Household and Dependent Care Credit (WFHDC)	\$0	\$0	\$0	\$0	\$361	\$0	\$0	\$0
Total Annual Resources	\$35,908	\$65,984	\$92,950	\$84,577	\$64,479	\$79,876	\$100,856	\$93,586

We need to address all of this and these foreseeable conditions and realities immediately, as an emergency.

We need to also additionally consider creating new affordable housing communities and options with houses that cost less than \$100,000 to build for families of 3 or more people. There needs to be consideration of how these new communities fit into Transportation needs and realities with transit routes.

We may need to look at this like an emergency and consider what was done in WPA Days of the Great Depression in the mid 1930s and do what is needed.

PS: What are the impacts of Inflation in Oregon City, West Linn, Canby & Gladstone going to be and it is for sure that the users of the I-205 Corridor and the I-205 Abernethy Bridge will not be able to afford \$300 per month in Tolls per vehicle. To survive these proposed Tolls with the inflation that we have to live with what will they have to do?

Christina Robertson-Gardiner

From: James Nicita <james.nicita@gmail.com>
Sent: Monday, January 9, 2023 3:42 PM
To: Dirk Schlagenhauser; Daphne Wuest; Gregory Stoll; Bob La Salle; Karla Laws; pespe@ci.oswego.or.us; cstaggs@orcify.org
Cc: Christina Robertson-Gardiner; Jakob Wiley
Subject: GLUA 22-0002/LEG-22-0001- HB 2001 Housing Choice Code Update

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Greetings All:

I hope everyone had a great holiday season.

I write regarding tonight's PC hearing.

Below please find an excerpt from a comment I made last year during the main hearings on missing middle housing. I hope the Planning Commission might consider the idea of authorizing/enabling "tiny lots" for "tiny houses," the idea again to assist young families to get a foot on the ladder of home ownership, and being able to benefit from property value appreciation over time.

Thanks,

Jim Nicita
 Oregon City

I offer a single illustrative example of an obstacle in the existing code to missing middle housing.

If one walks through the areas of Oregon City - especially the older, established areas - zoned for mixed use and higher density, it is easy to perceive in the interstices of the built fabric numerous, sometimes underutilized, spaces into which it would be fairly easy to slip in a tiny house. But the current code does not really enable people to take advantage of these opportunities.

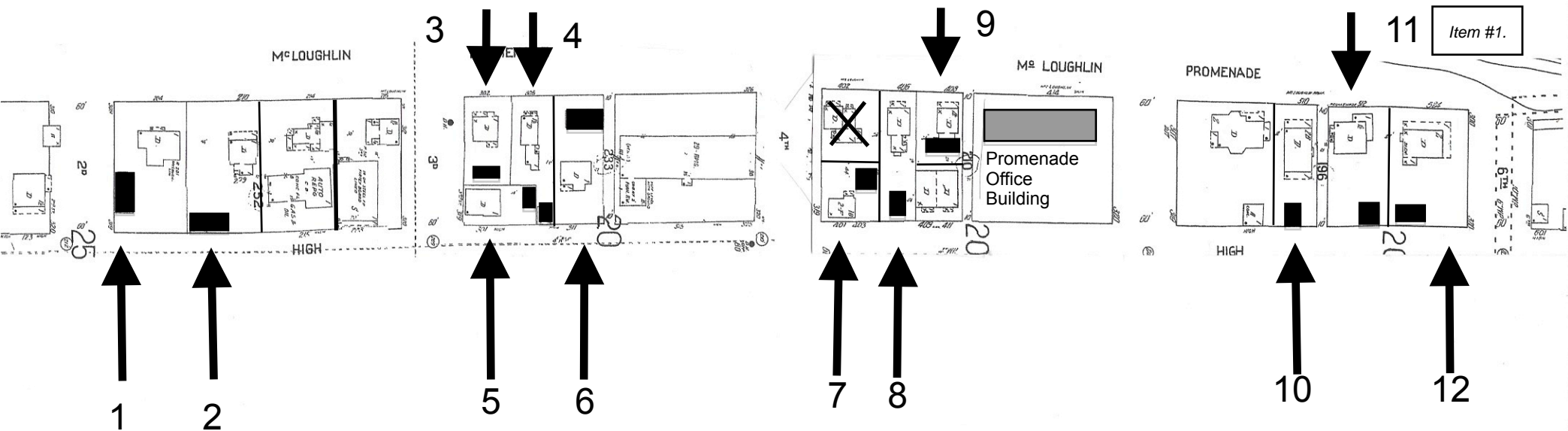
There is no minimum lot size in zones such as NC, MUC, and MUD, which therefore would be good candidates for individual single family detached tiny house development (for MUD, see e.g. the small historic houses on the south side of 14th between Main and Center streets); however, they do not allow single family detached houses, including tiny houses.

Medium density districts allow single family detached houses, but the minimum lot sizes might prevent tiny houses from being a practicable option. High density districts allow single family attached but not single family detached, and thus such zoning would typically prevent the partitioning off of a backyard of an older historic home for a small tiny house lot.

It does not seem that it would be difficult or time consuming to draft language for single family detached tiny house development. (An ADU does not fit the bill; it does not allow a young family to benefit from the appreciation of value provided by independent home ownership.) For example, a

“Detached Tiny House” building type, including maximum lot size to ensure the maintenance of density, could be added to Chapter 17.20. Then the chapters describing the above-mentioned zones, or at least some of them, could be correspondingly amended to describe outright or circumstantial use of detached tiny houses.

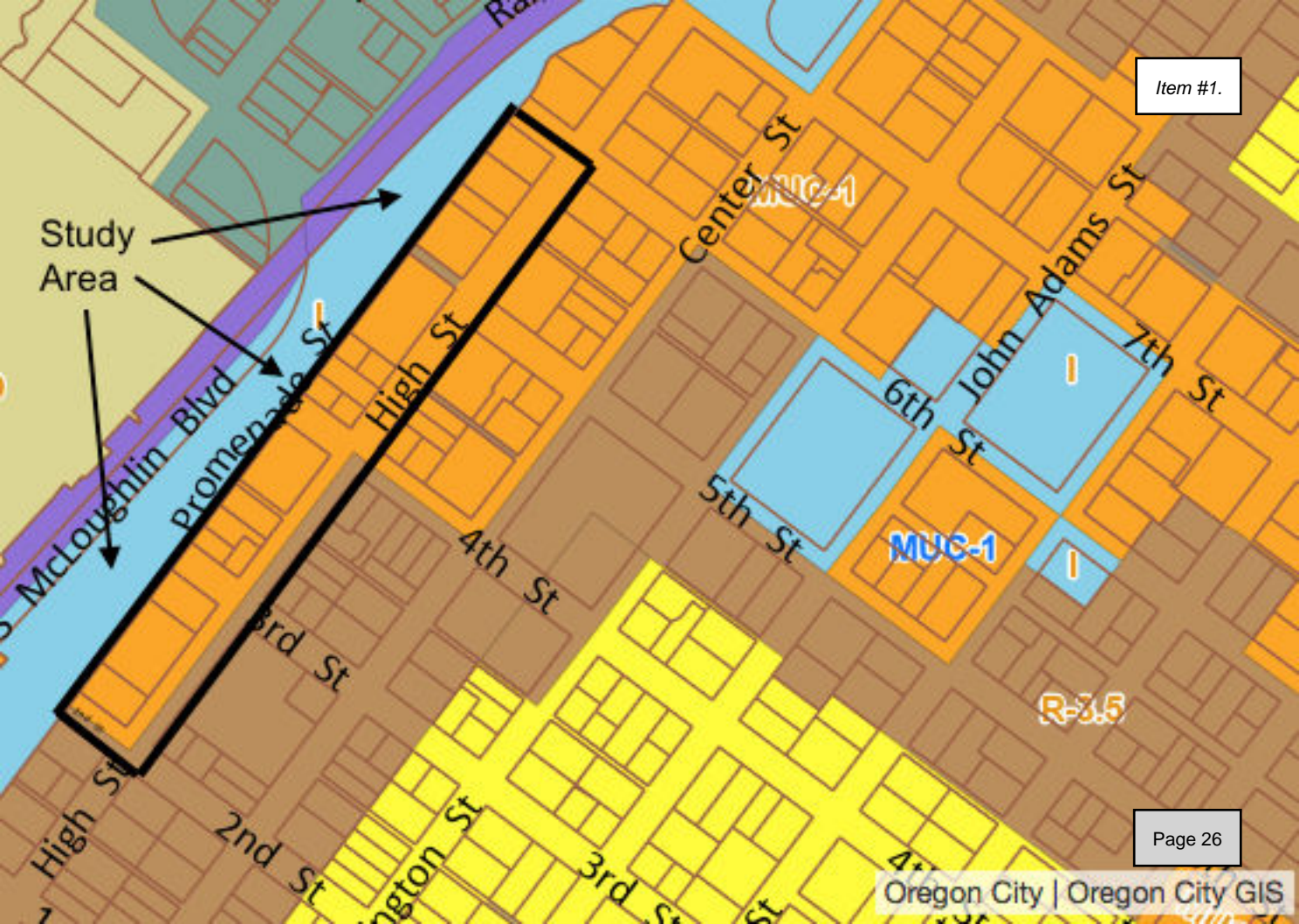
Item #1.



High Street Mixed-Use Corridor: Potential ADU Locations

- | | |
|----------------------|----------------------|
| 1. 205 High St. | 7. 319 High St. |
| 2. 210 Bluff St. | 8. 406 Promenade St. |
| 3. 302 Bluff St. | 9. 408 Promenade St. |
| 4. 306 Promenade St. | 10. 509 High St. |
| 5. 301 High St. | 11. 515 High St. |
| 6. 311 High St. | 12. 524 High St. |

Black rectangles indicate potential new ADU footprint.



Christina Robertson-Gardiner

From: Christina Robertson-Gardiner
Sent: Monday, January 9, 2023 3:58 PM
To: Kay Neumann
Subject: FW: GLUA 22-0002/LEG-22-0001- HB 2001 Housing Choice Code Update
Attachments: Study Area.png; High Street Mixed Use Corridor Potential ADU Locations.pdf

From: James Nicita <james.nicita@gmail.com>
Sent: Monday, January 9, 2023 3:54 PM
To: Dirk Schlagenhauser <dschlagenhauser@orccity.org>; Karla Laws <karla.laws@gmail.com>; Daphne Wuest <dwuest@orccity.org>; pespe@ci.oswego.or.us; Gregory Stoll <gstoll@orccity.org>; Bob La Salle <blasalle@orccity.org>; cstaggs@orccity.org
Cc: Christina Robertson-Gardiner <crobertson@orccity.org>; Jakob Wiley <jwiley@orccity.org>
Subject: GLUA 22-0002/LEG-22-0001- HB 2001 Housing Choice Code Update

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Hello Again:

Here is another comment I made last year, at the City Commission level. The hypothetical ADU blackfootprints I drew in will also give a sense of how tiny house infill housing could be established in a very small area of Oregon City. If you can imagine each of these tiny houses being on their own "tiny lots" carved out of the parent lot, it will give you a sense of what I was trying to communicate in my last email.

Jakob, if it would be possible to project these two images on the screen tonight, I would be grateful.

Thanks,

Jim Nicita
 Oregon City

----- Forwarded message -----

From: James Nicita <james.nicita@gmail.com>
Date: Tue, May 3, 2022 at 2:39 AM
Subject: GLUA 22-0002/LEG 22-00001 Housing Choices Update Follow Up Public Comment
To: Denyse McGriff <dmcgriff@orccity.org>, Rocky Smith, Jr. <rsmith@orccity.org>, Adam Marl <amarl@orccity.org>, Frank O'Donnell <fodonnell@orccity.org>
Cc: Oregon City Planning <ocplanning@orccity.org>

Madame President and Commissioners:

I write to submit follow-up comments on the above-referenced file, based on the Commission's discussion on April 20, 2022.

This email responds to President McGriff's concerns expressed beginning at roughly minute 57:00 of the April 20 meeting, regarding the proposed addition of ADUs as a permitted use in the Mixed-Use Corridor (MUC) zones.

I have prepared the attached graphical representations of how ADUs might be placed on lots with grandfathered single-family detached homes in one sample area with the much more vast MUC zone: namely, the stretch of the west side of High Street running from Second Street to Sixth Street.

I have identified at least 12 hypothetical ADU scenarios in this four-block stretch, as represented by black squares on a modified Sanborn map.

Many of these homes face the McLoughlin Promenade, with the rears of the homes facing High Street. This creates an urban design problem because much of High Street does not have a well-defined building wall. New ADUs could help establish a well-defined High Street building wall and pedestrian interaction with High Street.

Regarding affordable housing, people in ADUs in this stretch would not need to own cars. This stretch of High Street is served by Oregon City's highest-capacity transit service: the Trimet Route # 33 bus line. Recreation would be immediately accessible on the McLoughlin Promenade. Furthermore, ADU residents would be within walking distance to stores like the Capitol Mart and the corner of Third and High, the OC library, the lower 7th Street corridor, and downtown via the OC Elevator.

If around 12 ADUs could theoretically fit in this short stretch of the MUC zone, then very many affordable housing ADUs could fit in the MUC zone as a whole.

Planning Commission Chair Schlagenhauser's comments that the Planning Commission recommended adding ADUs as permitted uses in the MUC zone in part out of basic fairness are well taken. An examination of all the single family zoning districts that border the MUC zone will highlight that the current situation is not fair. These single family districts allow families in single family homes to have ADUs; however, a family that is right across the street, alley, or even lot line that lives in a grandfathered single family home in the adjacent MUC district currently cannot have an ADU. The Planning Commission's recommendations will cure that basic unfairness.

Thank you for considering these comments.

James Nicita
Oregon City

Gentle Infill Slide Show

VT. DEPT. OF HOUSING & COMMUNITY DEVELOPMENT | JULY 2020

Users can adapt and customize this slideshow for local presentations and use.

- Homes in walkable neighborhoods close to jobs, daily destinations and recreational amenities are in high demand.
- Convenient homes also help meet many shared priorities around health, energy, economic development, and sustainable public services.
- This sample, customizable file can help local planners visualize ways to support infill housing through incremental changes to zoning and land use regulation.

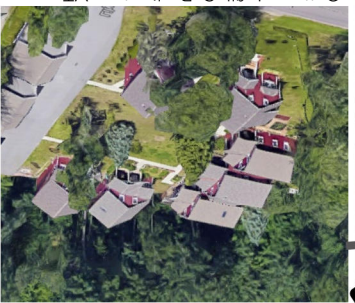
Gentle Infill Slide Show

Discussion Questions

- Does your community's zoning allow neighborhood homes like these?
- What could new lots, units, and neighborhood businesses mean for your community for things like:
 - School enrollment
 - Energy consumption
 - Transportation choice
 - Health
 - Aging in place
 - Retirement planning
 - Affordability
 - Efficient economies for public services (like students per bus stop or customers per linear foot of sewer line)

7 NEW LOTS | >24 NEW UNITS | 1 NEW BUSINESS

Item #1.



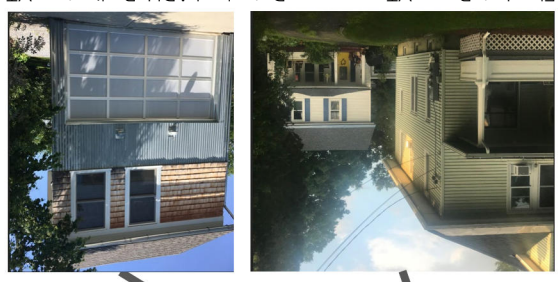
Cottage Infill: S. Burlington, VT



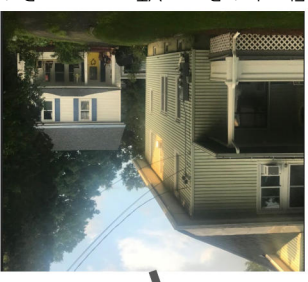
Duplex: Shelburne, VT



Adaptive Re-Use: Putney VT



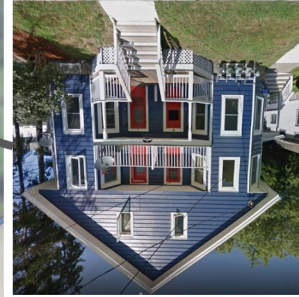
Detached ADU: Burlington, VT



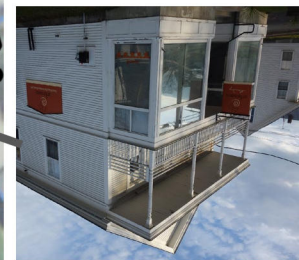
Flag Lot: Barre, VT



Small Home: Barre, VT



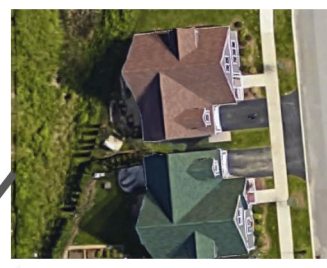
Small Lot 4-plex: Winoski, VT



Mixed Use: Groton, VT



Mixed Use: Fairfax, VT



Reduced Setbacks: Williston, VT

Christina Robertson-Gardiner

From: James Nicita <james.nicita@gmail.com>
Sent: Thursday, January 19, 2023 4:14 PM
To: Christina Robertson-Gardiner
Subject: Cottage Infill
Attachments: CPR-Gentle-Infill.pdf

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Christina,

I found online the attached 3-slide summary of “gentle infill.” It seems to be from Vermont.

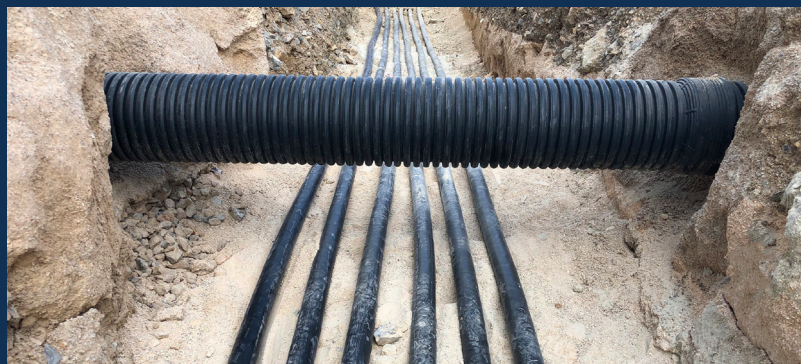
At bottom center of the aerial, there is an example of an infill cottage on its own lot of 1/8 acre.

Cheers,

Jim



OREGON SYSTEM DEVELOPMENT CHARGES STUDY: WHY SDCs MATTER AND HOW THEY AFFECT HOUSING



This report was prepared by ECONorthwest on behalf of Oregon Housing and Community Services (OHCS) with funding from the 2021 Oregon State Legislature and substantial contributions from FCS GROUP and Galardi Rothstein Group. Staff and project team members are grateful to the many cities, counties, special districts, and housing developers who participated in focus groups and interviews and/or provided written commentary to inform this study.

While many individuals contributed to this study, core project team members are listed below.

OREGON HOUSING AND COMMUNITY SERVICES

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- Kim Travis, *Engagement Support*

ECONORTHWEST

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- Tyler Bump, *Project Director and Senior Advisor*
- Lorelei Juntunen, *President and Senior Advisor*
- Michael Wilkerson, *Director of Data Analytics*
- James Kim, *Research and Analysis Lead*
- Lee Ann Ryan, *Engagement Lead*
- Spencer Keating, *Analyst*

GALARDI ROTHSTEIN GROUP

- Deborah (Deb) Galardi, *Principal*

FCS GROUP

- John Ghilarducci, *President/Principal*
- Doug Gabbard, *Project Manager*



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Executive Summary

In 2021, the Oregon legislature passed House Bill 3040 (HB 3040), directing Oregon Housing and Community Services (OHCS) to prepare a study of System Development Charges (SDCs) — a form of one-time impact fees charged on new development to help pay for infrastructure that serves or provides capacity for growth. The legislature requested that the study cover the history of the charges, methodologies for setting the fees, recent trends in fee levels, how the fees relate to other development costs, and how they ultimately affect the cost and production of housing. The findings from this study can inform future policy discussions related to SDCs, but the legislature’s direction for this study did not include making policy recommendations.

OHCS contracted with ECONorthwest and subcontractors FCS GROUP and Galardi Rothstein Group to undertake this report. The team drew its findings from reviews of national and local studies; surveys of cities, counties, and special districts; interviews and focus groups with local government officials and housing developers; original data analyses; and decades of experience conducting SDC studies, analyzing residential development, and evaluating infrastructure funding mechanisms.

Key Findings

SDCs have become an essential funding mechanism in many Oregon communities, for practical, political, and policy reasons.

- **SDCs are increasing faster than inflation due to lack of alternative funding and increasing infrastructure costs.** Over the last several decades, flat or declining state and federal infrastructure spending, limitations on property taxes, and increasing costs for operations, maintenance, and regulatory compliance have increased dependence on SDCs and other local revenue sources. On average, both SDCs and water and sewer utility rates have increased faster than construction costs over the past 10-15 years. Even so, many jurisdictions report falling behind in their ability to pay for infrastructure, especially in the last few years as costs have escalated so quickly that annual indexed adjustments have not kept up.
- **SDCs are a critical component of local funding for infrastructure needed to support growth.** SDCs can allow communities to build the infrastructure needed to accommodate orderly growth, making them an important part of Oregon’s growth management system. They can benefit both developers (by funding investments that make development possible and distributing costs among multiple benefitting parties) and existing residents (by reducing reliance on utility rates, bonds, and other community-wide funding mechanisms that can disproportionately impact lower-income households). Further, the requirements associated with other local funding sources for capital improvements (e.g., voter approval for general obligation bonds) can increase jurisdictions’ reliance on SDCs. However, small, slow-growing communities tend to use

SDCs less, as they have less need to increase infrastructure capacity, few costs attributable to growth, and little development that would generate revenue.

- **The variation in SDC rates across the state reflects differences in local needs, cost factors, and priorities.** Oregon’s SDC Act and the broader legal context provide guardrails to ensure SDCs recover an equitable share of costs of capacity, while also providing flexibility to tailor the approach to community values and local circumstances. Local differences in funding choices, system needs, and construction and land costs can lead to differences in the total costs that SDCs are expected to cover. Local choices related to how costs are linked to development impacts can also lead to differences in SDC rates for similar development in different communities. Further, because SDCs are adopted by local elected officials, some communities intentionally keep SDC rates down to avoid discouraging development, either by discounting the calculated charges or reducing the size of the capital improvements list.

SDCs also increase the cost of building new housing in ways that can skew housing development towards higher-cost homes and can impact buyers and renters. SDCs likely account for anywhere from just under 2 percent to nearly 13 percent of total development costs for housing in Oregon, depending on the housing type, SDC rates, other cost factors, and market conditions. There are many other factors driving home prices, rents, and development costs—SDCs are just one contributor that impacts the market by influencing development decisions. In an accounting sense, housing developers pay the SDC (e.g., write a check), but the cost is typically shared with other actors, including landowners, homebuyers, renters, and (rarely) investors. A large body of evidence, including new analysis for Oregon, finds that higher SDCs/impact fees tend to be associated with higher home prices, though there are multiple possible explanations. This study identifies several ways that SDC costs may affect buyers and renters:

- **Smaller and lower-cost housing units tend to be more affected by SDCs than larger and more expensive homes.** SDCs typically account for a larger share of total costs for smaller homes, middle housing, and moderately priced apartments. These housing types are often targeted to moderate-income households who may not be able to absorb higher prices or rents, making them sensitive to small increases in development costs. They often also have lower system impacts than larger homes. *Scaling fees for smaller units based on lower demand for infrastructure (as a growing number of communities are doing) can even out financial impacts across housing types and sizes, but only if implemented across multiple infrastructure systems at a meaningful discount.*
- **SDCs can combine with other factors to exacerbate challenges for housing production and affordability,¹ even if they are not the primary driver.**
 - **Communities with lower home prices and rents tend to be more sensitive to SDCs (and other development costs).** The market may not support passing costs on to

¹ As used in this report, *housing affordability* means households’ ability to find housing within their financial means, with or without public support or restrictions in place, across a range of income levels.

buyers/renters and lower land values mean less room to absorb SDCs or other costs through land price negotiations. Over time, lack of housing production can lead to higher rents and home prices for existing housing, which can indirectly affect buyers and renters. However, SDC rates in these communities tend to be lower. *Keeping SDC rates low in areas with lower home prices and rents can reduce barriers to housing production, if key projects to enable growth can still be funded.*

- **Communities with strong demand and limited new housing supply are more likely to see rising costs—including SDCs—shift to homebuyers and renters.** Higher SDCs in this context likely reinforce other market factors—including high land costs and demand from higher-income households—that encourage more expensive housing development. Higher land and construction costs can contribute to both higher SDC rates and higher home prices/rents. In addition, some infrastructure investments (e.g., parks) can serve as amenities, and affluent buyers and renters may choose to pay more to live in places that are making more investments in that infrastructure, though low and moderate-income households may not have this option. Keeping SDC rates low overall may be neither politically palatable nor aligned with infrastructure needs, but when SDC rates are both relatively high and relatively flat among different types and sizes of housing, it can increase the barriers to building smaller and lower-cost housing. For medium or large single-family homes in moderate and high-cost areas, ECONorthwest’s analysis suggests that SDCs typically represent a relatively small percentage of costs (e.g., 2 to 7 percent), and reductions would likely have at most a modest impact on new home prices. *However, for smaller and lower-cost units in moderate and high-cost areas, evidence from a few Oregon communities suggests a major reduction or elimination of SDCs can sometimes enable development that would not be financially feasible otherwise.*
- **SDCs on affordable housing development² can increase the difficulty of securing adequate funding for the development and, even as a small percentage of total development costs, likely consume millions of dollars per year in funding for affordable housing statewide.** Smaller affordable housing developments and those with less traditional funding sources (which often includes affordable homeownership projects) are more impacted. *SDC exemptions or reductions for affordable housing development can allow funding for affordable housing to stretch further and reduce obstacles to affordable housing development, provided the needed infrastructure can still be funded.*

Some jurisdictions have implemented SDC measures to support affordability, but broader adoption is hindered by administrative, legal, and financial concerns. SDCs must remain rooted in recovering an equitable share of costs based on the impacts of the development, but jurisdictions have discretion over many choices that can affect how and to what extent SDCs impact housing development. Many jurisdictions are concerned about housing affordability, and a growing number have implemented new SDC rate structures and policies in response.

² As used in this report, *affordable housing* means income and/or rent-restricted housing that is affordable to households earning a certain income level (e.g., at or below 80 percent of area median income).

Some have adopted scaled rates that account for lower demand from smaller dwelling units, some offer policy-based exemptions for affordable housing, and some allow developers to defer paying SDCs until construction is complete rather than before it begins. Other jurisdictions express serious reservations about some of these measures, and each has trade-offs to consider.

- **Scaled SDC rates for smaller units** are typically tied to evidence of lower development impacts, which is well within the discretion allowed under statute. Scaling reduces costs for smaller units while remaining revenue neutral for the jurisdiction, but it can increase complexity for both applicants and jurisdictions. *The primary barriers to broader adoption include the effort associated with a methodology update, collecting and analyzing supporting data, and updating permitting systems to collect the necessary information.*
- **SDC waivers** can offer substantial savings for affordable housing development, but there are differing views on their validity. Some practitioners believe that jurisdictions implicitly have the discretion to exempt certain classes of development, including affordable housing. Others see legal risks if lost funds are not paid from another source because the issue is not explicitly addressed in statute,³ and the loss of revenue may prevent an agency from completing the project list upon which the SDCs were calculated. *Overcoming these concerns would require clear legal authority and ways to mitigate lost revenue.*
- **SDC deferrals** reduce financing costs for developers, which can be 10 to 25 percent of the SDC amount. While the financial impacts for jurisdictions are minimal, many expressed concerns about their ability to collect fees after permits are issued, increasing administrative cost and complexity, and, in some cases, delaying revenue collection. Those that have implemented deferrals reported mixed results: Some saw a substantial increase in administrative effort, while for others this was minor. Major challenges with nonpayment were rare (and mostly linked to commercial development) but time-consuming to resolve. This suggests that there is potential for more jurisdictions to adopt administrative approaches to deferrals that have worked well for others, but that the level of effort may depend on jurisdiction-specific systems and practices and may not allow for a one-size-fits-all approach. *Broader adoption may require additional focused discussions with stakeholders to identify a range of approaches to administering deferrals that could work for jurisdictions of different sizes and staffing levels and additional/better mechanisms for enforcement that reduce the risk of (and costs associated with) nonpayment.*

Difficulty estimating SDC costs up front can create challenges for multifamily, affordable housing, middle housing, and greenfield development. Developers value being able to estimate total SDC costs with some certainty during early project budgeting, but this is difficult for some types of development. Multifamily SDCs can be especially hard to calculate early in a

³ Oregon's SDC statutes emphasize that new users should contribute no more than an equitable share of costs but say little about assigning costs to individual developments. Other state statutes make clear that jurisdictions may waive SDCs for affordable multifamily housing in at least some circumstances, but they do not clearly address whether "backfilling" lost revenue is required.

project because they are often not a flat rate per unit. When they exceed initial estimates after financing and budgets are set, this can cause major challenges, especially for affordable housing. Rates for middle housing types are often not listed or defined. Policies related to credits for building SDC-eligible projects, which is common for greenfield development, can also be difficult to discern. While most jurisdictions provide some information about SDCs online, many do not yet fully comply with recent updates to statute increasing requirements for transparency and may not be aware of the change. *SDC rate structures and approach to SDC changes can lead to variability between initial estimates and final SDC costs, but uncertainty for middle housing SDCs and SDC credit policies could be addressed through clearer information for applicants.*

Conclusion

At their core, SDCs are a funding mechanism; reducing SDC costs broadly in the interest of housing production and affordability would require greater availability of other funding for infrastructure that does not increase development costs or burden low-income households.

The jurisdictions and special districts that provide water, sewer, stormwater, transportation, and park infrastructure have a clear mandate to keep those systems functioning and provide sufficient capacity for planned development. Given fiscal constraints, SDCs are likely to remain central to local funding for infrastructure, and most stakeholders agree that development should contribute to growth-related infrastructure costs at some level. SDCs provide a consistent and relatively predictable mechanism for development contributions to growth-related costs, and they can support housing production by funding capital projects needed for growth. However, the equity implications of relying on SDCs to fund eligible infrastructure projects are mixed. Residential SDCs can be regressive, with higher impacts on lower-cost housing (especially when applied more uniformly to all housing), but some alternatives (e.g., raising utility rates) can also be regressive and directly impact lower-income households.

Expanding other funding mechanisms or increasing state funding for infrastructure with a focus on mitigating impacts to affordable and lower-cost housing could help even the playing field for lower-cost housing development while retaining SDCs as a key funding source for infrastructure to serve growth.

Even in the current fiscal context, jurisdictions can take steps to mitigate the impacts of SDCs on housing production and affordability. SDC rates must relate to impacts, which limits jurisdictions' ability to align them with housing costs. However, some jurisdictions have implemented measures that offer improvements at the margins. This includes changes to rate structures (e.g., scaling by unit size), policies (e.g., allowing discounts or waivers for regulated affordable housing), and administrative practices (e.g., allowing deferral to certificate of occupancy for some residential development, offering clear SDC estimates for more housing types). All have trade-offs and can increase administrative costs, suggesting that these changes may not be appropriate in the same form for all communities. Still, broader implementation of these measures could yield a meaningful change. *Jurisdictions can identify locally appropriate measures to reduce or mitigate SDCs' impact on housing development during SDC methodology updates, housing production strategies, infrastructure funding plans, or other policy discussions related to infrastructure and/or housing.*

Introduction

In 2021, the Oregon legislature passed House Bill 3040 (HB 3040), directing Oregon Housing and Community Services (OHCS) to prepare a study of System Development Charges (SDCs)—one-time fees charged on new development to help pay for existing and planned infrastructure to serve growth. The legislature requested that the study cover the history of the charges, methodologies for setting the fees, recent trends in fee levels, how the fees relate to other development costs, and how they ultimately affect the cost and production of housing. OHCS contracted with ECONorthwest and subcontractors FCS GROUP and Galardi Rothstein Group to undertake this study. This report’s framework is drawn from the legislative request.

This report is not intended to pit SDCs against housing production or affordability, but rather to clarify how they interact. The scope of this study, as established in HB 3040, does not include a comprehensive evaluation of local funding mechanisms for infrastructure, cost drivers for housing development, the impact of housing production on affordability, or strategies to reduce the cost of housing development or support housing production. Other recent and on-going studies address some of these topics in greater detail;⁴ others may need further study. Furthermore, HB 3040 did not direct the study to include recommendations, though the study’s findings provide a fact base to inform consideration of related future policy choices as they emerge in the legislative process.

What Is a System Development Charge?

SDCs are one-time fees paid by new development (or, in some cases, re-development) at the time of development. They are intended to capture an equitable share of the cost of “system” capacity—large backbone facilities that provide service system-wide or to a portion of the service area, with extra capacity beyond an individual development’s needs. They can be based on the value of existing facility capacity available to serve growth and/or the cost of building future facilities to provide additional capacity to serve growth.

This report provides a statewide look at how SDC rates are established, the role they play in funding infrastructure, and how they impact housing cost and production. In addition to research, data collection, and analysis by the consultant team, this report is based on input from stakeholders, including a wide range of service providers—cities, counties, and special districts—that charge SDCs and housing developers. (See Appendix A and Appendix B for summaries of the input from stakeholders.) Feedback from stakeholders on a Public Review Draft of the report in October and November 2022 also informed and strengthened the final

⁴ See, for example:

Oregon Department of Land Conservation and Development Oregon Housing and Community Services, “Oregon Housing Needs Analysis Draft Recommendations Report: Leading with Production,” Draft Report, August 2022.

Blue Sky Consulting Group for Oregon Housing and Community Services, “Affordable Housing Cost Study: Analysis of the Factors that Influence the Cost of Building Affordable Housing in Oregon,” 2019.

version of this report. (See Appendix K for a summary of feedback received and how the report was revised in response.)

A summary of findings follows this introduction, followed by more detailed discussions of SDC History and Legal Context, The Role of SDCs in Funding Infrastructure, How and Why SDCs Vary Across Oregon, SDCs and Housing Costs, and SDC Administrative Policy Implications that document the project team’s research and analysis as well as input from stakeholders, where applicable. A list of acronyms and a glossary are included following the Conclusions, followed by appendices with additional details of data and analysis discussed in the report.

Similar studies have been conducted recently in different contexts. The University of California Berkeley’s Tener Center for Housing and Innovation completed a study of residential impact fees in California in 2019. The Federal Highway Administration completed a national study of development impact fees and other development charges in 2021. Topics in both works include impact fee structure, design, transparency, and timing; legislative history and case law; alternative funding options; impact of housing affordability, development feasibility, and cost incidence; and case studies and nexus studies. This report explores many of these topics within Oregon’s context.

Housing Affordability vs. Affordable Housing

This report addresses the implications of SDCs for *housing affordability* and for *affordable housing* and *lower-cost housing*. As used in this report, these terms are differentiated as follows:

- *Housing affordability* means households’ ability to find housing within their financial means, with or without public support or restrictions in place, across a range of income levels. This is commonly measured based on spending no more than 30 percent of gross income on housing (rent or mortgage, plus utilities). Housing affordability is a greater challenge for low-income households than higher-income households, but it is not exclusively focused on households at a particular income level.⁵
 - *Affordable housing* means income and/or rent-restricted housing that is affordable to households earning a certain income level (generally below 60 or 80 percent of the area median income). Sometimes described as “income-qualified affordable housing” or “regulated affordable housing.”
 - *Lower-cost housing* means market-rate housing (without income or rent/price restrictions) that offers lower sale prices or rents than most new housing in a given area and typically also has lower development costs.
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⁵ The 30 percent standard is widely used but simplistic. See discussion and additional context related to defining affordability and affordable housing in the following memorandum:

Nick Meltzer, Sadie DiNatale, Bob Parker & Rebecca Lewis, University of Oregon, “Definitions of Affordable Housing,” to the Department of Land Conservation and Development and the HB 4079 Rulemaking Advisory Committee (RAC), September 19, 2016. https://www.oregon.gov/lcd/UP/Documents/UO-Defining_Affordability.pdf

Summary of Findings

History and Legal Framework

- **Impact fees have a long history, emerging nationally after World War II and in Oregon in the 1970s.** Requiring developers to build public improvements became common during the Great Depression.⁶ After World War II, local governments began to require that developers pay money instead of or in addition to dedicating land or public improvements.⁷ The first SDC in Oregon was enacted in 1972 by the City of Corvallis.⁸
- **U.S. Supreme Court rulings on development exactions inform how impact fees are set, though it's unclear whether they apply directly.** Legal doctrine surrounding development exactions (required dedications of land, money, or anything else of value as a condition of development approval) requires that they be clearly related and roughly proportional to the development's impact. A 2013 Supreme Court ruling raises questions about whether the same tests extend to impact fees, given that they are established in a legislative policy context rather than ad hoc for individual properties, but this broader legal context informs local approaches to impact fees.⁹
- **The Oregon SDC Act of 1989 established guidelines on the purpose and use of the charges and the methods for developing SDC rates.** The Act intended to help Oregon public agencies equitably recover the costs of infrastructure needed to serve growth from growth, thereby reducing the likelihood that those costs would be shifted to existing rate and taxpayers. The statutes allow SDCs to be used for capital improvements for five categories of public facilities: 1) water supply, treatment, and distribution; 2) wastewater collection, transmission, treatment, and disposal; 3) drainage and flood control; 4) transportation; and 5) parks and recreation. SDCs can be based on future improvements (an "improvement fee") identified in a capital improvement program or comparable plan and/or on available capacity in systems the jurisdiction has already built (a "reimbursement fee").¹⁰

Fiscal Context and the Role of SDCs

- **Federal infrastructure spending has declined since the 1980s, particularly for water infrastructure, while state and local infrastructure spending has increased.** Much of the increase in local infrastructure spending has been for system operations and

⁶ Vicki Elmer and Adam Leigland, *Infrastructure Planning and Finance: A Smart and Sustainable Guide for Local Practitioners* (Routledge, 2014), page 228.

⁷ Ibid 228.

⁸ Oregon Legislative Policy and Research Office, "System Development Charges" (State of Oregon, December 17, 2020), page 2.

⁹ *Koontz v. St. Johns River Water Management District*, 570 U.S. 595 (2013).

¹⁰ ORS 223.297.

maintenance, rather than capital projects.¹¹ The 2021 Bipartisan Infrastructure Law promises substantial federal investment in transportation and water infrastructure over the coming years, much of which is targeted at the repair and replacement of aging or unsafe infrastructure.¹² However, given the scale of the need, it will not fully close the gap for needed investment, and some funding will come in the form of loans rather than grants that must be repaid from local sources.¹³

- **In Oregon, declining state gas tax revenues and reductions in timber payments to many Oregon counties have caused further declines in available funding for transportation.**¹⁴ This has limited available revenue at the state and county level to fund major road improvements.
- **Oregon property tax limitations imposed in the 1990s slowed the growth of property tax revenue and sharply reduced localities' abilities to use property taxes to finance infrastructure improvements.** Oregon's Measures 5 and 50 limited property tax rates and the growth in assessed values, respectively. New operating or bond levies require voter approval under Measure 50, and special operating levies are subject to Measure 5 limits on total tax rate. These changes have constrained property tax revenue at the local level, which has generally grown at less than 5 percent per year for the past 2 decades,¹⁵ and they make funding infrastructure investments through property taxes more challenging.
- **At the same time, higher environmental and safety standards have increased the cost of infrastructure investments and maintenance, while construction costs and personnel costs (including pensions) have also risen.** Factors such as Clean Water Act requirements, requirements to manage water pollution from roadway runoff, and improvements to address particular pollutants and combined sewer overflows have increased the cost burden on local governments.^{16, 17, 18} Increasing awareness of risks from natural hazards such as earthquakes and tsunamis has also led to higher costs for many infrastructure capital projects, even before accounting for changes in material and labor

¹¹ Congressional Budget Office, "Public Spending on Transportation and Water Infrastructure, 1956 to 2017," October 18, 2018; and Congressional Budget Office, "Public Spending on Transportation and Water Infrastructure, 1956 to 2014," March 2, 2015.

¹² The White House. 2022. "Data Guidebook." A Guidebook to the Bipartisan Infrastructure Law.

¹³ McKinsey & Company, "US Water Infrastructure: Making Funding Count," November 24, 2021, <https://www.mckinsey.com/industries/electric-power-and-natural-gas/our-insights/us-water-infrastructure-making-funding-count>.

¹⁴ Oregon Legislative Policy and Research Office, "Funding Transportation Background Brief," September 2016, <https://www.oregonlegislature.gov/lpro/Publications/BB2016FundingTransportation.pdf>.

¹⁵ Oregon Department of Revenue, "A Brief History of Oregon Property Taxation," 150-303-405-1 (Rev. 6-09). <https://www.oregon.gov/DOR/programs/gov-research/Documents/303-405-1.pdf>

¹⁶ Rhiannon Jerch, "The Local Benefits of Federal Mandates: Evidence from the Clean Water Act" (Temple University, 2021).

¹⁷ Arthur C. Nelson, et al., *A Guide to Impact Fees and Housing Affordability* (Island Press, 2008), pages 12-13.

¹⁸ McKinsey & Company, "US Water Infrastructure: Making Funding Count," November 24, 2021, <https://www.mckinsey.com/industries/electric-power-and-natural-gas/our-insights/us-water-infrastructure-making-funding-count>.

costs. Smaller cities and rural communities may be disproportionately impacted by these costs.¹⁹

- **Local governments and special districts have increased water/sewer rates and added user fees to close funding gaps.** Water and wastewater utility rates have risen faster than inflation for many years, increasing by over 80 percent in total from 2008 levels compared to an increase of a little over 20 percent in the Consumer Price Index (CPI) over the same period.²⁰ At least 50 cities across Oregon also impose on-going user fees for government services like parks, streets, and public safety to fill the void that tax limitations created.²¹
- **SDCs are not the only local funding mechanism for infrastructure, even for growth-related infrastructure needs, but they are a key part of local infrastructure funding plans, particularly in fast growing communities.**
 - **SDCs can benefit developers by helping fund key infrastructure investments to make growth possible.** For example, SDCs often account for a substantial share of funding for infrastructure in new growth areas, with much of the rest coming from other development-derived sources.²² In this case, SDCs may make greenfield development costs more predictable and more evenly distributed, but not necessarily higher, if they substitute for other forms of exactions or developer contributions. In addition, several Oregon communities have used SDCs to help fund major water supply projects needed to allow residential development to continue, although they also needed to bond against utility rate revenue to provide a dependable income stream for debt payments.^{23, 24}
 - **SDCs also provide an important source of local matching funds** for state and federal infrastructure grants, particularly for parks and transportation.²⁵
 - **SDCs may be more viable than the alternatives.** Given the political challenges and legal or financial limitations associated with other potential local funding sources, jurisdictions face obstacles in using other funding sources to pay for infrastructure. This can increase pressure to maximize the use of SDCs for eligible costs, within the bounds of state law and legal precedent.

¹⁹ Scott Lazenby and Diane Odeh, “2021 Infrastructure Survey Report” (League of Oregon Cities, January 2021), pages 12-13.

²⁰ Robert Raucher et al., “Developing a New Framework for Household Affordability and Financial Capability Assessment in the Water Sector” (April 17, 2019).

²¹ FCS GROUP, “Water, Sewer & Storm Rate Study” (City of Newport, 2017), <https://www.newportoregon.gov/dept/fin/documents/WaterSewerStormRateStudy2017v6.pdf>.

²² ECONorthwest, “Infrastructure Funding Plan Toolkit: Guidance for Title 11 Concept and Comprehensive Planning” (Washington County, October 2020).

²³ Memorandum to Chris Cummings, Assistant Director, Economic Development regarding City of North Plain, Reservoir & Pump Stations Improvements (June 21, 2018).

²⁴ Jeff Bauman, “Review of Wilsonville’s Water Supply Planning,” (City of Wilsonville, February 23, 1998), 1.

²⁵ See Oregon SDC Study Summary of Service Provider Focus Groups (Appendix A).

- **SDCs can benefit existing residents by supporting infrastructure investments and mitigating utility rate and property tax increases.** While not all of a jurisdiction's capital needs are related to growth and eligible for SDC funding, being able to draw on SDCs for costs that are eligible means less cost needs to be allocated to ratepayers or property owners. Increases to utility rates and property taxes impact residents' cost of living on an on-going basis and may not track with household income (particularly for utility rates), creating their own affordability challenges for low-income households. Investments that maintain current service levels or create facilities that the whole community can use (e.g., new parks) also benefit existing residents.

SDCs Across Oregon

- **Most cities in Oregon charge at least one of the five allowable SDCs, but total rates vary substantially.** The total 2022 SDCs for a single-family residence range from under \$5,000 in some small cities to close to \$50,000 in some Portland Metro area jurisdictions based on data collected by FCS GROUP. Some of the smallest cities, particularly in Eastern Oregon, do not charge SDCs at all.
 - Based on 2022 data collected by FCS GROUP, the average total SDC rate for a single-family residence statewide is roughly \$15,000. SDCs for water, wastewater, transportation, and parks all average between \$3,800 and \$4,600 per single-family dwelling for the jurisdictions included in the sample, but substantial variability exists in these amounts across the state.
 - There is less aggregated data available on SDC rates for other housing types (e.g., multifamily and townhouses), but rates are typically less than those applied to single-family detached homes (roughly two-thirds as much for apartments and roughly 90 percent of the single-family detached rate for townhouses based on a review of several example communities).
- **SDC rates have increased over time in most Oregon communities for most infrastructure systems.** The average increase between 2007 and 2022 in total SDCs for single-family homes was roughly 105 percent over 15 years, with the highest increases for parks and transportation SDCs (101 and 110 percent, respectively).²⁶ For comparison, construction costs escalated by roughly 60 percent nationally and the Seattle area (the closest city included in the available construction cost index data) over the same period of time. Because many SDCs are indexed to construction cost escalation (increases in labor and material costs broadly), a faster pace of increase suggests other factors at play, such as regulatory mandates that drive more costly facility designs; less grant funding; changes to SDC methodology or discounting policies; land cost escalation (especially for parks); or under-reporting of some regional and district charges in 2007.

²⁶ 2007 data comes from the earliest available SDC survey data from the League of Oregon Cities (LOC). 2022 data is from data collected by FCS GROUP for the same jurisdictions who participated in the 2007 survey. Note that regional and district charges may not be consistently reported in the 2007 LOC data, which could exaggerate the magnitude of increases to some extent.

- **Many other states use impact fees, but comparing SDCs in Oregon to impact fees in other states can be misleading.** While a few studies have published national data on impact fees, differences between states in terminology and in which infrastructure systems or public services impact fees may apply to make it difficult to draw useful comparative conclusions. For example, both Idaho and Washington have separate statutes applicable to water and wastewater charges, and facilities charges related to these systems may not be consistently reported as impact fees. These studies primarily serve to highlight that impact fees in one form or another are used extensively in many states, and that total rates vary substantially between different communities in the states where they are in use.
- **Variation in local SDC rates stems from several factors, not all of which are related to the SDCs themselves.** Key factors include planning and policy choices made prior to establishing or updating an SDC rate that determine future system needs, methodology choices during rate-setting, and cost factors that service providers do not control.
 - **SDC project lists typically draw from local infrastructure system plans, which can vary widely in type and level of planned capital investments.**
 - Water, sewer, and stormwater master planning efforts are largely technical exercises informed by state and federal regulations. Depending on the nature and condition of the system, some communities may need to make more costly investments than others.
 - For transportation, while state standards and requirements can impact local project lists, local governments generally have discretion over priorities and standards for city streets. Communities may need different amounts and types of investment to meet local goals and state standards.
 - Parks plans are generally responsive to community-defined goals and informed by public input. This aligns investments with local priorities but can also result in greater variations in SDC-eligible project lists.
- **Decisions about use of other local funding mechanisms to pay for infrastructure may occur prior to SDC updates.** For example, if there is support by the local community, a General Obligation (GO) bond may be used to fund a recreation center or a group of high-profile transportation projects.
- **In establishing the SDC methodology, jurisdictions have flexibility on many elements that can impact SDC rates while staying within the bounds of statute.** There are many methodology variables that can impact the total costs the SDCs are designed to recover or how those costs are allocated to future users. Within the framework of Oregon SDC law, local governments have flexibility in selecting approaches that balance local objectives and data availability. Examples of SDC methodology choices that could impact rates include:
 - Narrowing projects to include in the SDC project list to keep costs down.
 - Valuing existing facilities based on replacement cost vs. original cost (with or without depreciation) in setting a fee based on available capacity.

- How costs are allocated to growth vs. existing users when facilities serve both (e.g., relative to existing level of service, based on the incremental cost of an oversized facility, or based on share of demand).
 - Whether grants or other sources are assumed to cover a portion of eligible costs for bigger projects (e.g., aquatic centers or major transportation improvements).
 - Whether rates account for financing and administrative costs.
 - How demand is measured (e.g., meter size for water, impervious surface area for stormwater, trip ends for transportation, or population for parks).
- **A growing number of jurisdictions are adopting SDC methodologies that adjust rates to reflect differences in demand or impact based on housing unit size.** These adjustments are typically based on local demand data. While they often pivot off an average rate for an average-size unit, they can lead to substantial differences in SDCs across jurisdictions for smaller or larger units.
 - **Many jurisdictions make policy choices to reduce SDC rates below what their methodology would support.** Among jurisdictions surveyed in 2020, 14 percent reported discounting a wastewater SDC, and 29 percent reported implementing a discounted parks SDC.²⁷ In focus groups, service providers highlighted elected officials' concern about impacts to development and desire to remain competitive with peer jurisdictions as primary reasons for these choices. Some also noted phasing in larger SDC increases over several years for similar reasons.
 - **The cost of constructing capital improvements varies across the state.** Local cost drivers include lack of local labor and materials in some rural areas, high land costs in some urban areas, and geological and soil factors (e.g., steep slopes, rock outcroppings, or soils at risk of liquefaction) that can increase the costs of grading and construction.

Implementation Considerations

- **Beyond the SDC rates themselves, administrative decisions can play a big role in how SDCs affect developers and jurisdictions.** Key factors include the timing of SDC payment, exemptions for affordable housing or other types of development, policies related to credits for making improvements on the SDC project list, and availability of information about SDCs.
- **There are differing views on the validity of SDC exemptions for affordable housing** (or any purpose that is unrelated to a reduced demand for system capacity). Several cities and service providers have waiver policies in place for regulated affordable housing, while others do not feel it is fair (or, in some cases, legal) to waive fees for affordable housing unless the foregone revenue is “backfilled” from

²⁷ FCS GROUP analysis of data from League of Oregon Cities, System Development Charges Survey Report (February 2020).

other sources. A growing number of communities offer SDC exemptions for regulated affordable housing, but this is still the exception rather than the rule.

- **SDC credits for developers that build public improvements on the SDC project list can be a win-win for developers and jurisdictions, particularly in greenfield settings, but how they are administered matters.** Credit policies differ across providers in terms of project eligibility, creditable costs, and transferability. This variation, combined with a lack of clear information regarding how to calculate credit-eligible costs, can create uncertainty for developers. In addition, jurisdictions occasionally require developers to pay SDCs up front that will be reimbursed later even when they are building eligible projects, and this further increases carrying costs. Transferability was cited as a valuable benefit by multiple developers, especially given statutory limits on how long credits are valid (10 years). However, transfers can increase administrative costs for jurisdictions and reduce cash flow as more developers build projects or buy credits rather than paying SDCs directly.
- **The timing of SDC payment is important for both jurisdictions and developers, but for different reasons.** Jurisdictions have flexibility under statute to assess and collect SDCs at issuance of a development or building permit, or connection to or increased usage of a capital improvement.
 - **Many developers prefer to pay later in the process, primarily for financial reasons.** Payment at certificate of occupancy or even at time of sale (for for-sale housing) reduces financing costs or allows the money to go towards early construction costs, reducing the impact of the SDCs.
 - **Most service providers prefer to collect SDCs at issuance of the building permit as this offers the greatest certainty of payment with the least administrative effort.** Many expressed concerns about challenges with collecting payment at certificate of occupancy, and even more so at time of sale. However, the timing of the revenue was less of a concern, except in limited situations (e.g., park land acquisition within a new growth area). Jurisdictions that offer (or previously offered) deferral to certificate of occupancy report mixed results. All noted an increase in administrative effort to process and track deferrals, but the magnitude varies widely. Nonpayment issues and avoidance behavior do not appear to be common (some were linked to commercial development or to a specific developer) but were time-consuming when they did occur.
- **Developers value certainty about SDC costs for a particular project.** Unexpected increases to SDC costs can be difficult for both market-rate and affordable housing developers to absorb after financing and budgets are set. Estimating costs for multifamily development can be particularly challenging when SDCs are based on detailed characteristics such as fixture counts that may not be known early on. Clear definitions of housing types (particularly related to middle housing) are also important to allow for accurate early estimates of SDC costs. And if developers that defer SDCs are subject to the SDCs at time of payment, the uncertainty about SDC rate changes erodes the value of the interest cost savings from the deferral.

- **Some jurisdictions go above and beyond statutory notice and information availability requirements to engage and inform stakeholders, while others may not fully comply with (or be aware of) recent additions to state law regarding transparency.** Some jurisdictions pro-actively engage stakeholders in methodology decisions, provide simplified summary information about SDCs for the general public, and/or offer SDC estimation tools for developers. However, based on focus groups and review of several jurisdictions' websites, newly required informational items (current SDC rates, methodology reports, project lists, and contact information for questions) are not consistently available online—most jurisdictions provide at least one of these items, but not all.

SDC Impacts on Housing Costs and Production

- **SDCs fund infrastructure that is needed to support growth, which can enable development and benefit future residents, but they also increase the cost of building new housing. Both factors can influence housing costs and housing production.**
- **In an accounting sense, housing developers pay the SDC (e.g., write a check). But the cost burden of the charge can be shared with a variety of other actors, including investors, landowners, homebuyers, and renters.** Developers need to weigh SDCs and other cost inputs against the sales prices or rents they are expecting to achieve on each project. Because SDC costs are outside developers' control, they must make choices about other aspects of the development to bring total costs and prices or rents into alignment. How the SDC costs are ultimately distributed among the various market actors depends on the actors' relative sensitivity to prices. Economic theory assumes the party with fewer alternatives is less sensitive to change in price and bears a greater portion of the SDC.
 - **Homebuyers and renters in tight housing markets likely bear a greater share of SDC costs.** If developers build larger units to justify higher prices, build smaller units to stay within what buyers or renters are willing to pay, or charge higher prices/rents for the same housing, end users are getting less value for their money and absorbing some of the costs, even if they are paying the same amount. Developers cannot charge higher prices or rents unless the market demand is strong enough to accept the increase. This is more likely to occur if demand exceeds supply. Affluent households are less likely to be cost-sensitive than lower-income households, but limited supply and lack of lower-cost options can also affect lower-income households, even if they are not absorbing costs directly.
 - **Theory suggests that landowners should absorb SDCs in large part by receiving less value for their land, though this may not always be the case.** Whether and to what extent SDCs are absorbed in land prices depends on the availability of other developable land within the same market, how much SDCs vary between comparable pieces of developable land, and the timing of the land purchase relative to when SDCs are known.
 - **Investors, lenders, and developers are unlikely to absorb SDCs by accepting lower returns except in very unusual circumstances or when SDC costs increase unexpectedly during development and cannot be passed on to others.** Generally,

market-rate development will not occur unless the expected revenues from the project exceed the expected costs by a sufficient margin to create financial returns for investors, lenders, and developers that justify the risk of their investment. Investors and lenders usually have other options to invest in across multiple markets and will avoid places that generate lower risk-adjusted returns. Developers may absorb costs when they exceed initial expectations, but they avoid this as much as possible through contingency funds and by getting estimates of SDC costs up front.

- **Studies from Oregon and across the country have consistently shown a pattern of higher home prices in areas with higher SDCs. However, the reasons behind this remain unclear.**
 - **Academic research from across the country and across several decades shows positive correlations between impact fees and housing prices in a range of contexts.** The difference in home prices was larger than the difference in impact fees in some studies and smaller in others, but the direction of the relationship was consistently positive (higher home prices in areas with higher impact fees). Studies that evaluated relationships between impact fees and land prices or housing production had mixed results, with some finding positive relationships and others finding negative ones. These studies could not control for all other potentially relevant variables and do not establish causation, though some authors posit that the amenity value of the infrastructure itself is responsible for the relationship, rather than the costs of the impact fees. Others suggest potential cost-related explanations.²⁸
 - **Academic literature has also established a link between property values and key infrastructure.** Studies suggest that property values are higher closer to parks and that congestion is associated with “disamenity” (negative) values for some economic indicators, while bicycle and pedestrian infrastructure can increase property values. These factors can potentially drive home prices and rents in areas where SDCs are providing infrastructure that is valued by housing consumers.
 - **A comparison between average single-family home values and single-family SDC rates for 76 cities in Oregon shows a general pattern of higher SDC rates in areas with higher home values, but also substantial variation between communities.** Statistically this relationship accounts for only 33 percent of the variation in the data without controlling for any other factors. Service provider focus groups suggest that policy direction to keep rates low due to elected officials’ concern about impacts on development could account for some of the observed relationship (i.e., areas with lower home values and weaker housing markets may be less willing to impose high SDCs, even if infrastructure needs would justify them).
 - **An original analysis by ECONorthwest found a positive relationship between SDC levels and home prices for new development in Washington County, Oregon.** ECONorthwest analyzed sales transactions for new homes in three urban expansion areas and adjacent recent subdivisions in Beaverton, Hillsboro, and Tigard. Current SDC rates for the areas range from roughly \$33,000 to \$53,000 per

²⁸ See Appendix G for works cited.

single-family detached unit, with higher rates in the expansion areas and differences between jurisdictions. A linear regression model showed higher housing prices in places with higher SDCs after controlling for other readily available housing characteristics: a \$10,000 difference in SDCs was associated with a \$7 per-square-foot difference in the price of newly built housing (about \$16,800 for a 2,400-square-foot home). However, developer interviews suggest the difference may also be due to the overall amount of infrastructure needed in the expansion areas and use of premium design and amenities to capture demand from higher-income households.

- **Longitudinal data from the City of Bend shows that changes in new home prices have not tracked closely with changes in SDC rates over time.** While both have increased over the past decade, new home prices have tracked with broader housing market conditions while SDC rates have tracked with construction cost indices that are used to adjust the rates year to year. While rising SDC costs could still be a contributing factor in rising home prices in Bend, they are not the primary driver.
- **SDCs affect some housing more than others—smaller entry-level homes, lower-cost middle housing and apartments, and communities with weaker markets are disproportionately affected by SDCs.** High-end single-family detached housing is generally impacted least.
 - **For a typical new single-family home, SDCs account for a relatively small share of development costs** (estimated at roughly 3 percent in Oregon at average costs). Even a relatively high SDC rate (e.g., \$30,000) would account for 6 percent or less of development costs in many medium and large cities. For larger single-family homes, the share of costs is even less.
 - **SDCs are a greater share of costs for lower-cost housing types—multifamily, middle housing, and smaller single-family detached houses.** ECONorthwest's estimates suggest SDCs account for roughly 4 to 5.5 percent of total development costs for these housing types at average costs for Oregon, but potentially 10 percent or more in high-cost markets with high SDCs. SDCs have a greater impact on financial returns and feasibility for these housing types as a result. This is supported by findings from developer focus groups, which highlighted entry-level homes and middle housing as particularly sensitive to SDC costs.
 - **When SDCs are scaled to unit size, their share of development costs is more consistent across housing types and unit sizes.** Compared to SDCs that are applied per unit, scaled SDCs result in a lower SDC share of development costs for lower-cost housing types with smaller units.
 - **While SDCs are typically lower in areas with weaker housing markets and lower land costs, these areas are also more sensitive to increases in SDCs.** For example, in a small city outside a metropolitan area, typical SDC costs for a single-family detached home might account for only 2 to 3 percent of development costs. However, a \$10,000 change in fee for a single-family unit would have a greater impact on financial feasibility in such a city than for developments inside a metropolitan area where land and housing prices are relatively expensive.

- **In communities without SDC exemptions, affordable housing development can also face substantial SDC costs.** Data from several Oregon communities shows that SDCs for an income-qualified affordable apartment development can cost from tens of thousands to over a million dollars in some jurisdictions. While other cost drivers may have a greater impact on affordable housing development costs overall, the cumulative expenditures on SDCs for affordable housing development across the state likely total millions of dollars per year.
- **SDC reductions do not guarantee lower prices or rents for market-rate housing, but targeted exemptions or reductions for certain housing types or price-points can support production of lower-cost housing options.** Evidence from communities that offer exemptions for lower-cost housing without long-term affordability restrictions shows that in some cases eliminating SDCs for housing that meets specific price points (or for small units like ADUs) can increase production of that type of housing by for-profit developers. However, the difference must be enough to meaningfully change development costs, and the development must be close to viable already. For more expensive housing, cost savings may or may not be passed on to buyers or renters, depending on how competitive the housing market is.

Part 1: SDC History and Legal Context

Primary Contributors: Galardi Rothstein Group, FCS GROUP

1.1 History of System Development Charges

1.1.1 Origins of American Impact Fees

System development charges (also referred to as impact fees) are a form of exaction. When an owner of land plans to develop that land, the local government may determine that the planned development will create a need for additional public infrastructure. Having made such a determination, the local government may require the owner to provide some form of contribution or payment as compensation for the additional infrastructure that the local government must provide. This requirement is known as an exaction.

Exactions have long been viewed as the legitimate exercise of a local government's police power. Requiring developers to build public improvements became common during the Great Depression.³⁰ Exaction of land or public improvements is still common today, and such an exaction is known as a dedication.

In terms of the police power, most local governments have great discretion in regulating to protect the public's health, safety, and general welfare. In contrast, local governments have almost no discretion in the exercise of their power to tax. It was natural, then, that local governments would turn to the police power, where they had discretion, in order to finance infrastructure needs.²⁹

After World War II, local governments began to require that developers pay money instead of, or in addition to, dedicating land or public improvements.³¹ These monetary exactions come in two forms. An ad hoc monetary exaction is a customized calculation that is unique to a single development, its impacts, and the means of mitigating those impacts. A legislative monetary exaction is a rate or set of rates adopted by a governing body and applied consistently to development applications. These exactions are known generally as impact fees and known in Oregon as SDCs.

The first impact fee imposed in the United States (U.S.) may have been a "tap in" fee for new users imposed by the Hinsdale, Illinois, Sanitary District in 1947. The purpose of the fee was to finance expansion of the water treatment plant. The fee was challenged in court, but the Illinois Supreme Court ruled that the impact fee was "legal if used for capital and not operating expenses."³² The first SDC in Oregon was enacted in 1972 by the City of Corvallis.³³

²⁹ Arthur C. Nelson, Liza K. Bowles, Julian C. Juergensmeyer, and James C. Nicholas, *A Guide to Impact Fees and Housing Affordability* (Island Press, 2008), page 49.

³⁰ Vicki Elmer and Adam Leigland, *Infrastructure Planning and Finance: A Smart and Sustainable Guide for Local Practitioners* (Routledge, 2014), page 228.

³¹ Ibid 228.

³² William Grady Holt, "Impact Fees" in *The Encyclopedia of Housing*, second edition, edited by Andrew T. Carswell (2012), page 385.

³³ Oregon Legislative Policy and Research Office, "System Development Charges" (State of Oregon, December 17, 2020), page 2.

1.1.2 The Rise of State Enabling Acts

States have explicitly authorized impact fees in a variety of forms, for a variety of public services, since 1987. By 1995, 21 states had authorized impact fees of one form or another. By 2007, 27 states had authorized impact fees.³⁴ It is now estimated that as many as 34 of the 50 United States have codified impact fee authority and accompanying constraints.³⁵ All 4 of the states neighboring Oregon—Washington, California, Idaho, and Nevada—have impact fee statutes.³⁶

Local governments in Oregon and other states have always had the authority to impose impact fees on developers, but constitutional, statutory, and case laws constrain that authority.

The Oregon SDC Act: A Brief History

The Homebuilders Association (HBA) sponsored an SDC bill in Oregon that was vetoed by then Governor Goldschmidt in 1987. A small group of city and homebuilder representatives subsequently collaborated on a bill that became the initial law. In 1989, the Oregon Legislative Assembly passed the first provisions of the SDC Act, which is now codified in Chapter 223 (223.297 to 223.316) of the Oregon Revised Statutes (ORS). The SDC Act became effective in 1991.

The SDC Act's broad objective was to “provide a uniform framework for the imposition of system development charges 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.”³⁷ It was thought that having a uniform framework would protect both developers and public agencies—and reduce the cost of potential future litigation.

More specifically, the law was intended to help Oregon public agencies equitably recover the costs of infrastructure needed to serve growth from growth, thereby reducing the likelihood that those costs would shift to existing ratepayers and taxpayers.

Since its original passing in 1989, there have been multiple attempts to modify key provisions of the Oregon SDC Law, including expansion and restriction of the types of costs that may be included in the SDCs, clarification of legislative intent and other “housekeeping” modifications, and changes to procedural and methodological requirements.

The most significant changes to the law occurred with the passage of Senate Bill 939 in 2003. Ultimately, SB 939 was a negotiated solution to a longer list of changes sought by the

³⁴ Arthur C. Nelson, James C. Nicholas, Julian C. Juergensmeyer, “State Impact Fee Enabling Acts”, contributed by Clancy Mullen, in *Impact Fees: Principles and Practice of Proportionate-Share Development Fees* (2009), page 114.

³⁵ National Impact Fee Survey: 2019, Mullen.

³⁶ Washington, RCW 82.02; Idaho, IC 67-82; Nevada, NRS 278B; California, CGC 66000.

³⁷ ORS 223.297.

Homebuilders Association. The most recent change to the statutes occurred in 2021. Section 1.2.2 outlines the key elements of ORS 223.297 – 223.316.

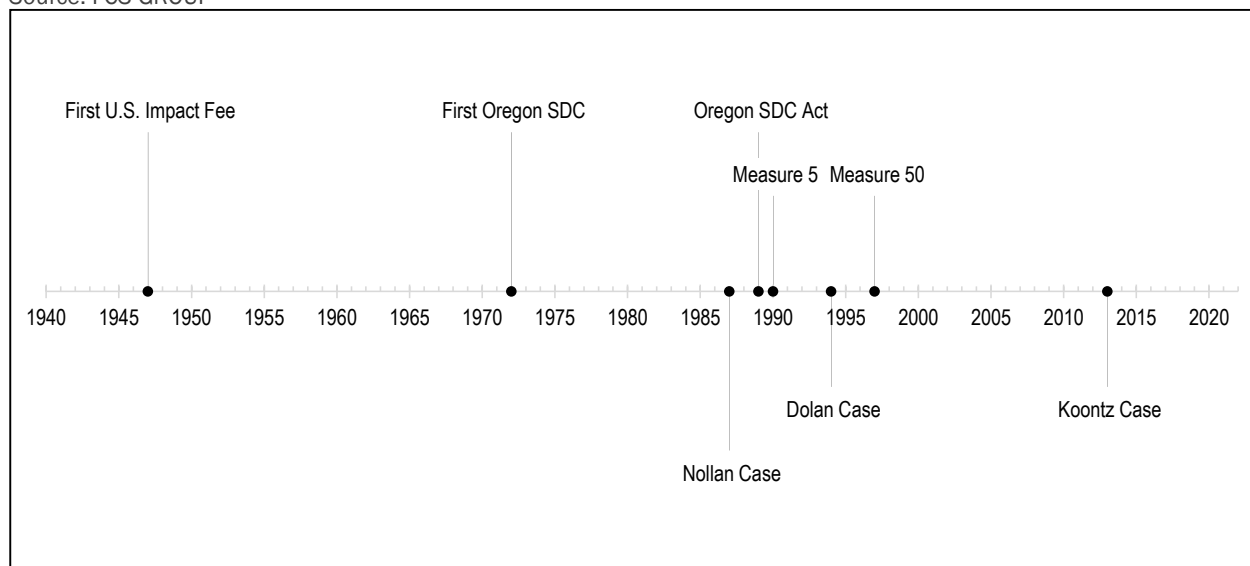
1.2 Legal Framework

1.2.1 Landmark Case Law

A number of U.S. Supreme Court cases related to exactions have defined tests of their constitutionality for exactions generally and monetary exactions. The most recent of these raises questions about whether the same tests extend to impact fees given that they are established in a legislative policy context rather than ad hoc for individual properties, but this broader legal context informs local approaches to impact fees. These cases are summarized below. The timing of these cases relative to other key events in SDC history is shown in Exhibit 1.

Exhibit 1. Impact Fee/SDC Historical Timeline

Source: FCS GROUP



Nollan (1987): Essential Nexus

Whether authorized by statute or not, all impact fees in the U.S. are subject to the Fifth Amendment of the U.S. Constitution, which created a distinction between an exaction that is a legitimate use of a local government's police power and a taking that would require the local government to compensate the property owner.

The U.S. Supreme Court further clarified the line between exaction and taking in 1987 with its ruling on *Nollan v. California Coastal Commission*.³⁸ This ruling introduced the concept of "essential nexus" as a test for the validity of an exaction: Whatever is being required (exacted) as a condition of development approval must be clearly and directly related to the impact of the proposed development.

In this case, the California Coastal Commission was concerned that the new, larger home that the Nollans proposed would obstruct the public's view of the ocean. But instead of imposing a

³⁸ *Nollan v. California Coastal Commission*, 483 U.S. 825, 837 (1987)

restriction on the house's height or width, the Commission required an easement for public access to the beach. The Court found that this requirement (exaction) did not fulfill the purpose of maintaining the public's view and was therefore a taking. In other words, if the impact of the development is an obstructed view, a valid exaction must mitigate that particular problem. This is the "essential nexus" that was henceforth required of a valid exaction.

Dolan (1994): Rough Proportionality

Like the Nollan case, *Dolan v. City of Tigard*,³⁹ was about dedications, not monetary exactions. Taking a step beyond an "essential nexus," the U.S. Supreme Court ruling held that a "rough proportionality" must exist between the impact of the proposed development and the exaction intended to mitigate that impact.

However, the exaction in Dolan was a land dedication, or "possessory exaction," required ad hoc at the time of permit approval, leaving open the question of whether the "rough proportionality" standard applied to legislatively adopted, non-possessory (monetary) exactions, like impact fees. The court also noted that generally applicable legislative regulations should be treated with more deference than property-specific determinations.⁴⁰

Koontz (2013): Monetary Exactions

In 2013, the U.S. Supreme Court finally ruled on a case involving monetary exactions. In *Koontz v. St. Johns River Water Management District*,⁴¹ the Court held that the Nollan and Dolan tests apply to monetary exactions just as they do to dedications, at least in the case of adjudicative exactions (specific to an individual parcels). However, the ruling may still leave open (to lower courts) the question of whether the more restrictive essential nexus test applies to legislative exactions that are programmatic or apply to development more broadly (e.g., service area-wide).^{42, 43, 44}

1.2.2 Oregon SDC Act: Overview of Key Elements

As mentioned previously, the broad objective of the Oregon SDC Act was to provide a uniform framework for the imposition of SDCs by local governments. The essential elements of this

³⁹ Dolan v. City of Tigard, 512 U.S. 374 (1994).

⁴⁰ U.S. Department of Transportation, Federal Highway Administration, "Essential Nexus, Rough Proportionality, and But-For Tests: State of the Practice," 2021.

⁴¹ Koontz v. St. Johns River Water Management District, 570 U.S. 595 (2013).

⁴² Julie Kim, Bene Tellus, Thay Biship, and Stefan Natzke. Value Capture: Development Impact Fees and Other Fee-Based Development Charges, A Primer. Report No. FHWA-HIN-21-004. Washington, D.C.: U.S. Department of Transportation, August 2021 (page 26).

⁴³ Howard Ellman, Esq. and Kimberly Huangfu, Esq., "U.S. Supreme Court's Koontz Decision Seemingly Broadened Landowner Protection in the Realm of Regulatory Takings Law, While Leaving Several Intriguing Questions Unanswered," *Buchalter Nemer Client Alert*, September 2013.

⁴⁴ Adam Lovelady, "The Koontz Decision and Implications for Development Exactions," *Coates' Canons NC Local Government Law*, UNC School of Government, July 1, 2013.

framework are listed below. More specific requirements and local approaches to each element are addressed later in this report. Appendix C summarizes Oregon case law that clarifies some provisions of the Oregon SDC Act.

Definition of Capital Improvements

SDCs may be used for capital improvements for the following public facilities:

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

Previous legislative bills to amend the law by broadening facilities to include schools, police or fire improvements have been unsuccessful.⁴⁵ However, because of some of these efforts, the legislature did adopt a construction excise tax that is charged per square foot for new residential development to provide additional funding for schools.⁴⁶

Determination of SDC Amount and Methodology

SDCs may consist of a reimbursement fee, an improvement fee, or both. Improvement fees are associated with capital improvements to be constructed, while reimbursement fees are designed to recover the costs associated with capital improvements already constructed or under construction. The statutes put some constraints on the costs that may be included in each fee component:

- Reimbursement fees exclude existing facility costs funded by gifts or grants and costs associated with “used capacity” (facility capacity needed to meet existing development service demands).
- Improvement fees are based on the projected costs of capital improvements included on an SDC capital project list that expand capacity to meet the service demands of future system users.⁴⁷

An SDC methodology based on a combination reimbursement and improvement fee structure must demonstrate that the charge is not based on providing the same system capacity.⁴⁸

⁴⁵ For example, HB 2581 from the 2007 Oregon Legislature.

⁴⁶ ORS 320.176

⁴⁷ An increase in system capacity may be established if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. ORS 223.307

⁴⁸ This requirement is straightforward to meet if there is no overlap in specific facility improvements between the two fee components, and if the value of used capacity in facility components is excluded from the reimbursement fee.

Beyond these constraints, the statutes provide flexibility in determining SDC amounts and methodologies, provided that new users contribute no more than an equitable share of costs.⁴⁹ It is important to note that the statutes do not prescribe specific bases for charging individual developments, nor do they preclude local governments from providing discounts, waivers, or exemptions for certain classes of development, consistent with modern rate-making principles.⁵⁰

SDC Capital Project List

Local governments are required to prepare a capital improvement program or comparable plan, prior to the establishment of an improvement SDC, that includes a list of the improvements that the jurisdiction intends to fund with improvement fee revenues and the estimated timing, cost, and eligible portion of each improvement.⁵¹ This requirement was an added provision to the original statute to provide greater transparency on the basis for improvement fee costs and expenditures. Since reimbursement fees are based on facilities already constructed or under construction, the project list requirement is not applicable.

SDC Credits

A credit must be provided against the improvement fee for the construction of “qualified public improvements.” Qualified public improvements are improvements required as a condition of development approval, identified in the SDC capital project list, and either:

- a) Not located on or contiguous to property that is the subject of development approval; or
- b) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.”⁵²

SDC Expenditures, Accounting, and Appeals

Expenditures of SDC revenues are limited to payment for capital improvements (including repayment of indebtedness) for the systems for which the fees are collected. Improvement fee revenues are limited to capacity-increasing capital improvements needed to provide service to future users, in accordance with the SDC capital project list.⁵³ SDC revenue may also be spent

⁴⁹ ORS223.297 (Policy) indicates that the imposition of SDCs is intended “to provide equitable funding for orderly growth and development in Oregon’s communities...” and 223.304 indicates that reimbursement fees must “promote the objective of future system users contributing no more than an equitable share to the cost of existing facilities.”

⁵⁰ See for example, “Affordability and Equity Considerations for Rate-Setting” (Eric Rothstein, Stacey Isaac Berahzer, Joe Crea, and Michael Matichich for *Journal AWWA*, September 2021) which argues that water, wastewater, and stormwater service providers have a social responsibility to ensure universal, affordable access to services, as part of their rate-setting framework. Not all service providers or experts agree with this interpretation.

⁵¹ ORS 223.309

⁵² ORS 223.304(4)

⁵³ Per 223.307(2), “an increase in system capacity may be established if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities.”

on the cost of complying with the statutes, but not for administrative office facilities or operation and maintenance costs associated with capital facilities.

Local governments are required to deposit SDC revenues into dedicated accounts and provide an annual accounting of revenues and expenditures.⁵⁴ Furthermore, local governments must create administrative procedures for individuals to challenge SDC revenue expenditures or calculations, and to provide adequate notice regarding review procedures, including the right to petition for review pursuant to ORS 34.010 to 34.100.

Methodology Notification, Review, Updating, and Transparency

The local government must maintain a list of persons who have made a written request for notification of establishment or modification of an SDC and provide notice to such individuals at least 90 days prior to the first public hearing to enact a new or modified SDC. The SDC methodology must also be made available for review 60 days prior to the first public hearing.⁵⁵

Application of one or more cost indices periodically is not considered a change in the methodology, provided that the index is published by a recognized agency, independent from the methodology, and incorporated into the methodology or adopted separately by ordinance or resolution.⁵⁶

Similarly, the SDC capital project list may be updated at any time. However, if an SDC is to be increased by a proposed modification to the list then written notice must be provided to interested parties at least 30 days prior to adoption of the proposed modification, and if requested within 7 days of the planned adoption, a public hearing must be held.⁵⁷

As a result of the most recent amendments in 2021, local governments are required to make information on SDC rates, methodologies, planned capital improvement project funding, and local official contact information available on a website or other means free of charge upon request.⁵⁸

⁵⁴ ORS 223.311. While not required, some local governments track fund balances for improvement fees and reimbursement fees separately, because there are fewer restrictions on reimbursement fee spending.

