

ORDINANCE NO. C _____

An ordinance relating to transportation impact fees and amending SMC 17D.075.040 Assessment of Impact Fees, 17D.075.070 Credits, 17D.075.140 Review, 17D.075.180 Impact Fee Schedule, 17D.075.190 Service Area Map, and 17D.075.210 Impact Fee Project list.

WHEREAS, the City Council previously adopted Ordinance No. C34673, implementing the transportation impact fees authorized by Chapter 82.02 RCW, establishing transportation impact fee service areas, project lists, and adopting transportation impact fee schedules, all of which is codified in Chapter 17D.075 of the Spokane Municipal Code (SMC); and

WHEREAS, SMC 17D.075.140 anticipates periodic review and updates to the project lists and fee schedules, and further anticipates the formation of an impact fee advisory board consisting of various community representatives; and

WHEREAS, there has been a significant increase in residential development in the Latah/Hangman and Grandview/Thorpe Neighborhoods ("Latah Valley") in recent years; and

WHEREAS, the Washington State Department of Transportation (WSDOT) has voiced its concerns about the ability of US 195 to handle additional local trips and has threatened to remove local access from US 195 making it more difficult for residents of Latah Valley to reach destinations within the City of Spokane; and

WHEREAS, the Spokane Regional Transportation Council (SRTC) in collaboration with WSDOT, the City of Spokane, and the Spokane Transit Authority (STA) recently completed the US 195/I-90 Transportation Study (the "Study"); and

WHEREAS, the Study was initiated to address both existing and future challenges related to safety, traffic operations, multimodal access, increasing traffic levels, and limited pedestrian, bicycle, and transit infrastructure in the study area which consists primarily of Latah Valley; and

WHEREAS, the Study's goals included improving existing and future safety conditions, accommodating the transportation needs of planned development, increasing modal options such as walking, biking and transit, and identifying projects that are practical, implementable, and fundable in a reasonable timeline; and

WHEREAS, out of the Study, the City has identified several transportation projects that are needed to serve the increased growth and development occurring and anticipated in the Latah Valley and that will reasonably benefit such new growth and development; and

WHEREAS, Washington's legislature adopted RCW 82.02.050 *et seq* in order to enable cities to plan for new growth and development and to recoup from developers a

predictable share of the infrastructure costs attributable to anticipated growth, and further intended that impact fees are to be a proportionate share of the costs of transportation system improvements that are reasonably related to and reasonably benefit the development; and

WHEREAS, under the present Transportation Impact Fee schedules in Chapter 17D.075 SMC, the impact fees that are being collected from new residential construction and development occurring in the City and Latah Valley in particular are not adequate to cover the developments' proportionate share of the cost of necessary new system improvements that will be reasonably related to and that will reasonably benefit the new development; and

WHEREAS, it is necessary to update the City's Transportation Impact Fees so that the fees (i) are adequate to cover the cost of system improvements that are reasonably related to new growth and development occurring and anticipated in the City, (ii) do not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development, and (iii) will be used for system improvements that will reasonably benefit the new development; and

WHEREAS, the City conducted a detailed analysis of each of the projects used to calculate the updated impact fees in order to (i) remove the cost of correcting any existing deficiencies and (ii) to only include project costs associated with providing additional capacity that will reasonably benefit new growth and development; and

WHEREAS, City staff developed transportation impact fee service area boundaries based on existing traffic patterns and to ensure fees paid are assigned to projects reasonably related to their development ; and

WHEREAS, consistent with SMC 17D.075.140, the City established an impact fee advisory board consisting of various community representatives which worked to review proposed changes to the fee schedules and service area boundaries set forth in Chapter 17D.075 SMC; and

WHEREAS, the updated impact fee schedules have been prepared to reflect the estimated cost of the projects included in the updated Impact Fee Project List (the "Updated Impact Fee Rate Schedule"); and

