

# ADMINISTRATIVE PROCEDURES GUIDE

FOR

## SYSTEM DEVELOPMENT CHARGES

FOR

## TRANSPORTATION



CITY OF PORTLAND, OREGON

REVISED MAY 2017



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## INTRODUCTION TO PROCEDURES GUIDE

The purpose of this guide is to provide procedures for implementing transportation system development charges (Transportation SDCs or TSDCs) in the City of Portland.

*The City Council delegates authority to the Director of Transportation to adopt administrative rules and procedures necessary to implement provisions of this Chapter including the appointment of an SDC program Administrator. All rules pursuant to this delegated authority shall be files with the office of City Auditor and be available for public inspection.. (17.15.140)*

The guide follows how TSDCs are applied to individual developments, how they are calculated, paid, and deposited, and how TSDC revenues are ultimately used (expended). The guide also addresses refunds, appeals, recordkeeping, and updates of the TSDC Capital Improvement Program (which contains the list of projects authorized to be built using TSDC funds).

*ORS 223.297 through 223.314 grant the City authority to impose a SDC to equitably spread the costs of essential capacity increasing capital improvements to new development. (17.15.010 B.)*

This guide is based on and implements Chapter 17.15 of the Code of The City of Portland (first adopted by Ordinance 171301 in 1997). The guide presents information from the Ordinance in the sequence needed to determine a TSDC for an application for development. In addition, the guide provides forms, notifications, spreadsheets, and directions on a more detailed level than Chapter 17.15.

*In instances where a requirement or direction is quoted verbatim from the Transportation SDC Ordinance (Chapter 17.15), the text appears in italics.*



## APPLICABILITY OF TRANSPORTATION SYSTEM DEVELOPMENT CHARGES

### TYPES OF DEVELOPMENT

*The SDC is incurred upon application to develop property for a specific use or at a specific density. ... (17.15.010 C.)*

Transportation system development charges (TSDCs) apply to all “new development” (17.15.040) unless such development is explicitly exempted (see Section 3 of this guide for an explanation of exemptions). The Transportation SDC Ordinance defines “development” and “new development” as follows:

*“Development” means all improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage or activities which has the effect of generating additional weekday or weekend trips. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or unimproved land. (17.15.020 O.)*

*“New Development” means Development on any site which increases overall trip generation from the site according to Table 4-9 of The City Rate Study or pursuant to Section 17.15.070 of this Chapter. Except as provided under Section 17.15.050, New Development for purposes of this Chapter includes remodeling to the extent that it generates additional trips. (17.15.020 W.)*

When the development is an expansion or change in use of an existing structure, TSDCs are calculated only on the net increase in the size of the development (see Section 4 of this guide for an explanation of how to calculate TSDC amounts, including calculations of net increases in the size of expansions or other changes to an existing structure).

## **TYPES OF PERMITS**

TSDCs are imposed on building permits. Specifically, the Ordinance imposes the TSDC on "Applications" (which are specified in the Transportation SDC Ordinance as applications for building permits).

*Except as otherwise provided in this Chapter, a Transportation SDC shall be imposed upon all New Development for which an Application is filed after Oct. 18, 1997. (17.15.040 A.1.)*

*"Application" means the written request by an Applicant for a Building Permit. (17.15.020 E.)*

*"Building Permit" means that permit issued by the City Building Official pursuant to the State of Oregon Structural Specialty Code or as amended, and the State of Oregon Residential Specialty Code or as amended. In addition, Building Permit shall mean the Manufactured Home Installation Permit issued by the City Building Official, relating to placement of manufactured homes in the City. (17.15.020 G.)*

No building permit can be issued by the City unless and until the appropriate TSDCs are taken care of in one of three ways: (1) paid at the time the building permit is issued, (2) paid pursuant to a deferral or loan agreement that is executed by the applicant at the time the building permit is issued, or (3) the application is exempt from the TSDC.

## **INFORMATION NEEDED FOR DETERMINING TSDC APPLICABILITY AND AMOUNT**

*The Applicant shall at the time of Application provide the Administrator\* with the information requested on an SDC application form regarding the previous and proposed use(s) of the property, including the following (17.15.040 A.2.):*

- a. *A description of each of the previous and proposed uses for the property for which the Permit is being sought – with sufficient detail to enable the City to calculate trip generation for the entire property under the previous use and for the proposed use(s) of the New Development.*
- b. *For residential uses – the number of residential dwellings, including type, e.g., single family or multi-family.*
- c. *For commercial uses – the square footage for each type of commercial use, e.g., office, retail, etc.*

*\*"Administrator" means that person as appointed by the Director of Transportation to manage and implement this SDC program. (17.15.020 B.)*

The reference to “square footage” in 17.15.040 A.2.c can refer to other units of development that are used in the City Rate Study and any Overlay Rate Study, including acres, students, rooms, beds, screens, wash stalls, berths and vehicle fueling positions.

### **DEFINITION OF A COMPLETE PERMIT**

A complete initial permit application for a single new development project that will involve several permits is sufficient to vest the entire project for purposes of this section. A complete application is one for which the following documents have been submitted by the applicant and accepted by the City:

1. For commercial new development and additions, the following documents must be submitted:
  - a. A completed application form and payment of the required permit fees.
  - b. A site plan that includes the information described in the handout “Site Plan Check List.”
  - c. Design development drawings.
  - d. Information sufficient to construct building foundations for the proposed structure, including engineering and structural calculations.
2. For changes of use or other alteration projects, the following documents must be submitted:
  - a. A completed application form and payment of the required permit fees.
  - b. A site plan that includes the information described in the handout “Site Plan Check List.”
  - c. A floor plan indicating the existing (or most recent) uses.
  - d. A floor plan indicating the proposed changes in use.

3. For new single-family and duplex construction, the following documents must be submitted:
  - a. A completed application form and payment of the required permit fees.
  - b. A site plan that includes the information described in the handout "Site Plan Check List."
  - c. Information sufficient to construct the building, including any required engineering calculations and drawings.

### **DEFINITIONS OF IMPORTANT TERMS**

**Gross Floor Area (GFA):** The sum (in square feet) of the area of each floor level in the building, including cellars, basements, mezzanines, penthouses, corridors, lobbies, stores and offices, that are within the principal outside faces of exterior walls, not including architectural setbacks or projections. Included are all areas that have floor surfaces with clear standing head room (6 feet, 6 inches minimum) regardless of their use. If a ground-level area, or part thereof, within the principal outside faces of the exterior walls is not enclosed, this GFA is considered part of the overall square footage of the building. However, unroofed areas and unenclosed roofed-over spaces, except those contained within the principle outside faces of exterior walls, should be excluded from the area calculations. For purposes of trip generation and parking generation calculations, the GFA of any parking garages within the building should not be included within the GFA of the entire building. The unit of measurement for office buildings is currently GFA; however, it may be desirable to also obtain data related to gross rentable area and net rentable area.

**Gross Leasable Area (GLA):** The total floor area designed for tenant occupancy and exclusive use, including any basements, mezzanines, or upper floors, expressed in square feet and measured from the centerline of joint partitions and from outside wall faces. For purposes of trip generation and parking generation calculations, the floor area of any parking garages within the building should not be included within the GLA of the entire building. GLA is the area for which tenants pay rent; it is the area that produces income. In the retail business, GLA lends itself readily to measurement and comparison; thus, it has been adopted by the shopping center industry as its standard for statistical comparison. Accordingly, GLA is used for shopping centers. For strip centers, discount stores and freestanding retail facilities, GLA usually equals GFA.

## **DEFINITIONS OF LAND-USE CATEGORIES**

The following land-use definitions are derived from the *ITE Trip Generation* (9th Edition) publication. They have been modified as appropriate for the City of Portland. ITE land-use codes are shown; where multiple codes are listed, the code used for trip generation is marked with an asterisk (\*).

### **RESIDENTIAL**

**Single Family, detached:** Includes all single-family detached homes on individual lots and clustered homes of up to 3 units. (ITE # 210) Homes are stratified by size within the fee schedule. Single family homes (including ADUs) less than 1,000 square feet are charged at 50% of the full single family rate.

**Multi Family:** A building or buildings designed to house four or more families living independently of each other. Includes low-rise, mid-rise, and high-rise apartments. (ITE # 220) Also applies to row houses/townhouses/condos. (ITE # 230)

**Senior Housing/Assisted Living/Nursing Home:** Residential units similar to apartments or condominiums restricted to senior citizens. (ITE # 251\*). Also includes assisted living facilities (ITE # 253) and nursing homes (ITE # 620).

### **COMMERCIAL-SERVICES**

**Bank:** A building, with or without a drive-up window, for the custody or exchange of money, and for facilitating the transmission of funds. (ITE # 911, 912\*)

**Day Care:** A facility for the care of infant and preschool age children during the daytime hours. Generally includes classrooms, offices, eating areas, and a playground. This also includes preschools. (Note: This does not apply to day care homes, family day care, mini-day care centers or mini-schools, rates for which must be separately calculated). (ITE # 520)

**Hotel/Motel:** A place of lodging providing sleeping accommodations. May include restaurants, cocktail lounges, meeting and banquet rooms or convention facilities. (ITE # 310\*, 320)

**Service Station/Gasoline Sales:** A facility used for the sale of gasoline, oil, and lubricants. May include areas for servicing or repairing vehicles. May include a minimart (not to exceed 1,500 square feet) and/or carwash. Minimarts larger than 1500 SF will be assessed separately at the "Convenience Store" rate. (ITE # 946)

**Carwash:** Manual operations where the driver parks and washes the vehicle in a stall, or an automated facility for the same purpose. (ITE # 947)

**Movie Theater/Event Hall:** Movie theaters consist of audience seating, with one or more screens, and a lobby and refreshment stand. Typically includes matinee showings. Also applies to event halls that offer entertainment activities. (ITE # 444)

**Health Club/Racquet Club:** Privately owned facility that may include swimming pools and whirlpools, saunas, weight-lifting and gymnastics equipment, exercise classes, tennis, racquetball, and handball courts. May feature exercise sports and other active physical conditioning, as well as a broader range of services such as juice bars and meeting rooms. (ITE #s 492\*, 493)

