



**CORRECTION TO ORDINANCE**

**Ordinance No:** 998

**Authorization:** **Section 2.** Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this Ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

**Corrections:** The following amendments were made to correct scrivener errors following Council adoption:

- Remove following sentence so that existing code language is retained: “Fee schedule” means the impact fee rates and charges established by ~~ordinance~~ resolution of the city council pursuant to Chapter 3.01 SMC.
- Add “770 Business Park” to list of ITE Codes exempt from TIF. This ITE Code was presented to Council in a Table on page 18 of the September 18, 2023 Staff Report but, when the ordinance was prepared, the code was erroneously omitted.

| ITE Code | Land Use Category/Description |
|----------|-------------------------------|
| 770      | Business park                 |

**Approval:**   
 Julie Ainsworth-Taylor, Assistant City Attorney  
 On behalf of Margaret King, City Attorney

11/15/23  
 Date

**Corrected By:**   
 Jessica Simulcik Smith, City Clerk

11/15/23  
 Date

**ORDINANCE NO. 998**

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON  
AMENDING CHAPTER 3.80 IMPACT FEES FOR TRANSPORTATION  
OF THE SHORELINE MUNICIPAL CODE.**

WHEREAS, the City of Shoreline is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington, and planning pursuant to the Growth Management Act, chapter 36.70A RCW; and

WHEREAS, in the Revised Code of Washington (RCW) Chapter 82.02, the Legislature has stated its intent is to allow cities to require that new growth and development within their boundaries pay a proportionate share of the cost of system improvements to serve such new development activity through the assessment of impact fees for transportation facilities; and

WHEREAS, in July 2014, the City Council adopted Ordinance No. 690 establishing an impact fee for transportation facilities program based on a rate study prepared in 2014; and

WHEREAS, in November 2022, with the adoption of Ordinance No. 975, an updated Transportation Element for the City's Comprehensive Plan was adopted that established goals and policies for multimodal transportation facilities and, in 2023, the City prepared a new rate study based on this Transportation Element, current industry standards, and developed a per person trip rate per unit of measure for calculating impact fees; and

WHEREAS, on October 16 and November 13, 2023, the City Council considered the proposed amendments to the impact fee program at its regularly scheduled public meeting; and

WHEREAS, the City Council determined to continue the impact fee program's exemption for certain types of commercial uses that it established with the adoption of Ordinance Nos. 717 and 843, so as to continue to encourage commercial uses to locate within the City consistent with the City's economic vision; and

WHEREAS, the City Council determined that the impact fee program should provide a reduction in fees for areas designated as "High Activity Areas" due to their proximity to high frequency transit and neighborhood services, thereby reducing impacts on the City's transportation system; and

WHEREAS, the City Council determined to encourage development of affordable housing, for both ownership and rental, by providing an exemption for such projects developed by community land trusts; and

WHEREAS, the City Council determined that miscellaneous amendments to the impact fee program were necessary to reflect legislation passed by the Washington State Legislature since the program's initial enactment and to provide for greater clarity in the program's administration; and

WHEREAS, this Ordinance only amends the regulations administering the impact fee program; the monetary impact fees will be subsequently adopted by Resolution as provided for in SMC Chapter 3.01 and set forth on the City’s official Fee Schedule;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:**

**Section 1. Amendment - Shoreline Municipal Code Chapter 3.80 Impact Fees for Transportation.** Chapter 3.80 Impact Fees for Transportation of the Shoreline Municipal Code is amended as set forth in Exhibit A.

**Section 2. Corrections by City Clerk or Code Reviser.** Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this Ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

**Section 3. Severability.** Should any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any person or situation.


**Section 4. Publication and Effective Date.** A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall become effective five days after publication.

