

CITY OF MOUNTLAKE TERRACE

ORDINANCE NO. 2505

AN ORDINANCE OF THE CITY OF MOUNTLAKE TERRACE AMENDING THE SERVICE AREA MAP AND SPECIFIC TEXT BY REPEALING AND REPLACING ORDINANCE NO. 2458 FOR TRANSPORTATION IMPACT FEES ON DEVELOPMENT AND REPEALING AND REPLACING CHAPTER 18.30, "TRANSPORTATION IMPACT FEES," OF THE MOUNTLAKE TERRACE MUNICIPAL CODE

WHEREAS, RCW 82.02.050 - 82.02.100 authorizes and provides for impact fees as a funding tool that may be used by local governments planning under the Growth Management Act (GMA) for the financing of certain kinds of public facilities;

WHEREAS, the City of Mountlake Terrace is required to plan and does plan under the GMA;

WHEREAS, the City has identified street capital improvement projects that are eligible to be funded in part by impact fees and such projects are being included in the City's Capital Improvement Plan for 2009 - 2014;

WHEREAS, the City's Comprehensive Plan, including the adopted Town Center Plan, designates a specific area of the City as "Town Center;"

WHEREAS, certain street improvements will be needed for future growth and development, with or without implementation of the Town Center Plan, and impact fees may be charged on a citywide basis to help pay for the cost of such improvements;

WHEREAS, other street improvements will be needed to mitigate impacts of development within the Town Center, pursuant to implementation of the Town Center Plan, and impact fees for such development may be charged on a specific area basis that coincides with the boundaries of the designated Town Center;

WHEREAS, the City adopted a transportation impact fee ordinance, Ordinance No. 2458, in September 2007 and such ordinance provided for Service Area 2 to be co-extensive with the designated Town Center district;

WHEREAS, on December 1, 2008, expanded the designated Town Center district to include new area along 236th Street SW;

WHEREAS, to ensure that development in the new area of the Town Center district is subject to the same impact fees as the rest of the Town Center, the Service Area Map must be amended to include the new Town Center area in Service Area 2;

WHEREAS, several minor technical edits are appropriate to make at the same time; and

WHEREAS, pursuant to proper public notice under the municipal code, the City of Mountlake Terrace Planning Commission and the City Council has each held a public hearing, respectively on December 8 and December 15, on this matter;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNTLAKE TERRACE, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Title 18 of the Mountlake Terrace Municipal Code is hereby amended to add a new chapter 18.30, "Transportation Impact Fees," which shall read as follows:

Sections:

- 18.30.010 Authority and purpose.
- 18.30.020 Definitions.
- 18.30.030 Establishment of service areas.
- 18.3-.040 Imposition and Payment of transportation impact fees.
- 18.30.050 Calculation of impact fees.
- 18.30.060 Credits.
- 18.30.070 Appeals.
- 18.30.080 Accounting.
- 18.30.090 Expenditures.
- 18.30.100 Refunds.
- 18.30.110 Adjustments.
- 18.30.120 Administrative fees.
- 18.30.130 Review.

18.30.010 Authority and purpose.

A. This ordinance is enacted pursuant to the City's police power, Chapter 82.02 RCW, and WAC 365-195-850.

B. The purpose of this ordinance is to:

1. Ensure that adequate transportation infrastructure is available as growth and development occurs;
2. Ensure that development pays its fair share of transportation infrastructure improvements through the assessment of impact fees; and
3. Ensure proper collection and administration of impact fees so that fees are fairly imposed and correctly expended.

18.30.020 Definitions.

"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 repairing of a building or structure.

"City" means the City of Mountlake Terrace.

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

"Development approval" means any written authorization from the City which authorizes the commencement of development activity.

"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 planned facilities.

