

ORDINANCE NO. 527

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, ESTABLISHING AND IMPOSING TRANSPORTATION IMPACT FEES UPON CERTAIN NEW DEVELOPMENT AND ESTABLISHING STANDARDS AND PROCEDURES FOR EXEMPTIONS, CREDITS, REFUNDS AND APPEALS FROM IMPOSITION OF SUCH FEES.

WHEREAS, the City of Woodinville's Comprehensive Plan establishes the intent of the citizens to ensure that new developments pay a proportionate share of the cost of new facilities needed to serve such growth; and

WHEREAS, the Comprehensive Plan contains a complete description of the existing level of service for transportation facilities and the impacts of future growth on that level of service; and

WHEREAS, the City Council wishes to ensure that the transportation facilities necessary to support growth shall be adequate to serve the development at the time the development is available for occupancy and use, or shortly thereafter, without decreasing current service levels below established minimum standards for the City; and

WHEREAS, the adopted Comprehensive Plan directs staff to impose impact fees, authorized by RCW 82.02.050 as one of several methods to fund transportation facilities in a manner that fairly distributes costs and benefits

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Chapter 3.39 of the Woodinville Municipal Code is hereby repealed and a new Chapter 3.39, entitled "Transportation Impact Fees", is adopted to read in its entirety as follows:

Chapter 3.39 Transportation Impact Fees

Sections:

- 3.39.010 Purpose.
- 3.39.020 Authority.
- 3.39.030 Definitions.
- 3.39.040 Applicability.
- 3.39.050 Exemptions.
- 3.39.060 Service area.
- 3.39.070 Transportation impact fee fund established.
- 3.39.080 Use of funds.
- 3.39.085 Computation of Transportation Fee Amount.
- 3.39.090 Impact fee determination and collection.
- 3.39.100 Impact fee adjustments, independent calculations.
- 3.39.110 Impact fee credits.
- 3.39.120 Impact fee refunds.
- 3.39.130 Appeals and payments under protest.
- 3.39.140 Council review of impact fees.
- 3.39.170 Schedule of fees.

3.39.010 Purpose.

This chapter is intended to:

- (1) Assist in the implementation of the Comprehensive Plan for the City of Woodinville.
- (2) Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use, or shortly thereafter, without decreasing current service levels below established minimum standards for the City.
- (3) Establish standards and procedures so that new development pays a proportionate share of costs for new facilities and services and does not pay arbitrary or duplicative fees for the same impact.

3.39.020 Authority.

- (1) This chapter is enacted pursuant to the Washington State Growth Management Act codified at Chapter 36.70A RCW and at RCW 82.02.050 to 82.02.100.
- (2) The City has conducted studies documenting costs and demand for new facilities and services. These studies are, included in the City's Transportation Master Plan, as may be amended and adopted, from time to time, by the City Council; and are hereby incorporated into this chapter by reference as if set forth in full. The City of Woodinville Comprehensive Plan is also incorporated into this chapter by reference.

3.39.030 Definitions.

- (1) Dwelling Unit. See definition in WMC 21.06.180.
- (2) "Encumber" means to transfer impact fee dollars from the transportation impact fee fund to a fund for a particular system improvement that is fully within the current year's budget. Funds may only be encumbered by an action of the City Council. The fund encumbering the impact fee dollars shall bear the name of the system improvement financed with such money.
- (3) "Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development project 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 Transportation Facilities Plan or Transportation Improvement Plan approved by the City Council shall be considered a project improvement. Project Improvements are also improvements to the City's Transportation system, directly adjoining property being developed, that are required in order to mitigate the direct impacts caused by the development such as frontage improvements, are considered part of and within the definition of project improvements.
- (4) "System improvements" means transportation facilities that are included in the City's 20-year Transportation Facilities Plan and are designed to provide service to the community at large, in contrast to project improvements.

3.39.040 Applicability.

All persons receiving building permits for the following within the City of Woodinville after the effective date of the ordinance codified in this chapter shall be required to pay traffic impact fees in an amount and manner set forth in this chapter.

- (a) New Single Detached Dwelling Unit
- (b) New Multi-Family Dwelling Units including
 - i) Apartments
 - ii) Duplexes
 - iii) Townhomes
 - iv) Senior Citizen Assisted Units
- (c) New Commercial Buildings
- (d) New Industrial Buildings
- (e) New Retail Buildings
- (f) Expansion of any commercial, retail or industrial building for the amount of expansion area and use only.
- (g) Expansion or remodeling of any multi-family housing that results in additional dwelling units being created for the number of additional dwelling units being created only.
- (h) Change of use inside of any commercial, retail, industrial, or multi-family building that results in a predicted amount of traffic being generated greater than the previous use unless exempt under WMC 3.39.050. The impact fee amount will only be calculated for the increase in predicted traffic volumes.