**PASSED BY THE CITY COUNCIL ON NOVEMBER 13, 2023.**


  
Keith Scully, Mayor

*Betsy Robertson  
Deputy Mayor  
on behalf of K. Scully*

ATTEST:

  
Jessica Simulcik Smith  
City Clerk

APPROVED AS TO FORM:

  
Margaret King  
City Attorney

Date of Publication: November 16, 2023  
Effective Date: November 21, 2023



**SMC 3.80.010 Authority and incorporation by reference, is amended to read as follows:**

A. Pursuant to RCW 82.02.050 through 82.02.100, the city adopts impact fees for transportation.

B. The rate study “Transportation Impact Fees Rate Study for Impact Fees for Transportation,” city of Shoreline, dated ~~April 24, 2014~~ September 2023 (“rate study”), documents the extensive research concerning the procedures for measuring the impact of new developments on public transportation facilities. The rate study, city clerk’s Recording Number ~~7688~~ 10845, is fully incorporated by reference.

C. The council adopts this chapter to assess impact fees for transportation. The provisions of this chapter shall be liberally construed in order to carry out the purposes of the council in providing for the assessment of impact fees.

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**SMC 3.80.020 Definitions, new definitions are added and existing definitions are amended to read as follows:**

“Affordable Housing – Ownership” – means owner-occupied housing with a monthly housing expense that is no greater than 38 percent of 80 percent of the median family income adjusted for family size for King County, as reported by the United States Department of Housing and Urban Development. Housing expense includes mortgage principal, interest, property tax, homeowner insurance, homeowner association fees, and land lease fees, as applicable.

“Affordable Housing - Rental” means rental housing with a monthly housing expense that is no greater than 30 percent of 80 percent of the median family income adjusted for family size for King County, as reported by the United States Department of Housing and Urban Development.”

“Community land trust” means a nonprofit organization that provides affordable homeownership in perpetuity by placing land in a trust so that income qualified buyers pay only the cost of the residential unit and then enter into a long-term lease with the nonprofit organization subject to restrictions such as the resale price of the residential unit.

“Early learning facility” shall have the same meaning as set forth in RCW 43.31.565, as amended.

“Encumbered” means impact fees identified by the city as being committed as part of the funding for a system improvement for which the publicly funded share has been assured or building permits sought or construction contracts let.

“Ground-floor non-residential” means all commercial, light industrial, and office uses that are located on the ground floor of a commercial or mixed-use building.

“High activity area” means those areas of higher density designated by the city due to proximity to transit and services so as to reduce the impact to the transportation network.

“Low-income housing” means housing with a monthly housing expense that is no greater than 30 percent of expenses for households earning up to of 60 percent of the median family income adjusted for family size for King County, as reported by the United States Department of Housing and Urban Development.

“Nonprofit entity” shall have the same meaning as set forth in RCW 84.36.560(7)(f), as amended.

“Rate study” means the “Transportation Impact Fees Rate Study for Impact Fees for Transportation,” city of Shoreline, dated April 24, 2014 September 2023.

“Transportation facilities,” for purposes of this chapter, means the public streets, and roads, and bicycle and pedestrian facilities that were designed with multimodal commuting as an intended use, which are owned or operated by the city of Shoreline or other governmental entities.

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**SMC 3.80.050 Collection of impact fees is amended to read as follows:**

A. The city shall collect impact fees for transportation, based on the rates in the fee schedule or based on an independent fee calculation consistent with SMC 3.80.060, from any applicant seeking a building permit from the city unless specifically exempted in SMC 3.80.070.

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**SMC 3.80.060 Independent fee calculations, is amended to read as follows:**

A. If, in the judgment of the director, none of the fee categories set forth in the fee schedule accurately describes or captures the impacts of a new development on transportation facilities, the director may conduct independent fee calculations and the director may impose alternative fees on a specific development based on those calculations. The alternative fees and the calculations shall be set forth in writing and shall be mailed to the applicant.