⁵⁵ ORS 223.304(7)

⁵⁶ ORS 223.304(8)

⁵⁷ ORS 223.309(2)

⁵⁸ ORS 223.316

Part 2: The Role of SDCs in Funding Infrastructure

Primary Contributors: ECONorthwest, FCS GROUP, Galardi Rothstein Group

2.1 Evolving Fiscal Context

There are a number of potential funding sources for water, wastewater, stormwater, transportation and parks infrastructure. However, the level of funds available to support development-driven infrastructure is constrained by local, state, and federal laws (that limit overall funding) and by rising costs for system operations, repair and replacement, and other capital improvements (that compete for some of the same funds). Beyond legal restrictions, broad local funding sources, like utility fees, are also increasingly constrained by concerns over ratepayer affordability, as ongoing user fees place an added burden on local households.

Exhibit 2 provides a list of potential infrastructure funding sources, which are described in more detail in Appendix D. While it is beyond the scope of this study to fully evaluate the trade-offs associated with each option, Sections 2.1.1 through 2.1.4 discuss key local, state and federal cost and funding trends that have elevated the importance of SDCs for funding development-driven infrastructure costs and implications of shifting the cost burden to other local sources like user fees.

Exhibit 2: Potential Infrastructure Funding Sources

Category	Examples
State and federal grants or low-interest loans	Water Wastewater Fund, Congestion Mitigation and Air Quality Improvement Program, Safe Drinking Water Revolving Loan Fund
Property tax-based funding	General obligation bonds, designating existing permanent rate operating tax revenue, or redirecting growth in operating revenue through tax increment financing
User-based funding	Utility rates, parking fees, facility rental fees, tolls, and system-wide user charges
Development-based funding	System-wide or area-specific SDCs, exactions, development agreements, local improvement districts
Fees or taxes on economic activity	Franchise fees, local gas tax, vehicle registration fees, prepared food and beverage tax, or transient lodging tax

2.1.1 Federal and State Funding Trends

Trends in Federal Funding for Infrastructure

Historical Trends

The U.S. Congressional Budget Office (CBO) describes historical trends in federal funding for infrastructure compared to state and local funding, going back to the 1950s:

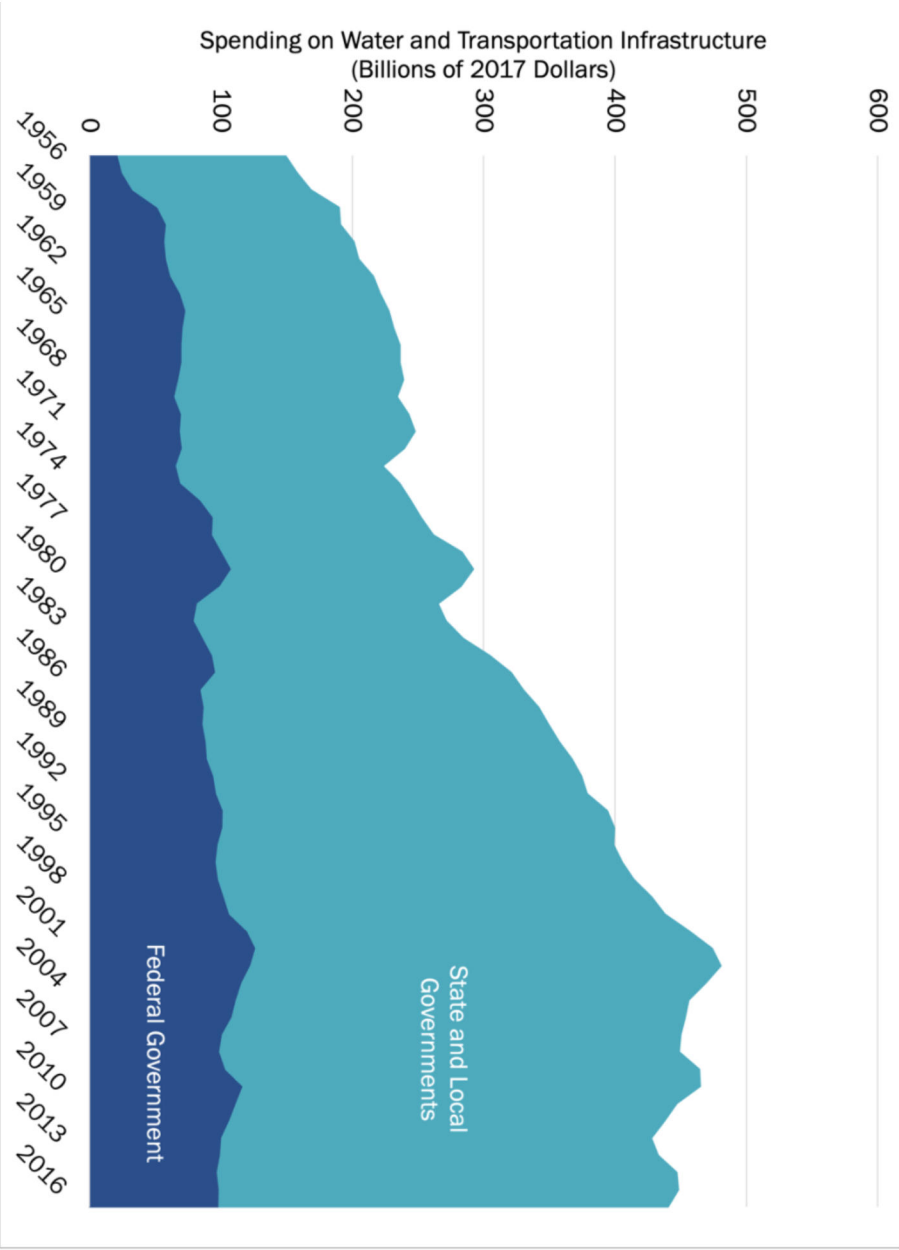
From the 1950s to the 1980s, the federal share of public infrastructure spending was typically much larger than it is today, reaching a high of 38 percent in 1977. But that share started to decrease in the 1980s, when state and local governments began to invest more in transportation and water infrastructure while federal spending on infrastructure remained relatively stable. Since 1987, federal spending has accounted

for roughly one quarter of public spending on transportation and water infrastructure.⁵⁹

This is shown in Exhibit 3.

Exhibit 3: Public Spending on Transportation and Water Infrastructure by Level of Government, 1956-2017

Source: ECONorthwest using data from the Congressional Budget Office, originally drawn from data from the Office of Management and Budget, the Census Bureau, and the Bureau of Economic Analysis.



Dollar amounts are adjusted to remove the effects of inflation using price indexes for government spending that measure the prices of materials and other inputs used to build, operate, and maintain transportation and water infrastructure.

The CBO notes that the American Recovery and Reinvestment Act (ARRA) “temporarily boosted federal outlays for infrastructure by \$55 billion, in nominal terms, over the 2009–2014 period; about one-half of that amount was spent in 2009 and 2010.”⁶⁰

Impact of Recent Infrastructure Spending Packages

The summary referenced above from the CBO predates passage of the federal Bipartisan Infrastructure Law introduced in mid-November of 2021, which allocated funding to over 350

⁵⁹ Congressional Budget Office, “Public Spending on Transportation and Water Infrastructure, 1956 to 2014,” <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/49910-infrastructure.pdf>, March 2015, page 27.

⁶⁰ Ibid, page 16.

programs across several federal departments and agencies to improve broadband, rail and transit, clean energy, water, and other infrastructure.⁶¹ This infrastructure bill specifically budgeted almost \$570 billion for transportation projects, including roads, bridges, public transit, passenger and freight rail, and airports and waterways projects.⁶² Furthermore, the bill's budget allocated over \$100 billion to resilience, water infrastructure, and clean drinking water projects. These investments far exceed those noted above from the ARRA and could dwarf federal spending on transportation and water infrastructure in 2017.

Exhibit 4: Bipartisan Infrastructure Law Budget, 2021: Transportation and Water Investments

Source: The White House. 2022. "Data Guidebook." A Guidebook to the Bipartisan Infrastructure Law.

Investment Category	Budgeted (in billions)
Transportation	569
Roads, Bridges, and Major Projects	326
Public Transit	83
Passenger and Freight Rail	63
Electric Vehicles, Buses, and Ferries	19
Airports, Ports, and Waterways	42
Safety	38
Resilience, Water Infrastructure, and Clean Drinking Water	102
Total Transportation, Resilience, and Water	671

Additional discussion of recent federal legislation related to infrastructure funding for specific types of infrastructure is included in the following sections.

Variation by Infrastructure System

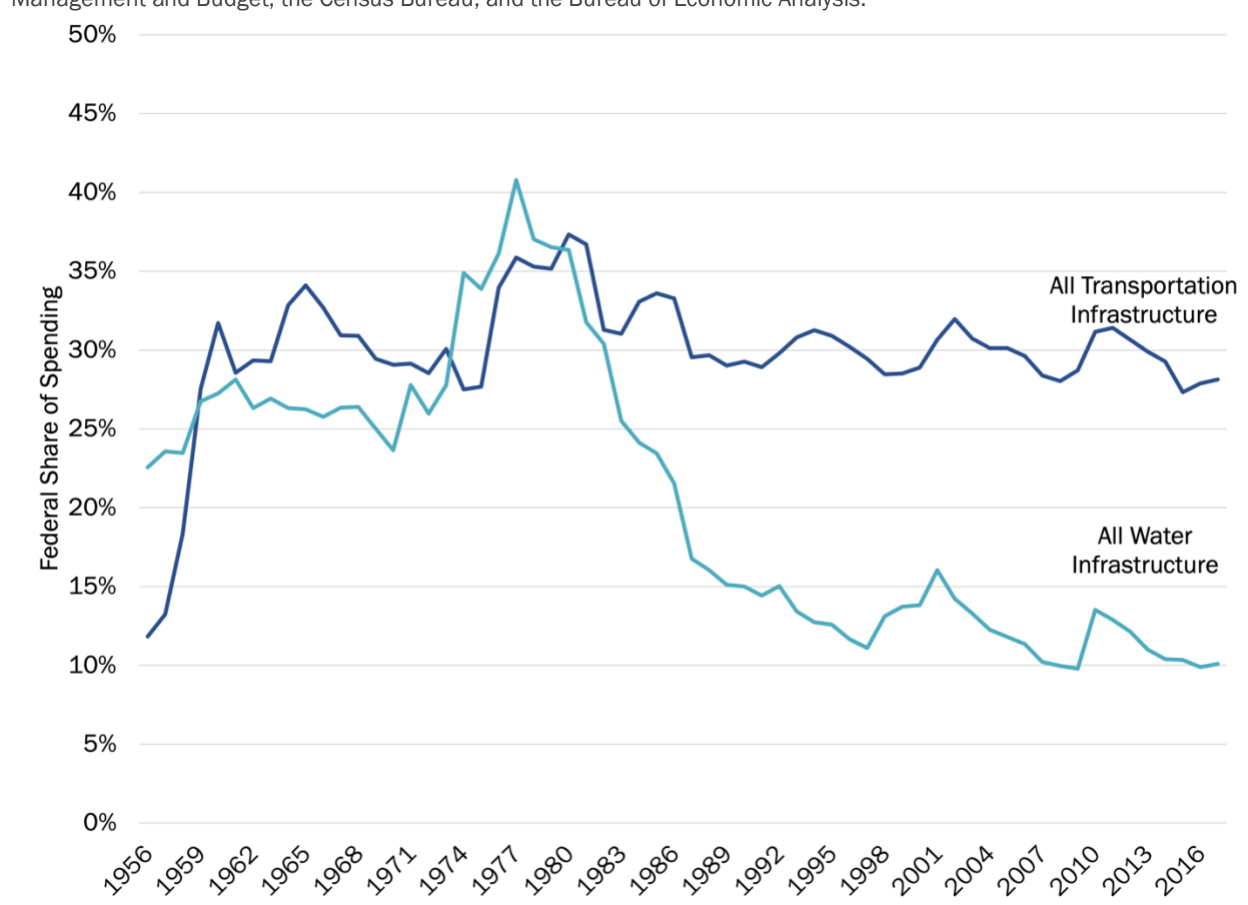
Federal contributions to infrastructure have varied between water and transportation over time, as shown in Exhibit 5. This shows that federal contributions to water infrastructure have dropped more dramatically as a share of total public spending, while federal transportation investments have remained relatively flat relative to total public spending.

⁶¹ The White House. 2022. Building a Better America: A Guidebook to the Bipartisan Infrastructure Law.

⁶² The White House. 2022. "Data Guidebook." A Guidebook to the Bipartisan Infrastructure Law.

Exhibit 5: Federal Contribution to Infrastructure Spending by Type, 1956-2017

Source: ECONorthwest using data from the Congressional Budget Office, originally drawn from data from the Office of Management and Budget, the Census Bureau, and the Bureau of Economic Analysis.



Federal Spending on Water and Wastewater Infrastructure

Historical Trends in Federal Water and Wastewater Spending

Data on public spending for water resources and water and wastewater utilities⁶³ specifically (Exhibit 6) shows the rise of state and local spending for water-related infrastructure, and the decline in federal investment since the 1980s.⁶⁴ Spending on water supply and wastewater treatment facilities increased in the mid-1970s when the federal government provided grants to state and local governments under the Clean Water Act of 1972.⁶⁵

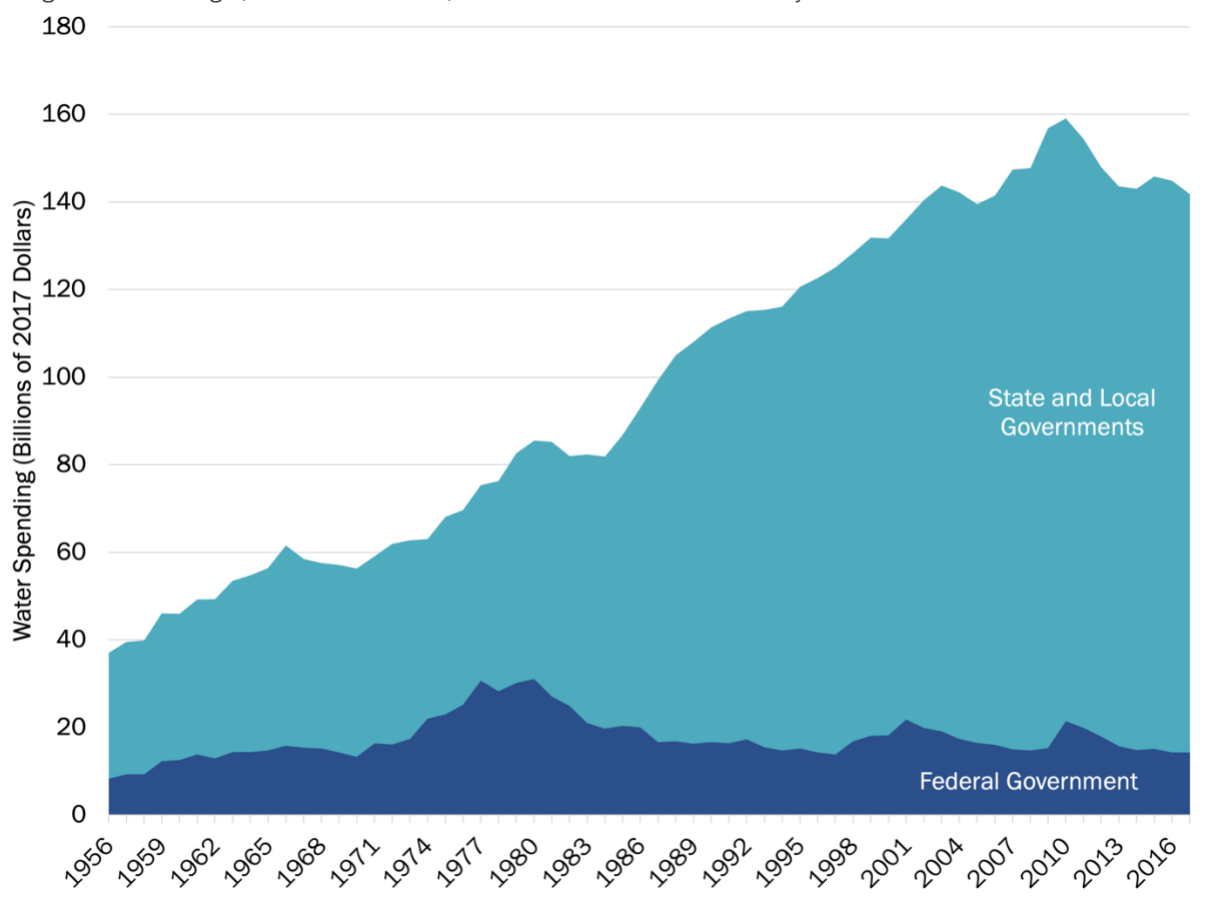
⁶³ According to the CBO data notes, "Water resources include water containment systems (dams, levees, reservoirs, and watersheds) and sources of freshwater (lakes and rivers). Water utilities include water supply and wastewater treatment facilities."

⁶⁴ The rise in spending may be attributed to numerous factors including state and federal mandates and extensive need for infrastructure repair and replacement. In Oregon, recent changes to land use laws imposed on communities over 25,000 population by House Bill 2001 will further increase infrastructure spending needs for some local agencies to upgrade infrastructure to accommodate higher density development.

⁶⁵ Congressional Budget Office, "Public Spending on Transportation and Water Infrastructure, 1956 to 2014," March 2015, page 16.

Exhibit 6. Public Spending on Water Infrastructure* by Level of Government, 1956-2017

Source: ECONorthwest using data from the Congressional Budget Office, originally drawn from data from the Office of Management and Budget, the Census Bureau, and the Bureau of Economic Analysis.



*Combines data on water resources, which include water containment systems (dams, levees, reservoirs, and watersheds) and sources of freshwater, and water utilities, which include water supply and wastewater treatment facilities.

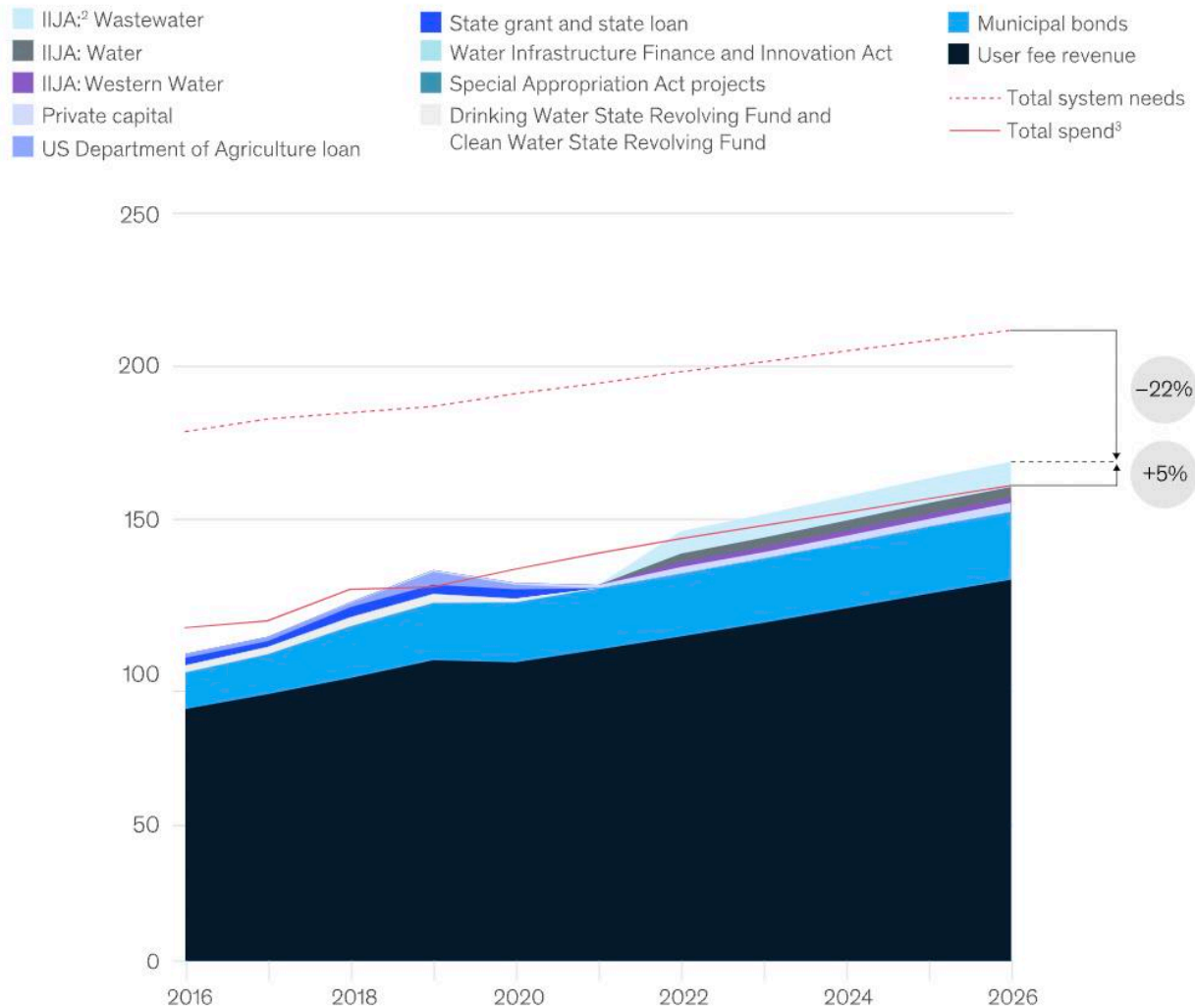
Recent Federal Funding Commitments for Water and Wastewater

Federal legislation like the Water Infrastructure Finance and Innovation and Infrastructure Investment and Jobs Acts have also contributed new critical funds for restoration and improvement since 2017 not reflected in Exhibit 6, including over \$55 billion of new investment. However, as Exhibit 7 shows, the combination of user fee revenue, municipal bonds, and increased funding from state and federal sources is still projected to leave a gap between available and necessary funds for these systems.⁶⁶

⁶⁶ McKinsey & Company, "US Water Infrastructure: Making Funding Count," November 24, 2021, <https://www.mckinsey.com/industries/electric-power-and-natural-gas/our-insights/us-water-infrastructure-making-funding-count>.

Exhibit 7. Water and Wastewater Funding Sources by Year, \$ billions

Source: McKinsey and Company⁶⁷



¹Only includes future federal funding from the Western Water and Drinking Water and Wastewater Infrastructure Acts, excluding any potential funding from the Transportation Infrastructure Act (~\$500 million) and Resiliency Act (~\$5 billion); it does not include any potential funding from the \$3.5 billion budget-reconciliation package.

²Infrastructure Investment and Jobs Act.

³Projection of total spend without federal stimulus.

Source: Congressional Research Service; Global Water Intelligence; Statista; US Environmental Protection Agency

Some of the largest federal contributions will be under the existing Drinking Water State Revolving Fund and Clean Water State Revolving Funds. While roughly half of their \$22 billion allocation is required to be in the form of grants or forgivable loans, the remainder will need to be repaid over time by the agencies receiving the funds.⁶⁸

⁶⁷ McKinsey & Company, "US Water Infrastructure: Making Funding Count," November 24, 2021, <https://www.mckinsey.com/industries/electric-power-and-natural-gas/our-insights/us-water-infrastructure-making-funding-count>.

⁶⁸ Seth Robertson and Ruby Wells, "Once-In-a-Generation Funding Opportunity: The \$1 Trillion IIJA," Hazen and Sawyer, September 15, 2022, <https://www.hazenandsawyer.com/articles/once-in-a-generation-funding-opportunity-for-water-infrastructure-congress-passes-the-1t-iija>.

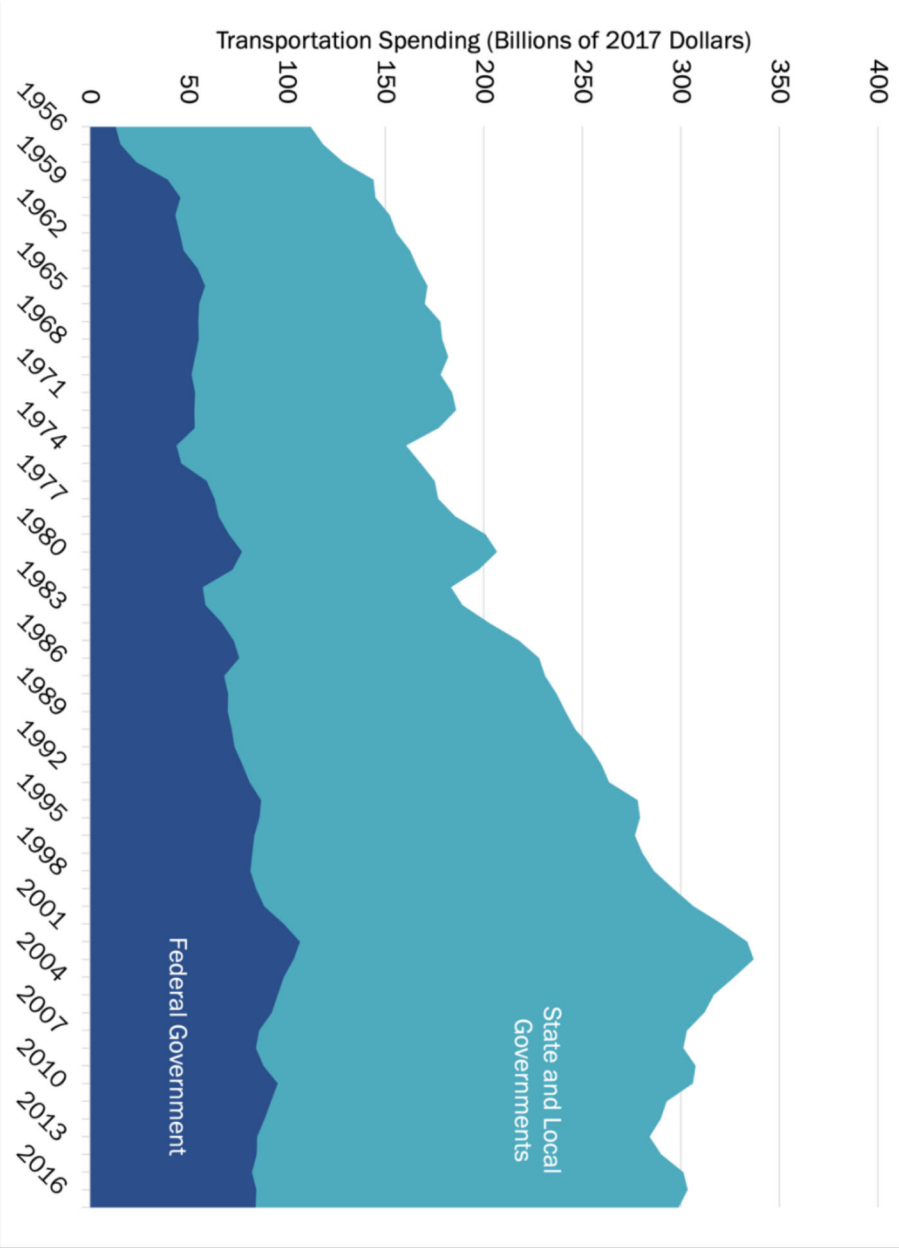
Federal Spending on Transportation

Historical Trends in Federal Transportation Spending

According to the CBO, “spending on highways increased under the Federal-Aid Highway Act of 1956 when the federal government funded construction of the Interstate Highway System. In the late 1990s, spending on highways and mass transit increased under the Transportation Equity Act for the 21st Century.” As shown in Exhibit 8, federal transportation spending has been relatively flat to slightly declining since the late 1990s in real terms.

Exhibit 8: Public Spending on Transportation* Infrastructure by Level of Government, 1956-2017

Source: ECONorthwest using data from the Congressional Budget Office, originally drawn from data from the Office of Management and Budget, the Census Bureau, and the Bureau of Economic Analysis.



* Transportation infrastructure includes highways, mass transit and rail, aviation, and water transportation.

According to one study:

The highway system that was to be primarily funded by federal sources has fallen into disrepair with increasing congestion because of inadequate federal funding. States elected not to assume the primary role that the federal government was abandoning for precisely the same reason that the federal government was abandoning it: cost. The

*responsibility for highway maintenance and other major public investments has fallen to local jurisdictions by default.*⁶⁹

Another component of federal funding for transportation in Oregon comes from federal timber payments in lieu of property taxes, 75 percent of which are dedicated to transportation. With declining timber harvests, these payments have been reduced, even with special allocations to address the decline.⁷⁰

Recent Federal Funding Commitments for Transportation

The Bipartisan Infrastructure Law is expected to boost federal spending on transportation in Oregon, some of which will include projects that would otherwise be funded (in whole or in part) at the local level, including bridge replacements, safety improvements, and climate resilience. (Note that these types of capital improvements are generally not growth-related, and they are less likely to include projects that would be eligible for significant funding from SDCs.) Much of the funding that could go towards local projects will be allocated through competitive grants.⁷¹

State Funding for Transportation

Revenue limitations have affected state funding for transportation as well. Oregon's State Highway Fund is shared among the state highway program, county roads, and city streets under a formula in which approximately 50 percent of revenues go to the state, 30 percent to counties, and 20 percent to cities. The State Highway Fund's revenue sources include state fuel taxes, state weight-mile taxes on trucks, state vehicle registration and title fees, and federal funds. Neither fuel taxes nor user fees are indexed to inflation, and increasing vehicle efficiency, along with hybrid and electric vehicles, are reducing fuel consumption, which have led to flat or decreasing funding from these sources.⁷²

Federal Financial Backing for Subdivision Development

The spike in federal transportation spending in the post-World War II era was accompanied by federal housing policies that supported new housing development and developers' ability to finance greenfield development costs. During that period, the Federal Housing Association (FHA) incentivized developers to build large new segregated single-family subdivisions through guaranteeing bank loans and mortgage insurance by way of pre-construction plan approvals.⁷³ The FHA's approval of subdivision plans ensured builders' ability to obtain low-

⁶⁹ Arthur C. Nelson, Liza K. Bowles, Julian C. Juergensmeyer, and James C. Nicholas, *A Guide to Impact Fees and Housing Affordability* (Island Press, 2008), pages 12-13.

⁷⁰ Oregon Legislative Policy and Research Office, "Funding Transportation Background Brief," Updated: September 2016. <https://www.oregonlegislature.gov/lpro/Publications/BB2016FundingTransportation.pdf>

⁷¹ U.S. Department of Transportation, "The Bipartisan Infrastructure Law Will Deliver for Oregon," April 12, 2022, <https://www.transportation.gov/briefing-room/bipartisan-infrastructure-law-will-deliver-oregon>

⁷² Oregon Legislative Policy and Research Office, "Funding Transportation Background Brief," Updated: September 2016. <https://www.oregonlegislature.gov/lpro/Publications/BB2016FundingTransportation.pdf>

⁷³ Rothstein, Richard. 2018. *The Color of Law*. New York, NY: Liveright Publishing Corporation. p. 70, 75.

interest loans issued by banks to finance their construction projects.⁷⁴ At this time, banks were usually cautious about issuing loans for working families, but they often did so when the mortgages were insured.⁷⁵ Therefore, because the FHA's approval of the pre-construction plans would automatically guarantee mortgage insurance, this meant little risk for the banks, and so they regularly financed these massive subdivision construction projects and land acquisitions costs, sometimes covering the full cost of entire suburbs.⁷⁶

However, there was a major caveat to attaining the FHA's approval and mortgage insurance: the requirement of an "openly stated prohibition on sales to African Americans."⁷⁷ FHA rejected subdivision construction proposals that either considered housing African Americans and/or were to be built too close to where predominantly non-white communities resided. Anything that threatened possible integration was not federally insured.⁷⁸ The FHA (and later the Department of Veterans Affairs) required that any mortgage insurance approval would be reliant upon the addition of racially restrictive covenants in every one of the subdivisions' property deeds, often with overt racist language such as "*no lot or portion of a lot or building erected thereon shall be sold, leased, rented, or occupied by any other than those of the Caucasian race.*"⁷⁹

Thus, suburban development during the post-World War II era enjoyed federally supported low-interest financing that facilitated infrastructure investments by private developers, but only for segregated, white-only subdivisions.

2.1.2 Infrastructure Cost Trends

Costs Associated with Changing Environmental Regulations

A growing understanding of the importance of environmental and public health protections has led to an increase in federal regulations that affect water, wastewater, stormwater, and transportation infrastructure, including the National Environmental Policy Act (NEPA) of 1969, the Clean Air Act (CAA) of 1970, the Clean Water Act (CWA) of 1972 (CWA), and the Endangered Species Act (ESA) of 1973. These policies have led to major improvements in environmental protection and human health, but not without cost.

A study of the state and local costs associated with the Clean Water Act (CWA), for example, found that local government wastewater expenditures increased by \$157 per capita, or over 230 percent, after the implementing CWA mandates. Total city expenditures increased by

⁷⁴ Rothstein, Richard. 2018. *The Color of Law*. New York, NY: Liveright Publishing Corporation, p. 10.

⁷⁵ *Ibid.*, p. 11.

⁷⁶ *Ibid.*, p. 70-71.

⁷⁷ *Ibid.*, p. 10.

⁷⁸ *Ibid.*, p. 74.

⁷⁹ *Ibid.*, p. 84-85.

approximately 33 percent, primarily driven by increased wastewater spending. To recoup the expenditures, cities increased wastewater user fees by \$40.80 per capita.⁸⁰

Another study found that the cost of water pollution control for streets also increased the cost burden on local governments:

As a result of new federal environmental mandates, local jurisdictions were also being directed to make massive investments in water pollution control facilities. These investments originally were funded up to 85 percent by federal grants. They are now funded by federal loans amounting to 45 percent.⁸¹

Other regulatory requirements that improve safety and resilience but increase the amount of capital needed for improvements include addressing levels of harmful polyfluoroalkyl substances (PFAS) in drinking water, combined-sewer overflows, phosphorus and nitrogen levels that impact algae blooms, and preparation for extreme weather events.⁸²

In Oregon, the rising cost of keeping up with safety improvements may have disparate impacts across the state. Many smaller cities lack the funding capacity to add additional expenses for treatment and may not qualify for grants or loans because of population size or leverage in the form of matching funds.⁸³

Operations and Maintenance Costs

As the total amount of infrastructure has grown over time and major facilities built in previous decades have aged, the cost of operations and maintenance for existing facilities has increased, with much of this cost falling on local governments.

Spending for the operation and maintenance of all types of transportation and water infrastructure has increased steadily since 1956. Spending for capital—particularly for mass transit and rail, for aviation, and for water utilities—has also increased since then, but it has typically done so at a lower rate.⁸⁴

Since 1956, state and local governments' expenditures for the operation and maintenance of infrastructure have grown at an average annual rate of 2.4 percent, roughly three times faster than the 0.9 percent average annual growth rate of

⁸⁰ Jerch, Rhiannon. 2021. The Local Benefits of Federal Mandates: Evidence from the Clean Water Act. Temple University.

⁸¹ Arthur C. Nelson, Liza K. Bowles, Julian C. Juergensmeyer, and James C. Nicholas, *A Guide to Impact Fees and Housing Affordability* (Island Press, 2008), pages 12-13.

⁸² McKinsey & Company, "US Water Infrastructure: Making Funding Count," November 24, 2021, <https://www.mckinsey.com/industries/electric-power-and-natural-gas/our-insights/us-water-infrastructure-making-funding-count>.

⁸³ Scott Lazenby and Diane Odeh, "2021 Infrastructure Survey Report" (League of Oregon Cities, January 2021), 12-13.

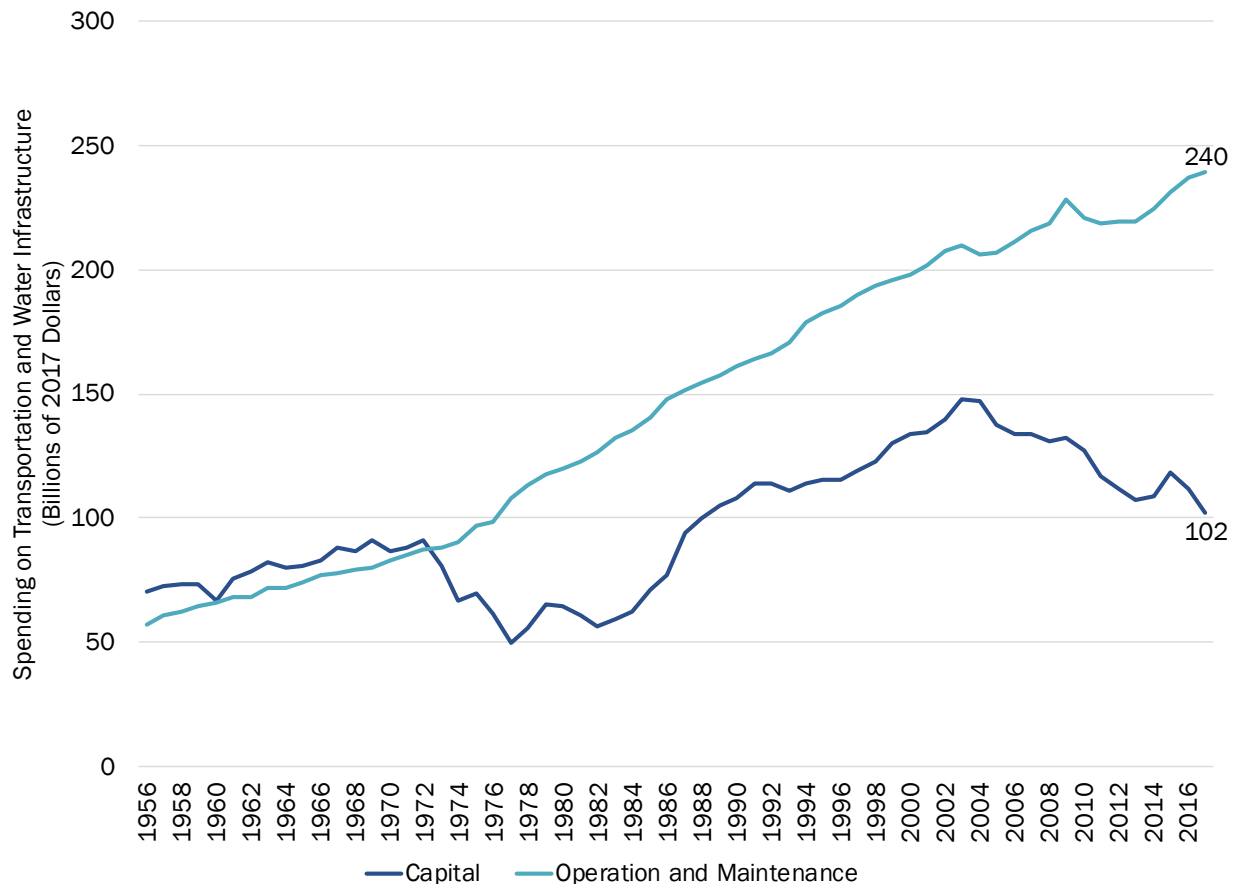
⁸⁴ Congressional Budget Office, "Public Spending on Transportation and Water Infrastructure, 1956 to 2014," <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/49910-infrastructure.pdf>, March 2015, page 27.

spending on capital. As a result, although state and local governments spent more for capital than for operation and maintenance in 1956, state and local spending for operation and maintenance has exceeded capital spending each year since 1973.⁸⁵

This is shown in Exhibit 9.

Exhibit 9: State and Local Spending on Transportation and Water Infrastructure, by Category of Spending, 1956 to 2017

Source: ECONorthwest using data from Congressional Budget Office originally drawn from data from the Office of Management and Budget, the Census Bureau, and the Bureau of Economic Analysis.



State and local spending is net of federal grants and loan subsidies.

a. Dollar amounts are adjusted to remove the effects of inflation using price indexes for government spending that measure the prices of goods and services consumed by governments, including materials and other inputs used to operate and maintain transportation and water infrastructure.

b. Dollar amounts are adjusted to remove the effects of inflation using price indexes for government spending that measure the prices of materials and other inputs used to build transportation and water infrastructure.

The Bipartisan Infrastructure Law's focus on bridge repair and replacing lead drinking water pipes⁸⁶ could mitigate some of the more costly maintenance needs affecting water and transportation infrastructure, but it will not eliminate local operations and maintenance and

⁸⁵ Congressional Budget Office, "Public Spending on Transportation and Water Infrastructure, 1956 to 2014," <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/49910-infrastructure.pdf>, March 2015, page 22.

⁸⁶ The White House, "President Biden's Bipartisan Infrastructure Law", <https://www.whitehouse.gov/bipartisan-infrastructure-law/>

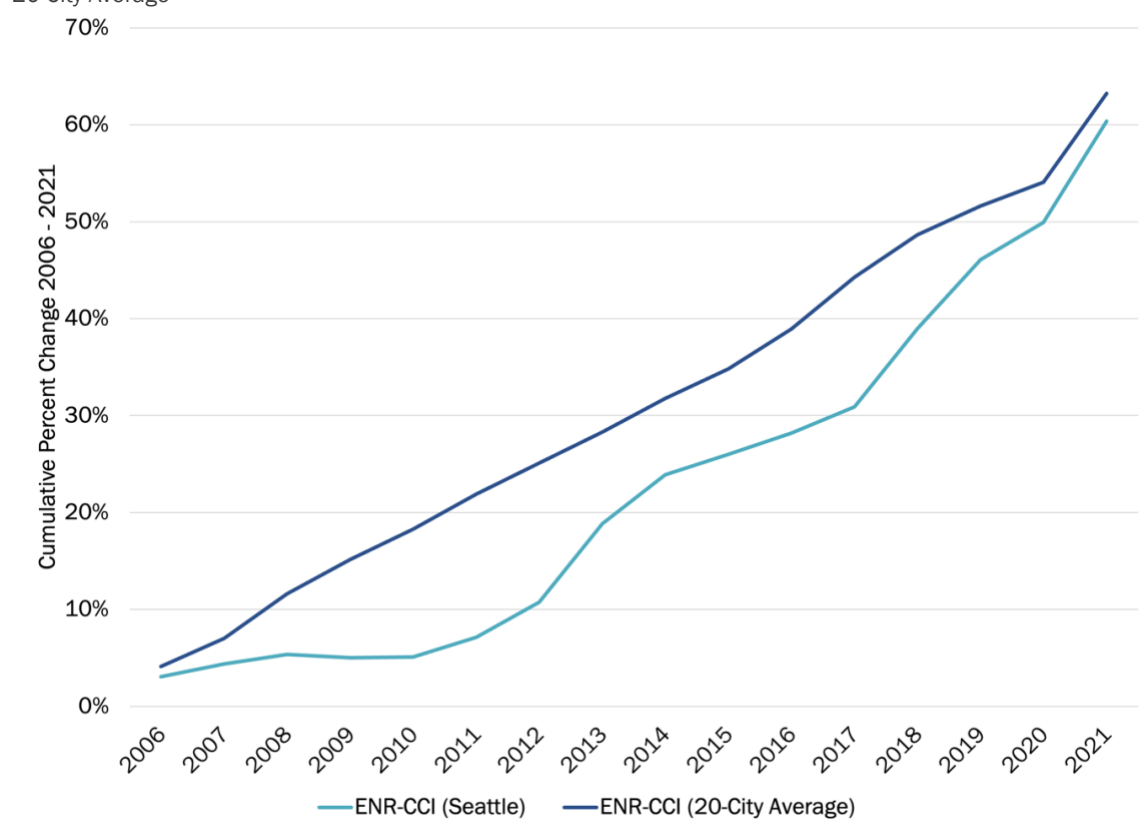
other system replacement costs. A recent assessment found that “even a large increase in federal funding won’t fully cover the needed investment.”⁸⁷ Some localities are employing strategies like new metering technology to more efficiently track and plan for demand (ideally saving costs in the long run), but that may require startup capital for these upgrades.⁸⁸

Rising Capital Construction Costs

The most widely used construction cost indices in the Pacific Northwest are the Construction Cost Index (CCI) for Seattle and the 20-City Average Index, both published by the *Engineering News-Record (ENR)*. Exhibit 10 shows the annual average percent change in each index between 2007 and 2021. While the Seattle index has greater variation from year-to-year (particularly during the Great Recession and the few years following recovery), the longer-term trends of both indices are similar, with each increasing an average of about 3.0 percent per year. However, national and regional costs have increased significantly in the first half of 2022. Both the Seattle and 20-City average indices increased by 8-10 percent through June, compared to the 2021 annual average indices.

Exhibit 10. Historical Construction Cost Escalation, 2006-2021

Source: ECONorthwest and FCS GROUP using data from Engineering News Record, Construction Cost Index for Seattle and 20-City Average



⁸⁷ McKinsey & Company, “US Water Infrastructure: Making Funding Count,” November 24, 2021, <https://www.mckinsey.com/industries/electric-power-and-natural-gas/our-insights/us-water-infrastructure-making-funding-count>.

⁸⁸ *Ibid.*

2.1.3 Property Tax Limitations

Starting around 1974, the U. S. experienced an inflationary period that significantly affected home prices. In areas where property tax bills were based on the market value of the home, resulting tax increases drew resistance. In 1978, voters in California passed the first of many such anti-tax measures across the country. Proposition 13 amended the California Constitution in three important ways:

- Real property valuations were rolled back to their 1975-76 values.
- Increases in assessed value were limited to 2 percent per year.
- Except for some voter-approved levies, total property tax per year was limited to 1 percent of a property's assessed value.

Oregon Property Tax Measures

Oregon's property tax system changed substantially in the 1990s, following the trend in California and other states. The system as it existed in the early 1990s, and the major changes to it, are described in a publication from the Oregon Department of Revenue.⁸⁹ Excerpts of this summary are included below:

Measure 5, which introduced tax rate limits, was passed in 1990 and became effective in the 1991-92 tax year. When fully implemented in 1995-96, Measure 5 cut tax rates an average of 51 percent from their 1990-91 levels. Measure 50, passed in 1997, cut taxes, introduced assessed value growth limits, and replaced most tax levies with permanent tax rates. It transformed the system from one primarily based on levies to one primarily based on rates. When implemented in 1997-98, Measure 50 cut effective tax rates an average of 11 percent from their 1996-97 levels.

Pre-Measure 5

Pre-Measure 5 Oregon had a pure levy-based property tax system until 1991-92. Each taxing district calculated its own tax levy based on its budget needs. ... Generally speaking, the full market value of property was taxable; there was no separate definition of assessed value. ... Most levies were constitutionally limited to an annual growth rate of 6 percent, and levies that would increase by more than 6 percent required voter approval. ... The annual growth in taxes on an individual property depended on a number of factors, including new or larger levies and the amount of new construction within the district. ...

Measure 5

Measure 5 introduced limits, starting in 1991-92, on the taxes paid by individual properties. The limits of \$5 per \$1,000 real market value for school taxes and \$10 per

⁸⁹ Oregon Department of Revenue, "A Brief History of Oregon Property Taxation," 150-303-405-1 (Rev. 6-09).
<https://www.oregon.gov/DOR/programs/gov-research/Documents/303-405-1.pdf>

\$1,000 real market value for general government taxes apply only to operating taxes, not bonds. If either the school or general government taxes exceeded its limit, then each corresponding taxing district had its tax rate reduced proportionately until the tax limit was reached. This reduction in taxes to the limits is called “compression.” ...

Measure 50

The objective of Measure 50 was to reduce property taxes in 1997-98 and to control their future growth. It achieved these goals by cutting the 1997-98 district tax levies, and by making three changes: switching to permanent rates, reducing assessed values, and limiting annual growth of assessed value.

While Measure 5 simply limited the tax rates used to calculate taxes imposed, Measure 50 changed the concepts of both assessed values and tax rates. Assessed value is no longer equal to real market value. For 1997-98, the assessed value of every property was reduced to 90 percent of its 1995-96 assessed value. ...

For existing property, Measure 50 limited the annual growth in assessed value to 3 percent. ... For new property (e.g., newly constructed homes), assessed value is calculated by multiplying the new property’s real market value by the ratio of assessed value to real market value of similar property. ...

Under Measure 50, permanent tax rates replaced most levies, making the permanent rates central to the property tax system. There are three types of property taxes that taxing districts may impose: taxes from the permanent rates, local option levies, and bond levies. Only the permanent rates are fixed. ...

Taxes from the permanent rates, typically referred to as operating taxes, are used to fund the general operating budgets of the taxing districts. ... Local option taxes represent the only way taxing districts can raise operating revenue beyond the permanent rate amount. Even so, these taxes are the first to be reduced if the Measure 5 limitations are exceeded. Because voters at the local level must approve these levies, they represent one aspect of local control over the level of property taxes.

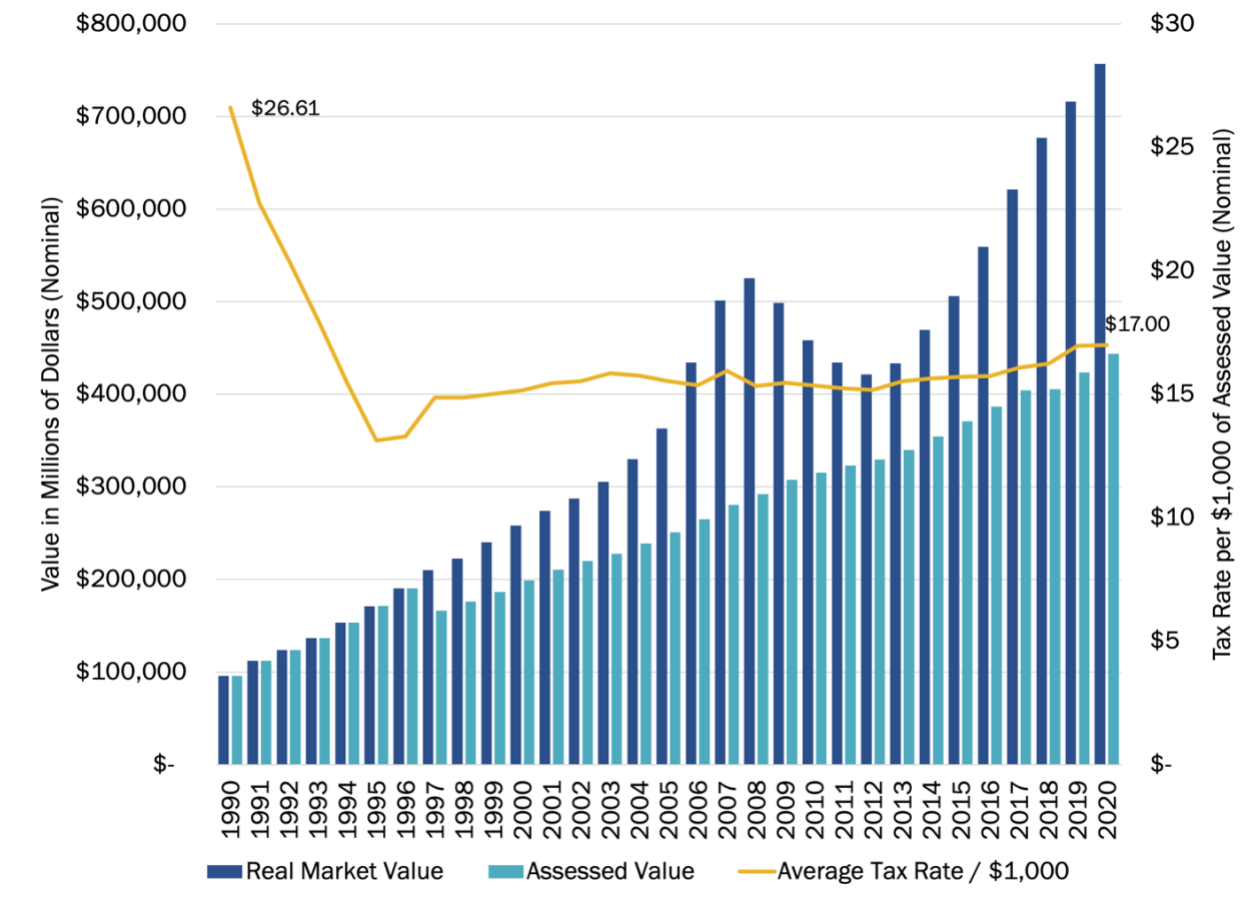
Bond levies have remained largely unchanged. They are used to pay principal and interest for bonded debt. Under the provisions of Measure 50, new bond levies, like new local option levies, are subject to a 50 percent voter participation requirement if the election is not a general election.

The statewide revenue implications of these measures can be seen in data from tables published by the Oregon Legislative Revenue Office, as summarized in Exhibit 11 and Exhibit 12, based on data from the Oregon Department of Revenue.

In Exhibit 11, the impact of Measure 5 can be seen by the decrease in the “Average Tax Rate/\$1,000” beginning in July 1991 (the start of FY 1991-92). Similarly, the impacts of Measure 50 are reflected in the July 1997 decrease and then generally smaller increases in “Assessed Value,” as compared to the “Real Market Value” column.

Exhibit 11. Property Value (Real Market Value and Assessed Value) and Effective Tax Rate History, Oregon (Statewide), 1990-2020

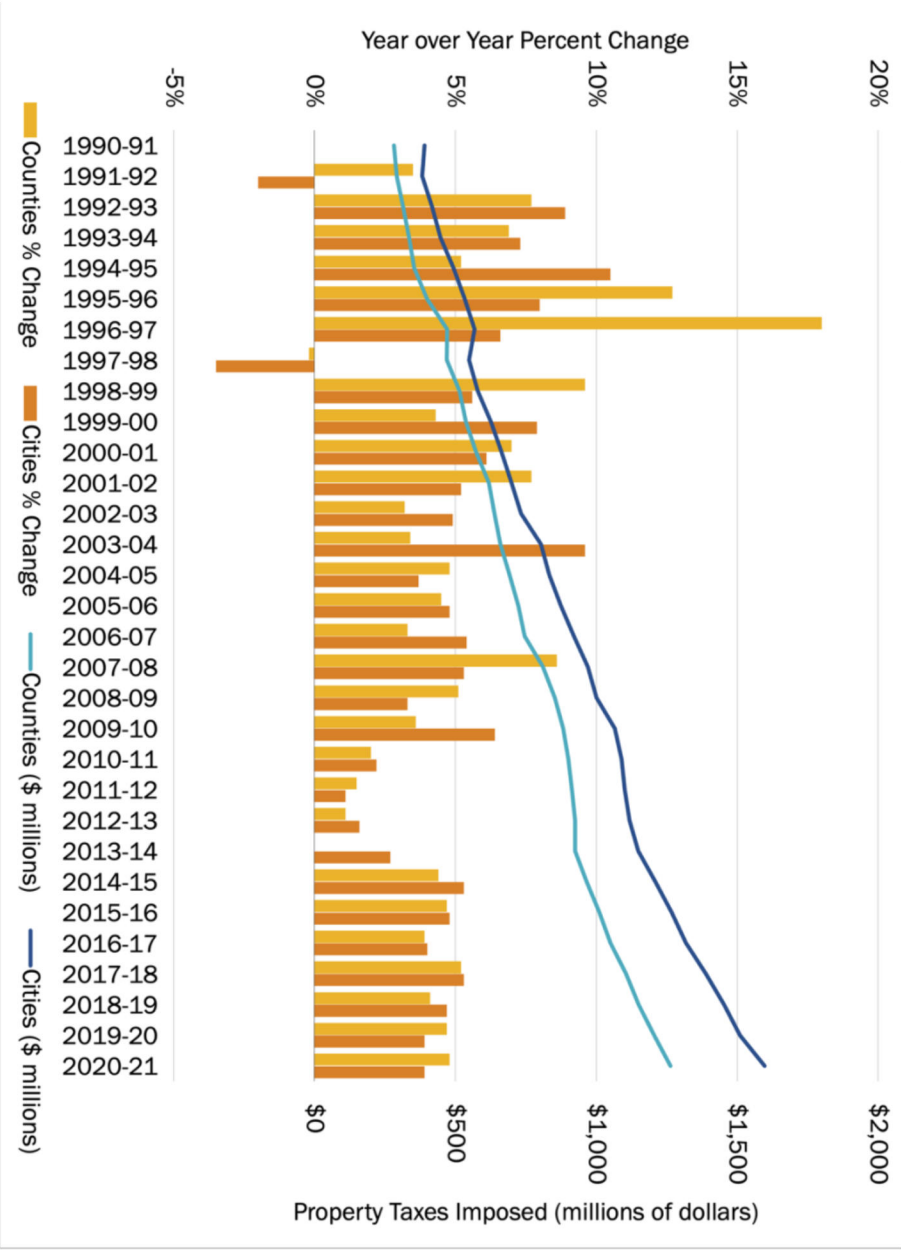
Source: ECONorthwest and FCS GROUP, using data from Oregon Legislative Revenue Office, 2022 Oregon Public Finance: Basic Facts, page D6



The impacts of these measures on city and county revenues become even clearer when the resulting property tax imposed for the same period are considered, as shown in Exhibit 12.

Exhibit 12. Property Tax Revenue History

Source: ECONorthwest and FCS GROUP, using data from Oregon Legislative Revenue Office, 2022 *Oregon Public Finance: Basic Facts*, page D10



In addition to constraining property tax revenue, the requirement for voter approval of new bond levies increases the political difficulty of using this mechanism to fund capital improvements in infrastructure.

2.1.4 Trends in Utility Rates and Other User Fees

The combined effect of state property tax limitations and flat or reduced federal funding has been increased pressure on local government-controlled user fees to meet growing infrastructure funding needs (both operation and maintenance and capital investment). This has resulted in significant increases in water, wastewater, and stormwater utility rates (ongoing charges to utility customers based on system-specific usage measures) and imposition of new user fees for other government services (e.g., parks and transportation).

Utility Rates

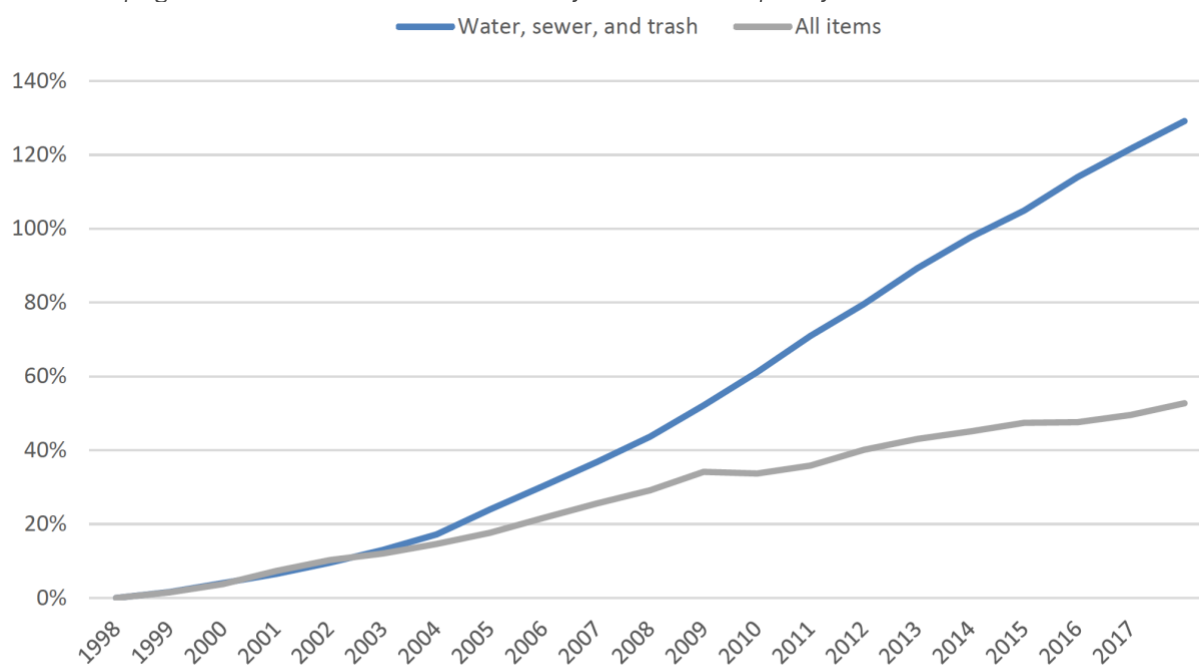
National Rate Trends

For the past several decades, utility rate increases have significantly outpaced growth in the Consumer Price Index (CPI). Between the mid-1980s and 2000, the increase in water and sewer

bills exceeded CPI growth by 50 percent.⁹⁰ More recently, the growth in utility bills relative to the CPI has become even more pronounced. Between 1997 and 2017, utility bills (water, sewer, and trash combined) increased an estimated 130 percent (4.3 percent per year on average), compared to 52 percent increase in the CPI (2.1 percent per year on average), as shown in Exhibit 13.⁹¹ Even more recent data (see Exhibit 14) shows average utility rate increases for water and wastewater services of roughly 80 percent as of 2020 compared to 2008 levels (5.1 percent per year on average), while the CPI increased a little over 20 percent over the same period (1.7 percent per year on average).

Exhibit 13. Annual Cumulative Increase in Household Costs for Water, Sewer, and Trash Compared to Increase in CPI for All Items (1997–2017)

Source: *Developing A New Framework for Water Affordability and Financial Capability Assessment in the Water Sector*⁹²



Source: Bureau of Labor Statistics, 2017

Note: BLS does not separately report costs for trash, water, and sewer in its summary tables/data.

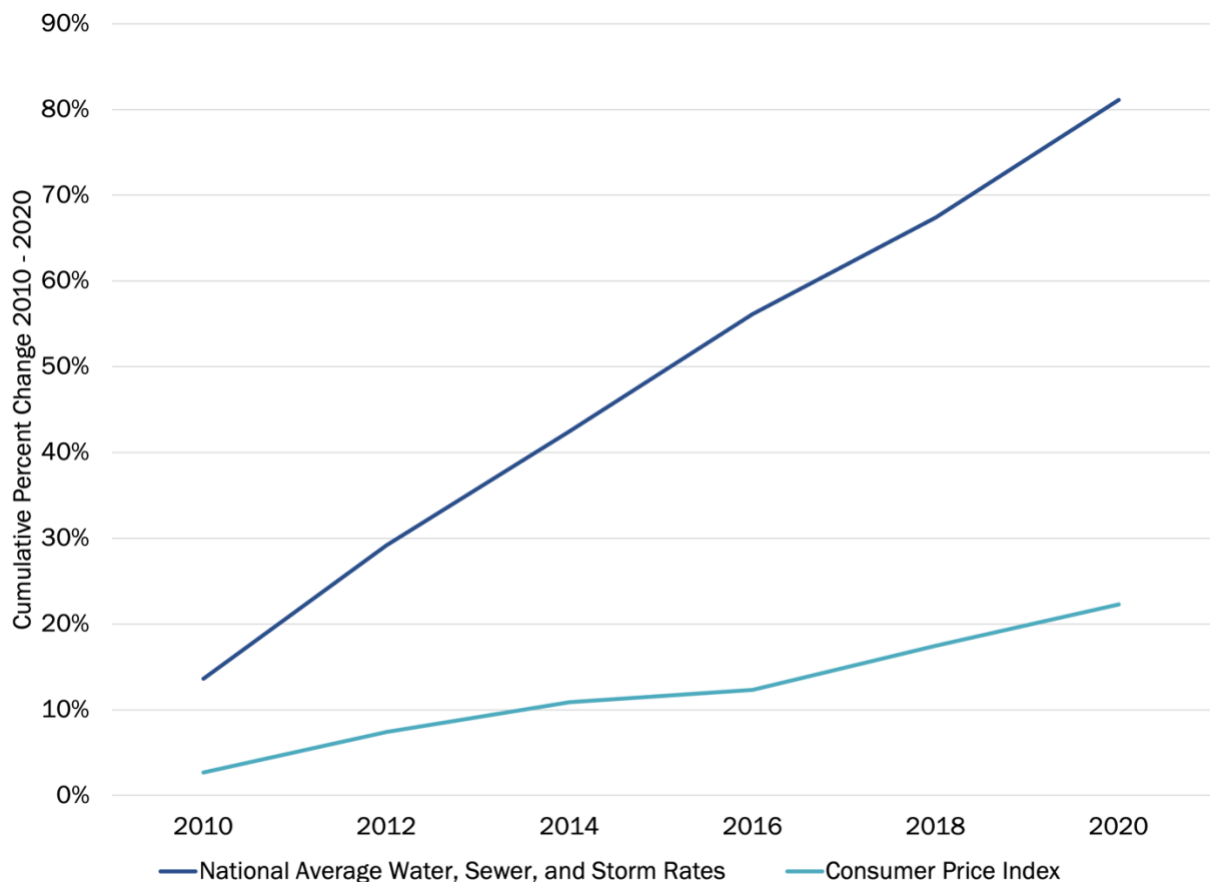
⁹⁰ Van Abs, Daniel J. Evans, Tim. Assessing the Affordability of Water and Sewer Utility Costs in New Jersey. Jersey Water Works. Final Report: September 2018.

⁹¹ R. Raucher, PhD. And J. Clements (Corona Environmental Consulting), E. Rothstein, CPA (Galardi Rothstein Group) and J. Mastracchio, CFA and Z. Green (Raftelis Financial Consultants), Developing a New Framework for Household Affordability and Financial Capability Assessment in the Water Sector, (April 17, 2019)

⁹² *Ibid.*, page 1-4.

Exhibit 14. Cumulative Water and Wastewater Utility Average Rate Increases Relative to 2008 vs. CPI (2010-2020)

Source: ECONorthwest and Galardi Rothstein Group, using data from 2020 Water and Wastewater Rate Survey published by American Water Works Association (AWWA) and Raftelis



Percent change is cumulative increase relative to 2008 baseline.

Drivers of Rate Increases

As discussed in prior subsections, historical cost increases have reflected landmark regulations and growth in system operation and maintenance needs. Other cost factors include growing infrastructure replacement needs and investments to address climate and seismic resiliency.

National data suggests that operating expenses account for a substantial share of utility rates: between 45 and 67 percent of water and wastewater rates typically go towards operating expenses depending on the year and the scale of the service provider, with an average of 52 percent for water utilities and 54 percent for wastewater utilities in 2020.⁹³ However, growth in operations and maintenance costs are not the only reasons for increasing rates.

One study, which estimated an average 43.2 percent increase in water and wastewater bills from 2012 to 2021, pointed to regional differences in what was driving those increases (e.g., utilities in the Western U.S. investing in new water supplies due to drought vs. those in the Northeast facing aging pipe and treatment systems) and noted that “the most significant water

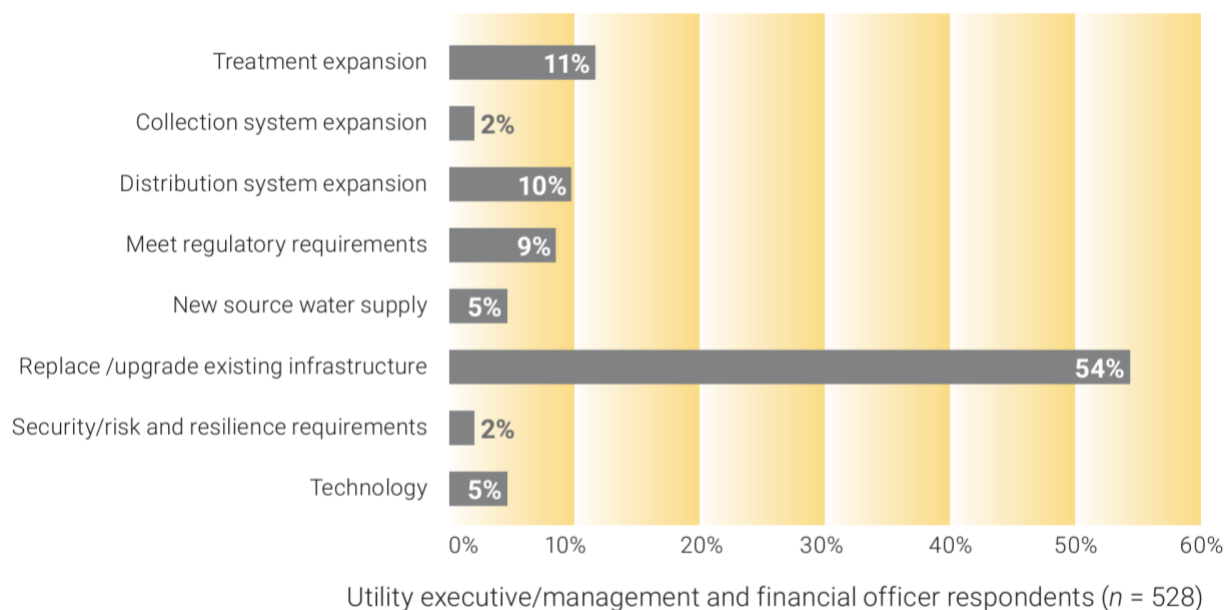
⁹³ American Water Works Association and Raftelis Financial Consultants, Inc., *2021 Water and Wastewater Rate Survey*.

rate increases have been in response to specific capital investment needs,” including wastewater treatment plant upgrades to address water quality issues and a major water system improvement plan.⁹⁴

A range of drivers within capital-related costs is also reflected in data from a national survey regarding anticipated capital expenditures by water utilities, as shown in Exhibit 15. Based on this survey, more than half of expected capital expenditures for water utilities in 2020 were expected to be for replacements and upgrades to existing infrastructure, but expansion of treatment, collection, and distribution systems as well as new source water supplies were expected to account for a total of 28 percent of capital spending.⁹⁵

Exhibit 15: Anticipated Water Utility Capital Spending in 2020

Source: American Water Works Association⁹⁶



©AWWA 2020 State of the Water Industry

While the specific drivers vary for each community and over time, recent examples from two Oregon communities illustrate the role that capital improvements can play in driving rate increases in some communities:

⁹⁴ Bluefield Research, “Up 43% over Last Decade, Water Rates Rising Faster than Other Household Utility Bills,” August 23, 2021. <https://www.bluefieldresearch.com/ns/up-43-over-last-decade-water-rates-rising-faster-than-other-household-utility-bills/>

⁹⁵ American Water Works Association, *State of the Water Industry 2020*, page 21. <https://www.awwa.org/Portals/0/Awwa/Professional%20Development/2020SOTWReport.pdf>

⁹⁶ *Ibid.*

- In a 2017 rate study for the City of Newport, FCS GROUP estimated that debt payments on needed capital improvements would increase revenue requirements for water and sewer by 4 to 8 percent per year over 5 years.⁹⁷
- A 2018 Water Affordability Assessment Report from the City of Hillsboro highlighted the role of rising capital costs in recent and projected rate increases: “...over the last few years, rate increase percentages have been on the rise due primarily to rising capital costs caused by needed improvements to the existing infrastructure and also the construction of a second water supply system to serve Hillsboro’s growing needs. A Water Rate Study is underway and will most likely suggest double-digit percentage rate increases until 2026.”⁹⁸

Taken together, the data suggest that utility rates are increasing faster than inflation largely due to factors that are unrelated (or minimally related) to growth, including increasing operation and maintenance costs and the need to replace or upgrade older infrastructure to meet current standards or due to deterioration, though growth-related costs can contribute to rate increases in some cases. Consequences for rate affordability and capital funding choices are discussed in Section 2.2.4.

Other System-Wide User Charges

In the context of fiscal constraints, local governments have increasingly implemented other types of user fees for a broader suite of government services such as parks, streets, public safety, and others. In 2018, research by the City of Salem found 50 cities charging such user charges (sometimes referred to “operating fees”) across the state, for various services.⁹⁹

While on-going user charges or operating fees have helped to fill the void created by tax limitations, they typically rely on political/public support for fee increases, and as discussed later in this report (Section 2.2.4), fee levels are approaching unaffordable levels for larger segments of the population. Limitations on fee increases often mean that the fees for some services such as transportation and parks may only be sufficient to fund ongoing operation and maintenance costs (e.g., pavement preservation), as opposed to large-scale capital projects.

⁹⁷ FCS GROUP, “Water, Sewer & Storm Rate Study,” Prepared for the City of Newport, 2017. <https://www.newportoregon.gov/dept/fin/documents/WaterSewerStormRateStudy2017v6.pdf>

⁹⁸ City of Hillsboro Water, “Affordability Program Assessment Report,” October 2018, page 3.

⁹⁹ Sustainable Services Revenue Task Force Report, City of Salem (2018).

2.2 SDCs' Role in Local Infrastructure Funding

2.2.1 Perspectives From Oregon Jurisdictions

As noted previously, the Oregon SDC Act was intended to provide a mechanism for recovering growth-related infrastructure costs from new development and to avoid shifting those costs to existing rate and taxpayers. Local agencies participating in the Oregon SDC Project Focus Groups indicated that SDCs have become an increasingly important way to address these intergenerational equity concerns, particularly in fast-growing communities.

In focus groups, most service providers highlighted how important SDCs are to their ability to fund infrastructure. As detailed in Appendix A, participants noted several ways in which they play a key role in funding infrastructure:

- Growing communities rely heavily on them, and they are a key part of delivering infrastructure in new growth areas. (Slower growing communities see less SDC revenue and need to rely on other sources.)
- Some service providers highlighted SDCs' importance in contributing to major infrastructure projects that might not have been possible without that contribution.
- Parks and transportation providers in particular noted SDCs' importance for leveraging other funds (e.g., matching funds for state and federal infrastructure grants).
- Those with utility rates highlighted the importance of SDCs to balance out reliance on user rates, and highlighted equity considerations from putting the cost of capacity increases on existing users.

2.2.2 SDCs as Part of an Infrastructure Funding Plan: Examples From Oregon

This section summarizes examples from a number of jurisdictions and situations—urban growth boundary expansion area funding plans, a citywide transportation funding strategy, and funding for major water supply capacity increases—to give a sense of how SDCs contribute to funding local infrastructure in Oregon.

Transportation Funding Plans

Washington County Urban Growth Boundary Expansion Areas

As part of preparing an Infrastructure Funding Plan Toolkit for Washington County as a resource for future infrastructure funding plans for new urban growth areas, ECONorthwest compiled information from several infrastructure funding plans completed for newly urbanizing areas across Washington County. As shown in Exhibit 16, the contribution from SDCs (including the County's Transportation Development Tax (TDT), which is a form of SDC, and supplemental SDCs for some areas) varies substantially between the different expansion areas. The funding plans also include a variety of other sources. Some are simply other

mechanisms for development to contribute, including developer contributions/requirements, a “supplemental fee,”¹⁰⁰ and a local improvement district where the assessment is being paid off as homes are sold. Most, but not all, include some contribution from another source that is not development-derived, such as grants; contributions from Washington County’s Major Streets Transportation Improvement Program (MSTIP), which is funded through a general fund allocation; Tax Increment Financing (TIF); and a utility fee surcharge.

Exhibit 16: Example Transportation Infrastructure Funding Plan Strategies

Source: “Infrastructure Funding Plan Toolkit: Guidance for Title 11 Concept and Comprehensive Planning,” Prepared by ECONorthwest for Washington County, October 2020. Original data compiled by ECONorthwest using infrastructure funding plans for each planning area.

Planning Area	Total Cost (in \$millions)	Transportation funding strategy
URA 6D – King City West	\$57.3m	<ul style="list-style-type: none"> Supplemental fee: 100% - offset by existing SDCs
River Terrace	\$149.6m	<ul style="list-style-type: none"> Private cost: 40% SDC citywide: 20% Developer contribution: 18% Transfers: 7% TDT: 7% Utility fee surcharge: 3% SDC subdistrict: 2% Grants: 2% Washington County share: unknown
South Hillsboro	\$225m	<ul style="list-style-type: none"> New tools: 39% Regional share (e.g., MSTIP): 34% SDCs: 27%
Evergreen	\$51.6m	<ul style="list-style-type: none"> Developer requirements: 95% TIF: 16% (surplus revenues identified)
South Cooper Mountain	\$112.4m	<ul style="list-style-type: none"> TDT: 27% Developer contribution: 27% New SDC: 24% MSTIP: 21% Other: <1%

Notes:

TDT = Transportation Development Tax (Washington County’s version of a transportation SDC)

MSTIP = Major Streets Transportation Improvement Program, a County program funded through a general fund allocation

The “New tools” listed for South Hillsboro include a Local Improvement District.

Another older example from Washington County is the North Bethany Transportation Funding Strategy. This strategy included up to \$10 million from the County’s MSTIP; over \$21 million from TDT; over \$22 million from a new, supplemental North Bethany Transportation System

¹⁰⁰ Some jurisdictions use using “supplemental fees” that are similar to area-specific SDCs but can combine projects from multiple infrastructure systems. These may be imposed as part of annexation agreements for new growth areas rather than implemented under SDC statute.

