

ORDINANCE NO.

Conditionally exempt the construction of certain accessory dwelling units from Parks and Recreation, Environmental Services, Transportation, and Water system development charges and authorize the creation of a Revenue & Tax Specialist V position in the Revenue Bureau to perform waiver compliance (Ordinance; amend Code Title 17 and Chapter 21.16, repeal Policy PRK-4.01)

Section 1. The Council finds:

1. On March 3, 2010, Council adopted Resolution No. 36766 to allow for suspension of system development charges for Parks and Recreation, Environmental Services, Transportation and Water for the construction of accessory dwelling units or the conversion of structures to accessory dwelling units until June 30, 2013.
2. On December 5, 2012, Council adopted Resolution No. 36980 to extend the current suspension of systems development charges for Parks and Recreation, Environmental Services, Transportation and Water for the construction of accessory dwelling units or the conversion of structures to accessory dwelling units until July 31, 2016.
3. On April 13, 2016, Council adopted Resolution No. 37201 to extend the current suspension of system development charges for Parks and Recreation, Environmental Services, Transportation and Water for the construction of accessory dwelling units or the conversion of structures to accessory dwelling units until July 31, 2018 provided the accessory dwelling unit (ADU) is constructed and receives final inspection and certificate of occupancy by June 30, 2019.
4. On May 2, 2018, Council adopted Resolution No. 37353 to direct the Bureau of Development Services, Portland Parks and Recreation, the Bureau of Environmental Services, the Portland Bureau of Transportation, Water and the Revenue Division of the Bureau of Revenue and Financial Services (hereafter referred to as “affected bureaus”) to return to Council by July 1, 2018 with proposed amendments to Portland City Code (“PCC”) that would extend the SDC ADU Waiver Program to apply to certain ADUs that are permitted after July 31, 2018.
5. Resolution No. 37353 directed the affected bureaus to include in the proposed amendments a requirement that a property owner for an ADU that receives a waiver of SDCs under the SDC Waiver Program be required to enter into a Restrictive Covenant, to be recorded in the real property records of Multnomah County (the “Covenant”) that provides, among other things, that the ADU shall not be used or advertised as an ASTR (accessory short-term rental) for a period of ten years; and, if the ADU is used as an ASTR at any time during such 10-year period, any waived SDCs must be repaid at 150% of the current SDC rate.
6. Resolution 37353 also directed the Revenue Division of the Bureau of Revenue and Financial Services to “administer Short-Term Rental (STR) Covenants associated with

SDC waivers for ADUs, develop a fee schedule and budget for administering STR Covenants, collect data annually about rents charged at ADUs that receive SDC waivers, enforce violations of STR Covenants and present a biennial report to Council regarding the volume of SDC waivers granted and rental rates at ADUs that receive SDC waivers. The Revenue Division will begin administering STR Covenants within 120 days of receiving STR data from STR platforms. If Portland Housing Bureau or another City bureau begins collecting rental data that includes rents charged by landlords, the rent data collection function and biennial reporting requirement will transfer to that bureau.”

7. Portland Zoning Code Chapter 33.205 contains regulations concerning ADUs. Portland Zoning Code Chapter 33.207 contains regulations concerning ASTRs.
8. Construction of accessory dwelling units has increased since system development charges were suspended in 2010. Data provided by the Bureau of Planning and Sustainability shows 24 permits were issued for accessory dwelling units in Portland in 2009. In 2010, 86 permits were issued for accessory dwelling units. By 2016, 615 permits were issued for accessory dwelling units.
9. Permits for more than 4,194 multi-family dwelling units and 957 single-family dwelling units were issued in 2016 according to the Portland Housing Bureau’s January 2018 State of Housing in Portland report. Based on this information and the 615 permits issued for accessory dwelling units in 2016, ADU construction and conversion of structures to ADUs contributed to over 10 percent of the total permits issued for new dwelling units in 2016.
10. A 2016 Portland State University survey found that about 25 percent of ADUs are rented as accessory short-term rentals (ASTRs). This information was considered in the City Budget Office report that estimated potential lost revenue associated with a longer-term waiver of SDCs for accessory dwelling units that are not rented as accessory short-term rentals.
11. The City of Portland Comprehensive Plan, Policy 5.4 Housing types, encourages “new and innovative housing types that meet the evolving needs of Portland households, and expand housing choices in all neighborhoods. These housing types include but are not limited to single- dwelling units; multi-dwelling units; accessory dwelling units; small units; pre-fabricated homes such as manufactured, modular, and mobile homes; co-housing; and clustered housing/clustered services”.
12. ADUs are integral to the achievement of the City’s housing goals and make up a significant portion of new dwelling units currently being constructed in Portland. These goals are not advanced when ADUs are rented as ASTRs as they are not directly adding to housing capacity at that time.
13. Affected bureaus developed a process that extends the SDC waiver for ADUs that are not rented as ASTRs or located on a property with an ASTR, ensures property owners sign a Restrictive Covenant, sets a minimum compliance period of 10 years following final

approval of the building permit, and includes the Revenue Division of the Bureau of Revenue and Financial Services in the development of a fee schedule and budget for administering Restrictive Covenants, violation enforcement, and collecting annual data about rents charged for ADUs receiving SDC waivers. This program is set to begin within 120 days of when the Revenue Division begins to receive data from short-term housing rental platforms.

NOW THEREFORE, the Council directs:

- a. The position Revenue & Tax Specialist V (Job Class # 30000196) is hereby created in the Revenue Division. This position will perform ADU SDC waiver compliance. This position will be funded by program fees that accompany SDC waiver applications.
- b. The Revenue Division of the Bureau of Revenue and Financial Services shall be granted read and write access to the Bureau of Development Services TRACS and successor databases for the purpose of administering this program and enforcement related to short-term rentals generally.
- c. The Revenue Division shall request an increase in appropriations, funded by increased revenue associated with program fees, in the FY 2018-19 Fall Supplemental Budget Process:

GENERAL FUND

Fund: 100

Business Area: MF

Bureau Program Expenses: \$140,000

- d. Portland City Code is amended as shown in Exhibit A, to take effect August 1, 2018.
- e. Portland Parks & Recreation Policy Document PRK-4.01 is rescinded effective August 1, 2018.

Section 2. The Council declares that an emergency exists because a delay will create a gap in programmatic services/ therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by Council,

Commissioner Chloe Eudaly  
Prepared by: Matt Wickstrom, BDS  
June 27, 2018

Mary Hull Caballero  
Auditor of the City of Portland