

ORDINANCE NO. 2006- 11 - 106

AN ORDINANCE OF THE CITY OF BELLINGHAM AMENDING CHAPTER 19.06 OF THE BELLINGHAM MUNICIPAL CODE, TRANSPORTATION IMPACT FEES, FROM A MULTI-ZONE SYSTEM TO A CITY-WIDE SINGLE ZONE SYSTEM.

WHEREAS, the City of Bellingham is authorized under State law to impose Transportation Impact Fees (TIF) pursuant to RCW 82.02.050 - .090 for the purpose of collecting a proportional fair share contribution toward the capital improvement costs of transportation infrastructure; and

WHEREAS, since 1993, the City of Bellingham has implemented a multi-zone Transportation Impact Fee (TIF) system (BMC 19.06) comprised of 18 individual zones with varying impact fees imposed on new development; and

WHEREAS, the implementation and maintenance of a multi-zone Transportation Impact Fee (TIF) system has become increasingly complex;

WHEREAS, the Budget Advisory Commission and the City Council have requested that Public Works staff examine the existing multi-zone Transportation Impact Fee (TIF) system and propose improvements where possible; and

WHEREAS, the quantified traffic impact from new development is calculated using standardized trip generation rates for land use types based on nation-wide studies compiled by the Institute of Transportation Engineers (ITE); and

WHEREAS, standardized ITE trip generation rates and subsequent traffic impacts from categorized ITE land use types are identical regardless of the geographic location of the project within the City; and

WHEREAS, State law (RCW 82.02.050 - .090) requires that transportation impact fees collected must be spent for capital improvements to transportation infrastructure needed as a result of growth in the area or "zone" of impact within six years or the collected fees must be refunded with interest; and

WHEREAS, the common public infrastructure of the city-wide multi-modal transportation network is used and impacted by all existing and future residents, workers, shoppers, and students within the City; and

WHEREAS, transportation impact fees based on a common ITE trip generation rates should reflect future developments' proportional fair share contributions toward city-wide capital improvement costs for multi-modal transportation infrastructure; and

WHEREAS, the walking, bicycling, transit-riding, and driving public in Bellingham will be better served by a single zone Transportation Impact Fee (TIF) system with collected fees supporting multi-modal transportation infrastructure improvements on a city-wide basis; and

WHEREAS, the Washington State Supreme Court has recently upheld single zone Transportation Impact Fee (TIF) systems as reasonable and compliant with Washington State law; and

WHEREAS, on September 25, 2006, Public Works staff presented and discussed the proposed changes to the Transportation Impact Fee (TIF) system at a publicly noticed work session with the Bellingham City Council; and

WHEREAS, on September 26, 2006, Public Works staff presented and discussed the proposed changes to the Transportation Impact Fee (TIF) system to the Public Works Advisory Board (PWAB); and

WHEREAS, on October 5, 2006, Public Works staff presented and discussed the proposed changes to the Transportation Impact Fee (TIF) system to the Building Industry Association of Whatcom County (BIAW) Board of Directors; and

WHEREAS, after published notice, the City Council held a public meeting regarding the proposed ordinance on October 23, 2006; and

WHEREAS, the City Council has considered the Public Works staff presentation, TIF study findings produced by a transportation consultant, and public comment received and, based thereon, finds this ordinance to be in the best interests of the City and its citizens;

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1: The Bellingham Municipal Code Chapter "**BMC 19.06.000 TRANSPORTATION IMPACT FEES**" is hereby amended as follows:

19.06.010 – Purpose

It is the purpose of this Transportation Impact Fee Ordinance to:

A. Ensure that adequate transportation facilities are available city-wide to serve new growth and development.

B. Promote orderly growth and development by establishing city-wide standards by which new developments pay a fair and proportionate share of the cost of city-wide transportation facilities necessary to serve new growth.

C. Provide a means for financing city-wide growth-related transportation improvements which allows for the imposition of fees levied through established consistent procedures and criteria.

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City of Bellingham
City Attorney
210 Lottie Street
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D. Maintain a minimum level of service E (LOS E) calculated as a volume-to-capacity ratio of .901 – 1.001 for the qualitative and quantitative service level of arterial street transportation facilities throughout the City, unless an alternative LOS standard has been adopted in the Bellingham Comprehensive Plan.