Development Charge; and over \$13 million in additional property taxes from a new North Bethany County Service District for Roads.¹⁰¹

While the reality may not always align perfectly with the infrastructure funding plan, this gives a sense of how SDCs can be combined with other funding tools to deliver infrastructure to serve new growth areas. Despite the variation in specifics, **development-derived funding accounts for the majority of the funding for infrastructure in these new growth areas, and SDCs specifically account for a substantial share of funding in most cases.**

City of Bend Transportation System Plan Funding Strategy

As part of the City of Bend's recent Transportation System Plan (TSP) update, ECONorthwest helped develop a Funding Strategy for how revenue from multiple sources would pay for capital costs as well as operations, maintenance, and programs (OM&P) with a focus on projects prioritized for near-term implementation (within the first 10 years of the planning horizon). Exhibit 17 illustrates one of two alternative funding strategies, showing how the available amounts from existing sources and potential new funding sources could be allocated to capital projects vs. OM&P, including existing funding commitments as well as priority new projects and programs. It shows that:

- Nearly all the existing state and federal funding plus local general fund allocations are being directed towards existing operations and maintenance responsibilities.
- Nearly all of the 10-year projected revenue from the existing TSDC was already committed to projects on the near-term capital improvement plan (CIP) list plus debt payments for past capital projects.
- Funding sources such as franchise fees play a comparatively small role in the overall infrastructure funding plan, but they were large enough to include as a relevant funding source.
- The City considered (and ultimately passed¹⁰²) a General Obligation (GO) bond to fund a citywide package of new projects.

¹⁰¹ Washington County, North Bethany Funding Strategy, October 10, 2021.

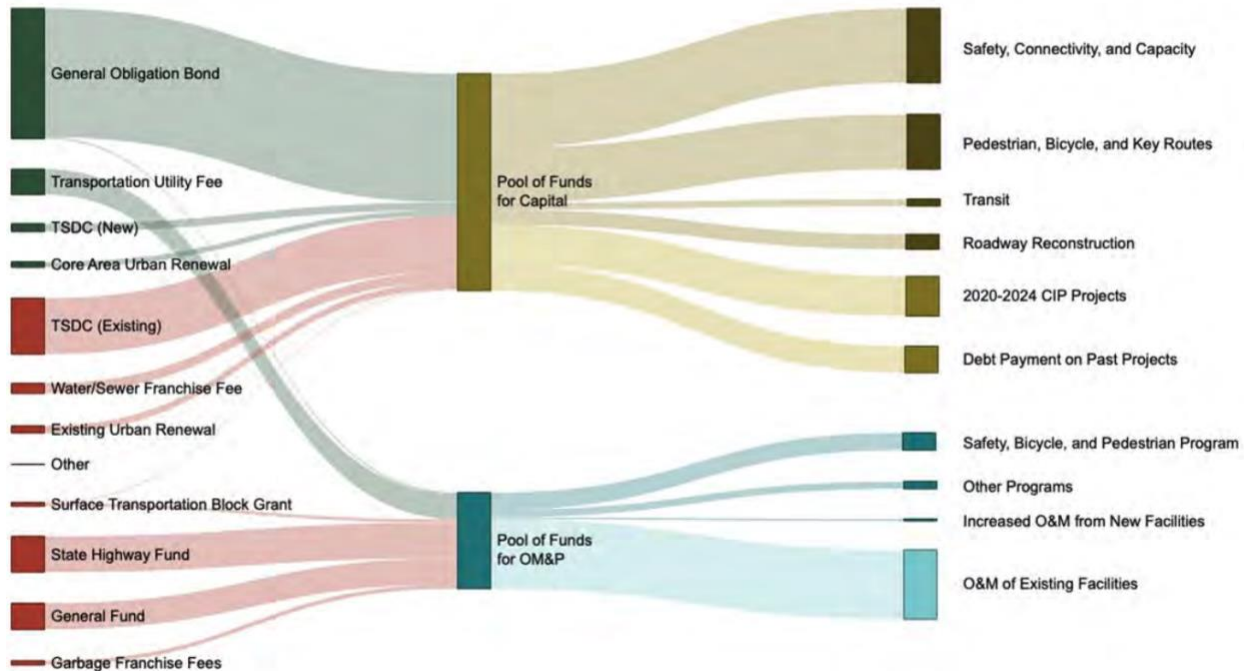
<https://www.washingtoncountyor.gov/lut/documents/north-bethany-transportation-funding-strategy/download?inline>

¹⁰² City of Bend, "2020 Transportation GO Bond - Thank You Voters!" <https://www.bendoregon.gov/city-projects/safe-travel>

Exhibit 17: Illustrative Diagram of Transportation Funding Sources and Uses for City of Bend Near-Term Funding Plan (2021-2030)

Source: City of Bend Transportation System Plan, Appendix A. Near-term Funding Action Plan, page A-2.¹⁰³

Figure A-1. Diagram of Near-term Funding Plan (Option A - Preferred), FY Ending 2021–2030



Source: Calculations by ECONorthwest.

The committee that advised on the TSP and Funding Strategy did recommend some increase to the City's existing TSDC rates as part of the overall funding plan, but limited reliance on this solution due to volatility with development cycles, steep recent increases in TSDC rates and concerns about impacts to development and housing costs, and desire to leave room for use of supplemental TSDCs as a funding option for projects in UGB expansion areas.¹⁰⁴ The City has recently undertaken an TSDC update project that will determine the portion of projected capital improvements that will be funded through TSDCs.

Water Supply Funding

City of Wilsonville Development Moratorium

In the late 1990s, the City of Wilsonville adopted a moratorium on development due to lack of water system capacity. A city memo from that time notes that Wilsonville had relied on wells as its sole municipal water supply source until the 1970s when "it became evident that local aquifers would not be adequate to meet the needs of this growing community" and the City was granted a water right on the Willamette River. By the time of the moratorium, the

¹⁰³ Available online at <https://www.bendoregon.gov/home/showpublisheddocument/47764/637381859539770000>.

¹⁰⁴ City of Bend, *Transportation System Plan Appendix L—Initial Funding Assessment*, January 30, 2019. <https://www.bendoregon.gov/home/showpublisheddocument/47702/637372519699600000>

“unprecedented growth” had “increased peak water demand to the limit of the City’s ability to meet such demand, even with all the operational and capital improvements being undertaken.”¹⁰⁵

As part of the correction plan to allow development to go forward, the City needed to identify funding and financing to pay for costly water supply improvements. The City proposed to increase both water SDCs and water utility rates, using a voter-approved revenue bond to finance the improvements.

This example highlights the role of SDCs in helping fund critical capacity improvements to enable development to resume, even though SDCs reduce but do not eliminate the need to bond against rate revenue to build large infrastructure projects.

City of North Plains

In 2018, the City of North Plains faced water system capacity constraints that had the potential to limit additional growth. As noted in a memorandum from Business Oregon¹⁰⁶:

The City of North Plains storage capacity is limited due to substantial growth within the last few years. The current wholesale water agreement with the Joint Water Commission (JWC) requires the city to maintain a three-day supply at all times. The current storage is meeting the agreement requirements at this time, but the city will be in violation with construction of approximately 700 homes in the near future.

The construction of a new two-million-gallon pre-stressed concrete reservoir and pump station and implementation of a new Supervisory Control and Data Acquisition (SCADA) control system will provide for water storage needs through the 25 year Master Plan period, based upon the JWC agreement for required water storage.

As part of the funding strategy for the new project, the City increased water SDCs to pay for the new reservoir and associated financing costs.¹⁰⁷ The revenue from the updated SDCs was included in the financial proforma the city submitted to Business Oregon as part of its funding package.

2.2.3 Benefits to Developers

In a greenfield setting, and in situations where capacity constraints are severe, infrastructure investments to increase capacity may be essential to enable new development to occur, and SDCs are often a critical part of the infrastructure funding plan to pay for the new facilities or expanded capacity. The alternative could be that development cannot move forward or that the

¹⁰⁵ Jeff Bauman, City of Wilsonville Public Works Director, “Review of Wilsonville’s Water Supply Planning,” February 23, 1998, page 1.

¹⁰⁶ Memorandum to Chris Cummings, Assistant Director, Economic Development related to City of North Plains, Reservoir & Pump Stations Improvements (June 21, 2018).

¹⁰⁷ Water System Development Charges Methodology Report, Prepared for City of North Plains by Galardi Rothstein Group (December 18, 2017).

first development(s) must take on major infrastructure investments as a condition of approval or through a development agreement, making it more difficult to allocate costs among multiple benefitting property owners or developments. **SDCs may make greenfield development costs more predictable and more evenly distributed, but not necessarily higher, because SDCs may substitute for other forms of exactions or developer contributions.** Area-specific SDCs are sometimes used for this purpose, but jurisdiction-wide SDCs can play the same role if they are providing SDC credits to developers who build the needed infrastructure and charge SDCs to other developers that benefit from it.

SDCs collected across a broad area and used to fund incremental capacity increases in many locations may offer less direct substitution for property-specific exactions. However, the infrastructure they help to fund can contribute to the value of homes in the area generally, as discussed below.

Based on developer interviews, the value that developers ascribe to SDCs depends on how clear it is what is being funded through SDCs and how critical the funded projects are to enabling development to occur.

2.2.4 Benefits to Residents

Amenity Value of Infrastructure

There is strong evidence that living in a community with functioning infrastructure has value to future residents.

- There is substantial literature demonstrating the value of parks to nearby residents. A review of 33 studies suggests that: a) property values are higher closer to parks, b) the price premium is higher for larger parks, and c) the price premium is higher for “passive” parks than for “active” parks.¹⁰⁸
- There are also studies that show a positive relationship between bicycle and pedestrian facilities and home values.¹⁰⁹ Others show negative economic impacts from transportation delays.¹¹⁰

Mitigating Utility Rate and Property Tax Increases

Existing residents also benefit from SDCs by reducing the need for jurisdictions to increase utility rates, pass General Obligation (GO) bonds that increase property taxes, or implement other funding mechanisms that could increase their costs. **While not all of a jurisdiction’s capital needs are related to growth and eligible for SDC funding, being able to draw on**

¹⁰⁸ John L. Crompton. 2020. “Impact on property values of distance to parks and open spaces: An update of U.S. studies in the new millennium.” *Journal of Leisure Research*, 51(2): 127-146.

¹⁰⁹ See, for example: Shi, Wei, “Impact of Bike Facilities on Residential Property Prices” (2017). TREC Friday Seminar Series. 110. https://pdxscholar.library.pdx.edu/trec_seminar/110

¹¹⁰ Transportation Research Board. 2001. NCHRP Report 436. Economic Implications of Congestion. National Cooperative Highway Research Program.

SDCs for costs that are eligible means less cost needs to be allocated to ratepayers or property owners. Without SDCs, existing residents may have to pay for capital improvement projects related to growth through higher utility bills or property taxes.

Utility Cost Impacts Due to Capital Projects

As discussed in Section 2.1.4, utility rates have increased over time. Even with those increases, they typically account for a small percentage of household income and are small in comparison to housing costs (rent or mortgage and other costs of homeownership). However, given the number of other expenses that households must cover, even a small percentage of household income (e.g., less than 10 percent for a lower-income household) can be unaffordable.¹¹¹

In Oregon, a recent League of Oregon Cities rate survey shows an average of roughly \$99 per month (about \$1,200 per year) in water and sewer rates for a typical single-family home,¹¹² which is roughly 1.8 percent of the state's median household income.¹¹³ **However, while utility rates may not be problematic for a median-income household, they can be burdensome for low-income households because utility rates and costs do not generally scale with income.** National data suggests that 20 percent of households (as of 2019) and closer to 24 percent of households (in 2021) were spending more than 4.5 percent of their household income on water and sewer bills.¹¹⁴ A 2018 survey of water customers in the City of Hillsboro found that 10 percent of customers considered their rates so high that “paying them is a struggle.”¹¹⁵

Many jurisdictions attempt to mitigate affordability issues for their most vulnerable customers through payment assistance options for income-qualified households and/or seniors on fixed income who are unable to afford their bills. (For example, both Newport and Hillsboro, which were used as examples in Section 2.1.4, offer such programs.)

Given that, as described in Section 2.1.4, utility rates are already increasing faster than inflation in many places (mostly due to factors other than growth-related capital costs), even if growth-related capital costs account for a small share of total utility rates, they may layer onto other cost increases. And although utility rates are generally small in comparison to household income and housing costs, utility rate increases can disproportionately affect lower-income households unless the service provider provides a robust customer assistance program. To the extent that

¹¹¹ R. Raucher, PhD. And J. Clements (Corona Environmental Consulting), E. Rothstein, CPA (Galardi Rothstein Group) and J. Mastracchio, CFA and Z. Green (Raftelis Financial Consultants), Developing a New Framework for Household Affordability and Financial Capability Assessment in the Water Sector, (April 17, 2019). As described in this report, the approach to defining and measuring affordability is evolving, and there is not a clear agreed-upon standard of affordability for water and wastewater utility rates.

¹¹² Aljets Consulting. *2021 Water Rates Survey Report*. December 2021. League of Oregon Cities.

¹¹³ Median household income for Oregon is \$65,667 based on 2016-2020 American Community Survey data.

¹¹⁴ McKinsey & Company, “US water infrastructure: Making funding count,” November 24, 2021, <https://www.mckinsey.com/industries/electric-power-and-natural-gas/our-insights/us-water-infrastructure-making-funding-count>

¹¹⁵ City of Hillsboro Water, “Affordability Program Assessment Report,” October 2018, page 3.

SDCs reduce the need for utility rate increases, they can benefit existing residents through lower costs, particularly lower-income households.

Property Tax Impacts Due to Capital Projects

While the details can vary among communities, a few recent examples illustrate the magnitude of property tax increases that could be due to new bonds for funding infrastructure projects:

- The City of Bend GO Bond discussed in Section 2.2.2, for example, had an estimated cost of \$170 per year for an average-value home in the City.¹¹⁶
- Tualatin Hills Park and Recreation District's 2008 bond measure established a \$0.34/\$1,000 of assessed value levy,¹¹⁷ which translates to roughly \$100 per year for an average-value home (using an average assessed value for improved residential properties in Washington County of \$295,978 as of the 2021/22 tax year¹¹⁸).

The magnitude of these costs suggests that the impact of GO bonds on affordability is likely modest for an average household and would account for a small share of an average household's budget. (With the example of Bend's GO Bond, with a median household income of \$67,973 as of 2020, the bond cost for an average-value home would account for roughly a quarter of a percent of a median household's annual income.) Because property taxes vary with property value, lower-income households would likely face somewhat lower costs from GO bonds to the extent that they live in lower-value housing, but the costs may not scale linearly with income because all housing costs typically represent a larger share of income for lower-income households.

¹¹⁶ City of Bend, "2020 Transportation GO Bond - Thank You Voters!" <https://www.bendoregon.gov/city-projects/safe-travel>

¹¹⁷ Tualatin Hills Park and Recreation District, *Making Good: 6th Report on Bond Measure Progress*, 2015, page 4. <http://cdn1.thprd.org/pdfs2/document3294.pdf>

¹¹⁸ Washington County Department of Assessment & Taxation, "Summary of Assessment and Tax Roll 2021-22," page 10. <https://www.washingtoncountyor.gov/at/documents/tax-year-2021-2022-summary-book/download?inline>

Part 3: How and Why SDCs Vary Across Oregon

Primary Contributors: Galardi Rothstein Group, FCS GROUP

3.1 SDC Rates: Geographic Variations and Trends

3.1.1 System Development Charges Across the State

Data Sources

Several organizations in Oregon publish compilations of SDC rates for multiple jurisdictions:

- The League of Oregon Cities (LOC) surveys its member cities every three years regarding their usage of SDCs and current rates. LOC's most recent available report is from 2020 based on survey data collected in 2019. LOC has statewide coverage and relatively high participation. In the 2020 report (2019 survey), 96 jurisdictions responded. The respondents were distributed across the state with overrepresentation in the Metro, North Willamette Valley, and Central Oregon regions and underrepresentation of cities in the Coast regions, South-Central Oregon, and the Gorge.¹¹⁹ Variation in which jurisdictions participate in a given survey can affect year-to-year comparisons. Because survey participants represent cities, there are some inconsistencies in how SDCs administered by special districts and other service providers are reported, given that city staff may not know the rates for all other service providers operating in their jurisdiction. Reported rates focus on single-family detached homes and an office building using example projects.
- The Homebuilders Association of Metropolitan Portland (HBA of Metro Portland) publishes estimates for most jurisdictions in the greater Portland region. The most recent estimates are from 2020 and include both single-family detached and multifamily summaries. Special district SDCs appear to be consistently reported, and special rates for specific subareas are listed in addition to citywide fees. However, the data does not attempt to provide estimated SDCs for an example multifamily project and may not reflect all the adjustments that would apply to a given project. For example, water rates are listed for the same meter size as listed for single-family development, which is typically not the case. The data encompasses most jurisdictions in Washington, Clackamas, and Multnomah Counties, as well as select jurisdictions in Hood River, Yamhill, and Columbia Counties, but it does not cover the balance of the state.¹²⁰
- The Oregon Building Officials Association (OBOA) sends annual fee surveys to members. The most recent available data dates from January 2018 and covers 39

¹¹⁹ League of Oregon Cities, "System Development Charges Survey Report," February 2020.

¹²⁰ Home Builders Association of Metropolitan Portland, "System Development Charges," <https://www.hbapdx.org/system-development-charges.html>

jurisdictions in various parts of the state. The data covers single-family detached, multifamily, and commercial office development using example projects.¹²¹

Given that all available sources are at least two years old and that some sources may not capture all special district or county SDCs, FCS GROUP collected data on current (mid-2022) SDC rates from jurisdictions across the state. To allow for historical comparisons, FCS GROUP collected data from jurisdictions that were represented in the oldest LOC survey data available, from 2007, which included a robust number of respondents.¹²² Research was based on a combination of fee schedules published on City websites and direct communication with City staff. The 2022 data include regional and district charges that apply in the researched cities, to the extent data were verifiable. Where jurisdictions have area-specific SDCs, the 2022 data collected reflects the citywide rate and does not include supplemental area-specific fees.

To make effective comparisons between jurisdictions, the 2022 SDC calculations are based on the same single-family residence used in the LOC survey, as described in Exhibit 18.

Exhibit 18. Sample Survey Residence

Source: League of Oregon Cities, System Development Charges Survey Report (February 2020), page 3

Single-family, 3-bedroom home	Amount	Units
Lot size:	9,000	sq. ft.
Building size:	2,000	sq. ft.
Development value:	\$190,000	
Land value:	\$60,000	
Parking spaces:	2	
Water meter size:	$\frac{3}{4}$	inch
Water flow (gallons/month):	6,000	
Fixture units:	16	
Number of employees:	N/A	
Impervious square footage:	1,000	sq. ft.

FCS GROUP did not collect additional data for multifamily SDC rates.

Who Charges and Who Doesn't?

Most cities in Oregon charge at least one of the five allowable SDCs—66 percent of the 2007 LOC survey respondents charge SDCs in 2022.¹²³ Exhibit 19 shows the number of services charged among those researched, and the average population of those cities.

¹²¹ Oregon Building Officials Association, "OBOA Standards Committee,"

<https://www.oregonbuildingofficials.com/standards>

¹²² LOC reports that 121 out of 242 Oregon cities (50 percent) responded to the 2007 SDC survey. Of the 121 respondents, 79 (65 percent) charged at least one SDC. Of the 121 initial respondents, updated (2022) SDCs could be verified for 76.

¹²³ In the 2020 LOC survey, which captured a different sample of Oregon cities, 82 percent of the 96 respondents reported charging at least one SDC.

Exhibit 19. Surveyed Cities Charging SDCs in 2022

Source: FCS GROUP

Cities Charging SDCs	Number of Services Charged						Total
	0	1	2	3	4	5	
# of Respondents	39	3	12	10	17	34	115
% of Respondents	34%	3%	10%	9%	15%	30%	100%
Total population	82,810	18,006	21,750	33,886	247,174	1,406,700	1,810,326
Average population	2,123	6,002	1,813	3,389	14,540	41,374	15,742

This sample data suggests that more populous cities are more likely to use SDCs than less populous cities. This pattern appears in both the most recent LOC data and the HBA of Metro Portland data.

As noted in the *Oregon SDC Study: Summary of Service Providers Focus Groups* (included as Appendix A), factors contributing to local decisions not to charge SDCs include:

- Little development activity.
- Political concerns about affordability or economic development.
- Developers required to install infrastructure directly via exactions.

How Do Rates Vary Across the State?

The cities included in the 2022 data are shown on Exhibit 20 by the total amount charged for the sample single-family detached residence described in Exhibit 18. Cities with no SDCs are largely (but not exclusively) located in eastern Oregon and away from major metropolitan areas. The highest tier of SDCs (between \$25,000 and \$50,000) are primarily found in the Portland Metro region, though the City of Bend and a few smaller communities, including Carlton, Philomath, Donald, and Newberg, also have SDCs towards the lower end of this range. While not directly comparable due to the age of the data, the 2020 data from the HBA of Metro Portland suggests that there are likely more Portland region jurisdictions with rates in this range than were included in the 2022 update by FCS GROUP. The charges for each city and each infrastructure system are listed in Appendix D.

Exhibit 20. Total Single-Family Detached SDCs by City in Oregon, 2022

Source: ECONorthwest, using data from FCS GROUP

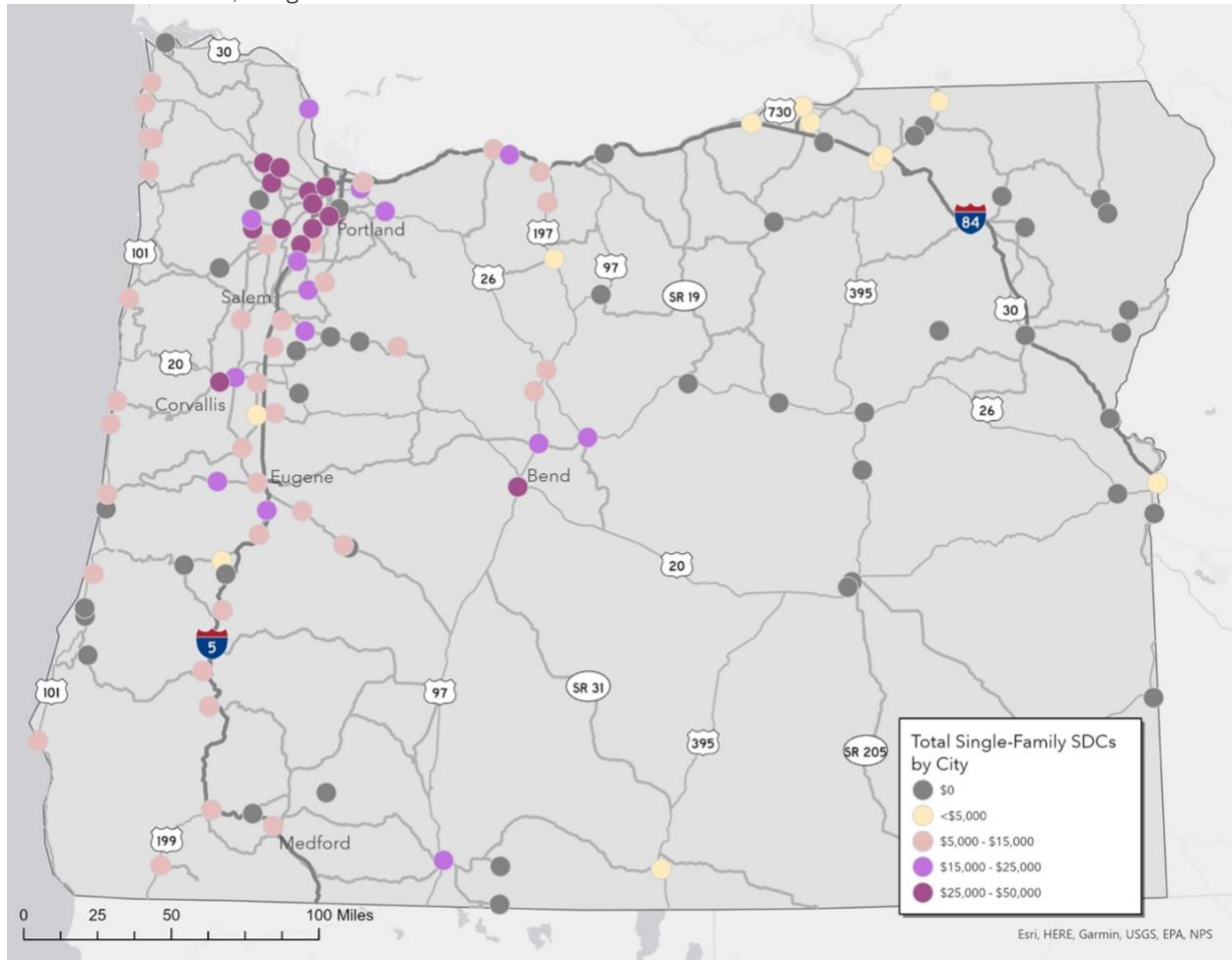


Exhibit 21 provides mean and median values by system.

Exhibit 21. Summary of City Mean and Median SDCs (2022)

Source: FCS GROUP

Mean and Median SDCs	Number of Cities	Mean	Median
Water	72	\$4,500	\$3,830
Wastewater	72	\$4,644	\$4,353
Stormwater	45	\$1,078	\$756
Transportation	51	\$4,433	\$3,489
Parks	55	\$3,829	\$2,535
Totals	76	\$15,047*	\$12,168

* This value represents the average of the totals for each jurisdiction, rather than a sum of the averages for each system.

For comparison, the 2020 LOC survey report found average total estimated SDC costs for single-family residential of \$13,135 for fiscal year 2018,¹²⁴ though, as noted previously, this figure likely undercounts special district and county SDCs. The average across the jurisdictions and special areas included in the HBA of Metro Portland 2020 data is just over \$27,000, though this data set is weighted towards larger jurisdictions and has little coverage outside the

¹²⁴ League of Oregon Cities, *System Development Charges Survey Report* (February 2020), page 17.

Portland metropolitan region.¹²⁵ The average of the total SDC rates for jurisdictions included in the January 2018 OBOA data was roughly \$14,500.¹²⁶ This variability suggests that aggregate statewide numbers from any given subset of communities may not be representative of the state as a whole.

Exhibit 22 shows the distribution of each SDC type as well as the distribution of total SDCs from the 2022 FCS GROUP survey data. The “box” captures the middle two quartiles of values for each set of data (25th percentile to the median in the lower box and median to 75th percentile in the upper box). Lines (“whiskers”) encompass the minimum and maximum range within the survey data.

Exhibit 22. Distribution of SDCs Among Surveyed Oregon Jurisdictions that Charge One or More SDCs by Infrastructure System (2022)

Source: ECONorthwest, using data from FCS GROUP

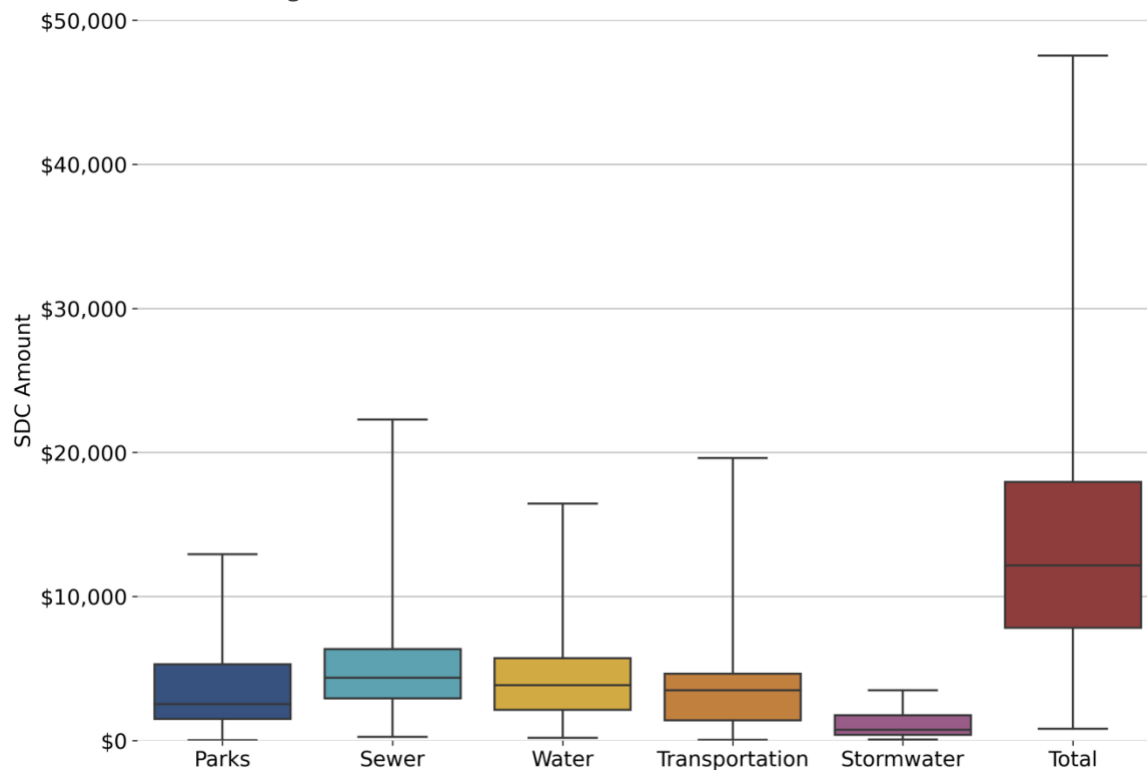


Exhibit 22 shows substantial variation in SDC amounts across all SDC types, with the greatest range for transportation and sewer SDCs. In total, the range is even more pronounced, from a low of \$819 (Lakeview) to a high of \$47,550 (Tigard).

¹²⁵ Home Builders Association of Metropolitan Portland, “System Development Charges,” <https://www.hbapdx.org/system-development-charges.html>

¹²⁶ Oregon Building Officials Association, “OBOA Standards Committee,” <https://www.oregonbuildingofficials.com/standards>. This figure excludes excise taxes, which are also listed in this data set.

Multifamily SDCs

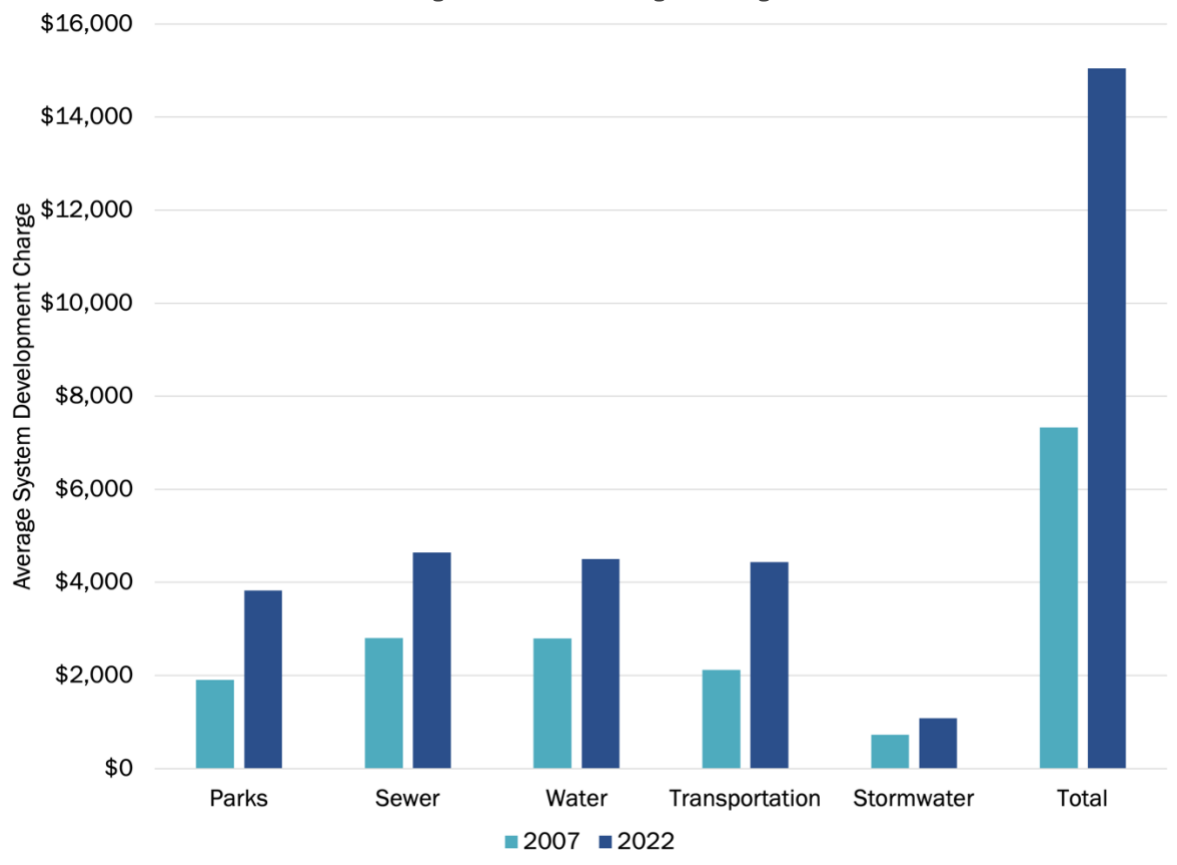
In OBOA's 2018 survey data, the only readily available data that includes fees for example single-family detached and multifamily projects,¹²⁷ the ratio of the average multifamily SDC rate to the average single-family SDC rate is about 66 percent. The data shows there is a wide range of relationship between multifamily and single-family SDC rates.

3.1.2 Trends in System Development Charge Levels

Using the data on SDC fee levels by infrastructure system for 2007 and 2022 for the sample cities, Exhibit 23 shows fee level trends for each type of SDC.

Exhibit 23. Average SDC Levels by Infrastructure System for Surveyed Cities in Oregon, 2007 and 2022

Source: ECONorthwest and FCS GROUP using 2007 data from League of Oregon Cities* and 2022 data from FCS GROUP

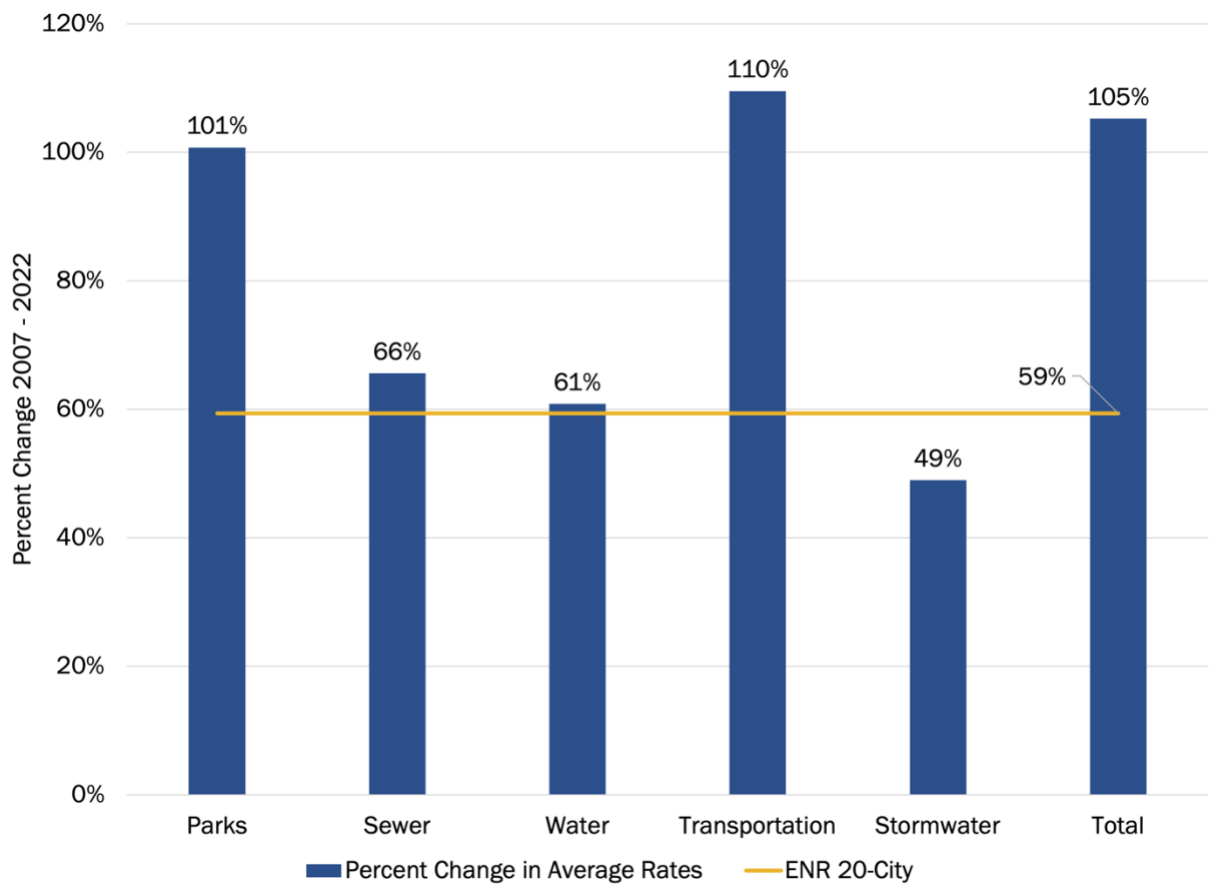


* Regional and district charges may not be consistently reported in the 2007 LOC data, which could result in an underestimate of average fees in that data.

¹²⁷ As noted above, while the 2020 data from the HBA of Metro Portland provides SDC rates for multifamily, the data does not attempt to provide estimated SDCs for an example project and may not reflect all the adjustments that would apply to a given project. For example, water SDC rates are listed for the same meter size as listed for single-family development, which is typically not the case.

Exhibit 24. Percent Change in SDC Levels by Infrastructure System for Surveyed Cities in Oregon Compared to Change in Construction Costs, 2007-2022

Source: ECONorthwest and FCS GROUP using 2007 data from League of Oregon Cities*, 2022 data from FCS GROUP, and Construction Cost Index data from Engineering News Record



* Regional and district charges may not be consistently reported in the 2007 LOC data, which could result in an underestimate of average fees in that data.

This shows that average SDC rates have increased across all infrastructure systems over the 15-year period. Most infrastructure systems have seen increases that have outpaced the increase in construction costs over the same period, in some cases by a substantial margin. As noted above, regional and district charges may not be consistently reported in the 2007 LOC data, which could exaggerate the magnitude of increases. On average, transportation and parks SDCs have increased most over the past 15 years, exceeding the increase in construction costs. This could be due to land values escalating faster than construction costs, as many parks service providers account for land costs in their SDC indexing methodology, and right-of-way acquisition costs can drive cost increases for transportation projects as well.¹²⁸ Water and sewer SDCs have

¹²⁸ While comprehensive statewide data on trends in land values is not readily available, there is evidence that land prices are escalating faster than construction costs at least in recent years and in areas experiencing strong development. For example, a review of documents related to SDC rate increases for some parks providers showed that in 2017, data from the Washington County Assessor's office (within the Tualatin Hills Park and Recreation District) showed an increase in vacant land value of 19.54 percent, compared to the ENR CCI increase of 2.15 percent. Similarly, data from Deschutes County Assessor's Office showed an increase in land values of 18.06 percent over the 12-month period ending December 2021, which was significantly higher than the ENR 20-city CCI of 7.36 percent.

roughly kept pace with construction costs, and stormwater SDCs have lagged behind construction costs. Appendix D provides tables containing the 2007 and 2022 data.

3.1.3 Comparison to National Data

A limited number of sources offer national data on impact fees. Duncan Associates' 2019 National Impact Fee Survey covers a sample of jurisdictions from many states. The Turner Center report referenced previously includes impact fee data for a number of California jurisdictions, but it does not include observations from other states.

The Duncan Associates Survey acknowledges a variety of limitations, including difficulty parsing impact fees that are referred to by different names or may be combined with other service fees, limited and non-random samples of which jurisdictions are included, and estimations of the cost of standard developer exactions for communities that use those in place of monetary impact fees. In addition, many impact fee surveys suffer from under-reporting of fees from regional service providers.¹²⁹ This appears to be an issue with the Turner Center data that makes it less appropriate to compare to Oregon data in the aggregate.

Beyond these limitations, it is difficult to draw useful comparative conclusions from national surveys because of differences in state statutes, terminology, and methodology constraints. As noted previously, Oregon's SDC law provides for water, wastewater, stormwater, transportation, and parks charges. Among neighboring states, while all authorize impact fees, there is variation in which systems are included:

- California authorizes the use of impact fees for any public facilities.¹³⁰ Survey results for California public agencies appear to under-count regional water and wastewater fees.
- In Washington, impact fees are authorized for only transportation, parks, fire, and schools,¹³¹ while water, wastewater, and stormwater fees are authorized in a different statute¹³² and are referred to general facilities charges. In surveys of impact fees, many Washington agencies report only their transportation, parks, fire, and schools impact fees, and exclude water, wastewater, and stormwater.
- Idaho also has two statutes. Impact fees¹³³ have been used historically for transportation and parks, although they are available for water, wastewater, and stormwater. Water and wastewater charges are typically charged under the authority provided in a separate statute.¹³⁴ These fees are generally less cumbersome to administer than "impact fees," although a 2015 supreme court case¹³⁵ essentially prohibits the inclusion of future

¹²⁹ Duncan Associates, "2019 National Impact Fee Survey," August 18, 2019.

¹³⁰ CGC 66000

¹³¹ RCW 82.02

¹³² RCW 35.92.025

¹³³ Authorized in IC §§ 50-10

¹³⁴ IC §§ 67-82

¹³⁵ NIBCA v. City of Hayden

facilities costs in the charge calculation—a methodology constraint not present in Oregon (or Washington or California).

These challenges undermine the value of comparing Oregon to its neighboring states in terms of total impact fee amounts. In the 2019 Duncan Associates survey, for example, cities such as Olympia and Tumwater reported no water, wastewater, or stormwater “impact fees” when in fact they have robust general facilities charges. Olympia also has a park impact fee which was not included. The totals for the five Oregon-comparable services should be \$25,663.03 for Olympia and \$20,119.30 for Tumwater—not the \$4,830 and \$3,853 shown for each, respectively.

There are also differences between states in the availability of state funding for infrastructure and the constraints on alternative local funding sources, which can lead to different levels of reliance on impact fees.

3.2 Key Factors Affecting SDC Rates

As illustrated in Section 3.1.1, SDC rates vary substantially across the state. As shown in Exhibit 25, these variations are the result of a multitude of factors including both internal decisions made by local governments and external factors that impact the relative costs of building infrastructure across the state and in different service delivery and infrastructure contexts. Internal factors include both infrastructure planning and funding decisions “upstream” of the SDC methodology that impact local governments’ total infrastructure investment needs and the portion of costs that may be eligible for SDC funding, as well as decisions specific to the development of the SDC methodology and final rate-setting. Key external factors include regional construction market conditions and local construction cost factors (e.g., soils or geotechnical requirements), service provider scale and efficiency (e.g., regional vs. individual service provider), and infrastructure-specific considerations.

Exhibit 25: Factors Affecting SDC Rates

Source: Galardi Rothstein Group, ECONorthwest



This section summarizes some of the key factors that lead to differences in SDC rates across Oregon. While each factor—and its potential impact on SDC rates—is discussed individually, the collective decisions and factors are ultimately reflected in the adopted SDC rates. For example, a community with a larger, more expensive transportation system capital plan may have a similar SDC than another community with a smaller capital plan if other funding sources (e.g., voter approved taxes) are used to fund a portion of the improvements. Similarly, the impacts of different individual SDC methodology decisions may be neutralized by other decisions upstream or downstream (i.e., at the time of rate-setting). Because survey data shows that there are significant variations in SDCs across the state, this section provides some insights into what may drive those differences.

3.2.1 Broad Infrastructure Planning and Funding Decisions

Infrastructure System Plans and Capital Project Needs

As discussed in Section 1.2.2, Oregon SDC statutes allow local governments to charge SDCs for five broad types of infrastructure: water, wastewater, stormwater, transportation, and parks.

Furthermore, local governments are required to prepare a capital improvement plan or comparable plan prior to the establishment of an SDC, assuming a forward-looking “improvement fee” is to be included.

Capital planning for all five SDC-eligible infrastructure systems generally involves preparation of broader system plans (e.g., master plans, public facilities plans, or transportation system plans) to determine future investment needs and priorities based on an in-depth technical evaluation and input from regulatory agencies and the local community.

Water, sewer, and stormwater master planning efforts are largely technical exercises, where state and federal permitting and other requirements drive the need for facility design, sizing, and quantity. While discretion is involved in selecting among different technologies, siting facilities, and prioritizing improvements for these systems, some decisions are beyond local control, due to the need for state and federal regulatory compliance. For transportation, while Oregon Department of Transportation (ODOT) standards and transportation planning rule requirements can influence project design and prioritization in communities with state highway facilities, local governments generally have discretion in setting level of service standards and prioritizing improvements for city streets to align with local goals. Local governments also have discretion in planning for a park system that aligns with community-defined goals around livability and equity.

Because the system plans generally set the stage for the SDC project list, decisions made as part of the broader system planning process can impact the size and cost of the project list as the service providers seek to comply with regulations and be responsive to community stakeholders engaged in the planning process. Even if only a portion of the project costs are allocated to SDCs, a larger, more expensive project list can increase SDC levels. Developer focus groups conducted as part of this study indicate a strong perception that differences in locally established service levels and project priorities for parks and transportation facilities drive differences in SDCs for these systems in particular.

Overall Infrastructure Funding Choices

As part of their financial planning process, service providers may make decisions to utilize other non-SDC funds up front (i.e., before embarking on an SDC update) for a specific project or group of projects, which then reduces the list of potential projects that may end up on the SDC project list. For example, if there is support by the local community, a GO bond may be used to fund a recreation center or a group of high-profile transportation projects. However, given the political challenges and legal or financial limitations associated with other potential local funding sources, it can be more difficult to implement other local funding options than to maximize the use of SDCs for eligible costs, within the bounds of state law and legal precedent.

Additionally, many transportation capital plans include projects on state highways that serve as local arterials through cities. Many cities decide to include only the “local” share of such project costs, intending to leverage the participation of the Oregon Department of Transportation in funding those projects. These up-front funding decisions may have a direct impact on SDCs if they result in reduced SDC-eligible costs.

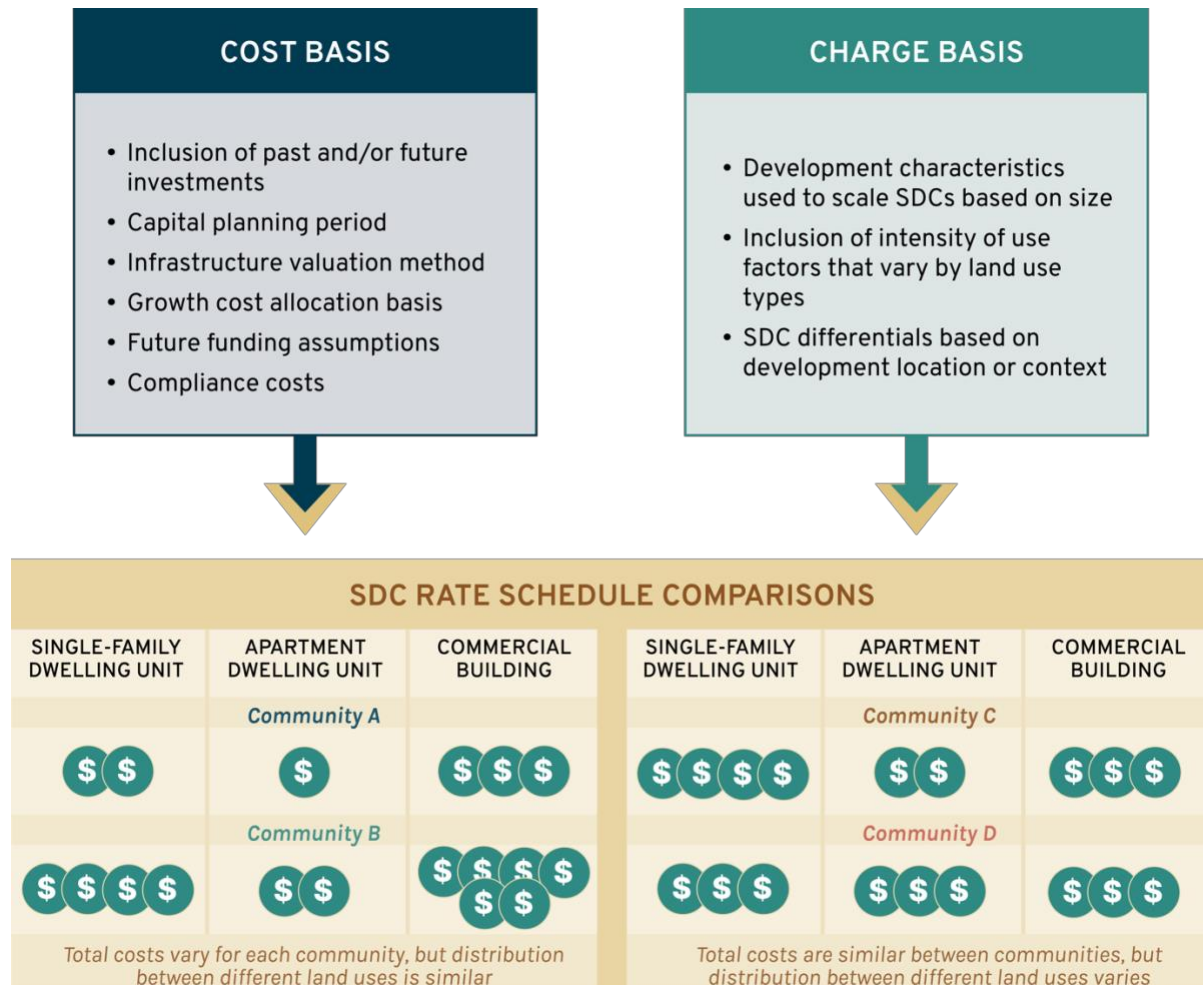
3.2.2 SDC Methodology Factors

An SDC methodology has many individual components, and within the framework of Oregon SDC law, local governments have flexibility in selecting approaches to each methodology component to balance local objectives and data availability. Methodology component choices may be grouped in two primary areas: 1) decisions related to the total infrastructure costs to be recovered from SDCs (the “cost basis”), and 2) decisions related to how the SDC costs will be allocated across different development types, sizes, and contexts (the “charge basis”).

As shown in Exhibit 2, cost basis decisions generally impact overall SDC levels. A community with a higher cost per unit of growth (as is the case with Community B) has higher SDCs across all development types, compared to Community A, which is assumed to have a lower cost basis. On the other hand, decisions related to the charge basis tend to impact relative fee levels within a given development type (e.g., residential or commercial) and across development types, locations, and contexts. In the example in Exhibit 2, Community C charges a lower cost per unit for multifamily relative to single-family, while Community D charges a uniform SDC for all homes of a given type.

Exhibit 26: Example of SDC Methodology Choices and their Impact on SDC Rates

Source: Galardi Rothstein Group, ECONorthwest



This section provides a high-level summary of individual methodology components, choices, and the general impacts of each choice. However, as mentioned previously, it is the collective decisions and factors that are ultimately reflected in the adopted SDC rates, and some individual component choices may be offset by other decisions within the methodology, as well as upstream and rate-setting decisions.

Cost Basis

As mentioned previously, the “cost basis” is the total cost that the SDCs are intended to recover. Development of the cost basis involves a number of methodological decisions, beginning with selection of investments to include in the SDCs, the methods for placing a value on those investments, assumptions related to future funding sources, and basis for determining an equitable share of capacity costs for new development. Key decisions impacting the SDC cost basis are discussed below and their potential impact on overall SDC levels.

Selection of Investments to Include in SDC Cost Basis

Reimbursement, Improvement, or Combined SDC Methodology

As discussed in Section 1.2.2, an SDC methodology can include a reimbursement fee, an improvement fee, or a combination, so the first cost basis decision is whether to include existing or future system capital investments, or both. This is generally a technical decision based on whether existing facilities have capacity beyond existing development service demands (a requirement for a reimbursement fee) and whether that capacity is sufficient to satisfy future growth needs entirely, or if additional improvements are also required.

In many communities, the cost of existing facilities (per unit of service capacity) is lower than the cost of providing the same amount of capacity in the future due to greater availability of grant funding historically, new design standards which make construction of planned improvements more costly, cost inflation, and other factors. Therefore, SDCs based on a stand-alone reimbursement fee methodology are likely to be lower than SDCs that use stand-alone improvement or combined reimbursement and improvement fee methodologies.

Reducing the Size of the Improvement SDC Project List

Improvement SDCs may vary among communities due to upstream planning and funding decisions (as discussed in 3.2.1), but also internal decisions to reduce the SDC project list by including projects planned for a shorter time period or a more focused and prioritized list. As noted in *Oregon SDC Study: Summary of Service Providers* (Appendix A), some communities described using “funded” and “unfunded” project lists or working to narrow and prioritize a project list that would align with the maximum SDC amount the community was comfortable charging (often a fee level comparable with other SDCs in the region).¹³⁶

¹³⁶ It is worth noting that projects assumed to be “unfunded” will remain unfunded (which also has implications for SDC credits as discussed in 1.6.2) if not included on SDC project list or another funding source is identified.

Assigning Costs or Values to Investments

Costs Estimates for Improvement Fees

The costs for planned projects used in the improvement fee calculation typically represent planning level estimates from system plans, brought current to the time SDCs are calculated and adopted based on a construction cost index. Future cost escalation (from the time the SDC is calculated to the time a project is constructed) is typically addressed through periodic updates to the project list or SDCs tied to a construction cost index, as allowed by statute. However, as noted in *Oregon SDC Study: Summary of Service Providers* (Appendix A), many communities indicate that their SDCs have not been indexed every year or at all since initially adopted, so variation in indexing practices is likely a factor in SDC differences.

Approach to Valuation of Existing Facilities for Reimbursement Fees

While the SDC statutes refer to “the value ... or the cost of the existing facilities”¹³⁷ in calculating a reimbursement fee, a specific valuation basis is not prescribed. In fact, there are a wide range of valuation approaches used in Oregon and across the country for SDC calculation purposes. For example, the American Water Works Association M1 Manual (Principles of Water Rates, Fees, and Charges) lists four common approaches for valuation of existing system facilities for calculation of SDCs: 1) original cost, 2) original cost less accumulated depreciation, 3) replacement cost new, 4) replacement cost new less depreciation.¹³⁸

Reimbursement fees based on original cost less depreciation tend to generate the lowest fees of the options (all things being equal), while replacement cost-based fees would tend to be higher. To the extent that local SDCs include a reimbursement component, the valuation method can impact the overall fee level and result in differences across communities.

Allocation of Costs to Growth (“Growth Share”)

The determination of the portion of costs that may equitably be allocated to growth through reimbursement and improvement SDCs is primarily a technical process that involves consideration of upstream planning targets and other technical information. As discussed in Section 1.5.1, the system plans establish facility design standards and service delivery targets for each system. These targets form the basis for how system capacity and existing and future user demands are measured, which then allows for existing system facility and future improvement costs to be allocated to growth.

While there are some methodological differences in how local governments approach allocation of costs to growth, the upstream planning decisions along with other technical considerations generally have a greater influence on the allocation of costs to growth and resulting variations in SDC fees. Nevertheless, a high-level summary of the technical process is provided along with potential differences in approaches, given the importance of this methodology component to

¹³⁷ ORS 223.304(1)(a)(D)

¹³⁸ Principles of Water Rates, Fees, and Charges, Seventh Edition, American Water Works Association, Denver, CO, 2017, page 332.

development of the cost basis and because it lays the groundwork for understanding different “charge bases” (discussed later in this section).

System Capacity/Demand Measures

Measures of capacity and demand vary by infrastructure system. At a very high level, water systems must be able to deliver water to users under various demand conditions, so production and delivery facilities are generally designed based on peak water demands. Wastewater and stormwater facilities need to be able to collect and treat wastewater or stormwater discharges from users consistent with standards established by regulatory permits, so capacity and demand measures may relate to both user wastewater flows and strengths. Demand for parks is measured by people, as potential users of parks and service targets generally relate to the desired quantity of facilities per capita and in some cases access measures (e.g., a neighborhood park located within a short walking distance). Transportation systems are designed to accommodate trips of all modes of travel (e.g., auto, bike, pedestrian, transit) generated by businesses and households throughout the week and at peak hours of travel.

Determining Growth Share of Existing Facility Costs

The service needs of existing users are estimated from various data sources and compared to the capacity of existing facilities under the same demand conditions. For example, water system production data can be used to estimate the peak demands of existing users, which is then compared to the peak hydraulic capacity of various facility types (e.g., production, storage, distribution) to determine if and how much capacity is available for growth. Similar processes are used for other infrastructure systems.

Existing facilities are generally assumed to first meet the service requirements of the existing users who have paid for their construction through contribution of user fees, taxes, and other mechanisms. Any capacity beyond existing user needs may then be allocated to growth through the reimbursement SDCs. If existing facility capacity is equal to or less than existing user service requirements, then there is no available capacity for purposes of developing a reimbursement fee, which means that growth needs will be met through future system improvements. Insufficient capacity for existing users also has implications for allocation of SDC project list costs (discussed below), as a portion of planned new capacity costs may remedy existing service deficiencies.

Existing system available capacity is generally evaluated system-wide or by major system function (e.g., water production, transmission, storage). Local approaches reflect system design and other considerations.

Project Cost Allocation for Improvement Fees

There are two conditions that need to be met for SDC project list costs to be eligible for improvement fee funding: 1) the improvement expands capacity, and 2) the capacity is needed to meet the service demands of future system users. Related to the first condition, the statutes clarify that improvements are considered capacity increasing if they provide new facilities (e.g., new pump stations, parks, roads, etc.) or if they increase the level of performance or service provided by existing facilities (e.g., new technologies that provide a higher level of water or wastewater treatment, park amenities that expand the number of users that may be served, etc.).

As mentioned previously, determining what portion of new capacity costs may equitably be allocated to future system users depends on the amount of capacity needed to meet their service demands (as determined by the service delivery targets and growth projections) and whether any of the new capacity costs are related to addressing existing users service needs (either by addressing existing system deficiencies or by replacing existing facility capacity serving existing users). Again, these are generally technical decisions that can be evaluated based on information developed as part of the system plans (upstream of the SDC methodology development). However, there may be some methodological variations to apportioning costs for dual purpose improvements which may influence improvement SDC fee level.

For example, if an 8" pipe that currently serves existing system users has to be replaced by a 12" pipe to accommodate the additional service demands of future users, the share of the cost for the 12" pipe that is attributable to growth could be based on the share of future flow from future users vs. existing users, the incremental cost of installing a 12" pipe vs. replacing an 8" pipe (if the pipe is nearing the end of its useful life anyway), or the cost of a new 8" pipe (the minimum pipe size that would be required to serve future development from a separate stand-alone pipe if the original pipe is still well within its useful life and would not require replacement within the planning period but for the need for additional capacity). These different approaches can result in different growth-attributable shares of project costs.

Assumptions Related to Other Funding Sources

Future Funding Assumptions for Improvement Fees

As discussed in 3.2.1, local governments generally exclude planned improvement costs earmarked for other known sources of funding (e.g., GO bonds). However, detailed information on other funding sources like grants or developer contributions may not be available years in advance of the planned project construction. Therefore, local jurisdictions may make assumptions about other potential funding sources based on past experience (which may vary across jurisdictions), or they may assume that SDCs will cover any local match that is required for grant funding. Reductions to the cost basis for other funding sources may lead to variations in SDCs, particularly if large, high-cost projects (e.g., major road improvements, aquatic centers, new water or wastewater treatment facilities, etc.) are assumed to be funded by non-SDC revenues.

Past Funding Sources for Reimbursement Fees

As mentioned in 1.2.2, reimbursement fees must consider gifts or grants from federal or state government or private persons (i.e., these are excluded from the SDC cost basis). Therefore, local governments whose existing facilities were funded with significant support from state or federal agencies or developers, may have relatively lower fee levels than those who have had to rely more heavily on local government sources.

Assumptions About Use and Costs of Debt Financing

Assumptions about long-term debt financing may also impact the SDC levels across jurisdictions. SDC revenue may be used for repayment of indebtedness;¹³⁹ therefore, some local

¹³⁹ ORS 223.307

governments include both financing and construction costs in the cost basis for the SDCs, while other may exclude debt-funded facilities from the SDCs altogether. In other cases, the reimbursement fee cost basis may be discounted for outstanding debt principal, or a future looking present value debt service credit may be incorporated into the SDC methodology.

Compliance Costs

SDC revenue may also be spent “on the costs of complying with the provisions of ORS 223.297 to 223.316, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge expenditures.”¹⁴⁰ This has generally been interpreted to mean that an estimate of these allowed expenditures can be added to the total cost basis of the SDC for calculation purposes.

Many local governments track a broader range of SDC administration costs, including the following which also relate to SDC compliance:

- SDC Fund management.
- Management of project lists (planning, engineering, legal).
- Developer credit calculations and tracking.

Compliance costs are another area where diverse approaches and assumptions lead to differences in overall SDC levels. The types of costs included vary from the most basic (costs associated with developing methodologies and the required annual accounting) to more comprehensive SDC processing and potentially other related costs.

Many local governments include compliance costs in the calculation of the SDC cost basis, and the compliance cost portion of the total SDC generally ranges from 1-5 percent. Other local governments exclude compliance costs from their SDC cost bases altogether. For those service providers who do not add these costs into the SDCs, revenue is either diverted from project costs or funding must come from non-SDC sources.

Charge Basis

Overview

Perhaps the largest and most visible source of methodological variation in SDCs is the choice of charge basis: the specific characteristic(s) of a development used to determine its proportionate impact on an infrastructure system in relationship to the system-specific capacity or demand measures discussed previously. Development size, type, or class (e.g., single family residential, middle housing, apartments, commercial, industrial), and location or context are all potential characteristics that may form the basis for charging SDCs, as summarized in Exhibit 27.

¹⁴⁰ ORS 223.307(5)

Exhibit 27. Common SDC Charge Bases by Infrastructure System

Source: Galardi Rothstein Group and FCS GROUP

System	Capacity/ Demand Measure	Development Size (Scaling Factors)	Development Type (Intensity of Use Factors)	Development Location Factors
Water	Average or peak water volumes	Water meter size, plumbing fixture units, building or dwelling area (square feet), lot size, class-specific characteristics*	Peak water demands or fire protection requirements	Infill vs. greenfield; base vs. upper pressure zones
Sewer	Wastewater flow volumes and pollutant loads	Water meter size, plumbing fixture units, building or dwelling area (square feet), class-specific characteristics*	Wastewater strength concentrations	Infill vs. greenfield
Stormwater	Stormwater quantity and quality	Impervious area, gross area (total lot size)	Water quality factors; run-off coefficients	Infill vs. greenfield
Transportation	Vehicle or person trips	Number of dwelling units, building or dwelling unit area (square feet), class- specific characteristics*	Trip rates and adjustment factors (e.g., trip length, pass-by trips)	Infill vs. greenfield; transit proximity
Parks	Persons or person hours	Number of dwelling units, building or dwelling unit area (square feet)	Persons per household; employees per square feet	Infill vs. greenfield

*Special characteristics specific to a particular land use type or class of service (e.g., number of school students, restaurant seats, vehicle fueling stations, car wash bays, etc.).

Oregon statutes do not prescribe charge bases, with a few exceptions noted in ORS 223.301.¹⁴¹ Instead, local governments may select approaches that balance data and administrative considerations, and policy objectives. Charge bases have evolved over time to include additional characteristics or factors that allow local governments to promote equity, economic efficiency, and affordability objectives while still maintaining a rate structure that ties fees to impacts. However, along with the greater complexity that results from inclusion of different charge basis factors, the need arises for greater transparency, education, and tools for estimating charges for specific developments.

While the charge basis does not, in theory, impact the total amount of revenue to be collected through SDCs (for any given cost basis) overall, it does impact fee levels and revenue recovery among different development types. Therefore, when comparing SDCs across communities for a particular development typography, different charge bases can result in substantially different SDCs.

Key decisions involved in selecting a charge basis are discussed below.

¹⁴¹ SDCs may not be charged based on the number of additional employees hired after a specific date without regard to new construction, new development, or new use of an existing structure by the employer or for increased use of a transportation facility that results from the production of marijuana on a property located in an exclusive farm use zone.

Characteristics Used to Scale SDCs Based on Development Size

Development size is an indicator of potential service demands or capacity needs, so an SDC charge basis includes one or more development characteristics used to estimate the potential scale of impact. The same scaling measures may apply uniformly across all development types, as in the case of water meter size or plumbing fixture units used for estimating water and wastewater demands, or the quantity of impervious area (used as an indicator of potential stormwater runoff).

In other cases, scaling measures may be specific to a type or class of development, where local or industry data establish a relationship between a size of a dwelling unit or building for commercial business, and estimated system demand (e.g., water demand, person trips, etc.). The wide range of development sizes makes the importance of scaling particularly acute for commercial and industrial customers. For example, a large, big box retail business would be expected to generate significantly more person trips than a small specialty retail store.

Scaling residential SDCs based on the size of the house (in square feet of living area or number of bedrooms) has become more common practice in the last decade. Scaled residential SDCs may be implemented for single family and multifamily development individually or applied uniformly to all residential development (regardless of the type of dwelling). A scaling structure can lead to significant differences in SDCs for difference sizes of dwellings, as shown in the three examples in Exhibit 28. The first two examples are tiered approaches applicable to a specific type of dwelling (i.e., single family or multifamily). Example 1 tiers are based on the size of the dwelling in square feet (sq. ft.), while Example 2 tiers are based on the number of bedrooms in the dwelling.

Exhibit 28. Sample Scaled Residential Parks SDC Structures

Sources: Galardi Rothstein Group, using data from Tualatin Hills Parks and Recreation Department, 2021/22 SDC Fee Schedule, City of Bend Systems Development Charges July 1, 2022–June 30, 2023 (pg. 5), City of Eugene SDC Methodologies (Table 7)

Example	Agency and SDC Category	SDC
1.	Tualatin Hills Park and Recreation District Single-Family SDCs per Dwelling Unit (Districtwide)	
	Tiered (Square Feet Category) Basis	
	<1,500 sq. ft.	\$9,088
	1,500-2,500 sq. ft.	\$10,717
	2,501-3,500 sq. ft.	\$12,217
	>3,500 sq. ft.	\$13,075
2.	Bend Park and Recreation District Multifamily Parks SDCs per Dwelling Unit	
	Tiered (Bedroom Category) Basis	
	0 Bedroom	\$4,207
	1 Bedroom	\$4,636
	2 Bedroom	\$7,517
	3+ Bedroom	\$9,738
3.	City of Eugene Residential Sewer SDCs	
	Base SDC per Dwelling Unit	\$485.63
	Scaled SDC per sq. ft. Living Area	\$0.1177

Exhibit 28 also provides an example of an alternative scaling approach that is applicable to all residential housing (single and multifamily alike). Rather than charging a flat rate per dwelling unit within a defined tier, each additional square foot of living area is charged an additional fee on top of a base amount applied to each dwelling unit based on a regression analysis.

Intensity of Use Factors That Differentiate SDCs Based on Development Type

In addition to development size, the type of land use or class of service may be a factor in estimating system demand.

For residential development, dwelling type (e.g., single family, duplex, apartment) is a common charge basis, particularly for systems where demand for service is measured directly by people (like parks), as the average number of occupants generally differ and may be estimated for local areas based on readily available U.S. census data. Differences in the number of occupants also may drive differences in demand for other infrastructure systems such as water, wastewater, and transportation systems, where local utility billing data and national trip generation surveys show differences in average demands by dwelling type.

Single family and multifamily dwelling types are the most common factor for differentiating SDCs. However, as zoning regulations continue to evolve across the state to support a broader diversity of housing types and configurations, consideration is often given to pricing SDCs for smaller and more affordable dwelling types, based on estimated system demands and policy objectives. Examples of other dwelling types include:

- Accessory Dwelling Units (ADUs) – This practice of charging reduced SDCs for ADUs is theoretically consistent with data from a 2014 ADU survey conducted by the Oregon Department of Environmental Quality (DEQ). The DEQ survey found average occupancy of all ADUs was 1.45 persons per household, which is generally significantly lower than the average occupancy for a single-family home.
- Middle housing – As a result of House Bill 2001, cities with population over 25,000 must allow development of up to four dwelling units on properties previously restricted to single-family housing. As the density of housing increases, system demands per dwelling unit also tend to decrease (relative to single-family housing) due to lower average occupancy and smaller lot sizes which may reduce stormwater runoff and water use per unit.
- Other housing types – As with middle housing, consideration of specific demands per unit for manufactured housing, cottage cluster, and tiny homes may also be considered as more data becomes available to evaluate relative occupancy rates and system-specific demands.

As with dwelling type, the intensity of system use/demand may vary greatly across different nonresidential (commercial, industrial, and institutional) development types. Many communities charge different transportation SDCs per 1,000 sq. ft. of building area for dozens of different nonresidential development types, reflecting national data on trip generation. For example, surveys indicate that an average convenience market generates significantly more trips per 1,000 sq. ft. of building size than a small specialty retail store. Similarly, some

communities differentiate water and wastewater SDCs for different classes of nonresidential development based on volume or wastewater strength factors. For example, a restaurant generally is assumed to demand more water/discharge more wastewater volume (and pollutant loads) per 1,000 sq. ft., compared to an office building.

For parks, intensity of use considerations impact both the allocation of growth-related costs between residential and commercial development and the SDC per 1,000 sq. ft. for different nonresidential development types. On average, a resident is assumed to have a higher potential park use than a business employee based on some limited survey data and theoretical estimates that take into accounts the hours per week available for park use. The number of employees per 1,000 sq. ft. of building area also differs among nonresidential development classes, which further forms the basis for charging SDCs in many communities.

Other intensity of use factors that may help establish different SDCs by type of development include seasonal variations in water use (i.e., peak water demands), stormwater quality, and transportation trip characteristics (like trip length and pass-by trip adjustments).

SDC Differentials Based on Development Location or Context

Development location is often considered in three contexts that can drive differences in cost of service or capacity needs: 1) infill vs. greenfield areas, 2) areas requiring specialized facilities (e.g., upper water pressure zones that require storage and pumping facilities), and 3) development context (considerations around density, mixed use developments and proximity to transit may impact service demands). Location-based overlay SDCs are relatively common in greenfield areas (e.g., City of Hillsboro) or in areas of major redevelopment (e.g., City of Portland Transportation SDCs). Accessibility to public transit—as in the case of transit corridors—may have a measurable impact on the cost of providing transportation system infrastructure in urban settings, so may be reflected in the SDC charge basis and lead to significant fee levels across jurisdictions.

3.2.3 Rate-Setting: Implementing a Reduced SDC

In addition to methodological and cost differences, some local governments choose to implement SDCs at levels lower than the calculated amounts. Implementing an SDC that is less than what is calculated in the methodology is an approach that is technically and legally simple, however, it sets up a situation where the SDCs are lower than required to fund the growth-related costs. Choosing a lower SDC requires no findings or justification, though many local governments will articulate a basis for the charges in the implementing resolution.

Implementing a lower SDC typically takes one of two forms. The simple form is implementation of the SDC at the desired level (i.e., some percentage of the calculated SDC). The more nuanced form is a multi-year phase-in schedule that may (or may not) terminate at the calculated SDC. This approach provides an initial concession to developers that may have planned projects in the pipeline.

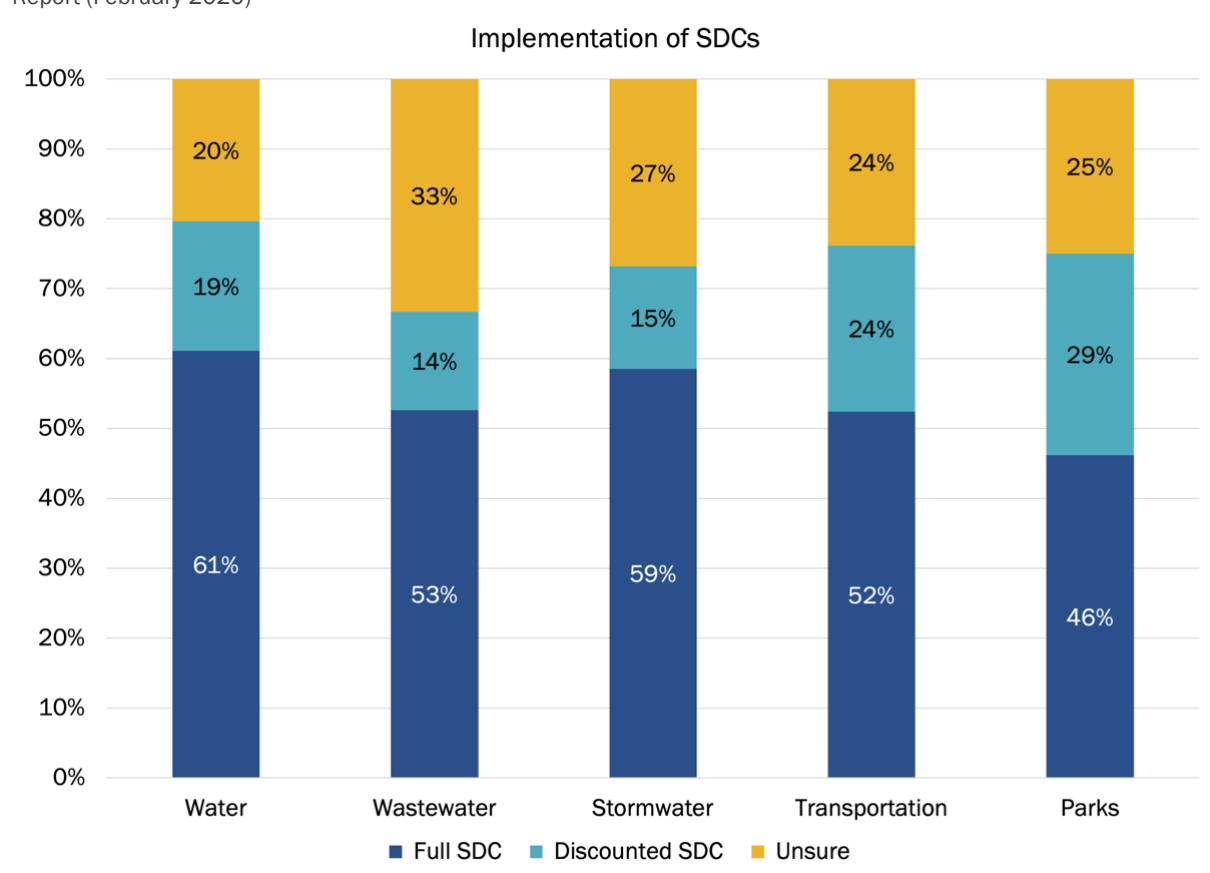
This is reflected in the *Oregon SDC Study: Summary of Service Providers* (Appendix A). Many communities noted charging less than the full amount justified in their methodology, generally

because of local elected officials' desire to remain competitive for development relative to other nearby communities, or because of concerns about the impact on housing costs and affordability. Other communities noted using phase-in periods when a change in methodology would lead to a notably higher rate. (As noted above, other jurisdictions adjust their SDC-eligible project list to achieve a lower cost basis and lower SDC rate instead.)

The LOC recently added questions on this subject to its annual SDC survey, asking whether the city adopted an SDC that was less than what was calculated in the methodology for each infrastructure system. As shown in Exhibit 29, a majority of cities report implementing the full SDC for most infrastructure systems, but 14 percent reported discounting a wastewater SDC, and 29 percent reported implementing a discounted parks SDC.¹⁴²

Exhibit 29. SDC Discounting Among Survey Respondents

Source: FCS GROUP and ECONorthwest using data from League of Oregon Cities, System Development Charges Survey Report (February 2020)



¹⁴² FCS GROUP analysis of data from League of Oregon Cities, System Development Charges Survey Report (February 2020). The possible responses were “yes,” “no,” and “unsure.”

3.2.4 Underlying Cost Drivers

Cost of Capital Improvements

Regional Cost Differences

While national and even international factors impact the costs of material and supplies, regional cost differences may impact infrastructure costs and SDC levels across the state. Regional cost factors may include the following:

- Rural areas may have less access to labor and supplies, particularly during busy construction periods, which may drive-up project costs. This is particularly acute in areas where limitations in affordable workforce housing further limit the pool of local contractors.
- Land values vary significantly.
- Differences in geology impact costs of grading and excavation.

The rising cost of labor has created upward pressure on project costs for all types of projects throughout the state. However, Central and Eastern Oregon seem to be impacted disproportionately because of a shortage of local contractors. This shortage limits the number of bids received for a project, and the limited number bidding contractors increases the pricing power of those who do bid.

Infrastructure-Specific Cost Drivers

Different kinds of infrastructure projects incur different kinds of costs, and different kinds of costs are subject to different market forces. Examples of specific cost factors by infrastructure system include:

- Pipe is a major cost driver of water, wastewater, and stormwater projects, and the cost of pipe has risen dramatically in recent years.¹⁴³
- Land is a significant cost factor for many park and transportation infrastructure projects, and land values in many areas have risen substantially more than construction cost indices in some years.¹⁴⁴

Beyond the costs of materials and land, infrastructure systems may be impacted by varying types of regulatory requirements that result in more costly facility designs (e.g., seismic resiliency standards and water and wastewater treatment requirements).

