

Chapter 20.77

**TRANSPORTATION
IMPACT FEES**

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20.77.010 Authority

This chapter is enacted pursuant to the Washington State Growth Management Act codified at Chapter 36.70A RCW and RCW 82.02.050 et seq., which authorizes agencies planning under the Growth Management Act to assess, collect, and use impact fees to pay for capital projects related to transportation facilities needed to accommodate growth. Whatcom County is planning under the Growth Management Act and has adopted a Comprehensive Plan which includes a Capital Facilities element which complies with RCW 36.70A.070(3), RCW 82.02.050(4), and all other applicable requirements. The county's Comprehensive Plan identifies the objective to pursue a transportation impact fee as part of the overall transportation financing mechanism. Consequently, Whatcom County is authorized to impose, collect, and use impact fees.

20.77.020 Purpose

The purpose of this chapter is to:

1
2 (1) Develop a transportation impact fee program consistent with the Whatcom
3 County Comprehensive Plan for joint public and private financing of
4 transportation improvements necessitated in whole or in part by development in
5 the unincorporated areas of the county;

6
7 (2) Create a mechanism to charge and collect fees to ensure that all new
8 development pays a proportionate share of the capital costs of off-site
9 transportation facilities necessitated by new development;

10
11 (3) Ensure that the county pays its fair share of the capital costs of transportation
12 facilities necessitated by public use of the transportation system; and

13
14 (4) Ensure fair collection and administration of such impact fees.

15
16 **20.77.030 Reserved**

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18 **20.77.040 Applicability**

19
20 (1) The requirements of this chapter apply to all development activity in
21 unincorporated areas of Whatcom County after the effective date of this
22 ordinance, except development activity that does not create additional impacts
23 on the county's transportation system, including, but not limited to, the following:

24
25 (a) Alteration, expansion, enlargement, remodeling, rehabilitation, or
26 conversion of an existing unit where no additional units are created and
27 the use is not changed.

28 (b) A change in use that results in no additional impact to the county's
29 transportation system.

30 (c) The construction of accessory structures that will not create additional
31 transportation impacts on system improvements.

32 (d) A structure moved from one location within the county to another location
33 within the county. Future development on the vacated lot will be subject to
34 all appropriate impact fees.

35
36 (2) Mitigation of impacts using transportation impact fees for transportation
37 facilities located in jurisdictions outside the jurisdiction of Whatcom County will be
38 required when there is an interlocal agreement between the county and the
39 affected jurisdiction specifically addressing transportation impact identification
40 and mitigation per section 20.77.180.

41
42 **20.77.050 Geographic scope**

1 The boundaries within which impact fees shall be charged and collected are co-
2 extensive with the unincorporated areas of Whatcom County.

3
4 **20.77.060 Imposition of transportation impact fees**
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6 Any person who receives a building permit for any development activity or who
7 undertakes any development activity within the unincorporated jurisdiction of
8 Whatcom County for which a building permit is not required shall pay the
9 transportation impact fees as set forth in this chapter to the county. The impact
10 fees shall be paid at the time of issuance of the permit.

11
12 **20.77.070 Service area**
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14 (1) For the purpose of this chapter, Whatcom County shall be divided into eight
15 (8) transportation service areas as depicted on the map in subsection (2). The
16 exact boundaries will be defined in an official map maintained by the county
17 based on the boundaries depicted in subsection (2).

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19 (2) Service area map
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20.77.080 Exemptions

(1) The County Council may approve exemptions from transportation impact fees referenced in this chapter for the following development activities:

- (a) New or expanded county facilities, public parks, or public park and ride facilities.
- (b) Low income housing as defined in this chapter.

(2) The amount of transportation impact fees not collected due to exemptions shall be paid from public funds other than impact fee accounts. The County Council shall identify the source of those public funds at the time it approves an exemption.

20.77.090 Assessment of transportation impact fees

(1) An impact fee schedule setting forth the amount of the transportation impact fees to be paid by a development is set out in subsection (5).

(2) The impact fee schedule, as set out in subsection (5), shall be updated annually at a rate adjusted in accordance with the WSDOT Construction Cost Index for the Seattle area, using a July – July annual measure to establish revised fee schedules effective August 1st of the subsequent year.

(3) The impact fee amount is calculated according to the fee schedule in subsection (5) by using the following formula:

$$TIF = (\text{Units}) \times (\text{Per-Unit Charge}), \text{ rounded up to the nearest whole dollar.}$$

Where:

TIF = Transportation Impact Fee amount for a Column A “Land Use Category” that associates to the particular development.

Units = The number of Column B “Units” that corresponds to the Column A “Land Use Category” that associates to the particular development.

Per-Unit Charge = The Column C “Impact Fee Charge Per Unit by TSA” figure that corresponds to the Column A “Land Use Category” that associates to the particular development, for the Transportation Service Area in which the development is located, according to 20.77.070(2).

- (a) Using the formula in 20.77.090(3), transportation impact fees shall be calculated separately for each use. The transportation impact fees that shall be paid are the sum of these calculations.

