

TITLE 11

DEVELOPMENT REGULATION

Summary

11.01 COUNTY SURVEYOR PLAT REVIEW STANDARDS..... 1

**11.02 DELEGATION OF AUTHORITY TO ACCEPT CERTAIN
INTEREST IN LAND DEDICATED ON PARTITION PLATS;
DELEGATION OF SUBDIVISION PLAT APPROVAL
AUTHORITY..... 3**

Note: 11.02 Subdivision Plat Approval Delegation [Codified by Ord. 05-2000, 7/13/00] was repealed by Ord. 06-2004, 4/8/04 and replaced with 11.02 Subdivision Plat Approval Delegation.

11.03 TRANSPORTATION SYSTEM DEVELOPMENT CHARGE 5

Note: All building and development in unincorporated Clackamas County must be done consistently with the Zoning and Development Ordinance. The Zoning and Development Ordinance is a part of this Code.

It can be obtained from:

**Clackamas County Department of Transportation and Development
9101 S.E. Sunnybrook Road, Clackamas, OR 97015
(503) 353-4400 Voice**

**The Zoning and Development Ordinance can also be accessed on the internet at:
<http://www.co.clackamas.or.us>**

TITLE 11

DEVELOPMENT REGULATION

Table of Contents

CHAPTERS

11.01 COUNTY SURVEYOR PLAT REVIEW STANDARDS.....	1
11.01.010 Purpose.....	1
11.01.020 Additional Requirements	1
11.02 DELEGATION OF AUTHORITY TO ACCEPT CERTAIN INTEREST IN LAND DEDICATED ON PARTITION PLATS; DELEGATION OF SUBDIVISION PLAT APPROVAL AUTHORITY.....	3
11.02.010 Purpose.....	3
11.02.020 Dedications in Conjunction with Land Partitions.....	3
11.02.030 Updating Official Road Registers	3
11.02.040 Designation of Authorized Persons.....	3
11.02.050 Further Delegations of Authority.....	4
11.02.060 Modifications to Designations of Authorized Persons.....	4
11.02.070 Savings Clause.....	4
11.03 TRANSPORTATION SYSTEM DEVELOPMENT CHARGE	5
11.03.010 Purpose.....	5
11.03.020 Definitions.....	6
11.03.030 Application.....	8
11.03.040 Collection.....	10
11.03.050 Credit.....	14
11.03.060 Refunds	15
11.03.070 Dedicated Funds, Project List	15
11.03.080 Appeal	15
11.03.090 Annual Review.....	16

Note: All building and development in unincorporated Clackamas County must be done consistently with the Zoning and Development Ordinance. The Zoning and Development Ordinance is a part of this Code.

It can be obtained from:

Clackamas County Department of Transportation and Development

9101 S.E. Sunnybrook Road, Clackamas, OR 97015

(503) 353-4400 Voice

The Zoning and Development Ordinance can also be accessed on the internet at:

<http://www.co.clackamas.us>

Chapter 11.01

11.01 COUNTY SURVEYOR PLAT REVIEW STANDARDS

11.01.010 Purpose

The purpose of this chapter is to establish standards and requirements for the review and approval of survey maps, partition plats, condominium plats, and subdivision plats for the following reasons:

- A. The review and approval of survey maps, partition plats, condominium plats, and subdivision plats in an accurate, efficient, and timely manner is necessary for the promotion of economic development and protection of property rights; and
- B. Although benefiting the public in general, such services are user oriented. The long standing policy of the Board is that the most fair and sound method of ensuring adequate funding of such services is a user fee not to exceed the reasonable estimate of actual County Surveyor costs; and
- C. The Board has received a favorable staff recommendation and has considered testimony from interested citizens.