19.06.020 – Definitions

A. For the purposes of this chapter, the terms listed shall have the following definitions and meanings consistent with RCW 82.02.090:

(1) **Capital Improvement Program (CIP)** means the section of the annual City budget that contains a comprehensive list of the adopted city-wide capital improvement needs, including specific transportation facility improvements. The CIP is cross-referenced in the Capital Facilities Element of the Bellingham Comprehensive Plan and transportation capital improvements are derived from the annually adopted Six-Year Transportation Improvement Program (TIP).

(2) **"Development activity"** means any construction or expansion of a building, structure, or use, 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.

(3) **"Development approval"** means any written authorization from a county, city, or town which authorizes the commencement of development activity.

(4) **"ITE Trip Generation Manual"** - Institute of Transportation Engineers Trip Generation Manual, (Most current edition).

(5) **"Level of Service (LOS)"** means the ratio of the forecast peak hour traffic volume to the capacity of an arterial street or signalized intersection compared to the level of service (LOS) standard, as adopted in the Transportation Element of the Bellingham Comprehensive Plan.

(6) **"Owner"** means the owner of record of real property, although when real property is being purchased under a real estate contract, the purchaser shall be considered the owner of the real property if the contract is recorded.

(7) **"Peak Hour Project Trips"** means the traffic estimated to be generated by a proposed development during the one-hour weekday afternoon period during which the greatest volume of traffic uses the road system. The peak hour project trips shall be estimated based on procedures identified in the City's Development Guidelines and Improvement Standards Manual.

(8) **Peak Hour Traffic** means traffic volumes during the one-hour weekday afternoon period during which the greatest volume of traffic uses the road system, as identified separately for each segment of a transportation facility. Bellingham measures the

heaviest 60-minute traffic period between the hours of 4:00 p.m. and 6:00 p.m. during weekdays Monday through Friday.

(9) "**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.

(10) "**Project Improvements**" mean 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 a capital facilities plan approved by the governing body of the county, city, or town shall be considered a project improvement.

(11) "**Six-Year Transportation Improvement Program (TIP)**" means the expenditures programmed by the City for capital purposes over the next six-year period in the Six-Year Transportation Improvement Program pursuant to RCW 35.77.010. The financial plan underlying the adopted Six-Year Transportation Improvement Program identifies all applicable and available revenue sources, and the plan forecasts these revenues through the six-year period with reasonable assurance that such funds will be timely put to such ends.

(12) "**Transportation Impact**" means the generation of new vehicle trips on the city-wide transportation network, which reduces the transportation capacity available to the general public and/or causes public arterial streets to fall below adopted LOS standards.

(13) "**Transportation Impact Fee (TIF)**" 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 or application fee.

(14) "**Transportation Service Area**" means the entire geographic area defined by the incorporated City limits of Bellingham in which the publicly funded transportation network provides service to new and existing development throughout the City. Land in the designated Bellingham Urban Growth Area (UGA) is under the jurisdiction of Whatcom County until annexed into the corporate limits of the City of Bellingham.

(15) "**Transportation Strategies**" means transportation demand management strategies and other techniques or programs that reduce single-occupant vehicle commute travel or improve the capacity of a transportation facility and that are approved by the Public Works Department. Strategies may include but are not limited to vanpooling, carpooling, and public transit, access management, signalization, and channelization.

(16) "**Transportation System Improvements**" means those publicly funded transportation facilities projects that are included in the Six-Year Transportation Improvement Program and Capital Improvement Plan and are necessary to accommodate the transportation demands generated by land use development as adopted in the Bellingham Comprehensive Plan.

(17) "**Travel Demand Forecast Model**" is the City's computerized transportation model, which is used to develop and analyze peak hour travel demands on the City's transportation facilities. The model is used to forecast travel demand on the Bellingham arterial street network based on current land use designations and employment data. This information is used as the basis for the Transportation Element of the Bellingham Comprehensive Plan and in other transportation planning and traffic engineering applications.

19.06.030 - Transportation Impact Fee

A. A Transportation Impact Fee (TIF) shall be levied upon each development that produces one or more peak hour project trip(s).

1. The number of peak-hour project trips generated by a development shall be calculated based upon the latest version of the ITE Trip Generation Manual.