### **COMMERCIAL-INSTITUTIONAL**

**School, K-12:** Covers full range of primary and secondary schools. Includes elementary, junior high, middle school and high school uses. Both public and private schools are included in this land use. (ITE# 520, 530, average)

**University/College/Junior College:** Facilities of higher education including two-year, technical, four-year and graduate-level institutions. (ITE # 540\*, 550)

**Church:** A building providing public worship facilities. Generally houses assembly hall or sanctuary, meeting rooms, classrooms, and occasionally dining facilities. (ITE # 560)

**Hospital:** A building or buildings designed for the medical, surgical diagnosis, treatment and housing of persons under the care of doctors and nurses. Rest homes, nursing homes, convalescent homes and clinics are separate uses. (ITE #610)

**Park:** Parks are typically owned and operated by the City, but may include private uses. They can vary widely as to location, type and number of facilities, including recreational centers, boating or swimming facilities, sport fields, playgrounds, and picnic facilities. Fee applies to facilities added to existing parks or creation of new parks. (ITE # 411, 495\*)

### **COMMERCIAL-RESTAURANT**

**Restaurant (standalone):** An eating establishment that sells prepared food or beverages and generally offers accommodations for consuming the food or beverage on the premises. Usually serves breakfast, lunch, and/or dinner; generally does not have a drive-up window. Fees apply to standalone restaurants not directly connected to other shopping facilities and to restaurants exceeding 3,000 square feet. (ITE # 931)

**Quick Service Restaurant (Drive-through):** An eating establishment that offers quick food service and a limited menu of items. Food is generally served in

disposable wrappings or containers, and may be consumed inside or outside the restaurant building. Restaurants in this category have a drive-up window. (ITE # 934)

### **COMMERCIAL-RETAIL**

**Shopping/Retail:** Includes most forms of retail establishments, located in an integrated group of commercial establishments in a shopping center or designated retail area. May include a variety of uses, such as restaurants, small supermarkets, real estate offices, dance studios, and florists. Also includes retail space within a mixed-use building. For the purpose of this definition a mixed-use building consists of two or more of the following land use categories; residential, shopping/retail, entertainment, hotel/motel, or office. These land use categories have similar internal trip-making characteristics. (ITE #820, 826 average)

**Convenience Market:** A use that combines retail food sales with fast food or take-out food service; generally open long hours or 24 hours a day. If gasoline sales are included on-site, use Service Station/Gasoline Sales TSDC rate. (ITE # 851)

**Free-Standing Retail Store/Supermarket:** Includes free-standing retail stores, including big-box stores of various types and supermarkets. Use the shopping/retail category for non-free-standing retail stores (ITE # 815)

**Car Sales (New/Used):** Facilities are generally located as strip development along major arterial streets that already have a preponderance of commercial development. Generally included are auto services and parts sales along with a sometimes substantial used-car operation. Some dealerships also include leasing activities and truck sales and servicing. (ITE # 841)

### **COMMERCIAL-OFFICE**

**Administrative Office:** An administrative office building houses one or more tenants and is the location where affairs of a business, commercial or industrial organization, professional person or firm are conducted. The building or buildings may be limited to one tenant, either the owner or lessee, or contain a mixture of tenants including professional services, insurance companies, investment brokers, and company headquarters. (ITE # 710)

**Medical Office/Clinic:** A facility that provides diagnoses and outpatient care on a routine basis but does not provide prolonged in-house medical/surgical care. A medical office is generally operated by either a single private physician/dentist or a group of doctors and/or dentist. (ITE # 720)

### **INDUSTRIAL**

**Light Industrial/Manufacturing:** A facility that may contain industrial or manufacturing uses. Manufacturing facilities have the primary activity of

converting raw materials or parts into finished products. In addition to the actual production of goods, manufacturing facilities may also have office, warehouse, research and associated functions. Light Industrial facilities may be characterized by a mix of manufacturing, service and warehouse functions. Many produce goods by assembling other products, such as assembly of computers or other electronics. (ITE # 130)

**Warehouse/Storage:** Warehouses are primarily devoted to the storage of materials, but may also include limited office and maintenance areas. (ITE # 150)

**Self Storage:** Buildings in which a number of storage units or vaults are rented for the storage of goods. Each unit is physically separated from other units, and access is usually provided through an overhead door or other common access point. (ITE # 151)

## EXEMPTIONS

Transportation system development charges (TSDCs) are NOT applicable to specific applications described in the Transportation SDC Ordinance. The ordinance provides guidance regarding applications that contain both exempt and non-exempt uses:

*...Where New Development consists of only part of one or more of the uses described in this section, only that/those portion(s) of the development which qualify under this section are eligible for an exemption. The balance of the New Development which does not qualify for any exemption under this section shall be subject to the full SDC. ... (17.15.050)*

*For New Development which includes a mix of exempt and non-exempt forms of development, the applicable exemption(s) shall apply only to that portion of the New Development to which the exemption applies. (17.15.050 I.)*

In other words, the exemption only applies to the uses that are exempt, and the applicant must pay the TSDC for the portion of the development that is not exempt.

### **DEVELOPMENTS ELIGIBLE FOR EXEMPTIONS**

#### **DEVELOPMENTS IN COUNTY AREAS THAT IMPOSE TSDCs**

TSDCs do not apply to development in any area of the City that is also subject to a TSDC imposed by a County. This provision avoids double-charging development in such areas.

*This Chapter applies to all New Development throughout the City of Portland except for those areas where Washington County, Multnomah County or Clackamas County imposes a Transportation SDC or Traffic Impact Fee. (17.15.040)*

#### **TEMPORARY USES**

*Temporary uses are fully exempt so long as the use or structure proposed in the New Development will be used not more than 180 days in a single calendar year. (17.15.050 A.)*

*Alteration permits for tenant improvements, new construction or remodeling where the use or structure is of a temporary nature and is used less than 180 days in a calendar year. (17.15.050 F.3.)*

The City recognizes there is a minor conflict between these two provisions. The first would allow 180 days of use, but the second would allow only 179 days of use in order to qualify as "temporary" use. The City will acknowledge the longer amount of time (180 days) as "temporary" use that qualifies the development for an exemption from the TSDC.

This exemption is based on actual, not planned use of the facility. In other words, if a facility is used 181 or more days during any calendar year, the full TSDC becomes due and payable. The City's waiver notice to an applicant who is exempt because of "temporary" use will give notice to the applicant that actual use in excess of 180 days will trigger liability for the full SDC.

**REDEVELOPMENT CAUSING CHANGE IN TRIP GENERATION OF LESS THAN 15% AND FEWER THAN 25PM PEAK HOUR PERSON TRIPS**

*New Development which will not generate more than 15% additional person trips than the present use of the property and does not increase pm peak hour person trips by more than 25 shall be fully exempt. (17.15.050 B.)*

*If the person trips attributable to the proposed use of the New Development are within 15%± of the person trips attributable to the total previous use of the property and does not increase or decrease PM peak hour person trips by more than 25, the Applicant is not required to pay any SDC and is not eligible for any SDC reimbursement or credit\*. (17.15.040 A.3.a.)*

*\*"Credit" means the amount by which an Applicant may be able to reduce the SDC fee as provided in this Chapter. (17.15.020 M.)*

As a practical matter, this exemption can only apply to redevelopment because the 15% threshold is the difference between present and prior uses of the property. There is no "prior" use of vacant land, therefore the base (prior) trip

generation is zero. This exemption can only apply when the trips generated by redevelopment do not exceed the trips generated by the previous development at the same site by more than 15% or 25pm peak hour person trips.

If a redevelopment generates trips that are more than 115% of the trips generated by the previous development, or increases pm peak hour person trips by more than 25, then the redevelopment must pay the TSDC for all trips it generates that exceed those generated by the previous development. In other words, a redevelopment that does not qualify for this exemption is NOT entitled to an exemption for the first 15% increase in trips: it must pay the TSDC for all trips that exceed those generated by the previous development at the same site.

### **LOW-INCOME HOUSING**

Affordable housing is exempt pursuant to Section 30.01.095. (17.15.050C)

### **CHANGE IN OCCUPANCY OF SMALL BUILDINGS**

*Graded Scale: A change in occupancy of an existing building where the gross enclosed floor area does not exceed 3,000 square feet is fully exempt. A change in occupancy of an existing building where the gross floor area is between 3,000 square feet and 5,000 square feet shall be assessed on a graded scale. The percentage of the rate to be assessed on the entire existing building shall be calculated by the following equation: (size of existing building – 3,000 square feet)/2,000 square feet (17.15.050 E.)*

### **ALTERATION PERMITS FOR TENANT IMPROVEMENTS, NEW CONSTRUCTION OR REMODELING**

*Alteration permits for tenant improvements, new construction or remodeling\*:*

1. *where no additional dwelling unit(s) or structure(s) are created (17.15.050 F.I.);*

2. which is not reasonably expected to result in a significant increase in additional trips according to table 4-9 of the City Rate Study, and if applicable, the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report; (17.15.050 F.2.);

*\*\*“Remodel” or “Remodeling” means to alter, expand or replace an existing structure. (17.15.020 II.)*

Examples of development that do not place additional demands on the City's transportation system include:

1. Replacement of a structure with a new structure of the same size and use at the same site or lot when such replacement occurs within twelve (12) months of the demolition or destruction of the prior structure.
2. Alteration, expansion or enlargement, remodeling, rehabilitation or conversion of an existing dwelling unit where no additional units are created and the use is not changed.
3. Alteration of an existing non-residential structure that does not expand the useable space or change the use of the space.
4. Miscellaneous improvements, including but not limited to fences, walls, swimming pools, and signs.
5. Demolition or relocation of a structure on the same site.

### **ACCESSORY BUILDINGS OR STRUCTURES WITH NO ADDITIONAL IMPACTS**

*The construction of accessory buildings or structures which will not create additional dwelling units or which do not create additional demands on the City's capital improvements (17.15.050 G.)...is fully exempt.*

### **APPLYING FOR EXEMPTIONS**

*The uses listed and described in this section shall be exempt, either partially or fully, from payment of the Transportation SDC. Any Applicant seeking an exemption under this Section shall specifically request that exemption within 180 days after building permit issuance for the New Development. Should the Applicant dispute any decision by the City regarding an exemption request, the Applicant must apply for an Alternative Exemption calculation under Section 17.17.070. The Applicant has the burden of proving entitlement to any exemption so requested. (17.15.050)*

The City's Information Form (see Appendix, Form TSDC-1) includes information about potential exemptions for which the applicant may qualify.

