

# SDC **APPEALS** APPLICATION



CITY OF ONTARIO  
444 SW 4<sup>TH</sup> ST ONTARIO OR 97914  
Building Official 541-881-3220  
Permit Desk 541-881-3224  
Fax 541 881 3251

Building Application # \_\_\_\_\_

Building Permit # \_\_\_\_\_

Mechanical Permit # \_\_\_\_\_  
(If applicable)

TODAY'S DATE: \_\_\_\_\_

DATE OF PERMIT: \_\_\_\_\_

APPLICANT NAME: \_\_\_\_\_

ADDRESS  
CITY/STATE/ZIP: \_\_\_\_\_

PHONE: \_\_\_\_\_

DEVELOPMENT NAME (ATTACH LEGAL DESCRIPTION)  
AND ADDRESS: \_\_\_\_\_

DATE SDCS WERE PAID (IF PAID): \_\_\_\_\_

*~ OFFICIAL USE ONLY ~*

LEGAL DESCRIPTION OF THE PROPERTY ATTACHED.

EXEMPTION DETERMINATION REFERRED TO CITY COUNCIL

ON: \_\_\_\_\_

TOTAL SDC FEES: \_\_\_\_\_

LESS CREDIT FOR CONTRIBUTION  
OF QUALIFIED PUBLIC IMPROVEMENTS: (            )

LESS ALLOWANCE FOR EXISTING USES  
(expansion or redevelopment): (            )

NET SDCs DUE: \_\_\_\_\_

BY: \_\_\_\_\_  
SIGNATURE OF CITY OFFICIAL

WHY APPLICANT IS APPEALING SDCS (Attach additional sheet if necessary):

## Appealing a Denial of Exemption

An Applicant whose exemption has been denied may request an alternative SDC exemption in accordance with OMC 8-13-8(a)(4) if:

1. The Applicant believes the City improperly rejected a request for an exemption under OMC 8-13-6 Partial and Full Exemptions for which the Applicant believes it is eligible.

2. If an Applicant has requested a full or partial exemption under OMC 8-13-6 Partial and Full Exemptions and that request has been denied, the Applicant may request an Alternative SDC Exemption under this Section, no later than the time of application for a Permit for the development.
3. In support of the Alternative SDC Exemption request, the Applicant must provide complete and detailed documentation demonstrating that the Applicant is entitled to one of the exemptions described in OMC 8-13-6 Partial and Full Exemptions.
4. The Administrator shall grant the exemption if, in the Administrator's opinion, the Applicant has demonstrated with credible, relevant evidence that it meets the pertinent criteria in OMC 8-13-6 Partial and Full Exemptions.
  - (4) Within 15 days of the Applicant's submission of the request, the Administrator shall provide a written decision explaining the basis for rejecting or accepting the request.

The decision of the Administrator may be appealed to the City Council, as described in "Challenges and Appeals".

OMC 8-13-8(b) provides the following process for an alternative SDC Rate Request.

- (1) If an Applicant believes that the assumptions for the class of structures that includes the New Development are not appropriate for the subject development, the Applicant must request an alternative SDC rate calculation, under this Section, no later than the time of issuance of a permit for the development. Alternative SDC rate calculations for occupancy must be based on analysis of occupancy of classes of structures, not on the intended occupancy of a particular development.
- (2) In support of the Alternative SDC Rate request, the Applicant must provide complete and detailed documentation, including verifiable data. The Applicant's supporting documentation must rely upon generally accepted sampling methods, sources of information, cost analysis, demographics, growth projections, and techniques of analysis as a means of supporting the proposed alternative SDC rate. The proposed Alternative SDC Rate calculation shall include an explanation with particularity why the rate established in the SDC Methodology does not accurately reflect the development's impact on the City's capital improvements.
- (3) The Administrator shall apply the Alternative SDC Rate if, in the Administrator's opinion, the following are found:

- (i) The evidence and assumptions underlying the Alternative SDC Rate are reasonable, correct and credible and were gathered and analyzed in compliance with generally accepted principles and methodologies consistent with this Section, and
  - (ii) The calculation of the proposed Alternative SDC rate was by a generally accepted methodology, and
  - (iii) The proposed alternative SDC rate better or more realistically reflects the actual impact of the development than the rate set forth in the SDC Methodology Report.
- (4) Within 15 business days of the Applicant's submission of the request, the Administrator shall provide a written decision explaining the basis for rejecting or accepting the request.