[Codified by Ord. 05-2000, 7/13/00]

11.01.020 Additional Requirements

In addition to the requirements of ORS Chapters 92, 100, and 209, and other applicable laws, chapters, and rules, the following shall be provided:

- A. For subdivision and condominium plats, a final boundary survey map of the proposed plat, accompanied by the report required in subsection B of this section, shall be submitted to the County Surveyor a minimum of 30 days prior to the submission of the final plat. If warranted, the County Surveyor may waive this requirement.
 1. In addition to the requirements of ORS 209.250, the survey map shall show all obvious encroachments or hiatuses created by deeds, building, fences, cultivation, occupation, previous surveys and plats and any other conditions that may indicate ownership lines as surveyed may be different than those shown on the survey;
 2. Any encroachment or hiatus affecting any partition plat submitted for review shall be brought to the attention of the County Surveyor at the time of submittal;
 3. The County Surveyor may refuse to approve a plat if the County Surveyor finds an encroachment or hiatus. Evidence that the encroachment or hiatus has been eliminated may be required prior to approval.
 - B. All partition, condominium, or subdivision plats submitted for approval shall be accompanied by a report, issued by a title insurance company, or agent authorized to perform such services in Oregon, setting forth ownership and all easements of record, together with a copy of the current deed, easements, and restrictions for
-

- the platted property and copies of the deeds for all abutting properties, and other documentation as required by the County Surveyor. The report shall have been issued no more than 15 days prior to the submittal to the County Surveyor of the survey map or plat. The County Surveyor may require a supplemental report. Condominium plats shall be submitted with a copy of the condominium declaration. Prior to approval of a condominium plat, the final version of the condominium declaration, approved by the State of Oregon, shall be submitted.
- C. All partition, condominium, and subdivision final plats, including those inside city limits, shall be checked and approved by the County Surveyor. Items to be checked include, but are not limited to, compliance with Oregon Statutes, city and county ordinances, proper boundary resolution, and resolution of apparent gaps and overlaps. If the city has chosen to have the plat checking service performed by a city surveyor under ORS 92.100(1), the County Surveyor shall perform an office review and indicate approval on the plat. The fee for performing this service shall be established by resolution of the Board of County Commissioners. No plat shall be recorded without the approval of the County Surveyor. The actual approval, or notice of intent to approve, of a plat by the County Surveyor shall be valid for 30 days only.
- D. Centerline monuments of public and private roads created by any subdivision or partition plat shall be placed in a monument box meeting the specifications of the County Surveyor. Said monument boxes shall be placed at locations as determined by the surveyor preparing the subdivision or partition and approved by the County Surveyor. In accordance with ORS 92.060(2), the point of intersection of the curve may be set in lieu of the beginning and ending points. The County Surveyor may authorize the setting of another type of monument in circumstances where setting the required monument is impracticable.
- [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2004, 4/8/04]
-

Chapter 11.02

11.02 Delegation of Authority to Accept Certain Interest in Land Dedicated on Partition Plats; Delegation of Subdivision Plat Approval Authority.

11.02.010 Purpose

It is the purpose of this chapter to delegate the Board of Commissioners' authority to approve subdivision plats, and to accept certain dedications of interests in land for road, drainage, utility, sidewalk, or signing related purposes from members of the public, in order to reduce delays for local development projects, to simplify the final formal requirements for approval prior to recording, and to reduce staff time and expenses incurred in the process of seeking Board acceptance. The authority granted in this Chapter is in addition to any other grants of authority to County officers to acquire interests in real property on behalf of the County. [Added by Ord. 06-2004, 4/8/04]

11.02.020 Dedications in Conjunction with Land Partitions

When made in conjunction with land partitions, dedications of interests for road, drainage, utility, sidewalk, or signing related purposes may be completed by specific notation on the face of the partition, without need for a separate deed. [Added by Ord. 06-2004, 4/8/04]

11.02.030 Updating Official Road Registers

Each time a new right-of-way dedication of any nature that abuts an existing County road or local access road is accepted under this Chapter, the County's official road register for these County or local access roads shall be updated by the staff of the person in possession of and responsible for that road register, in order to reflect acquisition of the new interest in land. The person accepting the new dedication under the authority of this Chapter must promptly communicate with the person in possession of and responsible for the affected road register, advising him or her to update it to reflect the new acceptance. [Added by Ord. 06-2004, 4/8/04]

11.02.040 Designation of Authorized Persons

The Board of County Commissioners delegates authority to each of the following persons and their written designee(s) to accept dedications of public rights-of-way and related or appurtenant easements on behalf of the County when made on the

face of a partition plat under this Chapter, and to approve subdivision plats on behalf of the Board of County Commissioners:

- A. The County Surveyor; or
- B. If the County Surveyor is unavailable, then the Deputy County Surveyor.
[Added by Ord. 06-2004, 4/8/04; Amended by Ord. 03-2006, 6/22/06]