### **APPEALING A DENIAL OF EXEMPTION**

Pursuant to this section, an applicant may request an ... alternative SDC exemption, but only under the following circumstances (17.15.070 A):

- *The Applicant believes the City improperly rejected a request for an exemption under Section 17.15.050 for which the Applicant believes it is eligible. (17.15.070 A.3.)*
- *If an Applicant has requested a full or partial exemption under Section 17.15.050, and that request has been denied, the Applicant may request an Alternative SDC Exemption under this section. Any request for an Alternative SDC Exemption calculation must be filed with the Administrator in writing within 10 calendar days of the written decision on the initial credit request. The City shall not entertain such a request filed after 10 calendar days of the written decision on the initial credit request. Upon the timely request for an Alternative SDC Exemption, the Administrator shall review the Applicant's request and supporting evidence and make a determination within 21 days of submittal as to whether the Applicant's request satisfies the requirements of section 17.15.050 for exemptions. (17.15.070 D.1.)*
- *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 section 17.15.050. (17.15.070 D.2.)*
- *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 section 17.15.050. (17.15.070 D.3.)*
- *Within 21 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. (17.15.070 D.4.)*

Section 11 of this guide, Challenges and Appeals, covers procedures, fees and other information relevant to appealing denials of exemptions.



## CALCULATION OF TSDC AMOUNT

### **METHOD OF TSDC CALCULATION**

The City uses a special software system called TRACS to calculate and track TSDC assessments and payments. The software can calculate TSDCs for developments of one type of land use as well as for developments with multiple land uses. The TRACS user enters the number of units of development (i.e., dwelling units, or square feet of non-residential development) and the Calculator calculates the TSDC.

Most TSDCs are calculated using the software, but some developments need special calculations. Subsections D. Institutional Development and E. Land Uses Not Included in the Rate Study are two instances where TRACS is not used. Also, Section 5. Consideration of Applicant's Studies and Data presents another situation in which the software is not used.

The process for calculating TSDCs using TRACS software goes as follows:

1. Determine whether or not the proposed application is exempt from the TSDC (see Section 3 of this guide for description of exemptions). If the application is not exempt, proceed with steps 2 and 3.
2. Enter the name of the applicant and the application number.
3. Enter the number of units (i.e., dwellings, square feet, etc.) of each type of development.

4. Print out the Calculator's results, and use the total to calculate TSDCs net of credits (see next section), and to complete notification to the applicant and entries in the City's building permit control software.

*The amount of the Transportation SDC shall be calculated according to this section. For only New Development within the North Macadam Urban Renewal Area Boundaries, the transportation SDC shall be the sum of two calculations, the first based upon the City Rate Study and the second based upon the North Macadam Overlay Rate Study. . For only New Development within the Innovation Quadrant area boundaries, the transportation SDC shall be the sum of two calculations, the first based upon the City Rate Study and the second based upon the Innovation Quadrant Overlay Project Report.(17.15.040):*

### **CALCULATING TSDCs NET OF CREDITS**

The TSDC Calculator does not include calculation of credits (which are described in Section 6. Credits and Reimbursements). Each credit is unique to a specific applicant, therefore the credit amount must be determined on a case-by-case basis. The process is as follows:

1. Determine the value of any credits for donated or contributed land, improvements or other assets (see Section 6.).
2. Subtract the credits from the Total TSDC. See Section 6 for a more detailed description of the procedures to follow in using TSDC Credit Transfer Certificates.
3. Record the net TSDC in the notification to the applicant, and in the City's permit control software.

### **CALCULATING TSDCs FOR REDEVELOPMENT**

If the development is an expansion or change in use of an existing structure, the TSDC is calculated only on the net increase in trips generated by the development, as determined by the size and use of the structure before and after redevelopment. Calculation is as follows:

1. Use the TSDC Calculator in TRACS to calculate the TSDC on the proposed development as though the entire development was subject to the TSDC.

2. Use the TSDC Calculator in TRACS to calculate the TSDC on the existing development, before improvements, as though the existing use was subject to the current TSDC.
3. Compare the person trip generation from Steps 1 and 2:
  - a. If the person trip generation from Step 1 is more than 115% of the TSDC from Step 2, calculate the net amount of the TSDC due by subtracting the TSDC in step 2 from the TSDC in step 1 (17.15.040 A.3.b.).
  - b. If the person trip generation from Step 1 is less than 85% of the person trip generation from Step 2, the applicant is eligible for a TSDC Reimbursement (17.15.040 A.3.c.). The amount of the reimbursement is determined by subtracting the TSDC in step 1 from the TSDC in step 2 (i.e., the reverse of the preceding comparison). See Section 6, TSDC Credits and Reimbursements, Subsection G, Reimbursements, for additional information about TSDC Reimbursements.

Note: the specific language of 17.15.060 B.3. limits TSDC Reimbursements to those properties that have previously paid a TSDC. Properties that have not paid a TSDC are not eligible for a TSDC Reimbursement. [Note: previous payments of TSDCs cannot have occurred prior to October 20, 1997, the effective date of the Transportation SDC Ordinance.]

If the reimbursement is sought within the Transportation SDC Overlay for North Macadam or the Innovation Quadrant, the reimbursement will be apportioned between the City and Overlay SDCs based on the percent that each SDC is of the total SDC.]

- c. If the person trip generation from Step 1 is more than 85%, but less than 115% of the person trip generation from Step 2, and the increase or decrease in PM peak hour person trips is fewer than 25, the applicant is not required to pay the TSDC, nor is the applicant eligible for any TSDC reimbursement or credit (17.15.040 A.3.a.).

Note: to ensure consistency in the treatment of TSDC Reimbursements (which only apply to redevelopment of properties that previously paid a TSDC), TSDC exemptions for properties generating between 100% and 115% of the previous TSDC only apply to those properties that have previously paid a TSDC. Properties that have not paid a TSDC are not eligible for a TSDC Reimbursement.

The following are the complete citations in the Transportation SDC

Ordinance that are the basis for the three steps described above:

- Except as otherwise provided in this Chapter, the amount of the SDC due shall be determined by estimating the trip generation of the previous use(s) on the property and the trip generation for all of the proposed use(s) and then calculating the total SDC for the previous use(s) and the proposed uses(s) as provided in Table 4-9 of The City Rate Study, and if applicable, Table 4-9 of the North Macadam Overlay Rate Study or Table 4-8 of the Innovation Quadrant Overlay Project Report. (17.15.040 A.3.)
  - a. If the person trips attributable to the proposed use of the New Development are within 15% +/- of the person trips attributable to the total previous use of the property and does not increase or decrease person trips by more than 25 person trips, the Applicant is not required to pay any SDC and is not eligible for any SDC reimbursement or credit. (17.15.040 A.3.a.)
  - b. If the person trips attributable to the proposed use of the New Development are more than 115% of the person trips attributable to the total previous use, the Applicant shall pay the difference between the SDC attributable to the proposed use and the SDC attributable to the total previous use. (17.15.040 A.3.b.)
  - c. If the person trips attributable to the proposed New Development are less than 85% of the person trips attributable to the total previous use(s), the Applicant shall be eligible for an SDC Reimbursement under Section 17.15.060. (17.15.040 A.3.c.)
- "Previous use" means the most recent permitted use conducted at a particular property. Where the site was used simultaneously for several different uses (mixed use) then, for purposes of this Chapter, all of the specific use categories shall be considered. Where one use of the site accounted for 70% or more of the total area used, then that dominant use will be deemed to be the sole previous use of the site. Where the previous use is composed of a primary use with one or more ancillary uses that support the primary use and are owned and operated in common, that primary use shall be deemed to be the sole use of the property for purposes of this chapter. (17.15.020 FF.)
- "Proposed use" means the use proposed by the Applicant for a New Development. Where the Applicant proposes several different uses (mixed use) for the New Development then, for purposes of this Chapter, all of the specific use categories shall be considered. Where the proposed use is composed of a primary use with one or more ancillary uses that support the primary proposed use and are owned and operated in common, that primary use shall be deemed to be the sole proposed use of the property for purposes of this chapter. (17.15.020 GG.)

## **CALCULATING TSDCs FOR INSTITUTIONAL DEVELOPMENT**

"Institutional development" is certain medical and educational campus developments of at least five acres, as defined in the Transportation SDC

Ordinance:

*"Institutional Development" means development associated with a medical or educational institution and associated uses, on a site of at least five acres in area.*

*Medical institutional campuses include medical centers and hospitals. Educational institutional campuses include universities, colleges, high schools, and other similar institutions offering course of study leading to a high school diploma or a degree certified by a recognized accreditation body. Associated uses on institutional campuses may include some commercial or light industrial uses, residential and other uses. (17.15.020 T.)*

Institutional development has the option to use the regular TSDC rate schedule, or to have TSDCs calculated on the basis of changes in the total number of trips generated by the entire site:

1. *Institutional Development shall be subject to assessment under this Subsection or under Subsection 1 above, at the election of the Applicant. If the Applicant elects assessment under this Subsection, this method of assessment shall be utilized on Institutional properties designated in the election for a period of not less than three years from date of initial election. (17.15.040 B.1.)*
2. *Within 60 days of election of the alternate assessment under this Subsection, the Applicant Institution shall submit the proposed methodology for counting trips to the Administrator. The Administrator shall determine whether the proposed methodology is acceptable within twenty (20) days from the date of election and submission, and, if the methodology is rejected, the Administrator shall provide an explanation for the decision. (17.15.040 B.2.)*
3. *Within one year of the date of election of the alternative method of assessment under this Subsection, at the time(s) designated in the accepted methodology to count trips, the applicant Institution shall establish the average PM peak hour count. Such data and related analysis shall be based upon a methodology to calculate trips accepted by the Administrator. (17.15.040 B.3.)*
4. *The amount of the SDC shall be determined at the end of each 12 month period by multiplying the applicable dollar amount, as provided in the City Rate Study, by the change in average PM peak hour trip count by mode type during the intervening 12 month period over the highest prior documented average PM peak hour trip count since October 18, 1997. Such SDC, if any, shall be due and payable within 45 days from the close of the 12 month period. A reduction in trips by any mode shall allow the Applicant Institution to reduce future annual assessment against the same mode by the number of such reduced trips. (17.15.040 B.4.)*
5. *For uses that calculate the SDC using a unit of measure other than square feet, such as the number of students, movie screens, etc., the first Application submitted for such a use that is subject to this Chapter shall establish the baseline number of existing units of measure. No SDC shall be assessed against that baseline. A baseline trip rate so established shall be valid, and need not be recalculated, for the next 12 months. (17.15.040 B.5.)*

