

System Development Charges Administrative Rules

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A. Explanatory Information

These are administrative rules of the Bureau of Environmental Services (BES) for the Systems Development Charges program. See the Explanatory Information in Appendix A for applicable code citations, policies, and other information relating to these rules.

1. Applicability

A System Development Charge (SDC) is a charge for connection and use, or increased usage, of City sewers, sewage treatment systems, storm sewers and drainage systems. This charge is collected to reimburse the City ratepayers for design, construction, acquisition, operation, maintenance, and discharge requirements of the City of Portland for sewage and drainage management including conveyance, treatment and disposal of sewage and drainage flows generated by development.

2. Purpose

Chapter 17.36 of the Portland City Code (PCC) requires properties connecting to sewer and drainage systems under City control to pay the appropriate fees and charges. The intent of the SDC is to recover from new development an equitable share of the costs of providing additional capacity in, operating, and maintaining the City sanitary sewer, storm sewer and drainage system.

3. Definitions

These rules use terms defined in PCC Chapter 17.36 and the following:

- A. **“Accessory Dwelling Unit”** means a separate, smaller dwelling unit on the same tax lot as the primary dwelling structure.
- B. **“Return on Equity”** means the rate of return on ownership interest by all ratepayers who have funded capital construction of the City’s sewer, storm sewer and drainage system and assets.

4. Regulatory Authority

Oregon Revised Statutes section 223.297 authorizes local jurisdictions to collect systems development charges for “...equitable funding for orderly growth and development in Oregon’s communities and to establish that the charges may be used only for capital improvements.”

PCC 17.36.040 authorizes the Director of BES to collect fees, including SDCs.

5. General Determination of System Development Charges (SDCs)

The City of Portland has established both a sanitary system and a stormwater system SDC. The purpose of the sanitary and storm SDCs is to recover an equitable share of facilities costs from new development. BES’s SDC methodology follows the criteria established in ORS 223.304:

- A. **The replacement cost of existing City facilities.** Annually BES calculates the present value of City-managed sewer and drainage system facilities and assets. BES adjusts facility costs from original construction costs to present value using the Engineering News Record Construction Cost Index. Only the portion of facilities costs paid by current and past ratepayers is included in facilities costs eligible for SDC recovery (reimbursable facilities costs).

1. *Gifts or grants from federal or state government or private persons.* The portion of facilities costs paid for from these revenue sources are not included in the replacement cost calculated in Section 5.A. above.
 2. For facilities funded by revenue bonds (essentially all facilities since 1985), replacement costs are prorated over the term of the bonds (either 20 or 25 years depending on the issue) to approximate the cumulative debt service paid on the bonds.
- B. Prior contributions by existing ratepayers.** A return on equity for the portion of facilities previously constructed with ratepayer funds is added to the facility replacement cost to generate the total value of assets to be considered for SDC calculations. The return on equity portion is the simple interest already paid on previously constructed projects using a projects original capital construction cost. Simple interest is calculated using each year's annual rate average from the 6-month Treasury Bill secondary market rate.
- C. The value of unused capacity available for future system users.** The total value of assets available for SDC calculation under Section 5.A is then divided by the total capacity of the sanitary and stormwater system to establish the maximum allowable SDC rate. The Portland City Council ultimately sets the actual SDC rate in the annual BES rate ordinance. New development "buys into" the existing system using a unit of capacity equal to the units already funded by current ratepayers.
- D. Payment.** SDCs must be paid at or before the issuance of a building permit, sewer connection permit, or plumbing permit; whether for new construction or for alteration, expansion, improvement, or conversion of a building already connected to the sewer.

6. Sanitary SDCs

All sanitary SDCs will be based on a unit of measurement known as an equivalent dwelling unit ("EDU"), which represents the monthly sanitary volume from a single-family residential dwelling. The cost per EDU is determined in the annual Sewer System Rate Study and adopted as part of the BES annual rate ordinance.

- A. Single-family.** Single-family dwellings will be assessed at the rate of one EDU per dwelling. Residential EDU flows are defined to be 600 cubic feet (6 ccf) per month.
1. Foster care facilities with seven or fewer bedrooms may be classified as single-family dwellings and will be charged one EDU.
 2. Row houses, townhouses and condominiums will be charged one EDU per dwelling unit.

B. Multi-family. Multi-family uses will be assessed 0.8 EDU for each unit. Non-living units within a multi-family project will not be charged additional EDUs unless they will be open to the general public.

1. ADUs will be assessed 0.8 EDU per unit.
2. A single-family dwelling that is converted into a duplex will be charged 1.6 EDU.
3. Institutional occupancies that receive public water service for only nine or fewer months of the year (such as schools) will be charged 0.6 EDU per unit.

