

An ordinance establishing transportation impact fees; and adopting a new Chapter 17D.030 to Title 17 of the Spokane Municipal Code.

The City of Spokane does ordain:

Section I. That there is adopted a new Chapter 17D.030 to title 17 of the Spokane Municipal Code to read as follows:

**CHAPTER 17D.030  
Transportation Impact Fees**

Sections:

- 17D.030.010 Findings and Authority
- 17D.030.020 Definitions
- 17D.030.030 Concurrency
- 17D.030.040 Assessment of Impact Fees
- 17D.030.050 Independent fee calculations
- 17D.030.060 Exemptions
- 17D.030.070 Credits
- 17D.030.080 Administrative Costs
- 17D.030.090 Appeals
- 17D.030.100 Establishment of Impact Fee Account
- 17D.030.110 Refunds
- 17D.030.120 Use of Funds
- 17D.030.130 Administrative guidelines
- 17D.030.140 Review
- 17D.030.150 Authorization for Interlocal Agreements
- 17D.030.160 Existing Authority Unimpaired
- 17D.030.170 Severability
- 17D.030.180 Appendix A – Impact Fee Schedule
- 17D.030.190 Appendix B – Service Area Maps

**17D.030.010 Findings and Authority**

The city council finds and ordains as follows:

- A. That new growth and development, including but not limited to new residential, commercial, retail, office, industrial and institutional development, in the City of Spokane will create additional demand and need for public transportation facilities (public streets and public roadways) in the City of Spokane;
- B. That new growth and development should pay a proportionate share of the cost of new public transportation facilities needed to serve the new growth and development;
- C. That transportation impact fees are a lawful and commonly used instrument to aid in meeting capacity related Growth Management Act transportation concurrency requirements.

- D. The City has conducted extensive studies documenting the procedures for measuring the impact of new growth and development on public facilities, has prepared the Rate Study, and has reviewed the Rate Study, and hereby incorporates these studies into this title by reference. Based on the foregoing, the City has prepared a formula and method of calculating transportation impact fees to serve new development that provides a balance between impact fees and other sources of public funds. The data and method of calculating contained in the Rate Study is consistent with the data collected as part of the development of the comprehensive plan, the traffic impact analysis' completed for projects since the creation of that data and the studies and data collection accumulated by Spokane Regional Transportation Council and other jurisdictions;
- E. That the provision for low-income housing is a factor that should be considered in mitigation of an impact fee.

Now, therefore, pursuant to Chapter 82.02 RCW, the City Council adopts this chapter to authorize appropriate and lawful impact fees for public transportation facilities. The provisions of this title shall be liberally construed in order to carry out the purposes of the City Council in establishing a transportation impact fee program.

**17D.030.020            Definitions<sup>1</sup>**

The following words and terms shall have the following meanings unless the context clearly requires otherwise. Terms otherwise not defined herein shall be defined pursuant to RCW 82.02.090, or given their usual and customary meaning.

- A. "Act" means the Growth Management Act, as codified in RCW 36.70A, as now in existence or as hereafter amended.
- B. "Accessory dwelling unit" means a dwelling unit that has been added onto, created within, or separated from a single-family detached dwelling for use as a complete independent living unit with provisions for cooking, eating, sanitation, and sleeping.
- C. "Applicant" means the owner of real property according to the records of the Spokane County, or the applicant's authorized agent.
- D. "Building permit" means the official document or certification that is issued by the building department and that authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, tenant improvement, demolition, moving or repair of a building or structure.
- E. "Capital Facilities" means the facilities or improvements included in the Capital Facilities Plan.
- F. "Capital Facilities Plan" means the capital facilities plan element of the City's Comprehensive Plan adopted pursuant to Chapter 36.70A RCW, as amended from time to time.

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<sup>1</sup> Ultimately, to be consistent with the City's Development Code, the definitions will be placed in Section 17A.020 of the Municipal Code.