- 1 (b) If a development activity will include more than one use in a building or
 2 site, then the transportation impact fee shall be determined using the
 3 above formula by apportioning the space committed to the various uses
 4 specified on the schedule in subsection (5).
- 5 (c) If the type of use or development activity is not specified on the
 6 transportation impact fee schedule in subsection (5), the director shall use
 7 the transportation impact fee applicable to the most comparable type of
 8 land use on the fee schedule. The director shall be guided in the selection
 9 of a comparable type by the most recent *Trip Generation* manual (Institute
 10 of Transportation Engineers) or other recognized national standard.
- 11 (d) In the case of a change in use, development activity, redevelopment, or
 12 expansion or modification of an existing use, the transportation impact fee
 13 shall be based upon the net increase in the impact fee for the new
 14 development activity as compared to the impact fee that would have
 15 applied to the previous development activity. The director shall be guided
 16 in this determination by the sources and agencies listed above.
- 17
- 18 (4) As described in this section, the impact fees set forth in the schedule included
 19 in subsection (5) shall be presumed valid and appropriate, unless revised
 20 pursuant to the following provisions:
- 21
- 22 (a) An applicant may request a credit following the procedures set forth in
 23 Section 20.77.110.
- 24
- 25 (b) An applicant may submit an independent fee calculation following the
 26 procedures set forth in Section 20.77.100.
- 27
- 28 (5) Transportation impact fee schedule.
- 29

Whatcom County Schedule of Transportation Impact Fees

Summary Table

Column A Land Use Category - ITE 7th Edition	Column B Unit*	Column C - Impact Fee Charge Per Unit By TSA							
		1	2	3	4	5	6	7	8
Single-Family Detached Housing	Dwelling Unit	\$2,994	\$3,848	\$3,035	\$1,967	\$3,221	\$3,034	\$2,030	\$3,293
Apartment	Dwelling Unit	\$1,558	\$2,002	\$1,579	\$1,023	\$1,676	\$1,579	\$1,056	\$1,714
Low-Rise Apartment (1-2 Floors)	Occupied Dwelling Unit	\$1,458	\$1,873	\$1,478	\$957	\$1,568	\$1,477	\$988	\$1,603
Residential Condominium/Townhouse	Dwelling Unit	\$1,307	\$1,679	\$1,325	\$858	\$1,406	\$1,324	\$886	\$1,437
Mobile Home Park	Occupied Dwelling Unit	\$1,249	\$1,606	\$1,267	\$821	\$1,344	\$1,266	\$847	\$1,374
Senior Adult Housing-Detached	Dwelling Unit	\$396	\$509	\$402	\$260	\$426	\$402	\$269	\$436
Senior Adult Housing-Attached	Occupied Dwelling Unit	\$168	\$216	\$170	\$110	\$180	\$170	\$114	\$184
Congregate Care Facility	Occupied Dwelling Unit	\$259	\$333	\$263	\$170	\$279	\$263	\$176	\$285
Recreational Homes	Dwelling Unit	\$396	\$509	\$402	\$260	\$426	\$402	\$269	\$436
Residential Planned Unit Development (PUD)	Dwelling Unit	\$945	\$1,215	\$958	\$621	\$1,017	\$958	\$641	\$1,040

County Park	Acre	\$169	\$218	\$172	\$111	\$182	\$172	\$115	\$186
Beach Park	Acre	\$3,671	\$4,718	\$3,721	\$2,411	\$3,949	\$3,719	\$2,488	\$4,037
Regional Park	Acre	\$565	\$726	\$572	\$371	\$608	\$572	\$383	\$621
Golf Course	Acre	\$847	\$1,089	\$859	\$556	\$911	\$858	\$574	\$932
Multipurpose Recreational Facility	1,000 sf GFA	\$9,459	\$12,157	\$9,589	\$6,214	\$10,176	\$9,584	\$6,412	\$10,403
Movie Theater with Matinee	Seat	\$168	\$216	\$170	\$110	\$181	\$170	\$114	\$185
Casino/Video Lottery Establishment	1,000 sf GFA	\$37,921	\$48,736	\$38,441	\$24,910	\$40,794	\$38,423	\$25,706	\$41,705
Tennis Courts	Tennis Court	\$9,312	\$11,968	\$9,440	\$6,117	\$10,018	\$9,436	\$6,313	\$10,242
Health/Fitness Club	1,000 sf GFA	\$9,720	\$12,492	\$9,854	\$6,385	\$10,457	\$9,849	\$6,589	\$10,690
Elementary School	1,000 sf GFA	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Middle School/Junior High School	1,000 sf GFA	\$2,218	\$2,850	\$2,248	\$1,457	\$2,386	\$2,247	\$1,503	\$2,439
High School	1,000 sf GFA	\$1,808	\$2,323	\$1,832	\$1,187	\$1,945	\$1,832	\$1,225	\$1,988
Church	1,000 sf GFA	\$1,267	\$1,629	\$1,285	\$832	\$1,363	\$1,284	\$859	\$1,394
Day Care Center	1,000 sf GFA	\$25,306	\$32,523	\$25,653	\$16,624	\$27,223	\$25,641	\$17,155	\$27,832
Library	1,000 sf GFA	\$11,411	\$14,665	\$11,568	\$7,496	\$12,275	\$11,562	\$7,735	\$12,550
Hospital	1,000 sf GFA	\$2,632	\$3,383	\$2,668	\$1,729	\$2,832	\$2,667	\$1,784	\$2,895
Nursing Home	1,000 sf GFA	\$546	\$701	\$553	\$358	\$587	\$553	\$370	\$600