11.02.050 Further Delegations of Authority

The persons designated in Section 11.02.040 may, from time to time, make a further delegation of the authority granted by this Chapter, to another County staff person or another County staff person's designee upon approval of the County Administrator. Such further delegations must be limited in duration, and must be in writing. Any further delegation from the persons designated in Section 11.02.040, written or otherwise, that purports to be a *permanent* delegation of the authority granted by this chapter shall be null and void. [Added by Ord. 06-2004, 4/8/04]

11.02.060 Modifications to Designations of Authorized Persons

The designations of authorized persons and delegations of authority in this Chapter may be modified at any time by ordinance of the Board of County Commissioners. [Added by Ord. 06-2004, 4/8/04]

11.02.070 Savings Clause

Should any section, clause, phrase or word in this Chapter be held to be invalid or unenforceable by a court of competent jurisdiction, it shall not affect the validity of the remainder of this Chapter. All portions of this Chapter not stricken under the court's decision shall continue in full force and effect. [Added by Ord. 06-2004, 4/8/04]

Chapter 11.03

11.03 TRANSPORTATION SYSTEM DEVELOPMENT CHARGE

11.03.010 Purpose

- A. New development within Unincorporated Clackamas County will use existing, excess capacity and contributes to the need for increased capacity in arterial, boulevard, and collector roads and therefore should contribute to the funding for such facilities. These Transportation System Development Charges will reimburse the County for a portion of the cost of excess capacity and fund a portion of the needed increased capacity for arterial, boulevard, and collector roads associated with such development. The County may develop and impose system development charges jointly with cities.
- B. ORS 223.297 through 223.314 grant the County the authority to impose a Transportation System Development Charge to equitably spread the costs of essential capital improvements to new development. Future developments will contribute their fair share to the cost of existing, excess capacity facilities and improvements and additions to transportation facilities required to accommodate the capacity needs created by growth. In its discretion, the Board of Commissioners may choose to impose a charge on classes of development types that is less than the maximum allowed by law in order to promote other public policy considerations. The County may impose one or more charges in areas that are smaller than the entire unincorporated County.
- C. The Transportation System Development Charge is incurred upon the issuance of a permit to develop property at a specific use, density and/or intensity. The incurred charge is less than the actual cost of providing public facilities commensurate with the needs of the chosen use, density, and/or intensity. Decisions regarding uses, densities, and/or intensities cause direct and proportional changes in the amount of the incurred charge. The Transportation System Development Charge is separate from assessments, or other fees provided by law or imposed as a condition of development. It is a fee for service because it relates a development's fee to receipt of services based upon the nature of that development.
- D. The Transportation System Development Charges imposed by this chapter are not intended to be a tax on property or on a property owner as a direct consequence of ownership of property within the meaning of Section 11b, Article XI of the Oregon Constitution or the legislation implementing that section.
- E. The funding provided by this Chapter constitutes a mandatory collection method based upon the guidelines set forth in ORS 223.297 – 223.314 to assure the construction of increased capacity in arterial, boulevard, and collector roads as shown in the County Comprehensive Plan.

- F. This Chapter is intended to reimburse the County for the costs of existing, excess capacity and to provide a financing mechanism for needed increased capacity in arterial, boulevard, and collector roads associated with new development and not for maintenance of existing roads.
- G. The County hereby adopts the methodology report entitled “Countywide Transportation System Development Charges Methodology Update Report” (dated November 30, 2006), and the methodology report entitled “Happy Valley/Clackamas County Joint Capital Improvement Plan Area, Transportation System Development Charges Methodology Report” (dated November 30, 2006) and incorporates by reference the assumptions, conclusions, project lists, charges and findings in the reports which refer to the determination of costs of excess capacity, and anticipated costs of capital improvements required to accommodate growth, and the rates for the Transportation System Development Charges to finance these capital improvements. The charges adopted by the Countywide report do not apply in the geographic area covered by the Happy Valley/Clackamas County Joint Area. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2002, 1/10/02; Amended by Ord. 02-2002, 2/28/02; Amended by Ord. 05-2008, 12/18/08]

11.03.020 Definitions

All terms not defined below shall be defined in the Clackamas County Zoning and Development Ordinance.