*DRAFT – October 26, 2007*

- G. "Certificate of occupancy" means the term as defined in the International Building Code. In the case of a change in use or occupancy of an existing building or structure which may not require a building permit, the term shall specifically include certificate of occupancy and for residential development the final inspection, as those permits are defined or required by this code.
- H. "City" means the City of Spokane.
- I. "City Council" means the City Council of the City of Spokane.
- J. "Comprehensive Plan" means the City of Spokane Comprehensive Plan adopted pursuant to Chapter 46.70A RCW, as amended from time to time.
- K. "Concurrent" or "Concurrency" means that the public facilities are in place at the time the impacts of development occur, or that the necessary financial commitments are in place, which shall include the impacts fees anticipated to be generated by the development, to complete the public facilities necessary to meet the specified standards of service defined in the Comprehensive Plan within six (6) years of the time the impacts of development occur.
- L. "Development activity" means any construction or expansion of a building, structure, or use, or any change in use of a building or structure, or any changes in the use of land, that creates additional demand and need for public facilities.
- M. "Development approval" means any written authorization from the City that authorizes the commencement of development activity.
- N. "Director" means the Director of Engineering Services, or the Director's designee.
- O. "Dwelling unit" means a single unit providing complete and independent living facilities for one or more persons, including permanent facilities for living, sleeping, eating, cooking, and sanitation needs.
- P. "Encumbered" means to have reserved, set aside or otherwise earmarked the impact fees in order to pay for commitments, contractual obligations or other liabilities incurred for public facilities.
- Q. "Feepayer" is a person, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation commencing a land development activity that creates the demand for additional public facilities, and which requires the issuance of a building permit. "Feepayer" includes an applicant for an impact fee credit.
- R. "Green Streets" mean well landscaped, tree-lined corridors designed for both pedestrian and vehicular use as defined in SMC Chapter 11.19.194J.
- S. "Gross floor area" is the total square footage of all floors in a structure as defined in SMC Chapter 11.19.
- T. "Hearing Examiner" means the person who exercises the authority of SMC Chapter 17G.050.

*DRAFT – October 26, 2007*

- U. "Impact fee" means a payment of money imposed upon development as a condition of development approval to pay for public facilities needed to serve new growth and development, and that is reasonably related to the new development that creates additional demand and need for public facilities, that is a proportionate share of the cost of the public facilities, and that is used for facilities that reasonably benefit the new development. "Impact fee" does not include a reasonable permit fee, an application fee, or the cost for reviewing independent fee calculations.
- V. "Impact fee account" or "account" means the account(s) established for each service area for the system improvements for which impact fees are collected. The accounts shall be established pursuant to this chapter, and shall comply with the requirements of RCW 82.02.070
- W. "Independent fee calculation" means the impact fee calculation and or economic documentation prepared by a feepayer to support the assessment of an impact fee other than by the use of schedule set forth in Section 17D.030.180 of this chapter, or the calculations prepared by the Director where none of the fee categories or fee amounts in the schedules in this chapter accurately describe or capture the impacts of the new development on public facilities.
- X. "Interest" means the interest rate earned by local jurisdictions in the State of Washington Local Government Investment Pool, if not otherwise defined.
- Y. "Interlocal agreement" or "agreement" means a transportation interlocal agreement, authorized in this chapter, by and between the City and other government agencies concerning the collection and expenditure of impact fees, or any other interlocal agreement entered by and between the City and another municipality, public agency or governmental body to implement the provisions of this chapter.
- Z. "Low-income housing" means any unit of housing where the eligibility requirements for rental or purchase require the renter or purchaser to have certified household income equal to or less than fifty percent (50%) of area median income, adjusted for household size ("AMI"), and where the eligibility requirements for homeownership require the purchaser to have certified household income equal to or less than eighty percent (80%) of AMI. In addition, the developer and/or owner shall have entered into a binding, irrevocable programmatic commitment with one or more of the agencies listed below (as evidenced at the time of qualification for the transportation impact fee exemption by recorded deed restriction or such other documentation as may be reasonably required by the City). The agencies shall include the United States Department of Housing and Urban Development, Washington State Housing Finance Commission, Washington State Department of Community Trade and Economic Development, City of Spokane Community Development Department, Northeast Washington Housing Solutions, and such other Federal, State or local governmental or non-profit agencies which shall offer like programs at the time of exemption application. Development activity that is comprised of a mix of affordable and market rate housing and/or affordable housing and commercial space shall be defined as low-income housing only for those specific units that are set aside as low-income housing with the aforementioned income limits. Programs that may otherwise be defined elsewhere as "low-income housing" and/or "affordable housing", but have income eligibility limits above those described above or no income limits, shall not be defined as low-income housing for purposes of this chapter."