¹⁴³ According to data reported by the Bureau of Labor Statistics the producer price index for plastic construction products (primarily, PVC pipe) increased almost 30 percent in 2021 (January to December).

¹⁴⁴ For example, in 2017, data from the Washington County Assessor's office (within the Tualatin Hills Park and Recreation District) showed an increase in vacant land value of 19.54 percent, compared to the ENR CCI increase of 2.15 percent. Similarly, data from Deschutes County Assessor's Office showed an increase in land values of 18.06 percent over the 12-month period ending December 2021, which was significantly higher than the ENR 20-city CCI of 7.36 percent.

For water SDCs, securing new and expanded sources of supply are a significant cost component in most SDC project lists. Available water sources vary significantly across the state and the cost of developing new sources vary based on the type, location, and other factors.

Cost Escalation and Timing of Indexing Rates

As described in Section 2.1.2, construction costs have escalated rapidly in the past two years as measured by the ENR Construction Cost Index (CCI) (both the 20-city average and Seattle indices). Many local governments use one of these indices to adjust their SDCs each year in accordance with statute. However, these increases may not yet be incorporated into the SDCs shown in Appendix D, as many cities adjust SDCs annually, but the timing of updates and the timeframes used to calculate the index vary.

Service Delivery Structure

SDC variations across the state may reflect differences in service delivery due to economies of scale for different types of service providers. The cost of producing a gallon of water or treating a gallon of wastewater may be less for large regional utilities compared to single-utility service providers.

Part 4: SDCs and Housing Costs

Primary Contributors: ECONorthwest

4.1 Overview

Part 4 of the report focuses on the relationship between SDCs and housing costs, including:

- How and to what extent SDC costs are passed on to housing consumers, and which other entities absorb those costs (“**SDC cost incidence**”).
- How **SDC costs compare to other costs of housing development**, including land, labor, and materials for construction, permitting, and development review costs, carrying and financing costs, cost of building on-site infrastructure (where applicable), etc., and how this varies for different types of housing.
- How and to what extent **SDC costs affect overall housing costs** and the **housing options** delivered by the private market, including **differential impacts** for housing at different sizes and price points.
- How SDC cost incidence varies for **market-rate and affordable housing** development.

The findings in Part 4 draw on a combination of published literature (both theoretical and empirical studies); case studies of housing development under varying SDC rate structures; analysis of a range of hypothetical housing developments across different market conditions to show how SDCs impact housing types differently; and interviews with housing developers and homebuilders with experience building housing across Oregon, including single-family homebuilders and multifamily developers working in different market niches, and developers of affordable housing.

4.1.1 How SDCs Affect Development Outcomes: Overview

SDCs affect development outcomes in two primary ways:

- SDCs fund infrastructure that is needed to support growth, which can add value to development, or make development possible in newly developing areas or areas without sufficient infrastructure.
- SDCs are a cost imposed on development, which increases the cost of building new housing.

Both factors can influence housing costs and housing production. Section 2.2 addressed the value and benefits of SDCs to development. Sections 4.2 to 4.5 address SDCs as a cost that impacts housing development.

4.2 SDCs as a Cost in Housing Development: Conceptual Framework

4.2.1 Introduction

Who Pays? An Introduction to Cost Incidence

SDCs are one cost among many that developers typically pay as part of building housing. Like the other costs of housing development (e.g., land, construction labor and materials, design fees, financing costs, etc.), these costs are typically paid by developers initially and factored into their financial decisions. Although developers initially pay SDCs, they can recoup at least a part of the cost by passing on the cost to others involved in the housing development process or transactions. Thus, it is important to ask not only who pays SDCs, but who ultimately incurs the cost. This economic concept is referred to as **cost incidence**. Cost incidence describes who ultimately incurs the cost, which can be split among parties, or incurred entirely by one party.

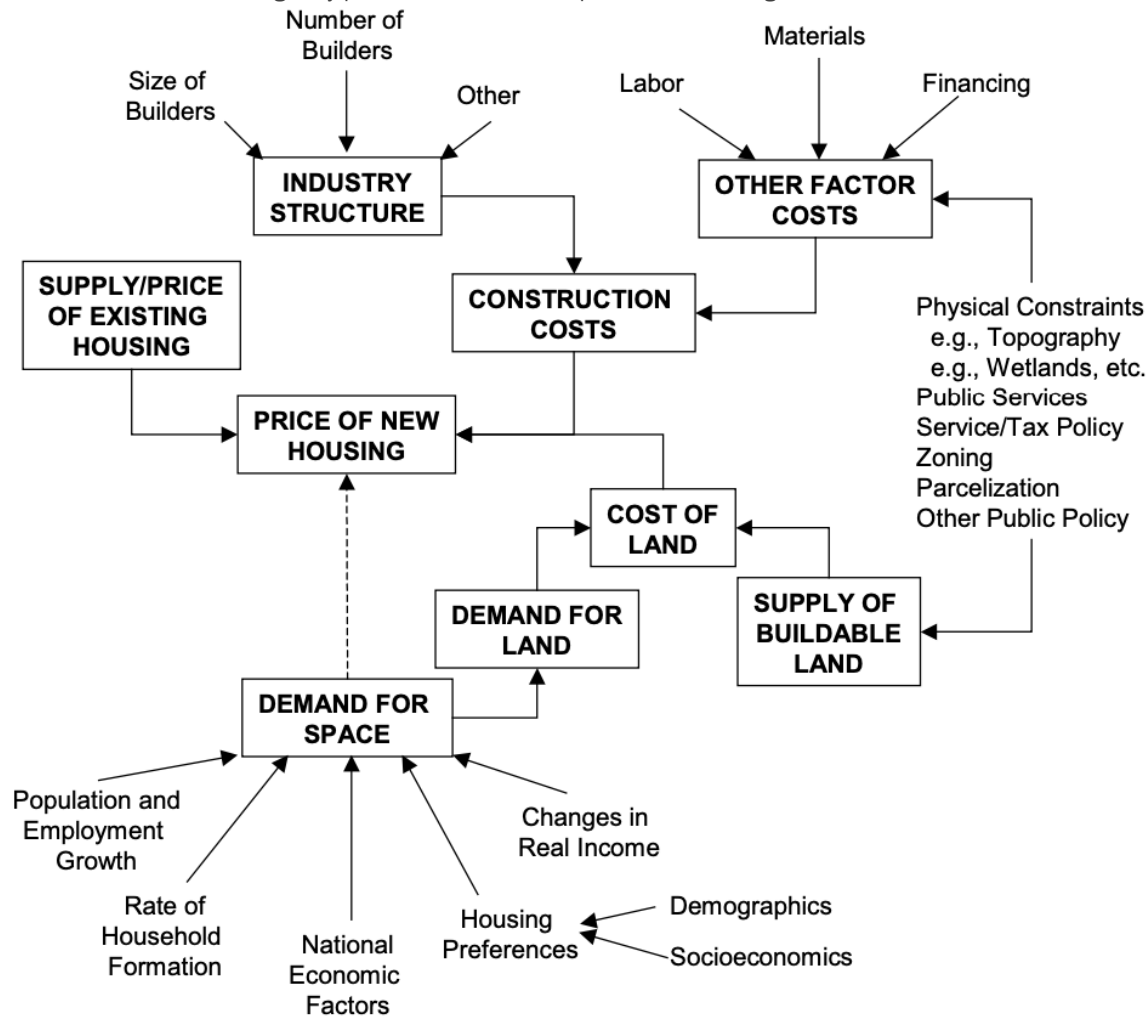
Housing Development 101

Understanding cost incidence in housing markets requires an understanding of housing development. Market-rate housing development is a business, and, like other businesses, must generate a financial return to operate. Generally, market-rate development will not occur unless the expected revenues from the project exceed the expected costs by a sufficient margin to create financial returns for developers, lenders, and investors that justify the risk of their investment. Developers must identify sites and development products that they expect to be financially feasible.

SDCs are one of many costs that developers take into consideration when determining whether a project is feasible, which is part of a broader decision-making process that considers density, location, design, and market conditions along with development costs. Exhibit 30 illustrates the different factors that feed into overall housing cost and price. SDCs are one of many jurisdictional policies and practices that affect development costs, including: speed and complexity of permitting; zoning regulations; and other direct costs such as permit fees and construction excise taxes. Developers often have an estimate of their SDC costs prior to securing land and financing, but the accuracy of this estimate can vary with the timing of the land purchase, the complexity of the development, and how much SDC rates change during the pre-development period. Developers need to weigh SDCs and other cost inputs against the sales prices or rents they are expecting to achieve on each project. Because SDCs costs are outside the developers' control, they must make choices about other aspects of the development to bring total costs and prices or rents into alignment.

Exhibit 30. Detailed Model of Housing Cost and Price

Source: ECONorthwest, originally published in "Cost Components of Housing"¹⁴⁵



For affordable housing developers, whose revenues are constrained to keep rents or sales prices affordable at specific income levels, and who are often (though not always) nonprofit organizations, SDCs are also one cost among many that must be covered either by the project's limited revenues or by other sources to cover any funding gaps. As with market-rate development, affordable housing developers must find ways to balance their costs against their combined revenues and subsidies, but their options are more limited. When costs are too high, they may modify the project to reduce costs, seek out additional sources of subsidy (though these are often competitive and higher per-unit costs can make projects less likely to receive the funding they need to move forward), or, in limited cases, adjust the targeted affordability levels to the extent that the funding sources allow.

¹⁴⁵ Nick Meltzer, Bob Parker, Rebecca Lewis & Sadie DiNatale, University of Oregon, Memorandum to HB 4079 Rulemaking Advisory Committee (RAC), October 20, 2016, page 3.

Other Drivers of Housing Costs and Affordability

As illustrated in Exhibit 30, the prices that consumers experience in the housing market are a function of both supply and demand factors. There is strong evidence whether and to what extent housing production keeps up with demand has a pronounced effect on the pace of housing price and rent increases.¹⁴⁶ The cost to build new housing affects both the minimum sale price or rent that is required to make development feasible and the amount of housing entering the market. SDCs, as one among many factors that influence the cost of producing housing, play a role in broader market factors that determine home prices and rents.

4.2.2 Economic Theory on Cost Incidence of SDCs

Economic theory on impact fees suggests that impact fees “shift the burden of financing new infrastructure from the community at large to the owners of developable land, developers, or buyers of new homes.”¹⁴⁷ Landowners may receive lower offers for their land, developers and their investors may receive lower financial returns, and/or homebuyers and renters would either pay more for housing or receive lower-quality housing.

How additional costs or taxes are distributed among buyers and sellers depends on each party’s relative sensitivity to prices. Economic theory suggests the party with fewer alternatives is less sensitive to change in price and would bear a greater portion of costs (absorb more of the costs) when additional costs are incurred. For example, the incidence is higher for consumers on tobacco and gas purchases when taxes increase because they have few substitutes (choices), while the producers bear less of the increased costs because they can find new customers and markets.^{148, 149}

Similarly, the theoretical impacts of SDCs can be understood in terms of alternatives and price sensitivity. Whether and by how much developers can pass on the cost of SDCs depends on market contexts.

- Because land’s location is fixed, **landowners** have few alternatives other than waiting for new offers from developers or policy changes that would improve the value of the land. The cost incidence for landowners depends on the availability of other developable land within the same market and how much SDCs vary between comparable pieces of

¹⁴⁶ See, for example, Up for Growth, “Housing Underproduction in Oregon,” January 28, 2019; Jared Bernstein et al, “Alleviating Supply Constraints in the Housing Market,” *The White House Council of Economic Advisers*, September 1, 2021 (<https://www.whitehouse.gov/cea/written-materials/2021/09/01/alleviating-supply-constraints-in-the-housing-market/>); and Josh Lehner, “Construction, Housing Supply, and Affordability,” *Oregon Office of Economic Analysis: Oregon Economic News, Analysis and Outlook*, February 15, 2022 (<https://oregoneconomicanalysis.com/2022/02/15/construction-housing-supply-and-affordability>).

¹⁴⁷ Forrest E. Huffman, Arthur Nelson, Marc Smith, and Michael A. Stegman. 1988. “Who Bears the Burden of Development Impact Fees?” *Journal of American Planning Association*, 54(1): 49-55.

¹⁴⁸ William N. Evans, Jeane S. Ringle, and Diana Stech. (1999). “Tobacco Taxes and Public Policy to Discourage Smoking.” *Tax Policy and the Economy* 13, 1-56.

¹⁴⁹ Joseph J. Doyle and Krislert Samphantharak. (2008). “\$2.00 Gas! Studying the effects of a gas tax moratorium.” *Journal of Public Economic* 92, 869-884.

developable land. If developers have factored SDCs into their land budgets (the price they are willing to pay for land) before they acquire a property, it will constrain the price landowners are able to obtain for their land. So, landowners who sell at a lower price than similar locations with lower SDCs, are bearing some of the cost. Alternatively, they may choose not to sell.

- **Homebuyers and renters** are generally tied to a given regional housing market and sometimes to a specific submarket within the region based on employment, ties to family members or a school district, or other factors.
 - In tighter housing markets (or “sellers’ markets”¹⁵⁰), homebuyers and renters have fewer housing options; theory suggests they would bear a greater share of costs when there is strong competition for limited housing units. For example, in exclusive or highly desirable communities within a metropolitan area, studies show that the strength of the competition would allow developers to pass on more of the added costs.¹⁵¹
 - In communities with many similar options for new housing, the cost incidence is expected to be lower for homebuyers because they have many choices within a reasonable distance. Studies show this pattern in communities around a dense metropolitan area where households would be willing to consider housing in multiple nearby cities.¹⁵²
- **Investors, lenders, and developers** are unlikely to absorb SDCs by accepting lower returns except in very unusual circumstances or when SDC costs increase unexpectedly during development and cannot be passed on to others. Investors and lenders usually have other options to invest in across multiple markets and will avoid areas that generate lower risk-adjusted returns. Studies show that **developers** are less likely to absorb added costs in lightly regulated, fast-growing cities where they can quickly adjust their business strategies to target different housing markets.¹⁵³ However, developers are less likely to pass on the cost in more competitive markets with many developers and few development opportunities. When they are not able to achieve the expected prices or rents and financial returns fall below the expected rates, the developers absorb some of the cost of SDCs (as well as all a share of the other costs).

¹⁵⁰ Market where there are very few options for new housing relative to strong preferences and ability to pay for them.

¹⁵¹ Huffman, Nelson, Smith, and Stegman.

¹⁵² Richard K. Green, Stephen Malpezzi, and Stephen K. Mayo. 2005. “Metropolitan-Specific Estimates of the Price Elasticity of Supply of Housing, and Their Sources.” *American Economic Review*, 95(2): 334-339.

¹⁵³ Green, Malpezzi, and Mayo.

4.2.3 How SDCs Affect Development Decisions

Overview

Developers may balance costs and revenues in a variety of ways to adjust to the cost of SDCs, as described below. Which of these options are viable and which are most likely depends on timing, market conditions, and other factors, as summarized below. (As a reminder, this discussion focuses on how the cost of SDCs affects development decisions, while Section 2.2 discusses ways that the infrastructure funded by SDCs affects development.)

Exhibit 31. Summary of Potential Developer Actions to Cover the Cost of SDCs

Source: ECONorthwest

Developer Action	Limitations and Consequences
Seeking lower-cost land to build on or negotiating a lower price with the landowner	If SDCs are known early in the development process so that a developer can negotiate for a lower land price, and if there are many options for developable land, the cost incidence is likely to be greater for the landowners who would accept a lower price. Other landowners may not accept a lower price, choosing to hold off on selling their land, and absorbing some of the influence of higher SDCs through the delay. If land is already acquired or cannot be negotiated further, a lower land price is no longer an option. ¹⁵⁴
Seeking efficiencies on design and construction to lower cost	If SDCs are known before the housing design and finishes are determined or finalized, developers may choose to build smaller units, limit some aesthetic features or amenities, or use lower-cost building materials or processes (which could increase operating or maintenance costs over time). However, cost-saving decisions need to be balanced with households' demand for quality.
Adjusting unit size, finishes, and/or amenities to command higher sales prices or rents	Alternatively, developers can build larger units (for single-family homes), use higher quality products, or add amenities to justify higher prices and rents that can cover the cost of added features along with the cost of higher SDCs. The cost-saving approach could marginally increase the housing supply for lower-income households, while the quality-enhancing approach could marginally increase the housing supply for higher-income households.
Raising the asking prices or rents	In both cases that change the value proposition, the cost incidence would fall, at least in part, on housing consumers, through lower value for their money or less availability of lower-cost housing options. Raising the asking price or rent for the finished housing without changing the design or features—which passes costs more directly to housing consumers—is a viable option only if there is sufficient demand among buyers and renters

¹⁵⁴ Understanding cost incidence of SDCs within a land transaction is complicated by various business models and landownerships that exist. A vertically integrated developer that is also a long-term landowner would bear a greater portion of SDCs (at least within the context of land transactions) since SDCs would not be incurred until well after land acquisition. Business models that specialize in taking undeveloped land and making them “ready for development” by obtaining regulatory approvals (e.g., for new uses and lot divisions) could incur a relatively smaller cost incidence even in a market with many buildable lands because their “development-ready” lands offer more valuable and rare opportunities for developers.

Developer Action	Limitations and Consequences
	of newly constructed housing, compared to supply that lower-cost options are not readily available.
Lowering expectations for financial returns	<p>Because developers and investors will typically not pursue a development project if expected financial returns do not meet a particular threshold that justifies the risk of the investment, there are limited situations where SDCs will translate to lower return expectations. This is particularly true for investors and lenders who operate nationally—if one area offers lower risk-adjusted returns than other market areas, they will tend to place funds in areas that offer higher returns relative to their risks. However, SDCs can impact financial returns for market-rate housing development when they are significantly different than initial expectations.</p> <p>Most developers allow for some contingency funds to absorb unexpected cost increases because there is uncertainty in development and costs and revenues are often different from what is projected. However, once development is underway, developers have fewer options for adjustments to bring revenues and costs in line. Thus, when costs (including SDCs) unexpectedly increase during a project, developers must absorb those costs or make adjustments elsewhere if they still can.</p> <p>If unexpected cost increases are attributable to a policy choice by a public agency or local government, it can erode trust in that public agency, impact the feasibility of subsequent phases of development, and in some cases make developers less likely to build in that jurisdiction in the future.</p>
Delaying or abandoning the development	If developers are not able to balance the costs and revenues, the development may not move forward, or may be put on hold. If higher SDCs result in less or slower housing production, pushing up the overall price of housing due to a supply/demand imbalance, its undesirable impact would be shared among all prospective buyers and renters of housing, new or existing, while existing homeowners would benefit from the higher housing prices.

Findings From Developer Interviews

As captured in Appendix B, developers described a range of responses to SDC costs:

- Developers can rarely move a project forward that doesn't meet investor and lender return expectations. If SDCs contribute to making a project financially infeasible, the project will not be able to attract funding to move forward to construction. (See additional discussion in Section 4.3.4.)
- Developers tend to specialize in certain types and forms of housing (e.g., single-family vs. multifamily, mixed-use infill vs. suburban garden apartments), and report that they primarily respond to the market when choosing what to build. SDCs are generally not a major factor in determining what housing type a given developer will build or what market segment they will target (e.g., entry-level vs. luxury homes) except where the difference in SDCs is substantial or where the developer is flexible and the market is similarly strong for multiple housing options. However, developers may adjust their offering at the margins in response to SDCs, such as by building somewhat larger or smaller homes. Over time, if certain housing types or products become easier to build

(e.g., middle housing being authorized in many new areas) and/or more financially viable (e.g., increasing demand for walkable infill development), developers may adjust their business models to respond; SDCs can contribute to (or inhibit) those trends, but they are unlikely to be the sole reason for them.

- Land developers noted that SDCs are factored into homebuilders' pro forma calculations when they purchase lots to build on, which means they can affect the price/value of finished lots. However, some other developers noted that they tend to build on land they have owned for many years, and SDC costs do not factor into the land value or price.
- Many developers and builders report that SDCs are one of several factors when considering where to build. (Others, which can outweigh the importance of SDCs, include market conditions, land costs, and permitting speed/staff responsiveness.) When SDC costs are out of line with market conditions (i.e., achievable rents or sales prices are too low to allow developers to recoup the cost of SDCs), developers may look elsewhere. If there are other options in the area with lower SDC costs and comparable market conditions and land costs, developers may choose those areas instead. However, when there are few good alternatives, developing somewhere else isn't an option. In this situation, developers must find other ways to make development pencil or not pursue development at all.
- Most developers noted that the market determines what prices/rents are possible, but several gave examples where high SDCs caused them to push the upper limits of what the market would accept to achieve feasibility.
- Developers budget for SDCs and may plan for escalation to some extent and/or carry a contingency for increases, but dramatic and unexpected changes to SDCs, or lack of clarity about SDC rates up front, can mean money taken from other parts of the project or more total costs to cover.
- Because rents are fixed based on income for affordable (income-qualified, rent-restricted) housing development, developers of regulated affordable housing do not have the option to pass it on through rents. Costs are generally factored into funding applications to the extent they are known early. Affordable housing developers were more likely to rely on cost-savings and value engineering to balance SDC costs after funding is secured.

4.3 SDC Costs in Context: SDCs as a Share of Development Costs

SDCs are one cost among many that developers typically pay as part of building housing (e.g., land, construction labor and materials, design fees, financing costs, etc.). While most development costs (e.g., raw materials, financing, and specialized labor) are determined by a regional, national, or international markets, SDCs are determined at a local level through a governmental process, and they do not necessarily track other development costs.

To understand what portion of development costs SDCs comprise, ECONorthwest considered several different types of information:

- National data on costs to develop single-family and multifamily housing, including impact fees as one component of costs (Section 4.3.1)
- Oregon SDC rate data (from Section 3.1.1) compared to typical market-rate housing development costs in the state, accounting for variation by housing type and variation in other cost factors across several market areas in the state (Section 4.3.2)
- Data on SDCs and total development costs for example affordable housing developments in Oregon (Section 4.3.3)

4.3.1 National Data on Impact Fees Relative to Housing Costs

The National Association of Home Builders (NAHB) Construction Costs Surveys offer a national summary of impact fees and other development costs for single-family housing. NAHB collected construction cost data from builders since 1998 to understand the trends in various cost components of single-family housing. The breakdown of costs includes finished lot cost, total construction cost, financing cost, overhead and general expenses, marketing cost, and sales commission. Impact fees are itemized as one component of the costs, specifically a component of total construction cost. Impact fees were separated from other development fees, such as building permit fees and water and sewer fees and inspection costs.

The NAHB survey data shows that impact fees alone are a very small portion of total costs for single-family housing at the national level, **0.88 percent** of total costs.¹⁵⁵ Water and sewer fees and inspection costs are about as large. Impact fees as a share of total costs ranged between 0.41 percent and 0.96 percent in past surveys. The average impact fee in 2019 was 1.30 percent of construction costs (which do not include other development costs) and 0.80 percent of average sales price (which includes all development costs and developers' profit margin).

These findings, however, are underestimates of typical SDC share of total costs for three reasons.

¹⁵⁵ Carmel, Ford. *Cost of Constructing a Home*. NAHB Economics and Housing Policy Group. January 2, 2020.

1. The national average amount for impact fees reported in the NAHB survey may not be representative of a true national average. In addition to general issues related to sampling variability with a nonrandom sample, the sample in the NAHB survey would have included communities with and without impact fees. Thus, the calculated estimate is likely weighted downward by many observations of communities without impact fees. In contrast, the average numbers cited elsewhere in this report are averages only of places that charge impact fees.
2. It is unclear which impact fees are included in the self-reported SDC amounts. Some water and sewer impact fees may have been classified by respondents as water and sewer fees and inspection costs (a separate line item in the listed costs), some of which may capture water and sewer impact fees.
3. The estimate for SDC share of total costs is low because the reported average finished area of the home is 2,594 sq. ft., resulting in relatively high total costs. Impact fees would likely account for a larger share of the prices and costs for smaller units, which tend to have lower construction costs on a per-unit basis.

Another survey by NAHB and the National Multifamily Housing Council (NMHC) in 2022 contains information on impact fees for multifamily projects. Fees charged when building construction is authorized, which could include impact fees and other fees (e.g., building permit fees), accounted for about **4.4 percent** of total costs across all multifamily properties, on average.¹⁵⁶ This suggests that the impact fee share of total development costs is likely somewhat less than 4.4 percent, on average, though no data is available to disaggregate these costs further to identify the share specifically from impact fees, and the survey included another cost category where impact fees may have been reported, making it more difficult to estimate the share from impact fees specifically. In addition, like the NAHB single-family data, the data behind this national average likely includes projects from communities both with and without impact fees and may be lower as a result.

The two surveys provide reference points on impact fee share of development costs across the U.S., but their limitations make them less useful to understand SDCs as a share of housing development costs in Oregon.

4.3.2 SDCs and Development Costs in Oregon

Data Sources

SDC levels, other development costs, and housing prices vary by housing type and region. There is no centralized data set that allows us to calculate SDCs as a percentage of development costs across a representative sample of completed market-rate housing development projects across Oregon. As a result, to understand the variation in SDC share of total development costs,

¹⁵⁶ Paul Emrath and Caitlin Sugrue Walter. Regulation: 40.6 Percent of the Cost of Multifamily Development. NAHB and NMHC. June 8, 2022.

ECONorthwest compared various SDC amounts to typical development costs across a range of housing types and a range of market conditions in different parts of Oregon.

- **SDC costs** for single-family detached housing referenced in this section are based on the 2022 data collected by FCS GROUP discussed in Section 1.4.1. The average SDC in the data was about \$15,050. As described in Section 1.4.1, the estimated typical SDCs for multifamily units are roughly 66 percent of the single-family SDC amount. Due to insufficient data for townhouses, ECONorthwest estimated typical SDCs for townhouses at 90 percent of the single-family SDC amount, based on a review of several examples and the consultant team’s professional experience.
- **Construction costs** are based on interviews with housing developers primarily operating in the Portland Metro region and reflect differences based on housing type and unit sizes. They are adjusted for each market area using national publications that provide regional cost indices.¹⁵⁷
- **Land costs** are based on research of recent land transactions in each market area.

SDCs as a Share of Costs for a Typical Single-Family Dwelling in Oregon

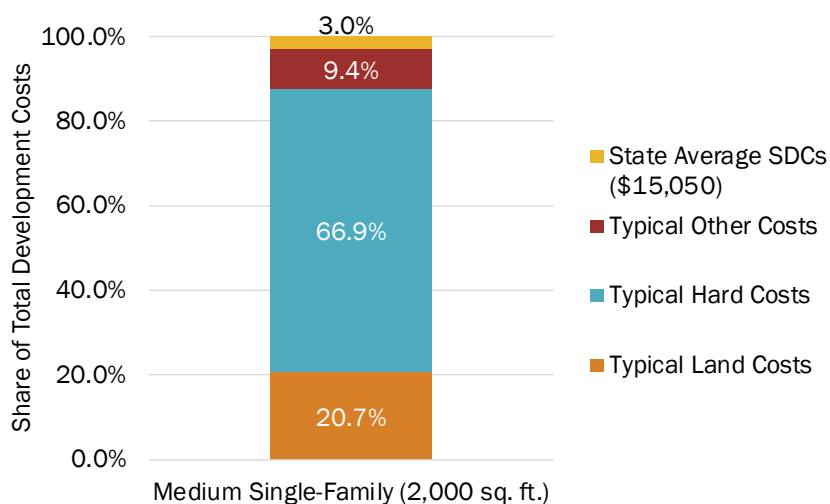
ECONorthwest’s analysis suggests that the average SDC rate for single-family housing in Oregon (roughly \$15,050 according to the 2022 data by FCS GROUP) would make up about **3.0 percent** of the total development costs of a typical, newly built, medium-sized single-family dwelling in a moderate-cost region in the state (e.g., the mid-Willamette Valley) as shown in Exhibit 32.¹⁵⁸ In comparison, land costs would make up an estimated 20.7 percent of total development costs, construction “hard” costs (labor and materials) about 66.9 percent, and other costs (e.g., financing, permit fees, design and engineering, survey, etc.) about 9.4 percent.

¹⁵⁷ RSMeans City Cost Index and the 2022 National Building Cost Manual, 46th Edition

¹⁵⁸ The example “Medium Single-Family Dwelling” assumes a 2,000 square-foot (sq. ft.) unit, a two-car garage, density of 6.7 units per acre, and development costs of \$479,000 per unit, excluding the SDC amount.

Exhibit 32. Components of Development Costs of Medium Single-Family Dwelling in a Moderate-Cost Area

Source: ECONorthwest



Variation in SDC Share of Costs by Housing Type

This section focuses on how SDCs costs would vary as a percentage of total development costs for a variety of housing types, using SDC and cost assumptions that approximate statewide averages. However, costs and specific SDC rates vary by city, and the findings below do not represent all communities.

To demonstrate how the SDC share of total development costs can vary across housing types, ECONorthwest evaluated six different example housing types that are found commonly across much of the state, as shown in Exhibit 33. These housing types illustrate the directional pattern of the relationship between SDCs and other development costs. ECONorthwest approximated typical construction and land costs for these housing types in different parts of the state. Among the housing types included in this analysis, the cost to build each unit tends to be lower for densely built housing types that require less land per unit and tend to have smaller unit sizes.¹⁵⁹ More detail on the example housing types and their typical development costs across markets are available in Appendix F.

¹⁵⁹ This pattern does not apply to high-rise multifamily construction in which higher-density multifamily housing can have higher per-unit costs than lower-density multifamily housing due to higher construction costs associated with materials used for high-rise buildings.

Exhibit 33. Evaluated Example Housing Types

Source: ECONorthwest

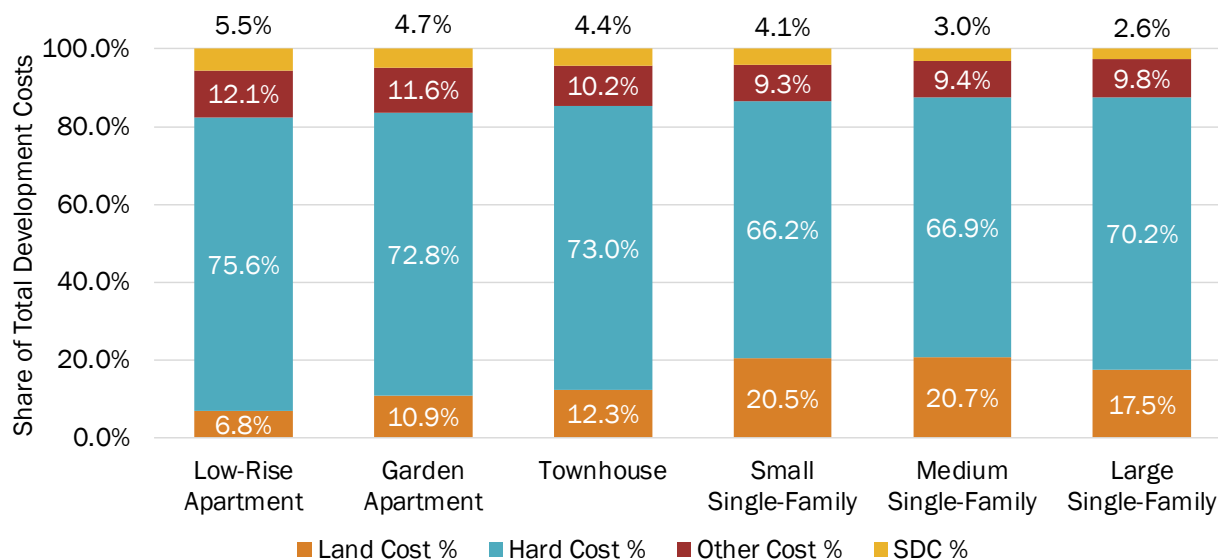
Example Housing Type	Building Height (Floors)	Density (Units per Acre)	Average Unit Size (Square Feet)	Parking
Low-Rise Apartment	3	55.0	738	1.0 Stalls per Unit (surface parking)
Garden Apartment	3	30.0	811	1.5 Stalls per Unit (surface parking)
Townhouse	2	18.2	1,500	Single-Car Garage
Small Single-Family	2	9.1	1,550	Single-Car Garage
Medium Single-Family	2	6.7	2,000	Two-Car Garage
Large Single-Family	2	6.7	2,650	Two-Car Garage

Exhibit 34 shows the share of total development costs that a given SDC amount could make up across housing types of different densities. Even with the adjustments to assumed SDC rates to reflect typical differences between single family, multifamily, and townhouse SDCs, **SDCs make up a greater portion of total development costs for housing types with lower per-unit construction costs when they are applied per unit.** For example, for the Low-Rise Apartment housing type—the highest density housing type in Exhibit 34—a \$9,933 per unit SDC would make up about 5.5 percent of the total development cost. For the Large Single-Family housing type—the lowest density example—a \$15,050 per unit SDC would make up only about 2.6 percent of the total development cost. Thus, SDCs make up a greater portion of more densely built housing types included in the analysis.

Other development costs range from 6.8 percent to 20.7 percent for land costs (a higher share for lower-density housing types), from 66.2 percent to 75.6 percent for hard costs (a higher share for higher-density housing types), and from 9.3 percent to 12.1 percent for other costs (generally higher for higher-density housing types).

Exhibit 34. Components of Development Costs in a Moderate-Cost Area, by Housing Type

Source: ECONorthwest



Notes: Assumes \$15,050 per unit SDC for single-family, \$13,545 per unit for townhouse, and \$9,933 per unit for apartments.

Variation in SDC Amounts in the Same Market

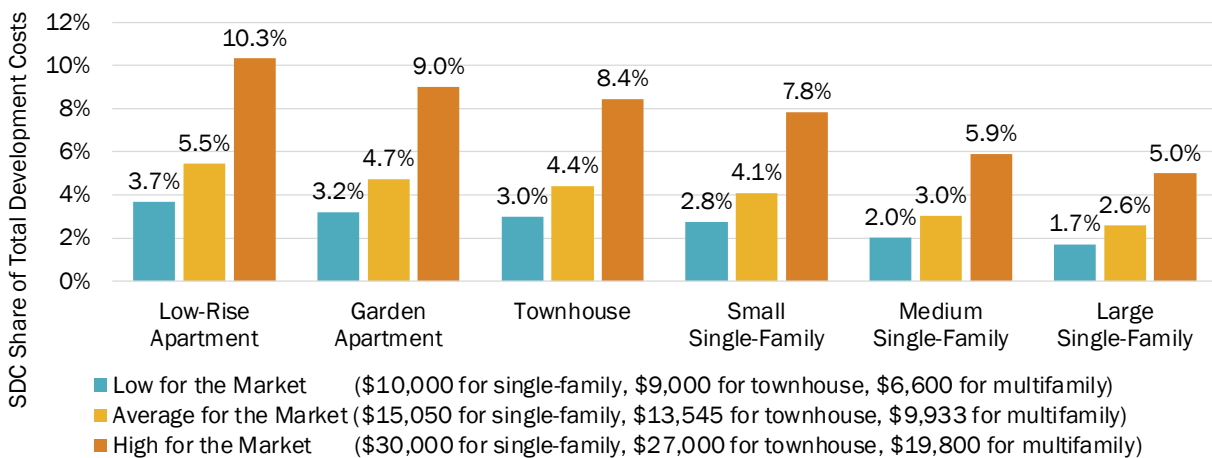
This section addresses how SDCs as a share of total development costs can vary for the same housing type and in the same market when SDCs vary between communities.

A geographic region can share similar market conditions, construction costs, and typical land costs, but different developments could be subject to different SDC rates when there are multiple jurisdictions in the same market or when a given jurisdiction differentiates rates geographically. For example, a city in a moderate-cost area could have an SDC amount close to the state average (\$15,050 per single-family unit), but another city in the same area could have an SDC amount that is much lower or higher (e.g., as low as \$10,000 or as high as \$30,000 per single-family unit, given the observed variation in the FCS GROUP data¹⁶⁰).

Exhibit 35 illustrates the impact of these variations on the SDC share of total development costs. **The variation in SDC rates across cities within the same general market area means the SDC share of total development costs can also vary widely.** In the example shown in Exhibit 35, the variation can be between 1.7 percent and 5.0 percent for a Large Single-Family housing type and between 3.7 percent and 10.3 percent for a Low-Rise Apartment housing type.

Exhibit 35. SDC Share of Development Costs in a Moderate-Cost Area, By Housing Type, By SDC Amount

Source: ECONorthwest



This illustrative example also shows that the difference in SDC rates has a more pronounced effect on lower-cost housing types. For example, for the Large Single-Family housing type, SDC share of development costs could be 5.0 percent with a high SDC and 2.6 percent with a low SDC. In contrast, for the Low-Rise Apartment housing type, SDCs could be between 3.7 percent and 10.3 percent of development costs.

¹⁶⁰ These SDC amounts are based on the 2022 survey results by FCS GROUP, after further segmenting the data into different market context areas.

Variation in SDC Structure

This section explores the importance of SDC structure. Specifically, it compares SDCs that are applied per unit (adjusted by housing type) to SDCs that are scaled by unit size, as discussed in “Characteristics Used to Scale SDCs Based on Development Size” on page 58.

Many SDC rates are applied on a per-unit basis, and their structure partly drives the variations across housing types. When SDCs are applied per-unit, SDCs make up a smaller portion of total costs for housing types with larger unit sizes and higher development costs.

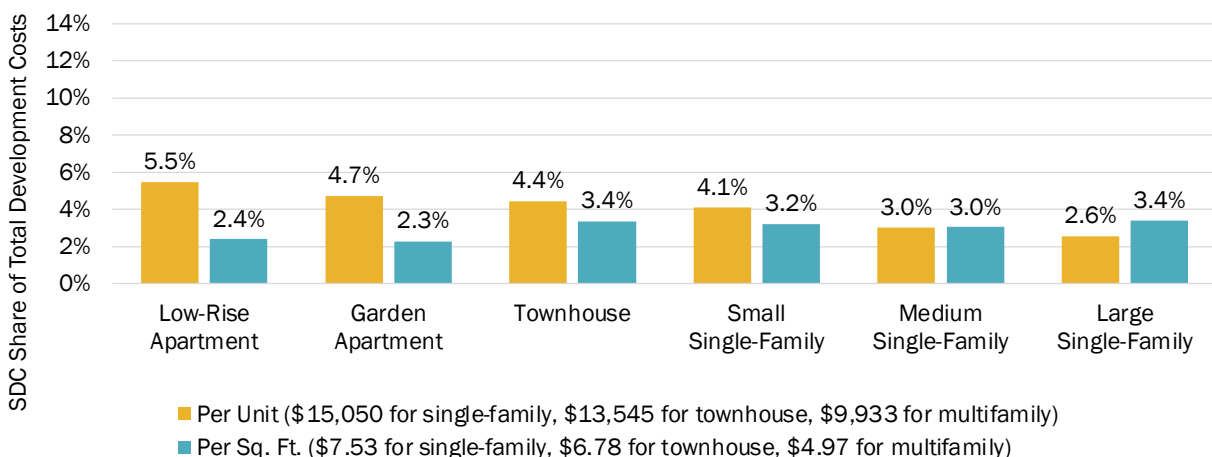
In contrast, applying SDCs per square foot of building area can remove the relationship between density and the share of costs that SDCs make up. (More on the scaling structure is discussed in Section 1.5.3.) Exhibit 36 shows that if SDCs were applied linearly per square foot,¹⁶¹ it would produce a lower variation in SDC share of costs. Across the housing types, SDCs as a share of development costs could range between 2.3 percent and 3.4 percent with a linear per-square-foot SDC rate.

The per-square-foot SDC rate in Exhibit 36 is selected for illustrative purposes and is calculated by dividing the \$15,050 per unit fee by 2,000 sq. ft. unit size of the Medium Single-Family housing type. The rate for Townhouse is 90 percent of the rate for single-family. The rate for Low-Rise Apartment and Garden Apartment is 66 percent of the rate for single-family.

When SDCs are scaled to unit size, the SDC share of development costs is more consistent across housing types. Compared to SDCs that are applied per unit, scaled SDCs result in lower SDC share of development costs for lower-cost housing types with smaller units. This shows that the variation in SDC share of total development costs can depend on not only the housing type but also the SDC structure.

Exhibit 36. Comparison of SDC Structures and SDC Share of Development Costs in a Moderate-Cost Area, by Housing Type

Source: ECONorthwest



¹⁶¹ It is unlikely that all SDCs would be appropriate to scale in this way, but it is presented here to illustrate the general point about the impact of scaling by unit size compared to fixed per-unit SDC rates.

Variation by Market Context

This section explores how SDC share of development costs can vary between market areas, which have different SDC amounts and different development costs.

To illustrate the variation in SDC share of development costs across the state, ECONorthwest estimated typical development costs in seven parts of the state and compared them to a typical SDC amount in each region. The seven market context areas generalized market and cost conditions based on geography, market factors, and development cost factors. They are broad categories that reflect typical housing prices and construction costs across the cities that fall within each geographic region. The values used for each geographic market are not intended to represent a specific city, and average housing prices and costs vary by city. Rather, the values are representations of likely values observed across many parts of the geographic market. The market context areas are:

1. **Willamette Valley:** Larger cities along Interstate 5, with some similar housing options within a local housing market. Does not include cities in the Portland Metro area.
2. **Small Cities:** Smaller cities along Interstate 5 or remotely located in eastern Oregon. Relatively stagnant growth, lower demand, and lower land costs are observed in comparison to other market context areas.
3. **Coast:** Coastal cities with many vacation rentals and second homes.
4. **Metro Low:** Suburban cities and neighborhoods in the Portland Metro area with moderate demand for new housing and limited production of new housing.
5. **Metro Mid:** Suburban cities and neighborhoods in the Portland Metro area with relatively strong demand for new housing and, sometimes, large tracts of planned developments.
6. **Metro High:** More exclusive neighborhoods in the Portland Metro area with higher prices and relatively few options for new housing.
7. **Cascades:** Cities east of the Willamette Valley that experienced a strong level of housing demand and production in recent years.

For this section of the report, the findings from the analysis of the seven market context areas are summarized into three market types that typify the lower, middle, and upper points of the analyzed markets. A full analysis for all market areas is available in Appendix F. The three market types presented in this section are:

- **Low-Cost Market** that typifies small cities in eastern Oregon with relatively stagnant growth, lower housing demand, and lower land costs in comparison to other markets.
- **Moderate-Cost Market** that typifies large cities along Interstate 5 and south of the Portland Metro area.
- **High-Cost Market** that typifies a subset of suburban cities in the Portland Metro area with strong demand for new housing.

Exhibit 37 shows the typical SDC amounts estimated for each market and for different housing categories.¹⁶² The townhouse SDCs are assumed to be 90 percent of the single-family SDCs, consistent with analysis above. The multifamily SDCs are assumed to be 66 percent of the single-family SDCs, consistent with analysis above.

Exhibit 37. Selected SDC Rates for Analyzed Markets

Source: ECONorthwest

	Low-Cost Market	Moderate-Cost Market	High-Cost Market
Single-Family SDC	\$8,600	\$15,050	\$48,800
Townhouse SDC (90%)	\$7,740	\$13,545	\$43,920
Multifamily SDC (66%)	\$5,676	\$9,933	\$32,208

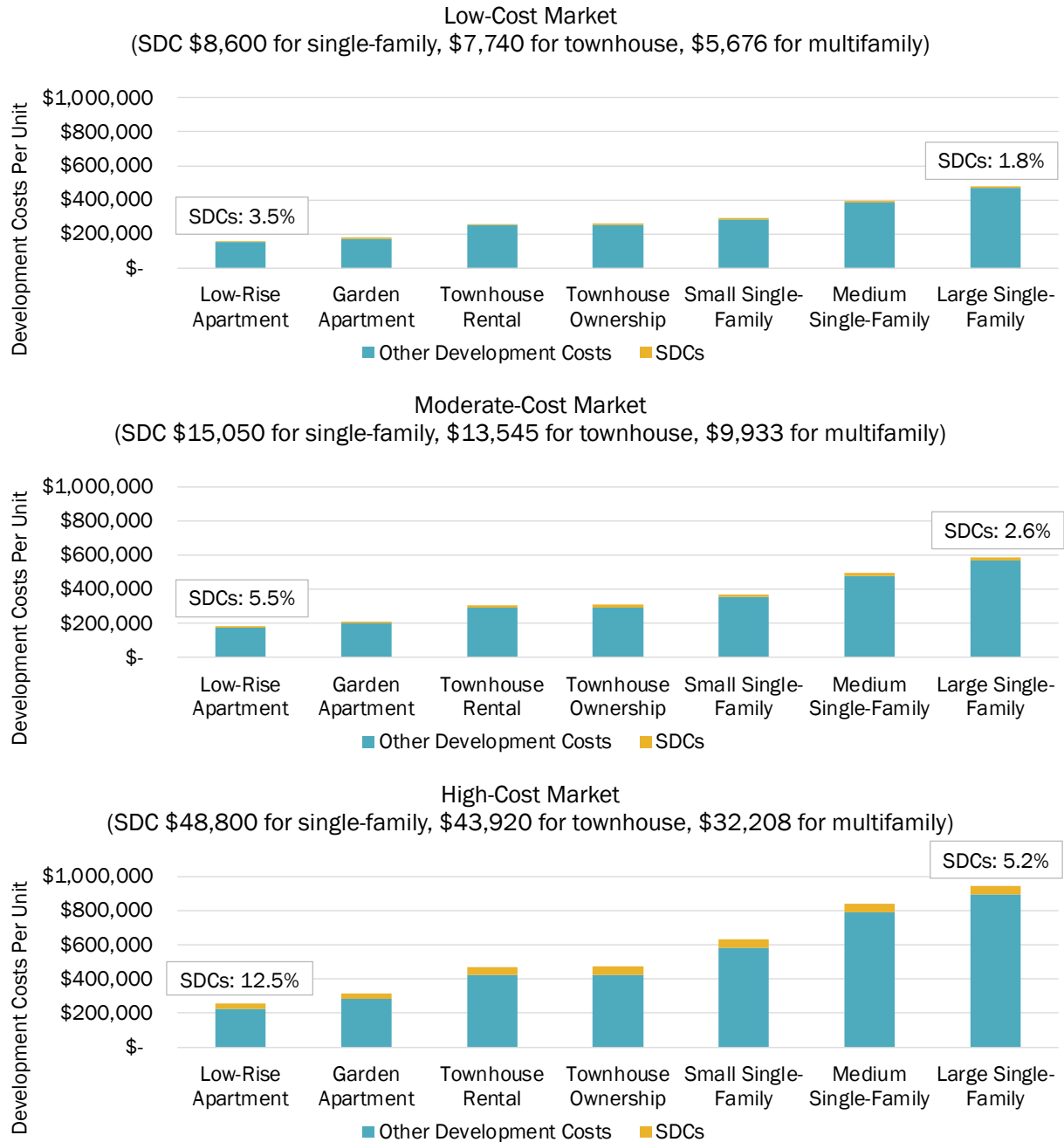
Exhibit 38 illustrates the findings from analysis. Given the estimated SDCs and other development costs, the analysis shows **the variation in SDC share of total development costs can also depend on the market.**

- SDCs could make up between 1.8 percent of single-family development costs to 3.5 percent of multifamily development costs in Low-Cost Market.
- SDCs could make up between 2.6 percent of single-family development costs to 5.5 percent of multifamily development costs in Moderate-Cost Market.
- SDCs could make up between 5.2 percent of single-family development costs to 12.5 percent of multifamily development costs in High-Cost Market.

¹⁶² The typical SDC amounts in Low-Cost and High-Cost Markets are rounded numbers of the average of reported SDC amounts in the 2022 survey of SDCs by FCS GROUP for cities that typify the market contexts described. The statewide average is used as the typical SDC amount for the Moderate-Cost Market, consistent with all analysis and charts in this section.

Exhibit 38. SDC Share of Development Costs Across Housing Types and Markets

Source: ECONorthwest



4.3.3 SDCs as a Share of Affordable Housing Development Costs

Affordable Housing Costs in Oregon

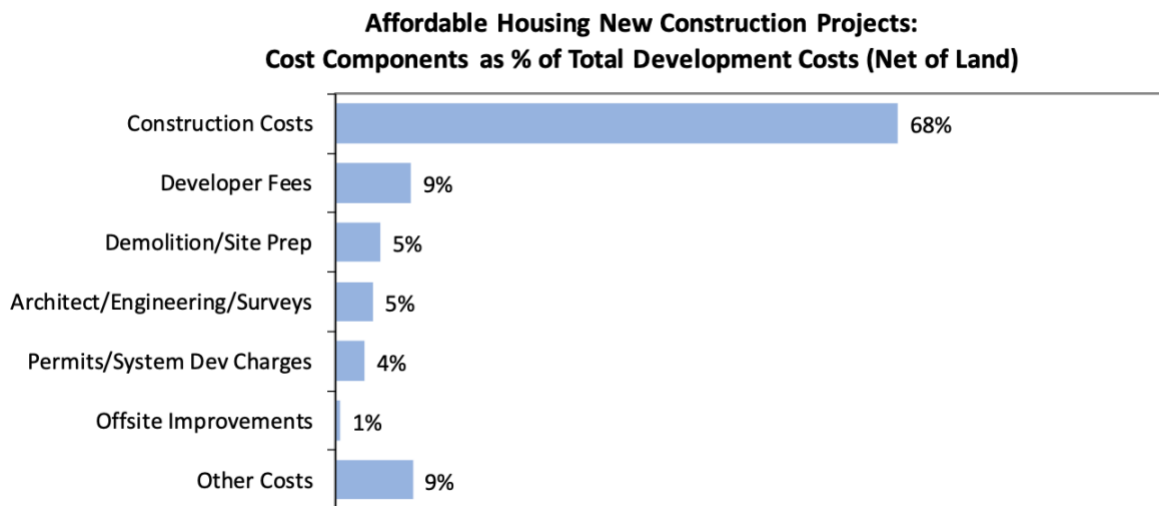
ECONorthwest reviewed the Affordable Housing Cost Study prepared for OHCS in 2019 to understand the relative cost of SDCs in comparison to other factors in affordable housing development. The report analyzed project cost data from over 200 regulated affordable multifamily housing projects built from 2001-2017, spread throughout urban and rural areas of Oregon with a range of size, unit mix, and total project cost. The study used a regression model

to test the relationship between different variables in affordable housing development and total project costs over this large sample.

In reviewing the breakdown of different cost factors associated with new affordable multifamily development, the report's data combines permit fees with SDCs as a single variable in many cases. This does not allow for differentiation between other types of charges (like planning and building permit fees) but does provide context for their relative importance in construction. Exhibit 39 shows that overall, the permits and SDCs accounted for about 4 percent of development costs (excluding land) on average. The report also notes that as of 2019, SDCs average more than \$8,000 per affordable housing unit on average across the state.¹⁶³

Exhibit 39. Breakdown of Affordable Housing Development Costs in Oregon (Excluding Land)

Source: Blue Sky Consulting Group, OHCS Affordable Housing Cost Study



Average calculated by summing (real) cost measures across all affordable projects and dividing by total project costs excluding land.

Although permit fees and SDCs were estimated to account for a relatively low share of total costs overall, the study also showed that these costs grew to a greater extent between 2000 and 2017 than any of the other components. Exhibit 40 shows that affordable housing costs associated with permits and SDCs increased by an average 8.9 percent per year, more than twice as much as any other cost category.

¹⁶³ Blue Sky Consulting Group, "Affordable Housing Cost Study: Analysis of the Factors That Influence the Cost of Building Affordable Housing in Oregon" (Oregon Housing and Community Services, June 27, 2019).

Exhibit 40. Growth in Cost Components for Affordable Housing Over Time

Source: Blue Sky Consulting Group, OHCS Affordable Housing Cost Study

	Avg Real Cost per Unit*		Change (\$)	Change (%)	Annual Pct Change
	2000-'03	2014-'17			
Construction Costs	116,347	167,277	50,930	44%	2.6%
Developer Fees	14,413	23,927	9,514	66%	3.7%
Demolition/ Site Prep	9,871	13,876	4,005	41%	2.5%
Architect/ Engineering/ Surveys	8,769	10,317	1,548	18%	1.2%
Permits/ System Dev Charges	3,659	12,020	8,361	228%	8.9%
Other Costs	16,902	20,718	3,816	23%	1.5%
TOTAL COSTS NET OF LAND	169,962	248,137	78,175	46%	2.7%

* Costs represent 4-year moving average and are converted to real (2019) dollars using CPI.

The report evaluates a range of possible cost factors influencing the cost of affordable housing development. A regression analysis suggested that the key factors that drive development costs for affordable multifamily housing include:¹⁶⁴

- **Project characteristics** including type and size, as larger buildings and units tend to drive up costs.
- **Local factors** like community opposition and low availability of labor, which can result in expenses for additional public meetings and competitive wages.
- **Economies of scale**, which can reduce the cost per unit, but are effectively limited for certain projects based on the cap on the amount of Low Income Housing Tax Credits (LIHTC) available.
- **Building quality and durability** can increase costs for high quality developments but can lower ongoing maintenance and repair costs.
- **Land costs**, which varied across the state and by local census tract characteristics like income level and population density.

This list does not call out local fees explicitly, though they may be encompassed within “local factors.” While this might suggest that SDCs are not a major driver of affordable housing development costs in Oregon compared to all the other factors evaluated, the report does call out the pace of increases as a key finding.

Case Study: SDCs Paid by Affordable Housing Development in Hillsboro

ECONorthwest summarized the amount that affordable housing developments in the City of Hillsboro have paid in SDCs over the past 10 years in a memorandum to the City of Hillsboro as part of their consideration of SDC exemptions.¹⁶⁵ The City does not offer SDC exemptions today,

¹⁶⁴ Blue Sky Consulting Group, “Affordable Housing Cost Study: Analysis of the Factors That Influence the Cost of Building Affordable Housing in Oregon” (Oregon Housing and Community Services, June 27, 2019).

¹⁶⁵ ECONorthwest, “Progress Report of Hillsboro Affordable Housing Tools and Evaluation of Additional Tools,” prepared for the City of Hillsboro, April 12, 2022.

nor do Washington County or Clean Water Services (CWS), which also charge SDCs for projects in Hillsboro.

Exhibit 41: SDCs for Recent Affordable Housing Developments in Hillsboro

Source: ECONorthwest summary based on data provided by the City of Hillsboro; OHCS^{166,167}

	Willow Creek Crossing	Orchards at Orenco II	Orchards at Orenco III	Alma Gardens	Nueva Esperanza	Total
Year Funded	2018	2015	2017	2013	2022	
Units	120	58	52	45	150	425
Parks SDC (City of Hillsboro)	\$644,410	\$258,158	\$267,748	\$175,950	\$958,800	\$2,305,066
Water SDCs (City of Hillsboro)	\$0	\$54,430	\$55,350	\$45,380	\$88,280	\$243,440
Sewer & Stormwater SDCs (CWS)	\$663,084	\$289,282	\$283,104	\$212,150	\$912,750	\$2,360,370
TDT (Washington County)	\$663,960	\$304,906	\$281,580	\$94,365	\$944,400	\$2,289,211
SDC total	\$1,971,454	\$906,776	\$887,782	\$527,845	\$2,904,230	\$7,198,087
Total SDCs per Unit	\$16,429	\$15,634	\$17,073	\$11,730	\$19,362	\$16,937
Total Development Costs	\$31,523,563	\$13,547,334	\$14,860,640	\$9,273,520	\$53,954,156	\$123,159,213
SDCs as a % of Total Development Costs	6.3%	6.7%	6.0%	5.7%	5.4%	5.8%

In total, over \$7 million of affordable housing funding has gone towards SDCs over the past 10 years for projects within the City of Hillsboro alone. This represents **nearly 6 percent of the total development costs** on average.

Note that these example projects are located outside the South Hillsboro area, which has additional area-specific SDCs. Apartment projects located in South Hillsboro, including affordable housing development, are subject to over \$17,800 in additional SDCs (as of 2022).¹⁶⁸ Using Nueva Esperanza as an example, since it is currently under construction, the total SDC cost if it had been located in South Hillsboro would have been over \$5.5 million, or over \$37,000

¹⁶⁶ Oregon Housing and Community Services, <https://www.oregon.gov/ohcs/development/Documents/applicants-recipients/4-percent-lihtc-affordable-housing.pdf>

¹⁶⁷ Oregon Housing and Community Services, <https://www.oregon.gov/ohcs/development/Documents/applicants-recipients/LIHTC-Statewide-List.pdf>

¹⁶⁸ City of Hillsboro, "Citywide Fees and Charges," August 2022, page 44-45. SDC rate assumes property is not part of the Local Improvement District (LID) for the area, which applies some infrastructure costs in the form of an LID assessment rather than a supplemental SDC.

per unit—close to 10 percent of the total costs (even after accounting for the increase in total costs due to higher SDCs).

4.3.4 SDCs Compared to Other Development-Related Costs

Overview

As noted previously, SDCs are just one of many costs of housing development. HB 3040 directed the study to include a comparison of SDCs to “other housing cost drivers, including, but not limited to, the costs of land, labor and materials, utility rates, the costs of infrastructure and costs associated with regulatory compliance.” In comparing other cost drivers to SDCs, it is important to consider not only the magnitude of the costs but also the level of public sector influence over those costs, which varies among the cost drivers listed. It is also important to note that the total cost impact of a given input to housing development depends both on the unit costs of that input and the amount needed (e.g., the cost of a given amount of land and the amount of land required per unit). While it is beyond the scope of this report to conduct a detailed analysis of how each of these cost factors has changed over time and the extent to which the public sector can increase or decrease the costs or their impact on housing, this section provides a high-level summary of how market forces and public-sector policies and regulations can affect these costs and the available data on their relative contribution to the cost of housing development or to housing costs more generally.

Land

Land Cost Factors

As illustrated in Exhibit 30 (page 67), the cost of land in the context of housing development is affected by a combination of the supply of buildable land that is available and suitable for residential development, and demand for land based on overall growth drivers. As discussed further in Section 4.2.3, expected costs associated with developing the land (including providing infrastructure) and projected revenues from development also affect the market price for land. Local governments have an influence on land supply (e.g., through setting urban growth boundaries), land use regulations, and infrastructure investments and requirements, all of which can affect land cost to some extent. Local regulations also impact how much land is required for a given housing development through minimum lot size, maximum density, and other development standards.

Land Costs as a Share of Development Costs

Land costs are included in the estimates described in Section 4.3.2. ECONorthwest’s analysis suggests that land costs likely account for roughly 7 to 21 percent of total development costs for typical market-rate housing development in Oregon, depending on the housing type.

The 2019 study of affordable housing costs in Oregon referenced earlier found that “land costs as a percent of total project cost ranged from as little as 2 percent to as much as 15 percent. On

average, land costs accounted for slightly less than 7 percent of total project costs.”¹⁶⁹ This data was drawn from a sample of affordable housing new construction projects with arms-length land transactions. It cited an average of \$17,000 in land costs per unit and a median of \$14,000 per unit (in 2019 dollars).¹⁷⁰ The study noted that land costs were lower in rural areas than in non-rural areas.¹⁷¹

This is generally somewhat higher than SDC’s share of development costs. However, this varies by region and by community. In a recent opinion piece, Habitat for Humanity of Metro Portland noted that “when Habitat for Humanity develops housing in [the Portland] region, permitting fees plus ‘System Development Charges’ paid to local jurisdictions generally exceed the market-rate cost for land.”¹⁷²

Construction Labor and Materials

Construction Labor and Materials Cost Factors

The cost of construction labor is affected by labor supply factors (including availability of other employment opportunities, availability of training programs to build relevant skills, and licensing requirements), labor demand factors (including amount of construction taking place at any one time), regional cost of living, and government regulations including minimum wage standards and prevailing wage requirements. Government regulations can also affect the amount of construction labor required through design standards, building codes, and worker health/safety regulations.

The cost of construction materials (e.g., lumber, concrete, steel, but also plumbing fixtures and appliances) is largely set through commodities markets based on broader supply and demand trends, though limited availability of certain materials in smaller markets can increase materials costs in specific areas. Local regulations have little impact on the unit cost of materials, but they can affect the amount and type of materials required through design standards and building codes.

Construction Labor and Materials as a Share of Development Costs

The costs of labor and materials (“hard costs”) are included in the estimates described in Section 4.3.2. ECONorthwest’s analysis suggests that hard costs likely account for two-thirds or more (66 to 76 percent) of total development costs for typical market-rate housing development in Oregon, depending on the housing type.

¹⁶⁹ Blue Sky Consulting Group, “Affordable Housing Cost Study: Analysis of the Factors That Influence the Cost of Building Affordable Housing in Oregon” (Oregon Housing and Community Services, June 27, 2019), page 37.

¹⁷⁰ *Ibid.*, page 34.

¹⁷¹ *Ibid.*, page 38.

¹⁷² Sam Diaz, Kim McCarty and Steve Messinetti, “Opinion: Undoing urban growth boundary isn’t the answer to our housing crisis,” *The Oregonian*, December 4, 2022. <https://www.oregonlive.com/opinion/2022/12/opinion-undoing-urban-growth-boundary-isnt-the-answer-to-our-housing-crisis.html>.

In the 2019 study of affordable housing costs found that construction costs (including labor and materials for building construction) accounted for 68 percent of total development costs (excluding land), as shown in Exhibit 39 on page 83.

This is much higher than the cost of SDCs as a share of housing development costs, but the degree to which the public sector can impact these costs is less (see Regulatory Costs beginning on page 89).

Infrastructure Costs

Infrastructure Cost Factors

Infrastructure costs in this context refers to costs for improvements made directly by the developer that are not eligible for SDC credits. This could include local streets and water/wastewater lines within a subdivision, sidewalk improvements for an infill development, or off-site improvements required as a condition of development (e.g., intersection improvements, crosswalks, etc.). The factors driving the unit costs of infrastructure are discussed in Section 2.1.2 beginning on page 22. Total direct infrastructure costs borne by a given development are also driven by the availability and adequacy of infrastructure nearby, local government standards related to infrastructure design and construction (e.g., required street cross-sections and engineering specifications for streets and utilities), and local government policies and regulations that determine what improvements are required for a development (e.g., traffic impact assessments, frontage improvement requirements).

Infrastructure as a Share of Development Costs

There is no comprehensive data on these costs, and it is difficult to estimate “typical” costs for residential development across the state, given that direct infrastructure costs are highly variable between different developments depending on their context. Some infill projects may have no infrastructure costs, while major greenfield developments or large-scale redevelopment projects may require extensive new infrastructure construction and/or upgrades to existing facilities. The extent to which infrastructure costs can be defrayed through SDC credits also varies, as discussed further in Section 5.3.

As one way of estimating direct infrastructure costs for a simple single-family subdivision that does not require major street extensions or off-site improvements, ECONorthwest analyzed typical local street improvements costs using unit cost estimates used by various cities on recent infrastructure funding and analysis projects.¹⁷³ The estimated costs ranged from about \$23,800 to \$41,100 per unit. (The higher estimate is from a smaller city and includes extending utility lines within the street.) In comparison, the average SDC per unit for single-family development ranges from \$8,600 in a low-cost market to \$15,050 in a moderate-cost market to \$48,800 in a high-cost market, as shown in Exhibit 37 on page 79.

¹⁷³ The analysis assumes 50-foot-wide lots on a double-loaded street meeting the narrowest street design for which costs were available. Unit costs were derived from analysis related to Beaverton’s South Cooper Mountain, South Hillsboro, and an analysis of infrastructure needs associated with vacant land in Newport.

The 2019 Affordable Housing Cost Study did not isolate the cost of infrastructure improvements specifically, but it did estimate costs for “Offsite improvements” and for “Demolition/Site Prep.” Given that the projects included in the analysis are all multifamily, for which utility extensions and circulation from a main road are generally provided through the site on private land rather than in public right-of-way, a portion of the cost of extending infrastructure through the site may be included in the “Demolition/Site Prep” category. “Offsite Improvements” is likely to be mostly attributable to infrastructure improvements, though this category is not further defined in the report. As shown in Exhibit 39 on page 83, offsite improvements were estimated at roughly 1 percent of total development costs (excluding land), on average, for affordable housing new construction statewide.¹⁷⁴

ECONorthwest also reviewed several example pro formas provided by OHCS from recent affordable housing projects. These pro formas showed off-site costs accounting for roughly 1 to 2 percent of total development costs (including land). The pro formas grouped on-site utility extensions with other on-site and site preparation costs, but one included a note indicating a specific amount for on-site utilities, which, for that specific project, accounted for roughly an additional \$11,000 per unit, and 4 percent of total development costs. (For that example project, SDCs were just over \$3,000 per unit and roughly 1 percent of total development costs.)

Taken together, the limited available data suggest wide variation in direct infrastructure costs across different housing projects, which can be more or less than the costs of SDCs.

Regulatory Costs

Regulatory Cost Factors

The cost of regulatory compliance is difficult to measure for several reasons. First, there are many ways to define the costs of regulations, some broader than others. Second, even if there is a consensus on the categories of regulatory costs to track, measuring them can be challenging. Potential categories within regulatory costs include:

- **Permitting and compliance costs:** There are costs directly attributable to demonstrating compliance with government regulations (e.g., permit fees, inspections, environmental testing or evaluations, the cost to prepare permit applications and special studies, the cost to prepare for and attend public meetings if required). Some of these are easy to measure (e.g., permit fees), while others may be a hidden component of other costs (e.g., preparing permit applications may be included in an architect’s fee).
- **Delay-imposed costs:** Regulations can increase the time it takes to complete a development, which can impact financing/interest costs and other development costs (e.g., costs associated with having adjacent streets closed or modified, the cost of having contractors or equipment on site). Delay due to permitting processes can also mean delayed cash flows or unproductive capital, although the time value of money can differ

¹⁷⁴ Blue Sky Consulting Group, “Affordable Housing Cost Study: Analysis of the Factors That Influence the Cost of Building Affordable Housing in Oregon” (Oregon Housing and Community Services, June 27, 2019).

from person to person, developer to developer, and city to city. These costs are rarely itemized specifically, though they can be estimated.

- **Standards-related costs:** Regulations can also impact the cost of other inputs to development, including land, construction labor and materials, infrastructure, and engineering/design fees by setting minimum standards that a development must meet, as noted in the prior subsections. The extent to which regulations *do* impact the cost of other inputs depends on how different the requirements are from what developers would choose to do (or what lenders, investors, or end users would demand that they do) absent the regulations, which varies depending on the context and can be difficult to ascertain.

Like SDCs, in a full evaluation, the costs of these requirements should be weighed against the benefits to public safety, health, environmental quality, and community well-being, but such an evaluation of trade-offs is beyond the scope of this study.

Regulatory Costs as a Share of Development Costs

National Estimates of Regulatory Impacts on Multifamily Development Costs

A recent and oft-cited study of regulatory costs by NAHB and NMHC estimated that as much as 40.6 percent of multifamily development costs are due to the cost of regulatory compliance, based on a survey of 49 developers across the country. The survey asked respondents about how much various factors contribute to total development costs for a typical project.¹⁷⁵ A breakdown of the specific cost components included in this total is shown in Exhibit 42.

¹⁷⁵ Paul Emrath and Caitlin Sugrue Walter. Regulation: 40.6 Percent of the Cost of Multifamily Development. NAHB and NMHC. June 8, 2022. <https://www.nmhc.org/globalassets/research--insight/research-reports/cost-of-regulations/2022-nahb-nmhc-cost-of-regulations-report.pdf>

Exhibit 42: Average Regulatory Costs as a Share of Total Multifamily Development Costs NationallySource: NAHB and NMHC¹⁷⁶

	Share With the Regulatory Cost	Regulation as a Percent of Total Development Cost	
		Average When Present*	Average Across All Properties
Cost of applying for zoning approval	93.9%	3.4%	3.2%
Costs when site work begins (fees, required studies, etc.)	98.0%	8.7%	8.5%
Dev. requirements (layout, mats, etc.) beyond the ordinary	91.8%	5.8%	5.4%
Cost of land dedicated to the government or left unbuilt	51.0%	4.7%	2.4%
Fees charged when building construction is authorized	95.9%	4.6%	4.4%
Costs of affordability mandates (e.g., inclusionary zoning)	38.8%	6.9%	2.7%
Changes to building codes over the past 10 years	100.0%	11.1%	11.1%
Complying with OSHA/other labor regulations	93.9%	2.7%	2.6%
Pure cost of delay (if regulation imposed no other cost)	95.9%	0.5%	0.5%
TOTAL COST OF REGULATION	100.0%	40.6%	40.6%

* The base is different for every percentage in this column, so the line items are not additive.

- **Permitting and compliance costs** such as the cost of applying for zoning approval (including costs of traffic impact studies or other required studies), fees and required studies when site work begins (which can include hook-up or impact fees in some cases), and fees charged when building construction is authorized (though this can also include impact fees) total an estimated 16.1 percent of total development costs on average.¹⁷⁷ (“Soft costs,” which include these costs as well as design, financing, legal, and insurance costs, typically account for 20 to 35 percent of total development costs.)
- **Delay** is estimated to account for 0.5 percent of total development costs based on typical construction timelines and loan terms combined with survey results regarding the typical timing associated with various stages of development.¹⁷⁸
- **Standards-related costs**, including development requirements beyond the ordinary, the cost of land dedications, changes to building codes, and complying with labor regulations were estimated to total 21.5 percent of development costs, with building code changes representing the largest share of these costs.¹⁷⁹

The study also estimated cost impacts associated with inclusionary zoning/affordable housing requirements, but it is unclear whether this reflects fee-in-lieu costs or other costs associated with these programs.

¹⁷⁶ Paul Emrath and Caitlin Sugrue Walter. Regulation: 40.6 Percent of the Cost of Multifamily Development. NAHB and NMHC. June 8, 2022. <https://www.nmhc.org/globalassets/research--insight/research-reports/cost-of-regulations/2022-nahb-nmhc-cost-of-regulations-report.pdf>.

¹⁷⁷ *Ibid.*

¹⁷⁸ *Ibid.*

¹⁷⁹ *Ibid.*

Prevailing Wage

Governments can require its contractors and grant awardees to satisfy certain labor standards and wage requirements. U.S. Department of Labor determines federal prevailing wage rates and Oregon Bureau of Labor and Industries determines Oregon's prevailing wage rates.

Estimates of the cost impact of prevailing wage requirements have largely focused on affordable housing development. Some affordable housing developments are subject to prevailing wage requirements while others are not, as described in the excerpt below. According to a 2015 study by the Meyer Memorial Trust:

Work Group experts generally agreed that meeting BOLI requirements added about 10 percent to the hard costs of a project. However, in the case of a mixed-use project including ground floor commercial uses, BOLI typically holds the entire project to the significantly higher commercial BOLI wages (in effect, treating a three-story stick-built apartment building the same as a high-rise office building made of steel and concrete). Commercial BOLI rates can add as much as 20 percent to construction costs over a non-prevailing wage project.¹⁸⁰

An academic study from 2005 found that prevailing wage requirements increase the costs of constructing affordable housing by 9 to 37 percent.¹⁸¹ Even if these cost increases are only on the construction "hard costs," they may exceed the cost impacts associated with SDCs in cases where prevailing wage requirements apply.

Study of Cost Savings From Regulatory Changes

In an analysis for the City of Seattle, ECONorthwest developed a model that showed sensitivity of housing affordability to various regulatory changes, including reducing permitting time, removing a retail frontage requirement. The study estimated that reducing permitting time from 24 to 12 months for multifamily development and from 18 to 9 months for townhouse development could reduce the rents and sales prices required to make development feasible by roughly 4 to 6 percent. It also showed potential for roughly a 1 percent reduction in rents and sales prices from removing a ground-floor retail requirement. The study also considered changes to impact fees and suggested that substantial reductions to permitting time could have a greater impact than a \$4,700 to \$6,000 difference in impact fees.¹⁸²

Comparison to SDCs

While the available data is limited and the cost impacts are harder to accurately measure, these studies suggest that other permitting and compliance costs (e.g., fees, inspections, cost to prepare applications, etc.) and certain development or labor regulations (e.g., prevailing wage requirements) can impact total development costs by a similar order of magnitude as SDC costs,

¹⁸⁰ Meyer Memorial Trust, *The Cost of Affordable Housing Development in Oregon*, Executive Summary, October 2015, page 20.

¹⁸¹ Sarah Dunn, John M. Quigley, and Larry A. Rosenthal. (2005) "The Effects of Prevailing Wage Requirements on the Cost of Low-Income Housing." *ILR Review*, 59(1), 141-157.

¹⁸² *Seattle Affordable Middle-Income Housing Advisory Council: Policy Recommendations to Mayor Jenny A. Durkan*, January 2020. Analysis by ECONorthwest.

and that permitting speed can affect total costs, though the magnitude may be less or more than the impact of SDCs.

Construction Excise Tax

Jurisdictions in Oregon are allowed to assess a Construction Excise Tax (CET) on new residential and non-residential developments as a means of funding affordable housing strategies. Though a variety of CETs exist, a CET can be imposed at no greater than 1 percent of a building's permit value for residential development. Permit value is typically an approximation of construction hard costs and much less than the total development costs. Therefore, CETs make up less than 1 percent of total development costs for residential developments in jurisdictions that elect to adopt a CET, which will generally be less than the impact of SDCs.

Utility Rates

Unlike the other cost factors identified in the legislative directive for this study, utility rates do not affect the cost of housing development. Instead, they affect households' on-going monthly costs. Thus, while both SDCs and utility rates are related to funding for infrastructure and to broader affordability concerns, their impacts are observed in different ways. Utility costs are generally paid by residents directly (except in some cases with apartments that have shared meters, where water costs are included in rent). SDCs are generally not paid by residents directly and have more nuanced impacts on housing production and affordability including how much new housing gets built, where it gets built, and what sizes/types of housing the market can deliver.

Typical utility costs and the share that is attributable to capital improvement costs are discussed in Section 2.1.4, and affordability impacts of utility cost increases are discussed in Section 2.2.4.

A 2021 survey of local jurisdictions by LOC offers a summary of the size of some utility rates and how they vary across the state. Survey responses from 105 jurisdictions show that monthly water and wastewater utility bills¹⁸³ can add up to between \$65.89 and \$129.39, with the average at \$99.32. Utility rates vary less by region than SDCs do, and they do not follow the same geographic patterns (see Section 3.1.1). The estimated utility bills in the survey data are higher for coastal regions, for example, than they are for the Portland metropolitan area. In contrast, the highest SDCs are generally observed in the Portland metropolitan area.¹⁸⁴

Over 20 years, water and wastewater utility bills can add up to about \$17,000 to \$33,000 in today's dollars, depending on the region.¹⁸⁵ These values are somewhat higher than the

¹⁸³ For a hypothetical customer who used 5,000 gallons (6.684 CCFs) of water and has a ¾" meter size.

¹⁸⁴ Aljets Consulting. *2021 Water Rates Survey Report*. December 2021. League of Oregon Cities.

¹⁸⁵ ECONorthwest calculated the present value using an assumed 5 percent annual inflation rate for utility expenses (based on information from Section 2.1.4) and a 4 percent discount rate to account for time value of money. For reference, the yield on U.S. 10 Year Treasury was about 3.8 percent and the yield on U.S. 20 Year Treasury was about 4.1 percent in the fall of 2022.

estimated median SDC amount (just over \$15,000), though the 20-year value of water and wastewater bills is not a perfect comparison to SDCs, and utility rates are largely covering the cost of operations, maintenance, and system modernization, as discussed in Section 2.1.4, which SDCs generally cannot pay for.

4.4 Impact of SDCs on Financial Feasibility of Market-Rate Residential Development

4.4.1 Testing Impacts Across the State

Approach

To understand the financial impact SDCs can have on development feasibility and the relationship between SDCs and development outcomes, ECONorthwest constructed pro forma models that are sensitive to change in input costs. A more detailed methodology is included in Appendix F.

The key measure of development financial feasibility used to demonstrate the marginal impact of SDCs is **expected returns** of for-profit developers of market-rate housing. (Impacts of SDCs on affordable housing developers are addressed in Section 5.2.2.) If a change in SDCs results in a decrease in the expected returns, developments are less likely to occur.

Although there are many methods to calculate and measure investor returns, the metric selected for this study is internal rate of return (IRR). IRR is a commonly used financial metric in the real estate industry to estimate the profitability of real estate investments. Although expected IRR can vary based on the type of development, location, market contexts, and investor-specific considerations, it is typically between 15 percent and 25 percent. Therefore, a one percentage point change in IRR may be within a margin of error and not impact development decisions, but a change of five percentage points is likely to have an impact.

As noted above, the impact of SDCs on housing can vary across geographic markets and housing types in Oregon. To isolate the potential impact of SDCs on housing development feasibility, ECONorthwest used a pro forma analysis that reflects market and cost differences across the state, using seven market context areas discussed in Section 4.3.2, beginning on page 80. The analysis measured the marginal impact of higher vs. lower SDC amounts on financial feasibility, based on the sensitivity of developers' expected returns to changes in SDCs. (More detail on the analysis is discussed in Appendix F.)

Findings

Although specific site or economic conditions will influence development outcomes for any given development, the analysis suggests some generalizable takeaways.

