



**CHAPTER 17.13 -
PARKS AND RECREATION SYSTEM DEVELOPMENT CHARGE**

(Chapter added by Ordinance No. 172614, effective October 1, 1998.)

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17.13.010 Scope and Purposes.

(Amended by Ordinance Nos. 181669, 187150 and 189244, effective November 7, 2018.)

- A.** New development within the City of Portland contributes to the need for capacity increases for parks and recreation facilities and, therefore, new development should contribute to the funding for such capacity-increasing improvements. This SDC will fund a portion of the needed capacity-increasing capital improvement projects as identified in the City of Portland Parks and Recreation SDC Capital Improvement Plan (SDC-CIP).
- B.** ORS 223.297 through 223.314 grant the City authority to impose a SDC to equitably spread the costs of essential capacity-increasing capital improvements to new development.
- C.** The SDC is incurred upon the application to develop property for a specific use or at a specific density. The decision regarding uses, densities, and/or intensities causes direct and proportional changes in the amount of the incurred charge. The SDC is separate from other fees provided by law or imposed as a condition of development. It is a fee for service because it contemplates a development’s receipt of parks and recreation services based upon the nature of that development.
- D.** The SDC imposed by this Chapter is not a tax on property or on a property owner as a direct consequence of ownership of property within the meaning of Section

11b, Article XI of the Oregon Constitution or legislation implementing that section. This Chapter does not shift, transfer, or convert a government product or service, wholly or partially paid for by ad valorem property taxes, to be paid for by a fee, assessment or other charge, within the meaning of Section 11g, Article XI of the Oregon Constitution.

- E.** The funding provided by this Chapter constitutes a mandatory collection method based upon the guidelines set forth in ORS 223.297 through 223.314 to assure the provision of capacity-increasing improvements for parks and recreation facilities as identified in the Parks and Recreation SDC-CIP incorporated as an Appendix to the most recently adopted Parks SDC Methodology Report. The Parks and Recreation SDC-CIP is different from the City of Portland Parks and Recreation Capital Improvement Program and may be modified from time to time by the Council or by the Director, as provided in this Chapter.
- F.** This Chapter is intended only to be a financing mechanism for a portion of the capacity increases needed for parks and recreation facilities associated with new development and does not represent a means to fund maintenance of existing facilities or the elimination of existing deficiencies.
- G.** The SDC imposed by this Chapter is supported by the most recent Park System Development Charge Methodology Update Report adopted by the Council. The Council may from time to time amend or adopt a new SDC Methodology Report by ordinance.

17.13.020 Definitions.

(Amended by Ordinance Nos. 173386, 173565, 174617, 176511, 181669, 187150 and 189244, effective November 7, 2018.)

- A.** “**Acquisition**” means the addition, by purchase or donation, of a real property interest, and includes such physical activities, referred to as “stabilization,” as are necessary to make the land suitable for development or use, including, but not limited to, fencing, demolition of existing structures, landscaping and restoration, or installation of security systems.
- B.** “**Administrator**” means that person designated by the Director to manage and implement this Parks and Recreation SDC program.
- C.** “**Applicant**” means the person or entity who applies for a building permit.
- D.** “**Application**” means the Parks SDC Information Form together with other required forms and documents submitted at the time of application for a building permit.
- E.** “**Building Official**” means that person, or other designated authority charged with the administration and enforcement of the state building codes for the City, or a duly authorized representative.