3.39.050 Exemptions.

The following development activities are exempt from paying transportation impact fees because they do not have a measurable impact on the City's transportation facilities, or because the City has chosen to exempt them pursuant to RCW 82.02.060(2), as development with broad public purposes.

(1) Existing Dwelling Unit. Any alteration, expansion, reconstruction, remodeling or replacement of existing single-family or multifamily dwelling units that does not result in the creation of additional dwelling units.

(2) Development activities for retail, commercial, and industrial buildings if all the listed conditions below are met:

- (a) The proposed development does not add to the foot print (size) of the existing building.
- (b) The proposed development does not add any internal floor area, floors and/or mezzanines to the existing building.
- (c) The proposed development does not require the construction of new parking stalls to meet the requirements of WMC 21.18.
- (d) The proposed development is an internal alteration/tenant improvement of an existing building.

3.39.060 Service Area.

(1) The service area for the existing and proposed public transportation facilities is defined as that area which is coextensive with the corporate boundaries of the City, as they now exist or as they may be amended through annexation or other means from time to time.

3.39.070 Transportation impact fee fund established.

(1) A special purpose Transportation Impact Fee Fund is hereby established to account for the receipt and expenditure of monies collected under this Chapter. All transportation impact fees and any investment income generated by such fees shall be deposited and monitored in the Transportation Impact Fee Fund. Any monies collected and unexpended before the effective date of this ordinance shall be combined into one Transportation Impact Fee Fund and no separate accounting shall be required in the future for these monies.

(2) Procedures for administration of the fund and accounts shall be established by the Finance Director. These accounts shall be expended in accordance with the City's normal budget procedures subject to the limitations set forth in WMC 3.39.080 and RCW 82.02.070. Annually, the City shall prepare a report on the impact fee fund showing the source and amount of all moneys collected, interest earned, and system improvements that were financed in whole or in part by these impact fees.

3.39.080 Use of funds.

(1) Transportation impact fees shall be used for development of transportation facilities that constitute system improvements.

(2) Impact fees may be spent on the following items to the extent that they directly relate to a particular system improvement: facility planning, land acquisition, site improvements, necessary off-site improvements, facility construction, facility engineering and design work, facility permit fees, facility financing, grant-matching funds, applicable mitigation costs, capital equipment pertaining to a particular system improvement, and any other capital costs related to a particular system improvement, including but not limited to signalization, traffic safety, and nonmotorized transportation improvements.

(3) Impact fees may also be used to recoup transportation facility improvement costs previously incurred by the City to the extent that new growth and development will be served by the previously acquired or constructed improvements resulting in such costs.

(4) In the event that bonds or similar debt instruments are or have been issued for the construction of public facility or system improvements for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this chapter and are used to serve new development. The Transportation Improvement Plan and Transportation Facilities Plan should distinguish between facilities and funds needed to serve new development and those facilities and funds needed to correct existing deficiencies.

(5) Projects that are classified as System Improvement Projects, that are eligible for partial or full funding by Transportation Impact Fees are listed with their estimated costs in Exhibit B to this Ordinance.

3.39.085 Computation of Transportation Fee Amount.

The City of Woodinville shall use the amount of Average Daily Traffic (ADT) as the measurement to determine transportation impacts of a development and impact fee.

(1) Calculation of Impact Fee Amount:

The amount of the Traffic Impact Fee assessed under this Chapter shall be calculated as follows:

- A = Total Estimated Cost of System Improvement Projects
- B = Percent of Growth of Traffic (ADT) from Internal within City Limits
- C = Proportionate Share of ADT Growth Assigned to Development Activity
- D = New Average Daily Traffic that will either originate in, transit through, or drive to the City
- Impact Fee Amount = $(A \times B \times C) / D$

The above calculation variables may be amended and adopted, from time to time, by the City Council and are hereby adopted as shown in Exhibit A to this Ordinance.

(2) Implementation of Impact Fee Amount

The Impact Fee Amount shall be implemented as follows:

Amount Effective:

Effective Date of Ordinance 527:	\$290/ADT
1/1/2014:	\$320/ADT
1/1/2015:	\$355/ADT
1/1/2016:	\$395/ADT
1/1/2017:	\$440/ADT

3.39.090 Impact fee determination and collection.

(1) At the time of building permit issuance, City staff shall determine the total impact fee owed based on the fee schedule in effect at the time of such issuance.