Calculation of the TSDC (or credit against future TSDCs) must conform to the following steps derived from the Transportation SDC Ordinance:

1. The applicant and the City's TSDC Administrator determine that the applicant is an "institutional development" as defined in the Transportation SDC Ordinance (17.15.020 T).
2. The applicant institution elects to use the special assessment available to institutional development. (The election is binding for at least three years). The election must be in writing, dated and signed by a person authorized to represent the applicant.
3. The applicant institution submits to the Administrator the proposed methodology for counting trips. The proposed methodology must be submitted within 60 days of the election to use the alternate assessment.
4. The Administrator determines whether the proposed methodology is acceptable or not acceptable. The Administrator will provide a written acceptance, or a written explanation for rejecting the methodology. The Administrator's decision must be completed and postmarked to the applicant no later than 20 days after receipt of the proposed methodology.
5. The applicant institution establishes the baseline average PM peak hour trip count. This average PM peak hour trip count shall be calculated, unless otherwise specified in the accepted methodology, by dividing the total current average weekday trips that occur in each mode during an average week by the number of weekdays. The baseline trip count must be established within one year of the date that the applicant elected the alternative method of assessment.
6. Once each year, on the anniversary of the establishment of the baseline average PM peak hour trip count, the applicant institution shall prepare and submit an update of the average PM peak hour trip count.
7. The Administrator shall compare the updated average PM peak hour trip count to the highest prior documented average PM peak hour trip count since October 18, 1997.
8. If the updated trip count is greater than the highest prior average trip count, the Administrator will calculate the TSDC by multiplying the applicable dollar amount, as provided in the City Rate Study, by the increase in average PM peak hour trip count by mode type. The amount of the TSDC shall be determined by the Administrator within 15 days after receipt of the annual update.
9. Any TSDC due to the City shall be paid within 45 days from the calculation of the TSDC by the Administrator.
10. If the updated trip count is lower than the highest prior average trip count, the Administrator will issue a TSDC Credit Transfer Certificate to the

applicant that will allow the applicant institution to reduce future annual assessments against the same mode by the number of reduced trips.

### **LAND USES NOT INCLUDED IN RATE STUDY AND TSDC CALCULATOR IN TRACS**

*In the event an identified use does not have a basis for trip determination stated in The City Rate Study, the Administrator shall identify the land use or uses that has/have a trip generation rate most similar to the use(s) in question and apply the trip generation rate most similar to the proposed use or uses. (17.15.040 A.4.)*

The City maintains a centralized record of all instances in which a land use category in the TSDC Rate Study was successfully used as applicable to a different land use proposed by an applicant. These records provide consistency and serve as precedents for similar situations that may arise in the future.

### **USING THE TSDC CALCULATOR IN TRACS TO ESTIMATE TSDCs FOR PRE-APPLICATION PURPOSES**

The TSDC Calculator in TRACS can be used to calculate estimated TSDCs for use in the pre-application process. Any information given to the applicant needs to be marked (if written) or commented upon (if verbal) to indicate that the TSDC estimates are subject to any changes that occur (1) in the applicant's proposed uses and/or size of development, and (2) any changes to the TSDC rates that the City may adopt before the applicant submits a formal application for a building permit.



## CONSIDERATION OF APPLICANT'S STUDIES AND DATA

### **APPLICANT'S RIGHT TO SUBMIT ALTERNATIVE TRIP GENERATION DATA**

Applicants may request calculation of a TSDC rate alternative to the rate contained in the City's Rate Study (17.15.070).

*Pursuant to this section, an applicant may request an alternative SDC calculation ... but only under the following circumstances:*

*The Applicant believes the number of person trips resulting from the New Development is, or will be, less than the number of trips established in The City Rate Study and if applicable, the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report, and for that reason the Applicant's SDC should be lower than that calculated by the City. (17.15.070 A.1.)*

The Transportation SDC Ordinance does not authorize applicants to submit alternative calculations of costs per trip, costs of capital projects, or any other aspect of the Rate Study. The applicant's input is limited to the number of person trips that will be generated by his/her development.

The City recommends that the applicant meet with City staff prior to commencing work on an alternate rate study to define study methodology. A typical study will examine the PM peak hour person counts on three (3) comparable sites for the weekdays of Tuesday, Wednesday and Thursday.

### **REQUESTING AN ALTERNATIVE CALCULATION AND SUBMITTING DATA**

*If an Applicant believes the number of trips resulting from the New Development is less than the number of trips established in The City Rate Study, and if applicable, the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report, the Applicant must request an alternative SDC rate calculation, under this section, within 180 days after building permit issuance for the New Development. The City shall not entertain such a request filed after 180 days after building permit issuance for the New Development. Upon the timely request for an alternative SDC rate calculation, the Administrator shall review the Applicant's calculations and supporting evidence and make a determination within 21 days of submittal as to whether the Applicant's request satisfies the requirements of this Section. (17.15.070 B.1.)*

*In support of the Alternative SDC rate request, the Applicant must provide complete and detailed documentation, including verifiable trip generation data, analyzed and certified to by a Professional Traffic Engineer. The Applicant's supporting documentation must rely upon generally accepted sampling methods, sources of information, cost analysis, traffic and 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 by a registered engineer explaining with particularity why the rate established in The City Rate Study, and if applicable the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report, does not accurately reflect the New Development's impact on the City's capital improvements. (17.15.070 B.2.)*

Form TSDC-3 (see Appendix) is the official "Request for Alternate Trip Generation Rate and TSDC Calculation." The form includes a nearly verbatim recap of the requirements from Section 17.15.070 B.2., quoted in the preceding paragraph.

The form also asks the applicant to provide information about the engineer who prepares the documentation for the applicant's trip rate data. The form requires the name, registration or license number, and state of registry or licensure of the professional engineer. This information (1) serves to remind the applicant that the research has to be prepared by a professional traffic engineer, and (2) allows the City to verify that the work was performed by a person with the requisite qualifications.

### **REVIEW OF APPLICANT STUDIES AND DATA**

*The Administrator shall apply the Alternative SDC Rate if, in the Administrator's opinion, the following are found (17.15.070 B.3.):*

- a. The evidence and assumptions underlying the Alternative SDC Rate are reasonable, correct and credible and were gathered and analyzed by a suitable, competent professional in compliance with generally methodologies and consistent with this Section, and*
- b. The calculation of the proposed Alternative SDC rate was by a generally accepted methodology, and*

- c. *The proposed alternative SDC rate better or more realistically reflects the actual transportation impacts of the New Development than the rate set forth in The City Rate Study, and if applicable, the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report.*

Note that all three of these requirements must be met in order for the Administrator to approve the alternative trip generation rate and resulting TSDC calculation. Form TSDC-3 requires the applicant to provide some basic data about the number of employees, deliveries and customers that will visit the proposed development each PM peak hour. This information will allow the City to independently assess the proposed trip generation estimates and assumptions.

### **NOTICE OF ACCEPTANCE OR REJECTION**

*If, in the Administrator's opinion, all of the above criteria are not met, the Administrator shall provide to the Applicant by certified mail, return receipt requested, a written decision explaining the basis for rejecting the proposed alternative SDC rate. (17.15.070 B.4.)*

The City does not have a separate form for rejecting an applicant's data. Form TSDC-7, Notification of Transportation SDC (see Appendix), includes a place for the Administrator to indicate if an applicant's data was used to revise the trip generation rates and the TSDC for the proposed development.

Section 11 of this guide, Challenges and Appeals, covers procedures, fees and other information about how to appeal rejections of alternate TSDC calculation requests.

**DETERMINING WHEN A STUDY CREATES A PRECEDENT FOR SUBSEQUENT DEVELOPMENT**

The City maintains a centralized record of all instances in which an applicant's trip generation study was accepted by the City as a substitute for the trip generation rates used in the TSDC Rate Study. These records provide consistency and serve as precedents for similar situations that may arise in the future.

## CREDITS AND REIMBURSEMENTS

### CREDITS POLICY STATEMENT

*In conjunction with the Transportation System capacity objectives of this Chapter, the City also seeks to encourage certain types of development by granting a partial or full credit for the Transportation SDC. In particular, the city places a high priority (on) the development of low income housing. The City has also recognized a higher public purpose in Transit-Oriented Development (TOD) in creating a more dense, mixed use urban design that promotes and integrates transit ridership with housing. Likewise, the development of low income housing promotes the public purpose of providing quality housing options for families and individuals earning 60% or less of the Area Median Income. Providing a credit for the Transportation SDC will make it possible to develop more and better low income housing within the metropolitan area where jobs and shopping are available by transit and non-motorized modes. For both the low income housing and TOD credit, the City has made the policy decision that the entire SDC-CIP\* project list may not be fully funded, but that other policy objectives, equally important as maintaining transportation system capacity, will be advanced. (17.15.010 I.)*

*\*"Transportation SDC Capital Improvement Plan," also called SDC-CIP, means the City program set forth in the City Rate Study that identifies all of the major transportation system and facilities capacity, safety, reconstruction, bicycle, pedestrian, transit and bridge improvements projected to be necessary to accommodate existing and anticipated transportation system demands within the next 10 years as described in the Update of Transportation System Development Charges, (dated July 2007), and within the next 20 years as described in the North Macadam Transportation System Development Charge TSDC Overlay Rate Study, (dated January 2009). (17.15.020 NN.)*

### CREDITS FOR QUALIFIED PUBLIC IMPROVEMENTS

Developers may apply for credits against (reductions of) the amount of TSDCs they owe. Credits may be given by the City for the value of donations or contributions of land, improvements or other assets that conform to the conditions listed below.

