

Planning Commission and City Council Work Session Draft

## 14.08 Definitions

"Capacity" means the ability of an affected intersection or intersections to handle increased traffic from a development without causing delays that fall below the LOS standards established in this chapter.

"Development activity" means any proposal or action requiring a development permit, not otherwise exempted, including the construction or expansion of a building, structure, or use, any change in the use of a building or structure, or any land use change that creates additional demand for public facilities.

"Development activity" does not include:

- (a) Buildings or structures constructed by a regional transit authority; or
- (b) Buildings or structures constructed as shelters providing emergency housing for people experiencing homelessness, or emergency shelters for victims of domestic violence, as defined in RCW 70.123.020.

"Development approval" means any written authorization from a county, city, or town that permits the commencement of development activity.

"Impact fee" means a payment imposed on development as a condition of approval to fund public facilities needed to serve new growth and development. This fee must be reasonably related to the new development, proportionate to the cost of the public facilities, and used for facilities that benefit the new development.

"Level of service" means the established minimum capacity of public facilities or services that must be provided per a defined unit of demand or other appropriate measure of need. Level of service standards are synonymous with locally established minimum standards.

"Off-site road improvement" means an improvement, excluding a frontage improvement, to an existing or proposed city road outside the boundaries of a development.

"Owner" means the owner of record of real property or when real property is being purchased under a real estate contract, the purchaser is considered the owner of the real property if the contract is recorded.

"PM Peak hour" means the highest volume of traffic for a continuous hour between 4:00 p.m. and 6:00 p.m.

"Project improvement" means site improvements and facilities planned and designed to serve a particular development project, necessary for the use and convenience of the occupants or users of the project that are not system improvements.

"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.

"Public facilities" means capital facilities owned or operated by government entities: (a) Public streets, roads, and bicycle and pedestrian facilities that were designed with multimodal commuting as an intended use; (b) publicly owned parks, open space, and recreation facilities; (c) school facilities; and (d) fire protection facilities.

"Service area" means a geographic area defined by a county, city, town, or intergovernmental agreement where a defined set of public facilities provide service to development within the area. Service areas must be designated based on sound planning or engineering principles.

"System improvement" means public facilities included in the capital facilities plan, designed to provide service to specific areas within the community at large, in contrast to project improvements.

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## **Chapter 14.112**

### **TRAFFIC IMPACT MITIGATION FEES\***

#### Sections:

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#### **14.112.010 Purpose.**

The purpose of this chapter is to implement the Capital Facilities Element of the Lake Stevens Comprehensive Plan and the Growth Management Act by:

- (a) Ensuring adequate transportation facilities are available to serve multimodal trips from new development.
- (b) Ensuring adequate transportation facilities are available to serve growth and maintain established levels of service for present businesses and residents.
- (c) Establishing procedures to impose fees for new development to pay a proportionate share of the costs of transportation facility improvements, reasonably related to the new development. This reduces transaction costs for both the city and developer, ensuring new developments do not pay arbitrary or duplicative fees.

#### **14.112.020 Authority.**

- (a) This chapter is adopted under Chapter 82.02 RCW, which authorizes cities planning under the Growth Management Act, Chapter 36.70A RCW, to impose, collect, and use traffic impact fees to help finance public facilities and system improvements needed to accommodate growth and development.
- (b) The city will collect traffic impact mitigation fees for development activities approved by the County, when the subject property has been annexed to the city.

#### **14.112.030 Applicability and Exemptions.**

This chapter applies to all new development activities, except for those exempted by the concurrency management system described in LSMC 14.110.030(a) and 14.110.030(b).

Optional exemptions for City Council Consideration pursuant to RCW 82.02.060 may be included in this chapter pending review and approval (financial impacts associated with these exemptions).

#### **14.112.040 Service Areas.**

- (a) The city has established service areas referred to as traffic impact zones (TIZ), as defined in the *Traffic Impact Fee Cost Basis for the City of Lake Stevens*, to help prioritize capital improvements throughout the city and assess appropriate traffic impact fees.
- (a) The exterior TIZ boundaries follow the city limits. Properties within the Urban Growth Area (UGA), annexed into the city, shall automatically be assigned the same TIZ (service area) as city properties directly contiguous to the annexation, unless an independent TIZ is established per the *Traffic Impact Fee Cost Basis for the City of Lake Stevens*.

