

## ORDINANCE NO.584

**AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, CONCERNING CREDITS AGAINST TRAFFIC IMPACT FEES; ADOPTING FINDINGS; AMENDING WMC SECTION 3.39.110; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE AND FOR SUMMARY PUBLICATION BY TITLE ONLY.**

**WHEREAS**, Section 3.39.110 of the Woodinville Municipal Code ("WMC") provides for certain transportation impact fee credits for system improvements dedicated, conveyed or contributed by a developer or property owner and for the transfer of such credits in certain specified circumstances; and

**WHEREAS**, Section 3.39.110 fails currently to account for circumstances in which the developer or property owner claiming credits is indebted to the City for system improvements constructed or contributed to by the City pursuant to a development agreement or other contractual agreement; and

**WHEREAS**, the City Council has determined that Section 3.39.110 should be amended to account for such circumstances in order to avoid enrichment or benefit to a property owner or developer at public expense and the inequitable application of the credit otherwise provided for in Section 3.39.110;

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

**Section 1. Findings.** The City Council hereby adopts as findings the recitals expressed above.

**Section 2. Amendment of Section 3.39.110.** Subsection (1) of Section 3.39.110 is hereby amended to read as set forth below (new text is shown by underline; deletions of text are shown by strikethrough); all other provisions of this Section shall remain unchanged and in full force and effect.

(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 provided a particular system improvement;

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

(c) Whenever a developer or property owner ("developer") dedicates, conveys or contributes land, right-of-way and/or improvements for use by the City for a system improvement, separate from or in advance of filing a land use application or a development application, that otherwise qualifies for a credit against the transportation impact fee adopted by this chapter. PROVIDED, HOWEVER, any credit to which a developer is otherwise entitled by this section shall be reduced or offset by any unpaid amount due and owing by the developer to the City for

system improvements under the terms of a development agreement or other contractual agreement entered into between the developer and the City.

(d) Any credits authorized and approved in compliance with this section may be used by the developer as provided in this section or may be transferred by the developer to another developer (other than a developer's lender, a purchaser at a foreclosure sale or their transferee) for use against a transportation impact fee collected against the development of the transferee's real property. The transfer of any credits by the developer or subsequent party shall be recorded with the Director of Public Works and the King County Department of Records, within 30 days of the transfer on a form provided by the City executed by both the developer and the transferee. PROVIDED, HOWEVER, a transfer of credits shall not be authorized or approved if there are unpaid monies due and owing by the developer to the City for system improvements constructed by the City pursuant to a development agreement or other contractual agreement between the developer and the City.

**Section 3. Severability.** If any section, sentence, clause or phase 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 4. Effective Date and Summary Publication.** This ordinance shall become effective five days after passage and publication. The City Clerk is directed to publish a summary of this ordinance at the earliest possible publication date by publication of the ordinance title.

**ADOPTED BY THE CITY COUNCIL AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 18<sup>th</sup> DAY OF MARCH 2014.**

  
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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: 03-18-2014  
PUBLISHED: 03-24-2014  
EFFECTIVE DATE: 03-31-2014  
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