

CHAPTER 1025
System Development Charges

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CROSS REFERENCES

Finance Department - see ADM. Ch. 228
Public Works Department - see ADM. Ch. 232
Public works operations - see S.U. & P.S. Ch. 1020
County roads standards and specifications - see S.U. & P.S. 1020.02,
1020.03, Ch. 1024
Construction at Airport - see S.U. & P.S. 1062.59; Jackson County
Comprehensive Plan see P. & Z. Ch. 1226
South Medford Interchange B Surcharge to the Street System Development
Charge (SurSDC) - See S.U. & P.S. Ch. 1080

1025.01 PURPOSE; AUTHORITY.

The purpose of system development charges is to require a portion of the cost of capital improvements expended by the County to be paid by developments that create increased need for and demands on capital improvements. This chapter is authorized by ORS 223.297 to 223.314.

(Ord. 91-5. Passed 1-16-91.)

1025.02 SYSTEM DEVELOPMENT CHARGES ESTABLISHED.

System development charges shall be established in accordance with the procedures set forth in this chapter. Implementing ordinances or resolutions to establish methodology and fees shall state the area or areas within the County where the system development charges shall be imposed according to that methodology.

(Ord. 91-5. Passed 1-16-91.)

1025.03 SCOPE AND EXEMPTIONS.

(a) The system development charges imposed pursuant to this chapter are incurred as a result of development and are therefore separate from and in addition to any applicable tax, assessment, charge, fee or payment otherwise provided by law, imposed as a condition of ownership, imposed as a condition of development, or voluntarily contributed.

(b) Dwelling units, structures and uses established, existing and approved on or before the effective date of this chapter will not be required to pay a system development charge to the extent of the dwelling unit, structure or use that then legally exists, or is approved, and to the extent of the developed area of land as constituted on that date.

(c) Alteration, addition, replacement or change in use that does not add another dwelling or otherwise increase the parcels or structures potential use of the park and recreation system or transportation system according to this chapter shall not pay a system development charge for the park and recreation system or transportation system. Development projects required solely to comply with governmental regulations to protect the public health, safety and welfare, such as installation of pollution control equipment, shall not be deemed to increase use of the park and recreation system or transportation system.

(d) Each structure, use or building addition established after the effective date of this chapter shall pay a system development charge only once for a given type of capital improvement.

(e) An approved project for which permits expire shall be subject to system development charges as is all other new development.

(Ord. 91-5. Passed 1-16-91; Ord. 2000-4. Passed 3-15-00.)

1025.04 DEFINITIONS.

As used in this chapter:

- (a) Approved - means a development that is allowed pursuant to a building permit application submitted prior to the effective date of this chapter. For a period of one year after the effective date of this chapter an approved project shall also include developments resulting from land use applications for conditional use permits, mobile home park permits, destination resort approvals and commercial and industrial site plans submitted before the effective date of this chapter.
- (b) Board - means the Jackson County Board of Commissioners.
- (c) Capacity - means the limits of performance or service levels provided by capital facilities or assets.
- (d) Capital Improvements - means facilities or assets used for transportation or storm drainage and flood control or parks and recreation, but not including the cost of operation or routine maintenance of capital improvements. These facilities or assets include, but are not limited to: acquisition of rights-of-way; acquisition of land; alteration (including closure) of access points that improve road capacity; hard-surfacing of unpaved roads or road shoulders; bridge construction (new bridges and replacement or rehabilitation); reconstructing, placing or adding depth to road base; installation and modification of traffic signals; adding travel or turn lanes; widening lanes; widening road shoulders or bikeways; improving the ability of bridges, culverts, roadside ditches and storm drains to carry storm runoff or pass flood waters; construction or expansion of parks and recreation facilities; and landscaping and tree planting.
- (e) Development - means construction of a building or physical change in a structure that requires a building permit.
- (f) Dwelling - means a building or portion thereof, designed or used for human occupancy as a residence for one or more persons, not including vehicles, travel trailers or recreational/camping vehicles.
- (g) Improvement Fee - means a fee for costs associated with capital improvements to be constructed after the date the fee is paid.
- (h) Increase in Capacity or Capacity-Increasing - means an increase in system capacity that occurs when a capital improvement increases the level of performance or service provided by existing facilities or assets, or removes limits on the use of facilities or assets, or provides new facilities or assets.