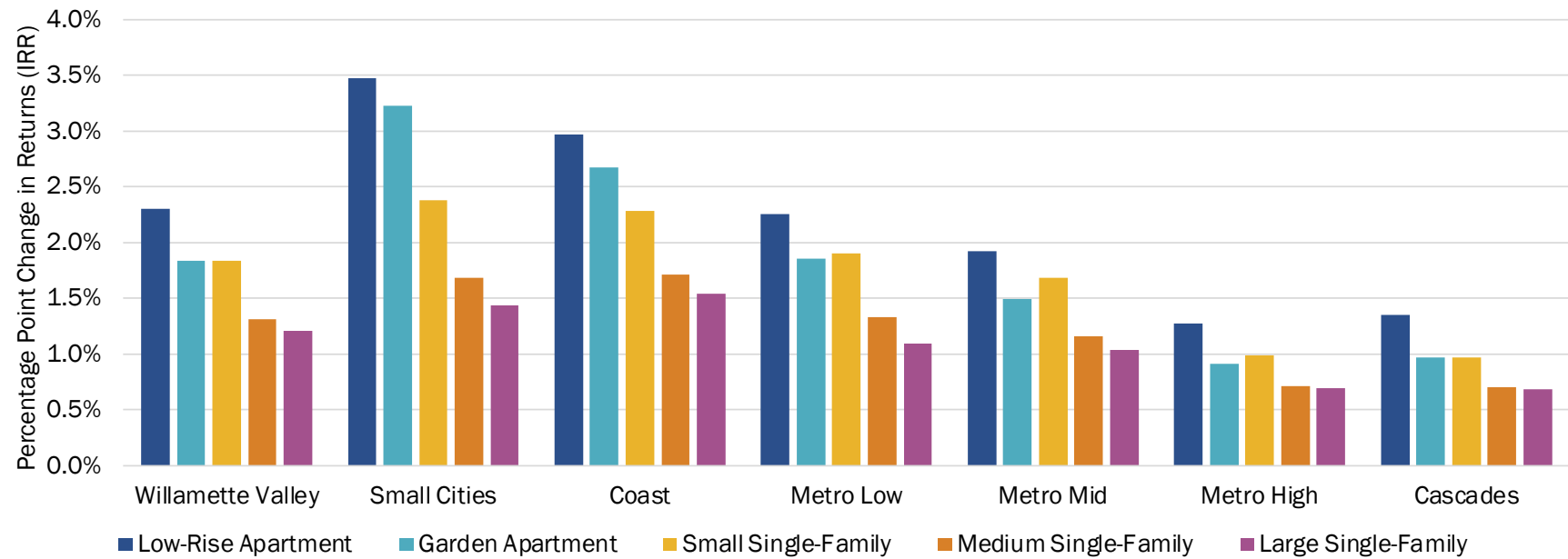
- The marginal impact of SDCs on development feasibility is greater for lower-cost and higher-density housing developments. Because SDCs often make up a greater portion of total development costs in a housing development that is less costly to build on a per-unit basis, a fixed change in SDCs has a greater marginal impact on lower-cost (and higher-density) housing types. This relationship is generally true across markets. For example:

- A \$10,000 change in fee would have a greater marginal impact on the financial feasibility of Small Single-Family housing than on Large Single-Family housing (see Exhibit 43).
- A \$6,600 change in fee would have a greater marginal impact on the financial feasibility of Low-Rise Apartment housing than on Garden Apartment housing (see Exhibit 43).
- Similarly, the marginal impact of SDCs is greater in markets where it is less costly to build. Because a fixed SDC amount makes up a greater portion of total development costs in markets with lower land costs, a change in SDCs has a greater marginal impact on the types of housing markets can deliver in markets with lower costs for land and construction.
 - For example, a \$10,000 change in fee for a single-family unit would have a greater marginal impact on financial feasibility in a small city outside a metropolitan area than inside a metropolitan area where land and housing prices are relatively expensive (see Exhibit 44).

A key limitation of the results shown in Exhibit 43 and Exhibit 44 is the simplifying assumption that SDCs could vary by the same amount across all market context areas. While the assumption is useful for demonstrating the directional relationship between SDCs and development feasibility, it does not account for the fact that SDCs vary widely across markets. For simplicity, the analysis uses a constant amount of change in SDCs across all market areas.

Exhibit 43. Marginal Impact of Change in SDCs on Development Feasibility by Housing Type and Market Context Area

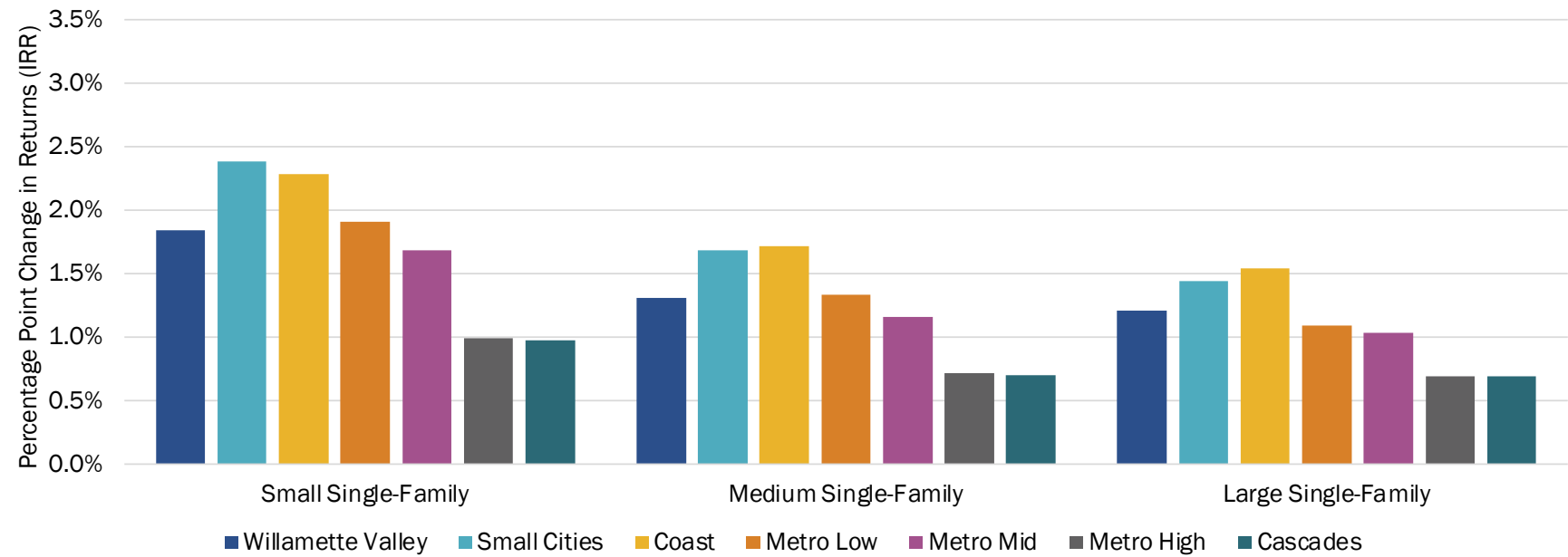
Source: ECONorthwest



Note: A \$10,000 change is modeled for single-family housing types. A \$6,600 change is modeled for apartment housing types. Section 1.4.1 explains multifamily SDCs are about 66 percent of single-family SDCs, on average.

Exhibit 44. Marginal Impact of \$10,000 Change in SDCs on Single-Family Development Feasibility by Unit Size and Market Context Area

Source: ECONorthwest



4.4.2 Findings From Developer Interviews

The patterns noted above are generally consistent with findings from developer interviews.

- In some cases, SDCs are enough to make a project infeasible, especially for very cost sensitive housing types. Entry-level homes are cost-sensitive, including middle housing. Attached product can sometimes cost more to build than a single-family home and often sells for less relative to a detached house. Multifamily can also be affected by high SDCs if they are disproportionate to other costs.
- When SDCs are low compared to other costs, they have little impact on development feasibility.

SDCs are not typically an important factor for high end housing types, such as custom homes, because they represent a small portion of the cost, and high-income/wealthy buyers tend not to be cost-sensitive.

4.5 Relationship Between SDCs and Home Prices

This section summarizes various sources of data and research regarding the relationship between SDCs and home prices, including peer reviewed literature, Oregon-specific case studies, and data on home prices compared to SDCs in communities across the state.

4.5.1 Evidence From Empirical Literature

Overview and Limitations

The effect of impact fees on various housing market outcomes has been analyzed empirically in numerous studies within the context of specific cities and states in the U.S. However, findings from the empirical research should be interpreted carefully for a few reasons:

- Although the empirical research utilized commonly used statistical models to understand the relationship between impact fees and cost incidence, they failed to establish a definitive causal relationship. Observed changes in prices or housing production in places with impact fees could be due to the impact fees increasing housing costs or other reasons, including reduced production of new entry-level homes, lower overall housing production, a higher level of amenities and services in places with higher SDCs, a greater willingness to impose high impact fees in places with strong housing markets, or other factors. Thus, the results of the studies mentioned are interpreted as correlations rather than definitively establishing causal relationships.
- None of the studies were conducted in Oregon, which has a unique growth management planning system that affects housing markets. While some places included in the research could resemble a city in Oregon, there is no generalizable takeaway from the empirical studies that would be applicable across Oregon.
- There are many variations in the outcome variables of the empirical research. While all studies on housing prices looked at the prices for newly constructed, single-family units, some also included the data for existing units or multifamily units. Other studies looked instead at land prices, which could be differentiated as either undeveloped (vacant) land or developed land. The applicability of each research's findings depends on the data that is used.

Summary of Studies, Approach, and Findings

Exhibit 45 is a summary of key information presented in academic research that studied the relationship between impact fees and the housing market. A more detailed summary is available in Appendix G. The 15 summarized studies provide a snapshot of the existing range of research that exists, but they are not a comprehensive list of impact fee studies. The key takeaways are:

- Most studies measured the relationship between impact fees and housing prices (for new homes only or for all homes in an area). These studies consistently found higher home prices in areas with impact fees. The differential in housing prices ranged from 25 percent to 300 percent of the value of the impact fee.
- A few studies analyzed the relationship between impact fees and land prices. While the economic theory discussed in Section 4.2.2 suggests that land prices should be lower in areas with impact fees, studies were mixed on this point.
- A few studies analyzed the relationship between impact fees and housing production. Most of these observed a negative relationship—higher impact fees were associated with less housing production—although one found the opposite.
- More recent studies that attempted to distinguish the effects of different types of impact fees found that not all impact fees have the same effect.
- There are no studies that measured the potential effect of removing impact fees, providing no direct evidence to suggest taking away existing impact fees could reduce housing prices.

Exhibit 45. Summary of Empirical Studies on Impact Fees

Source: ECONorthwest

Author(s) (Publication Year)	Observed Relationship to Housing Prices	Observed Relationship to Housing Production	Observed Relationship to Land Values
Delaney and Smith (1989)	(+)	N/A	N/A
Singell and Lillydahl (1990)	(+)	N/A	N/A
Skaburskis and Qadeer (1992)	N/A	N/A	(+)
Dresch and Sheffrin (1997)	(+)	N/A	N/A
Skidmore and Peddle (1998)	N/A	(-)	N/A
Baden and Coursey (1999)	(+)	N/A	N/A
Mayer and Somerville (2000)	N/A	(-)	N/A
Mathur, Waddell, and Blanco (2004)	(+)	N/A	N/A
Ihlanfeldt and Shaughnessy (2004)	(+)	N/A	(-)
Evans-Cowley, Forget, and Rutherford (2005)	N/A	N/A	(+)
Burge and Ihlanfeldt (2006)	N/A	(+)	N/A
Mathur (2013)	(+)	N/A	N/A
Burge (2014)	N/A	N/A	(-)
Bae, Kwon, Coutts, Park, and Feiock (2015)	N/A	N/A	(+)

Key: (+) = Positive correlation between impact fees and the variable in question; (-) = Negative correlation between impact fees and the variable in question. N/A = variable not addressed in study in question.

While none of the studies can clearly establish causality, some authors assert that the observed relationship between impact fees and housing prices primarily reflects the value of the infrastructure funded by the impact fees: that the higher prices of new housing reflect the desirability of the newly built infrastructure, rather than the cost of it. They posit that the added cost of impact fees can be counterbalanced by the positive effect they have on infrastructure services.^{186, 187} The added benefits are reflected in higher housing values through an economic concept called “capitalization.”^{188, 189} Thus, according to the view of capitalization theory, the higher housing prices of dwellings with SDCs reflect a properly functioning economic market in which the long-term benefits of impact fees are measured in today’s market prices.

Other studies focus more on costs being passed on to housing consumers, either directly or indirectly.

4.5.2 Oregon Case Studies and Data

To evaluate whether the relationship observed consistently in the literature—showing higher housing prices in areas with impact fees—holds in Oregon, ECONorthwest analyzed available statewide data (at a simplified level) and more detailed data from two case studies. The first case study compared trends in housing prices to trends in SDC fees in one community. The second case study compared housing prices in similar areas but with different SDC rates. These analyses are current and Oregon-specific, but they do not control for all variables that could affect housing prices and they cannot establish causation.

SDC Rates vs. Average Housing Values by Community

ECONorthwest compared single-family SDC rates from the 2022 SDC rate data collected by FCS GROUP to June 2022 single-family housing values from Zillow. The simplified approach did not include other variables that could relate to SDC rates and/or housing values, such as population, population growth rate, infrastructure quality, access to jobs or amenities, buildable land supply, political attitudes towards growth, and other development costs. Moreover, the housing value data includes all single-family units, so the data do not specifically identify a relationship between SDCs and prices of *new* housing.

Exhibit 46 shows that higher SDCs tend to be associated with higher average housing values. The relationship has a moderate correlation (R-squared of 0.3309), without controlling for other variables. The observed correlation does not indicate causality. The relationship could reflect

¹⁸⁶ Arthur C. Nelson and Mitch Moody. 2003. *Paying for Prosperity: Impact Fees and Job Growth*. Brookings Institution Center on Urban and Metropolitan Policy.

¹⁸⁷ Vicki Been. 2004. “Impact Fees and Housing Affordability.” *Cityscape: A Journal of Policy Development and Research*, 8(1): 139.

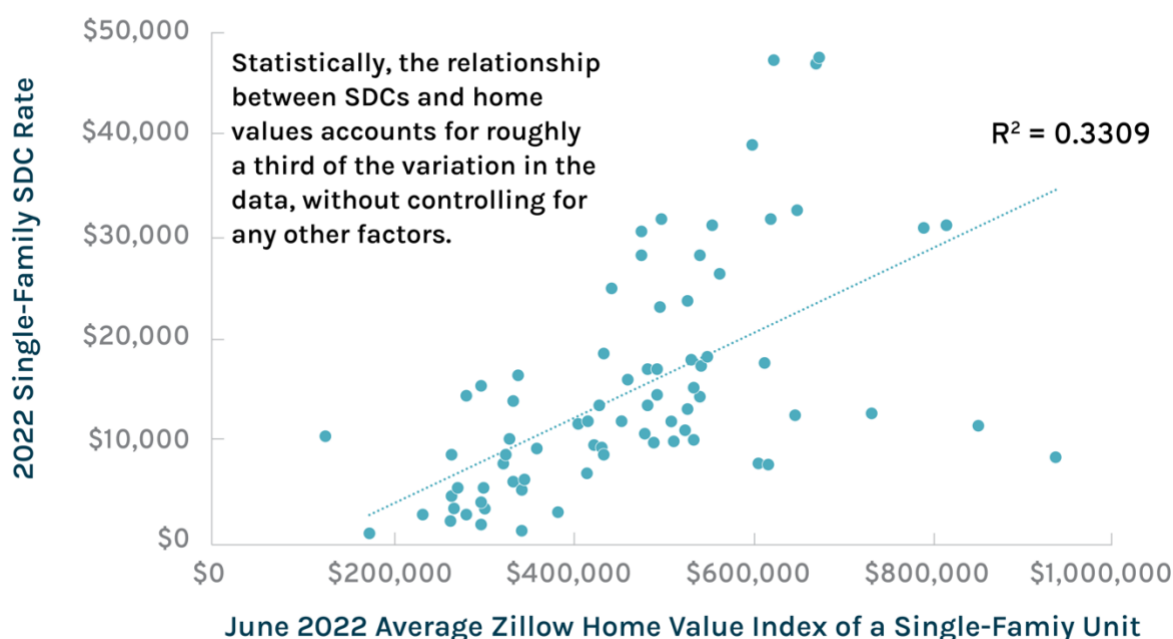
¹⁸⁸ John Yinger. 1998. “The Incidence of Development Fees and Special Assessments.” *National Tax Journal*, 51(1): 23-41.

¹⁸⁹ Jennifer S. Evans-Cowley and Larry L. Lawhon. 2003. “The Effects of Impact Fees on the Price of Housing and Land: A Literature Review.” *Journal of Planning Literature*, 17: 351-359.

the impact of SDCs on housing development costs and development feasibility. It could also reflect (a) a greater willingness to impose higher SDCs in areas with higher housing prices and stronger housing markets, (b) higher infrastructure quality driving both higher SDCs and higher housing values, or (c) other factors at play that happen to be related to both SDCs and housing prices (e.g., higher land and construction costs). The relationship appears to be stronger in areas with low and moderate housing values, and weaker in areas with high home values — there is a much greater range of SDC rates in communities with average housing values above roughly \$600,000 compared to the range for communities with lower housing values.

Exhibit 46. SDCs and Estimated Housing Values in Selected Oregon Cities

Source: ECONorthwest using data from FCS GROUP and Zillow Home Value Index (ZHVI) of Single-Family Units



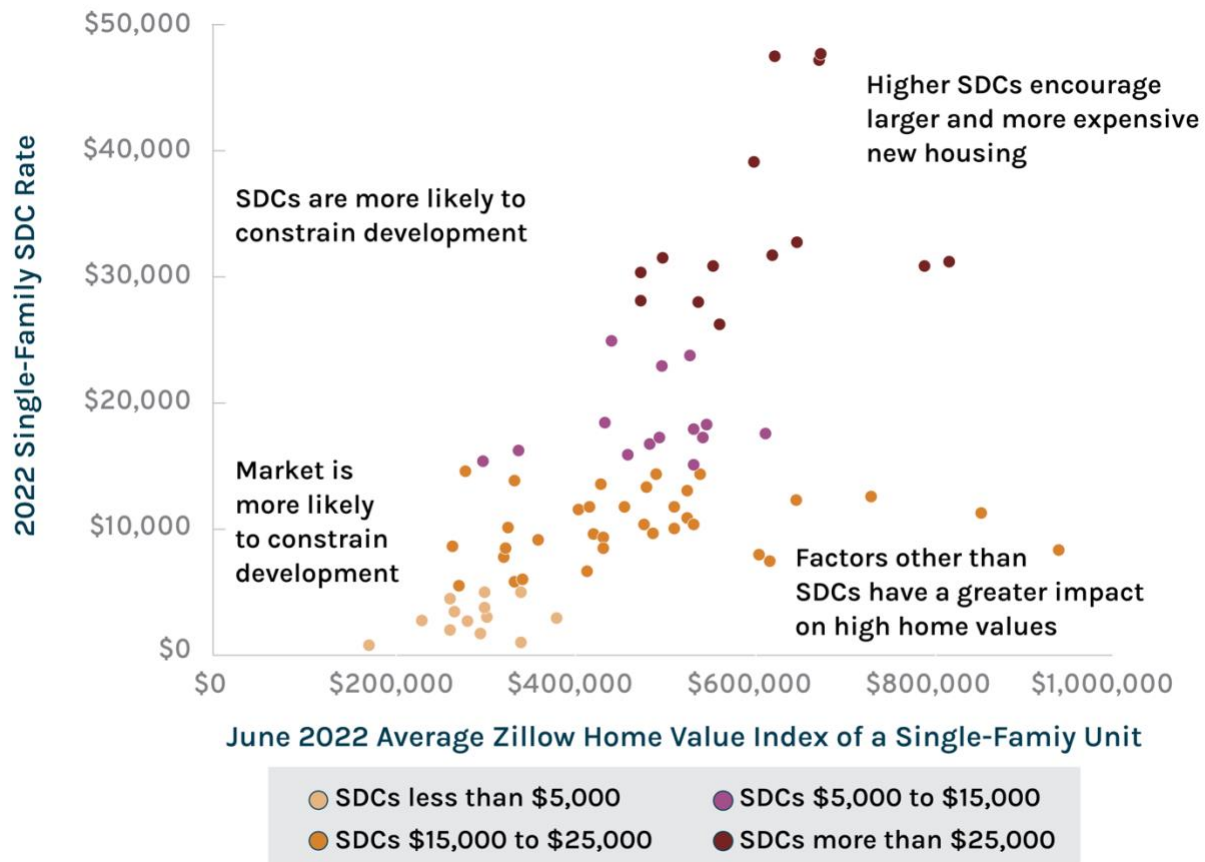
The data comparing SDC rates and housing values in Oregon also suggests implications for how SDCs may affect housing development. ECONorthwest's analyses in Section 4.3.4 and developer input suggest that SDCs may have different impacts for communities that fall on different parts of this chart. As illustrated in Exhibit 47:

- Communities with below-average home values and average to above-average SDC rates could see greater impacts of SDCs on development potential. There appear to be only a few communities among the sample set where this could be a concern.
- Communities with above-average home values and above-average SDCs may not be inhibiting all housing development, but may be exacerbating challenges for lower-cost housing, particularly in places where SDCs are the highest. These areas could also potentially see a greater share of SDC costs passed through to homebuyers given the strength of the market demand.

- In communities with above-average home values and below-average SDCs, SDCs are probably not a major factor driving home values, and lower SDCs may not translate to lower home prices.
- In communities with below-average home values and below-average SDCs, SDCs may not be enough to substantially impact development feasibility, and market conditions may make development challenging with or without SDCs.

Exhibit 47. SDCs and Estimated Housing Value in Oregon Cities, By SDC Level

Source: ECONorthwest using data from FCS GROUP and Zillow Home Value Index (ZHVI) of Single-Family Units



Case Study: Trends in SDCs and Sales Prices in Bend, Oregon

To observe the potential relationship between SDCs and sales prices in Bend, Oregon, ECONorthwest compiled data from various sources. Data from 2005 to 2019 comes from previous work by Oregon's Office of Economic Analysis to compare Bend's Parks SDC rate and total SDCs to typical prices of new construction units. ECONorthwest updated the data for more recent years.

As shown in Exhibit 48, the total SDC in FY 2022 is about 220 percent higher than the level in FY 2005. During the same time, housing prices increased by about 190 percent.

However, and more importantly, the rate of change is different. The total SDC increased every year, but it increased faster before FY 2010 and after FY 2018. In contrast, the median housing

price in Bend is more cyclical and experiences greater swings. It increased at an even greater pace than SDCs in FY 2006 and FY 2007, dipped for almost six years, recovered for seven years, and then experienced a very large increase since FY 2020. The comparison shows housing prices are more volatile and likely to be influenced by many other factors beyond SDCs.

Exhibit 48. Percent Change in Single-Family SDCs and Median Housing Price in Bend, Oregon, Since Fiscal Year 2005

Source: ECONorthwest using data from Oregon Office of Economic Analysis, Central Oregon Association of Realtors, City of Bend

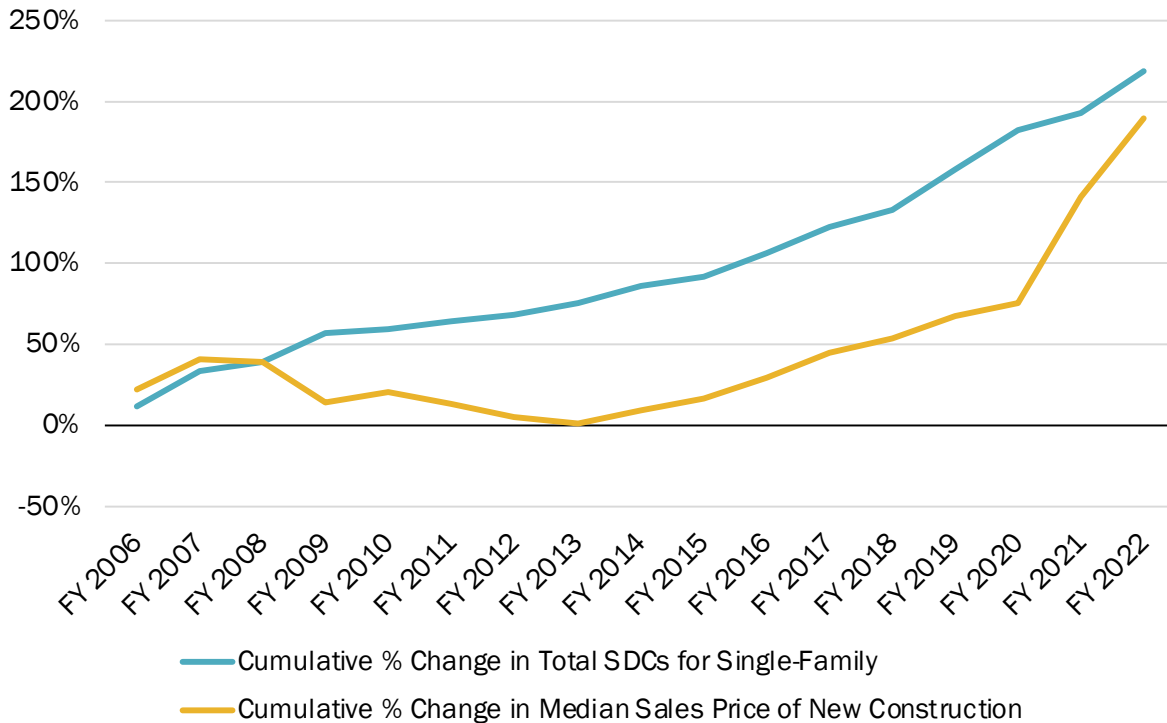
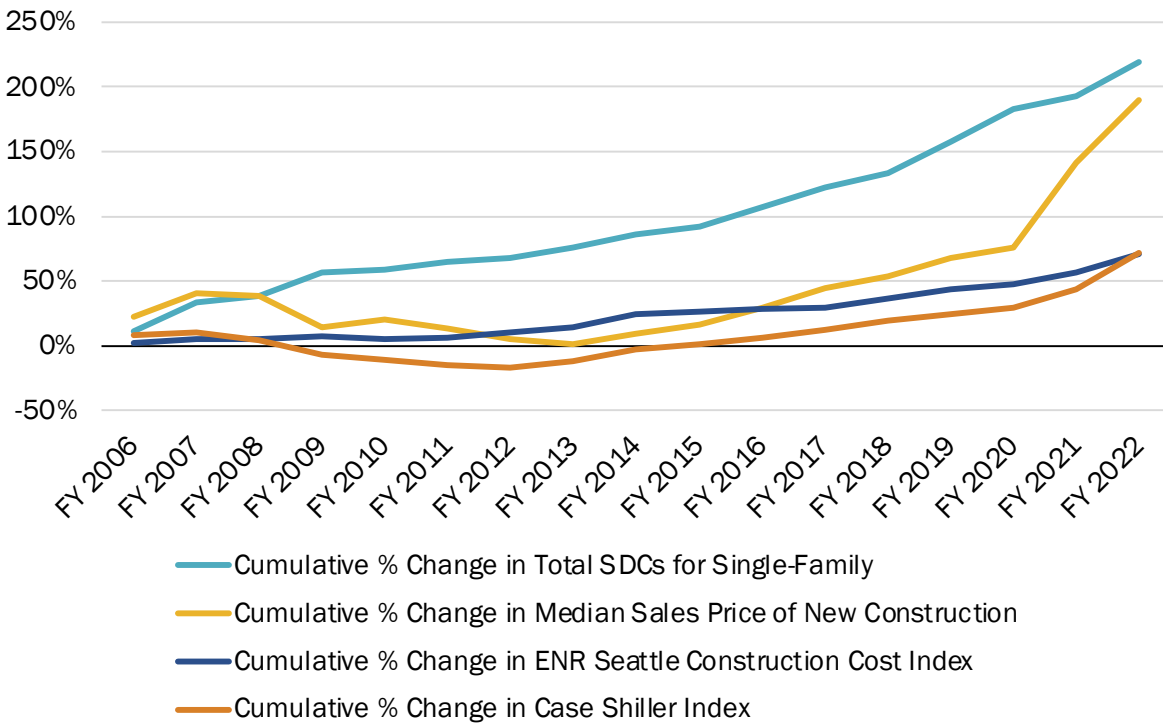


Exhibit 49. Percent Change in Bend Single-Family SDCs, Bend Median Housing Price, ENR Construction Cost Index, and Case-Shiller Index Since Fiscal Year 2005

Source: ECONorthwest using data from Oregon Office of Economic Analysis, Central Oregon Association of Realtors, City of Bend, Engineering News-Record, Federal Reserve Bank of St. Louis



Bend's SDCs and median sales prices are more likely to be driven by regional or national factors. Exhibit 49 shows Engineering News-Record (ENR) Construction Cost Index for Seattle¹⁹⁰ has a closer trend to Bend's SDCs than the median sales price does; the SDCs and the ENR Seattle Construction Cost Index move steadily upward without falling. It also shows that the Case Shiller Index, a national benchmark for single-family housing prices, has a closer trend to the median sales price than the SDCs do; the median sales price and the Case Shiller Index fall from FY 2008 to FY 2012 before starting to recover.

The correlation coefficient between SDCs and median sales prices in Bend is 0.82. In contrast, the correlation coefficient between SDCs and the ENR Seattle Construction Cost Index (CCI) is 0.98 (likely due to use of ENR CCI data for 20-cities to index SDC rates), and the correlation coefficient between Bend new construction home prices and the Case Shiller Index is 0.96. This suggests that within a given jurisdiction, home price trends are affected much more by broad housing market trends than by changes in SDC rates.

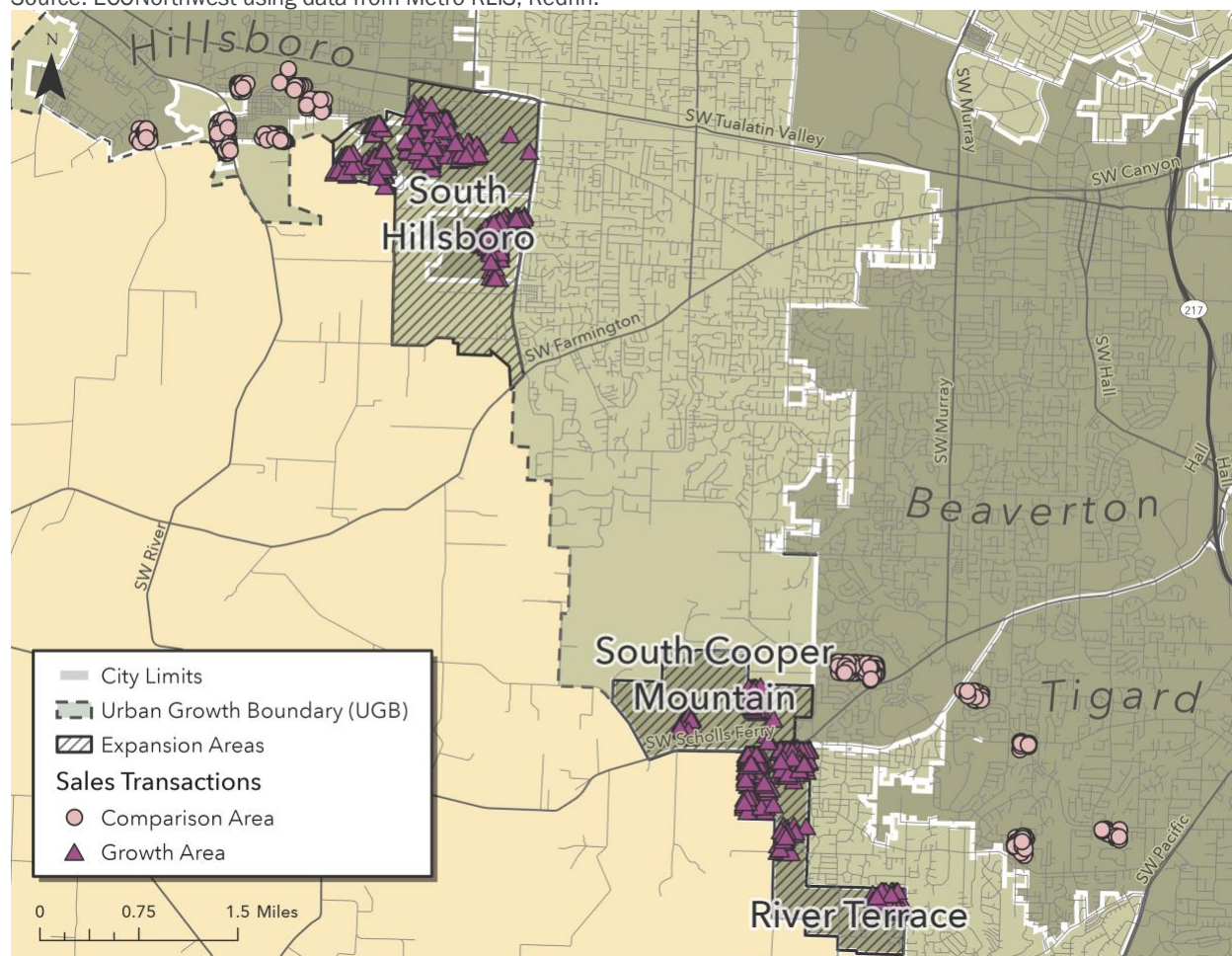
¹⁹⁰ Seattle is the closest city to Oregon in the markets tracked by ENR.

Case Study: SDCs vs. Home Prices in Planned Developments in Oregon

ECONorthwest identified several recent developments in Washington County that provide an opportunity to examine an example of the relationship between SDCs and housing prices at a more granular level. Each development faced different SDC costs, but all compete within the same subregional housing market. This analysis considered three areas that were recently brought into the Portland Metro urban growth boundary (UGB): South Cooper Mountain in the City of Beaverton, South Hillsboro in the City of Hillsboro, and River Terrace in the City of Tigard. Within these areas, ECONorthwest collected data on sales transactions for newly built homes and SDC rates to analyze whether there is a relationship between the SDC rates and home prices. ECONorthwest also considered development in adjacent subdivisions that were not part of these growth areas but were in one of the three jurisdictions and the same subregional housing market. These “comparison” developments were built in a similar span of time to the development in the growth areas, which allows for a statistical analysis of the impact of SDC on development outcomes within a similar set of market conditions. Exhibit 50 shows the locations of the three study areas and the analyzed properties. Appendix H includes more detail on the three areas.

Exhibit 50. Washington County Urban Growth Areas and Housing Observations

Source: ECONorthwest using data from Metro RLIS, Redfin.



Each of the urban growth areas has both standard citywide SDCs and supplemental area-specific SDCs to support new infrastructure development needed for each growth area. Additionally, developments in all three jurisdictions are subject to SDCs for sanitary sewer and stormwater imposed by Clean Water Services (CWS) and SDCs for transportation imposed by Washington County. Exhibit 51 summarizes the SDCs applied to single-family construction in South Cooper Mountain, South Hillsboro, and River Terrace ("growth areas") and the standard citywide rates applicable to adjacent developments that are not part of the growth area. Appendix H includes more detail on the SDCs.

Exhibit 51. System Development Charges for Detached Single-Family Housing, 2021

Source: ECONorthwest using data from City of Beaverton, City of Hillsboro, City of Tigard, and Washington County.

	Beaverton		Hillsboro		Tigard	
	Standard	South Cooper Mountain	Standard	South Hillsboro	Standard	River Terrace
Total SDCs	\$37,940	\$46,767	\$33,905	\$53,030	\$43,809	\$47,640
Difference from standard SDCs for Growth Areas	--	+23%	--	+56%	--	+9%

As shown in Exhibit 51, Hillsboro's standard citywide SDCs are the lowest among the three studied areas (about \$34,000), but its supplemental SDCs are the largest (about \$19,000). In contrast, Tigard has the highest standard citywide charges (about \$44,000), but it has the lowest supplemental SDCs (about \$4,000). Note that the supplemental SDCs were largely used to distribute costs for area-specific facilities such as collector roads and local parks among property owners within the growth area. Developers who made the improvements generally received SDC credits for at least a share of those costs.

Using the data from sales transactions for new homes in these areas and the information on SDC rates, ECONorthwest constructed a linear regression model to test for a relationship between SDC rates and housing prices after controlling for other factors such as year built, year sold, home size, and lot size that are available in the sales transaction data or the tax lot data. (See Appendix H for methodology.)

The regression model showed that SDC rates are positively correlated with housing prices — that is to say, that higher housing prices were observed in places with higher SDCs — after controlling for building size, lot size, number of bedrooms and bathrooms, year built, and year sold. The model suggests that the observed difference in housing prices is greater than the difference in SDCs. Every \$10,000 in SDCs was associated with about \$7 greater per-square-foot price of newly built housing — about \$16,800 for a 2,400-square-foot single-family unit. This is illustrated graphically in Exhibit 52 for different SDC amounts. For example, when comparing a 2,400-square-foot single-family unit with SDCs that total \$35,000 to an identical unit with SDCs that total \$45,000, the \$10,000 difference in SDCs is associated with \$16,800 greater housing price.

Exhibit 52. Estimated Sale Prices of a Typical 2,400-Square-Foot Single-Family Housing Unit Associated with Varying SDC Levels

Source: ECONorthwest



There are several important limitations to keep in mind with this finding:

- A linear model was applied, but many of the underlying factors affecting price likely have nonlinear effects on housing prices. For example, an additional 100 square feet of living area is more valuable for a small home than a large one. More complex (but still imperfect) models attempt to capture more of this nonlinearity.
- Actual SDC rates paid for each unit are not known; instead, ECONorthwest estimated the likely SDC amounts associated with each unit based on the jurisdiction, whether it

was within a growth area with supplemental SDCs or not, and the year the home was built.¹⁹¹

- As noted previously, a positive correlation does not mean that higher SDCs **cause** higher home prices. There are several other possible explanations for this relationship, which are discussed below.
- Many of the factors that influence home prices are not captured in the available data (e.g., finish quality and design, neighborhood features, views, etc.). If these factors are also correlated with SDCs, the model would be over-estimating the relevance of SDCs by capturing the influence of some of these factors instead. An alternative regression model that compared home prices in the expansion areas to those in the comparison areas (without controlling for differences in SDCs) showed a positive relationship between home prices and location in an expansion area, with a similar level of statistical reliability as the SDC model. (See Appendix H for details.) Developer interviews also suggest this could be a factor, as discussed below.

While this case study does not show why SDCs correlate with higher housing prices, the additional price effect beyond the amount of the SDCs themselves observed in this analysis could support the interpretation that higher SDCs can increase costs beyond the direct cost of the SDC itself. Financing costs are one possible explanation for this type of pattern, as discussed in Section 5.1.3.

Findings From Developer Interviews

Interviews with developers involved in one or more of these areas suggest that some growth areas needed more expensive amenities—from home features to streetscape materials and green space design—to appeal to buyers and capture much of the demand for housing in this part of the region at the higher prices that make development feasible. Adding value to the home with these amenities offsets higher development costs due to SDCs and other infrastructure/land development costs and may have contributed to a price premium beyond direct SDC costs.

Developers were also heavily involved in creating the infrastructure funding plans for each of the growth areas. This allowed them to influence the supplemental SDC rates (to some extent) and to anticipate in advance of development what the total SDC costs might be. Because the amount of new infrastructure needed often makes land development in a new growth area expensive, developers may have known early on that housing in these areas would need to command some premium compared to other areas with lower infrastructure needs. This would suggest that the total amount of infrastructure needed along with the need to capture substantial demand from higher-income households may have driven a difference in housing prices.

¹⁹¹ SDCs paid at time of development were estimated by adjusting FY 2021 rates to the year before the unit was completed, using the *Engineering News-Record's* Construction Cost Index for Seattle. This index is the method each of these Washington County jurisdictions uses to adjust their SDC rates each year.

Part 5: SDC Administrative Policy Implications

Primary Contributors: Galardi Rothstein Group, ECONorthwest

5.1 Timing of SDC Assessment and Collection

5.1.1 Requirements and Current Practices

Issues related to timing include both the timing of the initial fee determination or assessment and collection of payment. In some cases, fee assessment and collection occur at the same time; however, collection policies may provide for deferral of payment to a later point in the development process or financing the SDCs over a period of time.

Statutory Requirements

As part of the definition of an SDC, ORS 223.299(4)(a) provides that SDCs must be “assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit, building permit or connection to the capital improvement.” This provision implies ten distinct options for the timing of the assessment and collection of SDCs, as shown in Exhibit 53. Taken together, the statutes provide a high degree of flexibility for local governments to choose the timing for assessing and collecting SDCs.

Exhibit 53. Timing Options, Earliest to Latest

Source: FCS GROUP, based on ORS 223.299(4)(a)

Option	Assess	Collect
1	Issuance of development permit	Issuance of development permit
2	Issuance of development permit	Issuance of building permit
3	Issuance of building permit	Issuance of building permit
4	Issuance of development permit	Connection to the capital improvement
5	Issuance of building permit	Connection to the capital improvement
6	Connection to the capital improvement	Connection to the capital improvement
7	Issuance of development permit	Increased usage of a capital improvement
8	Issuance of building permit	Increased usage of a capital improvement
9	Connection to the capital improvement	Increased usage of a capital improvement
10	Increased usage of a capital improvement	Increased usage of a capital improvement

Notes: Reference to “increased usage of a capital improvement” is assumed to occur at occupancy.

Oregon Revised Statutes 223.208 also authorizes (but does not compel) local governments to provide financing of SDCs under the provisions of the Bancroft Bonding Act. These provisions allow local governments to provide loan-like financing of SDCs. Provider financing programs vary in terms of the type of development eligible, maximum financing term, interest rates charged, and program application fees and other requirements.

Survey Responses and Testimony

As part of its most recent survey on SDCs, LOC asked its members to provide information on any policies or practices related to “timing or payment accommodations.” Exhibit 54 summarizes cities’ responses.

Exhibit 54. Sample SDC Payment Timing Policies and Practices

Source: FCS GROUP, based on League of Oregon Cities, System Development Charges Survey Report (February 2020), pages 119-128.

City	SDC Payment Policy
Cornelius	SDC payments “delayed until a later date, such as the time of occupancy.”
Forest Grove	“Payments delayed have been for non-profit housing developments to allow the project to occur. Delayed payments are due prior to the issuance of certificate of occupancy.”
Lafayette	“Allowed a payment plan for SDCs as required by statute.”
Madras	“We will allow deferrals on payments up to 9 months or Certificate of Occupancy (whichever comes first).”
Medford	SDC payments “delayed until a later date, such as the time of occupancy.” A payment plan (“called bancrofting”) is also available.
Milwaukie	“Bancroft financing over a ten-year period or less.”
Newport	“Installment plan is an option to allow payment to be financed over time.”
Pendleton	SDC payments “delayed until a later date, such as the time of occupancy.”
Redmond	“Delaying collection of SDCs to occupancy” is available in enterprise zones.
Sherwood	SDCs can be deferred to occupancy if the transportation and/or parks SDC is greater than \$50,000.
Veneta	SDC payments “delayed until a later date, such as the time of occupancy” for affordable housing.
West Linn	SDCs can be financed under the provisions of the Bancroft Bonding Act.
Wilsonville	SDC payments “delayed until a later date, such as the time of occupancy.”
Winston	SDCs can be financed over ten years with semi-annual payments.

In some cases, payment accommodations vary based on the type of development (for example, multifamily and affordable housing).

5.1.2 Timing Implications for Service Providers

Much of the written testimony provided on House Bill 3040 responds specifically to the proposed amendments that related to the timing of SDC payments. Many service providers raised concerns about an increase in administrative costs and increased risk of nonpayment. Some testimony points to particular concerns around the potential for deferring SDCs until time of sale rather than certificate of occupancy, because local governments are not involved in the sale transaction. (See Appendix I for a summary of relevant testimony.)

Focus groups echoed this. As noted in *Oregon SDC Study: Summary of Service Providers* (Appendix A), the effort (and cost) required to collect SDCs varies with the public agency’s leverage at different points in the development process. For most public agencies, their moment of maximum leverage is when building permits are issued. If full payment of SDCs is a requirement for obtaining building permits, the public agency need not worry about enforcing payment, because developers are unlikely to begin work before building permits have been issued. While development is required to obtain a certificate of occupancy when the building is constructed prior to its use, some service providers expressed concern that the public agency’s leverage is greatly reduced at this stage, out of concern that some developers may forego the certificate of occupancy in order to avoid the fee. Other service providers noted that they make scheduling a final inspection contingent on the SDCs being paid, which has avoided these issues.

Based on follow-up correspondence with several jurisdictions that offer (or previously offered) deferral to certificate of occupancy, deferral programs have had mixed results in different communities. All noted an increase in administrative effort, but the magnitude ranged from less than an hour of staff time per application to multiple hours for multiple staff, depending on permitting systems and deferral program requirements. The most challenging non-payment issues reported were linked to commercial development, though some reported needing to follow up with residential developers when payment was due (e.g., if there was a time limit on the deferral in addition to a trigger at certificate of occupancy). Several reported little use of the program, while others see (or saw) substantial usage.

Some service providers are also concerned about the timing of revenues relative to the need for expenditures. In many cases, infrastructure needs to be constructed and land acquired in advance of when service to new development will be required. Delay in collection of SDC payments to later in the process may impact service levels or require other upfront funding sources. Focus groups with service providers suggest that the importance of timing of SDC collection varies among service providers. Some types of projects (e.g., park land acquisition in a new urban growth area) are highly sensitive to timing. Some agencies use SDC revenues to pay a portion of debt service on prior capital improvements and expend revenue quickly after it comes in. Others collect revenue for several years prior to funding projects and are less impacted by collecting funds later. Several service providers noted that the uncertainty inherent in SDC collections means that they cannot rely too heavily on revenue they have not yet collected, regardless of when the fees are collected during the development process.

Public agencies can also maximize interest earnings (to be used for future project costs) and minimize additional administrative costs by collecting SDCs early in the process. However, the financial value of the added interest earnings may be inconsequential. Although SDC revenues can be (and often are) used to help make debt payments, those payments must be made regardless of SDC revenue, so there is no change in interest payments or earnings based on when SDCs are received. However, for communities that are using SDC revenues for pay-as-you-go projects, there could be short-term interest earnings. Assuming an annual interest rate of 3 to 4 percent in a money market account, the financial impact of deferring by 2 years would be roughly 6 to 8 percent of the SDC amount.

5.1.3 Timing Implications for Developers

When a developer must pay SDCs can impact financial feasibility, because SDCs add costs before the value of the development is fully realized. The earlier that SDCs are paid, the longer the developer must “carry” the costs. The total cost of SDCs to developers includes not only the SDC amount but also the added interest payments associated with it if it needs to be financed over the construction period.

The size of the “carrying cost” of SDCs depends on loan terms and the duration of the development. For a construction loan, which is taken out prior to the construction of the project and paid back, refinanced, or converted to a long-term (“permanent”) loan after construction is

completed, interest rates are typically higher than they are for permanent loans on completed buildings, because there is less collateral to secure a loan.

The carrying cost can be calculated as the compounded interest rate on a loan. Although the carrying costs can vary based on specific project or developer characteristics and financing opportunities, typical rates range from 8-10 percent and the construction loan can last for 1 to 3 years. For example, if a construction loan has an annual interest rate of 8 percent and the loan is borrowed for 2 years of construction period, the monthly compounded interest cost is 16.64 percent of the SDC amount. If the entire SDC amount is financed, the total cost of SDCs to the developer would be 116.64 percent of the SDC amount. The interest cost would rise to 21.00 percent if the annual interest rate is 10 percent (for 2 years), and it would rise to 25.97 percent if the loan period is 3 years (at an 8 percent interest rate).

A delayed or deferred payment of SDCs would reduce the carrying costs and reduce the total cost of housing development at the margin. The likely impact is greater for projects that take longer to build and greater for developers that are less creditworthy and would borrow at a higher interest rate.

For developers who opt to pay SDCs from working capital rather than adding them to the construction loan, developer interviews suggest that there is still an opportunity cost associated with tying up the developer's available funds. Some suggested that this up-front cost means less money is available to pay for other pre-development and early construction costs that can accelerate project delivery.

While many developers pointed to timing of SDC payment as a factor that impacts their developments, others expressed indifference at when the cost is paid and whether it is financed, given that the construction loan is generally capped at a fixed percentage of total project costs, and the same amount will need to be financed either way.

5.2 SDC Exemptions and Waivers

5.2.1 Requirements and Current Practices

SDCs may be exempted for certain developments or redevelopment in cases where system impact is deemed negligible (in some cases of redevelopment or for specific development types). Exemptions or waivers may also be provided because of local policy objectives.

Exemptions Based on Negligible Impact

Redevelopment is generally exempt from SDCs unless the new use is estimated to place greater demand on the infrastructure system. System-specific exemptions may include:

- Parks – hospice or other end of life care facilities
- Water and sewer – ADUs that do not require an additional water meter

Exemptions or Waivers Based on Policy Objectives

Waivers (permanent or temporary) and exemptions have also been implemented by some local governments for developments like childcare facilities, ADUs, and economic development projects that are in enterprise zones or meet a target level of new job creation. Some communities also offer exemptions or waivers for affordable housing development, which are discussed in greater detail below.

Affordable Housing Exemptions or Waivers¹⁹²

There are differing views on the validity of SDC waivers or exemptions for any purpose that is unrelated to a reduced demand for system capacity. Some experts are of the opinion that it is inconsistent with ratemaking principles to grant SDC adjustments or exemptions for reasons that are not cost-based. Others point to modern rate-making principles that integrate affordability and equity considerations.¹⁹³ Oregon’s SDC Act does not explicitly address exemptions for affordable housing (or for any other class of development), as it says little about how SDCs should be calculated for specific developments (see Section 1.2.2). Other parts of state statute make clear that jurisdictions may offer whole or partial SDC waivers in exchange

¹⁹² Most communities that do not charge SDCs for affordable housing describe this as an “SDC Exemption”. Some make a distinction between “waivers” given on a case-by-case basis and “exemptions” that are set in policy. Others use these terms interchangeably. Throughout this document, when referring to programs that do not collect SDCs from affordable housing, both terms are used to mean policy-based exclusions that are applied consistently to all qualifying projects, unless a budgetary limit is set.

¹⁹³ See for example, “Affordability and Equity Considerations for Rate-Setting” (Eric Rothstein, Stacey Isaac Berahzer, Joe Crea, and Michael Matichich for *Journal AWWA*, September 2021) which argues that water, wastewater, and stormwater service providers have a social responsibility to ensure universal, affordable access to services, as part of their rate-setting framework.

for local affordability requirements,¹⁹⁴ but some experts recommend that agencies should “backfill” any foregone SDC revenue with resources external to the SDC fund to ensure the agency can complete necessary infrastructure projects and avoid compromising equitable share protection for other SDC payers. (Nationally, 14 of the 26 states that have explicit impact fee enabling statutes require impact fees to be waived for qualifying affordable housing developments. Five of these require fees to be paid from an unrelated funding source; nine enable—and require—waivers without making up the lost revenue.¹⁹⁵) A Construction Excise Tax (CET) is one option available to local governments to backfill lost SDC revenue from exemptions for affordable housing.¹⁹⁶

Oregon communities that offer SDC exemptions for affordable housing include Portland, Bend, Tigard, Eugene, Salem, Lake Oswego, Ashland, McMinnville, Florence, Newberg, and Forest Grove. Most service providers that offer SDC exemptions/waivers for affordable housing limit it to regulated/income-restricted affordable housing. Some cities and service providers have set a cap on the amount of waivers (number of units or dollar amount) they will issue for a given time period, but most do not backfill foregone revenue from other sources.¹⁹⁷ (Section 5.2.2 describes specific example policies and their results.)

In communities that have not implemented affordable housing exemptions/waivers, staff sometimes expressed concerns about monitoring and enforcement over time. Many raised questions about where replacement funding would come from. In some cases, revenue from construction excise taxes is used to offset lost SDC revenue from affordable housing exemptions.

¹⁹⁴ ORS 197.309 indicates that SDCs may be waived for qualifying affordable multi-family housing and lists such waivers as one of several “incentives” that jurisdictions must choose among if they impose local affordable housing set-aside requirements (“inclusionary zoning”).

¹⁹⁵ Newport Partners and Virginia Polytechnic Institute and State University, *Impact fees & Housing Affordability: A Guide for Practitioners*, prepared for the U.S. Department of Housing and Urban Development Office of Policy Development and Research, June 2008. <https://www.huduser.gov/portal/publications/impactfees.pdf>

¹⁹⁶ Construction Excise Taxes also increase the cost of housing development, but scale with permit value, making them inherently more progressive than SDCs. Affordable housing is also automatically exempt from CETs under Oregon law.

¹⁹⁷ ECONorthwest research and City of Lake Oswego Council Report: Review of System Development Charge for Affordable Housing, December 21, 2021, Agenda item Number 5.2. <https://www.ci.oswego.or.us/WebLink/DocView.aspx?id=1911236&dbid=0&repo=CityOfLakeOswego&cr=1>

5.2.2 Impacts on Affordable and Lower-Cost Housing Development

Benefits for Regulated Affordable Housing Development

Based on past interviews by ECONorthwest with affordable housing providers related to local measures to support regulated affordable housing development, there are two main benefits of SDC exemptions, based on their reduction to development costs:

- **Less funding from state, federal, or local sources is needed to make a given affordable housing development financially feasible.** This can mean less time and effort spent securing gap financing, particularly for smaller projects and those not using typical funding sources (see details below).
- **Lower costs help projects score better for competitive funding opportunities,** which often score projects based, in part, on costs per unit.

The impacts and benefits of exemptions vary somewhat depending on the specific funding sources and project scale, as summarized below.¹⁹⁸

- **Low Income Housing Tax Credit (LIHTC) projects:** SDCs are included as an eligible cost in calculating tax credit equity for a given project, which means that waiving SDCs reduces development costs but also reduces the amount of equity available to the project to some extent. (Tax credit equity typically covers roughly 30-70 percent of project costs depending on the specific tax credit program, with the balance coming from loans or gap financing.) While exemptions are still beneficial, and interviews with affordable housing developers suggest that they can make a difference in making projects work, only a portion of the savings translates into reduced need for gap financing or debt. However, some LIHTC funding that is awarded competitively includes a scoring system related to a project's cost-effectiveness relative to similar projects, so reducing or eliminating SDC costs can help achieve a higher score by reducing the cost per unit.¹⁹⁹
- **Other competitive state funding sources:** Many state funding programs for affordable housing have limits on the amount of funding per unit and projects needing less subsidy per unit are scored higher.²⁰⁰ For these projects, all cost reductions are helpful and benefit the project on a dollar-for-dollar basis.

¹⁹⁸ ECONorthwest, "Progress Report of Hillsboro Affordable Housing Tools and Evaluation of Additional Tools," prepared for the City of Hillsboro, April 12, 2022.

¹⁹⁹ Oregon Housing and Community Services, "NOTICE OF FUNDING AVAILABILITY (NOFA) #2022-5: Affordable Rental Housing Projects with 9% Federal Low Income Housing Tax Credits," <https://www.oregon.gov/ohcs/development/Documents/nofa/2022/LIHTC9-NOFA-2022-5-v1.1.pdf>

²⁰⁰ Examples include the LIFT program (<https://www.oregon.gov/ohcs/development/Documents/nofa/2022/2022-2-LIFT-Rental-NOFA.pdf>) and the General Housing Account Program (<https://www.oregon.gov/ohcs/development/Documents/nofa/2021/VETS-21/2021-Vets-NOFA.pdf>).

- **Small projects and other funding sources:** Smaller affordable projects that may have many smaller funding sources tend to be more sensitive to development cost per unit because of the difficulty of securing funding. This can include affordable middle housing development, some affordable homeownership projects, and other small, innovative projects. For these projects, the primary concern is closing the gap between project costs and what the affordable units will generate in revenue, and waiving SDCs can offer a substantial benefit.

From a statewide perspective, reducing cost per unit should mean the ability to fund more housing units with the same pool of funds. This is likely true in practice at least to some extent, though the total amount of affordable housing funds going towards SDCs is not being tracked at present, and there are many other factors driving the cost of building affordable housing (see Section 4.3.3). Given the estimates in Section 4.3.3, SDCs represent a small share of overall affordable housing costs; however, given the number of new affordable housing units funded by OHCS each year, the total SDC-related expenditures associated with affordable housing development are likely substantial. From 2016 through the end of 2021, OHCS approved nearly 13,000 new construction affordable rental housing units for funding. Of these, roughly 7,100 are located in 11 communities with known SDC exemption programs for affordable housing (see list in Section 5.2.1).²⁰¹ While the SDCs charged for those projects have not been specifically tracked, at the estimated average total SDC rate for multifamily housing statewide (close to \$10,000 per unit²⁰²), this would mean roughly \$71 million in SDC savings (in today's dollars) from jurisdictions offering exemptions, and roughly \$59 million (in today's dollars) spent on SDCs in jurisdictions that do not offer exemptions across six years of projects.

On the other hand, if the funding not provided for SDCs needs to be made up from other state, federal, or local sources, then exemptions shift that cost from one funding source to another. Funds for both affordable housing and local infrastructure investments are in short supply relative to needs.

Case Studies: Impacts of SDC Exemption Programs

The case studies that follow offer evidence of strong participation by affordable housing developers in local SDC exemption programs, and of cost savings for those developments. As noted above, However, it is difficult to measure the extent to which the SDC exemptions have changed the amount or type of affordable housing development that has occurred in those communities.

²⁰¹ Oregon Housing and Community Services, "Affordable Rental Housing Draft Dashboard," updated December 4, 2022.

https://public.tableau.com/app/profile/oregon.housing.and.community.services/viz/AffordableRentalHousingDraftDashboard_16154170714140/Story1

²⁰² While the Affordable Housing Cost Study estimated an average of \$8,000 per affordable housing unit for SDCs statewide, this includes projects with and without SDC exemptions.

In addition, sometimes SDC exemptions for affordable housing units can incent developers who primarily build market-rate housing to build some units at a defined price point or income affordability level to qualify for the exemption. Based on developer interviews and focus groups, the SDC exemptions have been essential to market-rate developers' ability to produce housing at a lower price point, even if these units may not remain affordable over the long-term to the same extent they generally do with more traditional affordable housing development.

Bend Exemptions for Affordable Housing

About the Program

Since December 2017, the City of Bend has offered SDC exemptions to all rental and for-sale housing affordable to households making 80 percent or less of area median income (AMI) through a deed restriction.²⁰³ The City's Affordable Housing Advisory Committee has the authority to approve exemptions on City water, sewer, and transportation SDCs, and can also recommend exemptions for parks SDCs levied by the Bend Park and Recreation District. Upon approval, the exemptions are structured as a forgivable loan at 3 percent annual interest, with no payments due as long as the property remains affordable for at least five years. If the affordability restrictions are removed within five years of the project's completion, the SDCs become payable, with interest, by the original applicant.²⁰⁴

Program Impacts

Between 2016 and 2021, Bend granted exemptions on 577 units of affordable housing, for a total value of \$5.2 million (Exhibit 55). Nearly all of these exemptions have been granted to nonprofit developers of affordable housing.

Exhibit 55. City of Bend Affordable Housing SDC Exemptions, 2016–2021

Source: ECONorthwest, using data provided by City of Bend

Housing Type	Units	City SDCs Exempted	Parks SDCs Exempted
Single-Family	140	\$1,112,517	\$205,628
Multifamily	407	\$3,731,480	\$2,017,896
Other (incl. shelters)	30	\$383,670	\$165,520
Total	577	\$5,227,666	\$2,389,044

For the few projects by market-rate developers in Bend that have been granted SDC exemptions to date, the program achieved only short-term affordability. One example is Revere Avenue Renaissance, a 12-unit development of five market-rate townhomes, one affordable townhome, and six one-bedroom rental apartments affordable at 60 percent of AMI. The seven affordable units were granted SDC exemptions by the Bend City Council in 2015; the project also received funding from the City's Affordable Housing Fund.²⁰⁵ Three years after completion, the affordable townhome and rental units were sold at market rate as an investment property.²⁰⁶

²⁰³ Prior to December 2017, the City Council granted SDC exemption requests on a case-by-case basis.

²⁰⁴ City of Bend, Municipal Code Chapter 12.10.120 (<https://bend.municipal.codes/BC/12.10.120>)

²⁰⁵ City of Bend, "Request for Proposals for System Development Charge Exemptions: Program Year 2015." https://bend.granicus.com/MetaViewer.php?view_id=9&clip_id=359&meta_id=13633

²⁰⁶ Zillow sales listing (https://www.zillow.com/homedetails/135-NW-Revere-Ave-Bend-OR-97703/250781754_zpid/)

Given City policies, the property owner would most likely have been required to repay both the SDCs and Affordable Housing Funds with interest at that time.

Portland Exemptions for Affordable Homeownership

About the Program

The City of Portland offers SDC exemptions for affordable rental and for-sale housing through several different programs. Exemptions are available for affordable rental units as part of the City's Inclusionary Housing policy, which applies to developments with 20 or more units.²⁰⁷ Another program grants exemptions for rental housing affordable at 60 percent of median family income for developments not subject to Inclusionary Housing requirements.²⁰⁸ Portland also offers SDC exemptions for affordable homeownership, linked to the City's Home Ownership Limited Tax Exemption (HOLTE) program. The focus here is on the homeownership SDC exemption because its link to a tax abatement program means that there is more data available regarding its usage and to consider its potential as an incentive for market-rate developers to build affordable homes.

For-sale homes qualify for the exemptions on water, sanitary sewer, transportation, and parks SDCs if they are new construction, have at least three bedrooms, and have a sale price no more than \$430,000.²⁰⁹ Exemptions are applied at the time of permitting, before construction begins, but must be verified when the house is sold. Qualifying buyers for affordable units must have an income no greater than 100 percent of median family income, adjusted for household size. If a project that applied for SDC exemptions is sold above the price cap, or to a non-qualifying buyer, the SDCs must be paid, with interest and fees.²¹⁰

Program Impacts

In addition to some City data on SDC exemptions for homeownership, the impact of these exemptions can be approximated based on data from the HOLTE program, which has the same income and sale requirements.²¹¹ In practice, all HOLTE-eligible properties also receive SDC exemptions.

In the most recent City report on HOLTE from fiscal year (FY) 2017–2018, 59 eligible properties sold within the 2017 price limit of \$350,000 or the 2018 limit of \$375,000 (Exhibit 56). Among the

²⁰⁷ In Portland's Central City, the SDC exemptions apply to all residential units when the Inclusionary Housing requirements are met.

²⁰⁸ Portland Housing Bureau, "SDC Exemption Program for Rental Projects," <https://www.portland.gov/phb/sdc-exemption/rentals>.

²⁰⁹ Projects located within City-designated transit corridors qualify with two bedrooms. See: <https://www.portland.gov/phb/holte/property-eligibility#toc-two-bedroom-eligibility-areas>

²¹⁰ Portland Housing Bureau, "SDC Exemption for Home Ownership," <https://www.portland.gov/phb/sdc-exemption/home-ownership>; Portland Housing Bureau, "Homebuyer Opportunity Limited Tax Exemption (HOLTE) Program," <https://www.portland.gov/phb/holte>.

²¹¹ HOLTE is a 10-year tax abatement program. The City limits approvals to 100 units per year.

59 properties produced through the program in FY 2017-18, nearly half (29) were built by for-profit builders.²¹²

Exhibit 56. Average Sale Price of HOLTE-Qualified Homes, 2017–2018

Source: ECONorthwest, using data from City of Portland²¹³

Geographic Area	Total Units	Average Sales Price	Units (For-Profit Builders)	Average Sales Price (For-Profit Builders)
North Portland	1	\$349,950	1	\$349,950
Northeast Portland	11	\$357,625	2	\$362,500
Southeast Portland	47	\$316,295	26	\$335,679
Southwest Portland	-	-	-	-
Total	59	\$324,571	29	\$338,021

By 2018, there were more than 1,200 active HOLTE properties in Portland, down from 1,346 the prior tax year due to the tax exemption expiring.²¹⁴ This suggests that more than 1,300 units were built under the program from its inception through 2018.

A more recent City report provides data on the units produced through the SDC exemption and HOLTE program between 2016 and 2019 and the income levels of the buyers, as shown in Exhibit 57. Participation increased in 2019, with the increase mostly in units purchased by households earning over 80 percent of AMI.²¹⁵ These units are more likely to have been produced by for-profit builders, and are not subject to lasting affordability restrictions, but must meet the maximum sales price and buyer income requirements for the program.

²¹² Portland Housing Bureau, *Residential Property Tax Exemption Programs 2017-18 Annual Report*, <https://www.portlandoregon.gov/phb/article/739936>

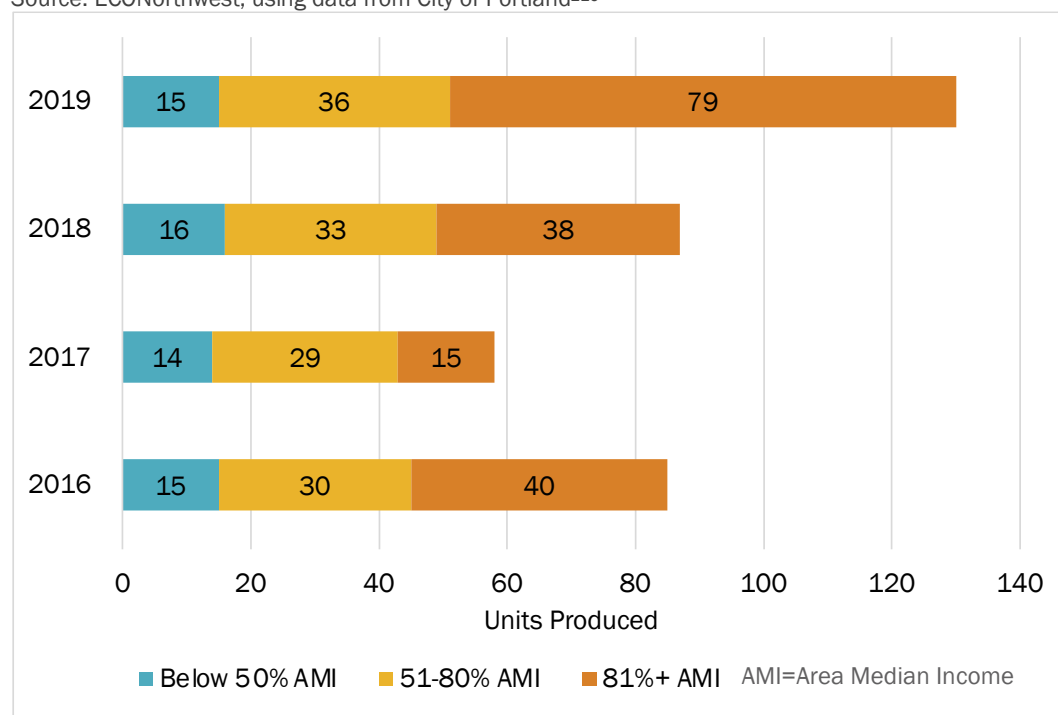
²¹³ *Ibid.*

²¹⁴ *Ibid.*

²¹⁵ Portland Housing Bureau, City of Portland, “State of Housing 2020,” December 2020. <https://www.portland.gov/sites/default/files/2021/phb-soh-2020-web-part-4.pdf>

Exhibit 57. Units Produced by Buyer Income as a Share of Area Median Income for Portland's Homeownership SDC Exemption, 2016–2019

Source: ECONorthwest, using data from City of Portland²¹⁶



Between 2016 and 2019, the number of units built using HOLTE and SDC exemptions was less than the City's annual 100-unit cap,²¹⁷ despite the fact that the cap was reached within roughly 6 months in fiscal year 2017-18.²¹⁸ This is likely because some properties approved for the exemption are ultimately not sold to a qualified buyer or do not meet other transaction criteria and do not receive the exemption. There is less data available on the units that are initially approved for the program but ultimately do not qualify for the exemption, but some recent sales transactions and input from developers familiar with the program suggests that some sell for more than the maximum sale price under the program, though they may still be lower-cost than other new homes.

There are a number of examples of homes built by market-rate developers under the HOLTE program that have offered a lower price to qualifying buyers than to other buyers, passing on the SDC savings directly.²¹⁹ This was also noted in developer focus groups. This shows that the

²¹⁶ Portland Housing Bureau, City of Portland, "State of Housing 2020," December 2020.

<https://www.portland.gov/sites/default/files/2021/phb-soh-2020-web-part-4.pdf>

²¹⁷ *Ibid.*

²¹⁸ Portland Housing Bureau, *Residential Property Tax Exemption Programs 2017-18 Annual Report*,

<https://www.portlandoregon.gov/phb/article/739936>

²¹⁹ Based on a review of recent sales transactions where the HOLTE program is mentioned in the listing.

SDC exemption is, at least some cases, directly translating to lower home prices and supporting production of lower-cost housing that is affordable to moderate-income households.

5.3 SDC Credits

5.3.1 Statutory Requirements

As discussed in Section 1.2.2, the Oregon SDC statutes require local governments to provide credits for “qualified public improvements” (QPIs). The required credit is only for the improvement fee charged for the type of improvement being constructed. Furthermore, for onsite QPIs²²⁰, the required credit is only for the portion of cost that exceeds the local government’s minimum standard facility size or capacity needed to serve the particular development project or property.”²²¹

The statutes provide flexibility to local governments to provide greater credits by providing credit beyond the improvement fees that would have otherwise been imposed, allowing for the transferability of credits, or providing credits for a capital improvement not identified in the SDC capital project list.

5.3.2 Credit Implications for Service Providers

Credit policies differ across providers in terms of project eligibility, creditable costs, and transferability. Service providers indicate that credits provide important incentives to construct needed infrastructure, particularly in green field areas. Furthermore, developers may be able to construct projects at lower costs than would be incurred by the local government. Local credit policies reflect the need to balance infrastructure needs and project flexibility with revenue sufficiency and capital project prioritization.

As discussed previously, some jurisdictions enact SDCs that are based on a fiscally-constrained project list in order to keep the fee levels lower than they otherwise would be. Limiting credits to projects on the adopted SDC project list may provide local governments with greater control over the timing and prioritization of projects. The greatest risk to capital improvement project control may result from extension of credits to projects that are not on a fiscally-constrained project list, as there would be no disincentive to developers to build these projects. Foregoing SDC revenue in exchange for a developer-constructed facility that is not included in the SDC means that less funding for projects that are on the project list and may be higher priority.

For determination of the creditable amount, the statute differentiates between onsite and offsite improvements, where the required credit for improvements on or contiguous to the development property (onsite improvements) are limited to the portion of costs that exceed “the local government’s minimum standard facility size or capacity needed to serve the particular

²²⁰ Improvements that are located in whole or in part, on or contiguous to property that is the subject of development approval.

²²¹ ORS 223.304(5)

development project or property.”²²² This differentiation has potential implications for development of the SDC project list and calculation of the SDC cost basis. If certain project types (e.g., local streets and water utility mains sized for local needs or minimum standards only) are assumed to be funded directly by developers without eligibility for SDC credits, then they are excluded from the SDC calculations.

In cases where calculated credits do not fully compensate a developer for all eligible QPI costs, the statutes provide for application of credits “against improvement fees that accrue in subsequent phases of the original development project.” In some cases, local governments will also allow developers to transfer credits to other developments or developers. However, expansion of a credit program may require additional administrative costs owing to the need to track projects and reimbursements over time and across developers.

5.3.3 Credit Implications for Developers

Like SDCs, infrastructure constructed as a condition of development approval is a cost to developers that needs to be factored into calculations to determine project feasibility. To the extent that the required infrastructure exceeds the capacity needed to serve the development, SDC credits provide a mechanism to reimburse the developer for this additional cost.

SDC policies vary across local governments, and the level of specificity in published SDC and credit policy information also varies, which may make it difficult for developers to have a clear estimate up-front of the total cost burden. This is particularly the case when (as the statute requires) credits are limited to the improvement fees levied on the new development, given the complexities of some charge bases.

In conversations with developers, many noted the importance of SDC credits, and several identified concerns or opportunities for improvement in how they are administered, as summarized below (see Appendix B for details):

- Several developers expressed frustration with the lack of certainty regarding SDC credits, often due to lack of clarity about what share of costs are attributable to excess capacity.
- Carrying costs can erode the value of the credits, because the developer is paying for infrastructure up front and has to pay interest on those costs.
 - In some cases, jurisdictions require developers to pay SDCs up front even if they are building infrastructure that will qualify for credits, and then reimburse or refund the credit eligible share at the end. This particularly increases carrying costs.

²²² ORS 223.304 (5)(a)

- Some noted that allowing SDC credits to be transferred to future development on other sites makes them more valuable and can allow developers to take on larger infrastructure projects.

5.4 Program Information and Transparency

5.4.1 Statutory Requirements

As discussed previously, prior to 2021, statutory requirements related to annual SDC program accounting and information sharing were limited to annual revenue and expenditure accounting and making the methodology available to interested parties 60 days in advance of a public hearing. With respect to annual reporting, the specific requirements are as follows:

The local government shall provide an annual accounting, to be completed by January 1 of each year, for system development charges showing the total amount of system development charge revenues collected for each system and the projects that were funded in the previous fiscal year. The local government shall include in the annual accounting: (a) A list of the amount spent on each project funded, in whole or in part, with system development charge revenues; and (b) The amount of revenue collected by the local government from system development charges and attributed to the costs of complying with the provisions of ORS 223.297 to 223.316.

With the passage of House Bill 3040 in 2021, public agencies must now meet the additional informational requirements codified in ORS 223.316. Specifically, any local government that imposes one or more SDCs must publish on its website or by alternate accessible means (free of charge), the following information:

- The current SDC fee rates for each type of development.
- Details of the methodology used to determine SDC fee rates.
- A list of capital improvement projects that will receive funding from system development charge fee revenue.
- Contact information for a local official responsible for answering questions about system development charges.²²³

Even before the most recent changes to the statutes, many local governments made significant efforts to make information related to SDCs readily available and understandable. Service providers use a wide variety of tools and practices, and the cost and level of effort required to manage these programs similarly varies. Some local governments have dedicated staff that manage one or more aspects of the SDC program, while others need to rely more heavily on outside consultants.

As with other elements of the SDC program, a local government must balance the administrative requirements and costs associated with the development of educational tools

²²³ ORS 223.316

and transparency measures—which may impact SDC fee levels by increasing program compliance costs—with the desire for enhanced public understanding and transparency.

5.4.2 Common Practices and Local Jurisdiction Perspectives

In considering program transparency best practices, it is important to consider points in the process where information is developed and how that information may be shared most efficiently and effectively to different audiences.

Methodology Development and Adoption

Service providers note that developing a SDC methodology is a significant undertaking. This is particularly true for agencies that desire a high level of stakeholder engagement in the process. Some providers indicate involvement of a standing or ad hoc committee in the development of the SDC methodology and project list. Involvement of stakeholders in the process helps some communities to evaluate the various methodological options to reflect local policy objectives and priorities. A number of service providers noted the importance of stakeholder engagement in the development of the SDC project list, to ensure investment in infrastructure is equitably distributed across the service area.

As discussed previously, the statute has had a long-standing requirement that an SDC methodology must be made available to interested parties at least 60 days in advance of the first public hearing. Most service providers typically go beyond this requirement by making methodology reports available more broadly on public websites and in public buildings (e.g., city hall or public library). Furthermore, because methodology reports are generally technical documents, many jurisdictions provide summary information in the form of fact sheets, frequently asked questions, and presentation graphics, in an effort to make the information more accessible to the general public.

While the general public may best be served by information at a summary level in order to understand the context of SDCs in infrastructure funding, it is critical that those paying the fees have a more in-depth understanding of the basis for the charges and be able to estimate the impact that the fees and other program policies will have on their development project. In this case, best practices include providing detailed fee schedules and administrative policies and procedure documents, and “SDC calculators” that help more accurately estimate SDC charges based on specific development characteristics.²²⁴

²²⁴ For example, see City of Gresham fee calculator (<https://greshamoregon.gov/SDC-Calculator/#/>) that allows a developer to enter data about a development project directly on the city’s webpage and then see the calculated charges. The City of Corvallis (<https://www.corvallisoregon.gov/ds/page/permit-fees>) offers a similar tool.

Ongoing Reporting and Information Sharing

SDC Schedules

Once the SDC methodology and project list have been adopted, fee levels may change over time due to application of inflationary indices, phase-in plans, or changes to project list costs. Updated SDC schedules need to be readily available on the website through one or more mechanisms such as a comprehensive agency-wide fee schedule, dedicated SDC portion of the website, or on individual infrastructure department pages.

Project Lists

Project lists should be reviewed and updated periodically (e.g., in conjunction with capital improvement plan updating) and any modifications documented. The SDC statutes allow for the project list to be updated at any time, and formal notification of changes is only required if the SDC is to be increased. It is not uncommon for changes to be made to the project list without a need to increase the SDC (as in the case of replacing a lower priority project with a higher priority project of similar cost). While not required by statute, some local governments will formally adopt the new project list by resolution to increase transparency and facilitate internal tracking.