B. An applicant may opt not to have the impact fees determined according to the fee structure in the fee schedule, in which case the applicant shall prepare and submit to the director an independent fee calculation for the development for which a building permit is being sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. An independent fee calculation shall use the same methodology used to establish impact fees in the fee schedule, and shall be limited to adjustments in trip generation rates and lengths person trip adjustments for transportation impact fees.

C. There is a rebuttable presumption that the calculations set forth in the rate study are valid. The director shall consider the documentation submitted by the applicant, but is not required to accept such documentation or analysis which the director reasonably deems to be inapplicable, inaccurate, incomplete, or unreliable. The director may require the applicant to submit additional or different documentation for consideration. The director is authorized to adjust the impact fees on a case-by-case basis based on the independent fee calculation, the specific characteristics of



the development, and/or principles of fairness. The fees or alternative fees and the calculations therefore shall be set forth in writing and shall be mailed to the applicant.

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**SMC 3.80.070 Exemptions, Subsection G Low Income Housing Provided by a Nonprofit Entity is amended to read as follows:**

G. Low-Income Housing Provided by a Nonprofit Entity. ~~“Low-income housing” means housing with a monthly housing expense that is no greater than 30 percent of expenses for households earning up to of 60 percent of the median family income adjusted for family size for the county where the project is located, as reported by the United States Department of Housing and Urban Development. As provided in RCW 82.02.060, a nonprofit entity, as defined in RCW 84.36.560(7)(f), as amended, shall be entitled to an exemption of impact fees~~ A nonprofit entity is exempt from paying impact fees for a low-income housing project under subject to the following conditions:

1. The developer/applicant shall execute and record a covenant that prohibits using the property for any purpose other than for low-income housing except as provided within this subsection;
2. The covenant shall, at a minimum, address price restrictions and household income limits for the low-income housing;
3. The covenant shall run with the land and apply to subsequent owners and assigns;
4. The covenant must state that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion;
5. Any claim for an exemption for low-income housing must be made no later than the time of application for a building permit;
6. Any claim for an exemption for low-income housing not made shall be deemed waived;
7. The developer/applicant or any subsequent property owner shall file a notarized declaration with the city manager as provided in SMC 3.27.080(A), as amended, within 30 days after the first anniversary of the date of issuance of the building permit and each year thereafter.
8. The c~~Covenants shall be recorded with the applicable county auditor or recording officer~~ King County Recorder’s Office or its successor agency.
9. Twenty percent (20%) of the exempted impact fees shall be paid from public funds other than the impact fee account as provided in RCW 82.02.060(4).

**SMC 3.80.070 Exemptions, Subsection I Business - Exemption is amended to read as follows:**

**I. Businesses Exemption.** ~~A business building permit~~ An applicant for a commercial (COM) or mixed use (MXU) building permit type that is proposing a business use shall receive an exemption of impact fees is exempt from paying impact fees under the following conditions:

1. ~~To be eligible for an exemption,~~ The proposed business use must satisfy shall meet one of the following criteria:

- a. Qualify as a permitted ground floor non-residential use in the zoning district; or.
- b. Qualify as a “business” use based on the following Institute of Transportation Engineers (ITE) code categories:

| <b>ITE Code</b>    | <b>Land Use Category/Description</b>                     |
|--------------------|--|
| 110                | Light industrial   |
| 140                | Manufacturing  |
| 310                | Hotel  |
| <del>320-330</del> | <del>Motel</del> Resort hotel                            |
| 444                | <del>Movie theater</del>                                 |
| 492                | <del>Health/fitness club</del>                           |
| 565                | Day care center  |
| 710                | General office   |
| <del>712</del>     | <del>Small office building</del>                         |
| 720                | Medical-dental office                                    |
| <del>750</del>     | <del>Office park</del>                                   |
| <del>760</del>     | <del>Research and development center</del>               |
| <del>770</del>     | <del>Business park</del>                                 |
| 858                | Farmer’s market  |
| 926                | Food cart pod  |
| 931                | Fine dining restaurant                                   |
| 820                | General retail and services – (includes shopping center) |
| 841                | Car sales  |
| 850                | Supermarket  |