WHEREAS, on or about **February 22, 2023**, following a public process involving a public workshop and a public hearing, a majority of the City of Spokane Plan Commission voted to recommend approval of an ordinance amending Chapter 17D.075 SMC (Transportation Impact Fees) with the amendments relating to (i) the updated Impact Fee Project List; (ii) the updated Impact Fee Rate Schedule; and (iii) the updated boundaries; and

WHEREAS, in making its recommendation, the Plan Commission found that, pursuant to the amended Transportation Impact Fee Ordinance, the impact fee(s) assessed a specific development will be proportionate to and reasonably related to the

service area-wide need for new transportation improvements created by the development; and

WHEREAS, in connection with the original Impact Fee Ordinance, the responsible official issued a Determination of Nonsignificance, dated March 27, 2008 (“DNS”); and

WHEREAS, pursuant to WAC 197-11-800, this update to Chapter 17D.075 SMC is categorically exempt from the threshold determination and environmental impact statement requirements under Chapter 43.21C RCW (SEPA); and

WHEREAS, Chapter 17D.075 SMC, as amended by this Ordinance, is consistent with the City’s Comprehensive Plan which, in CFU 2.4, recognizes impact fees as a possible mechanism to fund capital improvements so new growth and development activity that has an impact upon public facilities pays a proportionate share of the cost of facilities that reasonably benefit the development; and

WHEREAS, the Comprehensive Plan and the entire record relative to the adoption of Chapter 17D.075 SMC and this update are incorporated into this Ordinance by reference; and

WHEREAS, the City has complied with RCW 36.70A.370 in adopting this Ordinance; and

WHEREAS, the City Council adopts the foregoing as its findings of fact justifying its adoption of this Ordinance;

NOW, THEREFORE,

The City of Spokane does ordain:

Section 1. That SMC Section 17D.075.040 is amended to read as follows:

17D.075.040 Assessment of Impact Fees

A. The City shall collect impact fees, based on the schedules in SMC 17D.075.180, or an independent fee calculation as provided for in SMC 17D.075.050, from any applicant seeking development approval from the City. The impact fees in SMC 17D.075.180 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 SMC 17D.075.180. Subject to the review provisions set forth in SMC 17D.075.140 below, the transportation impact fees in SMC 17D.075.180 ~~will increase annually in the amount of 1.96% starting January 1st, 2019. This annual increase is based on the average of the Federal Highway Administration’s National Highway Construction Cost Index for the~~

~~years 2012 through 2016, and shall remain in effect until the transportation impact fee advisory board meets again.~~ will increase annually by the five-year rolling average of the Engineering News Record Construction Cost Index calculated by City staff, not to exceed 5% increase per year. This annual increase will start January 1st, 2024. 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 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.
 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. 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 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 SMC 17D.075.180, 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 fourteen days of submitting a complete application and shall be subject to the appeals procedures set forth in SMC 17D.075.090.

- C. Impact fees shall be assessed prior to the 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 SMC 17D.075.050. The impact fees shall be paid at the issuance of a building permit or at the completion of construction. To defer the payment of the impact fee to the end of construction, the developer shall provide prior to issuance of a building permit a recorded “certificate of title notice” evidencing an encumbrance on the title for each parcel of land, on forms provided by the city attorney’s office, recorded with the Spokane County auditor’s office which requires that the impact fee be paid as part of the closing of the construction financing, transfer of title to another party or issuance of a certificate of occupancy, whichever shall first occur. 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. 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 SMC 17D.075.070, shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the director pursuant to SMC 17D.075.070 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 SMC 17D.075.180.
- F. The department shall place a hold on permits for development approval unless and until the impact fees required by this chapter, less any permitted exemptions, credits or deductions, have been paid.