Hotel	Room	\$1,499	\$1,927	\$1,520	\$985	\$1,613	\$1,519	\$1,016	\$1,649
All Suites Hotel	Room	\$1,017	\$1,306	\$1,030	\$668	\$1,094	\$1,030	\$689	\$1,118
Motel	Room	\$1,194	\$1,535	\$1,211	\$785	\$1,285	\$1,210	\$810	\$1,314
Resort Hotel	Room	\$1,186	\$1,524	\$1,202	\$779	\$1,276	\$1,202	\$804	\$1,304
Building Materials and Lumber Store	1,000 sf GFA	\$9,509	\$12,220	\$9,639	\$6,246	\$10,229	\$9,634	\$6,446	\$10,457
Free-Standing Discount Superstore	1,000 sf GFA	\$2,990	\$3,842	\$3,031	\$1,964	\$3,216	\$3,029	\$2,027	\$3,288
Specialty Retail Center	1,000 sf GLA	\$2,980	\$3,829	\$3,021	\$1,957	\$3,205	\$3,019	\$2,020	\$3,277
Free-Standing Discount Store	1,000 sf GFA	\$4,506	\$5,791	\$4,568	\$2,960	\$4,848	\$4,566	\$3,055	\$4,956
Hardware/Paint Store	1,000 sf GFA	\$4,955	\$6,369	\$5,023	\$3,255	\$5,331	\$5,021	\$3,359	\$5,450
Nursery (Garden Center)	1,000 sf GFA	\$8,189	\$10,524	\$8,301	\$5,379	\$8,809	\$8,297	\$5,551	\$9,006
Nursery (Wholesale)	1,000 sf GFA	\$11,141	\$14,319	\$11,294	\$7,319	\$11,985	\$11,289	\$7,552	\$12,253
Shopping Center	1,000 sf GLA	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Factory Outlet Center	1,000 sf GFA	\$4,268	\$5,485	\$4,326	\$2,803	\$4,591	\$4,324	\$2,893	\$4,693
Quality Restaurant	1,000 sf GFA	\$6,395	\$8,219	\$6,483	\$4,201	\$6,880	\$6,480	\$4,335	\$7,034
High Turnover (Sit-Down) Restaurant	1,000 sf GFA	\$9,139	\$11,746	\$9,264	\$6,004	\$9,831	\$9,260	\$6,195	\$10,051
Fast Food Restaurant without Drive-Through	1,000 sf GFA	\$10,337	\$13,285	\$10,479	\$6,791	\$11,120	\$10,474	\$7,007	\$11,369
Fast Food Restaurant with Drive-Through	1,000 sf GFA	\$13,693	\$17,599	\$13,881	\$8,995	\$14,731	\$13,875	\$9,282	\$15,060
Quick Lubrication Vehicle Shop	Servicing Position	\$4,845	\$6,226	\$4,911	\$3,183	\$5,212	\$4,909	\$3,284	\$5,328
Automobile Care Center	1,000 sf GLA	\$3,427	\$4,405	\$3,474	\$2,251	\$3,687	\$3,473	\$2,323	\$3,769
New Car Sales	1,000 sf GFA	\$4,529	\$5,820	\$4,591	\$2,975	\$4,872	\$4,588	\$3,070	\$4,980
Automobile Parts Sales	1,000 sf GFA	\$6,063	\$7,793	\$6,147	\$3,983	\$6,523	\$6,144	\$4,110	\$6,669
Gasoline/Service Station	Vehicle Fueling Position	\$5,902	\$7,585	\$5,983	\$3,877	\$6,349	\$5,980	\$4,001	\$6,491
Gasoline/Service Station w/ Convenience Market	Vehicle Fueling Position	\$4,322	\$5,555	\$4,381	\$2,839	\$4,649	\$4,379	\$2,930	\$4,753
Gasoline/Service Station w/ Convenience Market & Car Wash	Vehicle Fueling Position	\$4,306	\$5,534	\$4,365	\$2,829	\$4,632	\$4,363	\$2,919	\$4,736
Self-Service Car Wash	Wash Stall	\$4,336	\$5,573	\$4,396	\$2,848	\$4,665	\$4,394	\$2,939	\$4,769
Tire Store	1,000 sf GFA	\$5,315	\$6,831	\$5,388	\$3,492	\$5,718	\$5,386	\$3,603	\$5,846
Tire Superstore	1,000 sf GFA	\$2,702	\$3,473	\$2,740	\$1,775	\$2,907	\$2,738	\$1,832	\$2,972
Supermarket	1,000 sf GFA	\$6,987	\$8,980	\$7,083	\$4,590	\$7,516	\$7,080	\$4,736	\$7,684