| ITE Code | Land Use Category/Description                             |
|----------|---|
| 851      | <del>Convenience market – 24 hour</del>                   |
| 854      | <del>Discount supermarket</del>                           |
| 880      | <del>Pharmacy/drugstore</del>                             |
| 912      | <del>Bank</del>   |
| 932      | <del>Restaurant – sit down</del>                          |
| 934 933  | <del>Fast food without drive-thru window</del>            |
| 937 936  | <del>Coffee/donut shop without drive through window</del> |
| 941      | <del>Quick lube shop</del>                                |
| 944      | <del>Gas station</del>                                    |
| 948      | <del>Automated car wash</del>                             |
| 970      | <del>Wine tasting room</del>                              |
| 971      | <del>Brewery/tap room</del>                               |
| 975      | <del>Drinking place</del>                                 |

b. c. If none of the ITE fee categories in subsection (I)(1)(a b) of this section accurately describes or captures a new business, the director shall determine the applicable ITE fee category and whether that ITE category is the type of business intended to be eligible for exemption under this section.

2. The following business uses are not eligible for the exemption provided in this section:

| <u>ITE Code</u> | <u>Land Use Category/Description</u>            |
|-----------------|---|
| <u>841</u>      | <u>Car Sales</u>                                |
| <u>934</u>      | <u>Fast food with drive-thru window</u>         |
| <u>937</u>      | <u>Coffee/donut shop with drive-thru window</u> |
| <u>941</u>      | <u>Quick lube shop</u>                          |
| <u>944</u>      | <u>Gas Station</u>                              |
| <u>948</u>      | <u>Automated or self-serve car wash</u>         |



3. The amount of impact fees not collected from businesses pursuant to this exemption shall be paid from public funds other than the impact fee account.
4. Term. This subsection shall expire on December 31, ~~2023~~-2025.

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**A new subsection is added to SMC 3.80.070, Subsection J Early learning facilities and shall read as follows:**

J. Early learning facilities shall be exempt for the payment of impact fees subject to the following conditions:

1. The applicant shall execute and record a covenant that requires:
  - a. At least 25 percent of the children and families using the early learning facility qualify for state-subsidized childcare, including early childhood education and assistance under chapter 43.216 RCW;
  - b. If the property is converted to a use other than for an early learning facility, the property owner at the time of conversion shall pay the applicable impact fees in effect at the time of conversion;
  - c. The applicant of any subsequent property owner shall submit an annual report, no later than January 31 of each year, to the city along with supporting documentation that shows that the early learning facility is in compliance with the covenant; and
  - d. If at any point during a calendar year the early learning facility does not achieve the required 25 percent of children and families qualified for state subsidized childcare using the early learning facility, the property owner at that time shall pay 20 percent of the impact fee that would have been imposed on the facility had there not been an exemption. Payment shall be within 90 days of the city's notification and any balance remaining thereafter shall be a lien on the property.
2. The covenant shall run with the land and apply to subsequent owners and assigns. Covenants shall be recorded with the King County Recorder's Office, or its successor agency
3. Any claim for an exemption for early learning facilities must be made no later than the time of application for a building permit. Any claim for an exemption not made shall be deemed waived.
4. The impact fee imposed on an early learning facility may be no greater than that imposed on commercial retail or commercial office uses that generate a similar number, volume, type, and duration of vehicle trips. If the location of the early learning facility has more than one use, the exemption applicable to the early learning facility only applies to that portion that is developed as an early learning facility.

