

**POULSBO DISTRIBUTION SCHEDULE**

**ORDINANCE NO. 2011-16**

**SUBJECT: Transportation Impact Fees**

CONFORM AS TO DATES & SIGNATURES

- Filed with the City Clerk: 10/05/2011
- Passed by the City Council: 10/12/2011
- Signature of Mayor
- Signature of City Clerk
- Publication: 10/28/2011
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Jill A. Boltz  
City Clerk

October 25, 2011  
Date

## ORDINANCE NO. 2011-16

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, ADDING A NEW CHAPTER 3.86 TO THE POULSBO MUNICIPAL CODE IMPOSING TRANSPORTATION IMPACT FEES ON NEW DEVELOPMENT; DESCRIBING THE METHOD FOR CALCULATION OF THE IMPACT FEES, CREDITS AGAINST THE FEES, ADJUSTMENTS, APPEALS, AND REFUNDS; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

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**WHEREAS**, the City Council of the City of Poulsbo intends that adequate transportation capital facilities be provided to serve new growth and development, and

**WHEREAS**, pursuant to the Growth Management Act of the State of Washington and RCW 36.70A, the City of Poulsbo has an adopted Comprehensive Plan, which includes provisions for transportation facilities as part of its Capital Facilities Plan; and

**WHEREAS**, RCW 82.02.050 authorizes cities to impose impact fees on development activity as part of the financing for public facilities, including transportation facilities; and

**WHEREAS**, in order that new transportation capital facilities are available when needed, the Council has determined that the cost of the transportation capital facilities must be shared by the public and the private sectors, and that a proportionate share of the expense of new transportation capital facilities necessitated by new development should be borne by developers through the City's imposition of transportation impact fees; and

**WHEREAS**, wherever practical, it is the City's intent to apply transportation impact fees collected in the general proximity of the new development project the fees were collected from; and

**WHEREAS**, such transportation impact fees shall be calculated, imposed and collected by the City pursuant to procedures and criteria set forth in this ordinance, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF POULSBO, WASHINGTON, DO  
ORDAIN AS FOLLOWS:

**Section 1. Transportation Impact Fees.** A new Chapter 3.86 entitled, "Transportation Impact Fees," is hereby added to the Poulsbo Municipal Code to read as follows:

**3.86.010 Short Title.**

This chapter shall be known and may be cited as the "Poulsbo Transportation Impact Fee Ordinance."

**3.86.020 Findings and Authority.**

The Poulsbo City Council hereby finds and declares that:

A. In order to maintain the adopted transportation level of service and continue to promote and protect the public health, safety and welfare in the face of a growing population, the City of Poulsbo must expand and improve its transportation system.

B. The City finds and determines that new growth and development, including but not limited to new residential, commercial, retail, office, and industrial development, in the City of Poulsbo will create additional demand and need on the public transportation system, and finds that new growth and development should pay a proportionate share of the cost of new facilities needed to serve the new growth and development.

C. This chapter is enacted under the authority of the Washington State Growth Management Act, codified at chapter 36.70A. RCW and at RCW 82.02.050 through 82.02.100.

D. Pursuant to the requirements of RCW [82.02.060](#), the City has reasonably adjusted the transportation impact fee amount

for taxes and other revenue sources that are anticipated to be available to fund the transportation facility improvements.

### **3.86.030 Purpose.**

A. The purpose of the chapter is to implement the capital facilities element of the Poulsbo Comprehensive Plan and the GMA by:

1. Ensuring that adequate transportation facilities are available to serve new development;

2. Maintaining the high quality of life in Poulsbo by ensuring that growth pays for growth and that existing service levels for existing residents and businesses are not adversely impacted by growth and new development activity; and

3. Establishing standards and procedures whereby new development pays its proportionate share of the cost of transportation capital facilities that are reasonably related to the new development, and whereby transportation capital facilities are jointly financed by public and private interests.

B. The provisions of this chapter shall be liberally construed to effectively carry out its purpose in the interest of the public health, safety and welfare.

### **3.86.040 Definitions.**

As used in this chapter, the following terms have the meanings set forth below:

**"Average Daily Trips"** means the number of all vehicles entering or leaving a site during a 24-hour weekday period.

**"Building permit"** means a permit issued by the Poulsbo Building Official and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure. As the term relates to transportation impact fees, "building permit" includes a permit issued for the siting or location of a mobile home.

**"Capital facilities plan"** means the capital facilities element of the Poulsbo Comprehensive Plan, as the same now exists or may be hereafter amended.