- (i) Land Area - means the area of a unit of land as measured by projection of the parcel boundaries upon a horizontal plane with the exception of a portion of the unit of land within a recorded right of way or easement subject to a servitude for a public street or scenic or preservation purpose.
- (j) Owner - means the owner of record title or the purchaser under a recorded sales agreement, and other persons having an interest of record in the described real property.
- (k) Qualified Public Improvement - means capital improvements on arterial and collector roads or in the parks and recreation system that are identified in the capital improvements plan adopted pursuant to this chapter.
- (l) Reimbursement Fee - means a fee for actual costs associated with capital improvements already constructed or under construction when the fee is collected.
- (m) Routine Maintenance - means maintenance customarily performed by County forces, as distinct from extraordinary maintenance that is contracted out because the County does not have sufficient equipment or expertise readily available to perform the work.
- (n) System Development Charge - means a reimbursement fee, an improvement fee, or a combination thereof, paid or required at the time of increased usage of a capital improvement, at the time of issuance of a development permit or building permit, or at the time of connection to the capital improvement. "System development charge" does not include fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use decision.
- (o) Trip Share Factor - means the figure which represents the trip generation rate of a use or development adjusted to remove passby trips or adjusted for other relevant factors determined in the methodology for system development charges for road capacity.
- (p) Under Construction - means, with reference to a capital improvement, the time at which any contract to build or obtain the capital improvement becomes effective.
- (q) Unit of Land - means a lot, parcel, block or other tract of land that is occupied or may be occupied by a structure or structures or other use, and that includes the yards and other open spaces required under the Jackson County Land Development Ordinance, but excludes public rights of way.
- (r) Unused Capacity - means the capacity not used by existing developments or the existing population of an area and therefore available for use by new development.

(s) Wholly Contiguous - means property along the frontage or perimeter boundaries of a site; adjacent to a unit of land.

(Ord. 91-5. Passed 1-16-91; Ord. 2000-4. Passed 3-15-00.)

1025.05 METHODOLOGY.

(a) A methodology to establish reimbursement fees shall consider the actual cost of existing facilities, prior contributions by existing users, the value of unused capacity, rate-making principles employed to finance publicly owned capital improvements, and other relevant factors identified and documented in the ordinance or resolution establishing the methodology and fees. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share to the actual cost of existing facilities.

(b) A methodology to establish an improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related.

(c) A methodology to establish either an improvement fee or a reimbursement fee, or both, shall be contained in a resolution adopted by the Board, and available for public inspection.

(d) A legal action challenging a methodology adopted by the Board pursuant to this section shall not be filed later than sixty days after the adoption of the methodology.

(e) System development charges shall also include an additional amount to defray administrative costs, and may include costs of planning for capital improvements funded by system development charges.

(f) Rounding off to two places beyond the decimal point or to the nearest penny (one-hundredth of a dollar) shall be allowed at every step of any calculation concerning system development charges. The differences in fees that may result from such rounding off are minimal, and therefore will not impair the equitable application of this chapter.

(Ord. 91-5. Passed 1-16-91.)

1025.06 INDEPENDENT ENGINEERING EVALUATION.

(a) An applicant or an agency who disagrees with the amount of road-related system development charges may arrange at its own expense for independent evaluation, including actual counts of vehicle trips and trip ends, by a professional traffic engineer registered to practice in the State of Oregon.

(b) A letter stating the intention to have an independent engineering evaluation completed within eighteen months shall be accompanied by an appropriate engineering review fee and evidence of the applicant's system development charge placed on deposit with the Finance Director. Failure to submit a complete report to the County within eighteen months shall mean the amount on deposit will be the final system development charge for that use.

(c) Within thirty days of receiving the independent engineer's report, the Roads and Parks Director shall review the adequacy of the independent engineer's evaluation. If the report is found adequate and the result of the independent evaluation differs from the charge on deposit, the applicant shall either:

- (1) Be required to pay the amount on deposit plus any additional system development charge (not including interest) if the trip share factor is higher; or
- (2) Receive a refund from the amount on deposit (not including interest) if the trip share factor is lower.

(d) Disputed items in the independent engineer's evaluation or the Roads and Parks Director's review of the report may be appealed under the procedures in this chapter.

(Ord. 91-5. Passed 1-16-91; Ord. 2003-4. Passed 1-22-03; Ord. 2007-2. Passed 1-31-07.)

1025.07 REVENUE PURPOSES AND RESTRICTIONS.

(a) System development charges for road, street and highway projects and related storm drainage and flood control measures shall be applied to costs of capacity increasing capital improvements associated with the public road system in the County, including expenditures relating to repayment of indebtedness.