5. The amount of impact fees not collected from early learning facilities pursuant to this exemption are not required to be paid from public funds other than the impact fee account as provided in RCW 82.02.060(4).
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**A new Subsection is added to SMC 3.80.070 Reductions, Subsection K Community land trusts and shall read as follows:**

K. A community land trust shall be exempt from the payment of transportation impact fees subject to the following:

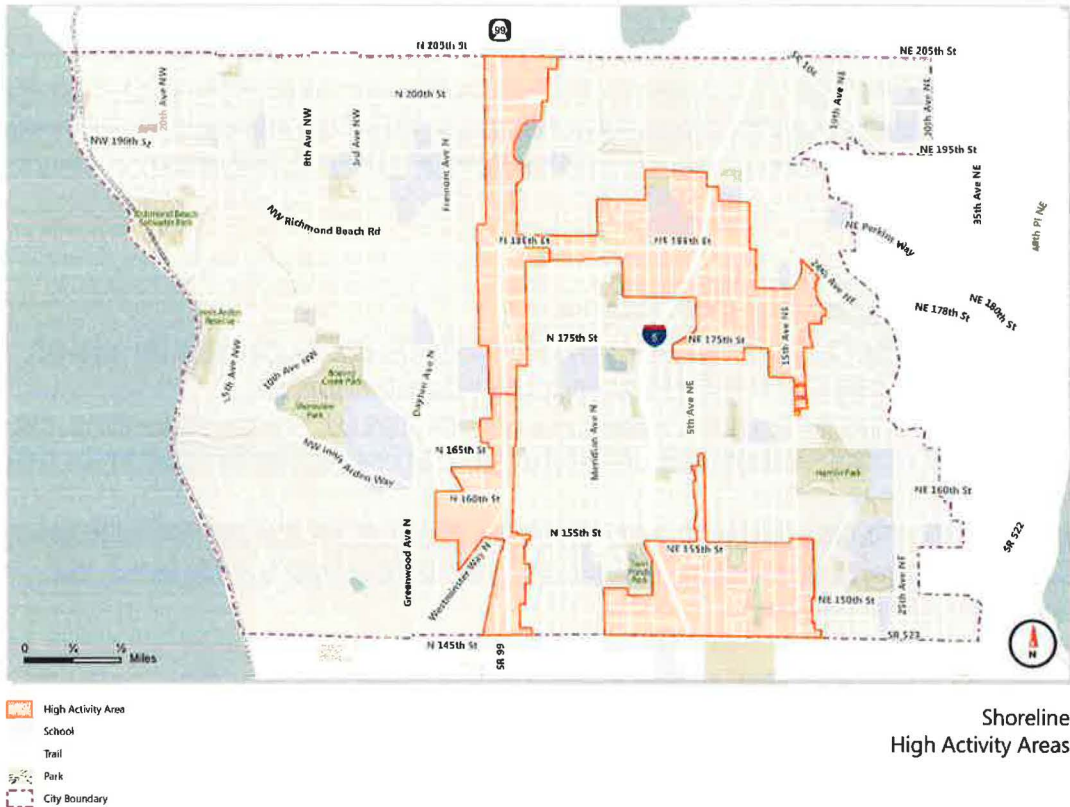
1. The community land trust shall execute and record a covenant acceptable to the City that prohibits using the property for any purpose other than for affordable housing for a period of at least 99 years from the issuance date of the first certificate of occupancy, temporary or permanent.
2. The covenant shall, at the minimum:
  - a. Define the maximum household income;
  - b. Restrict rental or resale to qualified income household for the affordability period;
  - c. Set forth measures to ensure for-sale units remain owner-occupied;
  - d. State that if the property is converted to a use other than for affordable housing, the then-current property owner must pay the applicable impact fees in effect at the time of conversion;
  - e. Run with the land and be binding on all subsequent property owners and/or lessees; and
  - f. Contain language that provides the City with the ability to enforce the terms and conditions of the covenant.
3. The community land trust shall submit a notarized declaration no later than January 31 of each year in a form acceptable to the City that affirms compliance with the terms and conditions of the covenant.
4. Any claim for an exemption by a community land trust must be made no later than the time of application for a building permit or it shall be deemed waived.
5. Twenty percent (20%) of the exempted amount of impact fees shall be paid from public funds other than the impact fee account as provided in RCW 82.02.060(4).