**"Developer"** means an individual, group of individuals, partnership, corporation, association, municipal corporation, state agency, or other person undertaking development activity within the City.

**"Development activity"** means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any change in the use of land, that creates additional demand and need for transportation capital facilities.

**"Development approval"** means any written authorization from the City that authorizes commencement of a development activity, including but not limited to final plat approval, short plat approval, binding site plan approval, planned residential development approval, planned mixed use development approval, site plan approval, conditional use permit approval, and building permit approval. As the term relates to transportation impact fees, "development approval" includes a permit issued for the siting or location of a mobile home.

**"Encumbered"** as the term relates to transportation impact fees means to reserve, set aside, or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for transportation capital facilities. Impact fees shall be considered encumbered on a first in, first out basis.

**"Existing development"** as the term relates to transportation impact fees means that development which physically exists or for which the Developer holds a valid building permit as of the effective date of the first ordinance establishing this chapter.

**"Fair market value"** means the amount in cash which a well-informed buyer, willing but not obligated to buy the property would pay, and which a well-informed seller, willing but not obligated to sell it, would accept, taking into

consideration all uses to which the property is adapted and might in reason be applied.

**"New development"** means any and all development for which a development approval is issued after the effective date of the first ordinance establishing this chapter.

**"Owner"** means the owner of record of real property, provided, that when real property is being purchased under a real estate contract, the purchaser shall be considered to be the owner of the real property if the contract is recorded.

**"Project improvements"** means site improvements and facilities that are 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 transportation capital improvement or facility included in the capital facilities plan shall be considered a project improvement.

**"Proportionate share"** as the term relates to transportation impact fees, means that portion of the cost of transportation capital improvements that are reasonably related to the service demands and needs of new development.

**"Transportation capital facilities"** means those transportation capital facilities or improvements addressed in the capital facilities plan element of the Poulsobo Comprehensive Plan, as the same now exists or may be hereafter amended.

**"Transportation impact fee"** means a payment of money imposed upon new growth or development as a condition of development approval in order to pay transportation capital facilities needed to serve such new growth or development. "Impact fee" does not include any permit or application fee.

**"Transportation service area"** means a geographic area defined by the City limits or, in the case of facilities providing service to areas outside the City, by interlocal agreement, as being that area in which a defined set of transportation capital facilities provide service to development within the area.

**"Transportation system improvements"** means transportation capital facilities that are 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.

### **3.86.050 Applicability.**

The requirements of this chapter apply to all new development, as defined in PMC 3.86.040.

### **3.86.060 Geographic Scope.**

The boundaries within which impact fees shall be charged and collected by the City are coextensive with the corporate City limits, and shall include all unincorporated areas annexed to the City on and after the effective date of the first ordinance establishing this chapter.

### **3.86.070 Service Area and Level of Service.**

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

B. As provided in the Comprehensive Plan, the City's level of service standard for transportation capital facilities is LOS E and as set forth in the City's comprehensive plan.

C. The level of service standard set forth in subsection B is met for existing development and increased demand and need associated with growth and new development will require acquisition of right-of-way and construction of transportation capital facilities in order to maintain this level of service.

### **3.86.080 Imposition of Transportation Impact Fees.**

A. Transportation impact fees shall be required as a condition of development approval for any and all new development within the City to which this chapter applies.

B. The transportation impact fee to be paid shall be that which is in effect at the time the development approval is issued. The City Engineer and Planning Director are authorized to impose transportation impact fees on any and all new development and to condition, withhold or revoke approval of any such development unless the transportation impact fees are paid when due.

C. Transportation impact fees shall become due and payable to the City at the time of building permit issuance. If a building permit is not required, then the transportation impact fees are due at the time of development approval.

D. For a change in use of an existing building or dwelling unit, (which may also include any alteration, expansion, replacement or new accessory building), the impact fee for the new use shall be reduced by an amount equal to an impact fee for the existing use; provided that the existing use was in effect within one year of the adopted date of this title.

E. The Building Official shall not issue any building permit, or certificate of occupancy if no building permit is required, unless and until the impact fee has been paid.

### **3.86.090 Calculating Transportation Impact Fee Amount.**

A. The transportation impact fee to be paid by new development shall be calculated by multiplying \$283.50 times the number of average week day (awd) trips generated by the development that is the subject of the development approval. Average week day trips shall be determined using the latest version of the *Trip Generation Manual* published by the Institute of Transportation Engineers (ITE) for the land use(s) that are the subject of the permit.

1. The methodology by which the transportation impact fee was derived is set forth in the Transportation Impact Fee Technical Document, dated August 2011, a copy of which is on file with the City Clerk and which is incorporated herein by this reference as if set forth in full.