"Impact fee" means a payment of money imposed upon development as a condition of development approval to pay for public facilities needed to serve new growth and development, and that is reasonably related to the new development that creates additional demand and need for public facilities, that is a proportionate share of the cost of the public facilities, and that is used for facilities that reasonably benefit the new development. "Impact fee" does not include a reasonable permit or application fee.

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

"Peak hour trip" means additional vehicle trips generated by a development during the hour of highest vehicle traffic volume on the City's street network. Trip generation rates are provided by the ITE trip generation manual for various land uses and sizes of development.

"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 the capital facilities for which impact fees may be established pursuant to RCW 82.02.090.

"Service area" means a geographic area defined by the City in which a defined set of public facilities provide service to development within the area. Service areas shall be designated on the basis of sound planning or engineering principles.

"System improvements" mean public 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.

"Unit" means any building or portion thereof which contains living facilities including provisions for sleeping, cooking, eating, and sanitation, as required by the City, for not more than one family and including site-built buildings, mobile/manufactured homes and modular homes.

18.30.030 Establishment of service areas.

A. One or more service areas may be established pursuant to RCW 82.02.060, within which the City shall calculate and impose impact fees for various land use categories per unit of development.

B. The City has created two service areas within which transportation impact fees shall be charged and collected on new development:

1. Service Area 1 - Citywide: Boundaries are co-extensive with the City of Mountlake Terrace city boundaries and shall include all unincorporated areas annexed to the City on and after the effective date of this ordinance.

2. Service Area 2 - Town Center: This Service Area is a subsection of Service Area 1 and is subject to all applicable fees in Service Area 1. In addition, a secondary fee will be applied to development within this Service Area, as defined in Appendix A of this ordinance. Boundaries are and shown in Appendix C.

18.30.040 Imposition and payment of transportation impact fees.

A. An impact fee is imposed upon all new development activity within Service Areas 1 and 2 (as defined in this chapter) that is expected to generate new vehicle trips on the City's streets and roads.

B. City staff shall determine the impact fee owed by multiplying the development's Peak Hour Trip generation by the per trip fee established in Appendix A.

C. A development's Peak Hour Trip generation shall be determined by the most current edition of the manual entitled "Trip Generation" and produced by the Institute of Transportation Engineers or by other studies and data accepted by the Engineering Services Director at his sole discretion.

D. Impact fees imposed by this chapter shall be payable as a condition of the issuance of a building permit, or the issuance of a certificate of occupancy when a new use that generates more Peak Hour Trips than the previous use being established and no building permit is being issued that would otherwise require the payment of an impact fee.

E. Except as may be required due to exemptions listed in this section, the City shall not issue a building permit or a certificate of occupancy, pursuant to subsection D, unless and until the impact fees imposed according to this chapter has been paid.

F. The following type of development activity is exempt to the imposition of impact fees under this chapter: public transportation facilities.

18.30.050 Calculation of impact fees.

The methodology and formula used to develop transportation impact fees is attached as Appendix B at the end of this chapter. The formula may be revised upon future review in response to zoning changes and changes in expected development and project costs.

18.30.060 Credits.

A. This section allows for the provision of reasonable credit to a feepayer, against the amount of impact fees owed; for the value of any dedication of land for, improvements to, or new construction of planned facilities by a feepayer, pursuant to RCW 82.02.060 (3).

1. The Engineering Services Director shall determine (1) whether the contribution meets capital improvement needs for which the particular impact fee has been imposed; and (2) whether the contribution will substitute for or otherwise reduce the need for capital improvements anticipated to be provided with impact fee funds; and (3) the value of the developer contribution. In no event, however, shall the credit exceed the amount of the otherwise applicable impact fee. In the event an appraisal is necessary to determine the value of land dedicated, an appraiser shall be designated by the City and the full cost of such appraisal shall be paid by the applicant.

2. Any application for credit must be submitted at or before the time of building permit approval or, pursuant to MTMC 18.30.040.D, on forms provided by the City. The application shall contain a declaration of those facts, under oath, along with the relevant documentary evidence which qualifies the property owner for the credit. Any claim not so made shall be deemed waived.