The decision of the Administrator may be appealed to the City Council, as described in "Challenges and Appeals". In addition, all persons who object to the calculation of a system development charge have a right to challenge the decision and petition for review of a final City decision pursuant to ORS 34.010 to 34.100, as outlined in OMC 8-13-13(g).

#### Appealing a Denial of Credit Request

An Applicant whose Credit Request has been denied may request an alternative SDC credit determination if:

...The Applicant believes the City improperly excluded from consideration a Qualified Public Improvement that would qualify for credit under OMC 8-13-7, or the City accepted for credit a Qualified Public Improvement, but undervalued that improvement and therefore undervalued the credit. [OMC 8-13-8(a)(3)]

OMC 8-13-8 (b) provides the following process for an alternative SDC Credit Request:

- (1) If an applicant believes that the assumptions for the class of structures that includes the development are not appropriate for the subject development, the Applicant must request an alternative SDC rate calculation, under Section 8, no later than the time of issuance of a permit for the development. Alternative SDC rate calculations for occupancy must be based on analysis of occupancy of classes of structures, not on the intended occupancy of a particular development.

- (2) In support of the Alternative SDC Rate request, the Applicant must provide complete and detailed documentation, including verifiable data. The Applicant's supporting documentation must rely upon generally accepted sampling methods, sources of information, cost analysis, demographics, growth projections, and techniques of analysis as a means of supporting the proposed alternative SDC rate. The proposed Alternative SDC Rate calculation shall include an explanation with particularity why the rate established in the SDC Methodology does not accurately reflect the development's impact on the City's capital improvements.
- (3) The Administrator shall apply the Alternative SDC Rate if, in the Administrator's opinion, the following are found:
  - (i) The evidence and assumptions underlying the Alternative SDC Rate are reasonable, correct and credible and were gathered and analyzed in compliance with generally accepted principles and methodologies consistent with this Section; and
  - (ii) The calculation of the proposed Alternative SDC rate was by an generally accepted methodology; and
  - (iii) The proposed alternative SDC rate better or more realistically reflects the actual impact of the development than the rate set forth in the SDC Methodology Report.
- (4) Within 15 business days of the Applicant's submission of the request, the Administrator shall provide a written decision explaining the basis for rejecting or accepting the request.

The decision of the Administrator may be appealed to the City Council, as described in Section 7 of these guidelines (Challenges and Appeals).

### Appeals

As outlined in OMC 8-13-13 Challenges and Appeals:

- 1) ...Except where a different time for an Administrator's decision is provided in Ordinance 2618-2008, all Administrator decisions shall be in writing and shall be delivered to the Applicant within 15 business days of an application or other Applicant request for an Administrator determination. Delivery shall be deemed complete upon

the earlier of actual delivery to the Applicant or upon deposit by the Administrator by certified mail, addressed to the address for notice Applicant has designated in the Application. Any person may appeal to the council any decision of the Administrator made pursuant to this Ordinance by filing a written request with the Administrator within 10 days after the delivery of the Administrator's written decision to the Applicant. The Applicant, if he or she so chooses, may request a preliminary review from a three-person committee consisting of the Mayor, a designated City Council member, and either the chair or vice-chair of the Public Works Committee, which committee shall make a recommendation to the council. The request for a preliminary review shall not extend the time for filing an appeal. The fee for appealing a decision to the council shall be set by resolution.

As outlined in OMC 8-13-13(c) through (g):

Upon receipt of such request, the City shall schedule a hearing before the council at a regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the applicant written notice of the time and place of the hearing. Such hearing shall be held within 90 days of the date the appeal was filed.

The council shall conduct a hearing in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedures and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence.

Any applicant who appeals a decision pursuant to this Section and desires the immediate issuance of a permit shall pay prior to or at the time the request for hearing is filed the applicable system development charges determined by the Administrator. Said payment shall be deemed paid "under protest" and shall not be construed as a waiver of any review rights.

An applicant may appeal a decision under this Section without paying the applicable system development charges, but no permit shall be issued until such system development charges are paid in the amount initially calculated or the amount approved upon completion of the review provided in this Section.

The council shall decide an appeal within 90 days of the date of the appeal to the City Council and that decision may be reviewed under ORS 34.010 to 34.100, and not otherwise.