*The City shall grant a credit against the Transportation SDC, which is otherwise assessed for a New Development, for any Qualified Public Improvement(s) constructed or dedicated as part of that New Development. The Applicant bears the burden of evidence and persuasion in establishing entitlement to an SDC Credit and to a particular value of SDC Credit. (17.15.060 A.1.)*

It is the intent of the ordinance to grant credits for donations of land or improvements on the TSDC-CIP list contained in the TSDC Rate Study or for

qualified public improvements that reduce the future burden on the City's transportation system.

*The City recognizes that the project list in the SDC-CIP is not complete but that construction of other projects, not included on the SDC-CIP, may also advance the policy objective of maintaining capacity in the City's Transportation System. (17.15.010 H.)*

Specifically, credits are given only for Qualified Public Improvements, which are defined in the Transportation SDC Ordinance as follows:

*"Qualified Public Improvement" means any transportation system capital improvement or conveyance of an interest in real property that increases the capacity of the City's Transportation System and is in one of the following categories (17.15.020 HH.):*

- 1. Is a capital improvement listed on the City's SDC-CIP regardless of the improvement's proximity to the Applicant's New Development site, or*
- 2. Pertains to an arterial or collector street and is required by the Portland Office of Transportation as a condition of the development approval and in the opinion of the Administrator is built larger or with greater capacity (over-capacity\*) than is necessary to serve the Applicant's New Development or mitigate for transportation system impacts attributable to the Applicant's New Development. There is a rebuttable presumption that improvements built to the Portland Office of Transportation minimum standards are required to serve the Applicant's New Development and to mitigate for transportation system impacts attributable to the Applicant's New Development. Potentially eligible improvements include, but are not limited to:
  - a. vehicle travel, turning or refuge lanes and traffic signals and sidewalks,*
  - b. bicycle lanes, bicycle parking facilities or bicycle lockers, other than those required by the Portland Office of Transportation to serve the Applicant's New Development, or*
  - c. any improvement to traffic or transportation safety that corrects an identified safety problem or defect in the City's transportation system.**

*\*"Over-capacity" means that portion of an improvement that is built larger or with greater capacity (over-capacity) than is necessary to serve the Applicant's New Development or mitigate for transportation system impacts attributable to the Applicant's New Development. There is a rebuttable presumption that improvements built to the City's minimum standards are required to serve the Applicant's New Development and to mitigate for transportation system impacts attributable to the Applicant's New Development. (17.15.020 AA.)*

The projects included in category (1) above have been closely scrutinized and carefully chosen through the process of establishing the TSDC-CIP. They

have been determined to advance the policy objective of maintaining capacity in the City's transportation system. It is the intent of the Transportation SDC ordinance that projects in the second category receive credit only if they are equally beneficial to the City's transportation system. It is recognized that the "minimum necessary" improvements may add more capacity than is needed by the development, such as situations where the improvement is the smallest facility that can be built to mitigate the impact on the transportation system from the new development. If the City requires the construction of an additional travel lane, even though the lane will accommodate trips in addition to those created by the new development, the full lane is the minimum improvement that can be built to mitigate the impact of the new development. A portion of a travel lane cannot be constructed to mitigate only those trips created by the new development.

Credit will be given for capacity that is added to alleviate an existing burden on the City's transportation system. Credit will not be given for improvements that are the minimum necessary to mitigate impacts caused by new development to the City's transportation system. The following examples demonstrate how credits work:

**Example 1:**

- 2,000 Trips -design capacity
- 2,250 Trips - current usage
- 350 Trips added by new development
- 400 Trips over capacity [3,000 - (2,250 + 350) = 400]
- 3,000 Trips - new design capacity (after construction of minimum improvement necessary to mitigate the impact of the new development)

Credit is given only for the 25 trips that exceed the original design capacity. No credit is given for the 350 trips generated by the new development nor for the 400 trip capacity yet to be used. While the improvement (new design capacity) accommodates 1,000 trips over the original design, the improvement constructed is the minimum necessary to mitigate the trips generated by the new development. The 25 existing trips are not the responsibility of the new development and are therefore creditable. The credit will be calculated as the percentage of capacity added by the improvement. With this example it would be 25% [ $25 / (3,000 - 2,000) = 0.25$ ].

**Example 2:**

Credit is also given for an improvement built larger or with greater capacity than necessary to serve a new development, provided the improvement is required by the City as a condition of the new development. For example, if a turn lane 60 feet in length is necessary to mitigate the traffic impact of the new development, but the City requires a 100-foot-long turn lane, the additional 40 feet is eligible for a credit.

Credit will not be given for capacity added to accommodate trips generated by new development or for excess capacity that results from the construction of the minimum improvement needed to serve the new development. This is demonstrated in the following example:

**Example 3:**

- 2,000 Trips - design capacity
- 1,700 Trips - current use
- 500 Trips added by new development
- 800 Trips over capacity [3,000 - (1,700 + 500) = 800]
- 3,000 Trips - new design capacity (after construction of improvement)

No credit is given. The first 300 of the 500 new trips added by the new development can be accommodated by the 300-trip difference between the original design capacity (2,000) and the current use before the new development (1,700 trips). The first 300 trips are generated by the new development makes them the responsibility of the new development and so they are not creditable. The minimum improvement needed to mitigate the last 200 trips generated by the new development is the expansion to 3,000 trips, therefore the 800 trips over capacity are not creditable.

**CREDITS FOR TRIP REDUCTIONS BY INSTITUTIONAL DEVELOPMENT**

Trip generation by institutional development is discussed in Section 4 of this guide ("Calculation of TSDC Amount"). If an institutional development *reduces* the number of trips, it is entitled to a credit that can be used to offset future TSDC assessments:

*A reduction in trips by any mode shall allow the Applicant Institution to reduce future annual assessment against the same mode by the number of such reduced trips. (17.15.040 B.4.)*

## **REIMBURSEMENTS**

In Section 4 ("Calculation of TSDC Amount") it is noted that an applicant who redevelops property and reduces trip generation is entitled to a reimbursement if the trip reduction is greater than 15% of the trips generated by the previous use, or the number of PM peak hour person trips will decrease by more than 25. The following are the provisions of the Transportation SDC Ordinance pertaining to reimbursements:

1. *If an Applicant proposes New Development on property on which there is already a use which generates at least 15% more person trips than the proposed use, or generates more than 25 more person trips than the proposed use, then the Applicant shall be entitled to an SDC Reimbursement. The SDC Reimbursement shall be in the form of a credit equal to the difference between the SDC Rate of the previous use and that for the proposed use. The Applicant bears the burden of evidence and persuasion in establishing entitlement to an SDC Reimbursement and to a particular amount of such a reimbursement. (17.15.060 B.1.)*
2. *To obtain an SDC Reimbursement, the Applicant must request the Reimbursement within 180 days after building permit issuance for the New Development and document the basis for the request with traffic reports prepared and certified to by a Professional Traffic Engineer. (17.15.060 B.2.)*
3. *If, in the Administrator's opinion, the Applicant has sufficiently demonstrated that the new use will generate fewer trips than did the previous use, the Administrator shall refund to the Applicant the difference between the Transportation SDC that was paid on the previous use and the Transportation SDC amount that would be assessed for the proposed use. The Administrator shall notify the Applicant in writing of its decision on the SDC Reimbursement request and shall provide a written explanation of the decision. For all improvements for which Reimbursement is sought within the North Macadam Transportation System Development Charge Overlay, the Administrator shall apportion the Reimbursement based upon the percent of the total SDC charge attributable to the SDC calculated from the City Rate Study and from the North Macadam Overlay Rate Study. For all improvements for which Reimbursement is sought within the Innovation Quadrant Overlay, the Administrator shall apportion the Reimbursement based upon the percent of the total SDC charge attributable to the SDC calculated from the City Rate Study and from the Innovation Quadrant Overlay Project Report. (17.15.060 B.3.)*
4. *If an Applicant disputes the Administrator's decision with regard to an SDC Reimbursement decision, including the amount of the Reimbursement, the*

Applicant may seek an Alternative SDC Reimbursement calculation under Section 17.15.070 in the same manner as for an Alternative SDC Rate request. Any request for an Alternative SDC Reimbursement calculation must be filed with the Administrator in writing within 10 calendar days of the written decision on the initial reimbursement request. (17.15.060 B.4.)

## **APPLYING FOR TSDC CREDITS AND REIMBURSEMENTS**

To obtain an SDC Credit, the Applicant must specifically request a credit within 180 days after building permit issuance for the New Development. In the request, the Applicant must identify the improvement(s) for which credit is sought and explain how the improvement(s) meet the requirements for a Qualified Public Improvement. The Applicant shall also document, with credible evidence, the value of the improvement(s) for which credit is sought. If, in the Administrator's opinion, the improvement(s) are Qualified Public Improvement, and the Administrator concurs with the proposed value of the improvement(s), an SDC Credit shall be granted. The value of SDC Credits under 17.15.060 A.1. shall be determined by the Administrator based on the cost of the Qualified Public Improvement, or the value of land dedicated, as follows (17.15.060 A.1.a.):

- (1) For dedicated lands, value shall be based upon a written appraisal of fair market value by a qualified, professional appraiser based upon comparable sales of similar property between unrelated parties in an arms-length transaction;
- (2) For improvements yet to be constructed, value shall be based upon the anticipated cost of construction. Any such cost estimates shall be certified by a professional architect or engineer or based on a fixed price bid from a contractor ready and able to construct the improvement(s) for which SDC Credit is sought;
- (3) For improvements already constructed, value shall be based on the actual cost of construction as verified by receipts submitted by the Applicant;
- (4) For all improvements for which credit is sought, only the fraction of over-capacity in the improvement as described in the definition of Qualified Public Improvement is eligible for SDC Credit. There is a rebuttable presumption that improvements built to the City's minimum standards are required to serve the Applicant's New Development and to mitigate for transportation system impacts attributable to the Applicant's New Development.
- (5) For all improvements for which credit is sought within the North Macadam Transportation System Development Charge Overlay, the Administrator shall apportion the credit based upon the percent of the total SDC charge attributable to the City Rate Study and the Overlay Rate Study.
- (6) For all improvements for which credit is sought within the Innovation Quadrant Transportation System Development Charge Overlay, the Administrator shall apportion the credit based upon the percent of the total SDC charge attributable to the City Rate Study and the Innovation Quadrant Overlay Project Report.