Convenience Market (Open 24 Hours)	1,000 sf GFA	\$21,354	\$27,444	\$21,647	\$14,028	\$22,972	\$21,637	\$14,476	\$23,485
Convenience Market (Open 15-16 Hours)	1,000 sf GFA	\$14,085	\$18,102	\$14,279	\$9,253	\$15,152	\$14,272	\$9,548	\$15,491
Convenience Market with Gasoline Pumps	Vehicle Fueling Position	\$6,827	\$8,774	\$6,921	\$4,485	\$7,344	\$6,918	\$4,628	\$7,508
Discount Supermarket	1,000 sf GFA	\$7,160	\$9,201	\$7,258	\$4,703	\$7,702	\$7,254	\$4,853	\$7,874
Discount Club	1,000 sf GFA	\$6,822	\$8,767	\$6,915	\$4,481	\$7,338	\$6,912	\$4,624	\$7,502
Home Improvement Superstore	1,000 sf GFA	\$1,763	\$2,265	\$1,787	\$1,158	\$1,896	\$1,786	\$1,195	\$1,939
Electronic Superstore	1,000 sf GFA	\$3,736	\$4,801	\$3,787	\$2,454	\$4,019	\$3,785	\$2,532	\$4,108
Toy/Children's Superstore	1,000 sf GFA	\$4,557	\$5,856	\$4,619	\$2,993	\$4,902	\$4,617	\$3,089	\$5,011
Apparel Store	1,000 sf GFA	\$4,211	\$5,412	\$4,269	\$2,766	\$4,530	\$4,267	\$2,855	\$4,631
Pharmacy/Drug Store without Drive-Through	1,000 sf GFA	\$4,134	\$5,314	\$4,191	\$2,716	\$4,448	\$4,189	\$2,803	\$4,547
Pharmacy/Drug Store with Drive-Through	1,000 sf GFA	\$4,593	\$5,903	\$4,656	\$3,017	\$4,941	\$4,654	\$3,113	\$5,051
Furniture Store	1,000 sf GFA	\$647	\$832	\$656	\$425	\$696	\$656	\$439	\$712
Video Rental Store	1,000 sf GFA	\$7,097	\$9,120	\$7,194	\$4,662	\$7,634	\$7,191	\$4,811	\$7,805
Walk-in Bank	1,000 sf GFA	\$20,836	\$26,778	\$21,122	\$13,687	\$22,414	\$21,112	\$14,124	\$22,915
Drive-in Bank	1,000 sf GFA	\$28,749	\$36,948	\$29,143	\$18,885	\$30,927	\$29,130	\$19,488	\$31,618

Clinic	Employee	\$3,091	\$3,973	\$3,133	\$2,030	\$3,325	\$3,132	\$2,095	\$3,399
General Office Building	1,000 sf GFA	\$3,744	\$4,812	\$3,796	\$2,460	\$4,028	\$3,794	\$2,538	\$4,118
Corporate Headquarters Building	1,000 sf GFA	\$3,518	\$4,522	\$3,566	\$2,311	\$3,785	\$3,565	\$2,385	\$3,869
Single Tenant Office Building	1,000 sf GFA	\$4,348	\$5,587	\$4,407	\$2,856	\$4,677	\$4,405	\$2,947	\$4,781
Medical-Dental Office Building	1,000 sf GFA	\$9,348	\$12,014	\$9,477	\$6,141	\$10,057	\$9,472	\$6,337	\$10,281
United States Post Office	1,000 sf GFA	\$17,527	\$22,526	\$17,767	\$11,514	\$18,855	\$17,759	\$11,881	\$19,276
Office Park	1,000 sf GFA	\$3,770	\$4,845	\$3,821	\$2,476	\$4,055	\$3,819	\$2,555	\$4,146
Research and Development Center	1,000 sf GFA	\$2,714	\$3,488	\$2,751	\$1,783	\$2,920	\$2,750	\$1,840	\$2,985
Business Park	1,000 sf GFA	\$3,242	\$4,166	\$3,286	\$2,130	\$3,487	\$3,285	\$2,198	\$3,565

General Light Industrial	1,000 sf GFA	\$3,791	\$4,872	\$3,843	\$2,490	\$4,078	\$3,841	\$2,570	\$4,169
General Heavy Industrial	Employee	\$3,404	\$4,375	\$3,451	\$2,236	\$3,662	\$3,449	\$2,308	\$3,744
Industrial Park	1,000 sf GFA	\$3,327	\$4,276	\$3,372	\$2,185	\$3,579	\$3,371	\$2,255	\$3,659
Manufacturing	1,000 sf GFA	\$2,863	\$3,679	\$2,902	\$1,880	\$3,079	\$2,900	\$1,940	\$3,148
Warehousing	1,000 sf GFA	\$1,818	\$2,337	\$1,843	\$1,194	\$1,956	\$1,842	\$1,232	\$2,000
Mini-Warehouse	1,000 sf GFA	\$396	\$509	\$402	\$260	\$426	\$402	\$269	\$436
Utilities	1,000 sf GFA	\$2,940	\$3,778	\$2,980	\$1,931	\$3,163	\$2,979	\$1,993	\$3,233

Truck Terminal	Employee	\$2,128	\$2,734	\$2,157	\$1,398	\$2,289	\$2,156	\$1,442	\$2,340
Park-and-Ride Lot with Bus Service	Parking Space	\$438	\$562	\$444	\$287	\$471	\$443	\$297	\$481

* Abbreviations include: GFA = Gross Floor Area, sf = square feet, and GLA = Gross Leasable Area, TSA = Transportation Service Area

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20.77.100 Independent fee calculations

(1) If, in the judgment of the director, none of the land use categories set forth in the fee schedule in 22.77.090(5) accurately describes the proposed land use, the applicant shall provide to the department for its review and evaluation an

1 independent fee calculation, prepared by a traffic engineer approved by the
2 director and paid for by the applicant. The independent fee calculation shall show
3 the basis upon which it was made and shall include, but not limited to, trip
4 generation characteristics. The director may accept this calculation and impose
5 an impact fee based on this calculation, or it may obtain a second independent
6 fee calculation and then decide which impact fee calculation is more appropriate.
7 The second independent fee calculation will be paid for by the county. With the
8 independent fee calculation, the applicant shall pay to the department an
9 administrative processing fee provided for in Whatcom County Unified Fee
10 Schedule.