- A. **ARTERIAL** means that term as defined and used in the Transportation Element of the County Comprehensive Plan.
- B. **AVERAGE WEEKDAY TRIPS** means the average number of weekday motor vehicle trips entering and leaving a site. Average weekday trips are calculated by using the Institute of Transportation Engineers (ITE) Manual or as otherwise provided by this Chapter.
- C. **BOARD** means the Board of County Commission of Clackamas County, Oregon.
- D. **BOULEVARD** means that term as defined and used in the Transportation Element of the County Comprehensive Plan.
- E. **BUILDING OFFICIAL** means that person, or his designee, certified by the State and designated as such to administer the State Building Codes for the County.
- F. **BUILDING PERMIT** means that permit issued by the County Building Official pursuant to the most recently published versions of the State of Oregon Structural Specialty Code Section 105, and the Oregon Residential Specialty Code Section R-105. In addition, Building Permit shall mean the Manufactured Home Installation Permit issued by the County Building Official, relating to the placement of manufactured homes in the County.
- G. **CAPACITY** means the maximum rate of flow at which persons or vehicles can be reasonably expected to traverse a point or uniform segment of a lane or roadway during a specified time period under prevailing roadway, traffic, and control conditions, usually expressed as vehicles per hour or persons per hour. (Capacity

- is frequently increased by methods such as the addition of travel lanes, right turn or left turn refuges, improved width, hazard elimination, alignment or other geometric characteristics of the roadway, signalization or signalization improvements such as synchronization.).
- H. CAPITAL IMPROVEMENT PLAN means a plan and list of capital projects adopted by the Board of County Commissioners identifying the estimated cost and timing for projects needed in a twenty year timeframe.
 - I. COLLECTOR means that term as defined and used in the Transportation Element of the County Comprehensive Plan.
 - J. COMPREHENSIVE PLAN means the County's generalized, coordinated land use map and policy statement that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation facilities, and recreational and natural resources and air and water quality management programs.
 - K. CONSTRUCTION COST INDEX means that index published by the Engineering News Record (ENR) Northwest (Seattle, Washington) titled "Construction Cost Index."
 - L. COUNTY means Clackamas County, Oregon.
 - M. DEVELOPMENT PERMIT means a grading, excavation, engineering, building, land use or similar permit issued by the County.
 - N. DEPARTMENT means the Clackamas County Department of Transportation and Development.
 - O. FINANCE DIRECTOR is that person assigned by the Board of County Commissioners the responsibility of managing the Finance Department for Clackamas County, or his or her designee.
 - P. IMPROVEMENT FEE means a fee for costs associated with capital improvements to be constructed.
 - Q. INCREASED CAPACITY FACILITIES include capital improvements to an arterial, collector, or boulevard shown in the project lists in the Reports adopted by Section 11.03.010.G or the County Transportation Capital Improvement Plan which increase the level of performance or service provided by existing facilities, or provide new facilities. Such improvements include, but are not limited to, signalization, channelization, widening, drainage facilities, pedestrian improvements, street extensions, railroad crossing protective devices, bridges and bikeways.
 - R. ITE TRIP GENERATION MANUAL means the most recently published edition of the manual entitled Trip Generation, published by the Institute of Transportation Engineers. A copy of the ITE Trip Generation Manual shall be kept on file with the County Department of Transportation and Development. All land uses referenced in this ordinance are those defined in the most recently published edition of the ITE Manual.
 - S. LOCAL STREET means that term as defined and used in the Transportation Element of the County Comprehensive Plan.

- T. LONG TERM FINANCING Bonds issued by the County to finance a capital improvement in accordance with ORS 223.205 – 223.295.
- U. MIXED-USE DEVELOPMENT means a development that includes a combination of retail/commercial and/or service uses with residential or office use in the same building or on the same site.
- V. NEW DEVELOPMENT means site improvements that increase overall trip generation.
- W. QUALIFIED PUBLIC IMPROVEMENT means an increased capacity facility a capital improvement that is required as a condition of development approval, identified in a project list included in a Methodology Report adopted by Section 11.03.010G and 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.
- X. REIMBURSEMENT FEE means a fee for costs associated with capital improvements already constructed or under construction when the fee is established, for which the local government determines that capacity exists.
- Y. RIGHT-OF-WAY means that portion of land that is dedicated for public use. Public uses may include but are not limited to pedestrian facilities (e.g., sidewalks, plazas), utility placement, signage, etc.
- Z. TRANSPORTATION SYSTEM DEVELOPMENT CHARGE means the fee to be paid pursuant to Section 11.03.030 of this Chapter. [Codified by Ord. 05-2000, 7/13/00; Amended by Section 2 of Ord. 01-2002, 1/10/02; Amended by Ord. 05-2008, 12/18/08]