Annual Accounting

The level of information included in annual SDC accounting varies across jurisdictions. Generally, total annual SDC revenue is tracked and readily available by infrastructure system. In some cases, revenues by SDC component (reimbursement, improvement, and compliance) are accounted for individually, as each has different limitations on eligible expenditures.²²⁵

Service providers participating in focus groups indicate some reporting challenges with the level of detail available for project expenses. While reporting of annual project expenses is generally straightforward, projects that span multiple years are more complicated to report and track due to differences in internal project numbers used for identifying a project as it moves from SDC project list to the capital budget and then finally to a fixed asset.

Though not required by statute, some service providers prepare annual accounting reports and send them to interested stakeholders.

²²⁵ Reimbursement fee revenue may be spent on any capital cost associated with the system for which it was collected, while improvement fee revenue is limited to SDC-eligible costs on the project list, and compliance-related expenditures must be accounted for separately.

5.4.3 Implications for Development and Developer Perspectives

SDC Rate Information and SDC Estimates for Specific Developments

As described in the developer focus group summary in Appendix B, many developers highlighted the importance of knowing how much the SDCs would be in advance. Several developers noted issues with major changes to SDCs during the pre-development and development period. Some set money aside specifically to address fee increases, but there are fewer options to adjust to cost-increases that occur later in the development process. Certainty on SDCs is particularly important for affordable housing development. When SDC costs increase unexpectedly, it can be very hard to find additional funding or cost-savings in other areas at the last minute when funding amounts have been set in advance.

Multifamily developers also highlighted challenges with estimating SDCs early in the development process because they can vary depending on the unit configurations (e.g., number of bedrooms and bathrooms) and site layout (e.g., impervious surface), which may not be known until late in the process. Developers who build middle housing (e.g., duplexes, triplexes, fourplexes, townhouses, and cottage clusters) also noted that many jurisdictions do not have separate SDC rates for middle housing. It can be difficult to determine which SDC rates should apply to a middle housing development when housing type definitions are not clearly listed in published SDC rate or methodology documents.

Part 6: Conclusions

This study responds to a legislative request for a comprehensive review of Oregon’s historical and current policy and practice for implementing system development charges, with a particular focus on their interaction with housing affordability. While it is beyond the scope of the study to make recommendations, its findings can help inform future policy discussions.

For several decades, SDCs have provided a consistent mechanism for growth to pay for growth in Oregon. Today, SDCs are an essential part of funding the infrastructure needed for growth given limitations on other funding mechanisms and growing infrastructure needs and costs. A shift away from SDCs at the local level could have unintended consequences by increasing reliance on mechanisms like utility rates or user fees (which can burden low-income households) and direct developer exactions (which can make it more difficult to allocate costs among multiple parties), or by delaying needed infrastructure projects.

At the same time, the state faces a housing affordability crisis. It has become increasingly clear that housing production is essential for keeping prices and rents from escalating out of reach of most households. SDCs can be essential to funding the infrastructure needed to enable new development, but also contribute to the cost of building housing. While SDCs are just one among many cost drivers for housing development, they disproportionately impact lower-cost housing, including entry-level homes, middle housing, and smaller housing units, exacerbating other cost and market factors that make these types of housing harder to build. In communities with demand for high-end housing, SDCs can tip the scales further in favor of higher-cost housing development; in those without demand for high-end housing, they can create one more barrier to housing production overall. SDCs also increase the amount of state, federal, or local funding needed to make affordable housing development possible. It remains appropriate and important for growth to contribute proportionately to growth-related costs. Designing and using SDCs to accomplish this goal while balancing the need to build a broad range and abundant supply of housing requires a nuanced approach.

Jurisdictions have—and value—the flexibility to establish SDCs that reflect their local cost conditions, system needs, funding and policy priorities, and development context. They also have options to design SDC rate structures that reflect differences in impacts by type or size of housing unit, to allow SDCs to be paid later in the housing development process, and to offer reductions or exemptions for affordable housing. Successful programs in some Oregon communities suggest that these measures can benefit housing production and affordability to some extent while retaining SDCs’ core function as a funding mechanism for the infrastructure that enables growth to continue. Broader adoption would require overcoming common concerns, such as revenue loss and legal uncertainties for exemptions, and administrative costs and nonpayment risks associated with deferring SDC payments, some of which the state could help address. At the local level, jurisdictions making updates to SDCs, housing policy, or infrastructure funding strategies could consider some of these measures for implementation, learning from the experience of other jurisdictions to craft successful programs. The magnitude

of the benefits from these programs can be hard to measure, but this report suggests they can make a difference for some of the developments that are most sensitive to SDC costs.

Because there are legal limits to jurisdictions' ability to align SDCs with housing cost, a bigger shift in how SDCs affect housing production and affordability would require targeting alternative funding sources towards SDC and infrastructure costs associated with affordable and lower-cost housing development. If the alternative funding sources have less impact on these housing types and on lower-income households generally, this could help level the playing field for these types of housing without undermining the purpose and value of SDCs or increasing cost burden on low-income households in other ways.

Acronyms and Glossary

Acronyms

ADUs – Accessory Dwelling Units

ARRA – American Recovery and Reinvestment Act

CAA – Clean Air Act 1970

CWA – Clean Water Act of 1972

CBO – Congressional Budget Office

CCI – Construction Cost Index

CPI – Consumer Price Index

ENR – Engineering News Record

ERUs – Equivalent Residential Units

FHA – Federal Housing Association

GO bonds – General Obligation bonds

HBA – Homebuilders Association

HOLTE – Home Ownership Limited Tax Exemption Program

LOC – League of Oregon Cities

LIHTC – Low Income Housing Tax Credit

NAHB – National Association of Home Builders

NMHC – National Multifamily Housing County

OBOA – Oregon Building Officials Association

OMB – Office of Management and Budget

ORS – Oregon Revised Statutes

Glossary

Adjudicative Exactions – exactions specific to an individual parcels determined through a property-specific decision process

Affordable Housing – income and/or rent-restricted housing that is affordable to households earning a certain income level

Area Median Income (AMI) – also known as Median Family Income (MFI), this is an estimate of the median income for a given metropolitan area adjusted by household size, produced annually by the U.S. Housing and Urban Development (HUD) as the basis for affordable housing projects' income limits, rent limits, and loans

Assessed Value – the taxable value of a property

Asset – facility or structure that is part of the infrastructure system

Capacity – the amount of demand that an infrastructure system or facility can accommodate

Capital Improvements – major improvements to public facilities (excluding routine maintenance), including water supply, treatment, and distribution; wastewater collection, transmission, treatment, and disposal; drainage and flood control, transportation; and/or parks and recreation (see ORS 223.299 for the statutory definition)

Carrying Costs – costs of owning a property, including property taxes and interest financing costs

Certificate of Occupancy – a document verifying that all inspections have been completed for a new building and that the structure meets the applicable codes

Charge Basis – how SDC costs will be allocated across different development types, sizes, and contexts

Compliance Costs – the costs of complying with SDC statutes, including the costs of developing SDC methodologies and providing an annual accounting of SDC expenditures, and potentially other costs related to SDC administration

Cost Basis – the pool of eligible infrastructure costs to be recovered from the SDC

Cost Incidence – which party or parties ultimately incur a given cost

Depreciation – reduction in value of an asset or structure over time

Equity (financial) – ownership investment in real estate; the difference between the value of an asset and the debt on the asset

Equity (distributional) – fairness and justice in how costs and benefits are allocated

Essential Nexus – a concept established by the U.S. Supreme Court in *Nollan v. California Coastal Commission*²²⁶ as a test for the validity of an exaction: whatever is being required (exacted) as a condition of development approval must be clearly and closely related to the impact of the proposed development

Exaction – a requirement the local government for proposed development to provide some form of contribution or payment as compensation for impacts of the development on infrastructure systems or public goods

Excess Capacity – a share of the capacity of an infrastructure facility that exceeds the needs of a given development

Financial Feasibility – a determination of whether a project’s value or revenues will justify the costs to construct it, given the expected level of risk

Fixture Units – a unit of measure of plumbing (water or wastewater) demand, calculated based on the plumbing code

Hard Costs – construction labor and material costs

Housing Affordability – households’ ability to find housing within their financial means, with or without public support or restrictions in place, across a range of income levels. This is commonly measured based on spending no more than 30 percent of gross income on housing (rent or mortgage, plus utilities)²²⁷

Housing Production – new housing development or other increases to the supply of housing units

Impact Fees – legislative monetary exactions adopted by a governing body and applied consistently to development applications

Improvement Fee – an SDC fee for costs associated with capital improvements to be constructed

Infrastructure Systems Plans – master plans or public facility plans for a given infrastructure system (e.g., parks master plans, transportation system plans, water or wastewater system master plans, or stormwater master plans)

²²⁶ *Nollan v. California Coastal Commission*, 483 U.S. 825, 837 (1987)

²²⁷ The 30 percent standard is widely used but simplistic. See discussion and additional context related to defining affordability and affordable housing in the following memorandum:

Nick Meltzer, Sadie DiNatale, Bob Parker & Rebecca Lewis, University of Oregon, “Definitions of Affordable Housing,” to the Department of Land Conservation and Development and the HB 4079 Rulemaking Advisory Committee (RAC), September 19, 2016. https://www.oregon.gov/lcd/UP/Documents/UO-Defining_Affordability.pdf

Internal Rate of Return (IRR) – a commonly used financial metric in the real estate industry to estimate the profitability of real estate investments as discount rate measured in percentage points

Level of Service (LOS) – a way of defining the quality or amount of service provided by a given infrastructure system or facility

Local Jurisdictions – cities, counties, or special districts

Local Option Levies – a special voter-approved property tax levy outside the limitations on permanent property tax rates under Oregon’s property tax system

Lower-Cost Housing – market-rate housing (without income or rent/price restrictions) that offers lower sale prices or rents than most new housing in a given area and typically also has lower development costs

Market Context Area – generalized geographies capturing differences across the state in housing market factors and development cost factors

Market-Rate Development/Housing – housing in which prices or rents are (or can be) based on market demand and willingness to pay rather than meeting a defined level of affordability

Measure 5 – an Oregon ballot measure from the early 1990s that introduced property tax rate limits and cut tax rates

Measure 50 – an Oregon ballot measure from the late 1990s that cut taxes, introduced assessed value growth limits, and replaced most tax levies with permanent tax rates

Middle Housing – duplexes, triplexes, quadplexes, townhouses, and cottage clusters

Monetary Exactions – requirements by local governments that developers pay money as a condition of development approval

Multifamily Residence/Dwelling – a property with multiple dwelling units on a common lot, excluding middle housing (the dwelling units may be occupied by families or nonfamily households)

Nominal Dollars – dollar value based on the year of expenditure, unadjusted for inflation

Original Cost – the cost of building a facility at the time it was built

Pro Forma – a financial model that estimates the feasibility of a new real estate development based on the building’s financial performance

Qualified Public Improvements (QPIs) – according to ORS 223.304(4): “Qualified public improvements are improvements required as a condition of development approval, identified in the SDC capital project list, and either: a) Not located on or contiguous to property that is the

subject of development approval; or b) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.”

Ratemaking Principles – not defined in statute, but generally considered to include establishing fee levels consistent with the costs of providing the service and recovering costs from system users in proportion to their use or impact; however, modern interpretations argue that water, wastewater, and stormwater service providers have a social responsibility to ensure universal, affordable access to services as part of their rate-setting framework

Rate-setting – methodology and policy decisions associated with establishing an SDC rate and fee structure

Real Market Value – an estimate of the market value of a property in an arms-length sales transaction

Reimbursement Fee – 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 exists²²⁸

Replacement Cost – the cost to replace an existing asset with a similar asset at current construction costs

Rough Proportionality – a concept established by the U.S. Supreme Court in *Dolan v. City of Tigard*²²⁹ as a test for the validity of an exaction: the amount of the exaction must be roughly proportionate to the magnitude of the impact that the exaction is intended to address

Scaling Factors – development characteristics that relate to potential system impact used to set SDC rate structures to account for those differences in impacts

Service Providers – local jurisdictions (cities, counties, or special districts) that build and operate water, wastewater, stormwater, transportation, or parks systems

Single-Family Residence/Dwelling – a single detached dwelling unit on its own lot (the dwelling unit may be occupied by a family or a nonfamily household)

Soft Costs – development costs excluding the direct cost of construction, such as design and engineering, project management, financing, permits, and fee costs

Special Districts – a form of local government that provides specific public services

²²⁸ ORS 223.299(3)

²²⁹ *Dolan v. City of Tigard*, 512 U.S. 374 (1994)

System Development Charges (SDCs) – impact fees established and administered consistent with Oregon’s SDC Act

SDC Act – State statute (ORS 223.297 to 223.316) that regulates SDCs, first passed in 1989

SDC Credits – credits against SDC fees for construction of a qualified public improvement

SDC-eligible Projects – capacity-increasing projects that are included in an infrastructure system plan project list

SDC Methodology – documentation of an SDC calculation in compliance with the SDC Act

SDC Exemptions or Waivers – policies to not to charge a certain type or category of development an SDC. Most communities that do not charge SDCs for affordable housing describe this as an “SDC Exemption”. Some make a distinction between “waivers” given on a case-by-case basis and “exemptions” that are set in policy. Others use these terms interchangeably. Throughout this document, when referring to programs that do not collect SDCs from affordable housing, both terms are used to mean policy-based exclusions that are applied consistently to all qualifying projects, unless a budgetary limit is set

Tax Levies – taxes established to provide a specific amount of tax revenue

Total Development Costs – the full cost of a development project, including construction labor and material, land costs, and “soft costs” such as design and engineering, project management, financing, permits, and fees

Townhouse – units that share common walls with each unit on an individual lot or parcel

Trip Ends – the beginning (origin) or end (destination) of a one-way trip

User Fees – fees local governments charge for the use or ongoing availability of government services like parks, streets, public safety, and others

Water Resources – According to the Congressional Budget Office, water resources include “water containment systems (dams, levees, reservoirs, and watersheds) and sources of freshwater”²³⁰

Water Utilities – According to the Congressional Budget Office, water utilities include “supply systems for distributing potable water as well as wastewater and sewage treatment systems and plants”²³¹

²³⁰ Congressional Budget Office, “Public Spending on Transportation and Water Infrastructure, 1956 to 2014,” March 2015, page 3.

²³¹ *Ibid.*, page 3.

Working Capital – the available financial resources that a company can readily use to pay near-term costs

Appendices

Appendix A. Summary of Input from Service Providers

Contributors: ECONorthwest, Galardi Rothstein Group, FCS Group

ECONorthwest, along with consultants from the FCS Group and the Galardi Rothstein Group, conducted seven focus groups for large cities and small cities, special districts, parks providers, and the Portland Bureaus. The focus groups are important for understanding the varying perspectives on the importance of SDCs for infrastructure funding, factors driving SDC setting, timing of collection, and considerations related to measures to reduce the impact of SDCs on housing.

Questions Asked

Below is the set of questions used to help guide the focus groups.

1. **Role of SDCs in Funding Infrastructure:** How important are SDCs to your jurisdiction/district?
2. **SDC Rate Increases vs Cost Escalation:** Are you indexing your SDCs based on changes in construction costs or other measures? Has that been enough for them to keep up with increases in actual project costs over time?
3. **Actual Rates and Factors Influencing Rate Setting:** Is your organization currently charging the maximum that your methodology supports? If not, why not? What are some of the top factors that influenced your organization's most recent SDC setting decisions?
4. **Equity Considerations:** How and to what extent did equity considerations factor into your rate-setting decisions? If it did, how did you address equity in the rate-setting process and in evaluating equitable outcomes?
5. **Strategies to reduce impacts of SDCs on housing:** Some communities and districts are considering measures to reduce the impact of SDCs housing affordability. Does your organization currently have any affordable housing measures in place? If so, how are they working? If not, what concerns do you have about implementing them?
6. **Timing:** How does the timing of SDC collection compare to when you need to build facilities? To what extent does the specific timing within the development process (e.g., certificate of occupancy vs. building permit) affect your organization's ability to build facilities when they are needed? Do you have other concerns related to the timing of when SDCs are paid?
7. **Transparency Requirements:** As you may know, HB 3040 also included a requirement to make information about SDCs including rates, methodology, and the project list available to the public via a website (unless the jurisdiction/district does not have a website). Has addressing this requirement been a challenge? Does your jurisdiction/district have any additional tools to provide information to the public regarding SDCs?

8. **Questions for us / other thoughts** (*if time permits*): Do you have questions for OHCS or the consultant team about the study? Are there other things you are concerned about related to SDC requirements?

Jurisdictions That Attended

Cities

Wilsonville	Newport	Eugene	Bend
Lebanon	Tigard	Albany	Forest Grove
Redmond	Wilsonville	Medford	Beaverton
Hillsboro	Redmond	Springfield	Falls City
Lake Oswego	Newberg	Tualatin	Sherwood
Sisters	Gladstone	Klamath Falls	Vale
Cornelius	North Bend	McMinnville	Ashland
Warrenton	Cannon Beach	Oregon City	Millersburg
Sherwood	Stayton	Banks	Banks
Hood River	Philomath	Pendleton	Independence
The Dalles			

Special Districts and Counties

Tualatin Valley Water District	Roseburg Urban Sanitary Authority	Clean Water Services	Washington County
Twin Rocks Sanitary District	Canby Utility	Sunrise Water Authority	Oak Lodge Water Services
Metropolitan Wastewater Management Commission	Washington County	Rockwood Water People's Utility District	Harbor Sanitary District
Clackamas County	Jackson County Roads	Rogue Valley Sewer Services	Housing Authority of Clackamas County

Clackamas Water
Environment
Services

Hood River County

West Slope Water
District

Eugene Water &
Electric Board

Parks and Recreation Districts

Willamalane Park
and Recreation
District

North Clackamas
Parks and Recreation
District

Hood River Valley
Parks & Recreation
District

Wilsonville Parks and
Recreation

Tualatin Hills Park &
Recreation District

Bend Park and Rec
District

City of Albany Parks
& Recreation

Clackamas County
Parks

Crook County Park
& Rec District -
Prineville, OR

Portland Parks &
Recreation

Metro Parks and
Nature

Oregon Recreation &
Park Assoc

Clackamas County

Lane County Parks

Sunset Empire Park &
Recreation District

Northern Wasco
County Parks and
Recreation District

Corvallis Parks and
Recreation
Department

Medford Parks &
Recreation

Summary of Stakeholder Feedback and Themes

The balance of this memorandum summarizes feedback from the focus groups by topic and theme. Paraphrased statements from attendees are shown in *italics*. Where relevant, the type of service provider making the statement in question is indicated in brackets (e.g., *[small city]*).

Themes	Stakeholder Feedback
Role of SDCs in Funding Infrastructure	
Critical funding source for infrastructure in communities experiencing growth	<ul style="list-style-type: none"> Some jurisdictions would not be able to make land available for development within the UGB without SDCs to extend infrastructure. Some Metro jurisdictions use specific SDCs or higher SDC rates in high-growth areas. <ul style="list-style-type: none"> In many new growth areas, service providers have evaluated how the areas needed to be served from a parks and recreation standpoint and added area specific supplemental SDCs. This method has been successful, as developers see the market value in parks and recreation facilities. Several small cities noted they had not experienced a lot of growth occurring and little SDC revenue, but more recently there have been more developments that have brought in more SDCs and there's more need for capacity-increasing projects to support growth. Some in larger cities feel there is a disconnect between for-profit developers and jurisdictions when developers want to reduce or waive the SDCs jurisdictions rely on to help pay for infrastructure investments that facilitate housing development.
SDCs prevent over-reliance on user fees and utility rates to cover cost of new capacity	<ul style="list-style-type: none"> Public utilities rely on political/public support for raising capital (unlike investor-owned utilities). SDCs are key to messaging that growth is paying for growth, and utility rate increases are for meeting other capital and operating needs. Some believe user fees should only be used for maintenance and operations of existing facilities, as cities do not want to burden existing users with helping to pay for new development (through an increase in user fees). Would need to replace revenue with large utility rate increases, new fees (transportation), and GO bonds (parks). Equity issues from redistribution of growth-related costs.
Critical for funding large infrastructure like major sewer interceptor, water and sewer plants	<ul style="list-style-type: none"> A number of water/sewer service providers noted the importance of SDCs in helping pay for major projects, that may not have happened without them. While not the sole source, they often contributed a meaningful amount or helped pay debt service.

Themes	Stakeholder Feedback
SDC credits for improvements built by developers are an important component of SDC expenditures in some communities	<ul style="list-style-type: none"> For larger developments and greenfields, credits play an important role, especially in larger cities. <ul style="list-style-type: none"> Jurisdictions have seen a number of capacity expanding infrastructure projects being built by developers then getting SDC credits. Some report not charging parks SDCs in expansion areas because developers typically opt to build the park and get credits instead. Will also issue transportation credits for oversized facilities. This is less common outside of expansion areas. SDC credits sometimes provide cost savings when developers build infrastructure. <ul style="list-style-type: none"> Jurisdictions or providers (particularly parks districts) have worked more with developers to deliver infrastructure need for their developments at better rates with economies of scale, and then receive SDC credits.
Revenues can be limited in places with slow growth	<ul style="list-style-type: none"> Communities experiencing mostly infill may get less SDC revenue. <ul style="list-style-type: none"> <i>Most development consists of tear-down/rebuilds and no SDCs are collected because usually get credit for previous development.</i> <i>Would love to rely on SDCs for capital improvements but landlocked—little expansion room, no empty land in town, only comes from infill or teardown and build more housing.</i>
There are other funding options beyond SDCs and utility rates, but they are limited	<ul style="list-style-type: none"> Tax limitations in Oregon have had particularly acute impact on parks and transportation funding. <ul style="list-style-type: none"> <i>Areas with enterprise zones and Urban Renewal districts further limit revenue.</i> Urban renewal more and more relied on to fill gaps, capturing revenue from other districts Some jurisdictions use general fund allocations or special property tax levies to supplement SDCs <ul style="list-style-type: none"> Larger cities have supplemented SDCs with discretionary allocations from the General Fund, but very limitedly. One county has a voter-approved tax they levy to help pay for county road projects on major arterials. One community with a tourism-based economy adopted a prepared food tax. A few communities have implemented utility fees for transportation and parks to pay for maintenance and improvements.

Themes	Stakeholder Feedback
	<ul style="list-style-type: none"> ○ But for parks, this now gets stretched to cover things like ROW and greenways in addition to the parks • State and federal funds are more limited now than in the past • It can be a struggle to fund parks and transportation projects the most, because they often do not collect user fees like water, sewer, and stormwater
SDCs are key to leveraging other funds	<ul style="list-style-type: none"> • Parks providers noted they often leverage SDCs as grant matching dollars to close gaps and have few other sources available as a local match. Many jurisdictions also noted using SDCs as local match for transportation projects.
SDC revenue is volatile year to year, and varies as a share of capital funding	<ul style="list-style-type: none"> • Portion of infrastructure funding from SDCs varies from year-to-year due to various factors including the rate of growth and the type of improvements being constructed.
Lack of funding for operations and maintenance can limit use of SDCs	<ul style="list-style-type: none"> • SDCs cannot be used for maintenance or operations of existing facilities. • Hard to justify building more facilities when struggling to fund existing facilities <ul style="list-style-type: none"> ○ Some jurisdictions do not feel like it is feasible to expand without an adequate and stable source of revenue for maintenance and operation.
Some small cities do not charge SDCs at all	<ul style="list-style-type: none"> • Reasons why small cities are not collecting SDCs: <ul style="list-style-type: none"> ○ Little development (which requires less infrastructure development) ○ Political concerns ○ Developers required to install infrastructure ○ Voter approval required by local policy in some communities

Themes	Stakeholder Feedback
Methodology Choices and Cost Allocation	
Infill and denser developments are sometimes, but not always, less costly to serve	<ul style="list-style-type: none"> • New density requirements create capacity issues with infill development, such that it may be more expensive to serve due to the need to upsize existing infrastructure in a developed area <ul style="list-style-type: none"> ◦ Waiving or reducing SDCs for higher density housing can be problematic since those housing types are more reliant on parks. • Infill may have lower transportation impacts, so some jurisdictions offer discounts for denser developments or to areas with better access to transit or that are more walkable.
Infill areas may need a different approach	<ul style="list-style-type: none"> • Some jurisdictions are changing approach to fund upgrades to existing facilities that expand capacity and may also replace existing aging infrastructure. <ul style="list-style-type: none"> ◦ Areas experiencing more infill development than greenfield development may need a different way of defining LOS and growth capacity — specifically, improvements that increase capacity through more efficient use of existing facilities versus building new facilities.
Some service providers have implemented or are working on a tiered approach for residential SDCs based on unit size	<ul style="list-style-type: none"> • Tiered fees are typically based on local data showing reduced household size, trips, or other measures of impact. <ul style="list-style-type: none"> ◦ Some researched how occupancy changes by square footage, showing there was less impact when fewer people lived in a unit. • Others are considering making this shift, or in the process of working on it.
Many expressed concerns about a “one size can fit most” approach	<ul style="list-style-type: none"> • Service providers value local discretion in SDC methodology and policy. <ul style="list-style-type: none"> ◦ Some felt that the nuance of affordability and quality of life people get from infrastructure investments is best dealt with at the local level.

Themes	Stakeholder Feedback
Cost Recovery	
Many are not charging the maximum amount supported by methodology	<ul style="list-style-type: none"> Many communities made policy choices to charge less than the full SDC determined by methodology and project list. <ul style="list-style-type: none"> Some policy makers are hesitant to levy the maximum amount the methodology would support to stay competitive or support affordable housing development. Decision-makers often want to see how proposed SDC rates compare to other jurisdictions in an effort to not be the highest. Some small cities in particular have avoided setting SDCs rates at the maximum their methodology supports in order to remain competitive. <ul style="list-style-type: none"> <i>Needed to stay below “closest neighbor of similar size.”</i> <i>More important not to create disincentives to development, remain competitive with other similar communities.</i> Some adjust project lists rather than reducing SDC rates from max to keep SDC rates lower. <ul style="list-style-type: none"> Use of funded and unfunded project lists, or SDC project lists established based on viable SDC rate. <ul style="list-style-type: none"> <i>Not all projects made it onto funded list. Created kind of a target max SDC that they would charge, prioritized project to that amount.</i> Some phase in SDC rate increases over multiple years to avoid making big jumps. <ul style="list-style-type: none"> Large increases sometimes prompted phase-in periods.
Other cities and service providers charge the full amount or have made bigger increases	<ul style="list-style-type: none"> Some communities have a policy inclination that growth should pay for itself and charge max SDC rates. Others have caught up more recently (after keeping SDC rates artificially low for many years), and come to recognize a greater/urgent need for infrastructure upgrades.

Themes	Stakeholder Feedback
Most (but not all) service providers index SDC rates	<ul style="list-style-type: none"> Many use Engineering News Record (ENR) Construction Cost Index (CCI), either the 20-City average or the City of Seattle index, but the timeframes vary and this can change the outcome. Parks providers often also account for changes in land costs. A few do not index SDC rates. <ul style="list-style-type: none"> Some only increase SDC rates when they believe there's a viable justification. <i>Calculate every year—effectively renew methodology every year, no cost escalator. Not that much work – have staff capacity [in a large city] to do it in house.</i>
SDCs not keeping pace with rising costs due to a variety of factors	<ul style="list-style-type: none"> Inconsistent indexing. Some felt that available indices are not representative of local variations in costs (e.g., Seattle ENR not representative of Portland construction market). Methodology for indexing can create lag. <ul style="list-style-type: none"> <i>Even when SDC rates are indexed year-to-year, they don't appear to keep up because indexes tend lag on their own.</i> Some infrastructure systems can lag more than others. <ul style="list-style-type: none"> <i>Index numbers for land cost (for parks) are based on assessed values rather than market values, so they continue to fall behind on top of the existing lag.</i> <i>Transportation costs have the hardest time keeping up with construction cost escalations.</i> <i>Park districts are experiencing the same cost increases as developers but are not able to recoup any costs.</i> Many (though not all) are seeing actual costs rise faster than their index. <ul style="list-style-type: none"> <i>Not keeping up with cost of materials. Index only includes cost of construction (not land), falling further behind.</i>
Methodology updates are a substantial undertaking	<ul style="list-style-type: none"> Methodologies and project lists are not updated regularly. <ul style="list-style-type: none"> <i>Takes 5-10 years to update SDC. Hard to keep system plans fresh—spend increment on updating master plans, CIP, and methodology. [small city]</i> <i>Methodology updates every 10 years. [large city]</i>
With SDC escalation falling behind costs,	<ul style="list-style-type: none"> Districts haven't been able to move capital projects forward due to stagnant SDCs (against costs). <ul style="list-style-type: none"> <i>Have had to make some reductions to projects with costs increasing.</i>

Themes

Stakeholder Feedback

some service providers
can fund less

- *It is becoming more common for sudden projects to come up, but funding hasn't been allocated for them.*
- *Falling behind on ability to expand capacity because of cost escalations of past 5 years or more. Far exceed ability to update methodology to keep pace. [small city]*

Equity and Affordability Considerations

Varying perspectives
on what the relevant
equity issues are for
SDCs

- Some felt SDCs should only consider impact, not ability to pay (particularly in the context of affordable housing waivers).
 - *SDC is based on the impact—equity is more about reflecting differences in impacts.*
- Some felt the key equity consideration is putting costs on development vs. existing users.
 - *There's substantial concern around over-burdening existing users/long-term residents if user-fees are increased.*
- Some emphasized supporting affordable housing regardless of impact.
 - *Backfilling to support regulated affordable housing with guaranteed longevity. Very much an equity and need for affordable housing conversation, understanding that market won't deliver it.*
- Some focused on reflecting differences in impact for different housing types and larger vs. smaller homes.
 - *Recognize equity piece related unit size.*
- Some focused on equitable expenditures of SDC revenue/provision of facilities
 - *Access to walkable parks is an important element of the equity conversation.*
 - *Equity considerations on allocation side, how to decide what gets funded. Major factor in deciding where to spend the revenue.*
 - *Understanding who benefits from the investments is more important than where the money comes from (true equity impact is at the backend, when investments are made).*
- Some focused on equity in the process
 - *Existing residents often hold historic influence in investment decisions, so residents who might be disproportionately affected by reducing or eliminating SDCs might not be at the table.*
 - *Some communities use standing or ad hoc committees to help in the SDC-setting process.*

Themes	Stakeholder Feedback
Increase in interest in/use of affordable housing waivers	<ul style="list-style-type: none"> • Several cities and service providers have waiver policies in place for regulated affordable housing and more jurisdictions reported considering waivers. • But concerns about administration and enforcement for affordable housing waivers were raised. <ul style="list-style-type: none"> ○ In communities that have not implemented affordable housing waivers, staff sometimes expressed concerns about monitoring and enforcement over time: <ul style="list-style-type: none"> ▪ How to guarantee that rents stay low? ▪ What happens if owner changes rents? If rents do change to market-rate, is there a way to get SDC payment? ▪ Major administrative tracking concerns. • Most service providers that offer SDC waivers for affordable housing limit it to regulated / income-restricted affordable housing. <ul style="list-style-type: none"> ○ <i>Some use a deed restriction that requires them to pay back the SDCs if the property does not remain affordable.</i> ○ <i>Some noted waivers have increased admin costs because they must review for eligibility, other said it was minimal.</i>
Concerns about implications of foregone revenue from eliminating or reducing SDCs for affordable housing	<ul style="list-style-type: none"> • Some do not feel it is fair (or, in some cases, legal) to waive fees for affordable housing. <ul style="list-style-type: none"> ○ <i>SDCs are charged based on infrastructure needs, and affordable housing still creates an impact on infrastructure.</i> • Some cities and service providers have set a cap on the amount of waivers they will issue. • Many raised questions about where replacement funding would come from. <ul style="list-style-type: none"> ○ <i>When SDCs are waived on certain projects, the revenue will need to come from other sources so projects can be built.</i> ○ <i>User fees or general funds may be used to backfill whatever SDCs are waived.</i> ○ <i>Want to know that if SDCs are reduced or eliminated, how can they ensure investments are made in lower income areas?</i> ○ <i>If there was a policy to waive, would have to be a policy to backfill—that money has to come from somewhere. What do you backfill it with is the question, not whether to backfill.</i> ○ <i>Concerned that State will require SDCs be waived or reduced for certain types of development projects. If this becomes the case, state funding should be provided to help backfill.</i>

Themes	Stakeholder Feedback
Timing	
Most jurisdictions collect SDCs at building permit issuance, but some offer flexibility	<ul style="list-style-type: none"> Jurisdictions offering deferral to certificate of occupancy (C of O) often do so selectively, but each jurisdiction is different in their approach and criteria. <ul style="list-style-type: none"> Water SDCs are sometimes linked to meter placement, which typically occurs about 3/4 of the way through finishing the house, before C of O, but after BP (usually). Have leverage because the meter needs to be installed. Several indicated they won't install the meter if SDCs haven't been paid.
Concerns about administering deferrals	<ul style="list-style-type: none"> Administratively, it's easiest for jurisdictions to collect at building permit. <ul style="list-style-type: none"> Easier to collect SDCs with Building Permit when applicant is already paying permit fee - more efficient. When fees are not collected all at once, funding streams become disconnected and project execution can become uncertain. At Certificate of Occupancy, service providers still have some leverage, though there were differing opinions about this. <ul style="list-style-type: none"> Some said certificate of occupancy is fine, since there's still a lever the jurisdiction has control over. Some cities expressed that once permits are issued, they can't hold up C of O for any unmet conditions or unpaid fees. <ul style="list-style-type: none"> <i>Pretty common opinion from building officials — if don't get fee up front, no hammer to collect any more.</i> <i>Permitting system wouldn't allow carrying a balance — can't call for inspection.</i> Many service providers are concerned about nonpayment and being in a difficult position with deferral to C of O. For example: <ul style="list-style-type: none"> <i>If ready for final inspection, ready to close and move in, and SDC payment holds it up, would look like City holding up final inspection. Creates perception issue.</i> Single-family development can be more challenging for deferrals. <ul style="list-style-type: none"> <i>SF permits all come in individually. Would have to monitor and track every unit individually.</i>

Themes

Stakeholder Feedback

- *For a subdivision phased in over time can deferral create delays in implementing improvements.*
- Collecting at time of sale is especially concerning
 - *Rental properties are not sold, there's no trigger in place to collect SDCs*
 - *Large scale planned development that might be built out over several years with piecemeal sales, might not allow for SDCs to be collected in a timely manner.*
 - *Since cities are not involved in the sale of a property, there may be no trigger in place for collection (years down the road) and fees may never get paid.*
 - *Concerned about level of effort and staff time to track and make sure it happens.*
 - *City has no connection to sale, no involvement. Unless appropriately recorded—have to rely on someone else to trigger it, no guarantee it will show up.*

Most service providers are not affected by a small delay in receiving funds, but there are a few cases where timing is more important

- Most service providers are not utilizing SDC revenues for projects within the same year and would generally not be greatly affected by a 6 or 12-month delay in collections. Projects are usually planned out several years through the CIP with current revenues funding projects in later years.
- For new parks in master planned areas, timing of SDC collection is important, especially for land acquisition, since this needs to occur prior to development. Timing for developing the park land is less critical. Having parks and playgrounds before first homes come up isn't necessarily as important. However, others felt that people expect park and rec facilities when they move in.
- In some cases, utility impacts are immediate (e.g., water use during construction).
- Some service providers use SDCs to pay debt service on previously built projects and expend it in the year it is received.

Transparency

Basic ORS requirements are not a problem for most agencies

- Most provide some info online, but amount and type vary.
 - Methodologies, project lists, fee schedules posted on website.
 - Funding can be tracked in budgets, CIP, and annual reports.
- Some charge small administrative charges to recover a portion of the compliance requirements and include a part of master planning costs on the project list.

Themes	Stakeholder Feedback
Additional simpler explanations of SDCs are common	<ul style="list-style-type: none"> • Cities that only post their methodology online without providing more user-friendly materials for community members to navigate the methodology can create confusion and tie up staff time with fielding questions. • Many communities have at least a brief explanation online. • Larger agencies have staff dedicated to SDC program, so can provide more tools, such as <ul style="list-style-type: none"> ○ Dedicated webpage ○ SDC calculators ○ Transportation SDC video ○ Historical SDC tracking and comparisons ○ FAQs ○ Mail CIP reports to citizens ○ Training of front counter staff key to communication/understanding ○ Public info campaign for projects that are funded with SDCs - want people to see how being used • Some smaller service providers noted that simple explainers from the state that explain what SDCs are would be helpful.
Providing information on SDC expenditures is more complex	<ul style="list-style-type: none"> • Would have been concerned if had to clearly show what SDC are paying for specifically. <ul style="list-style-type: none"> ○ <i>Gets complicated when multiple revenue sources are applied due to mix of project components (growth and maintenance).</i> ○ Small communities report it would be difficult to track at a subsystem (neighborhood) level. ○ <i>There is a lack of tracking where new dwelling units are being constructed relative to where funding is being spent.</i>

Appendix B. Summary of Input from Developers

Contributors: ECONorthwest

ECONorthwest conducted seven interviews and focus groups with market rate and affordable housing developers and home builders to gather insights on how SDCs affected developers' choices and development outcomes.

Discussion Topics

While the interviews and focus groups varied depending on the developers' experience and expertise, the range of topics addressed in these conversations included:

1. How do SDCs affect your development decisions? Can you give examples of times when SDCs affected and or all of the following:
 - Land negotiations
 - Walking away from a potential project
 - Changing what you would build / target price point
2. How does the impact of SDCs on housing vary across different geographic areas?
3. What are the implications of the timing of when SDCs are due within the development process?
4. How important are the following factors related to SDCs:
 - amount of the SDC relative to the strength of the local housing market;
 - amount of the SDC compared to other similar communities;
 - how the SDCs are used, and being able to see clear value from the SDCs; and
 - certainty about how much the final SDC cost will be.
5. Are there jurisdictions that you think are good models to look to for mitigating impacts of SDCs on housing?

Companies Represented

Metropolitan Land Group	Killian Pacific	Seven Peaks Homes
Polygon Northwest / Taylor Morrison	Stoel Rives, LLP	Stonebridge Homes
Pacific Crest Real Estate	Hearthstone Homes	Venture Properties
CDC Management	Cornerstone Community Housing	Hayden Homes
Hi-Valley Development	NW Housing Alternatives	Goodwell Construction
Arbor South		
Columbia Gorge Capital		

Summary of Stakeholder Feedback and Themes

Themes and stakeholder feedback from the interviews and focus groups are summarized on the following pages by topic.

Themes

Stakeholder Feedback

Do SDCs Affect Development Decisions?

SDCs are part of underwriting and decision-making, as one of many costs that developers consider

- Most developers, report that SDCs are included as a line item in the proforma as a development cost. Some identified SDCs as a **major** cost category, along with land costs, hard costs, and off-site improvements.
 - *Moves the needle for cost of housing across the board, combined with everything else.*
 - *Not only SDCs. One of the biggest costs though.*
 - *Have decided not to do maybe \$20m of work because of how SDCs skewed proforma.*

How SDCs Can Affect Feasibility of Projects

In some cases, SDCs are enough to make a project infeasible, especially for very cost sensitive housing types

- Entry-level homes are often cost-sensitive because of the need to keep sale prices down.
 - *Worked for a homebuilder that did entry-level homes for first-time buyers and it was a burden.*
 - *SDCs are \$35-36k on an entry-level house. Sale price needs to be about another \$45k just to break even.*
 - *Try to build a home and SDC fees are almost \$30k before building permits. Would have to build something that nobody can afford. (Small coastal community)*
 - *If just barely pencils and SDC rates go up, they walk away if it's entry-level. In the middle adjust up or down, at bottom it's go/no-go.*
- Middle housing (attached product) tends to be cost-sensitive because it can cost more to build than a single-family home and sells for less relative to a single-family dwelling, but SDCs are not proportionately lower.
 - *Jurisdictions often have just a multifamily and single-family SDC rate so middle housing doesn't get the same discount as you would for larger multifamily. Some SDC rates differentiate based on square footage, but those often don't have a substantial discount and other SDCs don't vary in the same way so SDC rates don't change that much.*
 - *Had a half-acre of land on hold in [medium-sized mid-Willamette Valley city], waiting for HB 2001, but when they got the estimate back for SDCs for the 12-unit project it was about \$200,000*

Themes

Stakeholder Feedback

(just for building SDCs). Doesn't include utility costs. Means 20 percent of unit costs going to soft costs outside of architecture & engineering. Considering bailing on it.

- *It's a hard sell to propose middle housing when single family performs better. SDCs make up a larger percentage of the sale price for middle housing so they perform even worse.*
- Multifamily can also be affected by high SDCs when rents won't cover the costs.
 - *SDC fees (plus other local fees, including building permit) made it prohibitive to underwrite project. Were about \$40k per unit, and those areas had been more like \$20-30k historically. If the fees for that area were lower, it would still have been questionable, but would have helped.*
 - *24-unit project in [medium-sized mid-Willamette Valley city]. If it costs more than about \$15k per unit, it gets tough. Now getting closer to \$20k per unit.*
 - *12-unit project in [small city]. Did some napkin math, got SDC numbers from City up front and said wouldn't work period. Didn't bother refining project. With SDCs in normal range would have been tight anyway.*

Lower SDCs aren't always enough to make an infeasible project feasible

- When projects don't work, it's often about more than just SDCs—construction costs and market conditions are big drivers.
 - *If it doesn't pencil out, there are probably multiple drivers, not just SDCs.*
 - *Construction costs have gone up from around \$200/sf. Now coming in around \$250/sf. Not SDC related, just market right now.*
 - *Deal-killer now is supply, labor, construction costs. SDCs have become a smaller factor.*
 - *If a community doesn't have reliable growth, reliable rents won't get near it.*
- Lower-cost housing types tend to face obstacles beyond SDCs.
 - *ADUs are super expensive to build per SF basis and the return on them doesn't align.*
 - *For middle housing, you're putting a product on a site that would otherwise have a single-family home on it. Lenders always compare to what else could be built there. Have to justify that it performs better than single-family dwelling, but middle housing often doesn't. Attached product depending on market particulars can cost 20 percent more to build than a single-family home (more complex to build) and dramatically undersells relative to a single-family dwelling (30-50 percent of a sf dwelling).*
 - *Larger homes often perform better than smaller ones. Incentive is to build the largest marketable product on the lot.*

Themes

Stakeholder Feedback

Where SDCs are low relative to other costs, they have little impact on projects

- When a jurisdiction's fees are low, they may not be a source of concern.
 - SDCs [for duplexes in a small coastal city] *were about \$6,000 per unit, that amount just doesn't move needle too much because rent growth in area is so high and the SDCs were low. Not significant relative to overall budget cost.*
- Residential adaptive reuse projects can have low SDCs compared to new construction.
 - *Adaptive reuse of a former senior care center that was 70 rooms, which resulted in a reduced fixture count (ended up with about 56 units after completed). Resulted in less than 50k in SDCs on that project, less than 1k per unit.*
- SDCs are not typically an important factor for high end housing types, such as custom homes.
 - *SDCs are just one other fee on a several-million-dollar house, just a small component. Not that important to their business model.*
 - *Property owner typically pays the SDC for custom homes.*
 - *The bigger the home, the less impactful the SDCs are on the construction of the unit.*
 - *For a second home or custom home it is what it is - nonissue.*
 - *If high end subdivision and there's enough price elasticity it's part of the cost of doing business.*

How SDCs Can Affect the Type or Scale of Housing Developers Build

In many cases, SDCs are not a factor in determining what a given developer will build.

- Developers tend to specialize in certain types and forms of housing.
 - *Try to build relatively the same types of plans. Pretty standard finish, build all Earth Advantage houses. Everyone wants granite counter tops.*
 - *Always build multifamily, not single-family or townhomes.*
 - *Strictly infill builder, 99 percent in [one large jurisdiction].*
 - *Custom homebuilder, mostly higher-end.*
 - *Target to 80-120 percent AMI projects with mission-centric landowners because land is the largest frontload on the cost. Often work with legacy employers. No lease-up, stabilized at occupancy, saves money.*

Themes

Stakeholder Feedback

- Product is usually based on what aligns with the market. Many wouldn't change what they build just because of SDCs. This is particularly true for multifamily, given that SDCs are often not known up front.
 - *Trying to get the right combination of unit sizes for the market and pricing. Designing and building to what works for the market and sense of place and what city wants it to look like. Then come up with final product. SDCs aren't last calculated but not first either.*
 - *When underwriting a project, if we know a market, know what finishes make sense for the market - that goes into the hard cost budget. We let the general contractor know what finishes we're targeting. When we run the proforma if all doesn't pencil out it just doesn't work.*
 - *Wouldn't change from entry-level to market because of SDCs, would deliver what's best for the market regardless of SDCs.*
 - *There are a lot more components than SDCs that go into deciding the form of multifamily.*
- Sometimes developers will adjust unit size in response to SDCs and other costs.

 - SDCs combined with high land costs sometimes push developers to build bigger, more expensive homes to cover the costs. This is particularly true for single-family homes where SDCs are more predictable in advance.
 - *If can't make [SDC exemption program] work could be 1700 sf house to get to higher sales price that makes the numbers work. Currently building 3 houses in a neighborhood that's nicer, know they won't be under price cap [for SDC exemption]. Had to build 1800 sf house to justify higher sales price and afford SDCs. End up building bigger more expensive house to cover the cost.*
 - *SDCs aren't really stopping things in [large Metro-area city] - pushing houses to be larger and more expensive.*
 - Other developers may build smaller units to cut costs while keeping pricing aligned with the market.
 - *One area had lots of expensive requirements and high fees. Can only charge so much for a house, still have to the price house to be competitive. Think those units might be smaller, higher cost for those features. Typically get a smaller lot, maybe a smaller house but it's new.*
 - *Will change product offering, shrink product to what people will be able to pay. But will the market accept that?*
 - *Have seen house sizes reduced to counter-act increasing costs.*

Themes

Stakeholder Feedback

<p>Sometimes when the difference in SDCs is based on product type or scale is substantial, developers will choose the option with the substantially lower SDCs</p>	<ul style="list-style-type: none"> ○ <i>For lower sales price, go for a smaller house. Might have to build a 1300 sf house.</i> • In some instances, if SDCs are waived for homes that sell to income-qualified buyer (below 120 percent AMI), market-rate developers will build a lower-cost home to qualify. <ul style="list-style-type: none"> ○ <i>When working with the SDC waiver program, homes are priced at \$430k to qualified buyer, \$475k to nonqualified buyer. If SDC-qualified buyer, get the discount. Sold 3 to SDC-qualified buyer, 2 to nonqualified. Like to sell at lower price point, but a wash either way.</i> • When SDCs are much lower for small units, this can have a big impact on some projects. <ul style="list-style-type: none"> ○ <i>Were able to take advantage of building cottage homes, reduced SDC fees. City figured that cluster code allowed them to put 4 units on one lot, and were only going to get one SDC if put a larger home there, justified that still covering the impact of one larger home. Could build up to 4 units, 1 SDC divided by 4. Were able to do 4 for-sale units, hadn't been an option before. Small fee for hook-up, but not the full \$35-40k.</i>
<p>Other times, when SDC differences are minor, they are not enough to change the unit size or other features.</p>	<ul style="list-style-type: none"> • Scaled SDCs that do not vary substantially have less impact on what will get built. <ul style="list-style-type: none"> ○ <i>In [one medium-sized mid-Willamette Valley city], City was reviewing parks fees as well as transportation and water fees. Had asked them to think about a tiered study, because of HB 2001 regulations. There was a push by Council to ask staff to do it. Took about 18 months to come back with recommendation, tiered. It's a little different from [other tiered approaches]. Based on Census data—average square footage that are being permitted. Reduced amount on smaller square footage, increased on larger. But doesn't get to where you need to be—not aggressive enough to make it work. When look at fixed cost of what it takes—land, building costs, SDCs, won't be able to get cost down enough to meet area median income.</i>

How SDCs Affect Housing Prices & Rents

<p>The market determines what prices/rents are possible, but SDCs can influence whether developers need to</p>	<ul style="list-style-type: none"> • In a supply-constrained environment when other costs are inflexible, builders may try to push sales prices to recoup at least some of the costs. <ul style="list-style-type: none"> ○ <i>If there's lack of supply of land and SDCs are fixed and costs are pretty fixed, have to sell the house for more—there's not much else that can move. Seems like demand is strong enough relative to supply that builders feel like they can push the market.</i>
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Themes

Stakeholder Feedback

push the upper limits
or not

- *Cost typically goes down to buyer on for-sale products, which causes the buyer's buying power to go down. If house was supposed to be \$350k and city fees were \$60k per home, that does get passed on. Maybe have to increase to \$375k.*
- Multifamily developers generally indicated they have limited ability to push rents, unless rents are already increasing anyway.
 - *Can't raise rents just to raise rents.*
 - *Unsure if will need to increase rents—don't want to be uncompetitive in pricing. Could lead to longer lease up, might not hit the numbers.*
 - *Trying to get numbers down to make it work with market rents.*
 - *Fees increased for parks district during development. Pandemic helped because rents went through the roof—allowed them to pass through the costs. Otherwise probably would have been on pause until rents went up.*

How SDCs Can Affect Land Prices & Negotiations

SDCs affect land negotiations and what developers are willing to pay in some cases

- SDCs are one of the factors that impact what landowners and land developers can sell finished lots for, as part of the builder's overall proforma.
 - *Trying to keep SDCs down generally speaking—keeps land values higher as a seller of land.*
 - *Developers come back on the land, that's where the haggling is. But in a supply-constrained development, their business requires land, so maybe they can push on subs or see what else can give.*
 - *If one jurisdiction charging \$30k, another is charging \$75k that goes into the formula. Either try to pay less for land or know that will have to sell homes for more.*
 - *For any deal that works, they have successfully addressed the impact fees as part of purchase price (for the land).*
- There are times where a seller's expectation on the price of land and high SDC costs have kept projects from moving forward because seller won't take a lower price. This can be particularly true when land costs are already low and there is limited room to absorb SDC costs by lowering the land price.

Themes

Stakeholder Feedback

- *Expectation from seller that land would sell for similar price of recently sold parcel next door (parcel next-door zoned for single-family units, whereas this one required attached housing, no single family). This particular city had higher SDCs relative to neighboring jurisdictions (new growth area), so could only offer about 35 percent of what the seller was looking for. SDCs were baked into the proposed purchase price and so if they could have come to a deal, the SDCs would have been pushed onto the landowner because they couldn't be baked into the attached product.*
- *SDCs were a factor in not being able to come to an agreement on land price*
- *Have passed on projects in [large Metro-area city], and properties that are still for sale where couldn't make the numbers work. Some land people just won't sell if they're not going to make enough.*
- *Could pay SDCs but landowner needs to take less money—tried to negotiate but would've been \$100k on a \$300k property.*

Other times, land prices or negotiations do not play a role

- Some developers build on land that has been held for a long time, and land price negotiations aren't a factor.
 - *Already own everything they will develop, not in an acquisitions mode to develop projects.*
- Some developers are strictly infill builders, so they do not do any large land acquisitions.
 - *Not much land acquisition negotiation, mostly buying older homes and demo or keep and add to it.*

How SDCs Can Affect Where Development Occurs

SDCs can make developers choose one area over another in some instances

- Many developers and builders report that land costs and SDCs are differentials when considering what adjacent jurisdiction to build in. When SDC costs are out of line with market conditions, developers may look elsewhere.
 - *In some communities SDCs have been part of decision—don't look at [one jurisdiction] because of some of the SDCs there.*
 - *Particularly an issue in older cities that have a lot of infrastructure costs that need to be funded. May pay \$500k in SDCs and still have to replace utility lines.*
 - *Won't build in [certain small towns] - too expensive. Build in places that have more reasonable SDC fees.*

Themes

Stakeholder Feedback

- If there are other options in the area with lower SDC costs and comparable market conditions and land costs, developers may choose those areas instead.
 - *If SDC fees are \$30k less somewhere (but markets are similar) will just go somewhere else. For market-rate apartments almost the same. If can only do a certain number of deals, would choose the lower-cost one (all else equal).*
 - *There are markets where rents or sales prices are similar — closer to urban usually higher, lower further out. Similar housing markets, similar drive to core. Even with state income tax differences, it was similar. There are markets where could get similar pricing with lower fees.*
- Others said SDCs would generally not be enough for them to choose a different community to build in.
 - *Nearby communities are smaller, don't have diversified economies. Generally wouldn't consider building there. SDC difference would have to be a lot.*
 - *Not so concerned about that [comparison to other jurisdictions]. All have different priorities, respect that.*
 - *Affects willingness to build in a given community, but not the only factor.*

Other jurisdiction-specific factors can have a bigger impact than SDCs on where developers want to build.

- In some instances, developers and builders said there were other costs that were more important factors than SDCs, including permitting speed, ease of communicating with and getting clarity from staff, and zoning regulations.
 - *If paying more in SDCs could equate to permit speed and consistency/more predictable way then that might make a difference. Build SDCs into proforma and they are predictable, but the permitting speed is more of an unknown.*
 - *Very different permitting and SDC experience [between two small towns]. In one, permitting is great, super fast: 5 weeks from plans to permits issued. Can call directly, very responsive. But a lot of coastal cities have issues with retaining staff for city departments — people move on to bigger communities after a few years. Hard to get timely responses to any questions — planning, land use, permitting, or clear info from Public Works.*
 - *One new growth area had a whole other level of requirements on single-family home developers - specific architectural design guidelines, sustainability requirements that all put a burden on the developer. And municipal fees were high.*

Themes

Stakeholder Feedback

Ability to charge high SDCs varies by size of community and market demand

- *When you get better service overall, it feels like city is working with you, but in other communities it feels like they don't care if your project happens. It makes a difference. Time savings from a more streamlined process can make up for some of the SDC cost.*
- Many developers noted that small towns are more sensitive to SDC costs.
 - *Should ideally be some sensitivity that smaller communities won't be able to absorb big SDC fees. More impact in smaller communities. Maybe can pass along in larger communities—maybe a little more expensive than wanted it to be. Almost like gas prices.*
 - *Smaller fees can make a big difference in a small town.*
 - *Less room for error, less variability in cost in emerging markets. Any cost increases would put more strain on the project. Less flexibility to maneuver.*
 - *In other parts of the state [outside the Portland region], price points are lower that you can sell homes for. Jurisdictions have a harder time raising SDCs, haven't seen them as aggressive as they are in Portland region. Market is softer. Not pushing as hard on the amenity side as Portland metro jurisdictions—that keeps costs down.*
- Affluent and high-demand, supply-constrained communities may be able to charge higher SDCs.
 - *Small affluent jurisdiction in Portland Metro region, strong market, strong school system. SDCs are considerably higher than other jurisdictions. Higher SDCs tend to correlate with communities that are more difficult to work in and more affluent communities.*
 - *An area with higher income might be able to afford a higher SDC package than a [medium-sized mid-Willamette Valley city].*
 - *Portland metro jurisdictions know that developers have less options, think they can pay more.*
 - *[SDCs for one greenfield development project in the Portland metro region] were highly negotiated with City and 3 primary developers. They had kind of a line in the sand on how high they could go. Knew what product mix they were anticipating. They intended to have some executive housing—street of dreams, job proximity, golf course proximity. Were banking on being able to charge a premium for new community with parks, schools, amenities. Had come up with a mix of products that would allow them to absorb some cost.*

Themes

Stakeholder Feedback

Whether Developers & Investors Accept Lower Returns When SDCs Are Higher

Developers can rarely move a project forward that doesn't meet investor and lender return expectations just because SDCs are higher, but sometimes project-specific circumstances can mean the developer absorbs a portion of the cost.

- Pro forma needs to work before moving forward (noted above). Lenders and investors have their requirements / expectations.
 - *Work the proforma backwards. Think they can get X in rent for the units. If they build this many units with those rents, what is NOI [net operating income]. Have to make 6.5 percent return on investment or won't loan on it—if can't hit that they walk away. If developer puts \$1m in, they want to make sure they are getting a return on that.*
 - *Buyers [of finished lots] generally build a proforma on all the costs of building a home for sale, look at what their margins need to be—usually deal with national homebuilders. They look at what SDCs are going to be.*
- Very rarely, for a major development, investors may intentionally accept lower returns in some phases if later phases will make up for the lower returns.
 - *Did an apartment complex in [a master planned area]. Fees were a burden on the project. Developer was tied into the equity investors in the overall development. They were asked by the equity partner to do the deal with lower returns to be the first in. Couldn't negotiate on land to make it lower, couldn't raise rents, so took lower returns on the investment. Didn't meet company requirements, but equity partner needed the master plan to get up and going to get homebuilders to sign contracts. Would not have done that deal otherwise. Was kind of a loss leader.*
- Developers that hold projects long-term in areas with strong market conditions may be able to pay more up front and still achieve returns over the longer-term.
 - *Depends on who's building the project—20-year hold vs. 5-year hold and sell to institutional equity. Different metrics. Longer view can afford to amortize costs over a longer basis.*
- Once budgets and financing are locked in, changes to SDCs or other fees can affect financial returns based on how much contingency is needed
 - *Build in escalation into municipal fees. Sometimes they don't go up and it's a win. Other times they go up more and do the best they can.*

Themes

Stakeholder Feedback

How SDCs Can Affect Affordable Housing Developments

SDCs have to be covered by the combination of rents (limited based on incomes) and other sources of funds that help make the project feasible.

- When SDC costs are known early, they can be incorporated into funding applications.
 - *Have to know costs early and with precision before you get your funding, especially if not using a conventional lender.*
 - *When applied for funding had about \$80k plugged in for SDCs after conversation with Public Works —rough math.*
- For Low Income Housing Tax Credit (LIHTC) projects, the tax credit equity covers a share of the SDC costs when financing closes (project completion), but not all.
 - *4 percent LIHTC—getting about 36 cents back on the dollar—some offset for basis eligible costs. Get about 1/3rd of it back. Doesn't make you whole but helps a little.*

SDC waivers can make a substantial difference to affordable housing developments, but they can also introduce complexity.

- Waived SDCs or exemptions can help close funding gaps.
 - *Had a site for affordable housing development. Original developer couldn't make it work because infrastructure costs were so expensive, including Parks portion of the site. City was trying to come up with an alternative. Reduced number of affordable units, but the only reason they could make it work was because SDC fees were waived or reduced for affordable units.*
 - *Saved almost 900k in SDCs on a 140-unit project. Huge savings.*
- Requirements from the jurisdictions for qualifying projects can be challenging to meet.
 - *City wants to see a 99-year cash flow projection and you're agreeing to a 99-year affordability covenant that runs with the land. City wants to be in top lien position—they were negotiating with OHCS and the permanent lender for position. Some lenders are flexible, others would walk away before giving up first lien position. The end result is good, but the mechanics are problem. Probably cost another \$50k in lawyer fees.*

Certainty on SDCs is particularly important for affordable housing development.

- When SDC costs increase unexpectedly, it can be very hard to find additional funding or cost-savings in other areas at the last minute when funding amounts have been set in advance.
 - *On one project, spent about 3 months with architects and engineers to try to get an SDC fee estimate. No one at the City was willing to have back of napkin conversation. Needed to be ready to issue building permits to calculate the SDC fee. Had SDC fee calculator online, but those are always wrong,*

Themes

Stakeholder Feedback

often by a lot, even if you get an engineer involved. Staff was difficult to get ahold of—had a line in the proforma from a conversation a year and a half ago where someone gave a rough guess, which ended up being \$150k short. Had to take it out of the building. Then a week from closing got a note from Public Works that said they needed another permit that was another \$5k that they hadn't planned on. Can't weather those types of surprise costs today. Had to make hard decisions—playground equipment cost cut, landscaping, and site amenities cut. When get close to closing and have been doing everything to keep construction scope in place things are down to very fine margins. At one point almost had to eliminate a floor to make the budget work.

How SDCs Timing of Payment Can Affect Development

Paying SDCs at building permit increases financing costs and impacts availability of capital

- When SDCs are financed on a construction loan, the developer has to carry interest on that cost throughout the whole development process, so it increases the overall cost of SDCs.
 - *Often pay out of construction loan. Would be nice not to have to add hundreds of thousands to construction loan on day 1, especially with interest rates rising. Have to carry SDC fee debt.*
 - *\$40k in SDCs could become \$50k with construction interest.*
 - *If include with bank loan on the very front end, might take 6 months to completion plus time to sell, could be 9 months interest.*
 - *Payment at final inspection—a big cost-saver. Pay a set amount on any payment of fees. Savings there is very beneficial. Essentially lowers the cost of the SDC. Have to make fee payment before they'll send an inspector out.*
- Developers of multifamily projects may have higher carrying costs due to longer development periods.
 - *Should be due at certificate of occupancy instead of permit, especially if 100+ unit multifamily or large industrial project—it's a lot to carry for the development. An 8 percent construction loan for 24 months on \$600k SDC fee = \$48k in interest. [market-rate multifamily developer]*
 - *It's just cash flow—when money is coming in. Typically don't get a construction loan until have the building permit. To get the building permit have to pay the SDC. Can be 2 years before delivering the product. If can offset for a few years, it helps with cash flow. [market-rate multifamily developer]*

Themes

Stakeholder Feedback

	<ul style="list-style-type: none"> ○ <i>Not cheap to service debt on something that large that early in a project. [affordable multifamily developer]</i> • Paying SDCs before construction takes away from the resources available to pay for pre-construction work and early stages such as site preparation. <ul style="list-style-type: none"> ○ <i>If use cash on hand, if its \$35k per house, could be \$700k in SDCs—reduces working capital to build more units.</i> ○ <i>Allows putting that money to other parts of the project, e.g. early buy-outs for construction, getting sitework done early—allows getting started on construction before construction loan is in place. First draw is typically like \$2m. Instead of paying those fees can get construction started.</i> ○ <i>Developers are putting in a lot more cash up front, loans are decreasing (e.g. 60 percent) so might be just equity contribution before construction loan kicks in. Would rather put up-front costs to something more tangible.</i>
Not all developers agree that deferring to Certificate of Occupancy is helpful	<ul style="list-style-type: none"> • Some developers are indifferent to when they pay the SDC cost, since they have to pay it eventually. <ul style="list-style-type: none"> ○ <i>If it's a \$100m project and will have \$60m construction loan, nothing says SDC fees have to go in construction loan. Financing same amount either way.</i> ○ <i>Deferrals haven't made sense—just delaying the inevitable. Have to pay either way.</i>
Some developers expressed a desire to defer SDCs past Certificate of Occupancy	<ul style="list-style-type: none"> • Some builders noted that paying at time of sale would be preferable. <ul style="list-style-type: none"> ○ <i>If tie to occupancy—what happens if a small builder is over budget and don't have the funds, can't get final, can't pay the city. Could be a mess. At transfer of title, have the funds to pay it off.</i> ○ <i>For build to sell, payable at closing, or at least at C of O so not paying interest on the SDC.</i> • For rental, some suggested delaying or financing for longer. <ul style="list-style-type: none"> ○ <i>Having SDCs payable upon stabilization for rental - equity bump when property is built and stabilized. Could be a lien that gets attached to the property to pay once stabilized.</i>
Timing of payment vs. timing of impact matters to some developers	<ul style="list-style-type: none"> • Some developers feel that paying later is more appropriate based on when SDCs are used or when impacts occur. <ul style="list-style-type: none"> ○ <i>Cost for essentially nothing—they're designed to offset impacts to systems but impact doesn't start until there's a buyer.</i>

Themes

Stakeholder Feedback

- Jurisdictions (especially large ones) don't need those dollars for a long time.
- Think should be later—at occupancy. Should be tied to when the impact starts.

How Important Certainty/Predictability in SDC Costs is to Developers

Many developers highlighted the importance of knowing how much the SDCs would be in advance.

- Several developers noted issues with major changes to SDCs during the pre-development and development period. Some set money aside specifically to address fee increases, but there are fewer options to adjust to cost-increases that occur later in the development process.
 - *Update fees in April/May, check in with cities on whether and how much they're going up. Occasionally there can be significant changes. But none have ever caused backing out of a deal, just reforecast and reallocating costs. Also carry a municipal fee contingency—pull from that. Try to avoid using soft-cost contingency.*
 - *Relied on numbers from city that accounted for SDC credit. When had final approvals to HUD and couldn't change it got a letter that they ran out of credits. Had baked SDCs into proforma for construction loan for HUD. Immediate hit to contingency before starting.*
- Estimating fees is typically more challenging for multifamily development.
 - *Typically find out SDCs later in the process on the multifamily side. When you have your unit mix, then you have the parking ratio, then figure out impervious surface, trying to make it fit and make numbers work at the same time. Can be 6-12 months into project before you know that, and you can't get a great estimate of SDCs before that.*
 - *Certainty is important to developers—timing, amount, etc. [multifamily developer]*

How Important the Usage of SDCs is to Developers

Many developers see value in the infrastructure that SDCs fund.

- Parks and lack of traffic congestion were identified as factors that particularly offer benefits for housing demand, which supports development.
 - *Parks are necessary, great amenity for dense urban projects*

Themes

Stakeholder Feedback

	<ul style="list-style-type: none"> ○ <i>Developers like parks, trees, open spaces. If they can see that a community is proactively spending in a beneficial way, it would be a more beneficial offering for housing. If people can see that have the amenities and open space, services, lack of traffic congestion, they will make their decision.</i> ○ <i>Projects need to be done. They're necessary. But existing residents aren't paying today's prices for the infrastructure they have.</i> ● Some developers noted the importance of funding needed infrastructure to allow development to move forward. <ul style="list-style-type: none"> ○ <i>The biggest benefit of SDCs in Oregon is that they provide a mechanism so jurisdictions can't place moratoriums on development. In other parts of the Country, if they don't have infrastructure and don't have SDCs in place, you end up with moratoriums and can't get things built.</i>
Developers like to know that SDCs are being put to good use generally, and many would like more transparency about how funds are being used.	<ul style="list-style-type: none"> ● Many placed value on accountability and transparency generally. <ul style="list-style-type: none"> ○ <i>Important to see the benefit. Any taxpayer or investor wants to see where their money is going. Goes to government accountability.</i> ○ <i>Don't look at what they get for each penny, but do look at governance quality, SDCs are part of that. How much crumbling infrastructure, will there be population flight because tax burden too high or services are poor. Look for great long-term governance.</i> ○ <i>Care about overall business environment. What is city charging and how is it being used.</i> ● Some would like to see a more direct and tangible connection between the SDCs paid and the projects they build. <ul style="list-style-type: none"> ○ <i>People should know where the dollars are working for them, and may be more willing to pay if they're presented with a project list of where the money will be spent. The area where the money is generated should see the investment.</i> ● Some pointed out that the way SDCs are used varies between infill and suburban contexts, and that suburban projects can be more visible. <ul style="list-style-type: none"> ○ <i>Don't build in [suburban Portland region community], but hear from other builders that they feel like they're getting value for their parks SDCs—they use the funds. [Urban jurisdiction] can't go out and build new parks, they use funds mostly to increase parks capacity (e.g. converting grass field to turf with lights to increase how much of the time it can be used). In more suburban jurisdictions you can see them using the funds.</i>

Themes

Stakeholder Feedback

- *In [urban jurisdiction] you rarely see something close that's a direct impact funded by SDCs. Mostly larger capital projects (e.g. major roads). Wish they would put up signs saying "this was paid by X."*
- Some developers expressed concern that projects included in SDCs may not get built.
 - *Park fees are challenging because they vary so widely. Sometimes they encompass projects that are unlikely to get built but inflate the fees. No requirement that what they put in the plans actually gets built.*
 - *Have experienced where collecting SDCs for parks but not being used because couldn't afford to maintain them, do the construction, etc.*
 - *Looking at a small community—high parks SDC but talking about decommissioning parks. Where are fees going?*
- Some expressed particular concerns about paying for administrative costs.
 - *In informal conversations some have had with city staff, staff say a lot of the SDCs go to admin costs for things like benefits and personnel.*
 - *Are the admin charges really proportional to the service/mechanics received?*

SDC credit policy is as important to some developers as the SDC rate.

- Developers generally like being able to get SDC credits for building needed infrastructure.
 - *Love it when can take advantage—it's a win / win. Jurisdiction gets infrastructure built at lower cost than if they had to build it. Not money directly coming out of their coffers. Developer gets localized benefit rather than SDCs going to a project that might be across town. Helps if a needed improvement might not be proportional to the project.*
- Some noted that the credit-eligible portion of infrastructure improvement costs can be more ambiguous than the SDC fee itself.
 - *If projects are on-site or contiguous, only get credit for excess capacity—lots of negotiations on what that means. Often developer gets negotiated down a lot. More clarity on what that means would be helpful.*
 - *City is judge, jury, and executioner. They decide how credits work, what's oversizing, etc. Could sue in theory, but not going to do that. Devil is in the details. Time is money, want to get project done.*
 - *Having to put in a park within a certain distance—city may require that but not getting credit for putting in those parks.*

Themes

Stakeholder Feedback

- Some said financing cost reduces the value of the credits, particularly if developers are required to pay SDCs and be reimbursed for credit-eligible portion of improvements.
 - *Had an experience where developer was building infrastructure that will earn them credits, but at the same time as the project. Had to pay SDCs and then reimburse at the end—city wanted the money for free, still wanted to charge interest to defer the SDCs.*
 - *Deferred because getting credit for significant off-site improvements. Instead of paying fees and then City paying the developer back, defer and reconcile at the end.*
 - *People sometimes think it's 1:1, but builder has to finance it, carrying costs can erode the value of the credit.*
- Some noted that provisions allowing transfer of SDC credits are helpful so that developers can get the full benefit of the credit.
 - *Have successfully received credits and sold to other developers.*
- *[One large city] made SDC credits not transferrable to other projects, imposed limits geographically. Think that's a mistake. That would further incentivize developers to take on larger improvements and could monetize by selling credits.*

Appendix C. Key Oregon SDC Court Cases

Contributors: Galardi Rothstein Group, FCS Group

The cases listed in this section are not an exhaustive list of Oregon case law, however, they highlight and provide clarity on some key issues associated with implementing an SDC program in Oregon.

Key Case: Home Builders Association (HBA) of Metropolitan Portland v. Tualatin Hills PRD

The Portland HBA brought suit against Tualatin Hills Park and Recreation District (District), essentially claiming that the park SDCs the District adopted constituted an illegal “taking.” The Oregon Court of Appeals ruled with the District in 2003 that its SDC met applicable tests of constitutionality as a quasi-legislative exaction. In its ruling, the Court reviewed the District’s methodology and stated the following:

Plaintiffs (HBA) do not suggest that the SDC is unrelated to the resolution’s stated objective of providing parks and recreational facilities, nor do they provide any argument, analysis, or information indicating that the amount of the fees that the resolution imposes is, as a matter of law, unreasonable or arbitrary. Such arguments would not be successful.

The Court further stated that “The SDC methodology here meets the ‘reasonable relationship’ standard. That being the case, it also meets, a fortiori, the Due Process ‘rational basis’ test.” The effect of this ruling was to clarify and affirm that a reasonable approach to proportionality would generally be upheld.

Key Case: Portland Metropolitan Association of Realtors, et al v. City of Portland, Multnomah County Circuit Court Case No. 15CV19696

The plaintiffs in this case brought suit against the City of Portland after adoption of a new (2015) park SDC methodology. The Portland Metropolitan Association of Realtors argued a number of points, with one found to have merit. In its project list, the city grouped planned projects into categories and noted the total category cost and SDC eligibility. In its ruling, the Court stated the following:

The sheer number of projects aggregated, and the loose descriptions do not provide sufficient evidence to demonstrate to the detail contemplated by the statutes.

The Court remanded the supporting project list to the city “for greater specificity in the costs, timing and percentage of costs eligible for SDCs for capital improvements needed to increase capacity.” This ruling provided additional clarity as to the level of detail required in an SDC project list, as delineated in ORS 223.309.

Another key outcome of the decision was upholding the city's methodology to change the level of service from a traditional acres of park land per 1000 people to current investment per person. As noted by the Court:

The level of service becomes the current investment per person in park land and improvements. What exists has been acquired for the use and benefit of the current population. With every new person added, the investment becomes diluted. Capital improvements return the investment to the existing level of service per person. In that sense, there is equilibrium, and the starting point remains static.

Key Case: Home Builders Association of Lane County, an Oregon Non-Profit Corporation, and Home Builders Construction Company, an Oregon Corporation v. City of Springfield, a Municipal Corporation and Metropolitan Wastewater Management Commission, Lane County Circuit Court Case No. 16-04-15534 and 16-04-15996

In June 2005, the Circuit Court of Lane County upheld a wastewater SDC methodology adopted by the Metropolitan Wastewater Management Commission of Eugene Springfield (MWMC) that was challenged by the Home Builders Association of Lane County. The methodology and project list were challenged on a variety of technical as well as procedural issues. Ultimately, the circuit court ruling upheld MWMC's SDC methodology and project list. Key issues highlighted in the decision included:

1. SDC statute requires that the SDC methodology provide a framework for imposition of SDCs but does not mandate a particular type of methodology.
2. In consideration of what determines an equitable and proportionate share of costs allocated to growth, the standard of review is substantial evidence and reliance on expert opinions and recommendations constitutes substantial evidence.

The SDC statute simply directs that the allocation of fees is done equitably and proportionately—concepts that are not rooted in any legal test but are dependent wholly upon the facts of a given situation. Given the purely factual nature of this assignment of error, it will be reviewed by this court under the substantial evidence standard (i.e., whether a reasonable person could accept the finding as adequate to support a conclusion)

3. Establishment of an SDC is not a land use decision and the statute does not require projects to be included in a land use plan prior to their inclusion on the SDC project list requirement by ORS 223.309.

Key Case: HBA of Metropolitan Portland v. City of West Linn (2003, 2006)

This matter first came to the Clackamas County Circuit Court as a Writ of Review, and the Court ruled that only one of their claims had merit. The City of West Linn was found to have included open space in its park inventory which did not qualify as parks and recreation facilities. The effect of the larger inventory was to increase the existing level of service provided by the city, and the resulting SDC. In 2003, the Court remanded the matter back to the city, which removed nonqualifying open space and recalculated the fee. The HBA appealed. In 2006, the Court of Appeals of the State of Oregon sided with the city, acknowledging that the city had fixed the only meritorious issue.

Key Case: COBA v. City of Redmond, Deschutes County Circuit Court Case No. 02-CV-0528 ST

The Central Oregon Builders Association (COBA) brought suit against the City of Redmond, claiming that the city had improperly modified its transportation SDC methodology because the City did not provide a 90-day notice to interested parties, as specified in ORS 223.304(6) and (7). In the judgment, the Court found that eliminating pass-by trips from the calculation was in fact a methodology change and that the City “did not provide notice to COBA at least 90 days prior to the first public hearing conducted to consider the transportation SDC as required.”

The suit and the resulting 2004 judgment served to elevate the importance of the noticing requirements in ORS 223.304.

Appendix D. Other Potential Infrastructure Funding Sources

State and Federal Funding Programs Available for Local Infrastructure Projects

There are many specific grant programs at the state and federal level that are available to fund certain types of local infrastructure projects. These generally fall into one of the following categories:

- **Discretionary grant programs** (e.g., Water Wastewater Fund and many federal grant programs²³²), which are allocated on a competitive basis and often require local matching funds.
- **Formula grant programs** (e.g., Community Development Block Grants), some of which are allocated to states or regions and distributed based on state or regional priorities (e.g., Congestion Mitigation and Air Quality Improvement Program).
- **Low-interest loans** and Revolving Loan Funds (e.g., Safe Drinking Water Revolving Loan Fund,²³³ U.S. Department of Transportation loan financing programs) that offer low-interest financing but are repaid by local sources over time.

Other Local or Regional Funding Mechanisms

Beyond SDCs, there are other funding mechanisms available at a local level that can contribute to funding infrastructure. Some derive funding from property taxes, others from user fees, specific developers/property owners, or broader economic activity. Not all of these options are equally viable, effective, or appropriate for funding infrastructure capital projects, and not all are available or suitable for every community. All have impacts on whichever entities are bearing the costs or competing for revenues, though the nature and extent of the impacts vary.

Property tax-based tools

These tools allocate property tax revenue to infrastructure, either by dedicating existing revenues or (in some cases) establishing additional dedicated taxes. Most apply across all properties within a particular jurisdiction or district.

Options to raise revenue through additional property taxes:

²³² For examples and details see https://www.fhwa.dot.gov/bipartisan-infrastructure-law/grant_programs.cfm.

²³³ For other federal water and wastewater grant and loan programs, see <https://www.epa.gov/waterfinancecenter/effective-funding-frameworks-water-infrastructure>.

- **General obligation bonds** increase property taxes throughout a jurisdiction or district over a long period of time (e.g., 20-30 years) to repay debt issued to fund capital projects and require voter approval.
- **Local option levies** also increase property taxes for up to 10 years (though they are subject to limitations on property taxes discussed in Section 2.1.3) and require voter approval.
- **Special districts** (e.g., the North Bethany County Service District for Roads, Tualatin Hills Parks and Recreation District) can establish their own tax rates to generate dedicated property tax revenue for infrastructure construction and/or maintenance within the district boundary but are subject to limitations on property taxes discussed in Section 2.1.3 and require voter approval.