- F.** “**Building Permit**” means a permit issued by the City Building Official pursuant to the state building codes.
- G.** “**Campus Housing**” means dormitories and other buildings arranged and designed as living quarters on a college or university campus for students enrolled at that college or university. College or university campus is any property owned or controlled by the college or university within a Conditional Use Master Plan, Impact Mitigation Plan or other campus zone boundary.
- H.** “**Central City**” means the area identified in the SDC Methodology Report as the Central City Service Area, and whose boundaries are included on the map in the SDC Methodology Report. This area is also referred to as the Central City Sub-Area.
- I.** “**City**” means the City of Portland, Oregon.
- J.** “**Condition of Development Approval**” is any requirement imposed on an Applicant by a City land use or limited land use decision, site plan approval or Building Permit either by operation of law, including but not limited to the City Code or Rule or regulation adopted thereunder, or a condition of approval.
- K.** “**Cost Index,**” ~~as related to construction costs,~~ means the Seattle Area-Engineering News Record (ENR) Construction Cost Index ~~and, as related to land acquisition costs, means the change in the sum of the Central City and Non-Central City (the Sub-Areas) ratios of unimproved land values to the number of accounts, according to the records of the Multnomah County Tax Assessor.~~
- L.** “**Credit**” means the amount by which an Applicant may be able to reduce the SDC fee as provided in this Chapter.
- M.** “**Development Agreement**” means a written agreement approved by the Director that is:
1. An agreement between the City and another entity that includes as an element the conveyance to the City of capacity-increasing Real Property Interests or capacity-increasing capital improvements, for parks and recreation use, in connection with the undertaking of a New Development that is subject to the SDC imposed by this Chapter; or
 2. An agreement between agencies of the City that includes as an element the acquisition of capacity-increasing Real Property Interests or construction of capacity-increasing capital improvements, for parks and recreation use, in connection with a New Development that is subject to the SDC imposed by this Chapter; or
 3. An agreement for the donation of capacity-increasing Real Property Interests or capital improvements, for parks and recreation use, that provides for the consideration of the donation as a Qualified Public Improvement in a subsequent New Development subject to the SDC

imposed by this Chapter; or

4. An agreement under Subsections 1.-3. of this Section that, instead of or in addition to the conveyance of Real Property Interests or capital improvements, provides for donation to the City of money to be used for the acquisition of capacity-increasing Real Property Interests or the development of capacity-increasing capital improvements, for parks and recreation use.
- N.** “**Director**” means the Director of Portland Parks & Recreation for the City of Portland.
- O.** “**Dwelling Unit**” means one or more habitable rooms, as defined in City Code Section 24.15.075.
- P.** “**Non-Central City**” means all portions of the City outside the Central City Service Area.
- Q.** “**Non-Residential Development**” means development which does not include Dwelling Units. When a Development contains both Dwelling Units and other uses, that portion of the Development containing Dwelling Units shall be considered “Residential Development,” and that portion devoted to other uses shall be considered “Non-Residential Development.”
- R.** “**New Development**” means development for which a Building Permit is required, including existing development for which a required Building Permit was not obtained.
- S.** “**Occupancy Group Codes**” means the use codes (A-1, B, H, e.g.) in the Oregon Structural Specialty Code, “Use and Occupancy Classification.”
- T.** “**Occupancy Use Types**” means the occupancy classifications in the Oregon Structural Specialty Code, “Use and Occupancy Classification.”
- U.** “**Parks and Recreation SDC Capital Improvement Plan,**” also called the Parks and Recreation SDC-CIP, means the City program set forth in the “SDC Methodology Report,” as amended in accordance with this Chapter, of projects to be funded with Parks and Recreation SDC revenues.
- V.** “**Permit**” means a Building Permit.
- W.** “**Previous Use**” means the most intensive permitted use conducted at a particular property within 36 months before the date of completed Application. Where the property was used simultaneously for several different uses (mixed use), for the purposes of this Chapter all of the specific use categories shall be considered.
- X.** “**Proposed Use**” means the use proposed by the Applicant for the New Development.

Y. “Qualified Public Improvement” means any parks and recreation system capital facility or conveyance of a Real Property Interest that increases the capacity of the City’s Parks and Recreation System, is approved by the Commissioner-in-Charge or designee, and meets the definition and requirements of qualified public improvements under ORS 223.304(4) and 223.304(5). Additionally, unless there is a conflict with ORS 223.304(4) or 223.304(5), the following will be considered qualified public improvements:

1. A conveyance of Real Property Interests or capital improvements for public recreational use specified in a Development Agreement between the City and a developer entered into before the effective date of this Ordinance. Conveyances of Real Property Interests or capital improvements for public recreational use specified in a Development Agreement between the City and a developer entered into after the effective date of this Ordinance are excluded from the definition of “qualified public improvement” unless the Development Agreement specifically provides otherwise. If the Development Agreement does include conveyances of Real Property Interests that are intended to be eligible for Parks SDC Credits, the value of the Real Property Interests must be established at the time the Development Agreement is finalized by the appraisal methods described in Section 17.13.070. The date of valuation is the date of the final Development Agreement. If there are subsequent amendments to the Development Agreement, the date of valuation will be the date of the original Development Agreement unless otherwise specified in future amendments.
2. A donation of money to the City to be used for acquisition of Real Property Interests or capital improvements for parks and recreational use, if memorialized in a Development Agreement.
3. A donation of a habitat or trail. If the donation is a habitat, it must be adjacent to a Portland Parks property, or it must be a minimum of 3 contiguous acres with at least 66 percent of its area covered by the City’s environmental overlay zone. If the donation is a trail, it must be a major public trail designated on the City’s Official Zoning Maps.
4. An improvement or conveyance of Real Property Interests for parks and recreational use that does not otherwise qualify as a Qualified Public Improvement; is not separately eligible for a credit, bonus, or other compensation; and, in the opinion of the Director in their reasonable discretion, serves the City’s public parks and recreation needs.

~~**Z. “Rate Group”** means one of four rates or groups of rates, each of which has its own percentage split between land costs and development costs as follows:~~

Central City	Non-Central City
71% Land Portion	49% Land Portion
29% Improvement Portion	51% Improvement Portion

ZAA. “**Real Property Interests**” means fee title, easement, or other permanent interests in real property as documented in a written conveyance.

AABB. “**Remodel**” or “**remodeling**” means to alter, expand or replace an existing structure.

BBC. “**Resident Equivalent**” means a measure of the impact on parks and recreation facility needs created by Non-Residential Development, as compared to the impact of a resident.

CCDD. “**SDC Methodology Report**” means the methodology report entitled Parks System Development Charge Methodology Update Report, dated April 15, 2015 and adopted as Exhibit A to Ordinance 187150, as may be modified.

DDEE. “**Temporary use**” means a construction trailer or other non-permanent structure.

17.13.030 Rules of Construction.

(Amended by Ordinance No 189244, effective November 7, 2018.) For the purposes of administration and enforcement of this Chapter, unless otherwise stated in this Chapter, the following rules of construction shall apply:

- A.** In case of any difference of meaning or implication between the text of this Chapter and any caption, illustration, summary table, or illustrative table, the text shall control.
- B.** The word “shall” is always mandatory and not discretionary; the word “may” is permissive.
- C.** Words used in the present tense shall include the future; words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.
- D.** The phrase “used for” includes “arranged for,” “designed for,” “maintained for,” and “occupied for.”
- E.** Where a regulation involves two or more connected items, conditions, provisions, or events:
 - 1.** “And” indicates that all the connected terms, conditions, provisions or events shall apply;
 - 2.** “Or” indicates that the connected items, conditions, or provisions or events may apply singly or in any combination.
- F.** The word “includes” shall not limit a term to the specific example, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

17.13.040 Application.

(Amended by Ordinance Nos. 181669, 187150 and 189244, effective November 7, 2018.)
This Chapter applies to all New Development throughout the City of Portland. The amount of the Parks and Recreation SDC shall be calculated according to this section, using the rates set forth in the SDC Methodology Report.

- A.** Except as otherwise provided in this Chapter, a Parks and Recreation SDC shall be imposed upon all New Development for which an Application is filed on or after the effective date of this ordinance.
- B.** The Applicant shall at the time of Application provide the Administrator with the information requested on an SDC application form regarding the Previous Use and Proposed Use(s) of the property, including the following:
 - 1.** A description of each of the Previous Uses and Proposed Uses for the property for which the Permit is being sought, including the number of Dwelling Units and square footage for the entire property under the Previous Use and for the Proposed Use(s) of the New Development.
 - 2.** For residential uses, the number of residential dwellings and the square footage of each Dwelling Unit.
 - 3.** For non-residential uses, the square footage for each occupancy use type (i.e., office, retail, etc.).
- C.** Except as otherwise provided in this Chapter, the amount of the SDC due shall be calculated as follows:
 - 1.** Calculating the fee for the Proposed Uses (“the Proposed Use Fee”);
 - a.** Multiplying the number of Dwelling Units by their appropriate per-unit fee, based on square footage of each individual dwelling unit;
 - b.** Multiplying the square footage of each non-Dwelling Unit Proposed Use by the appropriate per-square-foot occupancy fee; and
 - c.** Adding the fees for the proposed Dwelling Unit and non-Dwelling Unit uses.
 - 2.** Calculating the credit for the Previous Uses (“the Previous Use Credit”); and
 - a.** Multiplying the number of Dwelling Units by their appropriate per-unit fee, based on square footage of each individual Dwelling Unit;
 - b.** Multiplying the square footage of each non-Dwelling Unit Proposed Use by the appropriate per-square-foot occupancy fee; and
 - c.** Adding the credits for the previous Dwelling Unit and non-Dwelling Unit uses.