11.03.030 Application

- A. A Transportation System Development Charge is imposed upon all new development within unincorporated Clackamas County for which a development or building permit is required. Where an intergovernmental agreement imposes a city's System Development Charge for transportation facilities on new development within unincorporated Clackamas County, the County shall not impose its own Transportation System Development Charge.
- B. The applicant for a development or building permit shall, at the time of application, provide the Department with all of the necessary and applicable information, such as the description of use, number of dwelling units or square footage of structures, necessary to calculate the Transportation System Development Charge. The Department shall notify the applicant of the right to appeal the decision on the calculation of the charge pursuant to 11.03.080.
- C. The amount of the Transportation System Development Charge shall be determined as identified in the Methodology Reports adopted pursuant to Section 11.03.010 G, and amended pursuant to Section 11.03.030 G, and Section 11.03.090 or adjusted pursuant to Section 11.03.030 D or E.

- D. If the County has not assigned a Transportation System Development Charge rate for the identified land use listed in the ITE Manual, or if data is “Not Available” in the ITE Manual, the Department shall at its option either:
1. Identify the land use that has a trip generation rate most similar to the use in question and apply that rate.
 2. Consider trip generation data, gathered in a credible manner, preferably by a registered traffic engineer, for the same or similar use. Such a study shall be prepared at the applicant’s expense and must be submitted at least two weeks prior to expected issuance of a development or building permit. The Department Director or the Director’s designee has the right to accept, accept in part, modify, or reject the calculations offered under this option.
 3. The following guidelines apply to data collection under option 2 for land uses not in the ITE Manual.
 - a. The applicant shall submit a list of similar uses with similar characteristics in Oregon, Washington, California, or preferably in the Portland region. Uses must have been open for business for at least a year.
 - b. The Department will determine the number of sites and locations for which the applicant will be required to submit traffic counts.
 - c. The applicant shall supply the Department with the following information for each site:
 - (1) Monthly adjustment factors to adjust trip generation to the fourth highest business (earnings) month.
 - (2) Standard days and hours of operations.
 - (3) Counts from sites on a weekday (mid-week – two day minimum) from 7:00 to 9:00 a.m. and from 4:00 to 6:00 p.m. Actual counting time and days may vary depending on uses and standard days of operation and shall be approved by the Department.
 - (4) Quantification of pass by, pedestrian, bicycle and transit trips when applicable.
 - (5) A vicinity map for each site.
 - d. The applicant shall adjust this data as follows:
 - (1) Adjust a.m. and p.m. trips to average weekday trips based on the proportion of similar uses in the current edition of the ITE Manual.
 - (2) Adjust daily number to average weekday trips if weekend data are collected.
 - (3) Adjust average weekday trips to the fourth highest month based on monthly adjustment factors supplied by the applicant.

- (4) Adjust pass by, pedestrian, bicycle, and transit trips for potential trip reduction.
- e. The Department shall review the applicant’s data collection and adjustments, and the Department Director or the Director’s designee shall issue a final ruling to the applicant regarding which data and adjustments will be used for Transportation System Development Charges.
- E. A development site may include more than one of the ITE land uses identified in the Reports. In such event, the Department, for purposes of establishing the Transportation System Development Charge for a Mixed-Use Development, shall apportion the uses as a percentage square footage of each use in the development. Based on the County policy to reduce impacts on the transportation system through encouragement of mixed-use development, the final Transportation System Development Charge for mixed-use development shall be reduced by 10% of the calculated cost.
- F. Notwithstanding any other provision, the rates adopted pursuant to Subsection C of this Section shall, annually, be adjusted to account for changes in the costs of acquiring and constructing transportation facilities. The adjustment factor shall be based on the change in average market value of undeveloped land, except resource properties, in Clackamas County according to the records of the County Tax Assessor, and the change in construction costs according to the Engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index and the Oregon Department of Transportation (ODOT) Construction Cost Trends; and shall be determined as follows:

Change in Average Market Value	x	0.30	30%
Change in ODOT Construction Cost Trends	x	0.35	35%
+ Change in ENR Construction Cost Index	x	0.35	35%
= Transportation System Development Charge Adjustment Factor			100%

The Transportation System Development Charge Adjustment Factor shall be used to adjust the Transportation System Development Charge, unless it is otherwise adjusted by the Board of County Commissioners based on adoption of an updated methodology or capital improvement plan, or through an Annual Review as described in 11.03.090. However, if the Transportation System Development Charge Adjustment Factor results in a negative value, no adjustment to the rates will be made that calendar year. [Codified by Ord. 05-2000, 7/13/00; Amended by Section 6 of Ord. 01-2002, 1/10/02; Amended by Ord. 02-2002, 2/28/02; Amended by Ord. 05-2008, 12/18/08]

11.03.040 Collection

- A. The Transportation System Development Charge is due and payable at the time of issuance of the Development Permit. The Development Permit shall not be issued,

- except as provided in Subsection C.3 or D of this Section, until payment is made. The Transportation System Development Charge (TSDC) rate in effect at the time that a complete development permit submittal is received by the County will be applied to that permit. That TSDC rate is effective for 180 days from the date the land use approval or development permit approval is given, whichever comes last. At the expiration of the 180 day period, if the permit is not issued, any TSDC rate adjustments can be applied to the permit.
- B. Notwithstanding Section 11.03.030 A, the following are exempt from the Transportation System Development Charge:
1. Remodeling or replacement of any single-family structure (including mobile homes) for residential purposes only, unless the use was discontinued for a period of more than three (3) years, except to the extent such remodeling or replacement creates additional dwelling units.
 2. Remodeling or replacement of any multi-family structure unless the use was discontinued for a period of more than two (2) years, except to the extent such remodeling or replacement creates additional dwelling units.
 3. Remodeling or replacement of office, business and commercial, industrial or institutional structures unless the use was discontinued for a period of more than two (2) years, except to the extent it generates additional, average weekday trips as determined in the manner set forth in a Methodology Report adopted by Section 11.03.010G, or as provided in Section 11.03.030, paragraphs D or E, whichever is applicable.
- C. When re-establishing a legal, discontinued use and a development or building permit is required, the following standards are applied:
1. Built after May 1993: If the original development took place after May, 1993, and the appropriate Transportation System Development Charge was paid, no further Transportation System Development Charge will be charged unless that use is one that would increase the average daily trips generated beyond the original use. In such cases, the Transportation System Development Charge will be assessed based on the difference.
 2. Built prior to May 1993: If the original development took place prior to May 1993, no Transportation System Development Charge would have been paid on the development in question. If the development now requires a development or building permit to reestablish a legal use, a Transportation System Development Charge will be assessed if:
 - a. For commercial structures (which include manufactured home parks, duplexes, triplexes and multi-tenant apartments) – they have been one hundred percent (100%) vacant for longer than two (2) years.
 - b. For residential structures (which include manufactured homes not in a manufactured home park, townhomes and condominiums) – they have been one hundred percent (100%) vacant for longer than three (3) years.

The applicant will be responsible for submitting data confirming the date that the use was discontinued and verifying the previous use of the structure.

3. Payment of the Transportation System Development Charge by a person who is also eligible for a credit voucher for construction of an increased capacity facility may be delayed until a date certain to be set by the Department at the time of development or building permit issuance, but not later than 10 days after the issuance of the credit voucher against the improvement pursuant to Section 11.03.050. A permittee eligible for delay of payment of the Transportation System Development Charge pursuant to this section shall make application to delay payment on a form provided by the Department, prior to issuance of the development or building permit. Payment of the Transportation System Development Charge may only be delayed for the same development which is associated with the construction of the capital improvement for which credit is given. If a permittee applies for delay of payment of the Transportation System Development Charge pursuant to this section, the permittee shall provide the Department with security to secure payment of the Charge. The security shall be in an amount determined by the Department, and must be in a form approved by the County Counsel.
- D. When a Transportation System Development Charge is due and payable, the permittee may apply for payment in (20) semiannual installments, secured by a lien on the property upon which the development is to occur, to include interest on the unpaid balance, if that payment option is required to be made available to the permittee by ORS 223.207.
1. The Department shall provide application forms for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors. The application fee for this option shall be \$500.
 2. The applicable interest rate shall be fixed at the current prime lending rate plus three percentage points.
 3. An applicant requesting installment payments shall have the burden of demonstrating the authority to assent to the imposition of a lien on the property and that the interest of the permittee is adequate to secure payment of the lien. The Finance Director may order the imposition of the lien as recommended by the Department.
 4. Upon the Finance Director's order the Department shall cause the lien to be recorded on the lien docket kept by the County Clerk. From that time the County shall have a lien upon the described parcel for the amount of the Transportation System Development Charge, together with interest on the unpaid balance at the rate established by the Finance Director. The lien shall be enforceable in the manner provided in ORS Chapter 223, and shall be superior to all other liens pursuant to ORS 223.230. Upon satisfaction of the obligation the Finance Director shall request the County Clerk to release the lien.

