

CITY OF LA PINE

**SYSTEMS DEVELOPMENT
CHARGE, (SDC) CONCEPT**

Adopted May 18, 2011

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1. General Findings.

The City Council finds:

- (1) The City of La Pine is situated in Deschutes County.
- (2) All the citizens living within the City use the streets throughout the City.
- (3) Development in the County outside of the City of La Pine UGB must pay a Deschutes County Traffic Impact Fee (TIF).
- (4) The City of La Pine is in the early stages of developing its Transportation System Plan (TSP) and intends to charge a Systems Development Charge in the future.
- (5) The following data can be used for as a basis for discussion purposes in preparation for developing a La Pine SDC.

2. Purpose.

A systems development charge for street facilities is imposed on development and redevelopments that create a need for or increase the demands on street facilities for creating a source of funds to pay for the installation, construction, reconstruction, and extension of street facilities within the City.

3. Definitions.

For the purposes of this concept, the following words and phrases mean:

- (1) "Applicant" means the person seeking to obtain a building permit or to develop property within the City.
- (2) "Arterial" means that term defined in the City of La Pine Code.
- (3) "Building permit" means a permit issued by the building department for the construction, alteration, repair or placement of any building or structure under the City or state building code, except permits for the construction, repair or remodel of any building damaged or destroyed by fire or any natural disaster.
- (4) "Capital improvements" means the public facilities or assets used for transportation.
- (5) "Development" means any manmade change to improved or unimproved real estate that has the effect of generating additional weekday or weekend trips.
- (6) "Extra capacity facilities or improvements" means those transit, arterial and collector improvements that are necessary in the interest of the public health, safety and welfare to increase traffic capacity to address new development. Such improvements include, but are not limited to, signalization, channelization, widening, drainage work, pedestrian safety, lighting, acquisition of right of way and necessary easements, street extensions, railroad crossing protective devices, bridges and bike paths, and transit.
- (7) "Improvement fee" means a fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to a future ordinance.
- (8) "Land area" means the area of a parcel of land as measure by projection of the parcel boundaries upon a horizontal plane with the exception of a portion of the parcel within a recorded right of way or easement subject or a servitude for a public street or for a public scenic or preservation purpose.

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- (9) "Occupancy permit" means the occupancy permit or temporary occupancy permit provided for in the Uniform Building Code or other ordinance of the applicable jurisdiction. If no Occupancy permit is provided for a particular use, the final inspection and approval shall serve as the occupancy permit.
- (10) "Owner" means the owner or owners of record title or the purchaser or purchasers under a recorded land sales agreement, and other persons having an interest of record in the described real property.
- (11) "Parcel of land" means a lot, parcel, block or other tract of land in accordance with city regulations is occupied or may be occupied by a structure or structures or other use, and that includes the yards and other open spaces required under the zoning, subdivision, or other development ordinances.
- (12) "Permittee" means the person to whom a building permit, development permit, a permit or plan approval to connect to the sewer or water system, or right of way access permit is issued.
- (13) "Public institutions" means the City of La Pine, public schools, Deschutes County, the State of Oregon, and any department, agency, or subdivision of the State of Oregon, and the United States or department or agency of the federal government.
- (14) "Qualified public improvements" means a capital improvement that is:
- (a) Required as a condition of development approval;
 - (b) Identified in the plan adopted in a future ordinance; and either:
 - (i) Not located on or contiguous to a parcel of land that is the subject of the development approval; or
 - (ii) 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.
 - (iii) For purposes of this definition, contiguous means in a public way which abuts the parcel.
- (15) "Reimbursement fee" means a fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to a future ordinance.
- (16) "Road" means a county road, city street, or state highway.
- (17) "Street facilities" means streets and bike paths, including but not limited to sidewalks, traffic control signals, lighting, right of way acquisition, and other related items.
- (18) "Street system development charge" or "system development charge" means a reimbursement fee, an improvement fee or a combination of the fees assessed or collected at the time of increased usage of the capital improvement, at the time of issuance of a development permit or building permit, or at the time of connection to the capital improvement.

4. Street System Development Charge Established.

- (1) A street system development charge is established and may be revised by resolution of the Council. The resolution shall set the amount of the charge, the type of permit to which the charge applies, and if the charge applies to a geographic area smaller than the entire city, the geographic area subject to the charge.
- (2) Unless otherwise exempted by a future ordinance or other local or state law, a street system development charge is hereby imposed upon all development within the city.

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5. **Methodology.**

The methodology used for the street systems development charge is set forth in the document entitled "Transportation System Development Charge," dated xxxx, which will be attached as Exhibit A and incorporated into this document.

