

CITY OF KENNEWICK  
ORDINANCE NO. 5759

AN ORDINANCE RELATING TO TRAFFIC IMPACT FEES AND  
AMENDING SECTIONS 13.16.030, 13.16.040, 13.16.050, 13.16.060, 13.16.110,  
13.16.150, AND 13.16.160 OF THE KENNEWICK MUNICIPAL CODE

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

**Section 1.** Section 13.16.030 of the Kennewick Municipal Code, be, and the same hereby is,  
amended to read as follows:

**13.16.030: - Findings and Authority.**

The City Council of the City of Kennewick hereby finds and determines that development activities, including, but not limited to, new residential, commercial, retail, office, and industrial development in the City of Kennewick will create additional demand and need for public facilities in the City, and the Council finds that such new growth and development should pay a proportionate share of the cost of new facilities needed to serve the new growth and development. The City of Kennewick has conducted research and analysis documenting the procedures for measuring the impact of new developments on public facilities, has prepared the "2040 Transportation System Plan (TSP)". The TSP utilizes a methodology for calculating impact fees that fulfills all of the requirements of RCW 82.02.060(1). The City of Kennewick has prepared a Fee Schedule based upon Council approved rates per new P.M. Peak Hour Trip. The TSP and Fee Schedule are incorporated into this title by this reference. A copy of the TSP and the Fee Schedule shall be kept on file with the Public Works Department and on the Public Works Department website, and is available to the public for review. Therefore, pursuant to Chapter 82.02 RCW, the Council adopts this chapter to assess impact fees for streets and roads. The provisions of this chapter shall be liberally construed in order to carry out the purposes of the Council in establishing the impact fee program.

(Ord. 5759 Sec. 1, 2018; Ord. 5596 Sec. 3, 2015)

**Section 2.** Section 13.16.040 of the Kennewick Municipal Code, be, and the same hereby is,  
amended to read as follows:

**13.16.040: - Definitions.**

The following words and terms shall have the following meanings for the purposes of this chapter, unless the context clearly requires otherwise. Terms otherwise not defined herein shall be defined pursuant to RCW 82.02.090, or given their usual and customary meaning.

- (1) *Applicant* means a person who applies for a building permit under this article and who is the owner of the subject property or the authorized agent of the property owner.
- (2) *Base Rate* means the fee per new P.M. Peak Hour trip as approved by the City Council.

- (3) *Building Permit* means an official document or certification which is issued by the building official and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving, or repair of a building or structure.
- (4) *Capital Facilities Plan* means the capital facilities element of the City's Comprehensive Plan adopted pursuant to RCW 36.70A and such plan as amended.
- (5) *Certificate of Occupancy* means an official document or certification which is issued by the Community Planning Department under the direction of the Building Official after all inspections have been completed, all documents retained, and there is no apparent Building Code violations, authorizing occupancy of a building and/or structure
- (6) *Council* means the City Council of the City.
- (7) *Department* means the City's Department of Public Works.
- (8) *Development Activity* means any work, condition, or activity which requires a permit or approval under the city's subdivision, zoning, or building code. Exempt permits are set forth in KMC 13.16.080.
- (9) *Development Approval* means any written authorization from the City authorizing the commencement of a development activity or use.
- (10) *Director* means the Director of the Department of Public Works of the City of Kennewick or her/his designee.
- (11) *District* means a geographical area of the City that is assessed a varying impact fee rate based on vehicle trips generated and capital infrastructure improvement costs within the district and the City.
- (12) *Encumbered* means to reserve, set aside, or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for public facilities.
- (13) *Fee Schedule* means the schedule of Transportation Impact Fees broken out by ITE Land Use Code with a separate fee schedule for each TIF District.
- (14) *GFA* is the Gross Floor Area in square feet of the development. This term is used in the Fee Schedule and the impact fee per unit is set based on a per 1,000 square feet of GFA basis. Alternatively the Fee Schedule refers to GLA, or Gross Leasable Area in some instances.
- (15) *Hearing Examiner* means the hearing examiner operating pursuant to the powers and duties set forth by Chapter 4.02 KMC.
- (16) *Impact Fee* means a payment of money imposed by the City of Kennewick on development activity pursuant to this title as a condition of granting development approval. "Impact fee" does not include a reasonable permit fee, an application fee, or the cost of reviewing independent fee calculations.
- (17) *Independent Fee Calculation* means the street and road impact calculation, and/or economic documentation prepared by an applicant, to support the assessment of an impact fee other than by the use of the rates listed in the Fee Schedule, or the calculations prepared by the Director where none of the fee categories or fee amounts in

the transportation impact fee in the Fee Schedule accurately describe or capture the impacts of the development activity on public facilities.