3. Credits shall not be transferable from one project or development to another without the approval of the Engineering Services Director.

18.30.070 Appeals.

A. Any feepayer may pay the impact fees imposed by this chapter under protest in order to obtain a building permit or other development approval. Appeals regarding the impact fees imposed on any development activity may only be taken by the feepayer of the property where such development activity will occur. No appeal shall be permitted unless and until the impact fees at issue have been paid.

B. A feepayer may protest or challenge the imposition of a fee imposed pursuant to this ordinance by filing with the City Clerk within ten days following the payment of the impact fee, a written notice of appeal with a full statement of the grounds, and an appeals fee charged pursuant to the City's adopted fee schedule.

C. The Hearing Examiner shall fix a time for the hearing of the appeal, and give notice to the parties in interest. At the hearing, any party may appear in person or by agent or attorney.

D. The Hearing Examiner is authorized to make findings of fact regarding the applicability of the impact fees to a given development activity, the availability or amount of the credit, or the accuracy or applicability of an independent fee calculation. The decision of the Hearing Examiner shall be final, except as provided by this section.

E. The Hearing Examiner may, so long as such action is in conformance with the provisions of this chapter, reverse or affirm, in whole or in part, or may modify the determinations of the Engineering Services Director with respect to the amount of impact fees imposed or the credit awarded upon a determination that it is proper to do so based on principles or determinations as ought to be made, and to that end shall have the powers which have been granted to the Engineering Services Director by this chapter.

F. Any feepayer who believes that the decision of the Hearing Examiner is based on erroneous procedures, errors of law or fact, or error in judgment, or has discovered new evidence which could not be reasonably available at the prior hearing, may make a written request for reconsideration by the Hearing Examiner within ten working days of the date the decision is rendered. This request shall set forth the specific errors or new information relied upon by the appellant, and the Hearing Examiner may, after review of the record, take further action as he or she deems proper.

G. The filing of a request for reconsideration shall effectively stay the appeal period until the Hearing Examiner takes further action.

18.30.080 Accounting.

A. The City shall establish separate accounts for the following:

1. All fees collected in the Citywide portion of the impact fee charged in Service Areas 1 and 2.

2. The secondary impact fee charged in Service Area 2.

B. Funds from each account shall be expended for purposes for which the impact fees were collected.

C. The accounts shall be interest-bearing and all interest earned shall be retained in the accounts and expended for purposes for which the impact fees were collected.

18.30.090 Expenditures.

A. The impact fees deposited into the impact fee account, and the interest and profit received from the investment thereof, shall be expended only for those transportation projects for which the impact fees were collected, in conformance with the Capital Facilities Plan and/or the Transportation Improvement Program, as appropriate.

B. The funds shall be expended or encumbered within six years of receipt by the City, unless written findings by the City Council identify an extraordinary and compelling reason for fees to be held longer than six years. Impact fees shall be considered encumbered on a first in, first out basis.

C. The City shall prepare an annual report on the impact fee account showing the source and amount of all moneys collected, earned, or received and system improvements that were financed in whole or in part by impact fees.

18.30.100 Refunds.

A. The City shall refund to the current property owners of property on which an impact fee has been paid, any impact fees that have not been expended or encumbered for the transportation improvement projects for which they were collected within six years from the date of receipt (or such longer period of time established in the event that the City finds that an extraordinary or compelling reason exists to hold the fees longer than six years as provided in MTMC 18.30.090). Impact fees shall be considered encumbered on a first in, first out basis. The City shall notify potential refund claimants by first-class mail deposited with the United States postal service at the last known address of claimants.

B. The City shall also refund to the current property owner on which an impact fee has been paid all impact fees paid with respect to such property if the development activity for which the impact fee was imposed did not occur; provided, that if some, but not all, of the development activity for which an impact fee was imposed occurred, the impact will be deemed to have occurred, and no refund shall be available under this Section.