*DRAFT – October 26, 2007*

- AA. “Owner” means the owner of real property according to the records of the Spokane County department of records and elections; provided that if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the real property.
- BB. “Proportionate share” means that portion of the cost of public facility improvements that are reasonably related to the service demands and needs of new development.
- CC. “Project improvements” means site improvements and facilities that are planned and designed to provide service for a particular development and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. No improvement or facility included in the City’s Capital Facilities Plan shall be considered a project improvement.
- DD. “Public facilities” means publicly owned streets and roads, including related sidewalk and streetscape improvements required by the City’s Comprehensive Plan and related development regulations.
- EE. “Rate Study” means the 2007 Transportation Impact Fee Rate Study, dated \_\_\_\_\_, 2007 as updated and amended from time to time.
- FF. “Residential” means housing, such as single-family dwellings, accessory dwelling units, apartments, condominiums, mobile homes and/or manufactured homes, intended for occupancy by one or more persons and not offering other services.
- GG. “Square footage” means the square footage of the gross floor area of the development as defined SMC Chapter 11.19.
- HH. “Service area” means one of the five geographic areas defined by the City in which a defined set of public facilities provide service to development within each of the identified areas. The City has identified the service areas, based on sound planning and engineering principles. These service areas are generally referred to as the Downtown Service Area, the Northwest Service Area, the Northeast Service Area, the Southwest Service Area, and the Southeast Service Area. Maps depicting the service areas are set forth in Section 17D.030.190 and shall also be maintained by the Director in the offices of the Engineering Services Department and shall be available for public inspection during regular business hours.
- II. “System improvements” means public facilities included in the Capital Facilities Plan and are designed to provide service to service areas within the community at large, in contrast to project improvements.

**17D.030.030 Concurrency**

- A. Pursuant to Chapter 36.7A RCW and Chapter 17D.010 of the Spokane Municipal Code, development approval is prohibited if the development activity will cause the level of service of public facilities to decline below the standards adopted in the transportation element of the Comprehensive Plan, unless system improvements or strategies to accommodate the impacts of the development activity are made concurrent with the development activity. The concurrency requirement is satisfied if the required system improvements are in place at the time of development activity, or that a financial commitment is in place, which shall include the impact fees anticipated to be generated by the development, to complete the system

*DRAFT – October 26, 2007*

improvements or strategies required to meet the specified standards of service defined in the Comprehensive Plan within six (6) years of development approval. Any combination of the following shall constitute a "financial commitment" for the purposes of this chapter and Section 17D.010 SMC:

1. The City has received voter approval of and/or has bonding authority;
2. The City has received approval for federal, state or other funds;
3. The City has received a secured commitment from a feepayer that the feepayer will construct the required public facilities and/or system improvement(s) and the City has found such public facilities and/or system improvement(s) to be acceptable and consistent with its Capital Facilities Plan; and/or
4. The City has other assured funding, including but not limited to impact fees that have been paid or that shall be payable as a result of the development approval.