2. The TIF shall be determined based upon the distribution of peak hour project trips generated by future development throughout the City using the Travel Demand Forecast Model. The TIF will be calculated by the summation of future developments' proportionate impact on transportation improvement projects identified in the City's adopted Six-Year TIP and CIP. The proportionate share factor for computing the cost of the improvements reasonably related to growth shall be based upon the ratio of future developments' peak hour project trips to the peak hour capacity used by development of the transportation facilities required to maintain the City's adopted arterial street level of service standard at LOS E. Residential development TIF's shall be calculated on a per unit basis whereas commercial development TIF's shall be calculated on a per square foot basis, as shown on **Table 1. Transportation Impact Fee Worksheet**, incorporated herein by this reference.

B. Payment of the TIF shall be made prior to issuance of a building permit, or if no building permit is required, prior to approval by the City of the development.

C. Reductions in PM peak-hour traffic volume from a development as a result of traffic demand management strategies, linked trips, or other incentives to reduce PM peak-hour traffic loads will be considered; and if valid, reduce the TIF.

D The TIF shall include a credit for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the Six-Year TIP and CIP and are required as a condition of the development.

E. Upon application by the owner, the City Council may exempt a low income housing development, as defined by the current City of Bellingham Consolidated Plan (or successor thereto), from all or part of the TIF upon such conditions as the City Council deems appropriate. The determination to grant or deny an exemption shall be in the sole discretion of the City Council after consideration of the public benefit of the development, the hardship to the development of the TIF, the impacts of the development, the availability of public funding to pay the development's TIF and other factors deemed relevant by the City Council. If an exemption is granted, the TIF attributable to the development shall be paid from public funds other than TIF accounts, consistent with RCW 82.02.060 (2).

19.06.040 - Transportation Impact Fee Rate Schedule and Zone

A. The TIF rate schedule shall be as shown in Table 1. A revised schedule shall be adopted each year by the City Council concurrent with, or subsequent to, the adoption of the Six-Year Transportation Improvement Program for arterial streets. The Public Works Department shall present projects for adoption each year along with the estimated project costs.

B. TIFs will be responsive to the cost of improvements included in the Six-Year Transportation Improvement Program for arterial streets, and the type of development contemplated.

C. For purposes of this ordinance, the City is comprised of one transportation impact fee zone as set forth in Table 1. "Transportation Impact Fee Worksheet", incorporated herein by this reference. A TIF rate is identified for one peak hour project trip for each land use type classified in the ITE Trip Generation Manual.

D. The TIF rate shall be determined by the computerized Travel Demand Forecast Model. A basic fee shall be established for one peak hour project trip. The total TIF is determined using the ITE Trip Generation Manual and the land-use designation of the development to determine the total number of peak hour project trips generated by the development. The TIF shall be equivalent to the TIF rate multiplied by the number of peak hour project trips.

E. TIF rates shall be calculated based upon the amount of public funds anticipated for system improvements in the annual Six-Year Transportation Improvement Program and the actual amount of public funds expended over the previous 6 year period for improvements completed in the Six-Year Transportation Improvement Program, to the extent that such improvements serve new growth and development.

19.06.050 - Appeals

A. A TIF determination may be appealed to the Public Works Director in writing describing the alleged defect of the TIF determination within 10 days of the appellant being notified of the TIF determination.

B. The Public Works Director's decision under this section may be appealed to the Bellingham Hearing Examiner for resolution pursuant to BMC Chapter 2.56 by filing a written

request for hearing with the Hearing Examiner, with a copy to Public Works, within 10 days of the Public Works Director's decision.

C. Only the following determinations may be appealed pursuant to this section and the provisions of this ordinance shall be presumed valid:

1. TIF rate.
2. Total number of peak hour project trips.
3. Interpretation of the ITE Trip Generation Manual.
4. Reduction of the TIF rate.

D. The appellant shall have the burden of producing and presenting technical evidence that clearly shows the basis and substantiation of the appeal upon submittal.

E. The Public Works Director and the Hearing Examiner shall have authority to affirm, modify or reverse the determination upon appeal. The TIF may be modified upon a finding that the original determination was erroneous or when, due to unique circumstances of the development, the TIF as determined by this ordinance imposes upon the development more than its fair pro rata share of the cost of facilities in the Six-Year Transportation Improvement Program.

F. A TIF may be paid under protest in order to obtain a permit or approval of development activity.

19.06.060 - TIF Accounts; Refunds

A. All TIF receipts shall be retained in a separate interest bearing account of the Street Program. TIFs and interest thereon shall only be expended for the purpose for which the TIFs were imposed.