A new section is added, SMC 3.80.075 Reductions and shall read as follows:

**SMC 3.80.075 Reductions**

A. High Activity Areas.

1. The following areas are designated as high activity areas:



2. Impact fees due for a building permit within a high activity area shall be reduced by 15 percent unless the use is specifically exempted in SMC 3.80.070. Light Industrial (ITE Code 110), Manufacturing (ITE Code 140) and uses described in SMC 3.80.070(I)(2) are not eligible for this reduction.
3. Prior to issuance of the building permit, the applicant shall pay the remaining 85 percent of the impact fees due.



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**SMC 3.80.080 Credits for dedications, construction of improvements, and past tax payments is amended to read as follows:**

A. Dedications and Construction of Improvements. An applicant may request that a credit or credits for impact fees be awarded to them for the total value of system improvements, including dedications of land and improvements, and/or construction provided by the applicant. The application for credits shall be presented by the applicant on forms to be provided by the director and shall include the content designated in such forms. Credits will be given only if the land, improvements, and/or the facility constructed are:

1. Included within the capital facilities plan;
2. Determined by the city to be at suitable sites and constructed at acceptable quality;
3. Serve to offset impacts of the development authorized by the applicant's building permit; and
4. Part of one or more of the projects listed in ~~Table 1~~ Exhibit 4 of the rate study as the basis for calculating the transportation impact fee; however, frontage improvements for those projects are not eligible for credits unless the director determines that the frontage improvements will not be replaced or significantly changed when the project is constructed.

B. Dedication of Real Property. For credits for dedications of real property, the procedures of SMC 2.60.090 shall be followed if applicable. If the procedures of SMC 2.60.090 are not applicable, the following procedures shall be followed:

1. For each request for a credit or credits, the director shall select an appraiser or, in the alternative, the applicant may select an independent appraiser acceptable to the director.
2. Unless approved otherwise by the director, the appraiser must be a member of the American Institute of Appraisers and be licensed in good standing pursuant under Chapter 18.40 RCW et seq. in the category for the property to be appraised, and shall not have a fiduciary or personal interest in the property being appraised.
3. The applicant shall pay the actual costs for the appraisal and an independent review, if required.
4. After considering the appraisal the director shall provide the applicant with a written determination setting forth the dollar amount of any credit, the reason for the credit, a description of the real property dedicated, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such determination accepting the terms of the letter or certificate, and return such signed document to the director before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within 60 calendar days of the date of the determination shall nullify the credit. If credit is denied, the applicant shall be notified in a letter that includes the reasons for denial.

5. No credit shall be given for project improvements.

C. Past Tax Payments. An applicant may request a credit for past tax ~~for past~~ payments made for the particular system improvements listed in the rate study as the basis for the impact fee. For each request for a credit for past payments the applicant shall submit receipts and a calculation of ~~past payments earmarked for or proratable to the particular system improvement for which credit is requested.~~ The director shall determine the amount of credits, if any, for past payments for system improvements.

D. Claims. Any claim for credit must be received by the city prior to issuance of the building permit. The failure to timely file such a claim shall constitute an absolute bar to later request any such credit.

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**SMC 3.80.110 Refunds and offsets, Subsection G is amended to read as follows:**

G. Upon written request, tThe city shall also refund to the ~~current owner of property for which person or entity who paid the impact fees, or their successor or assign, have been paid all impact fees paid,~~ including interest earned on the impact fees, if the development for which the impact fees were ~~imposed paid~~ did not occur and there has been no impact to the city's transportation system; provided, however, ~~that, if the city has expended or encumbered the impact fees in good faith prior to the application for a refund request, no refund shall be made.~~ The impact fee administrative fee shall not be refunded.