- (18) *Interest* means the average interest rate earned in the last fiscal year by the City of Kennewick.
- (19) *ITE Land Use Code* means the classification code number assigned to a type of land use by the Institute of Transportation Engineers in the latest edition of Trip Generation Manual.
- (20) *City Code Section* means the City of Kennewick Municipal Code or, when followed by a numerical designation, a provision of the Kennewick Municipal Code.
- (21) *P.M. Peak Hour* means the highest volume of traffic for a continuous hour between 4:00 p.m. and 6:00 p.m. on weekdays.
- (22) *P.M. Peak Hour Trips* means the total vehicular trips entering and leaving a place of new development activity on the adjacent public road or street during the P.M. Peak Hour.
- (23) *Project Improvements* means site improvements and facilities that are planned and designed to provide service for a particular development project and are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. No improvement or facility included in a capital facilities plan adopted by the Council shall be considered a project improvement.
- (24) *Public Facilities*, for purposes of this chapter, means the following capital facilities owned or operated by the City of Kennewick or other governmental entities: public streets and roads.
- (25) *Rate Study* means the “2040 Transportation System Plan” dated June 5, 2018.
- (26) *Residential or Residential Development* means all types of construction intended for human habitation. This shall include, but is not limited to, single-family, duplex, triplex, and other multifamily development.
- (27) *RCW* means the Revised Code of Washington or, when followed by a numerical designation, a provision of the Revised Code of Washington.
- (28) *Street or Road* means a public right-of-way and all related appurtenances, which enables motor vehicles, transit vehicles, bicycles, and pedestrians to travel between destinations, and affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, street, and other thoroughfare. For purposes of this chapter, public streets and roads are collectively referred to as "transportation."
- (29) *System Improvements* means public facilities that are included in the City of Kennewick's capital facilities plan, and such plan as amended, and are designed to provide service to service areas within the community at large, in contrast to project improvements.
- (30) *Transportation Impact Fee Account(s)* means the account(s) established for the transportation impact fees that are collected. The account(s) shall be established pursuant to KMC 13.16.110, and shall comply with the requirements of RCW 82.02.070.

(31) *Transportation Network* means public streets, roads, and related appurtenances.

(Ord. 5759 Sec. 2, 2018; Ord. 5596 Sec. 3, 2015)

**Section 3.** Section 13.16.050 of the Kennewick Municipal Code, be, and the same hereby is, amended to read as follows:

13.16.050: - Transportation Impact Fees Methodology and Applicability.

The transportation impact fee rates are generated from the formula for calculating impact fees set forth in the Fee Schedule, which is on file with the Public Works Department. Except as otherwise provided for in independent fee calculations in KMC 13.16.070, exemptions in KMC 13.16.080, and credits in KMC 13.16.090, all new development activity in the City will be charged the transportation impact fee applicable to the type of development and the District in which the development occurs, as set forth in the current Transportation Impact Fee Schedule as adopted by Council.

(Ord. 5759 Sec. 3, 2018; Ord. 5596 Sec. 3, 2015)

**Section 4.** Section 13.16.060 of the Kennewick Municipal Code, be, and the same hereby is, amended to read as follows:

13.16.060: - Assessment of Impact Fees.

- (1) The City shall collect impact fees, based on the land use categories and rates on the current Fee Schedule, from any applicant seeking development permits from the City where such development activity requires the issuance of a building permit or approval for a change in use, except for development exempt under KMC 13.16.080. This shall include, but is not limited to, the development of residential, commercial, retail, office, and industrial land, and includes the expansion of existing uses that creates a demand for additional system improvements as well as a change in existing use that creates a demand for additional system improvements. The public works department is authorized to determine the appropriate land use category found in the Fee Schedule that applies to the application. A separate Fee Schedule exists for each District, and the impact fee shall be assessed based on the District in which the development occurs.
- (2) All impact fees shall be due and payable prior to issuance of the certificate of occupancy based on the land use categories on the Fee Schedule. Prior to issuance of a single-family residential building permit, the applicant may elect to defer payment of the impact fee to the time of closing of sale of the unit. If this option is selected, the City shall record a covenant against the property for the payment of the impact fee in effect at time of application for deferral. Any fees associated with filing/recording the covenant, shall be paid by applicant. Unless the use of an independent fee calculation has been approved, or unless a development agreement entered into pursuant to RCW 36.70B.170 provided otherwise, the fee shall be calculated based on the impact Fee Schedule in effect at the time a completed building permit application is filed. The term of the impact fee deferral for a single-family residential unit may not exceed 18 months from the date of building permit issuance. For a change in use for which no building

permit is required, the fee shall be calculated based on the impact fee schedule in effect on the date of payment of the impact fee.

- (3) The public works department shall establish the transportation impact fee rate for a land use that is not listed in the fee schedule. The applicant shall submit all information requested by the City for purposes of determining the impact fee rate pursuant to KMC 13.16.070.
- (4) For a change in use of an existing building or dwelling unit, including any alteration, expansion, replacement or new accessory building that generate additional trips, the impact fee shall be the applicable impact fee for the land use category of the new use, less any impact fee previously paid for the land use category of the prior use. If no impact fee was paid for the prior use, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate of the current use.
- (5) For mixed use developments, impact fees shall be imposed for the proportionate share of each land use based on the applicable measurement in the transportation impact fee rates set forth in the Fee Schedule.
- (6) The Community Planning Department shall not issue the required certificate of occupancy until the transportation impact fees set forth in the Fee Schedule have been paid as set forth in the Fee Schedule or in the amounts that they exceed any credits allowable under this chapter. For a change in use where a building permit is not required, the applicant shall not occupy or permit a tenant to occupy the subject property unless and until the impact fee has been paid.