C. Non-residential. EDUs for non-residential uses will be determined according to a conversion from Plumbing Fixture Units ("PFUs") to EDUs, except as noted in Section 7.

1. *Fixture Types.* PFUs for given plumbing fixture types will be as shown in the Oregon Plumbing Specialty Code at the time of the permit application. PFUs are categorized generally in the "Public" column of Table 7-3 of the Oregon Plumbing Specialty Code and are consolidated in Table 1 below:

Table 1. Fixture Types and Equivalency Factors

Fixture Type	Equivalency Factor
Bathtub or combination bath/shower	2.0
Clothes washer	3.0
Dental unit or cuspidor	1.0
Dishwasher	2.0
Drinking fountain or water cooler (per head)	0.5
Floor drain, emergency	0.0
Floor drain	2.0
Shower, single head trap	2.0
Multi-head, each additional head	1.0
Lavatory, single	1.0
Lavatory, in sets of 2 or 3	2.0
Sink, bar	1.0
Sink, clinical	6.0
Sink, commercial, with food waste	3.0
Sink, general, specific purpose	2.0
Kitchen sink, domestic	2.0
Laundry sink	2.0
Service or Mop Basin	2.0
Wash each set of faucets	2.0
Urinal	2.0
Water closet low flow (<1.6 GPF), private	3.0
Water closet standard (>1.6 GPF), private	4.0
Other* (specify)	1.0 - 4.0

* for Other fixtures, use PFU values from Oregon Plumbing
Specialty Code

2. *Fixture Equivalencies for Use Classes.* Conversion ratios are set by BES and reflect the Bureau's assessment of sanitary water usage per PFU, by business type. Based on metered flow data BES has collected over the years, the City has assigned conversions for different classes of uses as follows:

Table 2. Use Class Fixture Equivalency Factors

OCCUPANCY	NUMBER OF PFUs PER EQUIVALENT DWELLING UNIT
Fire Station Automotive Retailers Repair Services Education/Cultural Churches/Clubs/Organizations Rental/Storage Services Construction Trade Services	16.0
Retail Sales & Business without food service or public use facilities Food Service Beauty and Barber Salons Clothing & Dry Goods Stores Warehouses used for storage	12.0
Commercial Kitchen, Catering, Cafeteria Food Service, Fast Foo	7.0

- D. **Mixed Use.** For mixed residential/non-residential uses, the EDUs will be determined according to Section 6.A.1 and A.2 for the residential portion, and according to fixture counts (Section 6.C) for the nonresidential portion.
- E. **Change in Usage or Plumbing.** EDUs will be determined, and SDCs charged for additional capacity, according to net increase in sewer use. Residential uses will be assessed based on net increase in dwelling units. Nonresidential uses will be assessed based on net fixtures added.
 1. *Conversion Flows.* Any additional PFUs installed to alter a single-family dwelling for the purposes of a commercial activity will be assessed using PFUs or metered flows. (e.g., Bed and Breakfast conversion).

F. Calculation of Charge. The amount of the SDCs will be determined by multiplying the cost per EDU by the number of EDUs assigned to the occupancy type.

7. Non-Residential Sanitary Use Review

Non-residential uses' commercial or industrial wastewater flows are not always accurately measured by PFU-based calculations. To assure that the original SDCs paid adequately reflect actual flows discharged, the City may "true-up" data regarding site discharges. Review of the actual number and type of plumbing fixtures installed (under a City Plumbing permit) and review of the actual wastewater flow of the property after connection, may result in the assessment of additional EDUs.

A. Applicability. The following non-residential occupancies with commercial or industrial wastewater flows may be subject to a review of wastewater discharges after connection, site modification, or addition of discharge to the City sanitary sewer system:

1. *Manufacturing, Materials Processing or other Industrial or Institutional Uses:*
 - a. Manufacturing facilities;
 - b. Tilt-up warehouses;
 - c. Industrial laundries;
 - d. Food/beverage-processing facilities;
 - e. Educational institutions;
 - f. Hospitals; or
 - g. Unknown final use/occupancy.
2. *Mixed Uses.* Where occupancy includes one or more of the uses listed in Section 7.A.1 in addition to another unlisted use.
3. *Other Occupancies as Determined by the Director.* Where an occupancy is not described by any of the above categories, the Director may determine that there is no appropriate classification for purposes of review.

B. Determination of Sanitary Flow from Water Use. Wastewater flows can also be estimated using a site's water use data. Water bills for the site will be reviewed for the first two years after connection to the City sewer system. If accurate water use information is not available during that time, the Director will determine the appropriate interval for review. Sanitary flow will be determined by calculating a monthly average flow over six-month intervals. Average flow will be the highest such average over the two-year interval following connection to the sanitary sewer system.