B. TIFs shall be expended or encumbered within 6 years of receipt, unless the City Council, in writing, finds that there are extraordinary or compelling reasons for the TIFs to be held longer than 6 years.

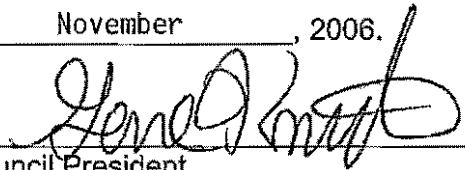
C. In the event a TIF is not expended or encumbered within 6 years of receipt, or such longer period of time as is established in this section, on public facilities intended to benefit the development for which the TIF was paid, the current owner of the property for which the TIF was paid may receive a refund of the unspent and unencumbered portion of the TIF, together with interest earned thereon. In order to receive a refund, the request must be submitted to the City in writing within one year of the expiration date. Notice of a potential refund is placed in the U.S. Mail, 1st Class, to the property owner as is then shown on the records of the Whatcom County Assessor. Any TIF not expended within the above-stated time limits for

which no request for a refund is received shall be held and expended on the indicated transportation facility.

D. A developer who has paid a TIF but does not proceed with a development, shall receive, upon request, a refund of the TIF, together with interest earned thereon, provided no impact has resulted from the development, minus an appropriate administrative processing fee.

Section 2: This ordinance shall become effective on Monday, January 1, 2007.

PASSED by the Council this 6th day of November, 2006.



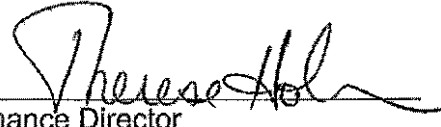
Council President

APPROVED by me this 14th day of November, 2006.



Mayor

ATTEST:



Finance Director

APPROVED AS TO FORM:



Office of the City Attorney

Published: November 10, 2006

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Regarding Transportation Impact Fees

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BMC 19.06 - Table 1. Transportation Impact Fee Worksheet