C. Owners seeking a refund of impact fees must submit a written request for a refund of impact fees to the Community Development Director within one year of the date the right to claim the refund arises (which, for purposes of refund claims authorized by this Section of this ordinance only, shall be the date of voluntary or involuntary abandonment of the building permit) or the date that notice is given as provided in subsection A of this section, whichever is later. Refunds of impact fees shall include interest and any profits earned on the impact fees from the date of their receipt to the date of refund. Any impact fees not expended within the time limitations described in MTMC 18.30.090 of this chapter, and for which no application for a refund has been made within the one-year refund claim period, shall be retained by the City and expended on the transportation projects for which the impact fees were collected, without further limitation as to time of expenditure.

18.30.110 Adjustments.

Pursuant to and consistent with the requirements of RCW 82.02.060, the impact fee schedules set forth in Appendix A have been reasonably adjusted for revenue sources that are anticipated to be available to fund particular planned facilities.

18.30.120 Administrative fees.

A. The City's cost of administering the impact fee program is deemed to be generally equivalent to four hours of staff time for each project.

B. An administrative fee that is equivalent to four hours of staff time at the rate prescribed under the development fee schedule authorized by MTMC 3.150.090, shall be imposed for each development project for which impact fees are required.

C. The administrative fee, which is non-refundable, shall be paid by the applicant to the City

at the time the impact fees are paid.

18.30.130 Review and update.

A. The impact fee schedules set forth in Appendix A shall be reviewed by the City Council as it may deem necessary and appropriate in conjunction with the annual update of the capital facilities plan element of the City's comprehensive plan. The Council may also review the schedules more frequently.

B. The fee schedules may be adjusted by means of an adopted resolution as deemed necessary to reflect changes in construction costs or other relevant information.

Section 2. Conflict. In the event of a conflict between this Ordinance or any mitigation measure imposed thereto, and any ordinance or regulation of the City, the provisions of this Ordinance shall control.


Section 3. Severability. Should any term or provision of this Ordinance be found 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 term or provision of this Ordinance.

Section 4. Effective Date. This Ordinance shall take effect five days after its adoption and publication as required by law.

Section 5. Expiration. This Ordinance shall expire ten (10) years from the date of adoption unless it is extended by the City Council following a report from the SEPA Responsible Official and a public hearing.

Section 6. Publication. This Ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City.

PASSED by the City Council of the City of Mountlake Terrace this ^{15th} day of December, 2008 and signed into authentication of its passage this ^{15th} day of December, 2008.


MAYOR JERRY SMITH

ATTEST: 
CITY CLERK

APPROVED AS TO FORM: Gregory G. Schrag, City Attorney

APPENDIX A
(Ordinance No. 2458)
City of Mountlake Terrace
Transportation Impact Fees

Per Trip Fees by Service Area

A. The fees below have been calculated per the methodology discussed in Appendix B of this ordinance.

1. Service Area 1 - Citywide: Boundaries are co-extensive with the City of Mountlake Terrace city boundaries and shall include all unincorporated areas annexed to the City on and after the effective date of this ordinance.

a. Per trip fee: \$1,070.22

2. Service Area 2 - Town Center: This Service Area is a subsection of Service Area 1 and is subject to all applicable fees in Service Area 1. In addition, a secondary fee will be applied to development within this Service Area, as defined in Appendix A of this ordinance. Boundaries are co-extensive with the area designated Town Center and shown in Appendix C.

a. Per trip fee (Citywide portion): \$1,070.22

Per trip fee (additional for Service Area 2): \$209.73

Total per trip fee: \$1279.95

APPENDIX B
(Ordinance No. 2458)
City of Mountlake Terrace
Impact Fee Calculation Methodology

The goal of calculating traffic impact fees is to create fees based on a development's expected impact on the City's street or road system and the need for transportation improvements. Generally, this is done by basing the fees on the number of vehicle trips a development is expected to generate and each trip's proportional cost of the transportation improvement projects.