**17D.030.040 Assessment of Impact Fees**

- A. The City shall collect impact fees, based on the schedules in Section 17D.030.180 of this chapter, or an independent fee calculation as provided for in Section 17D.030.050 of this chapter, from any applicant seeking development approval from the City. The impact fees in Section 17D.030.180 are generated from the formula for calculating impact fees set forth in the Rate Study, one copy of which shall be kept on file with the Office of the City Clerk and which is adopted and incorporated herein by reference. Except as otherwise provided in this chapter, all new development approval in the City will be charged the transportation impact fees in Section 17D.030.180. Subject to the review provisions set forth in Section 17D.030.140 below, the transportation impact fees in Section 17D.030.180 will be adjusted annually in accordance with the Washington State Department of Transportation Construction Cost Index ("CCI"), with the first such increase taking effect within 2 years of adoption of this Ordinance and with subsequent increases to coincide with the City's annual adoption of its Six-Year Street Plan; provided, the impact fees shall never be reduced solely because of a decline in the CCI. Provided further, for purposes of this chapter only, the following shall not constitute development activity:
1. Replacement of a commercial structure with a new structure of the same size and use or a residential structure with the same number of residential units, both at the same site or lot, where demolition of the prior commercial or residential structure occurred after May 2001. Replacement of a commercial structure with a new commercial structure of the same size shall be interpreted to include any structure for which the gross square footage of the building will not be increased by more than one hundred twenty (120) square feet. It shall be the feepayer's responsibility to establish the existence of a qualifying prior use to the Director's reasonable satisfaction.
  2. Expansions of existing residential structures that do not add residential dwelling units.
  3. Alteration of an existing nonresidential structure that does not expand the usable space, add any residential units, or result in a change in use.

*DRAFT – October 26, 2007*

4. Miscellaneous improvements that do not create additional demand and need for public facilities, including, but not limited to, fences, walls, swimming pools, and signs.

5. Demolition or moving of a structure.

6. **Option 1 (EWG):**

Re-use or change in use of existing structure.

a. Re-use or change in use of an existing structure that does not create additional demand and need for public facilities (*i.e.*, where the trip generation of the re-use is equal to or less than trip generation of prior use) shall not constitute development activity for purposes of this chapter.

b. It shall be the feepayer's responsibility to establish the existence of a qualifying prior use to the Director's reasonable satisfaction.

c. For the purpose of quantifying the square footage of this section, full occupancy will be assumed.

d. For a change in use of an existing structure that does create additional demand and need for public facilities (*i.e.*, where the trip generation of the re-use is greater than the trip generation of the prior use), the City shall collect impact fees for the new use based on the schedules in Section 17D.030.180 of this chapter, less the fees that would have been payable as a result of the prior use.

**Option 2: (Staff)**

Re-use or change in use of existing structure.

a. Re-use or change in use of an existing structure that does not create additional demand and need for public facilities (*i.e.*, where the trip generation of the re-use is equal to or less than trip generation of prior use) when the re-use or change in use occurs within three (3) years of the prior use shall not constitute development activity for purposes of this chapter.

b. It shall be the feepayer's responsibility to establish the existence of a qualifying prior use to the Director's reasonable satisfaction.

c. For a change in use of an existing structure that does create additional demand and need for public facilities (*i.e.*, where the trip generation of the re-use is greater than the trip generation of the prior use) within three (3) years of a prior use, the City shall collect impact fees for the new use based on the schedules in Section 17D.030.180 of this chapter, less the fees that would have been payable as a result of the prior use.

B. The Director shall be authorized to determine whether a particular development activity constitutes development activity subject to the payment of impact fees under this chapter. Determinations of the Director shall be in writing issued within 14 days of submitting a complete application and shall be subject to the appeals procedures set forth in SMC 17D.030.090.

*DRAFT – October 26, 2007*

- C. Impact fees shall be assessed and collected prior to issuance of a building permit for each unit in a development, using either the impact fee schedules then in effect or an independent fee calculation, at the election of the applicant and pursuant to the requirements set forth in Section 17D.030.050 of this chapter. For commercial development involving multiple users, impact fees shall be assessed and collected prior to issuance of building permits that authorize completion of tenant improvements for each use. The City shall not accept an application for a building permit if other land use approvals are required and have not yet been granted by the City. Furthermore, the City shall not accept an application for a building permit unless, prior to submittal or concurrent with submittal, the feepayer submits complete applications for all other discretionary reviews needed, including, but not limited to, design review, the environmental determination, and the accompanying checklist.
- D. Applicants that have been awarded credits prior to the submittal of the complete building permit application pursuant to Section 17D.030.070, shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the Director pursuant to Section 17D.030.070 setting forth the dollar amount of the credit awarded. Impact fees, as determined after the application of appropriate credits, shall be collected from the feepayer at the time the building permit is issued for each unit in the development.
- E. For mixed use buildings or development, impact fees shall be imposed for the proportionate share of each land use based on the applicable unit of measurement found on the schedule in Section 17D.030.180.
- F. The Department shall not issue a building permit unless and until the impact fees required by this chapter, less any permitted exemptions, credits or deductions, have been paid.

