

# **Chapter 151-9 Perimeter Roadway Improvements**

## ***151-9.1 Authority and Purpose***

Pursuant to the Comprehensive Plan, and the power vested in the County Commission to require road improvements as provided for in Section 64.580 RSMo., the development, subdivision or re-subdivision (involving additional lots) of land, may only be accomplished by requiring land development to bear a proportionate share of the cost of road improvements attributable to the need for such facilities generated by the proposed project to promote the public, health, safety and welfare. It is the purpose of this chapter to require developers to pay a pro-rata share of the cost of improving existing county roadways abutting their project to the County Highway Department's current pavement standards. The amount of road improvement fee required is based upon the formula included in this chapter. Developers are only responsible for the amount of additional traffic created by a project, not any traffic generated by the use on the property at the time of application.

## ***151-9.2 Administration***

The County Highway Administrator shall be responsible for the administration of this chapter. The county shall be responsible for developing administrative procedures for a Road Improvement Fee fund, considering changes in the land use and density, establishing standards for the improvements, and all other activities related to the intent of the fee program.

## ***151-9.3 Applicability***

The fees required by this chapter shall be imposed upon all development occurring after June 9, 1997. These regulations shall not apply to any rezoning, conditional use permit, or subdivision application made prior to the date of the approval of these regulations by the County Commission. Development for the purpose of any activity requiring platting, replatting, or a building permit, where fees were not previously paid, shall be deemed eligible for payment. Any expansion of use by more than 25 percent over the level of the original use, shall be deemed to be an expansion of such activity, and shall require the payment of fees.

## ***151-9.4 Effect on Other Regulations***

This chapter shall not affect, in any manner, the permissible use of property, the density of development, design and improvement standards and requirements, or any other aspect of the development of land or the provision of capital improvements subject to this Land Development Code or other regulations of Clay County, which shall be operative and remain in full force and effect without limitation with respect to all development.

## ***151-9.5 Improvements as Additional Requirement***

All subdivisions filed under the Major Subdivision application are subject to a review of needed off-site improvements. If, during staff review, there are concerns, a study may be ordered to assess the actual off-site impacts of the subdivision.

### **A. Off-Site Improvements**

When a proposed development is projected to have off-site drainage or traffic impacts, the subdivider may be required to complete certain off-site improvements that are intended to mitigate the effects of the increased runoff or traffic counts. Such improvements will be supported by a Traffic Impact Study done by the applicant and included in the conditions of the Final Plat

approval. Improvements may include, but are not limited to:

- Streets and thoroughfare facilities
- Traffic control facilities
- Bridges
- Storm drainage facilities
- Utility undergrounding
- Street lighting
- Street trees and median landscaping
- Accel and/or decel lanes
- Turn lanes
- Raised medians.

**B. Substitution**

The improvements required by this chapter are additional and supplemental to, and not in substitution of, any other requirements imposed by Clay County on the development of land. It is intended to be consistent with and to further the objectives of the Comprehensive Plan and other county policies, ordinances, and resolutions by which the county seeks to ensure the provision of public facilities in conjunction with the development of land.

## ***151-9.6 Construction of Improvements/Payment of Fees***

Unless otherwise required by the Highway Administrator, the subdivider/builder may elect to either construct the required road improvements or contribute the amount of road improvement fee outlined by this chapter, but may not combine the two methods.

## ***151-9.7 Required Improvements***

**A. Single-Family Dwelling Units**

**1. Nine or Fewer Total Parcels per Subdivision**

For the purposes of fee calculation, the following shall apply:

**a. Existing Gravel**

All gravel road surfaces abutting the proposed subdivision shall be improved to a minimum of a 5-inch asphalt overlay.

**b. Existing Chip/Seal**

All chip/seal road surfaces abutting the proposed subdivision shall be improved to a minimum of a 3-inch asphalt overlay.

**c. Existing Asphalt**

All asphalt surfaces with an existing 3-inch and a 5-inch depth surface abutting the proposed subdivision shall be improved with a minimum of a 1.5-inch asphalt overlay, pending condition and depth of the existing asphalt.

**2. 10 or More Total Parcels per Subdivision**

For the purposes of fee calculation, the following shall apply:

**a. Existing Gravel**

All gravel road surfaces abutting the proposed subdivision shall be improved to a minimum of a 5-inch asphalt overlay.

**b. Existing Chip/Seal**

All chip/seal road surfaces abutting the proposed subdivision shall be improved to a minimum of a 3-inch asphalt overlay.

c. **Existing Asphalt**

All asphalt surfaces with an existing 3-inch and a 5-inch depth surface abutting the proposed subdivision shall be improved with a minimum of a 3-inch asphalt overlay, pending condition and depth of the existing asphalt.