(2) Impact fee collection shall also occur at the time of building permit issuance.

(3) An applicant may request that the impact fee be calculated in advance of building permit issuance, but any such advance calculation shall not be binding upon the City and should only be used as guidance by the applicant. Applicants should note that it is not possible to have a vested right to pay a particular impact fee in advance of building permit issuance. If the City Council revises the impact fee formula or the impact fees themselves prior to the time that a building permit is issued for a particular development, the formula or fee amount in effect at the time of building permit issuance shall apply to the development.

(4) The City shall use as a basis to predict the amount of new average daily trips created by any proposed development the current edition of the publication titled "Trip Generation, an ITE Informational Report" published by the Institute of Transportation Engineers, or other factual basis accepted by the Public Works Director.

(5) This impact fee owed for a development shall be determined by multiplying the number of predicted new average daily trips by the impact fee amount per average daily trip as computed in WMC 3.39.085.

(6) If the predicted number of average daily trips for a property is less than the existing number of average daily trips from the existing uses on the same property as a result of the proposed development, transportation impact fees will not be assessed by the City. The highest number of predicted average daily trips from a previous use of the site since 2005 will be used as a basis for number of existing average daily trips generated by that property.

(7) The number of average daily trips remains with the property or lot and cannot be moved, traded, bought, sold, or transferred to another property within the City.

3.39.100 Impact fee adjustments, independent calculations.

A fee payer may request an adjustment to the impact fees determined according to the fee schedule adopted by this chapter by preparing and submitting to the Public Works Director an independent fee calculation for the development activity for which a building permit is sought. Said independent fee calculation must be supported by studies and data. The documentation submitted shall show the basis

upon which the independent fee calculation was made. The City may, in its sole and exclusive discretion, also adjust the applicable fee at the time of imposition where unusual circumstances exist.

(1) If the Public Works Director agrees with the independent fee calculation, a written agreement to accept such amount shall be transmitted to the fee payer who shall, in turn, present it to the Permit Center upon impact fee collection.

(2) If the Public Works Director does not agree with the independent fee calculation, the fee payer may appeal this decision to the Hearing Examiner through procedures outlined in WMC 2.30.060.

3.39.110 Impact fee credits.

(1) A developer shall be entitled to a credit against the transportation impact fee collected under the fee schedule adopted by this chapter in any of the following situations:

(a) Whenever a project is approved subject to a condition that the developer actually provide a particular system improvement; or

(b) Whenever a developer has agreed, pursuant to the terms of a voluntary agreement with the City, to provide a particular system improvement.

(2) If, in any of the cases in subsection (1) of this section, the land dedicated, facility constructed, or fee paid is allocated partly toward system improvements and partly toward project improvements, the credit shall be limited to that portion allocated to system improvements.

(3) For the purposes of calculating the credit, the land value or costs of construction shall be determined as follows:

(a) The amount of credit for land dedicated shall be by an appraisal conducted by an independent professional appraiser chosen by the fee payer from a list of at least three such appraisers provided by the City. The cost of the appraisal shall be borne by the fee payer. For the purposes of this section, the date of value shall be the date the land was dedicated to the City. The appraisal shall only value the land dedicated and not any alleged damages to any abutting property.

(b) The amount of credit for facilities constructed shall be based upon the actual cost of construction at the time of construction supported by invoices and other required records deemed reasonably necessary by the Public Works Director. The cost to construct required frontage improvements to existing streets including but not limited to the cost to construct curb and gutter, and street widening for non-through traffic capacity purposes; illumination systems, storm drainage systems, sidewalks and walkways, and landscaping, shall not be included in the amount of credit for facilities constructed as system improvements.

(4) This subsection (4) applies only to residential developments and the residential portion of a mixed use development. In cases where a developer would be entitled to a credit under this section, but the amount of the credit has yet to be determined on a per dwelling unit basis, the City shall take the total credit amount available to the entire plat or project, calculated by applying subsections (1) through (3) of this section, and divide that amount by the number of dwelling units approved for that plat or project. The impact fee and credit may then be calculated and collected on a per dwelling unit basis as building permits are issued for those dwelling units. Where building permits for some, but not all, of the dwelling units within a plat or project have already been obtained at the time the ordinance codified in this chapter becomes effective, the credit for the unpermitted dwelling units will be calculated to arrive at a per dwelling unit amount in the same manner. For example, if a plat has been approved for 20 dwelling units, and building permits have only been issued for 10 of those units, the per dwelling unit credit for the remaining 10 units will equal the total credit amount divided by 20 dwelling units.