**17D.030.050 Independent fee calculations**

- A. If in the reasonable judgment of the Director, a proposed development activity does not fall under one of the fee categories set forth in Section 17D.030.180, the Department may prepare independent fee calculations and the Director may impose alternative fees on a specific development based on those calculations; provided, the Director's fee calculations shall be limited as provided in Section B below. The alternative fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.
- B. An applicant may elect to have impact fees determined according to Section 17D.030.180 or in the alternative, if an applicant opts not to have the impact fees determined according to Section 17D.030.180, the applicant may elect an independent fee calculation for the development activity for which a building permit is sought. In that event, the applicant may prepare and submit his/her own independent fee calculation. The applicant must make the election between fees calculated under Section 17D.030.180 and an independent fee calculation prior to issuance of the building permit for the development. If the applicant elects to prepare its own independent fee calculation, the applicant must submit documentation showing the basis upon which the independent fee calculation was made. Provided, independent fee calculations shall use the same formulas and methodology used to establish the impact fees set forth in Section 17D.030.180 and shall be limited to adjustments in trip generation rates used in the Rate Study, and shall not include travel demand forecasts, trip distribution, transportation service areas, costs of road projects, or cost allocation procedures.

*DRAFT – October 26, 2007*

- C. Any applicant electing an independent fee calculation shall be required to pay the City of Spokane a fee to cover the cost of reviewing the independent fee calculation, as follows: two hundred fifty dollars (\$250.00) plus a deposit of two hundred fifty dollars (\$250.00) towards the City's actual costs incurred in reviewing the independent fee calculation. The applicant shall remit all remaining actual costs of the City's review of the independent fee calculation prior to and as a precondition of the City's issuance of the building permit. If the City's actual costs are lower than the deposit amount, the difference shall be remitted to the applicant.
- D. While there is a presumption that the calculations set forth in the Rate Study are valid, the Director shall consider the documentation submitted by the feepayer, but is not required to accept such documentation or analysis which the Director reasonably deems to be inaccurate or not reliable, and may modify or deny the request, or, in the alternative, require the feepayer to submit additional or different documentation for consideration. The Director is authorized to adjust the impact fees on a case-by-case basis based on the independent fee calculation, the specific characteristics of the development, and/or principles of fairness. The Director's decision shall be set forth in writing and shall be mailed to the feepayer.
- E. Determinations made by the Director pursuant to this Section may be appealed to the office of the hearing examiner subject to the procedures set forth in SMC Chapter 17G.050.

**17D.030.060 Exemptions**

Low-income housing, as defined in this chapter, shall be exempted from the payment of impact fees.

**17D.030.070 Credits**

- A. A feepayer can request a credit for the total value of dedicated land or public facilities provided by the feepayer if the land and public facilities are identified as system improvements or in cases where the Director, in the Director's discretion, determines that such dedication of land or public facilities would serve the goals and objectives of the capital facilities plan.
- B. A feepayer may also request a partial credit for the following:
  - 1. In-fill development within Center and Corridor Zones shall qualify for a partial credit of ten percent (10%) of the impact fees otherwise payable as a result of the development activity.
  - 2. Mixed use development incorporating an "active" first floor (e.g. office, retail) and residential shall qualify for a partial credit of ten percent (10%) of the impact fees otherwise payable as a result of the development activity.
  - 3. Development of Green Streets that encourage strolling, walking, and shopping over auto uses, and that provide pedestrian connections to surrounding neighborhoods and districts shall entitle a feepayer to a partial credit of ten percent (10%) of the impact fees otherwise payable as a result of the development activity. The credit provided for in this section shall only apply to the extent a feepayer is developing a Green Street on the entire length of the block on which the development activity is occurring. The credit provided for in this section shall be limited to the cost incurred by the feepayer in developing the Green Street.