(b) A capital improvement being funded wholly or in part from system development charge revenues shall be included in the capital improvement plan(s) adopted by the Board.

(c) Notwithstanding subsections (a) and (b) hereof, system development charge revenues may be expended on the direct costs of complying with the provisions of this chapter, and ordinances or resolutions adopted pursuant to this chapter, including the actual costs of developing system development charge methodologies, developing capital improvement plans, and providing an annual accounting of system development charge expenditures.

(d) System development charges shall be earmarked for expenditure in accordance with this section, and deposited in accounts designated for such moneys. That portion of the system development charges (plus interest) paid on account of roads, streets and highways shall be used for no purpose other than those set forth in this chapter.

(e) The County Administrator shall provide the Board with an annual accounting for each fiscal year based on first-in, first-out treatment of costs related to system development charges. The annual accounting shall show the total amount of system development charge revenues accumulated for each type of facility and the projects funded by system development charges.

(f) System development charges shall not be expended for costs associated with the construction of administrative office facilities, but this shall not prohibit use of system development charges for administration of this chapter, nor overhead charges to capital projects.

(g) System development charges shall not be expended for operation or routine maintenance of capital improvements.

(h) System development charges for parks and recreation facilities and park and open space land shall be applied to costs of capacity increasing capital improvements associated with the park and recreation system in Jackson County, including expenditures relating to repayment of indebtedness.

(Ord. 91-5. Passed 1-16-91; Ord. 2000-4. Passed 3-15-00.)

1025.08 CAPITAL IMPROVEMENT PLAN.

Prior to adopting any improvement fee and prior to expending any reimbursement fee revenues, the Board shall adopt a Capital Improvement Plan or Plans, which may include, but not be limited to, a Road System Plan coordinated with the Jackson County Comprehensive Plan that:

(a) Describes the types of capital improvements that may be funded with system development charge revenues;

(b) Lists the estimated cost for each type of capital outlay by fiscal year;

(c) Indicates the timing of specific capital improvement projects at least one fiscal year in advance; and

(d) Describes the process for modifying the plan and determining capital project priorities.

(Ord. 91-5. Passed 1-16-91.)

1025.09 PAYMENT OF CHARGES BY DEVELOPERS.

(a) System development charges are payable by developers prior to issuance of permits to build or put in place any of the following:

- (1) Additional dwelling units on individual units of land;
- (2) New or added mobile home spaces in a mobile home park; or
- (3) New construction or additions of more than 500 square feet of nonresidential structures.

(b) The Finance Director shall receive payment of the system development charge from the developer of the unit of land prior to issuance of a permit that allows development.

(c) If development begins without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required.

(d) When system development charges are due and unpaid, the Development Services Director shall not issue a building permit nor other permit that allows development, until the charges have been paid in full, or until an application for installment payments has been approved.

(Ord. 91-5. Passed 1-16-91; Ord. 2003-4. Passed 1-22-03; Ord. 2007-2. Passed 1-31-07.)

1025.10 INSTALLMENT PAYMENT OPTION FOR OWNERS.

(a) When a system development charge is due and payable, the owner of land subject to the development charge may apply for payment in semi-annual installments. The installments shall include interest on the unpaid balance and charges to defray the actual administrative cost of providing the installment payment option. Installment payments may be distributed according to a schedule adopted by resolution of the Board, provided that all charges shall be paid in full upon sale of the property.

(b) An applicant for installment payments shall have the burden of demonstrating the applicant's authority as owner to assent to the imposition of a lien on the land and that the interest of the applicant is adequate to secure payment.

(c) The Finance Director 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.

(d) When the installment payment option is requested, the Development Services Director shall report to the Finance Director the amount of the system development charge owing, the name of the developer, the name of the owner, and the description of the parcel. The Finance Director shall prepare the lien agreement, including the dates on which payments are due, and the additional amount for interest and the actual administrative costs on installment payments.

(Ord. 91-5. Passed 1-16-91; Ord. 2003-4. Passed 1-22-03; Ord. 2007-2. Passed 1-31-07.)

1025.11 DELINQUENT CHARGES.

(a) When, for any reason, an installment payment or system development charge has not been paid, the Finance-Director shall:

- (1) Prepare a report and notice to the owner concerning the delinquent charges;
- (2) Describe the development to which the charges are attributable; and
- (3) Note the date the charges were due.