C. Calculation of EDUs. EDUs for occupancies subject to review under Section 7.A will be determined using a conversion of 600 cubic feet (6ccf) of sanitary flow per month equals one EDU.

D. Sanitary SDC Due. If the EDUs calculated during the use review exceed the EDUs paid upon application for the permit, the applicant must pay the difference to the City, based on the rate per EDU in effect at the time of the use review. If the EDU paid is more than use demonstrated by true-up data, the City will refund a portion of the original payment plus interest. The developer of the site must provide appropriate fees or performance guarantees and is considered to be the responsible party for the additional amount due unless BES is notified otherwise in writing.

8. Stormwater SDCs

A. Components. All stormwater SDCs will be based on a unit of measurement known as an “impervious area” (IA) which is used as a surrogate for development impacts to the City’s storm sewer and drainage system. The stormwater SDC has two components:

1. The onsite component reflects direct usage of public stormwater facilities that collect, convey, and treat of stormwater flows from private and public properties. Credits against this portion of the charge reflect the contributions made by developers in managing on-site flows.
2. The offsite component reflects direct usage of public stormwater facilities that collect, convey, and treat stormwater flows from the public right-of-way. Offsite costs are further split to reflect drainage of arterial streets and local streets that are used by the proposed development to access an individual property.

B. Units of Measurement.

Impervious area estimates are developed using Portland Bureau of Transportation inventory data for impervious cover in public rights of way and Geographical Information System data for other impervious area on private property. Estimates are evaluated annually.

1. Onsite charges are measured in thousands of square feet of impervious surface on private or public property, excluding public rights-of-way.
2. Offsite charges are measured as:
 - a. Frontage of local streets that provide direct access to an individual property. Estimates are based on center-line miles of local roadway as provided by the Portland Bureau of Transportation.
 - b. New daily vehicle trips estimated on neighborhood and regional access streets to be generated by the proposed development. Vehicles trip estimates for arterials are supplied from the latest data by the Portland Bureau of Transportation and adjusted annually for increasing traffic loads.

C. Allocations. BES allocates total costs related to City stormwater management and drainage facilities between onsite and offsite costs based on the relative

amounts of impervious area on private and public properties and in public rights-of-way. Offsite costs are split according to the relative amounts of impervious area in each type of street: arterial streets and local streets used for access to individual properties.

D. Creation of the Stormwater SDC. The stormwater SDC is comprised of the sum of:

1. The onsite impervious area (per thousand square feet of impervious area onsite);
2. The offsite local street frontage (the number of feet of frontage on local roads); and
3. The daily traffic counts for arterial streets (the number of daily traffic trips).

9. SDC Credits

A. Sanitary. Sanitary SDC credits are available for the following:

1. *Prior connection to the City system.* Full credit may be awarded for each EDU purchased and in existence prior to a building's demolition or disconnection.
2. *Onsite Septic System.* The City historically required the owners of certain properties developed between 1949 to 1991 to pre-pay certain City system connection fees pending availability of public sewers. As those properties now connect to City sewer systems, they will be credited \$21 per EDU to account for these prepaid fees.

B. Stormwater. Credits are available for the onsite portion of the stormwater SDC for:

1. *Riparian properties with direct discharges.* Sites that discharge directly to the Willamette or Columbia Rivers or to the Columbia Slough without the use of a City collection, conveyance, or pollution or volume reduction facility are eligible for a 100% credit for the onsite portion of the SDC.
2. *Onsite facilities that detain the 100-year storm event.* Onsite stormwater management facilities providing onsite retention for a 100-year storm event, treating a rainfall intensity of 8.28 inches per hour, and having a safety factor of two may be eligible for a 100% credit of the onsite portion of the SDC. Adequate documentation to demonstrate this additional retention capacity is required, including testing of infiltration facilities and proof that onsite flows are directed to those facilities.
3. Sites required to install stormwater management facilities to meet the criteria of Section 9.B.1 or 2 as part of their development approval are not eligible for credit.

10. Administrative Review and Appeals

There are two opportunities at the City level to challenge decision making related to the SDC program: an internal BES Administrative Review and a formal appeal before the City Code Hearings Officer (CHO). A BES administrative review must be completed before an appeal may be made to the CHO under PCC Title 22.