3. Subtracting the Previous Use Credit from the Proposed Use Fee to arrive at the net Park SDC due. If the Previous Use(s) were vacant for more than 36 months prior to the date of the application, the SDC due shall be the full amount of the SDC for the Proposed Use(s) and no credit shall be provided for Previous Use(s).

D. The dollar amounts of the SDC set forth in the SDC Methodology Report are based on 2013 values and shall be adjusted on July 1, 2017 and thereafter annually on July 1st to account for changes in the costs of acquiring and constructing parks facilities. ~~The adjustment factor shall be based on:~~ by the difference of the 3-year moving average of the Cost Index.

- ~~1. The percent change in the Cost Index for land acquisition per Subsection 17.13.020 K., by SDC Sub Area, measured from annually, to the most recent annual tax year report;~~
- ~~2. The portion of Rate Group growth costs for land identified in Subsection 17.13.020 Z.;~~
- ~~3. The percent change in the Cost Index for construction costs per Subsection 17.13.020 K., measured annually, and~~
- ~~4. The portion of Rate Group growth costs for improvement identified in Subsection 17.13.020 Z.~~

The adjustment factor for each Rate Group shall be determined as follows:

$$\begin{aligned}
 & \text{--- Percent change in Land Cost Index multiplied by the Rate Group's Land Portion (percent)} \\
 + & \text{--- Percent change in Construction Cost Index multiplied by the Rate Group's Development Portion (percent)} \\
 = & \text{--- Park SDC Rate Group Adjustment Factor} \\
 & \text{--- The resulting Adjustment Factor will be multiplied by the adopted SDC rates by Rate Group and added to the base charges.}
 \end{aligned}$$

E. Notwithstanding any other provision, the adjustment shall not exceed a total of ~~612~~ percent in any ~~consecutive 2-year period~~. This is calculated by dividing the proposed new rate by the rate of ~~2 years~~ the prior year, or, if a new rate structure was adopted less than ~~12~~ years prior, by the variance from the rate most recently adopted. If the resulting change is greater than ~~612~~ percent, the rate will be set at ~~612~~ percent variance from the rate of ~~12~~ years prior, or, if a new rate structure was adopted less than ~~12~~ years prior, by the variance from the rate most recently adopted.

17.13.050 Application Requirements.

(Amended by Ordinance Nos. 176955, 181669, 187150 and 189244, effective November 7, 2018.) All Applications must meet the application completeness requirements of the Planning Bureau and Bureau of Development Services. This Ordinance applies to all Applications for Building Permits for New Development, which Applications are not yet complete as of the effective date, and to those which are subsequently submitted or made complete. Fees are assessed based on the rate schedule in use on the date that the permit Application is made complete. For purposes of this Section, a complete Application must meet all the requirements of the Bureau of Development Services.

17.13.060 Partial and Full Exemptions.

(Amended by Ordinance Nos. 176511, 179008, 181669, 183448, 187150, 189050, 189244 and 189323, effective December 19, 2018.) The uses listed and described in this Section will be exempt, either partially or fully, from payment of the Parks and Recreation SDC. Any Applicant seeking an exemption under this Section must specifically request that exemption no later than the time of the City's completion of the final inspection. Where New Development consists of only part of one or more of the uses described in this section, only that/those portion(s) of the development which qualify under this section are eligible for an exemption. The balance of the New Development which does not qualify for any exemption under this section will be subject to the full SDC. Should the Applicant dispute any decision by the City regarding an exemption request, the Applicant must appeal as provided by Section 17.13.120. The Applicant has the burden of proving entitlement to any exemption so requested.