4. The cumulative credits granted in subsections B1-3 above for in-fill development, mixed use development incorporating active first floors, and development of Green Streets, shall not exceed twenty percent (20%) of the impact fees otherwise payable as a result of the development activity.
  5. A feepayer shall not be entitled to a credit to the extent a feepayer is providing amenities (*i.e.*, incorporation of an active first floor in a mixed used development; development of a Green Street, etc.) that are otherwise required by law and/or as a condition of development approval.
  6. The Director shall be authorized to determine whether a particular development activity falls within a credit identified in this Section B, in any other Section, or under other applicable law. Determinations of the Director shall be in writing issued within 14 days of a complete application and shall be subject to the appeals procedures set forth in SMC 17D.030.090.
- B. For each request for a credit, if appropriate, the Director shall select an appraiser or the feepayer may select an independent appraiser acceptable to the Director. The appraiser must be a Washington State Certified Appraiser or must possess other equivalent certification and shall not have a fiduciary or personal interest in the property being appraised. A description of the appraiser's certification shall be included with the appraisal, and the appraiser shall certify that he/she does not have a fiduciary or personal interest in the property being appraised.
  - C. The appraiser shall be directed to determine the total value of the dedicated land and/or public facilities provided by the feepayer on a case-by-case basis.
  - D. The feepayer shall pay for the cost of the appraisal. The feepayer may request that the cost of the appraisal be deducted from the credit which the Director may be providing to the feepayer, in the event that a credit is awarded.
  - E. After receiving the appraisal, and where consistent with the requirements of this Section, the Director shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, the legal description of the site donated where applicable, 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 Director before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within sixty (60) calendar days shall nullify the credit. The credit must be used within seventy-two (72) months of the award of the credit.
  - F. Any claim for credit must be made prior to issuance of a building permit; provided, any claim for credit submitted later than twenty (20) calendar days after the submission of an application for a building permit shall constitute a waiver and suspension of timelines established by state and/or local law for processing of permit applications.

*DRAFT – October 26, 2007*

- G. In no event shall the credit exceed the amount of the impact fees that would have been due for the proposed development activity.
- H. No credit shall be given for project improvements.
- I. Determinations made by the Director pursuant to this Section shall be subject to the appeals procedures set forth in SMC 17D.030.090.

**17D.030.080            Administrative Costs**

- A. All development approvals subject to payment of impact fees under this Chapter 17D.030 shall pay an administrative fee. The administrative fee shall be the greater of \$50.00 or three percent (3%) of the impact fees payable under this chapter as a result of the development approval; provided, the administrative fee for a single family dwelling unit shall be \$50.00. The administrative fee shall be deposited in an administrative fee account within the impact fee account and shall be used to defray the City's costs of processing and accounting for impact fees and the City's costs in administration and update of the Rate Study. Payment of the administrative fee does not constitute payment of the fees relating to independent fee calculations as provided in SMC 17D.030.050C.
- B. The administrative fee, in addition to the actual impact fees, shall be paid by the applicant to the City at the same time as the impact fee is paid.

**17D.030.090            Appeals**

- A. Any feepayer may pay the impact fees imposed by this title under protest in order to obtain a building permit or occupancy permit. Any appeal filed prior to the payment of impact fees shall constitute a waiver and suspension of timelines established by state and/or local law for the processing of permit applications.
- B. Appeals regarding the impact fees imposed on any development activity shall only be filed by the feepayer of the property where such development activity will occur.
- C. The feepayer must first file a request for review regarding impact fees with the Director, as provided herein:
  - 1. The request shall be in writing on the form provided by the City;
  - 2. The request for review by the Director shall be filed no later than fourteen (14) calendar days after the feepayer pays the impact fees at issue;
  - 3. No administrative fee will be imposed for the request for review by the Director; and
  - 4. The Director shall issue a determination in writing.

*DRAFT – October 26, 2007*

- D. Determinations of the Director with respect to the applicability of the impact fees to a given development activity, the availability or value of a credit, or the Director's decision concerning the independent fee calculation, or any other determination which the Director is authorized to make pursuant to this title, can be appealed to the hearing examiner subject to the procedures set forth in SMC Chapter 17G.050.