2. In the event the latest version of the *Trip Generation Manual* published by the Institute of Transportation Engineers does not identified an average

week day trip (awdt) for a land use, the City will use the week day peak hour trips (wdpht) multiplied by 10.

B. If the development land use does not fit into any of the categories specified in the land use table in the latest edition of the *ITE Trip Generation Manual*, the city engineer shall use the most directly comparable type of land use. For mixed use developments, impact fees shall be imposed for the proportionate share of each land use.

C. No transportation impact fee shall be collected if the transportation improvements are incapable of being reasonably accomplished because of lack of public funds. No impact fee shall be imposed by the city on a development when mitigation for the same transportation impact of the development is being required by any other governmental agency pursuant to any other local, state, or federal law.

D. The impact fee imposed by this section should be reviewed whenever the transportation system level of service standard is amended, whenever the list of needed improvements is amended in the Capital Facilities Plan, whenever the City's projected new population assumption is updated, but no less than every 6-years as part of the Poulsbo Transportation Plan update cycle.

E. Failure of the City to review or amend the fee schedule shall not be a prerequisite to the continued imposition of fees under this chapter.

F. Cost Indexing. At the end of any 12-month period in which the portion of the City's Capital Facilities Plan listing system improvements that are the basis for transportation impact fees is not updated, the City Engineer may adjust the transportation impact fee amount by the same amount as the percentage change in the Washington State Department of Transportation Construction Cost Index for the most recent 12-month period prior to the date of the adjustment.

### **3.86.100 Exemptions.**

The following are exempt from the payment of impact fees under this chapter:

A. Development for which land has been dedicated, improvements constructed, or impact fees paid under SEPA and which land, improvements, or fees the City has previously determined to be sufficient to mitigate the transportation impacts of the development.

B. Existing development for which an impact fee has already been paid under this chapter (except as set forth in Section 3.86.080.D).

C. Development for which a voluntary agreement (developer's agreement) has been entered into pursuant to RCW 82.02.020 and which agreement calls for the dedication of land, construction of improvements, or payment of transportation impact fees in a specified amount at a date subsequent to execution of the agreement.

D. Alteration, expansion, remodeling, reconstruction, or replacement of existing single family or multifamily dwelling units that does not result in the creation of additional dwelling units.

E. Alteration, expansion, reconstruction, remodeling or replacement of an existing non-residential building that does not result in an increase in the average daily trips generated by the building.

F. Any building permit for a new legal accessory dwelling unit approved under Title 18 of this code (Zoning Code); it is considered an accessory use of the single-family residence, and therefore its impacts are within the realm of the primary single-family residential use.

G. Any building permit in association with a home occupation or home business approved under Title 18 of this code (Zoning Code); it is considered an accessory use of the residence, and therefore its impacts are within the realm of the primary residential use.

H. Any building permit(s) in association with a public park.

### **3.86.110 Credits.**

A. Pursuant to RCW 82.02.060(3), a reasonable credit shall be allowed for the dedication of land for, improvements to, or new construction of any transportation system improvements provided by a developer, to transportation capital facilities identified in the Capital Facilities Plan of the Comprehensive Plan and that are the subject of impact fees to be paid by the developer under this chapter as set forth in the Transportation Impact Fee Technical Document. Any request for a credit against impact fees shall be made no later than the time of the application triggering the imposition of impact fees. No credit shall be given for project improvements.

B. The amount of the credit shall be the value of the land and improvements conveyed to the City, provided, that in no case shall the amount of the credit exceed the amount of the impact fee imposed on the development activity. If the value of the land and improvements exceed the total transportation impact fees to be paid by the development, no impact fees shall be due. If the value of the land and improvements is less than the impact fees due, the developer will be required to pay the difference.

C. The value of the land and improvements for which a credit is sought shall be measured as follows:

1. The value of the land will be based upon the assessed value of the land to be conveyed, as shown in the most recent records of the county assessor, unless the Developer provides an appraisal of the fair market value of the land completed by a qualified real estate appraiser, in which case the value of the land will be based upon the said fair market value if the Planning Director and City Engineer determine that the appraisal is satisfactory.

2. The value of the improvements will be based upon construction cost estimates for the proposed transportation capital improvements, including any directly related site work, and as approved by the Planning Director and City Engineer. The cost estimate shall not include costs for financing, overhead or other costs not associated with the actual physical construction of the improvement.