- A.** Temporary uses are fully exempt so long as the use or structure proposed in the New Development will be used for not more than 180 days in a single calendar year.
- B.** Affordable housing is exempt pursuant to Section 30.01.095.
- C.** Alteration permits for commercial interior alteration work are fully exempt, including commercial alterations that change occupancy. This exemption does not apply to alterations that create additional Dwelling Units, nor does it apply to the particular development on a property that previously benefitted from an exemption for mass shelters or short-term housing under Subsection 17.13.060 I.
- D.** New construction or remodeling of Dwelling Units where no additional Dwelling Unit(s) are created and the square footage of each remodeled Dwelling Unit does not change the range of square footage in the SDC Methodology Report is fully exempt.
- ~~**E.** New construction or remodeling of Non-Residential Development where no additional square footage or change of use is created is fully exempt.~~
- EF.** Campus Housing is fully exempt.
- FG.** For New Development which includes a mix of exempt and non-exempt forms of development, the applicable exemption(s) apply only to that portion of the New Development to which the exemption applies.

GH. Certain accessory Dwelling Units are exempt pursuant to Section 17.14.070.

HI. Mass shelters and short-term housing as provided by Section 30.01.096 of this Code.

17.13.070 SDC Credits.

(Amended by Ordinance Nos. 172732, 172758, 173386, 174617, 181669, 187150 and 189244, effective November 7, 2018.) SDC Credits:

- A.** The City may grant a Credit against the Parks SDC, which is otherwise assessed for New Development, for any Qualified Public Improvements constructed by or conveyed by the Applicant as part of that New Development. At the time the application for a credit is made, the New Development must be identified by a Building Permit Number. Credit will not be allowed for a Qualified Public Improvement that was conveyed more than 36 months prior to the date of the request for the Credit, unless a Development Agreement provides otherwise. The Applicant bears the burden of evidence and persuasion in establishing entitlement to an SDC Credit and to a particular value of SDC Credit.
- B.** To obtain an SDC Credit, the Applicant must specifically request a Credit prior to the City's completion of the final inspection for the New Development. In the request, the Applicant must identify the improvements for which Credit is sought and explain how the improvements meet the requirements for a Qualified Public Improvement. The Applicant must also document, with credible evidence, the value of the improvements for which Credit is sought. If, in the Administrator's opinion, the improvements are Qualified Public Improvement, and the Administrator concurs with the proposed value of the improvements, an SDC Credit can be granted, if approved as outlined below. The value of the SDC Credits under this section shall be determined by the Administrator based on the cost of the Qualified Public Improvement, or the value of Real Property Interests, as follows:
- 1.** For Real Property Interests, the value shall be based upon a written appraisal of fair market value by a qualified, professional appraiser based upon comparable sales of similar property between unrelated parties in an arms-length transaction.
 - 2.** For improvements yet to be constructed, value will be based upon the anticipated cost of construction. Any such cost estimates must be certified by a professional architect or engineer or based on a fixed price bid from a contractor ready and able to construct the improvement(s) for which SDC Credit is sought. The City will give immediate credits based on estimates, but it will provide for a subsequent adjustment based on actual costs: a refund to the Applicant if actual costs are higher than estimated, and an additional SDC to be paid by the Applicant if actual costs are lower than estimated. The City will inspect all completed Qualified Public Improvement projects before agreeing to honor any credits previously

negotiated. The City will limit credits to reasonable costs. Credits will be awarded only in conjunction with an application for development.

- 3.** For improvements already constructed, value will be based on the actual cost of construction as verified by receipts submitted by the Applicant.
- C.** The Administrator will acknowledge receipt of the Applicant’s request in writing within 21 days of when the request is submitted. The Administrator will confirm whether the application is complete or indicate additional information needed. The Administrator will provide a written explanation of the process for making the decision on the SDC Credit request.
- 1.** The “Request for Parks SDC Credit for Qualified Public Improvement” (Form PSDC-7) and accompanying information will be sent to the Parks SDC Administration Section, who will prepare a staff report and convene the SDC Credit Review Committee. If Requests are received, the Committee will be convened quarterly. Applications not deemed complete 1 month prior to a committee meeting may not be heard until the following quarterly meeting. The Committee will be appointed by the Commissioner-in-Charge, after consultation with the Director, and include, but not be limited to, representatives of the following interests:

 - a.** Development Community (e.g., Metropolitan Home Builders Association). Up to two representatives.
 - b.** Environmental (e.g., Portland Audubon Society)
 - c.** Public Interest (e.g., League of Women Voters, Urban League). Up to two representatives.
 - d.** Neighborhood (one for each SDC Sub-Area)
 - e.** Park Advocate (Portland Parks Board Member)
 - f.** Business Community (e.g., Portland Business Alliance)
 - 2.** A representative of the Commissioner-in-Charge may attend and participate in the discussion but may not vote.
 - 3.** The Applicant may attend the Committee meeting to respond to questions and provide relevant testimony but may not be present during the Committee’s deliberation and vote. The Administrator will present the public interest to the committee, including staff findings regarding the application. City Attorney staff may be present to respond to any legal questions. The Committee will review each proposal and the Administrator will provide a record of the Committee members present, the recommendation, along with any minority viewpoints, and minutes of the Committee’s discussion, including a summary of factors considered to the Director and Commissioner-in-Charge. If a member of the Committee has a conflict of interest related to a specific application, the member must

withdraw from the deliberations and recommendations. Each neighborhood interest representative may only participate in discussions of and recommendations for applications that pertain to the SDC Sub-Area that the member does not represent.

4. The Director (for SDC credits under \$250,000) or Commissioner-in-Charge (for SDC credits of \$250,000 and over) will make a decision within 30 days of the SDC Credit Review Committee meeting date. If a minority viewpoint is presented along with a majority recommendation, the Commissioner and Director will meet to review jointly before issuing a decision.
 5. Copies of the decision and the Committee recommendations will be shared with the applicant and members of the SDC Credit Review Committee digitally, or as a hard copy if requested. Copies of the decision and Committee recommendations will also be available in the digital City Archives, with a link on the Parks SDC Webpage.
- D.** If the Applicant disputes the decision to grant or deny an SDC Credit, including the amount of the Credit, the Applicant may appeal as provided in Section 17.13.120.
- E.** When the construction or donation of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project. For purposes of this paragraph, “subsequent phases of the original development project” means additional New Development that is approved as part of the same regulatory development approval (such as elements approved as part of the same conditional use master plan or planned unit development) or other portions of the same “site” (as defined by PCC 33.901.030) that are explicitly defined in the application for SDC credits as subsequent phases of the original development project. For multi-phased developments, the applicant must describe all subsequent phases at the time application is made for SDC credits and must document to the satisfaction of the SDC Administrator that the subsequent phases are integrally connected with the original development rather than independent projects.
- F.** Parks and Recreation SDC Credits are void and of no value if not redeemed with the City for payment of a Parks and Recreation SDC within 5 years of the date of issuance.
- G.** Notwithstanding any other provisions of this section, with respect to conveyances of Real Property Interests specified in Development Agreements adopted before June 21, 2000, the value of the credit will be 25 percent of the appraised value of the Real Property Interest.

17.13.080 Alternative Calculation for SDC Rate.

(Amended by Ordinance Nos. 181669 and 189244, effective November 7, 2018.)

- A.** Pursuant to this section, an Applicant may request an alternative Parks and Recreation SDC rate calculation if the Applicant believes that the Applicant's SDC should be lower than that calculated by the City.
- B.** Alternative SDC Rate Request
- 1.** The Applicant's alternative SDC rate calculation request must provide the Applicant's reasons that the City's occupancy assumptions for the class of structures that includes the New Development are inaccurate because:
 - a.** For residential development, the number of persons per Dwelling Unit is or will be fewer than the number of persons per Dwelling Unit established in the SDC Methodology Report; or
 - b.** For non-residential development, the number of resident equivalents per 1,000 square feet is or will be fewer than the number of resident equivalents per 1,000 square feet established in the SDC Methodology Report.
 - 2.** Alternative SDC rate calculations must be based on analysis of occupancy of classes of structures, not on the intended occupancy of a particular New Development.
 - 3.** The City will not entertain an alternative SDC rate calculation request filed after the City has completed the final inspection for the New Development. Upon the timely request for an alternative SDC rate calculation, the Administrator will review the Applicant's calculations and supporting evidence and make a determination within 21 days of submittal.
 - 4.** The Applicant must provide complete and detailed documentation, including verifiable dwelling occupancy data, analyzed and certified by a suitable and competent professional. The Applicant's supporting documentation must rely upon generally accepted sampling methods, sources of information, cost analysis, demographics, growth projections, and techniques of analysis. The request must demonstrate that the rate established in the SDC Methodology Report does not accurately reflect the New Development's impact on the City's capital improvements.
 - 5.** The Administrator shall apply the Applicant's alternative SDC rate calculation if, in the Administrator's opinion:
 - a.** The evidence and assumptions underlying the alternative SDC rate calculation are reasonable, correct and credible and were gathered and analyzed in compliance with generally accepted principles and methodologies consistent with this Section;
 - b.** The proposed alternative SDC rate better or more realistically reflects the actual impact of the New Development than the rate set forth in the SDC Methodology Report.