11
12 (2) If an applicant requests not to have the impact fees determined according to
13 the schedule in 22.77.090(5), then the applicant shall submit to the director an
14 independent fee calculation, prepared by a traffic engineer approved by the
15 director and paid for by the applicant. The independent fee calculation shall show
16 the basis upon which it was made and shall include, but not be limited to, trip
17 generation characteristics. With the request, the applicant shall pay to the
18 department an administrative processing fee per the Whatcom County Unified
19 Fee Schedule.

20
21 (3) When an independent fee calculation is sought under subsection (2), above,
22 the county may issue the applicable permit, prior to completion of the
23 independent fee calculation; provided, that the impact fees must be collected
24 based on the fee schedule in 22.77.090(5) at the time of issuance. If the director
25 ultimately approves the independent fee calculation, the county shall refund the
26 portion of the fee that exceeds the approved independent fee calculation.
27

28 (4) Any independent fee calculation proposed under this section shall be
29 accompanied by a study that complies with the following standards:

30
31 (a) The study shall follow accepted traffic impact fee assessment practices
32 and methodologies and be consistent with the methods used in developing
33 the county's transportation impact fee schedules.
34

35 (b) The study shall use acceptable data sources and the data shall be
36 comparable with the uses and intensities proposed for the proposed
37 development activity.
38

39 (c) The study shall comply with the applicable State laws governing impact
40 fees including RCW 82.02.050 – 82.02.100 as these statutes may be
41 amended from time to time.
42

43 (d) The study, including any data collection and analysis, shall be prepared
44 and documented by a professional traffic engineer.
45

1 (e) The study shall show the basis upon which the independent fee
2 calculation was made.
3

4 (5) The director shall consider the independent fee calculation study and related
5 documentation submitted by the applicant, but is not required to accept the
6 calculation if the director decides that the study is not accurate or reliable. If the
7 director finds the study to be unreliable, the director may require the applicant to
8 submit additional or different documentation for consideration. If the director
9 decides that third-party engineers are needed to review the calculation and
10 related documentation, the applicant shall pay for the reasonable cost of a review
11 such engineers. If an acceptable independent fee calculation study is not
12 presented, the applicant shall pay the transportation impact fees based upon the
13 process and schedules referenced in this chapter. If an acceptable independent
14 fee calculation study is presented, the director may adjust the fee to an
15 appropriate amount.
16

17 (6) Determinations made by the director pursuant to this section may be
18 appealed to the hearing examiner subject to the procedures set forth in Section
19 20.77.170.
20

21 **20.77.110 Credits** 22

23 (1) An applicant may request a credit for the value of dedicated land,
24 improvements, or construction if the land and/or the facility constructed are (a)
25 required as a condition of development approval; and (b) included within the
26 project list entitled, Transportation Impact Fee Project List, established in
27 22.77.120(7).
28

29 (2) Each request for a credit shall include a legal description of land donated, a
30 detailed description of improvements or construction provided, and a legal
31 description or other adequate description of the development to which the credit
32 will be applied.
33

34 (3) The credit shall not exceed the impact fee payable by the applicant.
35

36 (4) For each request for a credit, the land value or costs of construction shall be
37 determined as follows:
38

39 (a) The amount of credit for land dedicated shall be the higher of either the
40 value of the land established in the impact fee project list, if such value is
41 identified, or by an appraisal conducted by an independent professional
42 appraiser chosen by the fee payer from a list of at least three such
43 appraisers provided by the county. The cost of the appraisal shall be borne
44 by the fee payer. For purposes of this section, the date of value shall be the
45 date the land was dedicated to the county. The appraisal shall only value

1 the land dedicated and not any alleged damages to any abutting property.

2

3 (b) The amount of credit for facilities constructed shall be based upon the
4 actual cost of construction at the time of construction.

5

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7 (5) After the director has determined the amount of the credit, the department
8 shall include the determination with issuance of the applicable permit along with,
9 a statement setting forth the dollar amount of the credit, the basis for the credit,
10 where applicable, the description of the land dedicated and the date of the
11 determination.

12

13 (6) Any credit must requested before payment of the impact fee and prior to
14 issuance of the applicable permit. Any claim not so made shall be deemed
15 waived.

16

17 (7) No credit shall be given for project improvements.

18

19 (8) Determinations made by the director pursuant to this chapter shall be subject
20 to the appeals procedures set forth in section 20.77.170.

21

22 **20.77.120 Project list**

23

24 (1) The project list for the county's transportation impact fee program is
25 established in subsection (7).

26

27 (2) Transportation impact fees shall only be imposed for system improvements
28 that are reasonably related to the new development.

29

30 (3) Transportation impact fees shall not exceed a proportionate share of the
31 costs of system improvements that are reasonably related to the new
32 development.

33

34 (4) Transportation impact fees shall be used for system improvements that will
35 reasonably benefit the new development.

36

37 (5) Transportation impact fees must spent on system improvements included in
38 the project list.