D. Credits shall not be transferable from one property, project, or development activity to another.

### **3.86.120 Adjustments.**

The Planning Director and City Engineer are authorized to adjust the impact fees to be calculated under this chapter where the Developer demonstrates that unusual circumstances make the standard impact fee applied to such development unfair or unjust. The circumstances that form the basis for the adjustment shall not be circumstances that are generally applicable to similar land uses or to all development activity in the vicinity. Unusual circumstances may include that the development activity will have substantially less impact on the system improvements than other development activities in the same land use category. Any request for an adjustment shall be made no later than the time of the application triggering imposition of impact fees. Adjustments granted under this section shall not be transferable from one property, project or development activity to another.

### **3.86.130 Calculation of Impact Fees Based Upon Independent Study.**

A. A Developer may elect not to have the impact fees for a proposed development activity determined according to PMC 3.86.090. In such case, the Developer, at his/her expense, must submit an independent fee calculation study for the proposed development activity meeting the following standards:

1. The study shall follow accepted impact fee assessment practices and methodologies.
2. The study shall use acceptable data sources and the uses from which the data was compiled shall be comparable to the uses and intensities proposed for the proposed development activity. Unusual circumstances the clearly demonstrate that the proposed development will have substantially less impact on the transportation system than other development activities may be presented in the study.
3. The study shall comply with applicable state laws governing imposition of impact fees.

4. The study, including any data collection and analysis, shall be prepared and documented by professionals qualified in the transportation engineering and planning fields.

5. The study shall clearly show the basis upon which the independent fee calculation was made.

B. The Planning Director and City Engineer shall consider the study and any other documentation submitted by the Developer, but are not required to accept the study if they decide that the study is not accurate or reliable. The Planning Director and City Engineer may, in the alternative, require that the Developer submit additional or different studies, documents, or information for consideration. If the Planning Director and City Engineer determine that outside expertise is needed to review the study, the City may obtain the services of outside experts and the Developer will be required to pay the costs of such services.

C. If the study is not acceptable, the Developer shall be required to pay the impact fees based upon PMC 3.86.090. If the study is acceptable, the Planning Director and City Engineer may adjust the fee to that amount which is appropriate to the particular development activity.

D. The City Council may establish a fee for staff review of the independent studies authorized by this section. If such a fee is established, the fee shall be paid at the time the study is submitted.

### **3.86.140 Payments Under Protest.**

Impact fees may be paid under protest in order to obtain a site plan approval or building permit.

### **3.86.150 Appeals.**

Any decision made by the Planning Director and City Engineer under this chapter may be appealed in accord with the procedures for appealing the underlying permit or development approval and shall not be subject to a separate appeal process. All appeals shall follow the procedures set forth in PMC 19.01. The impact fee may be modified upon a determination that it is proper to do so based on principles of fairness.

### **3.86.160 Impact Fee Accounts and Expenditures.**

A. A transportation impact fee account is hereby established for the purpose of depositing and maintaining the funds received under this chapter and any previously collected transportation impact fees paid pursuant to SEPA or other authority. The City Finance Department shall earmark all funds collected under this chapter and under such previous collections as to the person paying, the date paid, and the development or property for which paid. The account shall be interest-bearing. All interest shall be retained in the account and expended for the purposes for which the impact fee was imposed.

B. Impact fees shall only be expended for transportation capital facilities described in and in conformance with the Capital Facilities Plan. Impact fees may be expended for facility planning, land acquisition, site improvements, application fees, necessary off-site improvements, required mitigation, construction, engineering, permitting, financing, and administrative expenses, relocatable facilities, capital equipment, repayment of system improvement costs previously incurred to the extent that new growth and development will be served by such system improvements, and any other expenses which could be capitalized and which are consistent with the capital facilities element.

C. In the event that bonds or similar debt instruments are issued for the advanced provision of system improvements for which impact fees may be expended and where consistent with provisions of the bond covenants, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities are consistent with the requirements of this section.

D. Impact fees imposed under this chapter shall be expended or encumbered for a permissible use within ten years of the date they are received by the City, unless the City Council finds that there exists an extraordinary and compelling reason for the fees to be held longer than ten years. Such a finding shall be made in writing.

E. Impact fees collected under the authority of SEPA and the voluntary agreement provisions of RCW 82.02.020 shall be expended or encumbered for a permissible use within five years of the date they are received by the City.

F. As part of the City's annual budget cycle, the City Engineer shall present a proposed Capital Improvement Program (CIP) for streets, assigning funds to specific transportation improvement projects and related expenses. Monies not assigned in any fiscal period shall be retained in the transportation impact fee special revenue fund until the next fiscal period, except as provided by the refund provisions of this ordinance.