6. The Administrator will respond with a written decision to the Applicant within 21 days of receipt of the Alternative SDC rate calculation request by email or certified mail and either approve or deny the request.

17.13.090 Payment.

(Amended by Ordinance Nos. 173565, 181669, 183447, 189244 and 189413, effective March 6, 2019.)

- A. The Parks and Recreation SDC required by this Chapter to be paid is due upon issuance of the Building Permit. However, in lieu of payment of the full Parks and Recreation SDC, the Applicant may elect to pay the SDC in installments as is authorized by ORS 223.208 and Chapter 17.14 of this Code. If the Applicant elects to pay the SDC in installments, a lien will be placed against the property that is subject to the SDC Deferral or Installment Agreement entered into by the Applicant and the City on a form provided by the City, and which may provide for the deferral of payments as set forth in Chapter 17.14 of this Code. In any event, the Applicant shall either pay the SDC in full or enter into an SDC Deferral or Installment Agreement as provided in this Code, before the City will issue any Building Permits.
- B. Upon written request of Portland Parks & Recreation, the Revenue Division is authorized to cancel assessments of SDCs, without further Council action, where the New Development approved by the Building Permit is not constructed and the Building Permit is cancelled.
- C. For property that has been subject to a cancellation of assessment of SDCs, a new installment payment contract shall be subject to the code provisions applicable to SDCs and installment payment contracts on file on the date the new contract is received by the City.

17.13.100 Refunds.

(Amended by Ordinance Nos. 181669 and 189244, effective November 7, 2018.) Refunds may be given by the Administrator in the following instances:

- A. If the Administrator determines that there was a clerical error in the calculation of the SDC.
- B. If the City has not expended SDC revenues within 10 years of receipt.
- C. Upon request by the Applicant, when a building permit application is cancelled.

17.13.110 Dedicated Account and Appropriate Use of Account.

(Amended by Ordinance Nos. 181669, 189244 and 189687, effective October 4, 2019.)

- A. There is created a dedicated account entitled the “Parks and Recreation SDC Account.” All monies derived from the Parks and Recreation SDC shall be placed in the Parks and Recreation SDC Account. Funds in the Parks and Recreation SDC Account shall be used solely for the purpose of providing capacity-increasing

capital improvements as identified in the adopted Parks and Recreation SDC-CIP as it currently exists or as is hereinafter amended, and eligible administrative costs. In this regard, SDC revenues may be used for purposes which include, but are not limited to:

1. design and construction plan preparation;
2. permitting;
3. land and materials acquisition, including any costs of acquisition, stabilization, or condemnation;
4. construction of parks and recreation capital improvements;
5. design and construction of new drainage facilities or streets required by the construction of parks and recreation capital improvements and structures;
6. relocating utilities required by the construction of improvements;
7. landscaping;
8. construction management and inspection;
9. surveying, soils and material testing;
10. acquisition of capital equipment that is, or is an intrinsic part of, a facility;
11. demolition that is part of the construction of any of the improvements on this list;
12. payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to provide money to construct or acquire parks and recreation facilities; and
13. direct costs of complying with the provisions of ORS 223.297 to 223.314, including the consulting, legal, and administrative costs required for developing and updating the system development charges methodologies and capital improvement plan; and the costs of collecting and accounting for system development charges expenditures.

B. Money on deposit in the Parks and Recreation SDC Account shall not be used for:

1. any expenditure that would be classified as a maintenance or repair expense; or
2. costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements; or
3. costs associated with acquisition or maintenance of rolling stock

- C. The City may prioritize SDC-funded projects and may spend SDC revenues for growth-related projects anywhere in the City. However, the City may not spend, or allocate as a placeholder in the Parks and Recreation SDC Account for future spending, less SDC revenues for local-access parks within any SDC service Sub-Area than the total amount of SDC revenues collected for local-access parks within that Sub-Area.
- D. The proportional breakdown of the Local Access portion to the Non-Local Access portion of the SDC fee is 43 percent to 57 percent.