**17D.030.100                    Establishment Of Impact Fee Account.**

- A. Impact fee receipts shall be earmarked specifically and deposited in special interest-bearing accounts for each service area. The fees received shall be prudently invested in a manner consistent with the investment policies of the City.
- B. There is hereby established an impact fee account for the fees collected pursuant to this chapter known as the Transportation Impact Account. Except as provided in Section 17D.030.080, funds withdrawn from this account must be used in accordance with the provisions of Section 17D.030.120. Interest earned on the fees shall be retained in each of the accounts and expended for the purposes for which the impact fees were collected.
- C. On an annual basis, the Chief Financial Officer and Director shall provide a report to the Council on the account showing the source and amount of all moneys collected, earned, or received, and system improvements that were financed in whole or in part by impact fees and contributions towards meeting concurrency goals and requirements.
- D. Impact fees shall be expended or encumbered within six years of receipt, unless the council identifies in written findings an extraordinary and compelling reason or reasons for the City to hold the fees beyond the six-year period. Under such circumstances, the Council shall establish the period of time within which the impact fees shall be expended or encumbered.

**17D.030.110                    Refunds**

- A. If the City fails to expend or encumber the impact fees within six years of when the fees were paid, or where extraordinary or compelling reasons exist for holding the fees longer than six years, as identified in written findings by the City Council, the current owner of the property for which impact fees have been paid may receive a refund of such fees. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first in, first out basis.
- B. The City shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of the claimants.
- C. Property owners seeking a refund of impact fees must submit a written request for a refund of the fees to the Director within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later.
- D. Any impact fees for which no application for a refund has been made within the one-year period shall be retained by the City and expended on the appropriate public facilities.
- E. Refunds of impact fees under this chapter shall include any interest earned on the impact fees by the City.

**17D.030.120 Use Of Funds**

Impact fees may be used as allowed by Chapter 82.02 RCW. In the event that bonds or similar debt instruments are issued for the advanced provision of system improvements, impact fees may also be used to pay debt service on such bonds or similar debt instruments to the extent that system improvements provided are consistent with the requirements of this chapter and are used to serve the new development.

**17D.030.130 Administrative guidelines**

The Director shall be authorized to adopt forms, applications, brochures, and guidelines for the implementation of this chapter which may include the adoption of a procedures guide for impact fees.

**17D.030.140 Review**

The Rate Study and the fee schedules set forth in this chapter shall be reviewed by the City Council as it may deem necessary and appropriate every two years in conjunction with the annual update of the capital facilities plan element of the City's Comprehensive Plan.

A Transportation Impact Fee Advisory Board consisting of individuals representing the building, real estate, and property development industries, the broader business community, community leaders, community assembly, and citizens shall be appointed by the Mayor to review proposed changes to the Rate Study and the fee schedules set forth in this chapter prior to their review and adoption by the City Council. This review shall occur when the City Council may deem it necessary and appropriate every two years in conjunction with the annual update of the capital facilities plan element of the City's Comprehensive Plan. Provided, this Section shall not be interpreted as requiring review by an advisory board or City Council prior to the automatic fee adjustments contemplated in Section 17D.030.040A of this chapter.

**17D.030.150 Authorization for Interlocal Agreements**

Consistent with other terms of this chapter, interlocal agreements by and between the City and other government agencies are permissible, as authorized by RCW 36.70A.040 (6) (d).

**17D.030.160 Existing Authority Unimpaired**

Nothing in this chapter shall preclude the City from requiring the applicant for development approval to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, RCW Chapter 43.21C, based on the environmental documents accompanying the underlying development approval process, and/or RCW Chapter 58.17, governing plats and subdivisions; provided, that the exercise of this authority is consistent with the provisions of RCW 82.02.050 (1) (c).

**17D.030.170 Severability**

If any portion of this title is found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other chapter or any other Section of this title.

Adopted by the City Council on this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Council President

Approved as to form:

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

17D.030.180      Appendix A – Impact Fee Schedule

17D.030.190      Appendix B – Service Area Maps