- E. With the passage of Article XI, Section 11 B of the Oregon Constitution, progressive payment shall be taken for all unpaid debt. The Finance Director will be notified immediately by the Department of any account (30) days or more past due. The Finance Director shall then send a letter to the defaulting party demanding payment no later than (30) days following the date of the demand letter. The demand letter shall require payment of all amounts to bring the account current including any applicable interest or other penalty and shall demand full compliance with a “time is of the essence” clause according to the type of obligation at issue. The time for payment to bring the account current shall be left to the best professional judgment of the Finance Director depending upon the type of debt and amount owed but in no event shall time for payment exceed the next payment due date or any other requirements imposed by debt instruments executed by the County in favor of any third party or other agreements that may have been executed by the County.
1. If payment has not been made following the first notice, the Finance Director shall send a second notice detailing the prior defaults and notices thereof indicating that further action, including legal action, will be taken.
 2. If, following the second notice, time for payment has expired, then the Finance Director shall include the defaulting person or entity on a list entitled “Collection/Foreclosure” and consult with appropriate staff and legal counsel regarding the most efficient and cost effective method for collection of the debt.
 3. The Finance Director shall determine if the matter will be referred to legal counsel, a debt collection agency or other method for collection. If referred to legal counsel, a demand letter to the debtor shall be sent declaring a default, accelerating the entire balance and requiring full payment within a reasonable period of time not to exceed (30) days. If no satisfactory response is forthcoming, the Finance Director may extend the time limits for legal action in cases of extraordinary hardship; such determination shall be at the sole discretion of the Finance Director and not subject to review by the Board.
 4. Upon referral and direction by the Finance Director, counsel may proceed with foreclosure of the assessment lien or take other legal action authorized by law which is deemed most appropriate under the circumstances.
 5. If the Finance Director determines that it is most effective to use the services of a collection agency, the Finance Director may solicit proposals and make a recommendation to the Board regarding selection of a firm consistent with the Clackamas County Local Contract Review Board Rules and ORS Chapter 279. The Finance Director shall be authorized to negotiate a contract regarding the amount of compensation, length of term and methods of collection, subject to final review and approval by the Board. However, the contract shall specifically provide that the collection agency shall fully comply with the Fair Debt Collection Practices Act, 15 U.S.C. 1601, et seq., and shall provide for full indemnification and

protection of the County from any and all claims for unfair or unlawful debt collection practices. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2002, 1/10/02; Amended by Ord. 02-2002, 2/28/02; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 05-2008, 12/18/08]

11.03.050 Credit

- A. The person responsible for providing a qualified public improvement shall be entitled to receive a credit voucher that may be used to satisfy a Transportation System Development Charge obligation within the same geographic collection area for which the credit is given. An application for credit must be received no later than 90 days after the date the improvement has been accepted by the responsible government.
- B. The credit amount shall not exceed the portion of the actual cost of the project that is eligible for SDC funding as shown in the methodology reports adopted by 11.03.010.
- C. The “actual cost” of the project or improvement means the cost of materials, land and construction including design and engineering, permits, use of equipment, and labor directly related to capacity-increasing capital improvements above the local street level.
- D. Any credit provided for by this section shall be applied only to the Transportation System Development Charge that applies to the geographic collection area in which the credit eligible improvement is located.
- E. Credit will be given for the value of real property donated for right of way needed as a part of the increased capacity facility. The land value shall be calculated either at a per square foot value using the then current real market value for the real property shown in the records of the County Tax Assessor, or through a certified market appraisal, paid for by the applicant, that establishes the land value when the property was donated for the needed right of way.
- F. Any credit voucher provided for in this Chapter is transferable to any person. Credits shall apply against only the applicable Transportation System Development Charges. No credit issued after January 11, 2002 may be redeemed for cash. A credit issued prior to that date may be redeemed in the manner available when the credit was issued. The Department shall implement a system to insure the authenticity of the credit documents submitted.
- G. A credit voucher may not be redeemed more than seven years after the date it was issued by the Department.
- H. The Department Director can delegate signature authority for credit vouchers to a designee. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2002, 1/10/02; Amended by Ord. 02-2002, 2/28/02; Amended by Ord. 05-2008, 12/18/08]