(b) The County Administrator may accept, reject or modify the determination of the Finance Director as set forth in the report. The County Administrator may direct the Finance Director to docket any additional unpaid and uncollected charges in the lien docket as may be necessary. Upon completion of the docketing, the County shall have a lien against the described land for the full amount of the unpaid charge, together with interest and the County's actual cost of publishing or serving notice.

(Ord. 91-5. Passed 1-16-91.)

1025.12 CREDITS.

(a) Credit for a qualified public improvement associated with a new development shall be given as an offset to charges due, provided the credit is applied for with payment of an appropriate engineering review fee prior to the date when a system development charge is due and payable. If a qualified public improvement is located partially on and partially off the parcel that is the subject of the development approval, the credit shall be given only for the actual cost of the portion of the improvement not located on to the property as determined by the Roads and Parks Director. (Ord. 2003-4. Passed 1-22-03; Ord. 2007-2. Passed 1-31-07.)

(b) Credit for a qualified public improvement may equal, but not exceed, the system development charge due from a development, even if the actual cost of the capital improvement as documented by the developer exceeds the applicable system development charge.

(c) Credit for a qualified public improvement shall not be transferable from one development to another, except upon the finding of the Roads and Parks Director that a reasonable relationship exists between the improvement and the development to which credit is transferred.

(d) Credit for a qualified public improvement shall not be transferable from one type of capital improvement to another, except that storm drains and flood control measures within the right of way that are an integral part of road or bridge construction projects are not a separate type of capital improvement for the purposes of this section.

(e) Credit for capital improvements will be allowed only on building permits issued within three years after completion and acceptance of the capital improvements.

(Ord. 91-5. Passed 1-16-91; Ord. 2003-4. Passed 1-22-03; Ord. 2007-2. Passed 1-31-07.)

1025.13 APPEALS.

(a) Any person aggrieved by a decision required or permitted to be made by County officials pursuant to this chapter or a person challenging the propriety of an expenditure of system development charge revenues may appeal the decision or the expenditure by filing a written request (including an appropriate appeal fee) with the County Administrator describing with particularity the decision or the expenditure from which the person appeals.

(b) An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure. If the Board determines that there has been an improper expenditure of system development charge revenues, the Board shall direct that a sum equal to the misspent amount be deposited, within one year, to the credit of the account or fund from which it was spent.

(c) Appeals of other decisions must be filed within ten working days of the date of the decision. If an error in calculating a fee is alleged, the County Administrator shall confirm the amount due. If the County Administrator determines there has been an error in calculation of the fee, the County Administrator shall correct the error and notify the appellant and other County officials and refund the amount owing to the person who paid the fee. There shall be no refunds for failure to claim credit, nor failure to appeal in a timely manner.

(d) If no error in calculating the fee is found, the County Administrator shall consider whether the decision of any County official or an expenditure is in accordance with applicable ordinances or resolutions and the provisions of ORS 223.297 to 223.314 and may affirm, modify or overrule the decisions.

(e) The decision of the County Administrator may be appealed by a person with standing to the Board or a Hearings Officer designated by the Board.

(f) Refunds of system development charge revenues shall not result from errors in the expenditure of earmarked funds, because errors in expenditure of system development charges are a separate and distinct issue from fee amounts due from developers.

(Ord. 91-5. Passed 1-16-91.)

1025.14 PENALTY.

Violation of this chapter is punishable by a fine not to exceed \$500 plus the amount of the system development charge and all applicable interest and administrative costs, or revocation of access to roads under Jackson County jurisdiction, or both.

(Ord. 91-5. Passed 1-16-91.)

1025.15 INJUNCTIVE RELIEF.

Jackson County may seek injunctive relief or other appropriate civil remedy for any violation of this chapter.

(Ord. 91-5. Passed 1-16-91.)

1025.16 CONSTRUCTION.

The rules of statutory construction contained in ORS Chapter 174 are adopted and by this reference made a part of this chapter.

(Ord. 91-5. Passed 1-16-91.)

1025.17 SEVERABILITY.

The invalidity of a section or subsection of this chapter shall not affect the validity of the remaining sections or subsections.

(Ord. 91-5. Passed 1-16-91.)

1025.18 EFFECTIVE DATE.

- (a) This chapter shall become effective on July 1, 1991.
- (b) The amendments made by Ordinance No. 2000-4 shall become effective on July 1, 2000.

(Ord. 91-5. Passed 1-16-91; Ord. 2000-4. Passed 3-15-00.)