



CITY OF
PORTLAND, OREGON
GOVERNMENT RELATIONS

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March 16, 2021

Representative John Lively, Chair
House Economic Recovery and Prosperity Committee
900 Court St. NE, HR C
Salem, OR 97301

Dear Chair Lively and Members of the Committee,

The City of Portland opposes section 4 and sections 6-8 in the -1 amendment to HB 3040 and supports section 1 to study best practices for fostering the development of affordable housing. For each mandate we urge you to ask the question: what problem is this solving?

Will the provisions in Sections 4 and 6 increase the development of affordable housing or make housing more affordable? The answer is no. In fact, affordability is not included in either of these sections. There is no guarantee any of these changes will foster affordable housing.

In 2017, the City of Portland Budget Office and Office of Management and Finance released a report on *Strategies for Accelerating Housing Development in Portland*¹. The Report was intended to provide specific recommendations around reducing City-imposed costs as a means to encourage housing development, and recommendations for accelerating the City's review processes where possible so that the City is not standing in the way of housing production. Among the findings the study identified:

- “SDCs are used to reinvest in or expand infrastructure systems. Increases in SDC waivers would either result in project deferrals in infrastructure systems with significant deferred maintenance, lower levels of service expansion for future residents, ratepayer increases, or additional burden on the [City’s] General Fund.
- Reducing SDCs may reduce the cost passed on to renters and homebuyers; however, developers will likely continue to charge what the market will bear despite cost reductions because this increases profit ROI which has the potential to reduce interest rates.
- Reducing SDCs could have a positive effect on housing development; however, we suspect the change may be marginal and insufficient to catalyze substantial development. This analysis finds that the negative impacts to bureaus and the City far outweighs the potential benefit in terms of spurred development.” (p. 44)

To incentivize the development of affordable housing the City offers multiple tools, including but not limited to, property tax exemptions and SDC exemptions for single-family and multifamily developments that meet affordability requirements. Moreover, the City already offers the option to developers for both low-interest deferral and loan contracts for SDCs.

¹ *Strategies for Accelerating Housing Development in Portland*, April 2017,
<https://www.portlandoregon.gov/cbo/article/641311>

The following are concerns and unresolved issues with sections of the -1 amendment:

SECTION 1

The City of Portland supports the intent of the proponents to further evaluate how to improve SDCs. Notably, the bill includes multiple components in the study directive, like transparency and timing, while also establishing mandates on those very subjects in Sections 4 and 6 of the -1 amendment. This is counterintuitive and puts the proverbial cart before the horse. We urge the Committee to only advance the components of Section 1 of the bill to provide the data necessary to inform any potential changes in state law.

Further, if the study is truly about fostering the development of affordable housing, the scope should be widened to examine all costs associated with development including but not limited to: land, construction, building permits, SDCs, and profit margin.

SECTION 4

Deferring SDCs for some developments until occupancy, but single-family homes until point of sale would be extremely difficult and costly to implement effectively. Here are a few considerations:

- Some single-family homes are not built to be sold, they are built by an owner to occupy or an organization to own or manage. How would the SDCs be assessed if there is no transaction? If the property does not go through a sale at the end of construction, when would the local government be allowed to collect those SDCs?
- No mechanism currently exists within local governments to track sales, which are private transactions that occur separately from any local government function. This would require an entirely new system to be installed – including costs associated with staffing and software, among others.
- The City would be in a difficult situation having to delay occupancy for an SDC payment. Payment of SDCs is not a requirement to issue a certificate of occupancy. Will the state building code be amended to include this requirement?
- Currently, a relatively small percentage of permits opt for deferral contracts (and an even smaller percent loan contracts) per year. If we were to scale this to effectively 100 percent of permits the City's Revenue Division and SDC Bureaus will need to hire more staff to handle this scaling. This puts additional, unnecessary burden on taxpayer funds.
- There are no affordability covenants associated with the mandates in section 4.
- Local governments already have authority to determine the timing of SDC payments.

At a minimum, the technical act of assessing a lien needs to happen along with the permit being issued. Otherwise the person agreeing to incur the assessment instead of paying the SDCs when the permit is issued could subsequently sell the property before the local government is allowed to assess the lien. That new owner could then be assessed for something they never agreed to or were made aware of. If the SDC is not a lien on the property before the "time of sale," a title company won't know it exists to be included "as part of closing costs."

The study in section 1 should examine the significant implementation barriers associated with this proposal. To date, the proponents have not demonstrated a clear nexus for how this mandate will increase affordable housing.

SECTION 6

The language in this section is ambiguous. The phrase "payment is made for a system development charge . . ." refers to an SDC payment by a particular permit applicant. Similarly, contrary to the language in sub-section (a), cost of an SDC is not the right terminology; the term "amount" is more accurate.

SDCs fund system-wide projects that increase capacity. The City of Portland does not build a micro-park for each Parks SDC collected or a specific section of road for each Transportation SDC paid. The aggregate nature of the payments makes this section difficult to administer. The City issues thousands of permits with corresponding SDC payments each year. Individual SDCs are not for any single project with a single completion date, but a series of capital improvements required within the system to provide capacity for future connections.

The City already publishes:

- Adopted SDC Capital Improvement Plan lists, which include anticipated projects, timing, with dollar amounts to be funded dependent on the pace of development.
- Budgets that include funded projects, with timing based on development that occurred.
- Annual reports which include actual expenditures, by project and geographic area, each fiscal year.
- Additional documents, such as an interactive map of expenditures, a slideshow showing featured SDC funded projects, etc. Of note, we developed these additional tools in response to the more frequent inquiries we receive.

Posting thousands of documents each year with a permit number and the information proposed in this section to a website is not an effective way to share information. The proposed language requiring posting of information at time of payment would be another labor intensive, costly, and ongoing task without practical benefits to the public.

Again, what problem is this section solving? The study in section 1 should look at innovative ways of information sharing before mandating additional reporting requirements for local governments that don't have a clear public benefit.

SECTIONS 7

This section needs more clarity. It's unclear whether this bill would apply to existing SDC programs. ORS 223.302 allows local governments to establish SDCs, and ORS 223.309 makes it clear that subsequent changes to established SDCs are called "modifications." This section of the bill uses the word "established," but since many local jurisdictions in the state already have SDC programs, they would arguably be exempt from the new requirements. Clarity is needed to avoid potential litigation over the applicability of this section.

SECTION 8

The mandates in sections 4 and 6 are onerous. The emergency clause creates an impossible deadline to implement these requirements. Again, we urge the Committee to only advance the study in section 1 to support data-driven policy making that considers the implementation needs of timing and reporting mandates.

Thank you for your consideration of these comments. The City of Portland urges you to oppose the unwarranted and unnecessary mandates in the -1 amendment to HB 3040.

Sincerely,



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