#### **14.112.050 Mitigation of Traffic Impacts Required.**

Any new development activity shall mitigate identified impacts to the city's transportation facilities either by payment of an amount calculated pursuant to Section 14.112.070, dedicating land pursuant to Section 14.112.080, constructing off-site transportation facility improvements pursuant to Section 14.112.080, or as otherwise provided in Section 14.112.070. (Ord. 876, Sec. 6 (Exh. 4), 2012)

#### **14.112.060 Relationship to the State Environmental Policy Act (SEPA).**

This chapter establishes minimum traffic impact fees, applied to all developments. These fees are presumed to mitigate traffic demand on the capacity of the city's transportation facilities. However, each non-exempt development activity shall be subject to the substantive authority of SEPA (LSMC 16.04.105) to mitigate potential adverse impacts on transportation facilities not mitigated by this fee. (Ord. 876, Sec. 6 (Exh. 4), 2012)

#### **14.112.070 Calculation of Traffic Impact Fees.**

- (a) The traffic impact fees will be collected and spent for system improvements to transportation facilities as identified in the city's adopted Capital Facilities Plan, in accordance with RCW 82.02.050.
  - (1) Impact fees shall only be imposed for system improvements reasonably related to new development impacts.
  - (2) Impact fees shall not exceed a proportionate share of the costs of the identified system improvements.
  - (3) Impact fees shall be used for system improvements that will reasonably benefit the new development.
  - (4) Impact fees may only be collected and spent on system improvements, included in the capital facilities element of the Comprehensive Land Use Plan, identifying:
    - (i) Deficiencies in public facilities serving existing development and how existing deficiencies will be eliminated within a reasonable period of time;
    - (ii) Additional demands placed on existing public facilities by new developments; and
    - (iii) Additional public facility improvements required to serve new development;

- (b) The traffic impact fee cost basis is established in the *Traffic Impact Fee Cost Basis for the City of Lake Stevens*, or as amended, based on methodology consistent with the requirements of RCW [82.02.050](#) through [82.02.100](#).
- (c) A development shall mitigate its traffic impact by paying an impact fee reasonably related to the impact of the development activity on transportation facilities in the same traffic impact zone. A development's traffic impact fee will equal the number of new average weekday afternoon (PM) peak-hour trips generated by the development as identified in the currently adopted fees resolution, for the type and location of the development, except that the following adjustments may be made:
  - (1) In accordance with RCW 82.02.060(6), the Public Works Director shall have the authority to adjust the amount of the impact fee to consider unusual circumstances in specific cases, based on analysis of specific trip generating characteristics of the development (e.g., mixed-use characteristics, ridesharing programs, transit availability, etc.), to ensure that traffic impact fees are fairly imposed; and
  - (2) In accordance with RCW 82.02.060(7), the Public Works Director shall have the authority to adjust the amount of the impact fee to be imposed on a particular development to reflect local information when available, including studies and data submitted by the developer.
  - (3) Cost Indexing. The city may adjust the traffic impact fees annually considering the Consumer Price Index for the most recent 12-month period as guide for adjusting fees.
- (d) The City Council shall have the authority to adjust the amount of traffic impact fees pursuant to RCW 82.02.060(2) through (4) for development activities with defined broad public purposes in accordance with specific programs as determined and adopted by the City Council. The City Council shall identify the public funding source other than impact fees collected to compensate for any reductions in impact fees pursuant to this provision. (Ord. 922, Sec. 1, 2014; Ord. 876, Sec. 6 (Exh. 4), 2012)

**14.112.080 Offsets and credits.**

- (a) The city shall reduce required traffic impact fees or provide a credit for payment for transportation facility improvements previously made for the development as a condition of approval or under voluntary agreements with the City entered into after the effective date of the ordinance.
- (b) The city shall reduce required traffic impact fees or provide a credit whenever a development has agreed to, pursuant to the terms of a voluntary agreement with the City, or is granted approval subject to a condition that the developer provide right-of-way for or construct off-site transportation facility improvements that are identified in the Traffic Impact Fee Cost Basis for the City of Lake Stevens, as amended, as being part of the traffic impact fee cost basis, up to the value of land or up to the actual cost of construction against the impact fee assessed under Section 14.112.060.
- (c) The city shall reduce required traffic impact fees or provide 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 capital facilities plan and that are required a condition of approving the development activity.
- (d) The city shall provide a 50 percent reduction of traffic impact fees for system improvements under RCW [82.02.090](#)(7)(a) if the project is within a station area and claiming a multiple-unit housing property tax exemption under RCW [84.14.020](#)(1)(a)(ii)(D).