6. **Systems Development Charge.**

(1) The systems development charge for street facilities shall be determined by multiplying the following applicable dollar amount, adjusted annually, by the number of average weekday trips generated by the new development in accordance with the basis for trip determination set forth in the future Appendix B, dated xxxx, which will be attached and incorporated into this document.

- (a) Residential use: \$xxxx per average weekday trip
- (b) Business and commercial use: \$ xxxx per average weekday trip
- (c) Office use: \$xxxx per average weekday trip
- (d) Industrial use: \$xxxx per average weekday trip
- (e) Institutional use: \$xxxx per weighted average daily trip (Educational Uses are Exempt)

The amount of the traffic impact fee for institutional uses shall be based on the weighted average daily trips calculated as follows:

$((\text{average weekday trip rate } xxxx) + (\text{average weekend trip } xxxx))/7$

(2) If an identified use does not have a basis for trip determination stated in Appendix B, i.e., not available, the City shall either:

(a) Determine the trip generation based on the use listed in Appendix B most similar in traffic generation; or

(b) At the election and expense of the applicant, consider actual trip generation of a same or similar use verified by a registered traffic engineer. If actual trip generation is used, the City may make such adjustments as applicable in consideration of the location, size and other appropriate factors in determining the average weekday trip.

(3) If a single structure includes more than one use, the City shall proportion the uses accordingly for establishing the street system development charge.

(4) At the time of application for a building permit, the applicant shall provide the City with necessary and applicable information, such as the type of use, number of employees or square footage of structures, necessary to calculate the charge.

(5) Notwithstanding any other provision, on July 1st of each year, the dollar amounts set forth in subsection (1) of this section shall be increased automatically by xxxx% unless the City Council first determines that the construction cost index is a more accurate estimate of the increase or decrease in construction costs. Upon such a determination, the amounts set forth subsection (1) of this section shall be increased or decreased by the average percentage fluctuation of the construction cost index over the previous ten years. In no event, however, shall there be an annual increase in excess of 3 %. However, all calculations shall be carried out to the hundredths place. A final product ending in \$0.49 or less shall be rounded down to the nearest dollar, \$0.50 or more shall be rounded up to the next dollar.

(6) An Oregon registered professional engineer employed or retained by the City shall prepare the construction cost index.

(7) The decision of the City Council, including the accuracy of the construction cost index and its application, shall be reviewable solely under ORS 34.010 through 34.100, relating to writs of review in Circuit Court.

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7. Collection.

(1) Unless deferred, the systems development charge is due and payable at the time that the City issues the building permit. Except as otherwise provided in this chapter, no building permit shall be issued for a development subject to this charge unless the systems development charge is first paid in full.

(2) Notwithstanding subsection (1) of this section, in cases in which the amount due for any one building permit exceeds \$5,000, the applicant may request a payment deferral. The request must be made in writing to the City no later than the time of application for a building permit. The City shall grant deferral to the systems development charge, however, such systems development charge shall be paid in full prior to the issuance of an occupancy permit. The amount of systems development charge due on deferred obligations shall be the amount in effect at the time of the issuance of the occupancy permit. Deferred systems development charge obligations shall not be eligible for internal financing or Bancrofting as provided in subsection (3) unless so requested at the time of application for deferral. Selection of the credit or offset option must be made at the time of application for deferral. Failure to specify shall be deemed to be selection of the credit option. The selection is irrevocable.

(3) Any traffic impact fee may be eligible for internal financing or a Bancrofting agreement pursuant to ORS 223.205 through 223.785, the Bancroft Bonding Act, or adopted city process. Bancrofting and installment payment agreements, shall be limited in term in the following manner:

Street systems development charge through \$1,000	3 years
Street systems development charge from \$1,001 through \$5,000	5 years
Street systems development charge \$5,001 and more	10 years

An installment or Bancroft agreement provided by this section shall have an interest rate as determined, at the time of application, by the chief city financial officer and in recognition of the then current market rates and costs associated with the administration of such agreements. Applications for an agreement, as provided in this chapter, must be made at the time of building permit application. A street systems development charge using an agreement shall be a lien pursuant to ORS 223.230 or City provision. No offset shall be allowed for any tax satisfied through use of an agreement provided in this section.