**B. Other Land Uses**

Any change in the land use for a parcel other than for single-family residential uses shall require an evaluation of the number of trips that the proposed use will generate. This evaluation shall be in the form of a Traffic Impact Study, as outlined by Sec. 151-10.3. This study may be waived by the Highway Administrator, when the Highway Administrator determines that the needed information may be obtained from existing information. At a minimum, the developer shall be responsible for 50 percent of the improvements recommended by the traffic impact study. An agreement shall be created outlining the responsibilities of the subdivider/builder and the County. The development agreement shall follow the general outlines of such agreements as discussed in this chapter.

Whenever fees were paid for an existing use and the use is changed, there shall be a credit in the amount paid for the type of use being discontinued. Such credit shall be applied to the amount due for the new use. Paid fees remain with the land, and not with a building or business moved from the original premises.

### **151-9.8 Abutting State Highways**

**A. Road Improvement Fees**

A standard fee of one-thousand-one-hundred dollars (\$1,100) per lot will be assessed when any property is subdivided which fronts onto a state highway. The fee shall be paid to the County Road and Bridge Fund in order to offset road and bridge maintenance for traffic generated on nearby County roads and bridges. As these funds are not designated for a specific segment of roadway, there is no provision for a refund; however, should the property be further subdivided within 5 years, credit will be given for the existing lot(s).

**B. New Street Connections**

If the new street connects to a state highway, funds for construction of road improvements shall be made as required by the Missouri Department of Transportation (MoDOT), but in no case less than County standards (Sec. 151-9.8A).

### **151-9.9 Calculation of Fees**

**A. Formula**

The following formula shall be used to calculate road improvement fees required by this chapter:

$$\frac{\text{Average Daily Traffic}}{2} \times \frac{\text{Trip Length}}{\text{Capacity}} \times \text{Cost} - \text{Credits} = \text{Road Improvement Fee}$$

(e.g. 1/2 road)

The following presents a sample road improvement fee calculation. The sample is based on a 5-lot subdivision on an existing chip/seal road. The cost, trip length and credit figures are hypothetical.

$$\left( \frac{150}{1,600} \times \$80,150.40 \right) - \$1,100 = \text{Road Improvement Fee}$$

$$(.094 \times \$80,150.40) - \$1,100 = \$6,434.14$$

**B. Multiple Road Surfaces**

Where a project is located on a corner with two levels of existing road surface, such as a chip/seal on one street and asphalt on the other, then the fee amount shall be based upon the two different road surface improvement amounts averaged together.

**C. Average Daily Traffic**

The average daily traffic generation rate for single-family uses with one single family dwelling unit per parcel shall be 10 trips per day. Trip generation rates for other uses shall be obtained from the most recent edition of *Trip Generation*, a manual published by the Institute of Traffic Engineers (ITE). For the purposes of this chapter, vacant land (without permanent structures) and land in Agricultural (AG) zoned district, shall be deemed to generate 4 daily trips.

**D. Trip Length**

For the purposes of this chapter, the average trip length shall be established at 6 miles for single-family residential uses. The County Highway Administrator shall determine the trip length for other uses based on the most recent and best available data.

**E. Construction Costs**

The County Highway Department shall provide information regarding road construction costs based on the most recent and best available data.

**F. Credits**

1. The amount of credit may vary, based upon tax codes changes and other credit sources.
2. If property is being re-subdivided, credit will be given for each lot in the existing subdivision if a Road Improvement Fee (RIF) was paid within the previous 5 years.

**G. Capacity**

For the purposes of this chapter, the capacity of a lane-mile of asphalt road at level of service (LOS) "C" shall be considered 1,600 vehicles per day.

### **151-9.10 Road Improvement Fees**

Unless otherwise noted herein, the Road Improvement Fee (RIF) shall be due and payable as follows:

- A. In the case of any activity requiring platting or re-platting, fee payment shall be made prior to recording of the Final or amended plat;
- B. Fees shall be paid prior to issuance of a building permit for any activity where fees have not been previously paid;
- C. Upon a change in the use of property where the new use is in a different zoning classification and the average trips-per-day generated is higher than the existing use, whether or not a building permit is required to change such use;
- D. For all other activities, including expansion of use or remodeling which creates additional dwelling units, additional square footage devoted to commercial or industrial uses for which a fee has not been previously paid, shall pay fees prior to obtaining a building permit.

### **151-9.11 Escrow of Fee**

**A. Request to be Made in Writing; Time of Payment**

Unless otherwise specified in this chapter, all fees paid shall be placed in an escrow account designated for the specific section of road for which the fee is paid. When the roadway is improved, the fees shall be removed from escrow and utilized to fund the cost of improvement. If the developer elects to or is required to construct the improvements, the developer must request

this option in writing, at the time of Final Plat, Rezoning or Conditional Use Permit application.

#### **B. Single-Family Residential Development**

The following escrow schedule shall be applicable to single-family residential development.

1. **\$1,500 or Less Due**

If amount due is \$1,500 or less, then the total fee amount is due prior to the recording of the final plat with the County Recorder of Deeds.