Subsection (2), above, poses a challenge concerning improvements not yet constructed. The City will give immediate credits based on estimates, but it will provide for a subsequent adjustment based on actual costs: a refund to the

applicant if actual costs are higher than estimated, and an additional TSDC to be paid by the applicant if actual costs are lower than estimated (see Form TSDC-5 in the Appendix).

Subsection (3), above, needs several clarifications. First, the City shall inspect all completed Qualified Public Improvement projects before agreeing to honor any credits previously negotiated. This ensures that the improvements meet City standards. Second, the City shall limit credits to reasonable costs. This protects the City from applicants who may accept unreasonable costs from contractors. Finally, credits shall be awarded only in conjunction with an application for development. The City will not issue credits merely because a Qualified Public Improvement has been completed.

*Granting SDC Credits to New Development Prior to Commencing Construction of New Development. When a Qualified Public Improvement is built by a Developer prior to an Applicant applying for Building Permits for the New Development, the City shall grant a credit for any Qualified Public Improvement(s) to be constructed or dedicated as a Condition of Development Approval of that New Development. Credits issued pursuant to Section 17.15.060 A.3. are in lieu of any other SDC Credits that could otherwise be claimed in connection with the Qualified Public Improvement, and are issued pursuant to the following requirements and conditions: (17.15.060 A.2.)*

- a. *The Developer must specifically request a credit prior to the first Application for a Building Permit, but after the issuance of the Public Works permit for the Qualified Public Improvements.*
- b. *For improvements yet to be constructed, the Developer shall provide the City with an enforceable mechanism to guarantee completion of the Qualified Public Improvement, either in the form of a performance bond or other financial guarantee acceptable to the Administrator.*
- c. *The Developer shall submit written confirmation to the Administrator on the form provided acknowledging:*
  - (1) *That SDC credits issued pursuant to this Section are in lieu of any other credits that could be claimed by the Developer or other Applicants on account of the Qualified Public Improvement and*

- (2) *That it is the Developer's obligation to advise subsequent Applicants of the New Development that SDC credits associated with the Qualified Public Improvement have already been issued and that no further credits are available. (17.15.060 A.2.)*

No credits shall be given for project improvements or right-of-way dedications for direct access improvements to and/or within the development in question.

*The Administrator will respond to the Applicant's request in writing within 21 days of when the request is submitted. The Administrator shall provide a written explanation of the decision on the SDC Credit request. (17.15.060 A.1.b.)*

The Administrator will forward the "Request for Credit for Qualified Public Improvement" (Form TSDC-5) and accompanying information to the Civil Design Section, which will review the request and complete Form TSDC-9 "Credit Authorization Memo," and return it to the Administrator.

After reviewing the request, the Administrator will provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, where applicable, the legal description of the site donated, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate, and return such signed document to the Administrator before the TSDC credit can be awarded. Failure of the applicant to sign, date, and return such document within 60 days shall nullify the claim.

## **CREDITS IN EXCESS OF TSDC OBLIGATION**

If the value of land, improvements or other assets donated or contributed by an applicant exceeds the amount of the TSDC the applicant owes, the applicant can receive a Transportation SDC Credit Transfer Certificate that can be used for future developments, or transferred to other developers as a credit against their TSDC obligations:

- *Where the amount of an SDC Credit approved by the Administrator under this section exceeds the amount of the Transportation SDC assessed by the City upon a New Development, the excess may be transferred. SDC Credit Transfers shall be issued by the City for a particular dollar value to the Applicant. The Applicant may convey by any means and for any value an SDC Credit Transfer to any other party. The Applicant or any other party to whom the credits are transferred may use the SDC Credit Transfers to satisfy Transportation SDC requirements for any other New Development within the City, with the following exceptions: (17.15.060 A.3.)*
  - a. *SDC Credit Transfers approved in connection with New Development outside the North Macadam Urban Renewal District, if applied to SDCs payable on New Development inside the North Macadam Urban Renewal District, may only be applied to the portion of that New Development's SDC charges payable under the City Rate Study. Such SDC Credit Transfers may not be applied to SDCs payable under the North Macadam Overlay Rate Study.*
  - b. *SDC Credit Transfers approved in connection with New Development outside the Innovation Quadrant, if applied to SDCs payable on New Development inside the Innovation Quadrant, may only be applied to the portion of that New Development's SDC charges payable under the City Rate Study. Such SDC Credit Transfers may not be applied to SDCs payable under the Innovation Quadrant Overlay Project Report.*
- *The City shall accept at face value any SDC Credit Transfer presented as full or partial payment for the Transportation SDC due on New Development, except that SDC credits approved in connection with New Development outside the North Macadam Renewal District and applied to New Development inside the North Macadam Urban Renewal District may only be applied to the portion of that New Development's SDC charges payable under the City Rate Study, and the SDC credits approved in connection with New Development outside the Innovation Quadrant and applied to New Development inside the Innovation Quadrant may only be applied to the portion of that New Development's SDC charges payable under the City Rate Study. Neither the City nor any of its employees or officers shall be liable to any party for accepting a SDC Credit Transfer, approved and issued by the City under this Section, as payment for a Transportation SDC. (17.15.060 A.4.)*
- *SDC Credit Transfers are void and of no value if not redeemed with the City for payment of a Transportation SDC within 10 years of the date of issuance. (17.15.060 A.5.)*

- Notwithstanding subsections (3) and (4) above, transportation SDC credits approved in connection with New Development subject to the North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report may be applied against transportation SDCs that accrue in subsequent phases of the original New Development. (17.15.060 A.7.)

The Credit Transfer expires 10 years after its original issuance date. The dates marked on the Certificate indicating partial use of the credit are merely a record of the partial consumption of the credit, and do not constitute a new issuance date, nor an extension of the 10-year limit on the Certificate and its underlying credit.

*It shall be a violation of this title for any person to counterfeit or forge an SDC Credit Transfer or knowingly attempt to negotiate or redeem any counterfeit or forged SDC Credit Transfer. (17.15.060 A.6.)*

A Transportation SDC Credit Transfer Certificate is shown in the Appendix (Form TSDC-8). The Certificates are modified manually by the City, and returned to the bearer. The City will make a copy of each revision (i.e., draw down) of the certificate. The City's copy will be used to authenticate each certificate that is presented, thus minimizing opportunities for counterfeiting or other fraudulent transactions.

### **APPEALING A DENIAL OF PROPOSED CREDIT**

*If an Applicant disputes the Administrator's decision with regard to an SDC Credit request, including the amount of the credit, the Applicant may seek an alternative SDC Credit calculation under Section 17.15.070. Any request for an Alternative SDC Credit calculation must be filed with the Administrator in writing within 10 calendar days of the written decision on the initial credit request. (17.15.060 A.1.c.)*

Pursuant to this section, an applicant may request an alternative TSDC credit determination, but only under the following circumstances:

- *The Applicant believes the City improperly excluded from consideration a Qualified Public Improvement that would qualify for credit under Section 17.15.060, or the City accepted for credit a Qualified Public Improvement, but undervalued that improvement and therefore undervalued the credit. 17.15.070 A.2.)*
- *If an Applicant has requested an SDC Credit pursuant to Section 17.15.060, and that request has either been denied by the City or approved but at a lower value than desired, the Applicant may request an Alternative SDC Credit calculation, under this section. Any request for an Alternative SDC Credit calculation must be filed with the Administrator in writing within 10 calendar days of the written decision on the initial credit request. The City shall not entertain such a request filed after 10 calendar days of the written decision on the initial credit request. Upon the timely request for an Alternative SDC Credit calculation, the Administrator shall review the Applicant's calculations and supporting evidence and make a determination within 21 days of submittal as to whether the Applicant's request satisfies the requirements of this Section. (17.15.070 C.1.)*
- *In support of the Alternative SDC credit request, the Applicant must provide complete and detailed documentation, including appraisals, cost analysis or other estimates of value, analyzed and certified to by an appropriate professional, for the improvements for which the Applicant is seeking credit. The Applicant's supporting documentation must rely upon generally accepted sources of information, cost analysis and techniques of analysis as a means of supporting the proposed Alternative SDC credit. (17.15.070 C.2.)*
- *The Administrator shall grant the Alternative SDC Credit if, in the Administrator's opinion, the following are found:*
  - a. *The improvement(s) for which the SDC Credit is sought are Qualified Public Improvement(s), and*
  - b. *The evidence and assumptions underlying the Applicant's Alternative SDC Credit request are reasonable, correct and credible and were gathered and analyzed by an appropriate, competent professional in compliance with generally accepted principles and methodologies, and*
  - c. *The proposed alternative SDC Credit is based on realistic, credible valuation or benefit analysis. (17.15.070 C.3.)*
- *If, in the Administrator's opinion, any one or more of the above criteria is not met, the Administrator shall deny the request and provide to the Applicant by certified mail, return receipt requested, a written decision explaining the basis for rejecting the Alternative SDC Credit proposal. (17.15.070 C.4.)*

Section 11 of this guide, Challenges and Appeals, covers procedures, fees and other information about appealing denials of credit requests.

## **PAYMENTS**

### **WHEN PAYMENT IS DUE**

The obligation to pay a TSDC occurs in two steps: the TSDC is “incurred” upon application for a building permit (17.15.040 A.1.), and the TSDC is paid upon issuance of the permit. The Transportation SDC Ordinance and ORS 223 provide for deferral of payment. No building permit will be issued unless and until the appropriate TSDCs are paid, or a deferral agreement has been executed by the applicant.

Form TSDC-7a (TSDC Payment Timing and Method) requires the applicant to indicate whether or not he/she will elect to defer payment of the TSDC, and directs those who want to defer payment to prepare and submit Form TSDC-11 (Loan Contract) or Form TSDC-12 (Deferral Contract). All three forms are in the Appendix to this guide.

### **FORM OF PAYMENT**

The City’s Systems Development Charge Form (replaced TSDC-1) informs the applicant of the methods of payment authorized by the Ordinance:

1. Check (or other negotiable instrument)
2. Credit Transfer Certificate, which uses an authorized credit for making a Qualified Public Improvement to pay for as much of the SDC as is available in the balance of the Credit Transfer Certificate. (For more information about credits, see Section 6, Credits and Reimbursements, and Forms TSDC-5, 8, 9, and 10 in the Appendix.)