Options to allocate existing tax revenue or revenue growth from increasing property value without increasing tax rates:

- **General fund²³⁴/property tax revenue allocation** (e.g., Washington County's Major Streets Improvement Program) does not require new property tax revenue but competes with other local priorities and is subject to limitations on property taxes discussed in Section 2.1.3.
- **Urban Renewal/Tax Increment Financing** diverts property tax revenues from increases in assessed value inside a specific area for investment in capital projects that improve the area; it does not increase property taxes within the boundary but reduces revenue growth for existing taxing districts.

Development-Based Funding

Contributions from developers can take several forms, including:

- **Exactions** (improvements required as a condition of development approval), which can include on-site and/or off-site improvements. As discussed in Section 1.2.1, exactions are subject to constitutional limitations of rational nexus and rough proportionality.
- **Development agreements** or annexation agreements, which are generally voluntary, negotiated agreements between the jurisdiction and the developer that establish what each party will contribute and be responsible for.
- **Improvements in exchange for additional development rights** (e.g., planned development options that provide regulatory flexibility and/or additional density linked to providing public open space), which depend on there being demand for the additional development rights.

²³⁴ The general fund is technically not a funding mechanism, but an account that all local governments have, where a variety of unrestricted revenue sources are collected.

There are other mechanisms where project costs are paid up front by either a developer or the jurisdiction and recovered from subsequent development or property owners within a specific area that benefits from a specific improvement(s). Examples include:

- **Reimbursement districts** allow the jurisdiction or a developer to recoup a proportionate share of capital investments that benefit multiple properties from subsequent development on those properties.
- **Local improvement districts (LIDs)** establish a special assessment on properties within a defined area that benefit from a specific capital improvement based on their degree of benefit (rather than the value of the property); a majority of affected property owners must support formation of the district.

These are often used to fund projects with a geographically-defined benefit, but they may have limited revenue capacity, especially within smaller areas.

User-Based Funding

There are a number of fees and taxes that derive funding from specific users and activities related to the infrastructure systems themselves. Examples include:

- Broad-based user fees:
 - Utility rates (e.g., water and sewer rates)
 - System-wide user fees (e.g., monthly or annual charges for all residents and/or businesses or fees for use of specific facilities)
- Facility-specific use charges:
 - Parking fees (e.g., permit parking or metered on-street parking revenue)
 - Tolls
 - Facility rental fees

The allowed uses vary by the type of fee or tax, but some can be used for infrastructure funding in whole or in part. Utility rates are commonly used to fund infrastructure improvements for water and sewer, and other types of user fees are becoming more common—see discussion in Section 2.1.4.

Taxes and Fees on Economic Activity

Taxes and fees on economic activity that is relevant to a given infrastructure system (e.g., transportation) can sometimes provide funding to support infrastructure investments. Examples include:

- Franchise fees (fees on utility company/service providers for use of public rights-of-way)
- Fuel (or gas) taxes
- Vehicle registration fees (county level)

Taxes and user fees unrelated to infrastructure can also sometimes generate revenue that can be used flexibly (at least in part) and can be applied to infrastructure among other purposes. These include:

- Targeted sales tax (e.g., prepared food and beverage tax)
- Transient lodging tax

Appendix E. SDC Fees by Jurisdiction, 2007 and 2022

Contributors: FCS Group, Galardi Rothstein Group, ECONorthwest

Exhibit 58: SDC Rates by Jurisdiction and Infrastructure System, 2007

Source: FCS GROUP based on data from League of Oregon Cities, *System Development Charges Survey Report* (February 2020)

City	Parks	Sewer	Water	Transportation	Stormwater	Total
Aurora	\$2,205	\$2,032	\$4,153	\$2,095	\$159	\$10,644
Banks			\$2,103	\$3,020		\$5,123
Beaverton		\$2,700	\$3,144	\$3,020	\$900	\$9,764
Bend		\$1,973	\$3,385	\$4,217		\$9,575
Boardman		\$1,189	\$1,392			\$2,581
Brownsville		\$5,160	\$2,093		\$1,968	\$9,221
Cannon Beach		\$1,448	\$1,407		\$815	\$3,670
Carlton	\$1,794	\$5,062	\$2,892		\$1,029	\$10,777
Cave Junction		\$2,985	\$2,150			\$5,135
Central Point	\$2,944		\$1,255	\$4,033	\$410	\$8,642
Columbia City	\$1,438	\$1,561	\$4,127	\$4,399	\$250	\$11,775
Cornelius	\$2,143	\$1,000	\$1,032	\$3,020	\$500	\$7,695
Corvallis	\$4,746	\$3,028	\$1,008	\$2,046	\$148	\$10,976
Cottage Grove	\$234	\$692	\$775	\$776	\$1,255	\$3,732
Creswell	\$1,539	\$4,520	\$5,026	\$597		\$11,682
Culver		\$4,148			\$1,750	\$5,898
Dayton	\$100	\$1,265	\$3,633	\$1,126		\$6,124
Detroit			\$7,943			\$7,943
Donald		\$2,250	\$2,250			\$4,500
Drain						\$0
Dufur		\$950	\$1,215			\$2,165
Eugene	\$2,624	\$508	\$2,276	\$1,582	\$493	\$7,483
Florence		\$3,354	\$2,838	\$692	\$1,636	\$8,520
Garibaldi	\$1,000	\$2,001	\$2,262	\$3,145	\$2,475	\$10,883
Gladstone		\$216	\$1,448	\$1,171		\$2,835
Glendale						\$0
Grants Pass	\$2,552	\$2,463	\$2,366	\$5,656	\$412	\$13,449
Gresham	\$3,185	\$4,923	\$4,043	\$2,748	\$802	\$15,701
Halsey		\$523	\$646		\$1,060	\$2,229
Hermiston		\$678	\$1,404			\$2,082
Hood River		\$1,408	\$2,585	\$705		\$4,698
Jefferson		\$7,960	\$1,206			\$9,166
Junction City	\$1,090	\$6,669	\$1,100	\$1,116		\$9,975
Klamath Falls	\$898	\$1,955	\$2,533			\$5,386
Lakeside		\$1,827				\$1,827

City	Parks	Sewer	Water	Transportation	Stormwater	Total
Lakeview	\$25	\$578	\$177	\$39		\$819
Lincoln City	\$1,528	\$4,725	\$2,263	\$531	\$25	\$9,072
Lowell	\$889	\$1,187	\$6,268	\$618	\$400	\$9,362
Madras	\$1,780	\$3,000	\$838	\$2,303	\$210	\$8,131
Manzanita			\$3,700			\$3,700
Maupin						\$0
Milton-Freewater	\$525	\$930	\$870			\$2,325
Monmouth	\$1,484	\$2,753	\$1,413	\$394	\$247	\$6,291
Mosier	\$1,495	\$3,759	\$4,499			\$9,753
Nehalem			\$2,367			\$2,367
Newberg	\$1,471	\$1,469	\$3,533	\$2,388	\$258	\$9,119
North Plains	\$4,941		\$5,791	\$3,513		\$14,245
Oakland		\$2,995	\$2,933			\$5,928
Ontario						\$0
Pendleton				\$1,050		\$1,050
Philomath	\$684	\$5,719	\$6,228	\$3,488	\$1,080	\$17,199
Port Orford		\$3,568	\$6,412			\$9,980
Portland	\$3,053	\$2,995	\$2,496	\$1,883	\$585	\$11,012
Prineville		\$4,089	\$2,477	\$2,801		\$9,367
Redmond	\$834	\$2,105	\$2,092	\$2,877		\$7,908
Riddle		\$3,000	\$1,827			\$4,827
Sandy	\$2,000	\$1,834	\$1,525	\$1,943		\$7,302
Scotts Mills			\$7,843			\$7,843
Seaside	\$325	\$675	\$2,873	\$444		\$4,317
Silverton	\$1,205	\$4,392	\$3,987	\$3,705	\$1,375	\$14,664
Stayton	\$2,254	\$3,528	\$2,670	\$2,512		\$10,964
Tangent	\$875	\$3,285		\$354	\$124	\$4,638
The Dalles		\$1,789	\$2,317			\$4,106
Tigard	\$4,812		\$2,041	\$3,020		\$9,873
Turner	\$850	\$5,000	\$2,400	\$400		\$8,650
Umatilla		\$743	\$1,029			\$1,772
Veneta	\$3,197	\$3,250	\$1,937	\$1,694	\$142	\$10,220
Waldport	\$379	\$3,037	\$2,505			\$5,921
West Linn	\$8,029	\$2,539	\$6,698	\$4,721	\$439	\$22,426
Westfir		\$5,318	\$3,225			\$8,543
Wilsonville	\$2,451	\$4,068	\$4,345	\$3,082	\$482	\$14,428
Winston	\$150	\$1,913		\$589		\$2,652
Wood Village		\$6,688	\$1,877			\$8,565
Woodburn	\$1,448	\$2,977	\$2,024	\$3,286	\$275	\$10,010
Yachats		\$4,650	\$3,003			\$7,653
Yamhill	\$3,023	\$1,697	\$3,295	\$300		\$8,315

Exhibit 59: SDC Rates by Jurisdiction and Infrastructure System, 2022

Source: FCS GROUP based on data from jurisdictions, with contributions from Galardi Rothstein Group and ECONorthwest

City	Parks	Sewer	Water	Transportation	Stormwater	Total
Aurora	\$2,205	\$2,032	\$5,543	\$2,740	\$160	\$12,680
Banks	\$2,535	\$6,625	\$4,999	\$17,920	\$585	\$32,664
Beaverton	\$11,787	\$6,625	\$9,354	\$9,998	\$1,252	\$39,016
Bend	\$9,544	\$5,667	\$6,355	\$9,269		\$30,835
Boardman		\$1,783	\$2,087			\$3,870
Brownsville		\$5,160	\$2,093		\$1,968	\$9,221
Cannon Beach	\$1,116	\$4,849	\$2,034		\$424	\$8,423
Carlton	\$2,142	\$8,832	\$8,740	\$4,210	\$2,295	\$26,219
Cave Junction		\$2,985	\$2,150			\$5,135
Central Point	\$2,445	\$3,142	\$3,267	\$2,326	\$514	\$11,695
Columbia City	\$2,019	\$5,764	\$4,292	\$4,575	\$388	\$17,038
Cornelius	\$4,471	\$5,732	\$9,449	\$9,998	\$1,910	\$31,560
Corvallis	\$7,755	\$4,963	\$1,573	\$3,357	\$226	\$17,874
Cottage Grove	\$2,476	\$996	\$4,938	\$2,166	\$904	\$11,481
Creswell	\$3,439	\$6,898	\$2,405	\$3,749	\$295	\$16,786
Culver		\$4,088			\$1,750	\$5,838
Dayton	\$100	\$7,564	\$4,242	\$1,125		\$13,031
Detroit	\$506		\$6,187		\$1,977	\$8,670
Donald	\$1,509	\$22,275	\$2,835	\$3,031	\$806	\$30,456
Drain		\$1,619	1650			\$3,269
Dufur		\$5,000	\$5,000			\$10,000
Eugene	\$5,424	\$2,553	\$2,276	\$3,489	\$733	\$14,475
Florence		\$5,507	\$4,396	\$1,063	\$2,527	\$13,493
Garibaldi	\$816	\$2,755	\$1,980	\$1,650	\$2,000	\$9,201
Gladstone	\$9,027	\$6,495	\$9,040		\$3,477	\$28,039
Glendale			\$2,040			\$2,040
Grants Pass	\$941	\$3,869	\$2,863	\$1,204	\$710	\$9,586
Gresham	\$4,694	\$7,055	\$5,305	\$4,589	\$1,344	\$22,987
Halsey		\$641	\$783		\$1,416	\$2,840
Hermiston	\$450	\$251	\$294	\$99		\$1,094
Hood River	\$5,064	\$1,056	\$1,786	\$3,703	\$756	\$12,365
Jefferson	\$4,262	\$3,971	\$4,979	\$75	\$105	\$13,392
Junction City	\$2,044	\$9,083	\$1,100	\$1,052		\$13,279
Klamath Falls	\$1,748	\$6,691	\$3,304	\$3,590		\$15,333
Lakeside		\$2,274	\$5,477			\$7,751
Lakeview	\$25	\$578	\$177	\$39		\$819
Lincoln City	\$2,446	\$4,475	\$2,423	\$850	\$75	\$10,269
Lowell	\$1,032	\$1,689	\$4,575	\$696	\$673	\$8,665
Madras	\$2,200	\$6,063	\$1,591	\$4,315	\$259	\$14,427
Manzanita	\$60	\$4,258	\$6,900		\$174	\$11,392
Maupin	\$500	\$3,000	\$1,000			\$4,500
Milton-Freewater	\$525	\$1,125	\$1,050			\$2,700

City	Parks	Sewer	Water	Transportation	Stormwater	Total
Monmouth	\$2,142	\$3,542	\$1,819	\$4,020	\$447	\$11,970
Mosier	\$1,495	\$4,104	\$3,866	\$4,154	\$1,499	\$15,118
Nehalem		\$4,258	\$3,235			\$7,493
Newberg	\$8,432	\$7,984	\$6,444	\$7,618	\$438	\$30,916
North Plains	\$8,823	\$6,625	\$11,615	\$19,621	\$585	\$47,269
Oakland		\$3,795	\$2,933			\$6,728
Ontario		\$481	\$975	\$1,288		\$2,744
Pendleton				\$1,775		\$1,775
Philomath	\$5,150	\$6,846	\$8,855	\$5,396	\$1,801	\$28,048
Port Orford		\$4,962	\$8,919			\$13,881
Portland	\$10,927	\$8,299	\$5,548	\$5,694	\$1,251	\$31,719
Prineville	\$3,600	\$2,629	\$5,141	\$4,848		\$16,218
Redmond	\$5,818	\$4,669	\$2,992	\$4,678		\$18,157
Riddle		\$3,000	\$2,327			\$5,327
Sandy	\$3,717	\$5,480	\$3,841	\$4,317		\$17,354
Scotts Mills			\$7,843			\$7,843
Seaside	\$1,699	\$4,882	\$2,873	\$444		\$9,898
Silverton	\$6,240	\$4,653	\$8,285	\$3,760	\$877	\$23,815
Stayton	\$3,478	\$2,697	\$3,620	\$2,927	\$3,216	\$15,938
Tangent	\$3,239	\$6,996		\$1,315	\$127	\$11,677
The Dalles		\$1,789	\$2,317	\$1,500	\$342	\$5,948
Tigard	\$11,225	\$6,625	\$10,853	\$18,206	\$641	\$47,550
Turner	\$1,969	\$3,094	\$3,682	\$2,122		\$10,867
Umatilla		\$1,858	\$1,544			\$3,402
Veneta	\$5,949	\$6,903	\$7,895	\$3,994	\$224	\$24,966
Waldport	\$648	\$4,448	\$4,590			\$9,686
West Linn	\$12,943	\$4,243	\$10,576	\$1,964	\$1,479	\$31,205
Westfir		\$5,298	\$3,225			\$8,523
Wilsonville	\$6,969	\$6,289	\$16,455	\$15,264	\$2,112	\$47,089
Winston	\$150	\$3,874		\$1,194		\$5,218
Wood Village	\$3,119	\$3,565	\$3,819			\$10,503
Woodburn	\$4,188	\$2,977	\$3,944	\$6,988	\$330	\$18,427
Yachats		\$7,648	\$4,939		\$1,642	\$14,229
Yamhill	\$3,348	\$3,867	\$6,496	\$2,136	\$1,781	\$17,628

Appendix F. Pro Forma Model Methodology

Contributors: ECONorthwest

ECONorthwest used a pro forma analysis to analyze SDC share of total development costs and the impacts of SDCs on the financial feasibility of new developments. This work typically involves researching market data based on past transactions, gathering inputs from the local development community, and understanding zoning and other regulatory requirements. A more robust research of input data helps build a more accurate model of development feasibility within local contexts.

However, many simplifying assumptions are made to develop a consistent approach that can capture different economic conditions across Oregon. The assumptions result in a few development examples called prototypes whose exact physical and financial characteristics are unlikely to be observed in all markets. Instead, the prototypes serve as representative examples of the categories of housing developments that are possible in Oregon. Analyzing the difference in model results generates key findings that are applicable across all housing types, beyond the few specific ones modeled through the prototypes.

It is not easy to create a single model for a statewide study that involves many varieties of housing markets. There are many geographic markets, and within each are markets for housing types. Some markets resemble each other, but unique circumstances of some markets are difficult to generalize or summarize with other markets. Although many variations and combinations of geographic markets and housing types are possible, seven geographic markets and seven housing types are selected for analysis.

To test the effects of different levels and structures of SDCs across housing markets and types, ECONorthwest used a pro forma analysis, which is a financial model that estimates the feasibility of a new real estate development based on the building's financial performance. Real estate professionals regularly use pro forma analysis to model the revenues and costs of potential developments, evaluate their returns, and understand sources of funding needed for a project to move forward. For the purposes of this study, pro forma analysis is an economic model that can demonstrate the impact of SDCs on potential business decisions that housing developers could face.

Geographic Markets

ECONorthwest modeled seven geographic categories of housing markets in Oregon. They are broad categories that reflect typical housing prices and construction costs across the cities that fall within each geographic region. The market context areas are:

1. **Willamette Valley:** Larger cities along Interstate 5, with some similar housing options within a local housing market. Does not include cities in the Portland Metro area.

2. **Small Cities:** Smaller cities along Interstate 5 or remotely located in eastern Oregon. Relatively stagnant growth, lower demand, and lower land costs are observed in comparison to other market context areas.
3. **Coast:** Coastal cities with many vacation rentals and second homes.
4. **Metro Low:** Suburban cities and neighborhoods in the Portland Metro area with moderate demand for new housing and limited production of new housing.
5. **Metro Mid:** Suburban cities and neighborhoods in the Portland Metro area with relatively strong demand for new housing and, sometimes, large tracts of planned developments.
6. **Metro High:** More exclusive neighborhoods in the Portland Metro area with higher prices and relatively few options for new housing.
7. **Cascades:** Cities east of the Willamette Valley that experienced a strong level of housing demand and production in recent years.

The values used for each geographic market are not intended to represent a specific city, and average housing prices and costs vary by city. Rather, the values are representations of likely values observed across many parts of the geographic market. Moreover, specific economic conditions in some cities or neighborhoods could mean that they resemble the market conditions of a geographic market category that is outside the geographic location. Therefore, the presented data should be interpreted as data “commonly observed in a city like cities in X market.”

ECONorthwest defined the geographic markets based both on their geography and on economic factors including relative size of market for new housing, competitiveness or tightness of housing market, substitutability of new housing, and price of vacant parcels that could be developed with new housing. Market size is related to the population of a city or a few adjacent cities where a potential homebuyer or renter could consider relocating to. Substitutability is related to the presence (and production) of similar alternatives for new housing within a market, as previously described in the review of academic literature. Exhibit 60 and Exhibit 61 summarize the factors and the markets.

The evaluation of factors that defined the geographic markets were based on a relative comparison of cities within Oregon. While some cities are producing more housing than others, housing production across the state generally does not match the demand and contributes to the lack of housing affordability.

Exhibit 60. Characteristics of Geographic Markets in Oregon

Source: ECONorthwest

	Willamette Valley	Small Cities	Coast	Metro Low	Metro Mid	Metro High	Cascades
Market Size	Large	Small	Small	Medium	Large	Small	Medium
Competitiveness (Demand)	Moderate	Low	Moderate	Moderate	High	Very High	High
Substitutability (Production)	Moderate	Low	Low	Low	High	Low	Moderate
Land Price	Moderate	Low	Low	Moderate	Moderate	High	High

Exhibit 61. Comparison of Competitiveness and Substitutability in Oregon's Geographic Markets

Source: ECONorthwest



Housing Types

ECONorthwest modeled seven housing types: two scales of a three-story apartment building, two townhouses, and three different sizes of detached single-family units. These housing types are based on new housing types that are likely to occur in all or most of the geographic markets. They do not include taller apartments because they are unlikely to be built in less populated cities, and they do not include single-family dwellings on larger lots because they are unlikely to be built in urban areas where buildable land is scarcer.

Physical Assumptions by Housing Type

The following is a more detailed description of the prototypes, and a summary is provided in Exhibit 62.

- Low-Rise Apartment is a three-story building with 55 units on an acre. Landscape covers 20 percent of the lot. The average leasable unit size is 738 sq. ft. It has 55 surface parking stalls.
- Garden Apartment is a three-story building with 120 units on four acres. Landscape covers 42 percent of the lot. The average leasable unit size is 811 sq. ft. It has 180 surface parking stalls.
- Townhouse prototypes are 1,500-sq.-ft. units with 2,400 sq. ft. of site area per unit. They are two-story structures with a one-car garage for each unit. One prototype is a rental unit, and the other is an ownership unit.

- Small Single-Family is a 1,550-sq.-ft. unit on a lot measuring 4,800 sq. ft. It has a one-car garage.
- Medium Single-Family is a 2,000-sq.-ft. unit on a lot measuring 6,500 sq. ft. It has a two-car garage.
- Large Single-Family is a 2,650-sq.-ft. unit on a lot measuring 6,500 sq. ft. It has a two-car garage and a higher finish quality.

Exhibit 62. Summary of Physical Features of Prototypes

Source: ECONorthwest

Example Housing Type	Building Height (Floors)	Density (Units per Acre)	Average Unit Size (Square Feet)	Parking
Low-Rise Apartment	3	55.0	738	1.0 Stalls per Unit (surface parking)
Garden Apartment	3	30.0	811	1.5 Stalls per Unit (surface parking)
Townhouse	2	18.2	1,500	Single-Car Garage
Small Single-Family	2	9.1	1,550	Single-Car Garage
Medium Single-Family	2	6.7	2,000	Two-Car Garage
Large Single-Family	2	6.7	2,650	Two-Car Garage

Two scales of apartments—**Low-Rise Apartment** and **Garden Apartment**—are included to demonstrate how the impact of SDCs on development feasibility vary by residential density. The review of academic literature revealed that developers of apartments are unlikely to increase unit sizes to spread out the fixed cost of SDCs that are applied per unit. The notion is tested with two housing types that have the same land cost and building height but a different unit mix, residential density, and parking ratio. The average unit size in Low-Rise Apartment is smaller, but it has more units than Garden Apartment. Low-Rise Apartment allows for 1.0 parking stall per unit, whereas Garden Apartment allows for 1.5 parking stalls per unit.

Two versions of townhouses demonstrate the relationship between SDCs and tenure. The two modeled buildings have the same physical form (thus the same development costs), but their tenure is different (i.e., **Townhouse Rental** and **Townhouse Ownership**).

Three different sizes of detached single-family units demonstrate how the impact of SDCs vary with unit size and lot size. All are ownership units. **Medium Single-Family** serves as a reference point. **Small Single-Family** has a smaller unit size and lot size. Because it has a higher residential density, it is effectively the same test as the test for apartments. **Large Single-Family** has a large unit size on the same lot (thus no change in residential density). It tests the assertion made in the review of academic literature that spreading SDCs over a larger unit size is preferred because it reduces cost per square foot.

Financial Assumptions by Housing Type

Exhibit 63 summarizes the total development costs for each geographic market and housing type used in the model (rounded to the nearest thousand). Total development costs include construction labor and material (called “hard costs”), land costs, and “soft costs” such as design and engineering, project management, financing, permits, and fees. They do not include SDCs

or profit margins (investor returns) since those are key variable inputs and outputs of the analysis. Land costs are based on recent transactions of small, vacant lots recorded on Redfin. Cost indices from RSMeans and 2022 National Building Cost Manual²³⁵ are used to differentiate the construction costs across markets. Within each market, the construction costs of all prototypes are based the same kitchen, bathroom, and bedroom costs per square foot of building area; garage cost; surface parking cost; parking ratio; driveway cost; and landscape cost.

Exhibit 63. Total Development Cost Per Unit, Excluding SDCs

Source: ECONorthwest

	Willamette Valley	Small Cities	Coast	Metro Low	Metro Mid	Metro High	Cascades
Low-Rise Apartment	\$172,000	\$155,000	\$170,000	\$191,000	\$199,000	\$226,000	\$200,000
Garden Apartment	\$200,000	\$175,000	\$194,000	\$219,000	\$233,000	\$283,000	\$255,000
Townhouse Rental	\$293,000	\$253,000	\$282,000	\$317,000	\$341,000	\$424,000	\$384,000
Townhouse Ownership	\$293,000	\$253,000	\$282,000	\$317,000	\$341,000	\$424,000	\$384,000
Small Single-Family	\$353,000	\$385,000	\$325,000	\$371,000	\$419,000	\$583,000	\$544,000
Medium Single-Family	\$479,000	\$387,000	\$442,000	\$503,000	\$568,000	\$791,000	\$737,000
Large Single-Family	\$570,000	\$474,000	\$535,000	\$607,000	\$672,000	\$895,000	\$826,000

Typical SDCs in each market used in the analysis are summarized in Exhibit 64. The single-family SDCs are determined by calculating the average SDC rate in the 2022 SDC rate data collected by FCS GROUP. Townhouse SDCs are 90 percent of single-family SDCs. Multifamily SDCs are 66 percent of single-family SDCs.

Exhibit 64. Typical SDCs

Source: ECONorthwest, FCS GROUP

	Willamette Valley	Small Cities	Coast	Metro Low	Metro Mid	Metro High	Cascades
Low-Rise Apartment	\$13,002	\$5,676	\$6,930	\$16,500	\$29,304	\$32,208	\$12,144
Garden Apartment	\$13,002	\$5,676	\$6,930	\$16,500	\$29,304	\$32,208	\$12,144
Townhouse Rental	\$17,730	\$7,740	\$9,450	\$22,500	\$39,960	\$43,920	\$16,560
Townhouse Ownership	\$17,730	\$7,740	\$9,450	\$22,500	\$39,960	\$43,920	\$16,560

²³⁵ Moselle, Ben. 2022 *National Building Cost Manual*. 46th Edition. Carlsbad, CA: Craftsman Book Company, 2022.

	Willamette Valley	Small Cities	Coast	Metro Low	Metro Mid	Metro High	Cascades
Small Single-Family	\$19,700	\$8,600	\$10,500	\$25,000	\$44,400	\$48,800	\$18,400
Medium Single-Family	\$19,700	\$8,600	\$10,500	\$25,000	\$44,400	\$48,800	\$18,400
Large Single-Family	\$19,700	\$8,600	\$10,500	\$25,000	\$44,400	\$48,800	\$18,400

To reflect the realities of each housing market, the model uses different prices, rents, and costs for each market and prototype. ECONorthwest collected price and rent data as well as some data on the physical dimensions of the prototypes from CoStar and Redfin using representative samples of recently built and transacted housing. Exhibit 65 summarizes the monthly rents (rounded to nearest ten) and sales prices (rounded to nearest thousand) for each geographic market and housing type used in the model. A consistent vacancy rate and operating expense ratio (as a percentage of rent) are used for rental prototypes.

Exhibit 65. Market Rents and Prices

Source: ECONorthwest

	Willamette Valley	Small Cities	Coast	Metro Low	Metro Mid	Metro High	Cascades
Low-Rise Apartment	\$1,500	\$1,030	\$1,110	\$1,660	\$1,770	\$2,040	\$1,900
Garden Apartment	\$1,570	\$1,090	\$1,170	\$1,770	\$1,870	\$2,180	\$1,980
Townhouse Rental	\$2,090	\$1,610	\$1,860	\$2,760	\$2,780	\$3,500	\$2,900
Townhouse Ownership	\$384,000	\$278,000	\$390,000	\$389,000	\$512,000	\$675,000	\$558,000
Small Single-Family	\$448,000	\$334,000	\$454,000	\$488,000	\$641,000	\$854,000	\$675,000
Medium Single-Family	\$558,000	\$418,000	\$612,000	\$597,000	\$742,000	\$1.04 million	\$831,000
Large Single-Family	\$727,000	\$524,000	\$797,000	\$678,000	\$897,000	\$1.35 million	\$1.09 million

Full Results for SDC Share of Total Development Costs

Section 4.3.2 presented the variation in SDC share of development costs across the state for three markets with different levels of development costs. The three markets are a shorter list of seven market context areas that were analyzed for this report. Exhibit 66 compares the typical development costs and per-unit SDC amounts in the seven markets.

For each market context area, ECONorthwest calculated an average of single-family SDC rates reported in the 2022 LOC survey by FCS GROUP. The townhouse SDC rates are 90 percent of the single-family SDC rates. The multifamily SDC rates are 66 percent of the single-family SDC rates.

Exhibit 67 shows the SDC share of development costs. Depending on the housing type and the market, the SDC share of development costs can range from 1.8 percent to 12.8 percent in Oregon.

Exhibit 66. SDCs and Other Development Costs, By Market Context Area and Housing Type

Source: ECONorthwest

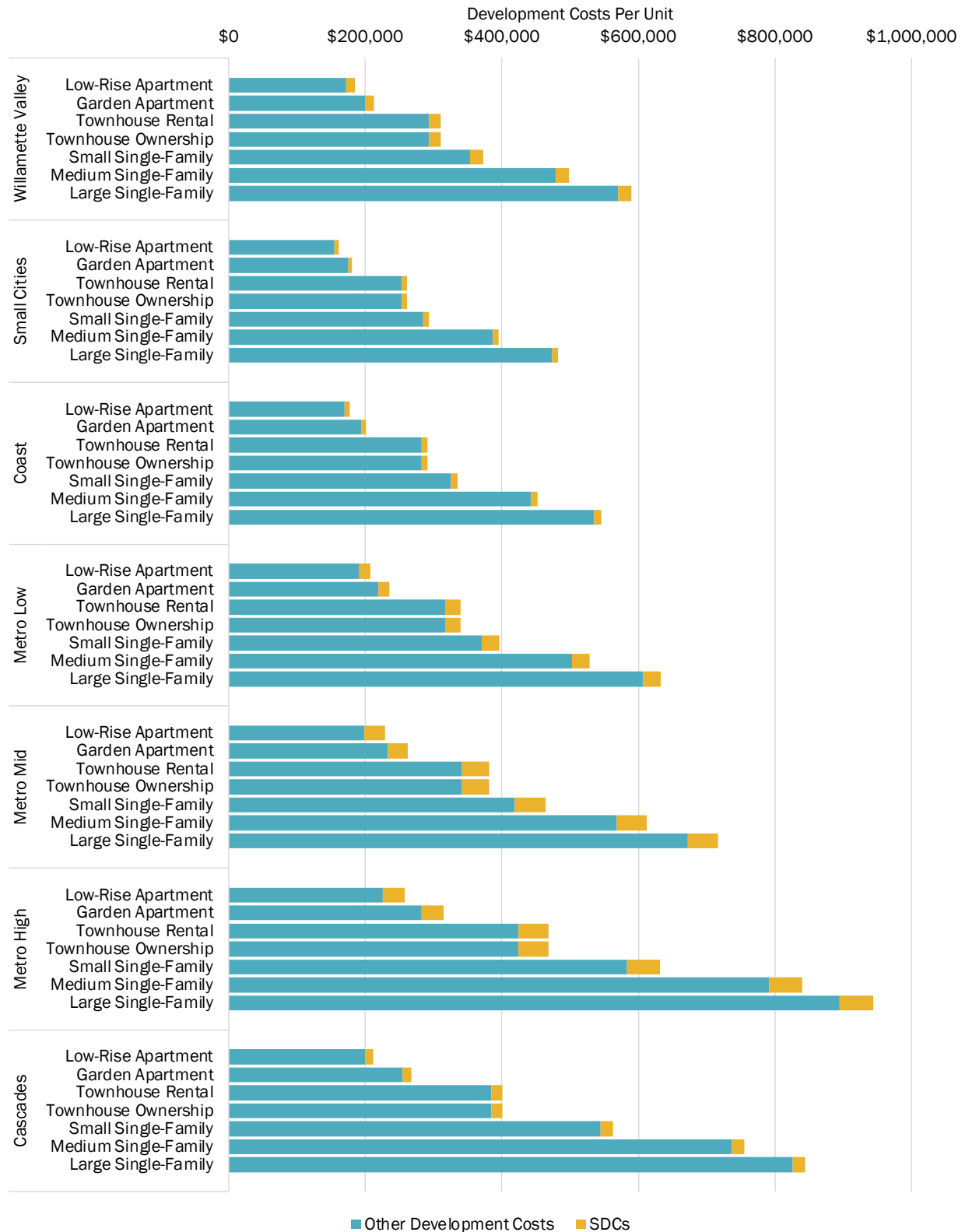
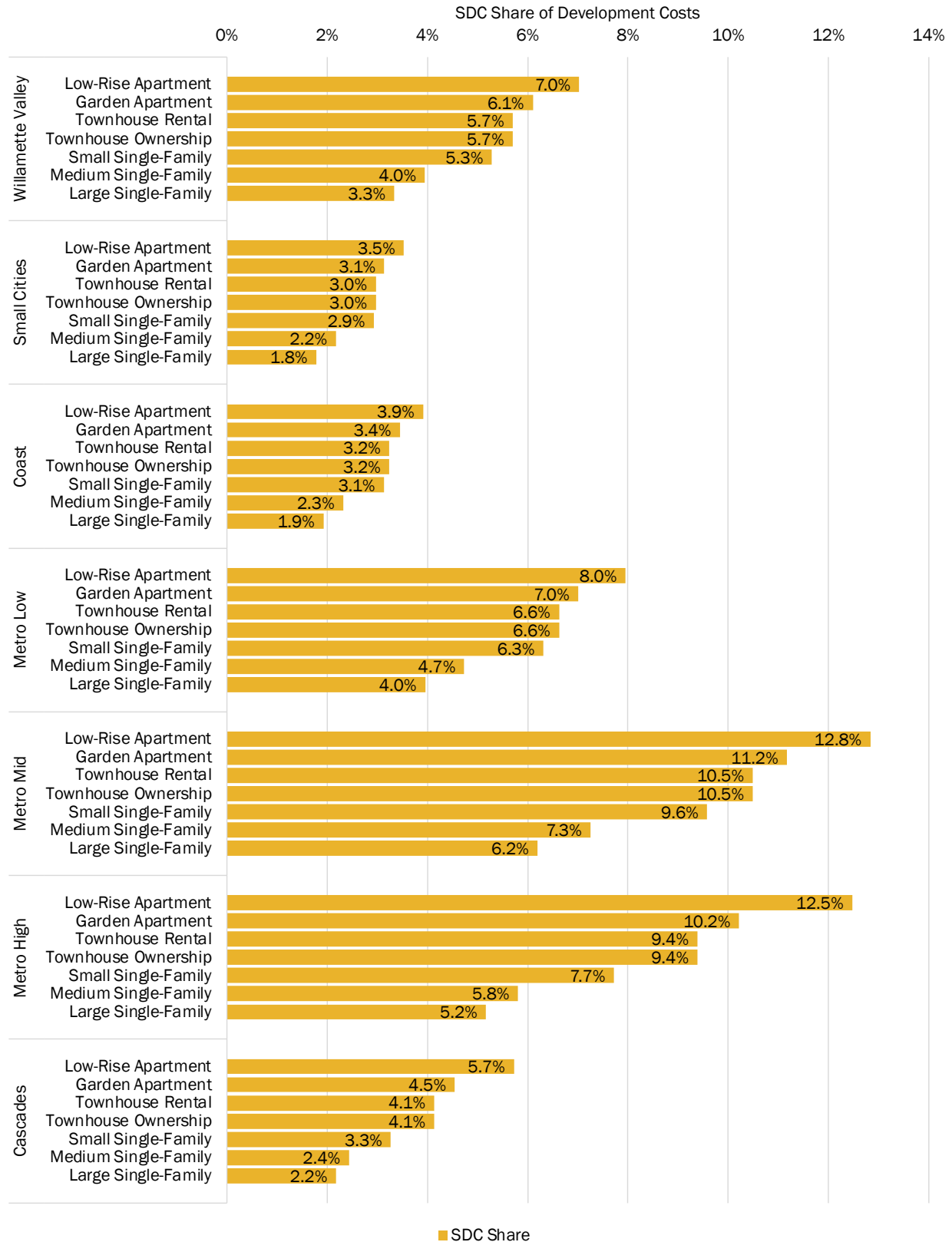


Exhibit 67. SDCs Share of Total Development Costs, by Market Context Area and Housing Type

Source: ECONorthwest



Key Assumptions for Feasibility Evaluation

The key output of the pro forma model is investor returns, and how they change with the amount or structure of SDCs. Although there are many methods to calculate and measure investor returns, the metric selected for this study is internal rate of return (IRR). IRR is a commonly used financial metric in the real estate industry to estimate the profitability of real estate investments. It is a form of discount rate and measured in percentage points. The feasibility analysis includes a cash flow model with expenses and sales related to housing construction occurring at different points in time. A 3 percent annual escalation is assumed for costs, rents, and prices. A 2 percent annual escalation for operating expenses. All units are assumed to be fully occupied at the end of the analysis period.

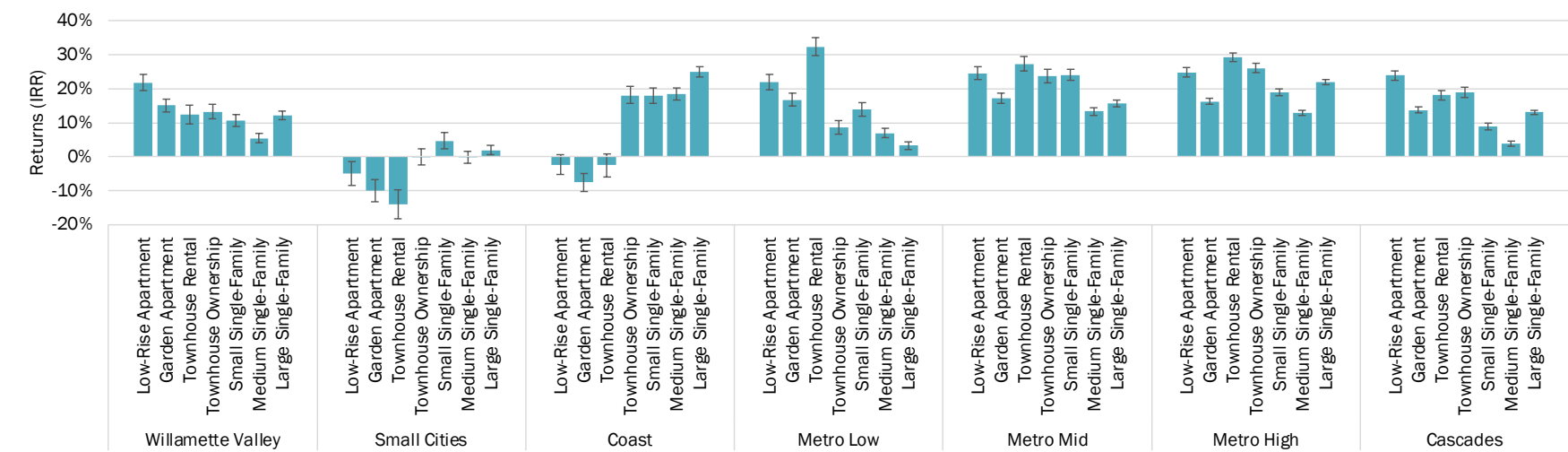
To estimate the impact of SDCs on development feasibility, ECONorthwest estimated the change in IRR resulting from fixed changes in SDC amounts. The amounts are \$10,000 for single-family, \$9,000 for townhouse, and \$6,600 for multifamily across all markets. More specifically, ECONorthwest measured the percentage point change in IRR when the modeled per-unit SDC amount for a single-family unit is reduced from \$15,050 to \$5,050 or increased from \$15,050 to \$25,050, and when then SDC amount for townhouse and multifamily units are adjusted accordingly.

Exhibit 68 illustrates the results of the feasibility calculations. The sizes of the bars indicate the IRR with a \$15,050 SDC per single-family unit, a \$13,545 SDC per townhouse unit, and \$9,933 SDC per multifamily unit. The error bars indicate the difference in IRR from the specified change in SDC amount, all else equal. The absolute change in IRR, or about half of the size of the error bars, is the estimates represented in Exhibit 43 and Exhibit 44 (Section 4.4.1).

The wide range of the IRR estimates are partly due to the simplifying assumptions made to develop a consistent approach that can capture different economic conditions across Oregon. Realistically, the types and specific characteristics of housing units that market-rate developers would pursue differ by geographic markets and site-specific conditions. Moreover, the \$15,050 baseline for the single-family SDC amount and the \$10,000 change are also simplifying assumptions designed to produce analytical results rather than predict market activity.

Exhibit 68. Feasibility Analysis Results

Source: ECONorthwest



Appendix G. Literature Review

Contributors: ECONorthwest

ECONorthwest reviewed the following list of peer-reviewed and published academic literature for this report.

- Baden, Brett M., and Don L. Coursey. *An Examination of the Effects of Impact Fees on Chicago's Suburbs*. University of Chicago, Irving B. Harris Graduate School of Public Policy Studies, 1999.
- Burge, Gregory. "The Capitalization Effects of School, Residential, and Commercial Impact Fees on Undeveloped Land Values." *Regional Science and Urban Economics* 44 (2014): 1-13.
- Burge, Gregory, and Keith Ihlanfeldt. "Impact fees and single-family home construction." *Journal of Urban Economics* 60, no. 2 (2006): 284-306.
- Coutts, Christopher, Sang-Seok Bae, Sung-Wook Kwon, Sang-Chul Park, and Richard Feiock. "Development Impact Fees: A Vehicle or Restraint for Land Development?." *Journal of Local Self-Government* (2015): 1047-1065.
- Delaney, Charles J., and Marc T. Smith. "Impact Fees and the Price of New Housing: An Empirical Study." *Real Estate Economics* 17, no. 1 (1989): 41-54.
- Dresch, Marla, and Steven M. Sheffrin. *Who Pays for Development Fees and Exactions?*. Public Policy Institute of CA, 1997.
- Evans-Cowley, Jennifer S., Fred A. Forgey, and Ronald C. Rutherford. "The Effect of Development Impact Fees on Land Values." *Growth and Change* 36, no. 1 (2005): 100-112.
- Ihlanfeldt, Keith R., and Timothy M. Shaughnessy. "An Empirical Investigation of the Effects of Impact Fees on Housing and Land Markets." *Regional Science and Urban Economics* 34, no. 6 (2004): 639-661.
- Lawhon, Larry L. "Overcoming Potential Exclusivity Associated With Impact Fees: Loveland, Colorado's 30-Year Experience in Development Impact Fees." *Journal of Architectural and Planning Research* (2015): 217-233.
- Mathur, Shishir. "Do All Impact Fees Affect Housing Prices the Same?." *Journal of Planning Education and Research* 33, no. 4 (2013): 442-455.
- Mathur, Shishir, Paul Waddell, and Hilda Blanco. "The Effect of Impact Fees on the Price of New Single-family Housing." *Urban Studies* 41, no. 7 (2004): 1303-1312.

Mayer, Christopher J., and C. Tsurriel Somerville. "Land Use Regulation and New Construction." *Regional Science and Urban Economics* 30, no. 6 (2000): 639-662.

Singell, Larry D., and Jane H. Lillydahl. "An Empirical Examination of the Effect of Impact Fees on the Housing Market." *Land Economics* 66, no. 1 (1990): 82-92.

Skaburskis, Andrejs, and Mohammad Qadeer. "An Empirical Estimation of the Price Effects of Development Impact Fees." *Urban Studies* 29, no. 5 (1992): 653-667.

Skidmore, Mark, and Michael Peddle. "Do Development Impact Fees Reduce the Rate of Residential Development?" *Growth and Change* 29, no. 4 (1998): 383-400.

Exhibit 69 is a summary of ECONorthwest's review of the literature.

Exhibit 69. Summary of Empirical Studies on Impact Fees

Source: ECONorthwest

Author(s) (Publication Year)	Data Year	Location	Context	Outcome Variable and Methodology	Results
Delaney and Smith (1989)	1971 to 1982	Dunedin, FL	Coastal city near Tampa	Housing price (new single-family) in Dunedin compared to three other cities in the same county before and after fee adoption	Increase in housing prices was greater than in nearby cities with no or minimal impact fees. Suggests the total cost of fee is passed on to new homebuyers.
Singell and Lillydahl (1990)	1983 to 1985	Loveland, CO	Fast economic growth during 1970s. Impact fee in adopted in 1984	Housing price (new and existing units) before and after fee adoption	New housing prices were higher by 3 times the fee for new housing and 6 times the fee for existing housing.
Dresch and Sheffrin (1997)	1992 to 1996	Contra Costa County, CA	Declining economic conditions, particularly in eastern county	Housing price (new and existing units) across the county leveraging within- county variation in fee amount	Impact fee is associated with higher housing prices—by 25% of fee in eastern county and 188% of fee in western county.
Baden and Coursey (1999)	1995 to 1997	8 suburb cities near Chicago, IL	Fast economic growth during 1980s	Housing price (new and existing units) in suburban cities. Impact fee amounts vary across the cities	Price of new housing is higher by 70- 120% of the impact fee.
Mathur, Waddell, and Blanco (2004)	1991 to 2000	King County, WA	Period of rapid economic growth. Cities with impact fees grew from 2 in 1994 to 14 in 2000	Housing price (new single-family) in cities with different fee amounts, controlling for year sold and other factors	166% of the fee amount is reflected in prices of new units.
Mathur (2013)	1991 to 2000	King County, WA	Period of rapid economic growth. Cities with impact fees grew from 2 in 1994 to 14 in 2000	Housing price (single- family), correlation with impact fees	Impact fee is positively correlated with single-family housing prices.

Author(s) (Publication Year)	Data Year	Location	Context	Outcome Variable and Methodology	Results
Skidmore and Peddle (1998)	1977 to 1992	DuPage County, IL	Fast growing suburb of Chicago	New residential construction (single- family and multifamily), comparing cities with and without impact fees	Impact fee is correlated with 25% reduction in residential development.
Mayer and Somerville (2000)	1985 to 1996	44 U.S. metro areas	Urban cities across U.S.	New residential construction (single- family), correlation with presence of impact fees	Up to 45% less construction starts observed in metro areas with more regulations.
Burge and Ihlanfeldt (2006)	1993 to 2003	FL (statewide)	Nearly two-thirds of Florida's counties have impact fees.	New residential construction, correlation with presence of impact fees in a given year	Impact fee for public services (excluding water and sewer) is correlated with increase in residential construction.
Skaburskis and Qadeer (1992)	1977 to 1986	Toronto	City's growth period varied during the study period.	Land price of vacant subdivision lots, correlation with impact fees	Impact fee is associated with higher land prices for vacant subdivision lots by 120% of the fee.
Ihlanfeldt and Shaughnessy (2004)	1985 to 2000	Dade County, FL	Impact fee since 1989	Undeveloped land price (new and existing units), correlation with impact fees	Housing prices are higher by 160% of the fee. Land prices are lower by 100% of the fee.
Evans-Cowley, Forget, and Rutherford (2005)	1997	Texas (43 cities in Austin, Dallas, Fort Worth, and Houston metro areas)	Cities of various sizes in Texas that have impact fees	Land price (Vacant and developed lots), correlation with impact fees, controlling for population growth among other factors	1.3% higher lot values for each \$1,000 of impact fees.
Burge (2014)	1994 to 2009	FL (statewide)	Impact fees for different kinds of infrastructure	Value of developable land parcels, correlation with impact fees	School impact fee is negatively correlated with value of residentially zoned land and positively correlated with commercially zoned. Water and sewer impact fee is negatively correlated with residentially zoned land value.

Author(s) (Publication Year)	Data Year	Location	Context	Outcome Variable and Methodology	Results
Bae, Kwon, Coutts, Park, and Feiock (2015)	1998 to 2007	FL (statewide)	Nearly two-thirds of Florida's counties have impact fees	Value of developable land parcels, correlation with impact fees	Impact fee is positively correlated with value of developable land parcels.
Lawhon (2015)	1960 to 2010	Loveland, CO	Period of rapid population growth	Number of rental units per nonwhite resident and annual MFI over time in Loveland and nearby towns	Impact fee is not significantly correlated with either outcome variable.

Appendix H. Case Study Methodology

Contributors: ECONorthwest

ECONorthwest identified several recent developments in Washington County that provide an opportunity to examine an example of the relationship between SDCs and housing prices within Oregon. Each development faced different SDC costs, but all compete within the same subregional housing market. ECONorthwest considered three areas that were recently brought into the Portland Metro urban growth boundary (UGB): South Cooper Mountain in the City of Beaverton, South Hillsboro in the City of Hillsboro, and River Terrace in the City of Tigard.

Study Areas

South Cooper Mountain is a 544-acre area that was brought into the UGB in 2011 and became part of Beaverton in 2013. The area sits at the far southwest edge of the city, along the border with Tigard. The community plan for South Cooper Mountain includes a mix of high-density, medium-density, and low-density residential areas to create a walkable, bikeable, and family-friendly neighborhood with a variety of housing options.

South Hillsboro includes 1,400 acres of farms, open space, and developed land at the southeastern edge of Hillsboro, along the border with Aloha. This area was brought into the regional UGB over several years, with the largest piece—1,062 acres—added in 2011. The South Hillsboro Community Plan approved in 2015 creates a new town center along Tualatin Valley Highway and a smaller village center, both with high-density housing, commercial, and retail spaces. The rest of the plan area includes a mix of apartments, townhomes, and lower-density housing and a network of open spaces linked by a trail system.

River Terrace is a 490-acre area just south of South Cooper Mountain that was added to the UGB in 2002 and 2011 and incorporated into the City of Tigard in 2014. The community plan for River Terrace envisions a primarily medium-density neighborhood of about 2,300 homes with one commercial core and a network of open spaces and parks.

SDCs in the Study Areas

Exhibit 70 summarizes the SDCs applied to single-family construction in South Cooper Mountain, South Hillsboro, and River Terrace (“growth areas”) and the standard citywide SDC rates applicable to adjacent developments that are not part of the growth area.²³⁶

Exhibit 70. System Development Charges for Detached Single-Family Housing, 2021

Source: City of Beaverton, City of Hillsboro, City of Tigard, and Washington County.

	Beaverton		Hillsboro		Tigard	
	Standard	Growth Area	Standard	Growth Area	Standard	Growth Area
Clean Water Services and County SDCs						
Sewer*	\$6,085		\$6,085		\$6,085	
Stormwater*	\$1,252		\$585		\$585	
Transportation**	\$9,623		\$9,623		\$9,623	
City-Specific SDCs						
Parks	\$11,787***		\$6,577	\$12,177	\$10,345	\$10,903
Transportation	-	\$8,826	-	\$13,523	\$7,076	\$10,348
Water	\$9,193		\$11,035		\$10,095	
Total	\$37,940	\$46,767 (+23%)	\$33,905	\$53,030 (+56%)	\$43,809	\$47,640 (+9%)

* Connection charges for Clean Water Services

** Transportation Development Tax for Washington County

*** Parks SDC from Tualatin Hills Park and Recreation District (THPRD)

Regression Model

ECONorthwest employed a linear regression model to analyze the relationship between SDCs and housing prices within the Portland metro area housing market, specifically in three cities in Washington County with recent urban growth areas. The data in the model are based on transaction data of home sales in each of the urban growth areas and in nearby neighborhoods with similar housing and access to transportation and retail amenities.

ECONorthwest created a dataset using property transaction data from Redfin. ECONorthwest analyzed sales transactions between January 2017, when the new construction in urban growth areas appeared on the market, and February 2022. This dataset included 1,519 unique properties in Washington County. ECONorthwest filtered the data to include only detached single-family units. Each observation was categorized as either within an urban growth area or in a comparison area. Each property was assigned an estimated total SDC amount based on the total SDC rates of each jurisdiction and the supplemental SDCs for units in urban growth areas.

²³⁶ Beaverton, Hillsboro, and Tigard adjust their SDCs annually using the Seattle Construction Cost Index—an inflation index—published by Engineering News-Record. Each city uses the data from a different month to set their updated fees. This table records fees at the start of the fiscal year in July 2021.

ECONorthwest adjusted the SDC rates to one year prior to construction to approximate SDC rates at the time of permitting, using the *Engineering News Record's* Construction Cost Index for Seattle.²³⁷ Finally, parcel sizes were joined from the Metro RLIS database and outliers were filtered out, for a total of 974 observations. The distribution of these observations by location is summarized in Exhibit 71.

Exhibit 71. Distribution of Observations in the Dataset by Location

Source: ECONorthwest, Redfin

Development Area	
Growth Area	689
Comparison Area	285
Total	974
City	
Beaverton	172
Hillsboro	467
Tigard	335
Total	974

ECONorthwest created three regression models to understand the relationship between aspects of development costs, location, amenities, and housing prices. Exhibit 72 summarizes the results of these analyses. The first model tested the per dollar relationship between SDCs and the price per square foot of a detached single-family unit. The results of this model indicate that for every dollar of SDCs, all else being equal, the price per square foot of a unit is higher by \$0.0007. In other words, \$10,000 in SDCs is related to about \$7 higher housing price per square foot. A second model tested the impact of location inside an urban growth area on housing prices. The results of this regression indicate that units inside urban growth areas sold for \$14.69 per square foot more than units outside of these growth areas, all else being equal. ECONorthwest also tested the effects of SDCs within each city. These city-specific analyses generally supported the findings of the first two models: Higher SDCs correlate with higher prices per square foot and prices per square foot are generally higher inside urban growth areas. However, the results are not reported in Exhibit 72 because there were not enough observations in the dataset for all the results of the third model to be statistically significant.

The regression models were able to explain about 74.4 to 75.4 percent of the variance in the dependent variable. In addition to the positive correlation between total SDCs and price per square foot, ECONorthwest also observed positive correlations between price per square foot and newer houses and a negative correlation with total square footage. This negative correlation is expected, the total development costs can be spread out across a greater unit size. While this linear model does capture some important relationships, it does not account for nonlinear phenomena such as construction costs, or the economies of scale that a developer might achieve when building a planned development.

²³⁷ This index is the method by which the City of Beaverton, the City of Hillsboro, and the City of Tigard adjust their SDC rates each year.

Exhibit 72. Summary of Linear Regression Results

Source: ECONorthwest

	Model 1	Model 2
	Coefficient (p-value)	
Total SDCs (dollars)	0.0007 (0.000)	-
Year Sold	13.7188 (0.000)	13.6446 (0.000)
Square Feet	-0.0470 (0.000)	-0.0480 (0.000)
Lot Size (square feet)	0.0096 (0.000)	0.0101 (0.000)
Number of Bedrooms	-5.329 (0.000)	-4.697 (0.000)
Number of Bathrooms	0.0456 (0.983)	0.557 (0.789)
Growth Area Development	-	14.6935 (0.000)
R ²	0.744	0.754

To help interpret the results of the regression models, ECONorthwest created a prototypical house with features frequently observed across all three cities. Exhibit 73 summarizes the features of this prototype. ECONorthwest applied the results of the primary regression model to this prototype to understand the relationship between SDCs of different amounts and a standardized detached home.

Exhibit 73. Housing Prototype Characteristics

Source: ECONorthwest

Feature	Value
Square Feet	2,400
Year Sold	2022
Year Built	2022
Beds	4
Baths	2.5
Lot Size (sq. ft)	4,500

Model 1 predicts that a \$10,000 difference in SDCs for this prototypical single-family unit would be associated with a \$16,800 higher sale price. Model 2 predicts that being in a growth area would be associated with roughly a \$35,260 higher sale price for this example home.

Appendix I. Testimony on HB 3040 Related to Timing of SDC Payment

Contributors: Galardi Rothstein Group

Exhibit 74. Testimony on House Bill 3040 Related to Timing of SDC Payments

Source: Summarized by ECONorthwest and Galardi Rothstein Group

File	Author	Testimony
16223	Unknown	Deferrals are an option for the local government.
16313	City of Wilsonville	Local governments should not be forced to defer SDCs or provide financing to developers.
16477	Multiple local governments	"Interest savings from delaying a SDC payment are minimal."
16483	City of Cave Junction	"Deferring SDC charges would raise our administrative costs because we do not have the resources or capacity to track when a sale happens and then follow through with the SDC collection process. Where is the consequence if a new owner homeowner doesn't pay the SDC charges? This bill puts the burden unfairly on the city."
16512	City of Irrigon	"It should be up to each local jurisdiction if they want to defer collection . . . Deferring for a time after closing . . . shows that the state is in cooperation and working with developers and big businesses, not buyers or local governments."
16567	Tualatin Hills PRD	Required deferrals would "come at a substantial cost and risk to local government."
16571	City of Springfield	Required deferrals would "unnecessarily limit our ability to determine the timing of SDCs."
16588	City of Gresham	Required deferrals "would create additional administrative burden" for the City.
16608	Special Districts Association of Oregon	Required deferrals would impose costs on local governments with no guarantee of savings for homebuyers.
16650	City of Hillsboro	Required deferrals would increase administrative burden.
16659	City of Portland	Local governments should continue to have the flexibility to determine the timing of SDC payments.
16664	Multnomah County	"Requiring that SDCs be assessed when a certificate of occupancy is issued or at the point of sale would make it difficult, if not impossible, for local governments to ensure collections from non-paying developers. Furthermore, this bill does not require that developers pass on cost savings to homebuyers or reduce housing prices."
16690	Jim Brewer (affiliated with multiple cities)	Proposed deferral provisions are poorly worded and would have unintended consequences.
16694	City of Independence	"Changing the collection date will result in small savings on interest for developers and increase costs for local governments."
16777	Metropolitan Wastewater Management Commission	Required deferrals would increase costs for ratepayers.
16819	Oregon Association of Clean Water Agencies	Required deferrals would increase costs for ratepayers.

File	Author	Testimony
16964	Unknown	"Changing the collection date will result in small savings on interest for developers and increase costs for local governments."
17156	City of Prineville	Required deferrals would "not be effective in achieving the overarching goal of supporting affordable housing."
17195	City of Sherwood	Required deferrals would impose costs on local governments with no guarantee of savings for homebuyers.
17208	City of Eugene	"Local governments are not involved in private property transactions and this requirement would result in an excessive burden on local governments to track real estate transactions to ensure that the public fees, which a project owes, are paid. Additionally, it is unclear how payment deferral for commercial and industrial developments assists with affordable housing."
17407	Oregon Building Officials Association	"Tying SDC payment to 'time of sale' would create additional administration and local government involvement in a part of the process the local government has thus far been removed from, create a dramatic loss of efficacy because the local government would need to audit unsold properties continually until they sold and their associated SDC payments were verified, and place the local government in the 'no-win' position to create additional enforcement, potentially against the new homeowner, if the fees were not paid upon sale."
17423	Metropolitan Mayors' Consortium	Proposed provisions preempt local authority.
17430	American Planning Association Oregon Chapter	Deferral of SDCs should be at the discretion of the local government.
17433	Washington County	Required deferrals would "leave the County with a significantly higher administrative burden."

Appendix J. Summary of Feedback on SDC Deferral Experience

To better understand the implications of SDC deferral programs for the jurisdiction, FCS GROUP and Galardi Rothstein Group contacted nine cities that have (or previously had) an SDC deferral program with questions regarding administration of this program (Exhibit 75).

Exhibit 75. SDC Deferral Program Contact Log

Source: ECONorthwest

Jurisdiction	Status
Cornelius	Current program
Madras	Current program
Medford	No response
Pendleton	Provided details only for installment payments (not deferrals)
Redmond	Had a program in the past; sunset program as of 2021.
Sherwood	Current program
Tigard	Current program
Veneta	Current program
Wilsonville	Had a program in the past; cancelled program in 2019 code update.

Each jurisdiction received the following questions:

- What are the eligibility criteria for SDC deferral?
- What are the program requirements (e.g., application process, is a lien required, is interest charged, etc.)?
- How often is the deferral option used, and what types of development use it most?
- How long does the deferral typically last (i.e., how long does most development that uses the deferral take between building permit and certificate of occupancy or when the SDCs are due)?
- Has non-payment been an issue for any of the developments that have used the deferral option? If so, how often has this been an issue?
- How much additional staff time is required for developments participating in the SDC deferral program compared to developments that pay SDCs at building permit? Which parts of the process require additional staff time?
- Do you have any additional comments or lessons learned to share about how the program is working in your jurisdiction?

In addition, one jurisdiction submitted comments on the Public Review Draft that described their deferral system. These comments have been integrated to the extent possible.

Feedback Summary

Eligibility & Program Requirements

Eligibility criteria varied widely among the jurisdictions contacted. Some allow deferrals for all residential and commercial projects or for all new residential development, while others limit eligibility based on SDC amount (e.g., Sherwood allows a deferral if the total City Transportation and Parks System Development Charges exceed \$50,000), or allow deferrals only for non-profits developing income-restricted housing (e.g., Cornelius).

Typical application processes require developers to submit a formal request, which the City reviews and approves. Roughly half of the jurisdictions report requiring a lien²³⁸ as a condition of SDC deferral. Others require agreements notarized by the property owner. None require interest payments for SDC deferral.

Timing of Payment

For most jurisdictions contacted, the deferred payment is due prior to receiving the Certificate of Occupancy (C of O); a few use a time limit in addition to or instead of the C of O (e.g., 9 months or a year). The jurisdiction that offered their experience as a comment on the Public Review Draft of the report noted they currently require payment at C of O, but have discussed moving the deadline to the final framing inspection (earlier in the construction process), so that any issues can be resolved before a homebuyer is expecting to move in, avoiding impacting the future resident or the jurisdiction appearing to be the problem if there is a hold-up at C of O.

Utilization

Many of the jurisdictions that responded receive a small number of deferral requests annually (Cornelius and Wilsonville have used their program twice, Pendleton uses it roughly once every ten years). However, Madras, which allows deferral for all residential development, saw a steady decrease in deferral requests over the last three years, where nearly half of all SDC payments were deferred. In its program history, Madras has seen 187 total deferrals and five in 2022, mostly for subdivisions. In Tigard, Sherwood, and Wilsonville deferrals were more likely to be taken by large developments due to deferrals not being advertised and/or eligibility criteria.

Administrative Time and Costs

All jurisdictions noted an increase in administrative effort associated with the deferral program, though some said it was a major increase and some said it was less than an hour of staff time. Tasks involved in the deferral process include reviewing and approving the deferral request, filing a lien (if required), communication between agencies or departments regarding the

²³⁸ Liens are legal rights to property by creditors. Liens typically remain in effect until the debt obligation is satisfied and allow the creditor to use the property as collateral if the debt obligation is not fulfilled.

application, tracking status through the development process, and closing out liens or updating permit systems when SDCs have been paid. In Madras, certificates of occupancy are granted by the county, so the process requires an additional level of coordination. Jurisdictions reported that deferral requests can take anywhere from 15 minutes to 7 hours per request. Two smaller jurisdictions use paper filing and mentioned if the number of deferrals increased, they would need to move to an electronic tracking system. In Redmond, the staff burden made the program cumbersome to administer (staff reported it was used frequently), which was one reason the City went on to sunset the program. However, Tigard and Veneta report the additional time spent on deferral is negligible.

There were also costs associated with follow-up and enforcement of payment in some cases. In Wilsonville, one notable non-payment dispute took four years to litigate, which led the city to end the program in 2019 during their SDC code update (see below).

Non-Payment

Three of the seven jurisdictions that provided detailed information reported instances where follow up or enforcement was necessary:

- In Sherwood, one development remains vacant with outstanding fees. (While staff didn't specify, this is presumably a commercial development, given that it is unlikely an apartment or single-family home would be completed but unoccupied for a long period of time.)
- Wilsonville has had at least two instances where deferrals for commercial developments have resulted in disputes with developers who sought to renegotiate the terms of the deferral agreement.
- In Madras, a few deferrals (out of over 100) required follow up at the one-year deadline (perhaps because this is an arbitrary timeline relative to the construction timeline), but did subsequently pay upon follow up. The City noted that one developer in particular had sought to avoid payment. This was the only nonpayment issue attributed specifically to residential development.

Key Findings

The two key concerns with deferrals are administrative burden and nonpayment. Take-aways related to these concerns are summarized below.

- **Administrative Burden:** The responses suggest that administrative burden can be quite variable depending on a jurisdiction's permitting system and deferral procedures. For jurisdictions where the program is broadly available and well-understood within the residential development community, the volume of deferral applications can be challenging due to the total amount of staff time required. In some communities, some of this staff time is linked to filing liens, which are more time consuming to establish and remove, but give the jurisdiction more leverage if there is a nonpayment issue.

Streamlining seems to have helped some jurisdictions to an extent, but there are limits to the ability to streamline if a jurisdiction must coordinate with other agencies (e.g., the county) or does not have an efficient permitting system. Even for jurisdictions that process few deferrals, the amount of effort for each application can be substantial for some, depending on how their program and permitting system works.

- **Nonpayment:** Many of the most egregious examples of nonpayment were linked to commercial projects. Some factors specific to commercial development may have contributed: there is greater variability in SDCs for commercial development depending on the specific end user, which may not be known in detail up front, and could increase the risk of a developer seeking to change the total SDC amount later, when tenants are known. In addition, commercial development tends to have fewer tenants and can take longer to lease up compared to apartments where there are many tenants who typically begin to move in immediately upon C of O. Issues related to residential development appear to be primarily where a time-based deadline was reached before C of O without the developer noticing immediately. This is unsurprising, given that the date may not correspond to any particular construction milestone. One jurisdiction also noted one developer who attempted to avoid requirements on several occasions.

While the negative experiences of some jurisdictions led them to advise caution related to deferrals, the successful (or mixed) experiences of other jurisdictions suggest that some of the concerns could potentially be avoided or mitigated through program requirements and eligibility criteria. However, given the variation in how jurisdictions handle permitting, it may be easier for some jurisdictions to offer deferrals than others, and even at the low end of effort per application, a broadly-used program could potentially become burdensome.

Exhibit 76. Deferral Program Feedback Summary

Source: Personal Communication with FCS GROUP, Galardi Rothstein Group, and ECONorthwest; U.S. Census Bureau (2021).

Color coding key: blue = positive experience, yellow = mixed experience, orange = negative experience

City (Population)	Eligibility Criteria	Timing	Total Deferrals	Administrative Burden	Uses a Lien?	Charges Interest?	Non-Payment Cases
Veneta (5K)	Anyone building a new home	Due by Final Inspections and/or Certificate of Occupancy	Not specified, but has been used.	A little extra time for form and lien	Yes	No	None identified
Tigard (55K)	Any development upon request (used to limit to projects with SDCs higher than for single family detached; not advertised)	Due by Certificate of Occupancy	Used some by larger developments and subdivisions.	15-20 minutes per deferral for initial permit, sometimes additional time after initial review. Don't have a great way to track deferrals in the system—could be more streamlined.	No	No	None
Cornelius (13K)	Only for non-profits developing affordable housing.	Due by Certificate of Occupancy	2	7 hours per deferral. If volume of applications increases, will need new system.	No	No	None
Madras (7K)	All new residential development	Due by Certificate of Occupancy or 1 year whichever comes first	187 total, 5 in 2022. Mostly subdivisions.	3+ hours per deferral for paperwork, filing lien; additional time for monitoring and follow up, checking sale price of the house ²³⁹ . Was very time consuming at beginning but have streamlined process.	Yes	No	A few deferrals went past 1-year deadline but paid on follow up. Some developers (one in particular) “try to creatively avoid payment” of the SDCs.
Sherwood (20K)	Only if the total City SDCs (Transportation and	Certificate of Occupancy	Common for large developments,	Less than 3 hours per permit (total, for	No	No	One property stands vacant with

²³⁹ Madras provides SDCs reductions for single-family dwellings based on the sale price of new homes.

City (Population)	Eligibility Criteria	Timing	Total Deferrals	Administrative Burden	Uses a Lien?	Charges Interest?	Non-Payment Cases
	Parks) are more than \$50,000.		especially if expecting SDC credits	processing, signatures, and tracking).			outstanding SDC fees.
Wilsonville (26K)—program no longer offered, responses reflect prior program	[no current program—prior eligibility criteria not provided, but applied to at least some commercial development]	Typically drafted to be one year or less. Not tied to Certificate of Occupancy.	Used infrequently, generally large commercial development. Two that staff remember.	Much staff time required for litigation.	-	-	Both recent commercial developers did not or could not pay on time, tried to renegotiate terms. One resulted in 4-year litigation with ruling in favor of City.
Redmond (35K)—program no longer offered, responses reflect prior program	Any development that owed SDCs.	Due by final inspection or within 9 months of the date of the agreement.	Program used a lot. Mostly residential, some commercial.	Much staff time required for processing forms, getting things notarized, verifying payment. Many parties involved (Finance, City Records Office, Building Department) Became too much of an administrative burden to sustain—sunset the program.	Yes	No	-

Note: Dashes indicate respondent did not address topic.

Appendix K. Summary of Public Review Draft Feedback and Responses

Contributors: ECONorthwest, OHCS

On October 18, 2022, OHCS issued the public review draft of the Oregon SDC Study. A comment period on the draft went through November 4th and during that time, approximately 14 comments were received through the OHCS feedback survey. The survey contained two general opportunities for participants to share their overall feedback on the report.

- Please share what you think are the most important findings from this report.
- Do you think anything is missing or mischaracterized in this report?

OHCS also received a letter containing additional feedback authored by several key stakeholders.

Key Feedback Addressed in the Final SDC Study

There were several key topics on which stakeholders requested additional information and/or analysis. ECONorthwest, along with FCS GROUP and Galardi Rothstein Group, substantially expanded information on several key topics in the final SDC Study. This section will identify those key topics, how they were addressed, and where the additional information was added in the report.

We acknowledge that this study prompts many additional questions for readers, such as the tradeoffs of alternative funding options or recommendations for how to better balance policy goals. However, it is limited to the scope of work outlined in HB 3040. Information has been added to the study's introduction to be clear about what the study does **not** address in an effort to align the reader's expectations of the study with the work outlined in the bill.

The feedback from stakeholders has been addressed to the extent possible within the scope of the study, and has strengthened and clarified its findings.

Alternatives to Infrastructure Funding

HB 3040 requires the study to include "The full range of factors that contribute to system development charge fee rates." Many stakeholders expressed that a major driver of SDC rates is a general lack of local funding alternatives for infrastructure, and therefore wanted to see additional information included in the report related to alternative funding options. While it is beyond the scope of the study to fully evaluate alternative local funding options for infrastructure, the Project Team added a brief overview of infrastructure funding sources for

context in Section 2.1 and a new appendix (inserted as Appendix D) that lists and briefly describes other potential infrastructure funding alternatives.

How Utility Rates and Property Taxes Impact Affordability

Some stakeholders felt that considerations should be given to how utility rates and property taxes (when used to fund capital projects) might also impact housing affordability (particularly for existing rate payers and property owners). Section 2.2.4 now includes additional information on potential impacts of utility rates and property taxes on existing residents.

Comparison of SDCs to Other Residential Construction Costs

The scope of HB 3040 stated the study should consider, “How system development charges compare to other housing cost drivers, including, but not limited to, the costs of land, labor and materials, utility rates, the costs of infrastructure and costs associated with regulatory compliance.” Stakeholders felt that there was not enough analysis included to fully address how other cost drivers for residential construction compare to SDCs (e.g., what percentage of construction costs are SDCs vs. labor, land, materials, etc.). While the report did articulate other cost factors, particularly for land, a clear breakdown of other costs and their share of overall development costs has been provided in Section 4.3.4. This section also provides a high-level summary of how market forces and public-sector policies and regulations can affect these costs and the available data on their relative contribution to the cost of housing development or to housing costs more generally. Additional discussion on how SDCs compare to other cost drivers for affordable housing specifically was added to Section 4.3.3. A diagram illustrating the many influences on housing costs and prices was also added to Section 4.2.1 for broader context.

Role of SDCs in Facilitating Housing Development

Stakeholders wanted to see additional information in the report related to how SDCs help pay for local infrastructure that facilitates and/or benefits housing development. Section 2.2.2 contains new information illustrating how SDCs can be critical to enabling development, including examples from several jurisdictions and circumstances (e.g., UGB expansion area funding plans, citywide transportation funding strategies, and water supply capacity increases).

Deferring SDC Payments

HB 3040’s scope included “The cost to public agencies of deferring system development charge fee payments, including potential unintended consequences of deferred payments and the need for remedies to address noncompliance.” Stakeholders wanted additional information and discussion pertaining to the unintended consequences of deferred payments and costs and benefits to the public from deferred payments. The Project Team sought additional detailed feedback from several jurisdictions known to operate deferral programs regarding their experience with the programs, and summarized the findings from those experiences. This

additional discussion is summarized in brief in Section 5.1.2 and in greater detail in a new appendix (added as Appendix J).

Role of Recent Federal Infrastructure Bills in Addressing Funding Gap

The draft SDC Study included a discussion on the recent federal infrastructure bills, focused on water and transportation investments. However, stakeholders requested that the study provide additional details regarding how that funding would be made available (i.e., in the form of loans vs. grants) and to what extent the influx of funding would address infrastructure funding gaps. The final version of the report includes additional information related to the anticipated use of grants vs. loans and how the funds relate to the magnitude of the funding gap for water infrastructure (because this is where the best information is available) in Section 2.1.1.

Benefits of SDC Exemptions for Affordable Housing

The draft SDC study included an analysis of the impacts SDCs have on income-restricted affordable housing development and provided several case studies from jurisdictions that offer SDC exemptions for affordable housing. The case studies provided data on number of units benefitting from the program. However, some stakeholders felt takeaways from the analysis were unclear regarding the overall impacts SDC exemptions had on affordable housing development, and whether the exemptions truly resulted in different outcomes. Additional discussion of the potential magnitude of impacts from SDC exemptions statewide was added to Section 5.2.2.

Executive Summary and Conclusions

Several stakeholders felt that some of their key concerns were not reflected adequately in the Executive Summary and/or Conclusion of the Public Review Draft. These sections have been substantially updated to reflect new information added to the report and ensure they provide a balanced perspective.

Other Points of Clarification Made in Final SDC Study

The Project Team also responded to stakeholder requests for additional clarification on a few other topics, including:

- Clarified distinction between “housing affordability” and “affordable housing” through definitions in the introduction.
- Added citations throughout the executive summary and key findings to identify the source of the information summarized in those sections.



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: Planning Commission
From: Kay Neumann, Administrative Assistant

Agenda Date: 02/13/2023

SUBJECT:

Planning Commission Minutes Approval

STAFF RECOMMENDATION:

Approve bulk minutes from past meetings

BACKGROUND:

Please find multiple meeting minutes attached for review to be approved at the next meeting. These are meeting minutes that have no record of being approved. We understand that you may not have been at these meetings, but we are asking that you review and agree to allow them to stand as written so that they can be published for the public to view as needed.

NOTE: These can all be approved as a single motion and do not need to be approved individually. There will be additional sessions with multiple meeting minutes needing to be approved to catch up as a result of an audit. The City is in the process of devising a plan to fill in the many meetings where minutes have not yet been transcribed.

1. November 10, 2008: [2008-11-10](#)
2. January 25, 2010: [2010-01-25](#)
3. October 11, 2010: [2010-10-11](#)
4. June 25, 2012: [2012-06-25](#)
5. July, 9, 2012: [2012-07-09](#)
6. July 23, 2013: [2012-07-23](#)
7. January 14, 2013: [2013-01-14](#)
8. January 28, 2013: [2013-01-28](#)
9. February 11, 2013: [2013-02-11](#)
10. February 25, 2013: [2013-02-25](#)

**CITY OF OREGON CITY
PLANNING COMMISSION
MEETING MINUTES**

November 10, 2008

Commissioners Present:

Chairperson, Tim Powell
Gardiner, Associate Planner
Commissioner Paul Carter Stein

Staff Present:

Commissioner Allan Dunn Christina Robertson-

Commissioners Excused:

Commissioner Chris Groener
Commissioner Dan Lajoie

1. Call to Order

Chair Powell called the regular session of the City Commission to order at 7:00 p.m. in the City Commission Chambers in City Hall, 320 Warner Milne Road, Oregon City.

Roll Call: Chair Powell and Commissioners Dunn and Stein

Staff Present: Christina Robinson Gardner

2. PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA

- **Paul Edgar, Oregon City, Canemah Land Use Chair**

Mr. Edgar addressed the need for concurrency and safe streets in Canemah. He was concerned both with the highway and how much more density and related traffic the narrow residential streets could accommodate. He had invited Betty Mumm of the Transportation Advisory Committee to attend a neighborhood meeting so she could hear the issues first hand. He was also addressing speeds with the Oregon Department of Transportation (ODOT).

Ms. Robertson-Gardiner noted there were many factors involved and suggested a work session. One of the issues was that Canemah was already platted so the subdivision process could not happen in the area. She commented on ODOT's STA requirements related to enhancement projects.

Commissioners recommended a joint meeting with the City Commission to discuss concurrency and in a second phase discuss transportation and specifically Hwy 99E and Hwy 213. They also wished to discuss roads under County jurisdiction.

- **Kathy Hogan, Clackamas County**

Ms. Hogan announced the Hazeldell / Westling Farm Neighborhood Association meeting where the controversial new pipeline would be discussed. She encouraged people to contribute to Fill a Stocking Fill a Heart.

3. ADOPTION OF PLANNING COMMISSION MINUTES

It was noted Commissioner Stein was absent for the September 22, 2008 meeting.