- (e) The amount of the offset or credit for a development activity shall not exceed the amount of the impact fee the development is required to pay.
  - (1) The land value or cost of construction shall be estimated at the time of approval and shall be based on acceptable evidence and documentation provided by the developer. The evidence and documentation shall be reviewed and, if acceptable, approved by the Public Works Director or designee.
  - (2) When land is proposed for dedication, the person required to pay traffic impact fees shall present either a Member of the Appraisal Institute (MAI) appraisal or evidence of the assessed value as determined by the County Assessor's Office.
  - (3) If construction costs are estimated, the estimate must be provided by a professional engineer or use construction values established by the city and the documentation shall be confirmed after the construction is completed to assure that an accurate offset amount is provided.
  - (4) If the land value or construction cost is less than the calculated fee amount, the difference remaining shall be chargeable as an impact fee.
- (f) Any claim for offset should be made at least 30 days prior to application for a building permit to eliminate or minimize any delays in issuance of a permit. (Ord. 876, Sec. 6 (Exh. 4), 2012)

#### **14.112.090 Collection of Impact Fees.**

Impact fees for each development shall be assessed and collected at the time of issuance of a building permit, unless deferred pursuant to Chapter 14.124. Where no building permit will be associated with the development, such as a development requiring a conditional use permit, payment is required as a precondition to approval. (Ord. 970, Sec. 5, 2016; Ord. 876, Sec. 6 (Exh. 4), 2012)

#### **14.112.100 Uses of Traffic Impact Fee Revenues.**

- (a) Traffic impact fee revenue will be used for capital improvements to transportation facilities, not operating or maintenance expenses.
- (b) Traffic impact fees shall be used for costs associated with City transportation facility improvements, including, but not limited to, planning, design, engineering, right-of-way acquisition, financing, project administration, construction, and/or construction engineering.
- (c) If 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 facilities or improvements provided are consistent with the requirements of this section.
- (d) Traffic impact fees are collected and spent on system improvements as opposed to project improvements, as defined in RCW 82.02.090. (Ord. 876, Sec. 6 (Exh. 4), 2012)

#### **14.112.110 Expenditure Requirements for Impact Fees.**

Traffic impact fees not expended or encumbered within 10 years may be refunded, pursuant to RCW 82.02.070, .080 and Section 14.112.130; unless the City Council makes written findings that there exists an extraordinary and compelling reason for fees to be held longer than 10 years. To verify these two requirements, impact fee revenues must be deposited into separate accounts of the City, and annual reports must describe revenue and expenditures. (Ord. 876, Sec. 6 (Exh. 4), 2012)

**14.112.120 Refund of Fees Paid.**

- (a) Traffic impact fees collected pursuant to this chapter shall be deposited into an interest-bearing account established for the City.
- (b) If a development approval expires without commencement of construction, the developer shall be entitled to a refund of traffic impact fees paid, with interest. The developer must submit a written refund request to the Finance Director within 30 days prior to the expiration of the permit. By resolution, the City Council may adopt fees to offset administrative costs of collecting and refunding mitigation fees.
- (c) Any funds not expended or encumbered by the end of 10 years from the date the fee was paid shall be returned to the developer/owner with interest; provided, that the developer/owner submits a written refund request to the Finance Director within one year of the expiration of the 10-year period.
- (d) Impact fees that are not expended or encumbered within these time limitations, and for which no written refund request has been made in accordance with this section, shall be retained and expended on transportation facilities.
- (e) Interest due upon the refund of traffic impact fees shall be calculated according to the average rate received by the City on invested funds throughout the period during which the fees were retained. (Ord. 876, Sec. 6 (Exh. 4), 2012)

**14.112.130 Appeals**

A developer may appeal the amount of an impact fee determined, following the appeal process for the underlying development approval, pursuant to LSMC 14.16A.265. The developer shall bear the burden of proving:

- (a) The city erred in its impact fee assessment of the developer's proportionate share, as determined by an individual fee calculation or as set forth in the fee schedule, or in granting a credit or offset.
- (b) The impact fee assessed on the development activity was based upon incorrect data.

## **Chapter 16.04 SEPA**

### **16.04.105 Substantive Authority.**

- (e) Through its substantive authority, in conjunction with the Master Annexation Interlocal Agreement between the City of Lake Stevens and Snohomish County, the City hereby establishes a process for collecting traffic and park mitigation fees, for properties annexed into the City of Lake Stevens, when Snohomish County received the initial development application and said application vested to Snohomish County regulations, including those related to the payment of traffic or park mitigation fees.
- (1) The City shall apply Snohomish County code requirements related to the payment of traffic and/or park mitigation fees.
  - (2) The City shall collect required traffic and/or park mitigation fees directly when such fees were not previously paid to Snohomish County.
  - (3) Payment of said fees to the City shall satisfy the requirements of Chapter 14.112 for traffic mitigation and Chapter 14.120 for park impact mitigation.
  - (4) The City shall assess and collect required impact fees at the time of building permit issuance.