(5) This subsection (5) applies to nonresidential developments, or the nonresidential portion of a mixed use development. In cases where a developer would be entitled to a credit under this section, but the amount of the credit has yet to be determined on a per square foot basis, the City shall take the total credit amount available to the entire plat or project, calculated by applying subsections (1) through (3) of this section, and divide that amount by the number of square feet approved for that plat or project. The impact fee and credit may then be calculated and collected on a per square foot basis as building permits are issued for that square footage. Where building permits for some, but not all, of the dwelling units within a plat or project have already been obtained at the time the ordinance codified in this chapter becomes effective, the credit for the unpermitted square footage will be calculated to arrive at a per square footage amount in the same manner. For example, if a 20,000 square foot commercial project has been approved, and building permits have only been issued for 10,000 square feet of the project, the per

square foot credit for the remaining 10,000 square feet will equal the total credit amount divided by 20,000 square feet.

(6) Determinations made pursuant to this section may be appealed to the Examiner under WMC 2.30.060.

(7) A credit must be requested within 30 days of building permit issuance or it is deemed waived.

(8) No refund will be allowed in the event that the impact fee credit calculation exceeds the amount of the impact fee itself.

3.39.120 Impact fee refunds.

(1) The current owner of property on which impact fees have been paid may receive a refund of such fees if the impact fees have not been expended or encumbered within six years of their receipt by the City. 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.

(2) The City shall provide for the refund of fees according to the requirements of this section and RCW 82.02.080.

(3) The City shall notify potential claimants of the refund availability by first-class mail deposited with the United States Postal Service addressed to the owner of the property at the owner's last known address.

(4) An owner's request for a refund must be submitted to the City Council in writing within one year of the date the right to claim the refund arises or the date that notice is given, whichever date is later.

(a) Any impact fees that are not expended or encumbered within six years of their receipt by the City, and for which no application for a refund has been made within this one-year period, shall be retained by the City and expended consistent with the provisions of this chapter.

(b) Refunds of impact fees shall include any interest earned on the impact fees.

(5) Should the City seek to terminate all impact fee requirements, all unexpended or unencumbered funds, including interest earned, shall be refunded to the current owner of the property for which an impact fee was paid. Upon the finding that all fee requirements are to be terminated, the City shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first-class mail addressed to the owner of the property at the owner's last known address. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the City, but must be expended for the original purposes, consistent with the provisions of this section. The notice requirement set forth above shall not apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

(6) A developer may request and shall receive a refund, including interest earned on the impact fees, when the developer does not proceed to finalize the development activity as required by statute or City code or the International Building Code.

(7) The amount to be refunded shall include the interest earned by this portion of the account from the date that it was deposited into the impact fee fund.

3.39.130 Appeals and payments under protest.

(1) This subsection (1) applies when an applicant seeks a building permit to construct a portion of a development that has already been reviewed and approved, in other respects, pursuant to procedures that comply with Chapter 36.70B RCW. An example of this circumstance would be an application for a permit to build one house in a large subdivision that was previously approved. In this case, any appeal of the decision of the City with regard to the imposition of an impact fee or the amount of any impact fees, impact fee credit, or impact fee refund must be taken before the Hearing Examiner pursuant to WMC 2.30.060 in conjunction with an appeal of the underlying building permit.

(2) This subsection (2) applies when an applicant seeks a building permit in conjunction with other development approvals that may be subject to an open record hearing and closed record appeal pursuant to procedures that comply with Chapter 36.70B RCW. An example of this circumstance would be an application for a short plat and building permit to build a new office park. In this case, any appeal of the decision of the City with regard to the imposition of an impact fee or the amount of any impact fees, impact fee credit, or impact fee refund must be made according to the process outlines for and in conjunction with the underlying development approval.

(3) Any applicant may pay the impact fees imposed by this chapter under protest in order to obtain a building permit.

(4) Only the applicant has standing to appeal impact fee matters.

3.39.140 Council review of impact fees.

The impact fee schedule adopted by this chapter shall be reviewed by the City Council, as it deems necessary and appropriate in conjunction with the update of the City's Transportation Facilities Plan and Transportation Improvement Plan.