ITE Code ¹	ITE Land Use Category ¹	Base Fee Per Trip : \$1,217.00 per Unit			Impact Fee per Unit or Square Foot ⁴	
		ITE Trip Rate ²	Net New Trips per Unit or Square Foot minus Pass-by ³			
210	Single Family House	1.01	1.010	\$1,229.00	DJ	
220	Apartment	0.62	0.620	\$755.00	DJ	
231	Low-Rise Condo / Townhouse	0.78	0.780	\$949.00	DJ	
240	Mobile Home	0.56	0.560	\$682.00	DJ	
251	Sr. Housing Detached	0.26	0.260	\$316.00	DJ	
252	Sr. Housing Attached	0.11	0.110	\$134.00	DJ	
253	Congregate Care Facility	0.18	0.180	\$219.00	DJ	
254	Assisted Living	0.22	0.220	\$268.00	Bed	
620	Nursing Home	0.22	0.220	\$268.00	Bed	
520	Public Elementary School	1.18	1.180	\$1.45	Sq. Ft.	
522	Public Middle School	1.18	1.180	\$1.45	Sq. Ft.	
530	Public High School	0.97	0.970	\$1.18	Sq. Ft.	
534	Private School K-8	3.40	3.400	\$4.14	Sq. Ft.	
536	Private School K-12	2.75	2.750	\$3.35	Sq. Ft.	
110	Light Industrial	0.98	0.980	\$1.19	Sq. Ft.	
130	Industrial Park	0.66	0.660	\$1.05	Sq. Ft.	
140	Manufacturing	0.74	0.740	\$0.90	Sq. Ft.	
610	Hospital	1.16	1.160	\$1.44	Sq. Ft.	
630	Clinic	5.18	5.180	\$6.30	Sq. Ft.	
720	Medical/Dental Office	3.72	3.720	\$4.53	Sq. Ft.	
710	General Office	1.49	1.490	\$1.81	Sq. Ft.	
715	Single Tenant Office	1.73	1.730	\$2.11	Sq. Ft.	
750	Office Park	1.50	1.500	\$1.83	Sq. Ft.	
090	Park and Ride with Bus Service	0.75	0.750	\$913.00	Space	
420	Marina	0.19	0.143	\$173.00	Slip	
430	Golf Course	0.30	0.225	\$274.00	Acre	
441	Live Theater	1.00	0.750	\$0.91	Sq. Ft.	
491	Racquet Club	0.64	0.482	\$0.69	Sq. Ft.	
492	Health Fitness Club	4.05	3.038	\$3.70	Sq. Ft.	
495	Recreational Community Center	1.64	1.230	\$1.50	Sq. Ft.	
863	Convenience Market w/Gas Pumps	19.22	6.535	\$7,963.00	VSP	
941	Quick Lube	5.19	3.010	\$3,663.00	VSP	
944	Gas Station	13.86	8.039	\$9,783.00	VSP	
945	Gas Station w/Convenience Market	13.38	5.887	\$7,166.00	VSP	
946	Gas Station w/Convenience Market and Car Wash	13.33	7.731	\$9,409.00	VSP	
947	Self Serve Car Wash	5.54	3.213	\$3,910.00	VSP	
445	Multiplex Movie Theater	5.22	3.446	\$4.19	Sq. Ft.	
814	Specialty Retail Center	2.71	1.789	\$2.18	Sq. Ft.	
815	Free Standing Discount Store	5.06	4.200	\$5.11	Sq. Ft.	
850	Supermarket	10.45	6.688	\$8.14	Sq. Ft.	
854	Discount Supermarket	6.80	8.059	\$9.88	Sq. Ft.	
862	Home Improvement Super Store	2.45	1.274	\$1.66	Sq. Ft.	
863	Electronics Super Store	4.50	2.700	\$3.29	Sq. Ft.	
867	Office Supply Superstore	3.40	1.768	\$2.16	Sq. Ft.	
813	Free Standing Discount Superstore	3.87	2.554	\$3.11	Sq. Ft.	
820	Shopping Center < 1 Million Sq Ft	3.75	2.475	\$3.01	Sq. Ft.	
851	Discount Club	4.24	2.798	\$3.41	Sq. Ft.	
590	Library	7.09	7.080	\$8.63	Sq. Ft.	
816	Hardware/Paint Store	4.84	2.759	\$3.36	Sq. Ft.	
848	Tire Store	4.15	2.988	\$3.64	Sq. Ft.	
849	Tire Superstore	2.11	1.519	\$1.86	Sq. Ft.	
851	Convenience Market	52.41	39.832	\$48.48	Sq. Ft.	
880	Pharmacy/Drug Store	8.42	4.284	\$5.23	Sq. Ft.	
861	Pharmacy/Drug Store w/Drive-up	8.62	4.396	\$5.35	Sq. Ft.	
896	Video Rental Store	13.60	6.938	\$8.44	Sq. Ft.	
911	Walk in Bank	33.16	17.570	\$21.38	Sq. Ft.	
912	Drive-in Bank	45.74	24.242	\$29.60	Sq. Ft.	
931	Quality Restaurant	7.49	4.194	\$5.10	Sq. Ft.	
932	High Turnover Restaurant	10.92	6.224	\$7.58	Sq. Ft.	
933	Fast Food	26.15	13.337	\$16.23	Sq. Ft.	
934	Fast Food w/Drive up	34.84	17.668	\$21.50	Sq. Ft.	
936	Drinking Place	11.34	6.350	\$7.73	Sq. Ft.	
942	AutoCare	3.38	2.434	\$2.86	Sq. Ft.	
151	Mini Warehouse	0.26	0.260	\$0.32	Sq. Ft.	
310	Hotel	0.59	0.590	\$0.72	Sq. Ft.	
320	Motel	0.94	0.940	\$1.14	Sq. Ft.	
560	Church over 20,000 Sq. Ft.	0.66	0.660	\$0.80	Sq. Ft.	
560	Church under 20,000 Sq. Ft.	0.86	0.860	\$0.80	Sq. Ft.	
565	Day Care Center	13.16	3.295	\$4.01	Sq. Ft.	
732	US Post Office	25.00	13.250	\$16.13	Sq. Ft.	

¹ Institute of Transportation Engineers, Trip Generation (7th Edition)

² Trip generation rate per development unit, PM Peak Hour adjacent street traffic (4-8 pm) per 1,000 SF.

³ Average Pass-by Rates, per Trip Generation Handbook: an ITE Recommended Practice, March, 2001

⁴ Average Trip Length Relative to Single Family Trip

⁵ DU = dwelling unit, Sq. Ft. = Square Feet, VSP = vehicle servicing position