39

40 (6) The director shall periodically review the project list and costs for the
41 transportation impact fee program and shall recommend updates, if any, as part
42 of an amendment to WCC 20.77.

43

44 (7) Project list.

45

Project Name	Project Limits	Project	TSA
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		Cost (\$1,000s) Estimated	Project Location
Birch Bay- Lynden Road / Portal Way	Intersection	\$3,000	1
Birch Bay-Lynden Road / Harborview Road	Intersection	\$3,000	1
Birch Bay-Lynden Road Widening	Portal Way to UGA limit just east of Blaine Road	\$1,500	1
Birch Bay-Lynden Road Widening	UGA limit just east of Blaine Road to Harborview	\$1,800	1
Birch Point Connector Road	Birch Pt. Road. to Shintaffer Road.	\$2,000	1
Lincoln Road Extension and Improvement	Shintaffer Road. to Blaine Road (SR 548)	\$9,000	1
Portal Way/Dakota Creek Bridge #500	Bridge	\$5,000	1
Birch Bay- Lynden Road / Blaine Road (SR 548)	Intersection	\$3,000	1
Hannegan Rd. Intersections (4 intersections)	Intersections of Hannegan Rd with Kelly Rd., E Laurel, Ten-Mile Rd., Van Dyk Rd.	\$1,800	3
Hannegan Rd./SR 544 (E Pole Rd.) Intersection	Intersection	\$3,000	3
Haxton Way Non-motorized Improvements- 2 phases	Gooseberry Point to Slater Rd.	\$3,000	2
Lake Louise Rd.	Sudden Valley Gate 13 to Austin St.	\$8,000	5
Lake Louise Rd.	Sudden Valley Gate 13 to Whatcom Blvd.	\$8,000	5
Lake Whatcom Blvd. High Bridge #115	Entire bridge	\$5,500	5
Marine Drive	Bennett Drive to Locust St.	\$1,400	2
Slater Rd.	Hannegan Rd to Northwest Dr	\$4,000	3 (50%), 2 (50%)
Slater Rd. intersections (3 intersections in project)	Slater Rd with Imhof Rd., Ferndale Rd., and Northwest Rd.	\$3,000	2
Yew St. Rd.-Samish connector (amalgamation of several projects)	Yew St. (San Juan Blvd.) and Samish Way	\$1,000	4
Yew Street Rd. Phase 2	Samish Way to Kingsmill	\$6,000	4
Ferry Dock Improvements	Undefined	\$6,000	2
		\$79,000	Total

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20.77.130 Time of payment of fees

(1) All applicants shall pay the transportation impact fee in accordance with the provisions of this chapter at the time that the applicable building permit, or development permit when a building permit is not required, is ready for issuance. The impact fee paid shall be based upon the schedule in effect at the time of the issuance.

1
2 (2) All applicants shall pay an administrative fee at the time of application for the
3 applicable permit as set forth in the Whatcom County Uniform Fee Schedule.

4
5 (3) If the development is modified or conditioned in such a way as to alter the
6 land uses or unit count for the development after issuance of the applicable
7 permit the impact fee will be recalculated accordingly, based on the provisions of
8 this chapter. If the recalculated fee is greater than the previously paid fee, the
9 county shall withhold or revoke the certificate of occupancy until the updated fee
10 is paid. If the recalculated fee is less than the previously paid fee, then the county
11 will refund the difference, unless the fees have been spent or encumbered by the
12 county.

13
14 (4) The applicable permit shall not be issued until the impact fee is paid,

15
16 (5) An applicant may obtain a preliminary determination of the impact fee before
17 application for an applicable development permit, by paying the administrative
18 fee and providing the director with the information needed for processing. The
19 preliminary determination of the impact fee shall only be used as guidance by the
20 applicant and shall not be binding on the county.

21
22 (6) Impact fees may be paid under protest in order to obtain a permit or other
23 approval of development activity.

24
25 **20.77.140 Impact fee account**

26
27 (1) There is created and established a special purpose, non-lapse transportation
28 impact fee fund. As necessary, the county shall establish separate accounts
29 within such fund and maintain records for each such account whereby
30 transportation impact fees collected can be segregated by service area in
31 accordance with this chapter.

32
33 (2) All interest shall be retained in the account and expended for the purposes for
34 which the impact fees were imposed.

35
36 (3) The county shall provide an annual report for the previous calendar year on
37 each impact fee account showing the source and amount of moneys collected,
38 earned or received and system improvements that were financed in whole or in
39 part by impact fees. The report shall identify expenditures of the collected
40 transportation impact fees.

41
42 (4) The transportation impact fees paid to the county shall be held and disbursed
43 as follows:

44
45 (a) The transportation impact fees collected shall be placed in a deposit
46 account within the impact fee fund;

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(b) When the council appropriates capital improvement project (CIP) funds for a project on the project list, the fees held in the transportation impact fee fund shall be transferred to the CIP fund. Any non-impact fee moneys appropriated for the project may comprise both the public share of the project cost and an advancement of that portion of the private share that has not yet been collected in transportation impact fees;

(c) The first money spent by the finance manager on a project after a council appropriation shall be deemed to be the fees from the impact fee fund;

(d) Fees collected after a project has been fully funded by means of one or more council appropriations shall constitute reimbursement to the county of the public moneys advanced for the private share of the project.