8. Exemptions.

The following development is exempt from the systems development charge:

- (1) Remodeling or replacement of any single family structure, including mobile homes;
- (2) Multifamily structure remodeling or replacement if no additional dwelling units are added;
- (3) Remodeling or replacement of office, business and commercial, industrial or institutional structures if such remodeling or replacement does not result in additional average weekday trips;

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- (4) Temporary uses that do not exceed 90 days in a calendar year;
- (5) Temporary construction facilities as determined by the City.
- (6) Development not subject to this chapter pursuant to the La Pine Zoning Ordinance.
- (7) A transit improvement that has the impact of removing vehicle trips or reducing vehicle miles of travel on the City's major street system, as approved by the City.
- (8) Construction, remodeling or expansion of federal or state facilities otherwise exempt from taxation by cities.

9. Credit.

An applicant for a building permit, or occupancy permit if deferral has been granted, shall be entitled to a credit against the street systems development charge for constructing eligible capital improvements.

- (1) An extra capacity street or transit improvement is eligible for credit provided it meets all of the following:
 - (a) With the exception of eligible transit improvements, the improvement must be on a facility designated as an arterial or collector facility in the applicable TSP.
 - (b) The improvement must be designed and constructed to provide additional capacity to meet projected future transportation needs. Improvements that address capacity deficiencies existing at the time of development are not eligible. In case of improvements addressing both, only that portion providing future capacity is eligible; and
 - (c) The City determines that the timing, location, design and scope of proposed improvement is consistent with and further the objectives of the capital improvements program of the City and either:
 - (i) The improvement is required to fulfill conditions of development approval issued by the City; or
 - (ii) The improvement is within the impact area of the development. For purposes of this section, "impact area" that is geographic area determined by the City in which the estimated traffic to be generated by the development exceeds ten percent of the existing average daily traffic. Existing traffic volumes shall be those within six months prior to filing the development application, adjusted for daily and seasonal traffic variations using factors provided by the City.
- (2) A road or transit improvement constructed to address a safety hazard is eligible for credit if it meets the following:
 - (a) With the exception of eligible transit improvements, the improvement must be on a facility designated as an arterial or collector in this base report; and
 - (b) The improvement must have been mandated as a condition of development approval and be located within the impact area of development, as determined according to (1) (a)(i) of this section.
- (3) The City shall determine credit eligibility. In addition to meeting the standards of subsections (1) and (2) of this section, the following shall control:
 - (a) There shall be no credit for improvements to the center twenty-eight feet of an existing street, except safety improvements creditable under subsection (2) of this section.
 - (b) New streets are eligible projects if they meet the remaining project eligibility criteria. For new facilities, street systems development charge credits may be issued for the entire street width.

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- (c) Improvements that primarily function as access to a private street or driveway are not eligible.
 - (d) Improvements including travel lanes and bike lanes, must be at ultimate alignment, line and grade except that said improvements need not be at ultimate alignment, line and grade if the improvement is a safety improvement as provided in subsection (2) of this section.
 - (e) Bike lanes are eligible only if required pursuant to the adopted Comprehensive Plan.
 - (f) For intersection signals and related devices, only fifty percent of extra capacity or safety intersection improvements shall be eligible if the intersection involves one eligible and one non-eligible through street only. One-third shall be eligible in the case of an intersection involving a non-eligible through street.
 - (g) Transit extra capacity or safety capital improvements such as bus shelters, turnouts, park and ride lots may be eligible if approved by the appropriate transit authority. No transit credit shall exceed ten percent of the street system development charge due.
 - (h) No credits shall be issued for landscaping, street lighting, storm sewers, sidewalks, and erosion control; or sound walls, berms, or other such mitigation devices.
 - (i) Street right of way required to be dedicated pursuant to the applicable comprehensive plan or development condition is not creditable. The reasonable market value of land purchased by the applicant from a third party to complete a required offsite improvement is creditable.
 - (j) No credit shall be granted for utility relocation except for that portion that otherwise would have been the legal obligation of the City under a franchise, easement or similar relationship
 - (k) No credit shall be granted for minor realignments not designated on the comprehensive plan.
 - (l) No more the 13.5 percent of the total eligible construction cost shall be creditable for survey, engineering, and inspection.
- (4) All requests for credit vouchers must be in writing and filed with the City not more than ninety days after the City accepts the improvement. The amount of credit shall be determined by the City and based upon the subject improvement construction contract documents, or other appropriate information, provided by the applicant for the credit. Upon a finding by the City that the contract amounts exceed prevailing market rate for a similar project, the credit shall be based on market rates. The City shall provide the applicant with a credit voucher, on a form provided by the City. The original of the credit voucher shall be retained by the City. The credit voucher shall state a dollar amount that may be applied against any street systems development charge imposed against the subject property. In no event shall a subject property be entitled to redeem credit vouchers in excess of the street systems development charge imposed. This paragraph applies only to issuance of credit vouchers and does not extend the deadline for credit redemption or otherwise modify the credit redemption deadline.
- (5) Credits shall be apportioned against the property that was subject to the requirement to construct an improvement eligible for credit. Unless otherwise requested, apportionment against lots or parcels constituting the property shall be proportionate to anticipated average weekday trips generated by the respective lots or parcels except for institutional which shall be based on a full week. Upon written application to the City, however, credits shall be reapportioned from any lot or parcel to any other lot or parcel within the confines of the property originally eligible for the credit. Reapportionment shall be noted on the original credit voucher retained by the department.
- (6) Credits as provided in this chapter are assignable, however, they shall apply only to that property subject to the original condition for land use approval upon which the credit is based or any partitioned or subdivided parcels or lots of such property to which the credit has been