11.03.060 Refunds

Refunds may be given by the Department upon finding that there was a clerical error in the calculation of the Transportation System Development Charge. Refunds shall not be allowed for failure to claim credit, as provided for in Section 11.03.050, at the time of development or Building Permit issuance. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2002, 1/10/02; Amended by Ord. 05-2008, 12/18/08]

11.03.070 Dedicated Funds, Project Lists

- A. There are created two dedicated funds entitled the Transportation System Development Charge fund, and the Happy Valley/Clackamas County Joint SDC Fund, herein “funds,” one fund for each of the TSDC charges imposed by this chapter. All monies derived from the Transportation System Development Charges shall be placed in the funds. Transportation System Development Charge revenue shall be used to fund those projects identified in the Methodology Reports adopted by Section 11.03.010.G, increased capacity facilities, and costs related to the administration of the TSDC program as provided by ORS 223.307.
- B. The Project Lists adopted by Section 11.03.010.G may be amended from time to time by Board Resolution. [Codified by Ord. 05-2000, 7/13/00; Amended by Section 15 of Ord. 01-2002, enacted 1-10-02] [Amended by Section 5 of Ord. 02-2002, 2-28-02] If a system development charge will be increased by a proposed modification of a project list to include capacity increasing capital improvement(s):
1. The County shall provide, at least 30 days prior to the adoption of the modification, notice of the proposed modification to the persons who have requested written notice under ORS 223.305 (6).
 2. If the County receives a written request for a hearing on the proposed modification within seven days of the date the proposed modification is scheduled for adoption, the County shall hold a public hearing.
 3. Notwithstanding ORS 294.160, a public hearing is not required if the County does not receive a written request for a hearing.
 4. The decision of the County to increase the system development charge by modifying the list may be judicially reviewed only as provided in ORS 34.010 to 34.100. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2002, 1/10/02; Amended by Ord. 05-2008, 12/18/08]

11.03.080 Appeal

- A. An applicant may appeal a decision of the Department to the County Hearings Officer by filing a written request with the Department within fourteen days of the Department’s decision. The individual acting as the Hearings Officer will be appointed by the Board of County Commissioners.

- B. Appeals Fee – The fee for appealing a decision to the Hearings Officer will be \$500.00.
- C. The decision of the Hearings Officer shall be reviewable solely under ORS 34.010 through 34.100. The person who has appealed a decision shall be notified of this right to review of the decision. [Codified by Ord. 05-2000, 7/13/00; Amended by Section 16 of Ord. 01-2002, 1/10/02; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 05-2008, 12/18/08]

11.03.090 Annual Review

- A. The County shall prepare an annual review to determine that sufficient funds will be available to help fund the needed increased capacity facilities, to ensure that the adopted Transportation System Development Charge rate keeps pace with inflation, and to ensure that such facilities will not be over-funded by the Transportation System Development Charge receipts.
- B. In the event, upon annual review, it is determined an adjustment to the Transportation System Development Charge is necessary in order to ensure sufficient funding for the construction of increased capacity facilities or to ensure such facilities are not over-funded by the Transportation System Development Charge, the Board shall propose and adopt appropriately adjusted Transportation System Development Charge.
- C. Prior to January 1 of each year the County shall provide an annual accounting for the activity occurring in the dedicated funds created by 11.03.070 for the previous fiscal year. The accounting shall show by fund the total amount of system development charges collected, the amount spent on each project that was funded in whole or in part in that fiscal year, and the amount attributed to the costs of complying with the provisions of ORS 223.297 to 223.314. [Codified by Ord. 05-2000, 7/13/00; Amended by Section 17 of Ord. 01-2002, 1-10-02; Amended by Ord. 05-2008, 12/18/08]