17.13.120 Challenges and Appeals.

(Amended by Ordinance Nos. 174617 and 189244, effective November 7, 2018.)

- A. Any person may challenge the expenditure of SDC revenues by filing a challenge to the expenditure with the Administrator within two years after the date of the disputed SDC revenue expenditure.
- B. The Applicant may challenge a decision on an SDC Credit as applied under Section 17.13.070 by providing a written notice of appeal to the Administrator no more than 14 calendar days after the decision is posted online. The Applicant may challenge a decision on an SDC Exemption as applied under Section 17.13.060 or on an SDC Alternative Rate as applied under Section 17.13.080 by providing a written notice of appeal to the Administrator no more than 14 calendar days after the decision is provided to the Applicant. Appeals of decisions of the Administrator will be reviewed by the Director. Appeals of decisions of the Director will be reviewed by the Commissioner-in-Charge. An appeal of a Commissioner’s decision, including but not limited to the Commissioner’s review of the Director’s decision, will be heard by the City Council. Appeals of decisions of the City Council will be reviewable solely under ORS 34.010 through 34.100.
- C. Except where a different time for an Administrator’s decision is provided in this Chapter, all Administrator decisions shall be in writing and shall be sent to the Applicant within 21 days of Administrator receipt of an Application or other Applicant request for an Administrator determination. Except where a different time for an appeal is provided in this Chapter, all appeals shall be in writing and shall be submitted within 14 calendar days after the decision is issued.
- D. If an Applicant files an appeal under Subsection 17.13.120 B., the City shall withhold all Permits and other approvals applicable to the Applicant’s property of the New Development pending resolution of all appeals under this Chapter unless the SDC is paid in full or Applicant provides, for the pendency of the appeal, a financial guarantee or security for the charge in a form acceptable to the City Attorney.

17.13.130 City Review of SDC.

(Amended by Ordinance Nos. 181669 and 189244, effective November 7, 2018.)

- A. No later than every 10 years as measured from initial enactment, the City shall undertake a review to determine that sufficient money will be available to help fund the Parks and Recreation SDC-CIP identified capacity-increasing facilities; to determine whether the adopted SDC rate keeps pace with inflation, whether the Parks and Recreation SDC-CIP should be modified, and to ensure that such facilities will not be over-funded by the SDC receipts.
- B. In the event that during the review referred to above, it is determined an adjustment to the SDC is necessary and consistent with state law, the City Council may propose and adopt appropriately adjusted SDCs.
- C. The City Council may from time to time amend or adopt a new SDC Methodology Report by ordinance.

17.13.140 Time Limit on Expenditure of SDCs.

(Amended by Ordinance No. 189244, effective November 7, 2018.) The City shall expend SDC revenues within 10 years of receipt, based on the priorities in the Parks and Recreation SDC-CIP list.

17.13.150 Implementing Regulations.

(Amended by Ordinance Nos. 187150 and 189244, effective November 7, 2018.) The Director may adopt and amend by Administrative Rule regulations and procedures to implement the provisions of this chapter. Any Administrative Rule adopted under this Section shall be filed with the Auditor for inclusion in the Portland Policy Documents, in accordance with Chapter 1.07 of this Code. The Administrator may develop forms and procedures as needed to implement this chapter and the Administrative Rules.

17.13.160 Amendment of the Parks and Recreation SDC-CIP List.

(Amended by Ordinance Nos. 181669 and 189244, effective November 7, 2018.) The City Council may amend the Parks and Recreation SDC-CIP list as set forth in the SDC Methodology Report, from time to time to add or remove projects as the City deems appropriate. The Administrator may, at any time, change the description of the scope, and timing, for projects included in the Parks and Recreation SDC-CIP list. The Commissioner-in-Charge may change project budgets. Any amendment of the SDC-CIP list that increases an SDC rate may be adopted only by the Council after a public hearing as provided by ORS 223.309(2). An updated SDC-CIP list incorporating changes made under this Section will be posted on the Parks and Recreation website.

17.13.170 Severability.

The provisions of this Chapter are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any clause, section or provision of this Chapter shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of this Chapter shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein. It is hereby declared to be the legislative intent that this Chapter would have been adopted had such an unconstitutional provision not been included herein.