Upon being presented with a Credit Transfer Certificate, the City will compare it to the City’s last copy of the same Certificate in order to insure that there has not been any alteration or other fraudulent use of the

Certificate. The City will also examine the Certificate to determine whether it is authentic or counterfeit. If the Certificate is acceptable to the City, it will be used as described below. If it is not acceptable, it will be retained by the City, and referred to the Office of the City Attorney for appropriate action.

If the balance on a Credit Transfer Certificate is equal to, or less than the TSDC, the City will apply the entire balance to the TSDC, record an ending "zero balance" on the Certificate, and require the applicant to pay by check any portion of the SDC that was not offset by the credit balance. The City will note in its records that the TSDC was paid (in part or entirely) by use of a Credit Transfer Certificate.

If the balance on a Credit Transfer Certificate is greater than the TSDC, the City will record the details of the permit number, TSDC amount, and new balance on the face of the Certificate, make a copy for City files, and return the Certificate to the bearer. The City will note in its records that the TSDC was paid by use of a Credit Transfer Certificate.

3. For Port Development only, payment of a "fee in lieu" of the TSDC. This requires negotiation of an agreement between the City and the Port Development.

### **DEFERRAL OF PAYMENT**

*The Transportation SDC required by this Chapter to be paid is due upon issuance of the Building Permit. However, in lieu of payment of the Full SDC, the applicant may elect to pay the SDC in installments as provided in ORS chapter 223 and Chapter 17.14 of this Code. If the Applicant elects to pay the SDC in installments, a lien will be placed against the property that is subject to the SDC, and that lien will be given first priority as provided by statute. The Applicant's election to pay the SDC by installments shall be memorialized in an SDC Deferral or Installment Agreement entered into by the Applicant and the City on a form provided by the City, and which may provide for the deferral of payments as set forth in Chapter 17.14 of this Code. In any event, the Applicant shall either pay the SDC in full or enter into an SDC Deferral or Installment Agreement as provided in this section, before the City will issue any building permits. (17.15.080 A.)*

Form TSDC-7a (SDC Payment Timing and Method) requires the applicant to indicate whether they elect to pay the TSDC with the Building Permit, defer payment, or pay the TSDC over a five (5), 10, or 20 year period. Applicants who elect to defer or pay by installments are sent a TSDC-12 (Deferral Contract) or a

TSDC-11 (Loan Contract) and directed to return the completed form. All three forms are in the Appendix to this guide.

The Auditor's Office has agreed to provide the following services upon receipt of the Loan Contracts and Deferral Contracts.

1. File a pending lien against the real property pending the City Council assessment process.
2. Process the agreements through the City Council assessment process.
3. File a priority lien against the real property subject to a TSDC installment agreement.
4. Track the payment status of the agreements and the status of all property liens.
5. Collect the payments when due.
6. Release property liens upon receipt of full payment.
7. Manage a delinquent accounts program to enforce the agreements.
8. Provide monthly reports to the Transportation regarding the status of all TSDC installment agreements.

### **RATE INCREASES AND DEFERRED PAYMENTS**

The Transportation SDC Ordinance does not "lock in" rates for applicants who chose to defer payment of their TSDC, nor does the Ordinance prohibit the City from charging increased rates to such applicants.

Form TSDC-12 (Deferred Payment Election) cautions applicants that they are liable for increases in rates that occur after they elect to defer payment, but before payment is actually made by the applicant.

### **SPECIAL PAYMENT ALTERNATIVE FOR PORT DEVELOPMENT**

*Port Development\*. At the Applicant's option, Port Development may be subject to assessment under Subsection A. of this section, or under this Subsection. If the Applicant*

elects assessment under this Subsection C., the Applicant and the City shall negotiate an agreement for the payment of a fee in lieu of the Transportation SDC that includes the following elements: (17.15.040 C.)

1. A methodology for estimating the amount of the SDC which would be imposed pursuant to Subsection (a) or (b) above, during a period of not less than either 3 years or until the expiration of the SDC project list, whichever is less, nor more than 10 years as specified by the Applicant. The methodology shall take into account the Port Development anticipated under the Applicant's master plan during the period specified in that plan, the trips that the Port Development is expected to generate, trip levels against which SDC charges have historically been assessed, the anticipated increases or decreases in the dollar amounts of the SDC during the specified period, any applicable credits or exemptions and any other factors which the Administrator deems to be relevant. In no event shall the charge estimated under this Subsection be less than the SDC that would otherwise be due for the Port Development and the Applicant shall indicate its agreement to the methodology in writing; and (17.15.040 C.1.)
2. A payment period shall be imposed by which the Applicant shall pay in full the amount due within 12 months of the Applicant's agreement to the methodology (17.15.040 C.2.)
3. In the event the Applicant and the City are unable to agree to a methodology under this Subsection, the normal method of calculating and assessing the SDC under Subsection A. or B. shall apply. (17.15.040 C.3.)

\*"Port Development" means a planned development owned or operated by a unit of government involving a facility used for cargo freight or passenger transportation by air, water, rail or public mass transit, including accessory uses. Uses that are accessory to Port Development are those which send or receive cargo freight or are related to passenger movement or service. (17.15.020 EE.)

## **RECEIVING AND DEPOSITING TSDC PAYMENTS**

### **DEPOSIT PROCEDURES**

All TSDCs collected by the City are identified as to the name of the development for which the TSDC was paid, the name of the applicant who paid the TSDC, the amount paid, and the date the TSDC was paid. TSDCs are then deposited promptly to the appropriate TSDC account of the City.

### **ISSUING RECEIPTS**

Receipts for TSDC payments are issued:

1. When payment is made to a cashier at the City's permit center.
2. Whenever a deferred or loan payment is received.
3. When a Credit Transfer Certificate is used as payment.

### **SEPARATE ACCOUNTS**

*There is created a dedicated account entitled the "SDC Account." All monies derived from the SDC shall be placed in the SDC Account. All monies derived from the Overlay Rate Study shall be placed in a sub-account..... All monies derived from the Innovation Quadrant Overlay Project Report shall be placed in a sub-account.... (17.15.100 A.)*

### **INVESTMENT OF TSDC REVENUE PENDING EXPENDITURE**

Money collected from a specific TSDC and deposited to the appropriate TSDC account will be invested by the City Treasurer until needed for a designated capital improvement project. Interest earned is credited to the TSDC account at the end of each accounting period. Interest earned within the TSDC account will remain in that account and be used for the same purposes as the TSDC dollars in that account.



## EXPENDITURE OF TSDC REVENUES

### PERMITTED USES

TSDC revenue can be used for the capital costs of public facilities. The costs of public facilities that can be paid by TSDCs include the prices of land acquisition, construction, major equipment, and related costs including, but not limited to, engineering, permitting, and administrative expenses. These are generally called "system improvements" (which are typically outside a development), and are distinguished from "project improvements" (which are typically provided by the developer on-site within a development). TSDCs can also be used to pay principal and interest on bonds, notes, leases or other debt for public facilities.

TSDCs must be expended on capital improvements projects listed in the adopted TSDC-Capital Improvement Program, or they can be used to reimburse the City for the unused capacity of public facilities that were originally on the TSDC-CIP, are now completed, and have reserve capacity to serve new development.

*...Funds in the SDC Account shall be used solely to provide the SDC-CIP listed capacity increasing improvements according to the SDC-CIP as it currently exists or as hereinafter amended, and eligible administrative costs.... The monies in the Overlay sub-account shall only be spent on projects serving the North Macadam urban renewal area. ... The monies in the Overlay sub-account shall only be spent on projects serving the Innovation Quadrant. In this regard, SDC revenues may be used for purposes which include (17.15.100 A.):*

1. *project development, design and construction plan preparation;*
2. *permitting;*
3. *right-of-way\* acquisition, including any costs of acquisition or condemnation;*

4. construction of new through lanes for vehicular, transit, or bicycle use;
5. construction of turn lanes;
6. construction of bridges;
7. construction of drainage and stormwater treatment facilities in conjunction with new roadway construction;
8. purchase and installation of traffic signs and signals;
9. construction of curbs, medians and shoulders;
10. relocating utilities to accommodate new roadway construction;
11. construction management and inspection;
12. surveying and soils and material testing;
13. construction of Accessways, bicycle facilities, Pedestrian Connections and Walkways;
14. landscaping;
15. bus pullouts, and transit shelters, fixed rail transit systems and appurtenances;
16. demolition that is part of the construction of any of the improvements on this list;
17. payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to provide money to construct or acquire transportation facilities;
18. direct costs of complying with the provisions of ORS 223.297 to 223.314, including the costs of developing system development charges methodologies and providing an annual accounting of system development charges expenditures.

*\*\*"Right-of-Way" means that portion of land that is dedicated for public use including use for pedestrians, bicycles, vehicles and transit, utility placement and signage. (17.15.020 JJ)*

## **PROHIBITED USES**

TSDCs cannot be used for operating or maintenance expenses.

*This Chapter is intended only to be a financing mechanism for the capacity increases needed for major City traffic and collector streets, multi-modal improvements associated with new development and capacity increasing transportation improvements and does not represent a means to fund maintenance of existing roads or the elimination of existing deficiencies (17.15.010 F).*

Likewise, TSDCs cannot be used for public facilities of any type other than the type for which the TSDCs were paid.

*Money on deposit in the SDC Accounts shall not be used for (17.15.100 B.):*

1. any expenditure that would be classified as a maintenance or repair expense; or

2. costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements; or
3. costs associated with acquisition or maintenance of rolling stock.

### **EXPENDITURE PROCEDURES**

1. Approval Requirements Prior to Bid or Encumbrance
2. Direct Disbursements and Interfund Transfers
3. Project Accounting

### **EXPENDITURE DEADLINES**

*The City shall expend SDC revenues within ten (10) years of receipt, based on the priorities in the SDC-CIP list. (17.15.130)*

To ensure compliance with the requirement to expend or encumber TSDCs within 10 years of receipt, all TSDC payments are treated on the basis of "first in, first out," e.g., the first TSDC received is considered the first TSDC expended.

### **CHALLENGES TO EXPENDITURES**

*Any person with interest may challenge the expenditure of SDC revenues by filing a challenge to the expenditure with the Administrator within two years after the date of the disputed SDC revenue expenditure. The fee for filing such a challenge shall be \$250. (17.15.110 A.)*

Section 11 of this guide, Challenges and Appeals, covers procedures, fees and other information about challenging expenditures.