3.39.170 Schedule of fees.

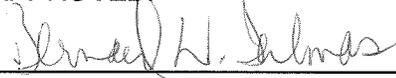
A transportation impact fee shall be assessed against all development in an amount as determined by Section 3.39.085, WMC for proposals that require a building permit unless exempt under Section 3.39.050, WMC. The Transportation Impact Fee Schedule established under this Chapter, which may be amended from time to time by the City Council, is hereby included as Exhibit A.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

ADOPTED BY THE CITY COUNCIL THIS 11TH DAY OF SEPTEMBER, 2012.

APPROVED:



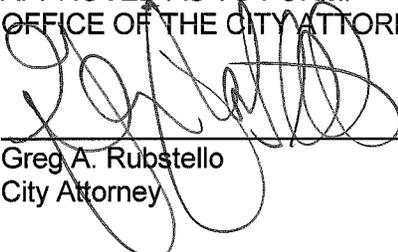
Bernard W. Talmas, Mayor

ATTEST/AUTHENTICATED:



Jennifer Kuhn
City Clerk/CMC

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:



Greg A. Rubstello
City Attorney

PASSED BY THE CITY COUNCIL: 9-11-2012

PUBLISHED: 9-17-2012

EFFECTIVE DATE: 9-24-2012

ORDINANCE NO. 527

Ordinance No. 527, Exhibit A
Schedule of Transportation Impact Fees

Impact Fee Calculation Formula (WMC 3.39.085):

- A = Total Estimated Cost of System Improvement Projects
- B = Percent of Growth of Traffic (ADT) from Internal within City Limits
- C = Proportionate Share of ADT Growth Assigned to Development Activity
- D = New Average Daily Traffic that will either originate in, transit through, or drive to the City
- Impact Fee Amount = $(A \times B \times C) / D$

Calculation of Fee Amount per WMC 3.39.085 established by Ordinance No. 527

Ordinance No. 527
Transportation Impact Fee Calculation

Formula Variables:

A	Total System Improvements	=	\$78,119,000
B	% ADT Growth within City Limits	=	61.20%
C	% Proportionate Share	=	50.00%
D	Total New ADT	=	54,318

Fee Calculation:

\$78,119,000	X	61.20%	X	50.00%	=	\$440.08
				54,318		

Round Fee to: \$440 per ADT

Ordinance No. 527, Exhibit B
Schedule of Transportation System Improvement Projects WMC 3.39.080(5)

3.39.080(5) Projects that are classified as System Improvement Projects, that are eligible for partial or full funding by Transportation Impact Fees are listed with their estimated costs in Exhibit B to this Ordinance.

Project Name (1)	All Capacity Improvements Projects (2)	Proposed Systems Improvement Projects for TIF (3)
Trestle Replacement	\$ 8,030,000	\$ 8,030,000
Sammamish River Bridge	\$ 6,490,000	\$ 6,490,000
SR 522 / 195th Street Interchange - Interim	\$ 750,000	\$ -
Woodinville-Snohomish Road Widening	\$ 18,100,000	\$ 18,100,000
SR 522 / 195th Street Interchange - Full Interchange	\$ 32,500,000	\$ -
135th Ave Grid Road 171st to LBC	\$ 6,028,000	\$ 6,028,000
173rd Grid Road	\$ 2,118,000	\$ 2,118,000
138th Grid Road	\$ 3,630,000	\$ 3,630,000
178th Grid Road	\$ 4,180,000	\$ 4,180,000
SR 202 Improvements	\$ 6,326,000	\$ -
140th Ave Widening (to 5 lanes)	\$ 2,635,000	\$ 2,635,000
Wood – Duvall Rd / Woodinville Way (left turn lane)	\$ 1,500,000	\$ 1,500,000
171st / 140th Dual Left Turn (northbound to westbound)	\$ 3,750,000	\$ 3,750,000
160th 124th Roundabout	\$ 2,500,000	\$ 2,500,000
SR 202 – Winery Hill Rd Intersection Roundabout	\$ 1,750,000	\$ 1,750,000
Woodinville – Duvall Rd Widening	\$ 7,033,000	\$ 7,033,000
Little Bear Creek Widening	\$ 6,375,000	\$ 6,375,000
NE 195th / 130th Traffic Signal	\$ 1,000,000	\$ 1,000,000
132nd / 143rd Roundabout	\$ 1,500,000	\$ 1,500,000
124th / 149th Traffic Signal	\$ 750,000	\$ 750,000
136th / NE 195th Traffic Signal	\$ 750,000	\$ 750,000
Total System Capacity Improvements	\$ 117,695,000	\$ 78,119,000

NOTES:

(1) Source: Transportation Master Plan adopted May 2010.

(2) Capacity Projects for Medium Growth Scenario.

(3) System Improvement Projects included in Transportation Improvement Fee.