In this particular case, the City of Mountlake Terrace has proposed a zoning change within the Town Center, allowing for greater development through height and lot coverage changes. This creates a situation in which there are two possible futures - one in which the zoning remains the same (No Action), and one in which the zoning is changed to implement and be consistent with the Town Center Plan (Action). In each scenario, the expected development is different and therefore different transportation infrastructure is needed. It is important to point out that the difference in the transportation improvement projects needed for the No Action and Action scenarios is attributed to the change in zoning within the Town Center, and therefore the difference in cost can be directly tied to future development within the Town Center.

Determination of Expected Increase in Trips

Trip tables showing the current number of trips by origin and destination throughout the city were compared to the future number of expected trips with the same origins and destinations for the Action scenario. This difference in trips is the expected increase due to development during the study period of 2007 to 2025.

Per-Trip Costs

Trips that are assumed to pass through the city on 1-5, never touching the city street network, were removed from being eligible for impact fees. They are assumed to have no impact on the need for city transportation improvements.

Of the trips that do use the city streets, an estimated 9% do not begin or end within the city limits, but are just passing through. Because these trips do not begin or end within the City, they are not eligible to be charged impact fees. However, they are assumed to be creating their portion of need for transportation improvements. Therefore, 9% of the estimated project costs are not eligible for collecting impact fees and must be paid for by the City.

The remaining project costs provided the basis of the impact fee calculation. These costs are divided by the increase in trips that originate or end within the City, resulting in a per-trip-end cost. For this analysis, two service areas were established, the first area was defined as *outside* of the zoned Town Center area, and the second as *inside* the Town Center zoned area. All development within the city is assumed to be responsible for the project costs associated with the No Action scenario, since that development would have occurred without the Town Center zoning change. This includes all development within the City limits, both inside and outside the designated Town Center area. However, the additional costs associated with the Action scenario are attributable to development within the Town Center only, as discussed above. Therefore, this additional cost has been applied only to those trips generated within the Town Center. The result

is that development outside of the Town Center will pay a fee related to the project costs associated with the No Action scenario. Development within the Town Center will pay the citywide fee associated with the No Action scenario, and additionally, will pay a fee associated with the added costs of the Action scenario.

The calculation is shown in the table below.

Calculation of Traffic Impact Fees per Vehicle Trip End

	Project Costs	% In-City (Eligibility)	Eligible Project Costs	New Trip Ends	Per Trip End Cost
Outside Town Center					
No Action	\$6,218,000	91%	\$5,661,985	3,968	\$1,426.96
Total	\$6,218,000		\$5,661,985		\$1,426.96
Inside Town Center					
No Action					
Action	\$6,218,000	91%	\$5,661,985	3,968	\$1,426.96
(Additional)	\$ 645,000	91%	\$ 587,324	2,100	\$ 279.64
Total	\$6,863,000		\$6,249,309		\$1,706.60

Source: Berk & Associates

Discount

To recognize the shared nature of street improvements, a 25% discount is provided on the per trip fee for all development within both service areas. The resulting per trip fees are shown in the table below.

