Temporary System Development Charge Exemption for Residential Housing Projects Administrative Rules ENB-13.29

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These are the administrative rules for the Temporary System Development Charge Exemption for Residential Housing Projects.

1. Introduction

These rules implement PCC 17.14.070 J., "Temporary exemption for residential housing projects," adopted by Council through Ordinance 192082.

2. Definitions

A. **"Accredited financial institution"** means a financial institution or entity providing capital for commercial real estate projects in the United States.

B. **"Construction completion guarantee"** means a document containing clauses that are standard in construction loan documents and joint venture agreements for equity that obligate the developer to complete the project in a specified amount of time and are secured by performance bonds or other instruments.

3. Regulatory Authority

These rules are authorized by PCC 3.06.020 C.

4. Program Applicability

As established by PCC 17.14.070 J.2., this exemption applies to "[n]ew dwelling units or a congregate living facility, as defined by the state building code, in Portland . . . ."

5. Program Requirements

A. **Basic Eligibility**:

i. Prior to building permit issuance, the permit applicant must submit to the City a signed terms-and-conditions form acknowledging the conditions for eligibility in this program and their responsibility to adhere to those conditions, including construction milestone requirements, before any eligible SDCs will be removed from the permit.

ii. The dwelling unit cannot be "an accessory dwelling unit or caretaker quarters, as those terms are used in Title 33 of Portland City Code, or a transient lodging facility as defined in Section 24.31.010 . . . ." PCC 17.14.070 J.2.a.(1).

iii. "A building permit has not been issued before August 15, 2025 and will not be issued after September 30, 2028." PCC 17.14.070 J.2.a.(2).

B. **Construction milestone**:

i. Under PCC 17.14.070 J.2.b., "[o]ne of the following must be true":

(1) The applicant is issued a building permit, commences construction, and receives, within 12 months of building permit issuance, an approved:

(a) Foundation/concrete pour inspection for housing in a new building; or

(b) Insulation and vapor barrier inspection for conversion of space to housing in an existing building.

(2) Prior to building permit issuance, the applicant submits to the City a construction completion guarantee from an accredited financial institution.

ii. The construction completion guarantee provided to Portland Permitting & Development may include the detailed loan documents or agreements themselves or a formal letter from the lender to the developer or applicant acknowledging that their loan documents or agreements include a construction completion guarantee and the completion date at the time of execution.

C. **System-specific implementation**:

i. Water Meter SDC Exemptions:

a. Per PCC 17.14.070 J.2.c., domestic water meter and irrigation water meter SDCs are exempt for the entire development when dwelling units or a congregate living facility are part of a development that includes a mix of other uses or occupancies.

b. In this case, the term "domestic water meters," as used in PCC 17.14.070 J.2.c., does not include commercial water meters. Commercial water meter SDCs are not exempt.

c. Per PCC 21.30.070 A.3., each new mixed-use building must have at least one water meter for the commercial areas of the building and at least one separate water meter for the residential areas.

ii. Stormwater:

a. Stormwater SDCs are exempt for the entire development "[i]f the dwelling units or congregate living facility is part of a development that contains a mix of both dwelling units and other uses or occupancies . . . ." PCC 17.14.070 J.2.c.

iii. Sanitary sewer:

a. If the dwelling unit or congregate living facility is part of a development that contains a mix of both dwelling units or congregate living and other uses or occupancies, drainage fixture units located in all spaces that directly support the dwelling units or congregate living uses are included in this exemption, including but not limited to: hallways, laundry facilities, trash and recycling areas, fitness facilities, and other amenity spaces. Drainage fixture units associated with other occupancies are not exempt.

6. Enforcement

A. **Construction milestone**: Under PCC 17.14.070 J.3.,

If the applicant fails to receive an approved inspection under Subsection 17.14.070 J.2.b.(1) within 12 months of building permit issuance, the City may terminate the exemption and make due and payable all previously exempt portions of system development charges based on rates in effect on the date of the submittal of the

complete building permit application before the City will issue a certificate of occupancy or temporary certificate of occupancy.

i. It is the applicant's obligation to ensure that they are on track to reach the inspection milestone within 365 days of permit issuance. The City will, however, make a reasonable effort to notify the applicant as the milestone approaches.

ii. An applicant whose project does not reach that milestone on time will receive notification that their SDC exemption has been terminated and their previously exempted SDCs will become due and payable before the City will issue a certificate of occupancy or temporary certificate of occupancy. The City will not provide financing for those SDCs.

iii. The City may, on a case-by-case basis, offer a short extension to a project due to any force majeure events or other extenuating circumstances as authorized by Deputy City Administrator, and appealable to the City Administrator.

B. **Change of use or occupancy**: Under PCC 17.14.070 J.4.,

Before a building permit will be issued to change the use or occupancy of a dwelling unit for which an exemption was granted under this Subsection 17.14.070 J., the City may collect system development charges for the proposed use or occupancy at the rates in place at the time of the application for the proposed use or occupancy change.

i. The City will collect SDCs for a project that qualified for an exemption when a building permit application to change the use or occupancy, including a permit for an accessory short-term rental, is submitted.

ii. SDCs for a permit application for a Type A accessory short-term rental submitted within 2 years of the original building permit issuance are subject to the SDCs in effect at the time of the exemption that applied to the original building permit.

iii. SDCs for all other building permit applications to change the use or occupancy, including a Type B Conditional Use Permit for an accessory short-term rental, submitted within 10 years of the original building permit issuance are subject to the SDCs in effect at the time of the exemption that applied to the original building permit.

C. **Participation in other SDC waiver, exemption, or deferral programs.** An applicant may only participate in one SDC waiver, exemption, or deferral/loan program for each housing unit included in their project. Prior to building permit issuance, the applicant must indicate any intent to participate in another City program that would defer, exempt, or waive SDCs for the housing in their project. Once the building permit is issued, later revisions to the permit may not modify the applicant's elections for SDC deferrals, exemptions, or waivers.