(e) Projects shall be funded by a balance between transportation impact fees and public funds, and shall not be funded solely by transportation impact fees.

(f) Transportation impact fees shall be expended or encumbered for a permissible use within six years of receipt, unless an extraordinary or compelling reason exists for the fees to be held longer than six years. The county executive may recommend to the council that the county hold fees beyond six years in cases where extraordinary or compelling reasons exist. Such reasons shall be identified in written findings by the council.

20.77.150 Use of funds

(1) Transportation impact fees shall only be used for transportation system improvements identified in the capital facilities plan and on the project list as set forth in 22.77.120(7).

(2) Transportation impact fees referenced in this chapter may be spent for public improvements, including but not limited to planning, land acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing and administrative expenses, applicable impact fees or mitigation costs, capital equipment pertaining to planned facilities, and any other expenses which can be capitalized.

(3) Transportation impact fees may also be used to recoup public improvement costs previously incurred by the county to the extent that new growth and

1 development will be served by the previously constructed improvements or
2 incurred costs.

3
4 (4) In the event that bonds or similar debt instruments are or have been issued
5 for the advanced provision of public improvements for which impact fees may be
6 expended, impact fees may be used to pay the principal on such bonds or similar
7 debt instruments to the extent that the facilities or improvements provided are
8 consistent with the requirements of this section and are used to serve the new
9 development.

10
11 **20.77.160 Refunds**

12
13 (1) An applicant may request and shall receive a refund when the applicant does
14 not proceed with the development activity for which transportation impact fees
15 were paid, and the applicant shows that no impact has resulted, and the county
16 has not yet spent or encumbered the fees; however, the impact fee
17 administrative fee shall not be refunded. If the county has spent or encumbered
18 the fees, no refund shall be made to the applicant.

19
20 (2) If an owner appears to be entitled to a refund of transportation impact fee
21 under RCW 82.02.080, the finance manager shall notify the owner by first class
22 mail deposited with the United States Postal Service at their last known address.
23 The owner must submit a request for a refund to the finance director in writing
24 within one year of the date the right to claim the refund arises or the date the
25 notice is given, whichever is later. Any transportation impact fees that are not
26 expended or encumbered within the time limitations established by this chapter
27 and for which no application for a refund has been made within this one-year
28 period, shall be retained and expended on the system improvements included in
29 the project list.

30
31 (3) In the event that transportation impact fees must be refunded for any reason,
32 they shall be refunded with interest earned to the owners as they appear of
33 record with the Whatcom County assessor at the time of refund.

34
35 (4) When the county seeks to terminate any or all impact fee requirements, all
36 unexpended or unencumbered funds shall be refunded pursuant to this section.
37 Upon the finding that any or all fee requirements are to be terminated, the county
38 shall place notice of such termination and the availability of refunds in a
39 newspaper of general circulation at least two times and shall notify all potential
40 claimants by first class mail to the last known address of claimants. Claimants
41 shall request refunds as in subsection (2) of this section. All funds available for
42 refund shall be retained for a period of one year. At the end of one year, any
43 remaining funds shall be retained by the county, but must be expended on the
44 system improvements included in the project list. This notice requirement shall
45 not apply if there are no unexpended or unencumbered balances within an
46 account or accounts being terminated.

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20.77.170 Appeals

(1) An applicant may request reconsideration of the amount of the transportation impact fee within 15 days of the written notification of the amount by filing a formal request for reconsideration from the Public Works Director, presenting technical evidence showing the basis and substantiation of the request, and using forms authorized by the department.

(2) The following determinations may be basis for reconsideration pursuant to this section:

- a) Transportation impact fee rate.
- b) Total number of net new afternoon peak hour project trips.
- c) Interpretation of the ITE Trip Generation Manual.
- d) Allowed credit of the transportation impact fee rate.

(3) The director shall make the reconsideration and issue a determination within 30 days of the filing of such request either upholding the original determination or amending it.

(4) The results of an administrative reconsideration pursuant to WCC 20.77.165 may be appealed to the hearing examiner, as provided by Chapter 20.92 WCC.

(5) Any appeal shall be accompanied by a fee as defined in the county's Unified Fee Schedule.

(6) The Hearing Examiner shall have authority to affirm, modify or reverse the determination upon appeal. The transportation impact fee may be modified upon a finding that the original determination was erroneous or when, due to unique circumstances of the development, the transportation impact fee as determined by this ordinance imposes upon the development more than its fair pro rata share of the cost of facilities in the TIP.

20.77.180 Authorization for interlocal agreements

The county executive is authorized to execute, on behalf of the county, an interlocal agreement with other local governments for the collection, expenditure, and reporting of impact fees.

20.77.190 Relationship to State Environmental Policy Act (SEPA)

1 (1) All development shall be subject to environmental review pursuant to SEPA
2 and other applicable county ordinances and regulations.

3
4 (2) Nothing in this chapter shall be construed to require an applicant to pay or
5 construct mitigation for SEPA impacts and pay an impact fee for the same
6 system improvements included in the project list in 20.77.120(7). If the SEPA
7 mitigation cost exceeds the impact fee, the applicant shall be responsible for the
8 SEPA mitigation that is in excess of the impact fee.

9
10 (3) Nothing in this chapter shall be construed to limit the county's authority to
11 deny development permits when a proposal would result in significant adverse
12 transportation impacts identified in an environmental impact statement and
13 reasonable mitigation measures are insufficient to mitigate the identified impact.