- A. Allowable Review and Appeal Items.** Ratepayers may request review on BES decisions on:
 - 1. A PFU equivalencies category assignment; and
 - 2. A property or frontage measurement (Section 8).
- B. Non-Appealable Items.** Ratepayers may *not* request a BES Administrative Review or appeal to the City CHO regarding:
 - 1. Council-adopted SDC rates;
 - 2. Assigned State Plumbing Code PFU fixture types and equivalencies (Table 1);
 - 3. Assigned PFU Use Class Fixture equivalencies (Table 2); or
 - 4. Other basic components of SDC development methodology.
- C. Administrative Review Submittal to BES.** Requests for reconsideration of a BES-decision must be sent to the BES Revenue Program Manager at the address listed on BES correspondence.
- D. BES Administrative Review and Final Determination.** The BES Revenue Program manager or their designee will use all of the criteria within these rules and the documentation provided by ratepayer to make a final determination. BES will send a written notice of final determination to the ratepayer after the decision is made. The notice will provide a detailed description of the final determination and information about filing an appeal to the City Code Hearings Officer.
- E. Appeals to the City Code Hearings Officer (CHO).** An appeal to the City CHO must be submitted in writing to BES and must be accompanied by a hearing fee. The amount of the fee is equal to the hearing fee charged by the CHO per the BES annual rate ordinance. This money will be fully refunded if the CHO does not find for BES on all issues.
- F. Final Orders.** After the hearing, the CHO may enter an order granting, modifying, or denying the action requested. Review of the final order of a CHO by any aggrieved party, including the City, shall be by writ of review to the Circuit Court of Multnomah County, Oregon, as provided in ORS 34.010.

APPENDIX A – Background Information

Regulatory Authority

Two main types of SDCs are allowed by ORS 223.297 - reimbursable and future. Because of the significant build out of City infrastructure prior to establishment of SDCs for system funding, the City uses a reimbursable form of SDCs.

General Determination of System Development Charges (SDCs)

In general, SDCs are used to offset current project costs or pay off debt related to bond sales to fund previously-built capital facilities. The income collected in SDCs lowers the amount of debt service payments that would otherwise be paid by sewer user charges.

Section 5.A. Only that portion of a facility's costs actually paid by ratepayers is included in the reimbursable cost total. For example, if a particular facility built five years ago was financed with 20-year revenue bonds, only one fourth of that facility's adjusted costs are included as a reimbursable cost for purposes of the Sanitary SDC.

Section 5.A.1. Reimbursement costs specifically exclude facilities constructed by Local Improvement District development projects, developer permit projects, and grant-funded facilities.

Section 5.D. In most years the City Council does not adopt the fully loaded SDC rate. For FY 14/15 City Council set the Sanitary SDC rate at 85% of the maximum allowable based on facility replacement cost.

Sanitary SDCs

Section 6.C. For non-residential developments, BES uses estimates of future sanitary flows to calculate EDUs. There is a two-step process for calculating EDUs using plumbing fixture units (PFUs):

- a. The number of PFUs for a particular development is calculated (Table 1).
- b. The PFUs from Step 1 are then converted to EDUs using a conversion ratio specified for that business type (Table 2).

The number of EDUs for non-residential customers is therefore calculated as:

$$\text{EDUs} = \frac{\text{PFUs}}{\text{Number of PFUs per EDU}}$$

For instances where BES uses measured sanitary flow to calculate EDUs:

$$\text{EDUs} = \frac{\text{Projected Sanitary Flow (in ccf)}}{6 \text{ ccf}}$$

Stormwater SDCs

Section 8.A.2 Even a development discharging no water directly to public facilities uses and benefits from facilities handling off-site flows in one or more of the following ways:

- access to properties unimpeded by stormwater-related flooding of rights of way,
- general use of the right of way unimpeded by stormwater-related flooding,
- protection from hazardous materials spills in the right of way, and
- protection from off-site flows.

Section 8.B.1 In the absence of onsite stormwater management facilities that mitigate flow from an individual site, impacts from private properties will be roughly proportional to the impervious area on that site.

Section 8.B.2. Access to an individual site is made using the right of way fronting the site. Both street frontages are counted for corner lots. Daily vehicle trips are a proportionate measure of use of arterial streets.

Section 8.C.1 Part of street impervious area is in arterial streets serving as local streets, however, and should be reflected in the local access share.

SDC Credits

Section 9.B. Public stormwater drainage facilities are designed to manage flows from rights of way and from adjacent properties, and their design assumes the existence of onsite facilities that manage at least the 10-year storm event. That standard does not imply that site flows remain onsite under all conditions. Onsite stormwater management facilities in many cases are designed to pass stormwater flows to public facilities for flows from events exceeding a 10-year storm event.

No credits will be granted against the offsite portion of the Storm SDC. The indirect uses of and benefits from public facilities will not vary with the presence of onsite stormwater management facilities.