## REFUNDS

### **ELIGIBILITY**

- *If the person trips attributable to the proposed New Development are less than 85% of the person trips attributable to the total previous use(s), the Applicant shall be eligible for an SDC Reimbursement under Section 17.15.060 (17.15.040 A.3.c.).*
- *Refunds may be given by the Administrator upon finding that there was a clerical error in the calculation of the SDC. Refunds shall not be allowed for failure to timely claim credit or for failure to timely seek an Alternative SDC Rate calculation. The City shall refund to the Applicant any SDC revenues not expended within ten (10) years of receipt. (17.15.090)*

Refunds may also be granted if an applicant cancels a building permit and constructs nothing (since no impact has been created on the City's transportation system).

The right to obtain refunds is linked to the land for the development that paid TSDCs. If a development has been completed and occupied, the right to obtain refunds passes from the developer to the owner of the development.

### **PROCEDURES FOR PROCESSING**

An applicant must submit a completed TSDC-6 (Refund Request) to begin the refund process. Applications for refunds shall be reviewed promptly and refunds paid promptly by the City.



## CHALLENGES AND APPEALS

Developers may challenge or appeal the following:

1. Denial of request for exemption from TSDCs.
2. Calculation of TSDCs (mathematical error).
3. Rejection of alternative data and/or analysis submitted by the developer.
4. Rejection or under-valuation of offer of donation or contribution for credit against TSDCs.
5. Improper expenditure of TSDC revenues.
6. Denial of application for refund of TSDCs.

The following are general provisions of the Transportation SDC Ordinance that apply to all challenges and appeals:

- *Except where a different time for an Administrator's determination is provided in this Chapter, all determinations of the Administrator shall be in writing and shall be delivered to the Applicant within 21 days of an Application or other Applicant request for an Administrator determination. Delivery of such determination shall be deemed complete upon the earlier of actual delivery to the Applicant or upon deposit by the Administrator in the mail, first class postage prepaid, addressed to the address for notice Applicant has designated in the Application. Such determination shall be accompanied by a notice of the Applicant's right to appeal and an outline of the procedures therefore. (17.15.110 B.)*
- *Any Applicant aggrieved by an Administrator's determination may appeal that determination to the Code Hearings Officer as provided in Chapter 22.10 of this Code. Notwithstanding any other provisions of this Code, there shall be a non-refundable fee of \$250 for any appeal pursuant to this subsection. Such fee must accompany any such appeal and no such appeal shall be considered filed or received until such fee is paid in full (17.15.110 C).*
- *The City shall withhold all permits and other approvals applicable to the Applicant's property of the New Development pending resolution of all appeals under this Chapter unless the SDC is paid in full or the Applicant provides, for the pendency of the appeal, a financial guarantee or security for the charge in a form acceptable to the City Attorney. (17.15.110 D.)*

### **DENIAL OF EXEMPTION**

Additional specific provisions regarding appeals of denials of exemptions are described in Section 3, Exemptions.

### **RATE CALCULATION**

The first step in an "appeal" or "challenge" of a rate calculation is for the applicant to submit studies or data justifying an alternative rate. Section 5, Consideration of Applicant's Studies and Data, describes this process.

### **REJECTION OF APPLICANT'S STUDY OR DATA**

Additional specific provisions regarding appeals of rejection of an applicant's study or data are described in Section 5, Consideration of Applicant's Studies and Data.

### **CREDIT DETERMINATION**

Additional specific provisions regarding appeals of denials of credits are described in Section 6, Credits and Reimbursements.

### **EXPENDITURE OF TSDC REVENUE**

Additional specific provisions regarding challenges of expenditures are described in Section 9, Expenditures.

### **REFUND APPLICATION**

Additional specific provisions regarding appeals of denials of refunds are described in Section 10, Refunds.

## **RECORD KEEPING**

### **RECORDS OF RECEIPTS**

All TSDCs received shall be listed in chronological order within each TSDC account. Each receipt shall indicate the date received, the amount received, the name of the development for which the TSDC was paid, and the name of the applicant who paid the TSDC.

### **RECORDS OF INVESTMENTS**

All investment transactions shall include the date and a description of the transaction.

### **RECORDS OF EXPENDITURES**

Records of disbursements shall include the date and specific capital improvement project for which the funds are expended (or transferred for expenditure), or the date and name of the person receiving a refund.

### **TIMELINESS OF RECORDS**

Records of receipts and disbursements of TSDCs shall be updated on each business day during which a transaction occurred.

### **REPORTS**

The City shall prepare an annual report of receipts and expenditures of the TSDC account. The annual report shall indicate the source and amount of all moneys collected, earned, or received (by land use type), and the capital

improvements that were financed in whole or in part by TSDCs (by mode and location).

Additionally, the Transportation SDC Ordinance requires the City to review total TSDC revenues assessed, collected and expended every two years (annually beginning Jan. 1, 2009, through December 2012) to determine if sufficient money is available to fund identified TSDC Capital Improvement Program (CIP) projects and evaluate current TSDC rates. This is discussed in the next section: Updating TSDC Rates.

## UPDATING TSDC RATES

### **REVISING THE RATE STUDY**

The City's TSDC Rate Study is the basis for calculating TSDCs applied to new development. The TSDC Rate Study, including the "TSDC Capital Improvement Program" contained therein, can be amended or replaced at any time by Ordinance of the City Council.

*The City hereby adopts the methodology report and rate study entitled Update of Transportation System Development Charges, (dated July 2007), as well as the attached North Macadam Transportation System Development Charge TSDC Overlay Rate Study, (dated January 2009), and the attached Innovation Quadrant Transportation System Development Charge Overlay Project Report (dated May 2011) and incorporates herein by this reference the assumptions, conclusions and findings in the report which refer to the determination of anticipated costs of capital improvements required to accommodate growth. These reports are hereinafter referred to as "City Rate Study" and is attached to Ordinance No. 181322, as amended, as Exhibit A, "North Macadam Overlay Rate Study", attached to Ordinance No.182652 as Exhibit A, and "innovation Quadrant Overlay Project Report" attached to Ordinance No. 184756 as Exhibit A.. The City Council may from time to time amend or adopt a new City Rate Study by Ordinance. (17.15.010 G.)*

*The City may, by resolution, amend its SDC-CIP as set forth in the City Rate Study and Overlay Rate Study, from time to time to add projects the City deems appropriate. (17.15.150)*

- A. *No later than every two (2) years as measured from initial enactment, the City shall undertake a review to determine the total SDC's assessed and collected by transportation district and the total SDC's expended and programmed by transportation district and project; to determine that sufficient money will be available to help fund the SDC-CIP identified capacity increasing facilities; to determine whether the adopted SDC rate keeps pace with inflation, whether the SDC-CIP should be modified, and to ensure that such facilities will not be overfunded by the SDC receipts. (17.15.120 A.)*
- B. *In the event that during the review referred to above, it is determined an adjustment to the SDC is necessary for sufficient funding of the SDC-CIP improvements listed in City Rate Study North Macadam Overlay Rate Study or the Innovation Quadrant Overlay Project Report or to ensure that such SDC-CIP improvements are not overfunded by the SDC, the City Council may propose and adopt appropriately adjusted SDCs. (17.15.120 B.)*
- C. *The City Council may from time to time amend or adopt a new City Rate Study by resolution. (17.15.120 C.)*

- D. Beginning January 1, 2009 through December 2012, the City shall undertake an annual review to determine the amount of Transit-Oriented Development (TOD) exemptions provided by district. (17.15.120 D.)

TSDC revenue is budgeted annually through the City's Capital

Improvement Program (CIP) budgeting process.

### **REVISING TSDC RATES WITHOUT REVISING THE RATE STUDY**

The Transportation SDC Ordinance contains a provision to annually adjust TSDC rates for inflation.

*Notwithstanding any other provision, the dollar amounts of the SDC set forth in The City Rate Study as well as the North Macadam Overlay Rate Study and the Innovation Quadrant Overlay Project Report shall on July 1st of each year be increased or decreased automatically by the difference of the 10-year moving average of the National Highway Construction Cost Index published by the Federal Highway Administration. (17.15.040 A.5.)*

Should the City elect to utilize a more current edition of the ITE Manual, such change shall be reflected in the annual adjustment of TSDC rates.

*"ITE Manual" means that manual entitled "An Institute of Transportation Engineers Informational Report - Trip Generation" Ninth Edition (2012) or as amended. A copy of the ITE Manual shall be kept on file with the City Office of Transportation. (17.15.020 U.)*

### **DELETING PROJECTS THAT WILL NOT BE BUILT**

The Transportation SDC Ordinance acknowledges that some projects may not be built within 10 years, due to the exemptions, credits and reimbursements associated with City policies in support of low-income housing, etc.

*The Transportation SDC provided for in this Chapter is designed to help finance the Transportation System facilities listed in Table 3-2 in the SDC-CIP as a means of ensuring that adequate capacity is maintained in the City's Transportation System. However, the City specifically recognizes that the entire project list will likely not receive full funding from the proceeds of this SDC, and it is unlikely that every one of the projects listed will be constructed. (17.15.010 H.)*

## APPENDIX: FORMS AND EXHIBITS

Form Number	Title of Form
Replaced TSDC-1	Transportation Systems Development Charge Form, Commercial Projects
Replaced TSDC-1	Transportation Systems Development Charge Form, One and Two Family Residential
TSDC-2	Deleted
TSDC-3	Request for Alternate Trip Generation Rate and TSDC Calculation
TSDC-4	Election by Institutional Development of Special Trip Generation Rate and TSDC Calculation
TSDC-5	Request for Credit for Qualified Public Improvement
TSDC-6	Refund Request
TSDC-7	Notification of Transportation SDC
TSDC-7a	Payment Timing and Method
TSDC-8	Credit Transfer Certificate
TSDC-9	Credit Authorization Memo
TSDC-10	Credit Request Notice of Results
TSDC-11	Loan Contract
TSDC-12	Deferral Contract

Please visit <http://www.portlandoregon.gov/transportation/sdc> to view current forms.

Exhibit Number	Title of Exhibit
1.	SDC-CIP City SDC
2.	SDC-CIP Overlay SDC
3.	Appeal Process Flowchart