14
15 **20.77.200 Relationship to concurrency management**

16
17 Neither compliance with this chapter or the payment of any fee hereunder shall
18 constitute a determination of concurrency under WCC 20.78.

19
20 **20.77.210 Necessity of compliance**

21
22 An applicable permit issued after the effective date of this ordinance shall be null
23 and void if issued without substantial compliance with this chapter by the
24 department, the approving authority and the director.

25
26 **20.77.220 Definitions**

27
28 The following are definitions provided for administering the transportation impact
29 fee program. The public works director shall have the authority to resolve
30 questions of interpretation or conflicts between definitions.

31
32 **“Applicant”** means any property owner, developer, or other person who seeks a
33 development permit from Whatcom County.

34
35 **“Building permit”** means the official document or certification that is issued by
36 the building department and that authorizes the construction, alteration,
37 enlargement, conversion, reconstruction, remodeling, rehabilitation, erection,
38 tenant improvement, demolition, moving or repair of a building or structure.

39
40 **“Capital facilities plan”** means the capital facilities plan element of the county's
41 Comprehensive Plan adopted pursuant to Chapter 36.70A RCW, and such plan
42 as amended.

43
44 **“County Council”** or **“Council”** means the County Council of Whatcom County.
45

1 **“Development activity”** means any construction or expansion of a building,
2 structure, or use, any change in use of a building or structure, or any changes in
3 the use of land, that creates additional demand and need for public facilities,
4

5 **“Development Permit”** means any order, permit, or other official action of the
6 county granting, or granting with conditions, an application for development as
7 defined by WCC 20.97.099 which authorizes the commencement of development
8 activity.
9

10 **“Director”** means the director of the department of public works of Whatcom
11 County or his/her designee.
12

13 **“Finance manager”** means the finance manager of Whatcom County or his/her
14 designee.
15

16 **“Impact fee”** or **“transportation impact fee”** means a payment of money
17 imposed upon development as a condition of development approval to pay for
18 system improvements needed to serve new growth and development, and that is
19 reasonably related to the new development that creates additional demand and
20 need for system improvements, that is a proportionate share of the cost of the
21 system improvements, and that is used for system improvements that reasonably
22 benefit the new development.
23

24 **“Impact fee account”** or **“account”** means the account established for the
25 system improvements for which impact fees are collected. The account shall be
26 established pursuant to this chapter, and shall comply with the requirements of
27 RCW 82.02.070.
28

29 **“Interlocal agreement”** or **“agreement”** means an interlocal agreement,
30 authorized in this chapter, by and between Whatcom County and other
31 government agencies concerning the collection and expenditure of impact fees,
32 or any other interlocal agreement entered by and between the county and
33 another municipality or public agency to implement the provisions of this chapter.
34

35 **“Jurisdiction”** means a municipality or county.
36

37 **“Low-income housing”** means housing for which the monthly expenditure by a
38 qualified purchaser or tenant, including mortgage or rent payment, insurance,
39 taxes, and utilities (water and sewer) does not exceed thirty-eight percent of
40 gross monthly income at the time of purchase or lease, and where the amount of
41 mortgage or rent does not exceed thirty percent of gross household income, with
42 documented assurance by a government or nonprofit housing program or agency
43 that this will continue over time. A low income household means a single person,
44 family, or unrelated persons living together whose income, at their initial
45 occupancy of the premises, is less than eighty percent of the median family
46 income, adjusted for household size, for Whatcom County, as defined by the

1 U.S. Department of Housing and Urban Development at the time of application.
2 A monthly expenditure higher than the standard above may be allowed for
3 homes or projects that have received state, federal, and/or other affordable
4 housing program funding.

5
6 **“Project improvements”** mean site improvements and facilities that are planned
7 and designed to provide service for a particular development project and that are
8 necessary for the use and convenience of the occupants or users of the project,
9 and are not system improvements. No improvement or facility included in the
10 capital facilities plan approved by the county council shall be considered a project
11 improvement.

12
13 **“Project list”** means system improvements included in the transportation impact
14 fee program as defined in 20.77.120 and 22.77.120(7) which is herein
15 incorporated by reference.

16
17 **“Proportionate share”** means that portion of the cost of system improvements
18 that are reasonably related to the service demands and needs of new
19 development.

20
21 **“Schedule”** means the list of adopted transportation impact fees for
22 development activity that is subject to impact fees which is based upon a formula
23 or other calculation method consistent with RCW 82.02.060. The schedule of
24 impact fees is defined in 22.77.090(5) which is herein incorporated by reference.

25
26 **“Service area”** means a geographic area defined by the county or interlocal
27 agreement, in which a defined set of system improvements provide service to
28 development within the area. Service districts shall be designated on the basis of
29 sound planning or engineering principles. Development in a service area may,
30 and will likely be found to, impact and be served by system improvements
31 outside of the service area, and the resulting transportation impact fee will reflect
32 a proportionate share charge based on those impacts.

33
34 **“System improvements”** mean public streets and roads that are included in
35 the capital facilities plan and are designed to provide service areas within the
36 community at large, in contrast to project improvements.

37
38 **“Trip generation manual”** means the most current edition of the report entitled
39 “Trip Generation” produced by the Institute of Transportation Engineers.