Planning Commission Meeting – November 10, 2008

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Page 1 of 4

Commissioners Dunn/Stein m/s to accept the minutes of the August 11, 2008 and September 22, 2008 meetings as corrected. Motion passed: Commissioners Dunn and Stein and Chair Powell voting 'aye.' [3:0]

4. PLANNING COMMISSION HEARING

L 08-01 (Legislative Hearing): Applicant: City of Oregon City. Amendments to the Oregon City Municipal Code (city-wide)

- Discussion of Proposed Zone Changes
- Measure 49 Processing Ordinance
- Refuse and Recycling Standards for Commercial, Industrial, and Multifamily Developments
- Demolition by Neglect

Ms. Robertson-Gardiner reported this was a continuation from the previous Planning Commission meeting and provided a recap of the zone change process which began last February. She noted staff still had work to do on the Nature in the Neighborhood portion and how to protect habitat and water resources.

This meeting would continue consideration of the upzoning of three areas which were generally called Central Point / Pease, Leland / Meyers, and Canemah Road / Warner Parrot. The Planning Commission also directed staff to look at underdeveloped tracts in the central Hilltop area where future and existing retail services were available. The three identified areas were county rural development encircled by new Oregon City urban development. None had adequate pedestrian or bike access, and all were minor arterials or neighborhood collectors in the transportation network. She discussed resolution of transportation issues through land use and / or capital improvement programs. Staff was seeking direction on moving forward with any of the three identified areas or others the Commission may identify. It hoped to prepare the final staff report and final recommendations for November 24 and move the package forward to the City Commission. She reviewed the comment period and public hearings.

Ms. Robertson-Gardiner described the areas and existing zoning. The Transportation System Plan (TSP) was last updated in 2001 with concept plan sections added as they were adopted. Each of the three sites had constraints and opportunities which staff would describe. She discussed Comprehensive Plan designations that incorporated multiple zones taking into account a broader view of compatible high, medium, and low density residential and single- and multifamily zoning designations. It was found in the 2004 housing inventory that Oregon City needed to increase its available housing sizes and types. Also there would be a discussion of being able to provide sidewalk within the capital improvement program (CIP). She discussed the concept of urban growth boundaries (UGB) and getting more density without expansion. There were cost savings with infill and capitalizing on existing infrastructure.

Chair Powell discussed the importance of looking at the issues of growth at not only the City level but also state and federal. It all came down to livability – did we want to live with sprawl and where did we look for infill opportunities?

Ms. Robertson-Gardiner noted this was a city-wide, legislative action. If the Planning Commission wanted to move forward a map change would be part of this amendment.

- **Kathy Hogan, Clackamas County**

Ms. Hogan asked if the maps were available.

Ms. Robertson-Gardiner replied they were available on the City website. She discussed potential consolidation of lots to create subdivisions. The only potential area for flaglots was Leland / Meyers because of access.

Ms. Hogan expressed concern with shared access and conflict. The roads should be taken into consideration when thinking about density.

- **Paul Edgar, Oregon City, Canemah Land Use Chair**

Mr. Edgar discussed traffic filtering to South End Road which was weight restricted and in a slide zone. Most of the new homeowners will be commuting to job centers. He cautioned against more density until there as a comprehensive transportation plan. He would not wish to add more concurrency problems.

- **Ingra Rickenbach, Warner Parrot Road**

Mr. Rickenbach expressed concern about additional density and traffic safety. She hoped the Planning Commission would not consider that area.

The Planning Commission held its discussion. They noted the voters did not support annexation, so density, according to the Metro 2040 Plan, would have to be identified elsewhere. There should be a mix of development and capital improvements paying for roads and sidewalks. Commissioners understood concerns with density but also saw this zone amendment as the best way to improve infrastructure and take advantage of what was already there. There was interest in mixed-use development to create jobs and sense of community. Chair Powell did not feel the Leland / Meyers area would really benefit the City and urged developing a comprehensive transportation plan. Commissioners felt it was important to encourage change and that there needed to be a holistic look at transportation and establish priorities.

Ms. Robertson-Gardiner suggested she could send the three areas forward and include the dissenting issues in the staff report. There would be a joint work session on the code changes likely in January where the issues could be highlighted. The Traffic Advisory Committee could also be brought into this process and confirm the amendments were understood by all.

Staff reviewed the Measure 49 processing ordinance to provide clear guidance and provided general background on the differences between Measures 37 and 49. This action met the requirement to have a process in place in the event a claim was filed and reflected Measure 49 language. The City Commission's decision was appealable to the Land Use Board of Appeals (LUBA). Staff described vested right issues and definitions.

The refuse and recycling standards for commercial, industrial, and multifamily developments supported a thoughtful approach to refuse and recycling enclosures that was compatible with the design and circulation of a site in short and long term. Developers would be aware of the City's expectations to create a space that was safe for the public and the hauler. Proposed code section 17.62.059 would provide an efficient, safe, and convenient enclosure. Staff reviewed the existing and proposed criteria. General requirements would be found in the code and more specific requirements would be adopted by resolution. Current sections of the code regarding trash enclosures would be repealed. Staff was working with the City Attorney's office and code enforcement to determine at what level nuisances could be cited. Visual screening can vary as long as it was appropriate to the site, and as multifamilies underwent renovation, they would be required to come up to the new code requirements.

Ms. Robertson-Gardiner summarized demolition by neglect that addressed concerns of the Historic Review Board (HRB) and discussed some of the problem encountered over time. The

amendment would be found in Title 15, Building Code and addressed buildings currently designated as historic structures. The demolition by neglect process was essentially a code enforcement process through which a stabilization plan was identified that would be approved by the HRB. If the property owner did not wish to cooperate with the plan, this code gave the City the ability to cite the property owner into municipal court. There were potential court fines and worst case scenario placing a lien on the property. The goal was not to rehabilitate the building but to resolve and stabilize the specific problem. It was possible for problems to be so severe that the property owner should apply for demolition. This amendment can open up dialogue for specific reasons and make it clear to property owners they cannot sit back and let their buildings deteriorate for the purpose of demolition. Staff will work with those who could not afford to keep up their properties and perhaps help them sell it to someone who could rehabilitate it. There was also a matching grant program through the HRB to give financial incentives up to \$3,000. Code enforcement would have printed material for outreach. Demolition by denial, demolition by neglect, and the grant program were important to historic preservation in Oregon City. This regulation would apply to every historic property in Oregon City. A Commissioner noted several small corrections. The group discussed regulating on buildings that had not gone through the inventory process with owner consent. Dangerous buildings were addressed by code compliance. The group discussed the pros and cons to being designated historic, owner consent, and the influence of the grant program.

Ms. Robertson-Gardiner provided a Main Street Program update.

Chair Powell spoke at a Chamber of Commerce Leadership Class at the request of Mayor Norris.

Commissioners Dunn/Stein m/s to hear testimony and continue the hearing on L 08-01 to November 24, 2008. Motion passed: Commissioners Dunn and Stein and Chair Powell voting 'aye.' [3:0]

5. ADJOURN

Chair Powell adjourned the meeting at p.m.

Respectfully submitted,

Laura Butler, Assistant Planner

**CITY OF OREGON CITY
PLANNING COMMISSION HEARING**

January 25, 2010, 07:00 P.M.
City Commission Chambers - City Hall

1. CALL TO ORDER

Roll Call:

Chair Tim Powell
Commissioner Dan Lajoie
Commissioner Carter Stein
Commissioner Chris Groener

Staff Present:

Laura Butler, Assistant Planner
Pete Walter, Associate Planner
Tony Konkol, Community
Development Director
Carrie Richter, Assistant City Attorney

Chair Powell called the meeting to order at 7 p.m.

2. PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA

There was no public comment on items not listed on the agenda.

3. ADOPTION OF MINUTES

a. Adoption of Draft Planning Commission minutes for 1/26/09, 5/11/09, 6/8/09, 6/22/09, 8/10/09, 10/12/09, 11/23/09, 12/14/09, and 1/11/10.

Motion by Commissioner Chris Groener, second by Commissioner Carter Stein to approve the minutes for 1/26/09, 5/11/09, 6/8/09, 6/22/09, 8/10/09, 10/12/09, 11/23/09, 12/14/09, and 1/11/10.

A roll call was taken and the motion passed with Commissioner Chris Groener, Commissioner Carter Stein, Commissioner Dan Lajoie, Chair Tim Powell voting aye. [4:0:0]

4. PLANNING COMMISSION HEARINGS

AN 09-02. The applicant is requesting to annex approximately 53 acres into the City of Oregon City. The site is within the Oregon City Urban Growth Boundary and within the boundaries of the Park Place Concept Plan.

AN 09-02 PC Staff ReportExhibit 1Exhibit 2Exhibit 3Exhibit 4Exhibit 5Exhibit 6Exhibit 7Exhibit 8Exhibit 9Exhibit 10Exhibit 11Exhibit 11 RevisedExhibit 12Exhibit 13Exhibit 13 TIAExhibit 14 Rezoning RequestExhibit 15 Metro letterExhibit 16 CRW Comments

Chair Tim Powell read the hearing statement describing the hearing format and correct process for participation. He asked if there were any declarations of ex parte contact, conflict of interest, bias, or statements. There were none.

Chair Powell opened the public hearing.

Tony Konkol, Community Development Director, said this was a request to annex 53 acres with eight tax lots. The properties were in the Urban Growth Boundary and Comprehensive Plan designation was medium density residential. There were five single family residences currently on the tax lots. There were three properties located on Holcomb Boulevard which did not sign the petition either in support or against the application. If those properties were not included as part of the application, it would create a County island. The annexation was located within the Park Place Concept Plan. The applicant had 93% of the acreage sign the petition, 57% of the owners sign the petition, and 61% of the assessed

value represented sign the annexation application. He discussed the criteria for compliance with the Metro Code. If the annexation was successful, the applicant would need to have another annexation to bring the properties into the Tri City Service District. Staff entered Exhibits 13-16 into the record.

Clackamas River Water would maintain the water lines in the area and were responsible for providing water above 450 feet. Staff recommended continuing the hearing to February 8 in order to discuss the transfer of jurisdiction over the water lines in the area. The applicant would make a contribution for every single family home to the police fund. Staff recommended that the properties be annexed but maintain the County zoning while the applicant did the analysis necessary to show compliance with the Transportation System and utilities.

Mr. Konkol explained how the application complied with the Oregon City Municipal Code. This was the logical place for the beginning of annexing in the Park Place Concept Plan area. There were existing resources on the site and location of steep slopes and creeks. They had codes in place that did protect natural resources. There was no open space, scenic, or historic areas and no impact upon annexation. The larger impacts concerning transportation, land uses, and design were addressed in the Park Place Concept Plan.

Kirsten Vanloo, Land Use Planner with Emerio Design in Beaverton, OR, represented the Park Place Partners. The original application was for both annexation and zone change. They did a five year traffic impact analysis, and in order to meet State goals, they had to analyze to 20 years. For that reason, staff advised them to make it an application for annexation only. This was the first step to implementing the Park Place Plan. It was also the first step in developing inter-neighborhood vehicular and pedestrian connectivity. It would take 3 to 10 years to build the properties out. This request was not an application for a zone change or development application. They wanted to get the land inside the City limits because they had to do additional traffic and infrastructure analysis. They were anticipating a turn around in the housing demand in the next 3 to 5 years. She explained the planned timeline, with occupancy of the first phase in 2012. She showed them on an arial photograph the proposed annexation area. She asked rather than continuing the hearing, to mandate the applicant to meet with Clackamas River Water (CRW) between now and the City Commission meeting and go to the City Commission with an updated memo regarding CRW's concerns in order to get this on the May ballot.

Brian Dunn with Dunn Traffic Engineering of Portland, OR said they were actively putting together the analysis required by the State. They met with ODOT last week for information for the study and potential mitigation measures that both ODOT and the City could support. These changes would come with the zone change request. They did prepare a Transportation Impact Analysis Report that looked at short term conditions upon build out of this application to 2014.

Neil Fernando, Civil Engineer with Emerio Design, said they did not do a water design because they were not proposing a site plan at this time, but a water design could be done quickly. The biggest question was if

there was capacity and pressure and there was. 85% of the site was below 450 feet and the parcels above 450 feet were currently being served by CRW as they were existing homes.

Kent Ziegler of rural Clackamas County explained why they wanted to build this development in Oregon City during this economy. He felt comfortable that they could address CRW's questions prior to the next City Commission meeting. He discussed the concerns of the residents in the Lindsey Road area regarding flooding. He suggested they continue the infrastructure that already existed with the three road stub outs and construct an emergency vehicle access lane to connect to the existing road system on Lindsey and Frank roads.

Chair Powell asked for public comment.

Tom Geil, Park Place Neighborhood Association Vice-Chair, passed out a letter that was written in 2007 from the Park Place Neighborhood Association regarding the Concept Plan and was a place holder until the group could state their thoughts on the annexation. The Neighborhood Association had not yet had a meeting to discuss the application. Some of his concerns were the transportation analysis would be done after the annexation approval, the connection for drainage on Holcomb, flooding mitigation by raising the road, and if the traffic study took into account the Rivers project. The Neighborhood Association would like to look at these issues before the Commission made a decision. He was asking for a continuance. He also recommended the road for access to the annexation area be built first so that traffic was not diverted into the neighborhoods where many children played. This would be Exhibit 17.

Christine Kosinski, County resident, said the City needed to meet with the Holcomb Outlook CPO and Beavercreek CPO to discuss the traffic impacts of this development. If meetings could not be scheduled, she suggested sending meeting notices regarding this annexation to each resident of these areas. She also requested Oregon City have a geotechnical study done regarding the possible Swan Road extension. There were two more homes in the Oak Tree Terrace area that were experiencing slide problems. She also wanted the City to consider the cumulative traffic impacts with this project and the Rivers project. ODOT said they had no money to fix Highway 213 or build new roads, and the County had no money for roads. They needed to consider the traffic impacts, financing, and infrastructure needs for this annexation. This would be Exhibit 18.

Tod Townsend, County resident, said he had many questions about this application. Chair Powell directed him to discuss the questions with staff.

Kevin Miller, County resident, was not for this annexation. His concerns were financing for and maintenance of the sidewalks, the intersection on Barlow Crest Road and Holcomb was on a steep hill and traffic accidents could occur, water run off should be taken into consideration, wildlife should be addressed, geotech testing needed to be done, there was flooding on Redland and Holcomb creating passage problems, and he questioned a project like this during this economy where there were already a lot of empty houses.

Deanna Townsend, County resident, asked about the owners proposing to

pay \$3,500 per unit into a fund for the police, and if she did not sign the consent, what happened if her property was annexed. Mr. Konkol said it was not binding for those who did not sign the consent. She could talk with staff further about this issue.

Ms. Vanloo said she appreciated the citizen involvement in this hearing. They had an adopted Concept Plan that included this land with a significant amount of analysis that addressed every State wide goal and City planning goals. Notice was mailed on December 16 to the Neighborhood Association which should have been more than adequate time for a response. They had done significant traffic counts and a five year analysis. The City had detailed requirements in regard to storm drainage and before any development took place, it would be addressed. The voters did not support the original annexation proposal several years ago. Considerable work had been done since that time, and she felt confident that the Concept Plan addressed previous concerns. The part of the road that flooded was not under purview for this application. The three stub streets that stubbed into the property had always been anticipated for continuation. She understood that children played in dead end streets, but this was only an annexation application and was not an application for development or street connections or infrastructure. She understood two of the citizens in the island were not supportive of annexation, and she was not confident they would have been included in the annexation if they were not required to by City Code and State law. She asked that they forward this to the City Commission and ask the applicant to work with CRW and the Neighborhood Association to resolve concerns so they could meet the timeframes and get on the May ballot.

Mr. Dunn said the traffic counts were conducted in late 2009 and were 3% higher than counts done a year earlier. They did not take into account the Rivers project, but Rivers would have to do a study also and mitigate any traffic impacts that project would produce. They had not found a high frequency of accidents or severity of crashes on Holcomb based on the analysis.

Carrie Richter, Assistant City Attorney, said the Commission had received a request for continuance from a member of the audience in addition to staff and reading from the Code she was not sure if they had discretion to make a decision that night.

Mr. Geil said the Park Place Neighborhood Association had been dealing with other issues and because they didn't have all of the documentation, they were waiting for the information to be presented before making a recommendation.

Commissioner Stein asked staff to explain the City's new SDC fee charges and how they would be applied in this instance and the process for coming up with the proportionate share to meet the requirements that ODOT identified in their letter. He also wanted to have staff address the concerns of CRW before they moved forward.

Commissioner LaJoie said to build consensus between the applicant and Neighborhood Association would be important for the annexation because it would ultimately go to a public vote and having Park Place firmly behind it would be wise.

Commissioner Groener clarified CRW's concerns.

Commissioner Powell said though this was an annexation for five homes with no impact, it was also about future development and it would make an impact. He appreciated the need for speed, but the Commission had a request from staff and a citizen to continue the hearing and that fact plus the need for more understanding, he thought they should continue the hearing.

Motion by Commissioner Dan Lajoie, second by Commissioner Carter Stein to to continue AN 09-02 to the February 8, 2010 Planning Commission meeting with direction as stated in the record.

A roll call was taken and the motion passed with Commissioner Chris Groener, Commissioner Carter Stein, Commissioner Dan Lajoie, Chair Tim Powell voting aye. [4:0:0]

**Legislative (L 08-01). Oregon City Code Amendments:
6-month update.**

January 19, 2010 PC Memo

OCMC 17.49 Natural Resource Overlay District Exhibit A

OCMC 17.62 Site Plan and Design Review Exhibit B

OCMC 17.50- Administration and Procedures Exhibit C

OCMC 17.52 Off-Street Parking Exhibit D

OCMC 17.20 Res Des Stds Exhibit E

Chapter 17.54 Supplemental Zoning Regulations and Exceptions & 17.04 Definitions Exhibit F

Rezoning Request- Highway 213 & Meyers Exhibit G

Zoning Matrix Exhibit H

Pete Walter, Associate Planner, discussed the changes to L 08-01, including the procedure for pre-application neighborhood meetings, adding a purpose statement to the alternative landscaping plan, adding a number of design elements for corner side lots, adding a definition for membrane or fabric covered storage areas and drafted language for review of membrane structures, the use matrix would be taken off the website, and the Archeological Sensitivity Map would be brought back to the February 8 meeting. He recommended the rezoning request for the corner of Meyers Road and Highway 213 from R-2 residential to C commercial go through the applicant initiated rezoning process due to several issues needing analysis. The applicant would be informed of this recommendation and have the opportunity to respond.

Commissioner Groener asked about the number of complaints they

received regarding the membrane structures. Mr. Walter thought it was around 300, but he would bring back the number to the next meeting.

Commissioner Groener clarified that this included past, present, and future membranes and compliance was subject to civil action through the Municipal Court. This would be implemented over a period of time. There was discussion about what qualified as a membrane structure, and it was not a membrane structure if it was providing shade, but was if it was providing storage.

Commissioner LaJoie clarified that the visibility of these structures in the pedestrian right of way meant viewed from the front or side lot line of the house.

There was also discussion about language to allow illegally created tax lots into compliance through a partition or land division process. This would be reviewed further by staff.

Dan Berge of Clackamas County said he had a piece of property that was non-buildable and he was in the process of reducing the tax values. It was two tax lots owned by two different individuals, and the language was drafted off the State's ordinance to give them a starting point. He hoped they could solve the problem. This would be entered in the record as Exhibit I.

Motion by Commissioner Chris Groener, second by Commissioner Carter Stein to to continue L 08-01 to the February 8, 2010 Planning Commission meeting.

A roll call was taken and the motion passed with Commissioner Chris Groener, Commissioner Carter Stein, Commissioner Dan Lajoie, Chair Tim Powell voting aye. [4:0:0]

COMMUNICATIONS

Mr. Konkol gave a report on upcoming projects, such as Clackamas County's remodel to the existing jail facility, Cove Phase 3 apartments application, Tri Cities Master Plan amendment, Danielsons remodel of their site, the Housing Authority Park Place project, and the budget process had started.

Chair Powell suggested looking at prioritizing projects to get done within the next year.

ADJOURN

Chair Powell adjourned the meeting at 9:45 p.m.

**CITY OF OREGON CITY
PLANNING COMMISSION HEARING**

October 11, 2010, 07:00 P.M.
City Commission Chambers - City Hall

1. CALL TO ORDER

Roll Call:

Chair Tim Powell
Commissioner Dan Lajoie
Commissioner Carter Stein
Commissioner Chris Groener

Staff Present:

Tony Konkol, Senior Planner
Pete Walter, Associate Planner

Chair Powell called the meeting to order at 7 p.m.

2. PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA

William Gifford, Secretary of the Citizen Involvement Council, said that night there was a candidates forum for the new Mayor and Commissioners.

3. PLANNING COMMISSION MINUTES

Minutes from Public Hearings of August 23 and August 30, 2010.

PC Draft Minutes 8.23.2010

PC Draft Minutes 8.30.2010

Motion by Commissioner Carter Stein, second by Commissioner Dan Lajoie to to approve the minutes of August 23, 2010 as written.

A roll call was taken and the motion passed with Chair Tim Powell, Commissioner Dan Lajoie, Commissioner Carter Stein voting aye and Commissioner Chris Groener abstained. [3:0:1]

Motion by Commissioner Chris Groener, second by Commissioner Carter Stein to to approve the minutes of August 30, 2010 as written.

A roll call was taken and the motion passed with Chair Tim Powell, Commissioner

Dan Lajoie, Commissioner Carter Stein, Commissioner Chris Groener voting aye.
[4:0:0]

4. PLANNING COMMISSION HEARING

CP 10-01 / DP 10-02 / WR 10-03 Continuance of a Master Development Plan, Detailed Development Plan and Natural Resource Overlay District Review for Redevelopment of the Hilltop Mall, including a new Grocery Store and Retail, Parking Lot and Associated Improvements.

Commission Report

Continuance Request Letter / 120-day Extension

Pete Walter, Planner, said the applicant requested a two week continuance until October 25, 2010 for staff to review revisions to the plan. Staff was supportive of the continuance. The staff report would be ready the week prior to the public hearing.

Chair Powell opened the public hearing.

Mr. Gifford said this would reset the 120 day deadline. He asked when the Neighborhood Association would receive a copy of the staff report and timeline to submit additional written testimony if necessary.

Mr. Walter replied the Neighborhood Association could review the revised plan at any time. The modifications were to the parking lot and landscaping, not to the building. Comments would be due as soon as possible.

There was no further public testimony.

Motion by Commissioner Dan Lajoie, second by Commissioner Carter Stein to to continue CP 10-01 / DP 10-02 / WR 10-03 to the hearing on October 25, 2010.

A roll call was taken and the motion passed with Chair Tim Powell, Commissioner Dan Lajoie, Commissioner Carter Stein, Commissioner Chris Groener voting aye. [4:0:0]

6. ADJOURN

Chair Powell adjourned the meeting at 7:08 p.m.

**CITY OF OREGON CITY
PLANNING COMMISSION HEARING**

June 25, 2012, 07:00 P.M.
City Commission Chambers - City Hall

1. CALL TO ORDER

Chair Kidwell called the meeting to order at 7 p.m.

Roll Call:

Zachary Henkin
Charles Kidwell
Damon Mabee
Denyse McGriff
Robert Mahoney

Staff Present:

Tony Konkol, Community
Development Director
Pete Walter, Associate Planner

2. PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA

There was no public comment on items not listed on the agenda.

3. ADOPTION OF PLANNING COMMISSION MINUTES

Adoption of January 9, 2012 Minutes.

Draft PC Minutes 01.09.2012

Motion by Denyse McGriff, second by Zachary Henkin to adopt the January 9, 2012 Planning Commission minutes.

A roll call was taken and the motion passed with Chris Groener, Zachary Henkin, Charles Kidwell, Denyse McGriff, Robert Mahoney voting aye and Damon Mabee abstained. [5:0:1]

4. PLANNING COMMISSION HEARING

TP 12-01 / VR 12-02: Request for Continuation to July 23, 2012.

Commission Report

Applicant's Request to Continue

Mike Robinson Continuance Request Letter

Chair Kidwell opened the public hearing. He asked if the Commission had any ex parte contact, conflict, bias, statement, or visit to the site to declare. There was none.

Pete Walter, Associate Planner, stated staff recommended public testimony be taken on the application and then continue the hearing to July 23, 2012. The continuance would allow staff additional time to review supplemental materials submitted by the applicant. The applicant would extend the 120 day deadline to October 15, 2012.

Mike Robinson, representing the applicant, was in attendance to answer any questions. He agreed with Mr. Walter's staff report.

Chair Kidwell asked for public testimony.

Christine Kosinski, resident of unincorporated Clackamas County, said there had not been a complete staff report, maps, or discussion regarding the traffic impact study. She assumed this would be done on July 23, which did not give citizens enough time to give informed testimony. She explained her concerns regarding street connections and how they would affect the residents in the Holly Lane and Redland areas. She discussed the Holly Lane petition in 2007 to protect the livability and safety of Holly Lane. She requested the application not be approved until the City met with the residents of Holly Lane to create a suitable plan for traffic flow.

Tony Konkol, Community Development Director, clarified staff had followed every requirement for public notification. The complete proposal was on the City's website and at the Community Development office. This was a subdivision within the City limits and the north/south connections were outside of the City limits.

There were no more public comments.

Commissioner McGriff wanted to make sure the City was doing what they could to notify people whether they were in the City or not about things that would affect them. She suggested looking into making an exception for the notice requirement for properties adjacent to the City limits to use a larger boundary.

Motion by Damon Mabee, second by Robert Mahoney to continue TP 12-01 / VR 12-02 to July 23, 2012.

A roll call was taken and the motion passed with Zachary Henkin, Charles Kidwell, Damon Mabee, Denyse McGriff, Robert Mahoney voting aye.
[5:0:0]

5. WORK SESSION

Mr. Konkol reported on the South End Concept Plan, tour of the Blue Heron site, Transportation System Plan, retirement of David Wimmer, Finance Director, and announced Nancy Kraushaar, City Engineer and Public Works Director, was leaving to work for the City of Wilsonville.

Commissioner McGriff reported on the Willamette Falls meeting on June 20.

Chair Kidwell gave an update on the last TSP meeting.

Chair Kidwell adjourned the regular meeting at 7:29 p.m.

Joint Work Session with the Oregon City Natural Resources Committee regarding the Heritage Tree code.

12.08 Public and Street Trees

Chair Kidwell called the Work Session to order at 7:31 p.m.

Mr. Konkol explained one of the goals of the Planning Commission was to meet with other City committees to talk about what was being worked on in each committee and to discuss any issues.

The Natural Resources Committee and Planning Commission members introduced themselves.

The Natural Resources Committee had found that the Code needed to be rewritten regarding public and street trees.

Mr. Walter explained the Code that discussed the process for nomination of heritage trees and groves on public and private property. The City Commission had approved two heritage trees on private property. There was an application for a heritage grove that the Natural Resources Committee recommended approval that included Water Board Park and the Public Works Master Plan site. He reviewed the criteria for approval which needed to be better defined.

There was discussion regarding the ambiguity of the criteria for removal and replacement of trees and the intent of the Code.

The Natural Resources Committee reviewed their list of recommended changes including the definitions of "rare" and "grove."

Commissioner Mahoney suggested creating an inventory of potential heritage trees and groves in the City which could be done by volunteers. There was an established State list for rare species that could be included in the Code by reference and would help flesh out Criterion C. There was also a federal list that could be referenced.

Commissioner McGriff suggested amending Criterion B to add County and State heritage trees.

There was further discussion regarding using volunteers to do an inventory of trees in public right of ways, the need for complete applications, and lack of funding for processing the applications.

Chair Kidwell suggested getting back together with the Natural Resources Committee to discuss modifications that could be made to reduce the ambiguity and make it simpler to understand what constituted a heritage tree and put some teeth in the review process. There was further discussion regarding adding language that stated trees within the boundaries of a Charter Park were presumed to have heritage status.

The committees watched a movie of the Arbor Day celebration that was part of the requirements for Tree City USA.

6. ADJOURN

Chair Kidwell adjourned the meeting at 9:24 p.m.

**CITY OF OREGON CITY
PLANNING COMMISSION HEARING**

July 9, 2012, 7:00 P.M.
City Commission Chambers - City Hall

1. CALL TO ORDER AND ROLL CALL

Chair Kidwell called the meeting to order at 7:02 p.m.

Roll Call:

Paul Espe
Charles Kidwell
Damon Mabee
Denyse McGriff
Robert Mahoney

Staff Present:

Tony Konkol, Community
Development Director
Pete Walter, Associate Planner

2. PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA

There was no public comment on items not listed on the agenda.

3. PLANNING COMMISSION HEARING

AN 12-03: Annexation of 11.93 acres at 19314 Beavercreek Road.

Commission Report

AN 12-03 Staff Report

1.a Application Form

1.b.i. Legal Description and Map

1.b.ii. Consent Form

1.b.iii. Certification of 100% Ownership of Land Area

1.b.iv. Certification of Legal Description and Map

1.b.v. Certification of Registered Voters

1.b.vi. Notice List1.b.vii. Boundary Change Information Sheets1.b.viii. Majority Worksheet1.c. Narrative1.d. Description of Site and Surrounding Area1.e. Responses to Approval Criteria1.f. Pre-Application Conference1.g. Title Trio Report1.h. Property Zoning report, Site Maps and Attachments1.i. Caufield Neighborhood Meeting Summary1.j Transportation Impact Study, dated June 25, 2012, Landcaster Engineering1.k. TPR Memorandum, dated June 28, 2012, Landcaster Engineering1.l. Other2. Letter from Caufield N.A.3. Replinger and Associates Review of Applicant's TIS and TPR Memo4. ODOT Comments5. Public Notices6. Permit Receipt for Review Fees7. UGMA8. Metro Ordinance79-77

Chair Kidwell read the hearing statement describing the hearing format and correct process for participation. He asked if the Commission had any ex parte contact, conflict of interest, bias, or statements to declare.

Commissioner Mabee had driven past the site.

Chair Kidwell had driven past the site.

Commissioner Espe had driven past the site.

Commissioner McGriff knew the location.

Chair Kidwell opened the public hearing.

Pete Walter, Associate Planner, stated this was an application for 11.9 acres

on 19314 S Beavercreek Road. He explained the application details. If brought into the City, the property would be designated Campus Industrial. No development was being proposed at this time. He showed maps of the site and discussed the criteria for approval. Staff recommended forwarding a recommendation of approval to the City Commission for their consideration at the August 1, 2012 City Commission meeting. The neighborhood association had not given any input on the application.

There was discussion regarding the Beavercreek Concept Plan which was still in review by the State. Once that process was completed, the plan would be adopted. When there was a development application for this property, whatever was in place at that time would be what was applicable.

Mr. Walter explained how the Transportation Planning Rule had been amended to recognize properties that were consistent with the City's adopted Transportation System Plan and Comprehensive Plan designation and had not been changed were consistent with the Transportation Planning Rule. He thought the application was consistent with the new TPR compliance rules.

Mr. Konkol clarified this was a decision on the land use criteria and the City Commission would make the land use decision and decide to send it to the voters. The annexation requests were property owner driven and if they met the criteria, they were required to be sent to the voters.

Commissioner McGriff did not think that Beavercreek Road was currently adequate.

Mr. Walter described the improvements that were planned for Beavercreek Road. If this property was to be developed, a more detailed traffic study would be done.

Robert Price, consultant representing the applicant, said out of the 11.9 acres there was about 6 acres that could be developed. This annexation was requested because there was interest in the property which had been for sale for some time. Neighboring properties on both sides of Beavercreek Road were already in the City. They agreed to the Campus Industrial zoning and everything that was in the staff report. Once the annexation was approved, the site would be able to be planned. The Beavercreek Concept Plan had been included in the applicant's evaluations and analysis.

Chair Kidwell closed the public hearing.

Commissioner Mahoney stated applications like this helped keep the community growing in a healthy direction and once developed would offer employment for citizens.

Chair Kidwell said this closed the gap in the current City limits and created a contiguous area for industrial zoning along Beavercreek Road. This was an annexation he could support.

Commissioner Espe said it was important to have these properties come in so they could participate in future construction of infrastructure.

Motion by Paul Espe, second by Robert Mahoney to to recommend

approval of AN 12-03 to the City Commission at their August 1, 2012 meeting.

A roll call was taken and the motion passed with Paul Espe, Charles Kidwell, Damon Mabee, Robert Mahoney voting aye and Denyse McGriff abstained.
[4:0:1]

4. COMMUNITY DEVELOPMENT DIRECTOR UPDATE

Commissioner McGriff asked for an update on the request from the Barclay Hills Neighborhood Association and Ms. Kosinski's concern about the subdivision.

Mr. Konkol said the Neighborhood Association did not follow up with the Planning Department to provide more information. Commissioner McGriff would follow up with the Neighborhood Association.

Mr. Walter said regarding Ms. Kosinski's concern, the public hearing for the variance request was continued to the July 23 hearing and the applicant had prepared responses to her comments.

Mr. Konkol invited the Commission to a Volunteer Appreciation on August 9, a joint Work Session with the City Commission and Planning Commission was scheduled for August 14 to discuss the Transportation System Plan update, and he reported on the Blue Heron site investigations.

Mr. Walter gave an update on the South End Concept Plan.

Chair Kidwell asked about a survey regarding assessment of the goals for the plan. Mr. Konkol would look into it.

5. ADJOURN

Chair Kidwell adjourned the meeting at 8:04 p.m.

Roll Call:

Paul Espe
Zachary Henkin
Charles Kidwell
Damon Mabee
Denyse McGriff
Robert Mahoney

Staff Present:

Tony Konkol, Community Development Director
Pete Walter, Associate Planner
Laura Terway, Associate Planner
Christina Robertson Gardiner, Associate Planner
Jennifer Bragar, Assistant City Attorney
Carrie Richter, Assistant City Attorney

**CITY OF OREGON CITY
PLANNING COMMISSION HEARING**

July 23, 2012, 7:00 P.M.
City Commission Chambers - City Hall

1. CALL TO ORDER

Chair Kidwell called the meeting to order at 7:01 p.m.

Roll Call:

Paul Espe
Zachary Henkin
Charles Kidwell
Damon Mabee
Denyse McGriff
Robert Mahoney

Staff Present:

Tony Konkol, Community
Development Director
Pete Walter, Associate Planner
Laura Terway, Associate Planner
Jennifer Bragar, Assistant City
Attorney

2. PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA

There was no public comment on items not listed on the agenda.

3. PLANNING COMMISSION HEARING

VR 12-01: Sign Variance

Commission Report

VR 12-01 Staff Report

Vicinity Map

Applicant's Narrative and Submittal

Comments from Oregon Department of Transportation

Comments from Tom O'Brien

Chair Kidwell read the hearing statement describing the hearing format and correct process for participation. He asked if the Commission had any ex parte contact, conflict of interest, bias, or statements to declare.

Chair Kidwell opened the public hearing.

All of the Commission had visited the site and had seen the signs in the exhibits.

Laura Terway, Associate Planner, said the application was for the Oregon City Shopping Center. She explained the subject site, adjacent properties, and gave a sign variance summary. There were three variance requests, one for a variance to the number of freestanding signs to add one more sign that would result in a total of six freestanding signs on site. The second was a variance to the height of the freestanding sign to allow a 57 foot sign instead of 30 foot as allowed. The third was a variance on the size of the freestanding sign to allow a 438 square foot sign with 219 square foot per face instead of 300 square foot sign with a maximum of 150 square foot per face as allowed. She discussed the criteria and how the proposal did not comply with four standards. There were other opportunities for signage on site and if the applicant intended signage to be visible from Highway 205, they could work with ODOT. Staff recommended denial of the application. She explained how in 1994 an amortization ordinance was adopted that gave everyone ten years if they had non-conforming signs to utilize those signs for ten years and then they were to be removed. Staff had not researched the validity of any existing sign on site.

There was discussion regarding whether or not there was a hardship.

Kristin Jones was representing the owner of the Oregon City Shopping Center. The Center was purchased two years ago and the new owner did not know about the non-conforming signs. They had tried several different tactics to get a freeway sign. There was a need for visibility from the freeway to draw potential customers. A lot of money had been spent to renovate the Center and another anchor tenant was in final negotiations. An ODOT sign would not be adequate. There were no other large strip malls right off the freeway in Oregon City, it was a unique property, and sat below the freeway which made visibility a problem.

Raymond Braden??, General Manager of Meyer Sign Company of Oregon, explained the need for a sign to show traffic on the freeway what the Oregon City Shopping Center had to offer and how the ODOT sign was not sufficient. Regarding the existing signs on the property, two were billboards which were not regulated in the Sign Code as they were off-premise permits with the State. There was one main sign in the front, but coming south on I-205 traffic could not see that sign. A lot of work had been done on the Center, and nothing else could be done with the current sign. The owner originally wanted a larger sign than proposed, but he thought this fit the right height and readability. It was not a sign for an individual business, but for a shopping center. Regarding pedestrians and bikes, the sign was in the parking lot towards the front and no bikes or pedestrians were allowed on I-205.

Commissioner Mabee said the location was an awkward spot as people would already be exiting before they saw the sign. He thought it should be on the north end of the center.

Mr. Braden explained the location was the first common area away from the building and it would not disturb any existing parking flow or spaces.

The sign would be illuminated and people would see it before reaching the off ramp.

Commissioner McGriff thought wall signage or an exit sign on the freeway would be better options.

Ms. Jones said the CIC unanimously liked the idea.

Tom O'Brien, resident of Oregon City, was a member of the CIC but was not in attendance when this application came to the CIC. He added to his written comments by saying signs could be positive for business when done properly. He referred to the United States Sign Council Rules of Thumb which discussed how large the letters needed to be on signs in order to be legible. He also displayed aerial photographs showing the areas where people would have to make the decision to get off the freeway in order to have enough time to make the exit. He thought it was not possible due to the size of the lettering proposed to have enough time to get over. He thought the solution should be signs placed on the roof.

Mr. Braden did not think rooftop signs were allowed. He knew the scale of the sign would be visible.

Ms. Jones stated there were 25 tenants in the Center, but only the four anchor tenants would be advertised on the sign. They were not trying to get people off the freeway coming north on I-205 because they could already see the Center. The concern was those already coming off the exit south on I-205 for them to know what stores were there.

Ms. Terway explained the requirements for wall and roof signs. The billboards were part of the sign inventory for the site and the City did regulate billboards.

Chair Kidwell closed the public hearing.

Commissioner Mabee thought the Center needed more visibility as it was a gateway to the north end of the City, however he thought the hardship to get the variance had not been proven. This was not a pedestrian area, so that criterion did not apply, but he thought the application did not meet the other three criteria.

Commissioner McGriff understood the issue of visibility, but did not think bigger would be better. She thought it was more pedestrian friendly. All the variance criteria had to be met, and she concurred with the staff's recommendation.

Commissioner Henkin thought pursuing an ODOT sign and embracing the walkable pedestrian friendly aspect was the way to go. He also concurred with staff.

Commissioner Espe concurred as well. There was a need for signage, but this application did not meet the criteria. He thought the sign plan for the Center should be reviewed.

Commissioner Mahoney was concerned about the scale of the sign and public safety. He did not think the criteria had been met.

Chair Kidwell also concurred that the sign did not meet the need of getting people off of the freeway. He thought an ODOT sign or wall or roof sign would be more appropriate. Since the Center already exceeded the signage regulations, the signs should be reviewed and reduced.

Motion by Denyse McGriff, second by Paul Espe to to deny VR 12-01 per staff recommendation.

A roll call was taken and the motion passed with Paul Espe, Zachary Henkin, Charles Kidwell, Damon Mabee, Denyse McGriff, Robert Mahoney voting aye. [6:0:0]

AN 12-04: Annexation of 0.89 acres within the Urban Growth Boundary (Low Density Residential).

Commission Report

Staff Report

Applicant's Petition

Review of TPR Analysis

All Public Notices

Land Use Transmittal Form

Signed Affidavit of Newspaper Notice

UGMA

Metro Ordinance 79-77

Proposed Findings, Reasons for Decision and Recommendations

CRW comments

Chair Kidwell read the hearing statement describing the hearing format and correct process for participation. He asked if the Commission had any ex parte contact, conflict of interest, bias, or statements to declare. There was none.

Chair Kidwell opened the public hearing.

Pete Walter, Associate Planner, gave a summary of the application, which had come before the Commission in 2011 but was not approved by the voters. If annexed, it could be zoned to R10, single family residential designation. The only thing that had changed from the original application was the Transportation Planning Rule had changed to provide that properties that had a Comprehensive Plan designation which was adopted in the City's Transportation System Plan and there had been no change to the designation since the TSP was adopted, applicants were not required to

show further compliance with the Transportation Planning Rule. The previous application was also found to be in compliance based on the designations. That had not changed, only the rules had changed. The R10 zoning would be compatible with the surrounding zoning. The utilities were nearby and before any development of the property they would have to extend service lines. He reviewed the approval criteria which staff believed had been met. He explained Exhibits 1-9. Staff recommended the Planning Commission determine that the proposed annexation demonstrated a positive balance of factors as set forth in the code, recommend the City Commission adopt the staff report, and recommend the City Commission send the application to the November 6, 2012 ballot.

Tony Konkol, Community Development Director, clarified the two separate actions that needed to occur. The Planning Commission needed to determine if a balance of the seven approval factors had been met and make a recommendation to the City Commission. If the City Commission made the same finding and recommended approval, a resolution would come back to set an election date. These were private property driven annexation requests and if an application was submitted and they met the factors, it would go to a vote. He emphasized that the land use was the focus and the politics were a separate issue.

Tom Sisul, consultant, explained why this annexation was coming back. He thought the placement of this annexation in the Voters Pamphlet confused voters with a controversial annexation. He hoped to make it clearer this time that it was less than an acre. This was the only parcel in the block that was not in the City limits. It was logical to bring it into the City to have a break between the City and County. Due to its triangular shape, this parcel could only be divided into two lots, although theoretically it could have three. He hoped there was a recommendation of approval to the City Commission again.

Gary Bowles, owner of the property, felt like he was already in the City and he would like to get the City utilities and increase the value of his property.

There was no further public testimony.

Chair Kidwell closed the public hearing.

Commissioner Mabee said this would close a gap in the area. It was unfortunate that the other annexation was controversial and affected this one.

Commissioner Espe asked about the process for a property with a failing septic system. Mr. Konkol explained if there was a failing septic system and the property was within 300 feet the City would extend it to the property. It would still need to go to a vote of the people. The property owner paid for the hook up and the application was put on the next available ballot. If it was voted down, there was an option for extra-territorial extension of the sanitary service to alleviate the safety hazard.

Commissioner Espe thought there should be relief for the smaller, less controversial annexations that had a septic hardship that they not have to go through the voting process.

Motion by Damon Mabee, second by Zachary Henkin to to recommend to the City Commission approval of AN 12-04 with staff recommendations 1 and 2.

A roll call was taken and the motion passed with Paul Espe, Zachary Henkin, Charles Kidwell, Damon Mabee, Robert Mahoney voting aye and Denyse McGriff abstained. [5:0:1]

**TP 12-01 / VR 12-02: Crabtree Terrace II - 30-lot Subdivision
with Variance Request from Alley Requirement**

Commission Report

Staff Report

Exhibit 1 Recommended Conditions of Approval

Exhibit 2 Vicinity and Zoning Map

Exhibit 3 Application Packet (Stormwater Report intentionally left out)

Exhibit 4 Grading Permit FP07-0006

Exhibit 5 Grading Permit FP07-0004

Exhibit 6 Comments on Applicant's Traffic Study - Replinger

Exhibit 7 Public Notices

Exhibit 8a Public Comment Support Letters

Exhibit 8b Kosinski Comments 6 11 2012

Exhibit 8c Kosinski Comments 6 25 2012

Exhibit 9 Additional Variance Responses, AKS Engineering

Exhibit 10 Technical Memo Todd Mobley

Exhibit 11 Project Timeline Milestones, AKS Engineering

Exhibit 12 Mike Robinson letter to Chair Kidwell including responses to Christine Kosinski

Exhibit 13 OCMC 1204255 Alleys

Exhibit 14 LL 12-02 Property Line Adjustment Staff Report and Plans

Chair Kidwell read the hearing statement describing the hearing format and correct process for participation. He asked if the Commission had any ex parte contact, conflict of interest, bias, or statements to declare.

Commissioner Mahoney recused himself from the hearing due to a potential

conflict of interest.

Chair Kidwell opened the public hearing.

Mr. Walter stated this request was for approval of a 30 lot subdivision and variance of alley requirements to allow direct garage access to local streets in the R3.5 zone. The property was located at 14616 Maple Lane Road. This was the second phase of a subdivision. He gave details of the site and proposed subdivision including existing conditions, shadow plat, and timeline of development approvals. Staff was not able to approve a subdivision without alleyways, and he summarized the applicant's justification for the variance. He then reviewed the variance criteria and how he thought the application met the criteria. He entered Exhibits 1-4 into the record. These were an addendum submitted by the applicant of crash history for the four key intersections, and the findings showed no safety issues needed to be further studied or mitigated. There were also letters submitted by residents of Holly Lane in opposition of the application. Staff recommended approval with conditions. He said Christine Kosinski provided two sets of written comments and verbal comments for this public hearing. He explained her concerns and staff's response to those concerns.

John Jones, applicant, had owned the property for 18 years. The first phase, Crabtree 1, of the subdivision was started in 2007, and the second phase, Crabtree 2, was put on hold due to the economy. He was trying to complete the subdivision and keep the housing the same as the first phase.

Michael Robinson, representing the applicant, clarified the subdivision could have been 41 houses, but the applicant was going to develop 30. He explained the applicant had already graded the property pursuant to an approved grading plan issued by the City. The fact that it might be a self-created hardship was not relevant to the Code. The grading permit had been submitted in 2007 and the Code changed in 2009 and in that year there was a recession. Mr. Jones did not know the Code would be changed to require alleys in every circumstance in the R3.5 zone. He could have submitted an application to avoid having to meet the requirement in 2009, but it was the worst time of the recession for construction of homes people would not buy. The first phase was not built with alleys and it would not make sense to do so for the second phase plus there was not enough room to do alleys on all of the lot rows and they would only be able to do them in the middle row of lots. Mr. Jones would like to finish the way he had started. He had not seen in any other jurisdiction where every lot in every subdivision in a single zoning district had to be served by alleys. He thought this was an appropriate candidate for a variance. They agreed with the staff report and conditions of approval. This was a 30 lot subdivision in the R3.5 zone which was appropriate zoning and the lots were allowed outright. It was not a discussion about use or what the zoning should be. They could do more lots if they wanted, but they wanted wider lots with more separation between driveways. In terms of traffic, all of the four intersections met the threshold and City standard and there was no adverse operational or safety impact. Regarding the traffic impact analysis, he discussed the number of trips the application would add in the morning and the afternoon, level of service, volume capacity ratio, and percentage of trips for three of the four intersections. If the application was approved and built by 2014, there would be less than 1% increase in traffic at the intersections. This was a continuation of phase 1 and the intent was to build the same type of

subdivision in phase 2. He did not think alleys were appropriate for every circumstance. The applicant had already graded the property and had intended to develop it but was delayed due to the recession. If that had not happened, it would have come in before the Code change in 2009. There were nine letters signed by 11 people in the record who were in support of the variance. He then discussed the variance approval criteria and how the application met the criteria.

Commissioner McGriff questioned if there were other layouts for the property that would allow the alleys.

Monty Hurley of AKS Engineering said multiple layouts had been tried, but none worked well with the Code and the site due to the constraints on the property.

Jane Davidson, resident of Oregon City, said the idea of adding more traffic to Holly Lane did not make sense. Speed was an issue and it was a dangerous road without adding more cars. There were many accidents already, why add more traffic to the quotient. Adding neighborhoods with easy access to Holly Lane would be hazardous to the health and safety of families and pets.

Donna Gates, resident of Oregon City, gave examples of traffic problems on Holly Lane due to speeding. There might not be a lot of accidents at the intersections, but there were many around the curves on Holly Lane. Children could no longer walk to school due to the traffic and it was difficult to get out of her driveway. There were also many accidents on Redland Road. She thought safety should be taken into consideration.

Clinton Hodson, resident of Oregon City, said the plan was to widen Holly Lane for the development, and that was not reasonable. Widening the street, adding sidewalks and bike lanes to Holly Lane took land away from the existing property owners and made Holly Lane more attractive to use. The speed had just been reduced to 40 mph and it was not patrolled. Adding more traffic would cause bottlenecks at many intersections. He did not think it was right to penalize existing home owners for this development.

Kirk Hansen, resident of Oregon City, said there was an imbalance between the County and City in regard to traffic control and safety. He recommended the Commission not approve the variance for balance of control.

Shawn Wisenhauer, resident of Oregon City, thought the alleys should not be allowed. Alleys would not look good and were not conducive to the neighborhood. With the alleys, the cars would not fit in the garages and people would park on the street. He did not want this type of development in this neighborhood.

Christine Kosinski, resident of unincorporated Clackamas County, entered a letter into the record from the Oregon City School District dated November 2007 declaring Holly Lane as hazardous for the health and safety of students. Speeding and unsafe travel conditions already existed and adding more traffic would only exacerbate the situation. There was no bike and pedestrian infrastructure for the residents. She compared the traffic impact analysis from 2007 and 2012 and questioned the analysis for Thayer Road and Holly Lane. The residents on Holly Lane should have been able to

comment on the impact of the added traffic.

Les Fish, resident of Oregon City, was opposed to the variance due to the traffic control and public safety on Holly Lane. Speeding was common and there was no safe place for bikes and pedestrians. He gave examples of accidents that had happened on the road. The increased traffic impacted the current residents. He was in favor of growth, but there needed to be growth with thought that did not impact those around the growth.

Ms. Davidson discussed the speed and dangers on the road and the only way to make it safer was to limit the amount of traffic.

Mr. Robinson introduced Todd Mobly??, traffic consultant with Lancaster Engineering. Mr. Mobly responded to the comments on the traffic impact study. He reviewed the traffic volume numbers and how little the traffic would impact Holly Lane. All intersections operated acceptably. The 2007 numbers were for the first phase and 2012 were updated numbers. Holly Lane was a county facility and the impacts were very minor. He then explained the trip generation numbers.

Mr. Robinson understood the concern regarding the traffic. Holly Lane was a County facility and there was not a lot the City could do about it. This situation was typical in a rural area close to urban development. It was not the applicant's responsibility for fixing problems that existed before them and would exist after them regardless of whether the subdivision was built. The application would not generate 1,100 trips a day, it was 288 trips. The level of service was acceptable by the standards. Holly Lane was not going to be widened. There would be no street improvements except the internal streets in the subdivision. All of those who testified against the application lived on Holly Lane, not in the subdivision. This application would not make the traffic worse. Holly Lane took 10% of the trips from the subdivision, six trips in the morning and eight in the afternoon. It was not relevant to the approval criteria and it met level of service D. There was no testimony about the variance except the neighbor who wanted to see the same type of development that he lived in. He thought it was fair to give those in phase 1 what they expected in phase 2. He thought they met the variance criteria and requested approval of the variance.

Chair Kidwell closed the public hearing.

Mr. Konkol hoped the issues on Holly Lane would be taken to the Clackamas County Commission who could affect change and have it patrolled by County police. Speed was an enforcement issue.

Mr. Walter said it would take annexation followed by zoning followed by development to get urban level street improvements that met City standards.

Commissioner Mabee recognized the speeding on Holly Lane was a problem. He did not have an issue with the variance as alleys were not appropriate and did not create a cohesive community plan.

Commissioner Henkin was sensitive to the traffic problems. The Commission was only looking at this due to the alley situation. If it wasn't for the code change in 2009, they would never have seen this. The development worked better without the alleys and he agreed with staff's

assessment.

Commissioner Espe said this property was annexed and zoned R3.5. The applicant met the burden of proof regarding traffic. He thought it was good urban form to have alleys and traffic calming strategies. The grading had painted them into a corner for a certain subdivision design. He did not think alleys would be good in this setting. He supported the application.

Commissioner McGriff said there was potential for the property to the north to request a variance. She thought they would be setting a precedent for this to continue on adjacent properties. She read from the staff report that stated prior approval of the grading permit did not create a basis for approval nor relieved the applicant of compliance with the Code.

Mr. Mabee did not think that applied given this was an in progress development. The grading was done prior to the Code change, and should be looked at as an existing topography not a created topography.

Chair Kidwell concurred that this development anticipated using the same groundrules as phase 1. The grading was in conformance at the time. The rules were changed in the middle of the game for this developer. The variance was the only matter that was relevant. The continuity of the development without alleys made sense. The next development would have to conform to the current Code. Regarding the traffic on Holly Lane, he said the speed was the problem more than the traffic. It needed to be brought to the County Commission. He thought the variance was consistent with phase 1 and was in support.

Motion by Paul Espe, second by Zachary Henkin to to approve TP 12-01 / VR 12-02 with conditions recommended by staff except to strike Condition 16 which had been met.

A roll call was taken and the motion passed with Paul Espe, Zachary Henkin, Charles Kidwell, Damon Mabee voting aye and Denyse McGriff voting no.
[4:1:0]

4. COMMUNITY DEVELOPMENT DIRECTOR UPDATE

Mr. Konkol said the County purchased the West Linn Blue Heron property.

Commissioner McGriff suggested writing a letter from the Planning Commission to the County regarding the need for mitigation of the traffic issues on Holly Lane.

5. ADJOURN

Chair Kidwell adjourned the meeting at 10:58 p.m.



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Item #2.

Meeting Minutes Planning Commission

Monday, January 14, 2013

7:00 PM

Commission Chambers

1. Call To Order

Chair Kidwell called the meeting to order at 7:01 PM.

Present: 7 - Paul Espe, Zachary Henkin, Damon Mabee, Denyse McGriff, Robert Mahoney, Charles Kidwell and Tom Geil

Staffers: 1 - Tony Konkol

2. Approval of the Minutes

- a. [13-063](#) Approval of Planning Commission Minutes for September 10, 2012.

A motion was made by Commissioner Mabee, seconded by Commissioner Espe, to approve the Planning Commission minutes for September 10, 2012. The motion carried by the following vote:

Aye: 5 - Paul Espe, Zachary Henkin, Damon Mabee, Robert Mahoney and Charles Kidwell

Abstain: 1 - Tom Geil

3. Public Comments

Todd Last, resident of Oregon City and Co-Chair of the Tower Vista Neighborhood Association, asked for help in addressing two problems in the rezoning and subdivision on Pease Road. The proposal was to put 13 R-6 homes directly across the street from R-10 homes. Neighbors were not noticed properly and the text of the letter did not address specific zoning proposals for the property. He did not think the process met the criteria for informing the maximum number of people for participation. He requested the Commission review the zoning for the Pease Road property and the perimeter area of the Nadine Joy Acres and address the rules for notification for future rezoning to better include the citizens. He then discussed the subdivision plan. The building of R-6 homes on the opposite side of the street from existing R-10 homes with no accommodation to minimize the impact to the existing neighborhood was an example of what should not be done. He was concerned it would make the property values decline and would not address the low water pressure of the area. He thought the zoning should be R-8 or if it must be R-6, create a subdivision that blended in with the existing homes.

Nicole Last, resident of Oregon City, said there was no due process for notification for them to determine they were going to be purchasing land across the street from R-6 zoning. Equity had already been lost in their home and more would be lost if R-6 went in across the street.

Ann Meter, resident of Oregon City, supported the comments made by Mr. and Mrs.

Last. She questioned why the City was allowing high density housing in the more rural areas that were not served by transportation. This would increase traffic and decrease property values. It was also not conducive for people aging in place.

Commissioner McGriff arrived at 7:10 PM.

Glen Richardson, resident of Oregon City, was surprised at what was being planned for the property. Many homes were going up in the R-10 zone a block away from this development. He did not think R-6 fit the area. He asked for review and reconsideration of the R-6.

William Gifford, resident of Oregon City, was in support of what had been said. This would have been reviewed better had the Neighborhood Association been active at the time. The process was not done as well as it could have been done. There needed to be a transition as R-10 across from R-6 was a big jump.

Tony Konkol, Community Development Director, stated the subdivision application was a Type 2 decision made by staff. The decision could be appealed to the City Commission. At this time there was no zone change being requested. The upzoning was done through a City-wide Code update.

There was discussion regarding the low water pressure issue in the area and the noticing process.

Mr. Last said when they moved in there were no blue notices on the property and he checked the GIS maps. The zone change was not posted on the blue signs. He agreed more participation of the citizens was needed.

Mr. Richardson clarified it was too late except to appeal to the City Commission.

There was Commission consensus to review the land use noticing process and what was done for the Code update.

4. Public Hearing

a [PC 13-001](#) CP 12-01 and DP 12-01

Mr. Konkol stated this was the application for the Red Soils Master Plan. The applicant was requesting a continuance to January 28, 2013.

William Gifford, resident of Oregon City, said as Land Use Chair of the Hillendale Neighborhood Association, the neighborhood did not know an additional continuance was requested by the applicant and the steering committee met last night to discuss it. He would not have rescheduled the meeting had he known it was to be postponed. One of the core issues was the fencing. The city ordinance said no chain link and a maximum of six feet high. He did not think there were any compelling arguments for a variance. There was also a question of whether the County paid franchise fees for the dark fiber cable. The County's Library District asked to purchase a piece of the campus, and they said no because they did not have a Master Plan yet. Now the Master Plan was developed, he thought they should be able to negotiate a deal with the Library District.

A motion was made by Commissioner McGriff, seconded by Commissioner Henkin, to continue CP 12-01 and DP 12-01 to January 28, 2013. The motion carried by the following vote:

Aye: 7 - Paul Espe, Zachary Henkin, Damon Mabee, Denyse McGriff, Robert Mahoney, Charles Kidwell and Tom Geil

5. Planning Commissioner Training

Jennifer Bragar, City Attorney, presented training on the legal limitations for decision making, types of land use review in Oregon City, quasi-judicial vs. legislative decision making, quasi-judicial hearing disclosures, impartial tribunal, public hearing procedures, public meetings and records requirements, and deliberation and the decision.

There was discussion regarding the pros and cons of conference calls. Staff would bring it back for further discussion. There was also a suggestion of providing a Land Use 101 to the CIC and Neighborhood Associations so they would understand the process better.

6. Communications

Mr. Konkol reported on proposed legislative text amendments. In order to get information for meetings sooner, when staff sent out the public notice of the hearing date, staff would also forward the application to the Planning Commission. He gave an update on the Blue Heron site and visioning process and the update to the Sign Code and lack of current enforcement.

A motion was made by Commissioner Mabee, seconded by Commissioner Henkin, for Charles Kidwell to continue as Planning Commission Chair. The motion carried by the following vote:

Aye: 7 - Paul Espe, Zachary Henkin, Damon Mabee, Denyse McGriff, Robert Mahoney, Charles Kidwell and Tom Geil

6. Communications

A motion was made by Commissioner McGriff, seconded by Commissioner Mabee, for Denyse McGriff to continue as Planning Commission Vice Chair. The motion carried by the following vote:

Aye: 6 - Paul Espe, Zachary Henkin, Damon Mabee, Robert Mahoney, Charles Kidwell and Tom Geil

Abstain: 1 - Denyse McGriff

7. Adjournment

Chair Kidwell adjourned the meeting at 10:02 PM.



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Item #2.

Meeting Minutes Planning Commission

Monday, January 28, 2013

7:00 PM

Commission Chambers

1. Call To Order

Vice Chair McGriff called the meeting to order at 7:05 PM.

Present: 4 - Damon Mabee, Denyse McGriff, Robert Mahoney and Tom Geil

Absent: 3 - Paul Espe, Zachary Henkin and Charles Kidwell

Staffers: 2 - Tony Konkol and William Kabeiseman

2. Public Comments

Paul Edgar, resident of Oregon City, discussed the possibility of high speed passenger rail coming through Oregon City and what it meant to the City and the existing tracks. Most likely extra tracks would be put in along the I-5 corridor. Oregon City could become the south station with more people coming through. Canemah was a national register district and if it came through Canemah a lot of historic houses would have to be taken out. It would make crossing the tracks problematic and walls would need to be put up to make it safer for higher speeds. He thought it should be looked at by some experts who would be representing Oregon City and its neighborhoods. Both freight and passenger rail were needed and the City needed to think smart to make it happen, such as using the Canemah Bowl. He requested putting the topic on a future agenda for more discussion.

3. Public Hearing

3a. [PC 13-008](#) LE 12-1 Administration and Procedures Amendment

Bill Kabeiseman, City Attorney, explained the legislative public hearing process and asked if the Commission had any conflict of interest to declare. There was none.

Vice Chair McGriff opened the public hearing.

Tony Konkol, Community Development Director, said this hearing had been continued from December 2012. The City Commission had discussed this in a Work Session where the Commission decided not to pursue the option for a Hearings Officer and that proposal had been removed. If the changes were approved, they would be taken to the City Commission on February 20. The changes staff was requesting approval for were in regard to the appeal process for Type 2 decisions to be consistent with the Oregon Revised Statutes.

There was discussion regarding what constituted a Type 2 decision and how the hearing was noticed.

William Gifford, resident of Oregon City, questioned if there was a burden of proof for

claiming a person was adversely affected by the Type 2 decision.

Mr. Kabeiseman explained what State law required for proving one was adversely affected.

There was no further public testimony.

Vice Chair McGriff closed the public hearing.

A motion was made by Commissioner Mabee, seconded by Commissioner Mahoney, to approve LE 12-01. The motion carried by the following vote:

Aye: 4 - Damon Mabee, Denyse McGriff, Robert Mahoney and Tom Geil

3b. [PC 13-007](#)

CP 12-01 and DP 12-01

Mr. Konkol stated the applicant requested the hearing be continued to February 25, 2013, for additional time to work on the outstanding issues specifically the fencing material, height, and size around the Silver Oaks building. An extension of the 120 day rule had also been granted. He entered an email into the record from Ms. Epstein, representative for the County, as Exhibit 1 which was the request to continue the hearing.

Ken, resident of Oregon City, thought a 12 foot fence was ridiculous, extreme, and in excess. He did not want a 12 foot fence in the neighborhood and thought there should be another option. He thought the fence should be placed two feet inside the curb.

William Gifford, resident of Oregon City, said the Neighborhood Association came to the conclusion that there was not a need for a 12 foot fence along a pedestrian walkway in that neighborhood.

A motion was made by Commissioner Mabee, seconded by Commissioner Geil, to continue CP 12-01 and DP 12-01 to February 25, 2013. The motion carried by the following vote:

Aye: 4 - Damon Mabee, Denyse McGriff, Robert Mahoney and Tom Geil

4. Communications

Mr. Konkol announced the State's Park and Recreation Commission was taking a tour of the Blue heron site on January 29. The South End Concept Plan meetings and process was ongoing. The land use process for the Transportation System Plan update was beginning with the goal for the Plan to be adopted in July. Staff had a pre-application meeting with Walmart, but no application had been submitted yet.

Vice Chair McGriff reported on Citizen Advisory Team meetings. There would be an Open House on February 27 to discuss the South End Concept Plan.

Commissioner Mabee said a meeting on the McLoughlin Phase 2 Gateway project would be held on January 29.

5. Adjournment

Vice Chair McGriff adjourned the meeting at 7:50 PM.



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Item #2.

Meeting Minutes Planning Commission

Monday, February 11, 2013

7:00 PM

Commission Chambers

1. Call To Order

Chair Kidwell called the meeting to order at 7:02 PM.

Present: 6 - Paul Espe, Zachary Henkin, Damon Mabee, Robert Mahoney, Charles Kidwell and Tom Geil

Absent: 1 - Denyse McGriff

Staffers: 1 - Tony Konkol

2. Public Comments

There were no public comments.

3. Public Hearing

- a. [PC 13-009](#) Benchmade Request for Direct Access to Beaver Creek Road - Application Withdrawn

Tony Konkol, Community Development Director, said the applicant had withdrawn their application at this time.

4. Work Session

- [PC 13-010](#) Review Public Noticing Procedures for Planning Applications

Mr. Konkol reviewed the Oregon City Municipal Code that dealt with public noticing for land use applications.

There was discussion regarding emergency annexations, notification boundaries, appeals process, and lack of public interest.

The Commission then discussed ideas for getting the information out better such as adding notices on the cable TV channel and doing a better job of posting notices on the website where people could find them easily.

5. Communications

Mr. Konkol gave an update on the South End Concept Plan, Sign Code review, Blue Heron site visioning and master planning, and Transportation System Plan update.

6. Adjournment

Chair Kidwell adjourned the meeting at 8:27 PM.



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Item #2.

Meeting Minutes Planning Commission

Monday, February 25, 2013

7:00 PM

Commission Chambers

1. Call To Order

Chair Kidwell called the meeting to order at 7:03 PM.

Present: 7 - Paul Espe, Zachary Henkin, Damon Mabee, Denyse McGriff, Robert Mahoney, Charles Kidwell and Tom Geil

Staffers: 2 - Tony Konkol and Laura Terway

3. Public Comments

Todd Last, Co-Chair of the Tower Vista Neighborhood Association, read the Comprehensive Plan regarding the policy of maximizing new public facilities and services by encouraging new development within the Urban Growth Boundary at the maximum densities allowed by the Comprehensive Plan. He thought this was a bad policy as it ignored the specifics of the situation. He shared the policy with the Neighborhood Association who were unanimously opposed. He gave examples of situations where the results of this policy led to large scale removal of old growth trees and high density to be built near low density. He requested the Commission review the policy and put in language to weigh and balance the many factors that needed to be considered in development density issues.

4. Public Hearing

4a. [PC 13-012](#)

19370 Pease Road: Request for a Zone Change and approval of an 11-lot subdivision and geologic hazards review. Planning Files ZC 12-01, TP12-04 and US 12-01.

Chair Kidwell opened the public hearing.

Jennifer Bragar, City Attorney, read the hearing statement describing the hearing format and correct process for participation. She asked if the Commission had any ex parte contact, conflict of interest, bias, statements to declare, or visit to the site. Commissioners Mabee, Espe, and Henkin visited the site.

Chair Kidwell used to live in the neighborhood, but had no conflict of interest.

Commissioner McGriff was familiar with the applicant's representative and the applicant as she had worked with them in the past.

Commissioner Espe had known the applicant for quite some time.

Laura Terway, Planner, presented the staff report for a zone change, 11 lot subdivision, and geologic hazards review for 19370 Pease Road. She gave a background on the subject site and adjacent properties. She then discussed the

zone change from R-10 to R-6 and zone change criteria, subdivision, geologic hazards, and approval criteria. Staff recommended approval with conditions. She submitted the staff presentation into the record.

There was discussion regarding the easement, fill on the property, retention of the trees, and lack of a tree mitigation plan.

Rick Givens, Planning Consultant, and Bruce Goldson, Civil Engineer, were representing the applicant. Mr. Givens explained the existing services to the area, the constraints for the design, transitioning from high density to lower density, and the reasons for the R-6 development. This was a dense development and there was no way to adapt for the existing trees. The trees along the north side of Pavilion Place were in the ten foot utility easement required by the City and had to be removed. There was no mitigation plan at this time as they were waiting for approval on the density before spending funds on a detailed mitigation plan. They would carry out that obligation if the plan was approved. Regarding the fill history, when the sewer was put in for Pease Road, the spoils excavated were put on this property. This was done without a permit, and the applicant had done an investigation on the lots. It was found the fill was not an engineered fill, and it would be excavated and replaced with engineered fill. He was in agreement with the staff report and conditions of approval with one exception. He questioned Condition 13 for frontage improvements along Pease Road. He asked that language be added that if the applicant came up with an acceptable plan with the city staff that the applicant could arrange one or two parking spaces on the northeast side of lot 9.

Mr. Goldson explained the shape of the easements on the property.

Commissioner Mabee questioned the lack of connection to Pease Road. Commissioner McGriff wanted to make sure the buildings on the property were properly deconstructed.

Mr. Konkol said the Code included residential yard landscaping to single family home design standards which included placement of trees within the front yard setback. The replanted trees as part of the mitigation would be protected by a covenant or easement. On street parking was allowed on a collector street.

Todd Last, resident of Oregon City, expressed concern over the transportation infrastructure. A lot of development had been happening on Pease Road and the mitigation for transportation had been the developer fixing Pease Road along the development. This application would add more homes. He referred to a map he submitted showing the typical travel patterns for residents in the area. There were different lane striping, widths, curve, and sidewalks on Pease Road. There needed to be a comprehensive approach to the increased vehicular and pedestrian travel with all of the new development. He did not think the public facilities and services were adequate.

William Gifford, resident of Oregon City, asked for clarification on shadow platting.

Nicole Last, resident of Oregon City, asked the Planning Commission to take a look at the piecemeal development that was occurring and that City staff make sure the most current zoning maps were on the City's website. She was concerned about realigning the road for one house. There needed to be a long term look at this road and she wanted the piecemeal to stop. She was also concerned about the safety of the road access and for pedestrians. Pease Road was a busy road and more houses were going in. She was not sure if adequate analysis was being done for the resources in the Tower Vista neighborhood especially due to the low water pressure

in the area and more research needed to be done before approval of anymore large developments.

Christine Kosinski, resident of unincorporated Clackamas County, discussed the importance of the drainage and stormwater retention due to the steep slopes and landslides in the area. She thought the Commission should require the Oregon City Geologic Hazards Chapter 17.44 apply to this application. She recommended the NROD designation not be removed from this property due to the fact that the intermittent ditch may point to underground water conditions. She was also concerned about the fill in a fragile location and drainage or water issues. DOGAMI would be releasing new susceptibility and land slide maps in May. The City may want to adopt them in their geologic hazard regulations. She entered a map of the property and cluster of landslides nearby into the record.

Mr. Konkol said the DOGAMI map was adopted into Chapter 17.44 and Chapter 17.44 was applied to the application.

Linda Stroehecker, resident of Oregon City, stated this land to be developed was filled illegally with any kind of land fill the previous owner was given. On the property line between her property and those to be developed were boulders which had been used to shore up the land. There was a storm ditch behind her home and there used to be very little water there even during the heavy rainy season, however since construction on Pease Road it had pooled out into her backyard. It wasn't always clear water and had brought mosquitos to her backyard. It had made her backyard unusable and the water was eroding her garage. She was opposed to building on this piece of land. Any kind of backup of water or sewer backed up into her property because it was a lower elevation than all the other properties around.

Tracy Owens, resident of Oregon City, lived directly across from the property. The prior owner did say he filled the property with many miscellaneous items. She questioned the ability to build on the property. There was a lot of traffic and speeding on the road and it was not being monitored by the police. She thought speed bumps should be installed. She was also concerned about where the road for the new development was coming out, which was at her driveway. All of the cars being added to this roadway needed to be addressed with some traffic calming device. The road didn't need to be wider, but sidewalks needed to be added.

Tom O'Brien, Co-Chair of the Hazelgrove and Westling Farms neighborhood, asked the Commission to deny the zone change. In 2004 the City envisioned this area in the Comprehensive Plan to be an R-10 community. It was important to develop in an appropriate fashion. If a person did not take into account the plans the City had put together for growth and appropriate design measures to move the City forward to answer Metro's needs, there would be a large number in the City who would be opposed to such things as the South End Concept Plan. Things like this were causing friction in the whole area because it was understood to be R-10. He thought the applicant planned to continue the development in the future to land that was not yet in the City limits, and that was the reason for the alignment of the road.

Mr. Givens stated regarding cohesive development for Pease Road, development paid for the improvement of the road to match City standard, and it was a hodge-podge system. The amount of traffic generated by this development was looked at by a traffic consultant and showed minimal added traffic impact during peak hours and the level of service met City standards. It was a necessary completion of the traffic pattern in the area, provided connectivity, and due to the riparian area and grade change it was not practical to run a street through it. They were doing nothing that would impact the landslide area.

Mr. Goldson explained the storm drainage for the area which was a natural, seasonal drainage way. They were not adding more storm water from impervious areas to the site as a result from this development.

Mr. Givens explained why they were requesting the change from R-10 to R-6. Low density residential included R-10, R-8, and R-6, and when annexed it came in as R-10 automatically. When developing the property, developers had to look at what made sense. He thought R-10 did not make sense due to the street pattern and depth of the lots which was already preset. There were also cost factors involved and the development pattern was already laid out for R-6. He did not think R-10 or R-8 made sense or fit here.

Mr. Givens also discussed the geologic testing for the fill. The area would be excavated and engineered fill put in. He presented the application to the Tower Vista Neighborhood Association in September and no objections were raised at that time. He explained the traffic study and projected extra trips this project would bring during peak hours and how the off site storm water impact would be addressed. The drainage basin and flow was not being changed and would be compensated for by the retention facility.

There was discussion regarding how the project would affect the Stroehecker's property. Mr. Goldson explained the water would no longer be on their property. There should be a decrease in the flow after the development. There was further discussion regarding the placement of the road.

Chair Kidwell closed the public hearing.

Commissioner McGriff did not agree with the findings regarding the storm drainage collection.

Commissioner Mabee was not convinced that R-6 was the only possible development. He did not have a problem with the road realignment request, but wanted to know what it would look like before approving it. He was also concerned about the storm drainage.

Commissioner Geil was concerned about Pease Road and the safety of pedestrians. He wanted to know what the alignment would look like as well.

Commissioner Espe was in favor of having a variety of different zoning types in a neighborhood. He weighed R-10 vs. R-6 in the retention of trees, fewer lots, and more room. He thought R-10 was good for areas with issues and lower density created a lesser impact on traffic. The storm water needed to be re-evaluated and geotechnical report did not include the peripheral area. He thought an alternative development size should be looked at. He did not think they should use public right of way for private parking, but it should be dedicated on the property itself and the lot size should be larger to accommodate for the parking. He was leaning more towards R-10 for the property.

Commissioner Henkin stated he liked the design and that R-6 fit in the area. There were issues with the property and neighborhood that were not improved upon by developing to R-6. The fill and drainage were concerning and he wanted to see how they would be abated at build out before he could recommend transitioning to an R-6 development.

Commissioner Mahoney said the Commission was uncomfortable with this plan. The

Commission had to take into consideration the comments that had been made by the public. He thought public safety, health, and welfare came first and he was concerned about the storm water run off. There were not a lot of alternative designs for the property, but the water needed to be dealt with. He was not in support of the application.

Chair Kidwell was concerned about the density of the development especially in light of the testimony of the applicant as they did not show the Commission an alternative development for R-10 or transitional R-8. This site had minimal impact on the traffic on Pease Road. The speed on Pease Road was the issue which was not relevant to this application. The traffic counts in the traffic study were not realistic. His major concern was the storm drain issue and lack of mitigation of the additional net run off from the site. An alternative R-8 or R-10 zoning and alternate road layout could be designed. He did not think the zone change was appropriate.

Commissioner Geil was concerned about the safety of people backing out of their driveways onto Pease Road.

The Commission discussed a continuance of the hearing to get more information on the storm detention system, transportation analysis, geotechnical analysis, and an alternative R-10 or R-8 design.

A motion was made by Commissioner McGriff, seconded by Commissioner Henkin, to reopen the public hearing. The motion passed unanimously.

Mr. Givens said if the hearing was continued to April 8, the applicant would extend the 120 day rule.

A motion was made by Commissioner McGriff, seconded by Commissioner Geil, to continue TP 12-04, ZC 12-01, and US 12-01 with the record left open, to April 8, 2013. The motion carried by the following vote:

Aye: 7 - Paul Espe, Zachary Henkin, Damon Mabee, Denyse McGriff, Robert Mahoney, Charles Kidwell and Tom Geil

4b. [PC 13-011](#)

Clackamas County Master Plan: Planning Files CP 12-01 and DP 12-01

Mr. Konkol stated staff recommended continuing the hearing to April 8, 2013. The applicant had granted an extension for the decision deadline to May 31, 2013. Regarding the use of a chain link fence, it was prohibited if it could be seen from a visible location, and the City was not allowed to grant an adjustment. Staff was continuing to work with the applicant on alternatives.

William Gifford, Land Use Chair of the Hillendale Neighborhood Association, appreciated staff's recommendation that because it was a prohibited material, chain link would not be considered in the variance. He discussed the end of the staff report that stated the adjustment may be pursued for existing and future chain link fence on the original master plan tax lot. He thought they were looking at the entire master plan that was done in 2005 and if the entire plan was being reviewed, he questioned why they could pursue adjustments for future chain link fence on the property.

Mr. Konkol explained the safe harbors on the property and that even if the Code changed down the road the properties that were in as part of the master plan had the option of using the Code that was in place on the day they were approved or the newer Code. In this case they had an original master plan in 2005 which did not include the Silver Oaks property. The properties in the original 2005 master plan could use the Code that was in place in 2005 which did not have a prohibition on

chain link fence. The County planned to come back with an amended proposal.

A motion was made by Commissioner Geil, seconded by Commissioner McGriff, to continue CP 12-01 and DP 12-01 to April 8, 2013. The motion carried by the following vote:

Aye: 7 - Paul Espe, Zachary Henkin, Damon Mabee, Denyse McGriff, Robert Mahoney, Charles Kidwell and Tom Geil

5. Communications

Mr. Konkol reported on a tour of the Blue Heron site with the Clackamas County Commission. Staff was working on an Intergovernmental Agreement with the County for the framework of the master planning process, planning agreement with the trustee, and the City would be the project manager for the planning process of the Blue Heron site.

Ms. Terway announced a Transportation System Plan Open House on March 7. Mr. Konkol announced a South End Concept Plan meeting on February 27.

6. Adjournment

Chair Kidwell adjourned the meeting at 10:36 PM.