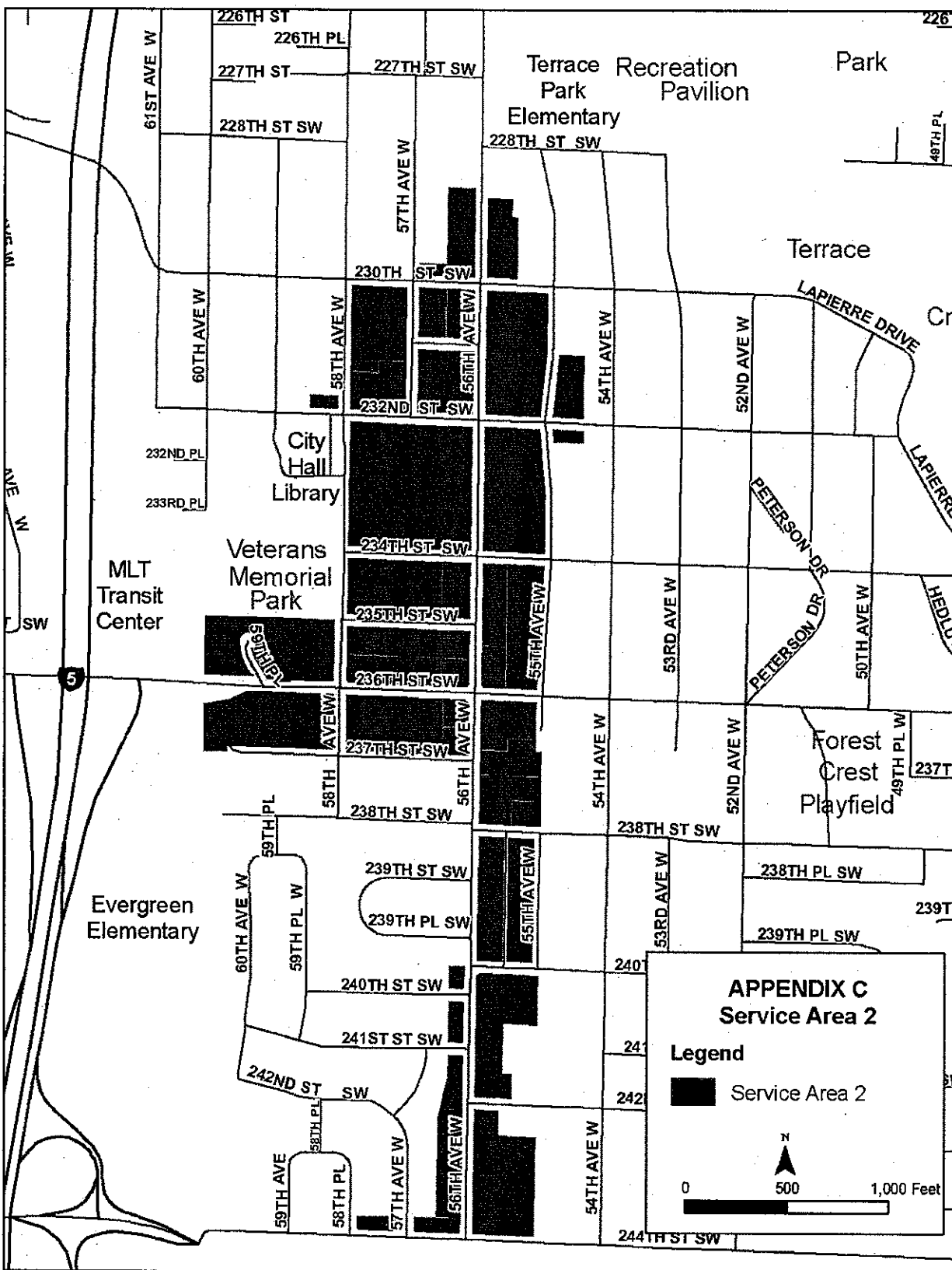
Traffic Impact Fees per Vehicle Trip End with Discount

	Per Trip End Cost	Discount	Resulting Per Trip End Fee
Outside Town Center			
No Action	\$1,426.96	25%	\$1,070.22
Total	\$1,426.96		\$1,070.22
Inside Town Center			
No Action	\$1,426.96	25%	\$1,070.22
Action (Additional)	\$ 279.64	25%	\$ 209.73
Total	\$1,706.60		\$1,279.95

Source: Berk & Associates

Ordinance No. 2505

APPENDIX C



11

12

13