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apportioned. Credits shall only apply to street systems development charges, are limited to the amount of the charge attributable to the development of the specific lot or parcel for which the credit is sought and shall not be a basis for any refund.

(7) Any credit must be redeemed not later than the issuance of the building permit or, if deferral was permitted under the Zoning Ordinance, issuance of the occupancy permit. The applicant is responsible for presentation of any credit prior to issuance of the building or occupancy permit. Except as provided in the Zoning Ordinance, under no circumstances shall any credit redemption be considered after issuance of a building permit or, if deferral was granted, issuance of an occupancy permit.

(8) Credit vouchers expire on the date ten years after the acceptance of the applicable improvement by the City. No extension of this deadline shall be granted.

(9) For purposes of this section, "constructing eligible capital improvements" means:

(a) The applicant for a building permit must construct the eligible improvements at its own expense; or

(b) The applicant for a building permit provides for the construction of eligible improvements by obtaining unanticipated funds for a unit of government, meeting all the criteria of this subsection, as determined by the City. The applicable criteria are:

(i) The funds are provided to a unit of government for the construction of a public improvement consistent with this document; and,

(ii) The funds are not in the adopted or proposed fiscal year budget for the unit of government; and

(iii) Do not consist of street system development charges, local gas tax or property tax funds, are not in the normal program of federal aid or other funds programmed for city or county transportation projects; and

(iv) The funds are obtained solely through the efforts of the applicant for the building permit, as demonstrated by its preparation of a grant application and written acknowledgement thereof by the funding agency or grant recipient, or equivalent documentation; and

(v) The funds are actually received by the unit of government; or the state or federal government has issued a firm, written commitment to the unit of government to grant funds or fund the project; or a binding agreement exists between the local government and the provider of funds; and within ninety days of one of these events occurring, the applicant files a request for credit voucher.

(vi) Notwithstanding any other limits of street systems development credits, credits allowed under subsection (9)(b) may be issued in the full amount of the funds provided to the unit of government for eligible facilities as defined by City, and may be expended for any transportation improvement allowed under the Zoning Ordinance and applicable TSP.

10. Payment and Charges.

(1) Notwithstanding issuance of a building or occupancy permit without payment, the street systems development charge shall survive and be a personal obligation of the Permittee.

(2) Intentional failure to pay the charge within sixty days of the due date shall result in a penalty equal to fifty percent of the charge. Interest shall accrue from the sixty-day point at the legal rate established by statute.

(3) In addition to an action at law and any statutory rights, the City may:

(a) Refuse to issue any permits of any kind to the delinquent party for any development; (b) Refuse to honor any credits held by the delinquent party for any development;

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(b) Condition any development approval of the delinquent party on payment in full, including penalties and interest;

(c) Revoke any previous deferrals issued to the delinquent party, in which case the amount immediately shall be due and refuse to issue any new deferrals;

(4) For purposes of this section, "delinquent party" includes any person controlling a delinquent corporate Permittee, the subject property owner, and any corporation controlled by a delinquent individual Permittee.

11. Refunds.

Refunds of street system development charges may be made upon written application filed with the City. Refunds shall also be allowed upon a finding by the City that there was a clerical error in the calculation of the charge.

12. Segregation and Use of Funds.

All funds received from the street systems development charge shall be placed in a separate fund and shall be used for the construction, reconstruction and improvement of street facilities or repayment of bonded indebtedness for such improvements.

13. Scope.

The street systems development charge provided for in this document is separate from, and in addition to, any applicable tax, assessment, charge or fee otherwise provided by law or City ordinance.

14. Application of a Future Ordinance.

This document shall apply to those areas of the community within the city of La Pine and its Urban Growth Boundary (UGB).

15. Effective Date.

This document shall apply to all building permit applications received on or after the date the City initiates System Development Charges.