G. Funds may be used to provide refunds as described in section 3.86.170.

H. The City may establish a fee for staff administration of impact fees authorized by this Chapter. If such a fee is established, the fee shall be identified in the City's fee schedule.

### **3.86.170 Impact Fee Refunds.**

A. The current owner of property on which impact fees have been paid may receive a refund of such fees, or any portion thereof, if the City has failed to expend or encumber the impact fees, or any applicable portion, within the time periods specified in PMC 3.86.160.

B. The City shall notify potential claimants for impact fee refunds by first class mail deposited with the United States postal service at the last known address of the said claimants.

C. A request for a refund must be submitted to the City Council in writing within one year of the date that the right to claim the refund arises or the date that the notice is given, whichever is later. Any impact fees that are not expended or encumbered and for which no application for refund has been made within the one-year period shall be retained and expended on the indicated capital facilities. Refunds under this subsection shall include interest earned on the impact fees, provided, that if the City's failure to expend or encumber the fee within the time periods set forth in PMC 3.86.160 is due to delay attributable to the Developer of the project for which the fee was collected, the refund shall be without interest.

D. If the City should terminate the impact fee requirements of this chapter, all unexpended or unencumbered funds, including interest earned, shall be refunded pursuant to this

section. Upon a determination to terminate such impact fee requirements, the City shall publish a notice of such termination and the availability of refunds in the City's official newspaper at least two times and shall notify all potential claimants by first class mail at the last known address of claimants. A request for a refund must be submitted to the City Council in writing within one year of the date that the notice is given. Any impact fees for which no application for refund has been made within the one-year period shall be retained and expended on the indicated capital facilities. No notice shall be required if there are no unexpended or unencumbered balances within the account at the time of termination.

E. A Developer may request and shall receive a refund, including interest earned on the impact fees, when the Developer does not proceed with the development activity and no impact has resulted.

F. When providing a refund, the City shall include the interest earned by the City on the impact fee while it was deposited into the required special interest bearing account.

### **3.86.180 Annual Impact Fee Report.**

The City Finance Department, in conjunction with the Planning Director and City Engineer, shall prepare an annual report to the City Council showing the source and amount of all monies collected, earned, or received and the transportation system improvements that were financed in whole or in part by impact fees imposed under this chapter. The report may be part of an existing annual report or may be a separate report.

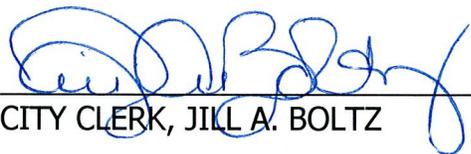
**Section 2. Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause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

**Section 3. Effective Date.** This ordinance shall take effect five (5) days after publication of the attached summary, which is hereby approved.

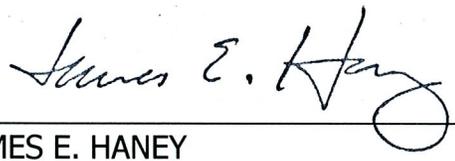
APPROVED:

  
\_\_\_\_\_  
REBECCA ERICKSON, MAYOR

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
CITY CLERK, JILL A. BOLTZ

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY   
\_\_\_\_\_  
JAMES E. HANEY

FILED WITH THE CITY CLERK: 10/05/2011  
PASSED BY THE CITY COUNCIL: 10/12/2011  
PUBLISHED: 10/28/2011  
EFFECTIVE DATE: 11/02/2011  
ORDINANCE NO. 2011-16

**SUMMARY OF ORDINANCE NO. 2011-16**

of the City of Poulsbo, Washington

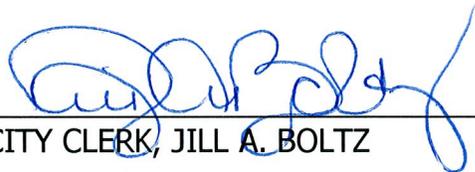
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On the 12th day of October, 2011, the City Council of the City of Poulsbo, passed Ordinance No. 2011-16. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, ADDING A NEW CHAPTER 3.86 TO THE POULSBO MUNICIPAL CODE IMPOSING TRANSPORTATION IMPACT FEES ON NEW DEVELOPMENT; DESCRIBING THE METHOD FOR CALCULATION OF THE IMPACT FEES, CREDITS AGAINST THE FEES, ADJUSTMENTS, APPEALS, AND REFUNDS; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

DATED this 20th day of October, 2011.

  
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CITY CLERK, JILL A. BOLTZ