(Ord. 5759 Sec. 4, 2018; Ord. 5596 Sec. 3, 2015)

**Section 5.** Section 13.16.110 of the Kennewick Municipal Code, be, and the same hereby is, amended to read as follows:

13.16.110: - Establishment of Impact Fee Account.

- (1) Impact fee receipts shall be earmarked specifically and deposited in a special interest-bearing account.
- (2) The City shall establish a separate impact fee account by District, for the fees collected pursuant to this chapter entitled Transportation Impact Fee Account. Funds withdrawn from the account must be used in accordance with the provisions of this chapter and applicable state law. Interest earned on the fees shall be retained in the account and expended for the purposes for which the impact fees were collected.
- (3) On an annual basis, the Finance Director shall provide a report to the Council on the transportation impact fee account showing the source and amount of all moneys collected, earned, or received, and the public improvements that were financed in whole or in part by impact fees. Impact fees shall be expended or encumbered within ten years of receipt, unless the Council identifies in written findings extraordinary and compelling reasons for the City to hold the fees beyond the ten-year period. Under such circumstances, the Council shall establish the period of time within which the impact fees shall be expended or encumbered.
- (4) Impact fees shall be collected and accounted for in the District in which

development occurs.

(Ord. 5759 Sec. 5, 2018: Ord. 5596 Sec. 3, 2015)

**Section 6.** Section 13.16.150 of the Kennewick Municipal Code, be, and the same hereby is, amended to read as follows:

13.16.150: - Use of Funds.

- (1) Pursuant to this title, transportation impact fees:
  - (a) Shall be used for system improvements that will reasonably benefit the new development activity;
  - (b) Shall not be imposed to make up for deficiencies in public facilities; and
  - (c) Shall not be used for maintenance or operation.
- (2) Transportation impact fees may be spent for public improvements to streets and roads as herein defined and, including, but not limited to, transportation planning, engineering design studies, land survey, right-of-way acquisition, site improvements, necessary off-site improvements, engineering, architectural, permitting, financing, administrative expenses, construction of streets and roads and related facilities such as curbs, gutters, sidewalks, bike lanes, storm drainage and installation of traffic signals, signs and street lights, applicable impact fees or mitigation costs, and any other expenses which can be capitalized.
- (3) Transportation impact fees may also be used to recoup system improvement costs previously incurred by the City to the extent that new growth and development will be served by the previously constructed improvements or incurred costs.
- (4) In the event that bonds or similar debt instruments are or have been issued for the advanced provision of public improvements for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the new development.
- (5) Impact fees shall be spent on TIF-eligible projects at the rate established in the 2040 Transportation System Plan project list, and shall be spent in the District in which the fees were collected, except for cross-over traffic between Districts as noted in the TSP, and at the discretion of the Public Works Director.

(Ord. 5759 Sec. 6, 2018: Ord. 5596 Sec. 3, 2015)

**Section 7.** Section 13.16.160 of the Kennewick Municipal Code, be, and the same hereby is, amended to read as follows:

13.16.160: - Periodic Adjustment of Rates.

- (1) The transportation impact fee in the Fee Schedule will be amended to reflect changes to the 20-year transportation project list as part of adoption of amendments to the capital

facilities element of the City's Comprehensive Plan. Amendment to the schedule for this purpose shall be adopted by the council.

- (2) The transportation impact fee in the Fee Schedule shall be indexed to provide for an automatic fee increase each January 1 beginning in the year 2019. A three-year rolling average of the Consumer Price Index for Urban Wage and Clerical Workers (CPI-W), U.S. City Average, for the year ending October 31 each year will be used to determine the increase in fees for each following year to reflect increased project costs.
- (3) A new rate study, which established the transportation impact fee in the Fee Schedule, shall be updated every five years, unless the city determines that circumstances have not changed to warrant an update.

(Ord. 5759 Sec. 7, 2018; Ord. 5596 Sec. 3, 2015)

**Section 8.** This ordinance shall be in full force and effect five days from and after its passage, approval and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this 5<sup>th</sup> day of June, 2018, and signed in authentication of its passage this 5<sup>th</sup> day of June, 2018.

Attest:

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DON BRITAIN, Mayor

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TERRI L. WRIGHT, City Clerk

ORDINANCE NO. 5759 filed and recorded  
in the office of the City Clerk of the City of  
Kennewick, Washington this 6<sup>th</sup> day of  
June, 2018.

Approved as to Form:

\_\_\_\_\_  
LISA BEATON, City Attorney

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TERRI L. WRIGHT, City Clerk

DATE OF PUBLICATION \_\_\_\_\_