2. **More than \$1,500 Due**

If the total amount due from the developer is more than \$1,500, the following schedule for the payment of the Road Improvement Fees may be established by the county upon the request of the developer. Such schedule shall be as follows:

- a. If the total amount of the Road Improvement Fee due is \$1,501–\$5,000, then 40 percent of the total is due prior to filing of the Final Plat with the Recorder of Deeds office, and the remainder shall be due within 180 days, or at a time period agreeable to the County Commission, but not to exceed 1 year from the date of Final Plat recording. Building permits for any structures shall not be issued for more than 40 percent of the lots within the subdivision until the total amount of the Road Improvement Fee is paid.
- b. If the total amount of the Road Improvement Fee due is \$5,001–\$10,000, then 35 percent of the total is due prior to filing of the Final Plat with the Recorder of Deeds office, and the remainder shall be due within 180 days, or at a time period agreeable to the County Commission, but not to exceed 1 year from the date of Final Plat recording. Building permits for any structures shall not be issued for more than 35 percent of the lots within the subdivision until the total amount of the Road Improvement Fee is paid.
- c. If the total amount of escrow due is over \$10,000 then a development agreement shall be executed specifying the method and timing of payments. Such agreement shall be approved by the County Commission.

#### **C. Other Land Uses**

For projects other than single family residential subdivisions, a development agreement shall be executed specifying the method and timing of payments to the escrow account. Such agreement shall be approved by the County Commission and may require the fees be paid prior to the issuance of a Certificate of Occupancy, or at another time schedule established to ensure a timely payment of the amount due.

### ***151-9.12 Disposition of Fees***

The County shall establish a Road Improvement Fee Fund to which the fees collected shall be credited. Interest at the actual rate of return on invested funds of the County shall be credited periodically in accordance with the accounting policies of the county. Any funds not expended or encumbered by the end of the fifth County fiscal year from the date when the total fee was paid shall, upon written application of the fee payer, be returned to him/her with actual accrued interest. The County shall maintain records for the fund showing the revenues to the fund and the disbursements from the account, in accordance with normal County accounting practices. Records of the Road Improvement Fee Fund shall be open to public inspection in the same manner as other financial records of the County.

### ***151-9.13 Credit for Construction or Contributions***

In cases where existing County roadways are to be improved in accordance with these regulations, in certain circumstances the subdivider may receive credit-in-lieu of a portion of required road improvements for the construction of or a contribution toward the construction of another public improvement related to

the subdivision. This credit shall be available only if the County has approved the construction of the improvements in advance, by approval of the subdivision plat, developer agreement, and site plan which specifically includes such improvements. This may include the costs of bridge or culvert replacement, traffic control or safety signage, and ditching and drainage improvements. An agreement for such credit shall be recommended to the decision-making body by the Planning and Zoning Director or the County Highway Administrator. The credit given for such related improvements shall be the actual costs of such improvements as constructed or installed.

### ***151-9.14 Waiver of Required Improvements***

In cases where existing County roadways are to be improved in accordance with these regulations, upon written request of the subdivider/builder, filed at the time of application, the decision-making body may waive the requirement for public improvement in situations listed below. If the decision-making body waives the requirement, it shall be done by resolution stating the reasons why such improvements were not required. The grant of such waiver shall be limited to unusual and extraordinary circumstances. All waivers must fall into one of the following categories:

1. The replatting of an existing subdivision for a boundary change or other change in which no new lots are platted; or,
2. Where both of the following conditions are met:
  - a. the plat contains no parcels less than 30 acres, and
  - b. all parcels are situated on a roadway of at least a chip and seal surface which was improved during the past county fiscal year; or
3. The conveyance of 1 parcel to a family member for the purpose of constructing a single-family house. A maximum of 1 conveyance shall be permitted within a 5 year period. Such conveyance shall be in the form of a plat that meets all Land Development Code requirements.

For the purposes of this section, the following shall be considered a family member: sister, step-sister, brother, step-brother, grandparents, step-grandparents, parents, step-parents, child, step-child, foster child, niece, nephew, aunt or uncle.

### ***151-9.15 Enforcement; Issuance of Building Permits***

In all cases of required Road Improvement Fees for subdivisions, notation of such requirement will be made on the Final Plat and recorded as such with the Recorder of Deeds office. Failure of the County to make such a notation on the plat, or related ordinance, will not waive the County's right to receive, nor the fee payer's duty to pay, the Road Improvement Fee. No building permit will be issued for any development, or lots within a development if the appropriate fee is not paid in accordance with the notation on the recorded plat.

All fees to be paid shall be a lien upon each lot or parcel of land from the due date thereof, determined as set forth in this section, until paid. If such fees are not paid when due, in addition to any other means provided by law, the County Clerk shall certify such delinquent charges to the Treasurer of Clay County and the charges shall be collected in the same manner as though they were part of the taxes. It is unlawful for any person to occupy or use any real property for any purpose for which a fee is due and payable.

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