Section 2. That SMC Section 17D.075.070 is amended to read as follows:

17D.075.070 Fee Reductions and 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.~~

BA. The city council finds that certain types of development activity such as development with the City's center and corridor zones and housing at a density of at least fifteen (15) units per acre) are likely to generate fewer p.m. peak hour vehicle trips than other development activity. Consistent with this finding, a feepayer may request a ~~partial credit~~ fee reduction for the following:

1. Development within center and corridor zones shall qualify for a ~~partial credit~~ fee reduction of ten percent of the impact fees otherwise payable as a result of the development activity.
2. Mixed use development which features both an "active" first floor (e.g. office, retail) and a residential component shall qualify for a ~~partial credit~~ fee reduction of ten percent (10%) of the impact fees otherwise payable as a result of the development activity, which shall be doubled if at least twenty percent (20%) of the residential portion of the mixed-use development is affordable housing for low-income households or individuals, as these terms are defined in SMC 08.15.020(A) and (G).
3. Development of bicycle and pedestrian connections through their site to a public park or school, or that expand the connectivity of the trail network shall entitle a feepayer to a ~~partial credit~~ fee reduction of ten percent of the impact fees otherwise payable as a result of the development activity. ~~The credit provided for in this section shall be limited to the cost incurred by the feepayer in developing the connection.~~
4. Development projects that incorporate covered and lockable bicycle storage for at least fifty percent of their required bicycle parking shall qualify for a ~~partial credit~~ fee reduction of \$1,000 per bike space, ~~subject to the limitation in subsection (B)(6) below.~~ The bicycle storage area must be dedicated for that use only. See SMC 17C.230.200 for space requirements.
5. Development projects located ~~on a~~ within one-quarter-mile of a frequent transit corridor ~~may~~ shall qualify for a fee reduction of ten percent of impact fees otherwise payable as a result of the development activity. ~~make improvements in coordination with Spokane Transit Authority (STA) and will qualify for a partial credit of up to ten percent of the impact fees~~

~~otherwise payable as a result of the development activity. The credit provided for in this section shall be limited to the cost incurred by the feepayer in developing the improvements. Eligible improvements include the installation of weather cover, lighting, HPTN stop infrastructure or the dedication of right-of-way for transit stop improvements, as warranted by current or reasonably anticipated future usage of a transit stop, consistent with STA's established policies and design standards. The credit provided for in this section shall be limited to the cost of the right of way or the expense incurred by the feepayer in developing the transit stop. Frequent transit is defined as fixed route service at intervals of no less than fifteen minutes for at least five hours during the peak hours of operation on weekdays.~~

6. The director shall be authorized to determine whether a particular development activity falls within a ~~credit-fee reduction~~ identified in this Section ~~BA~~, in any other section, or under other applicable law. ~~Determinations of the director shall be in writing issued within fourteen days of a complete application and shall be subject to the appeals procedures set forth in SMC 17D.075.090.~~
- B. 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.
 - C. For each request for a credit, under subsection (A) (B) above, 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.
 - D. 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.
 - E. 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. In lieu of an appraisal the feepayer may also choose to use the county assessor's current square foot valuation of the dedicated land.
 - F. 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 calendar days shall nullify the credit. The credit must be used within seventy-two months of the award of the credit.

- G. Any claim for credit must be made prior to issuance of a building permit, provided any claim for credit submitted later than twenty 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.
- H. In no event shall the credit exceed the amount of the impact fees that would have been due for the proposed development activity.
- I. No credit shall be given for project improvements.
- J. Determinations made by the director pursuant to this section shall be subject to the appeals procedures set forth in SMC 17D.075.090.

Section 3. That SMC Section 17D.075.180 is amended as follows:

17D.075.180 Appendix A – Impact Fee Schedule

Section 4. That SMC Section 17D.075.190 is amended as follows:

17D.075.190 Appendix B – Service Area Map

The transportation impact fee service area boundaries are hereby designated on the Appendix B – Service Area Map. Properties within the “Airport-owned” boundary shall be automatically added to the West Plains Service Area if no longer owned by the Airport Board.

Section 5. That SMC Section 17D.075.210 is amended as follows:

17D.075.210 Appendix D – Impact Fee Project List

ADOPTED BY THE CITY COUNCIL ON _____

(Delivered to the Mayor on the _____ day of _____)

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date