



# Official

# Gazette

OF THE CITY OF SPOKANE, WASHINGTON  
Statement of City Business, Including a Summary of the Proceedings of the City Council  
December 3, 2008

Vol. 98

Published by Authority of the City Charter Pursuant to Provisions of the City Council

No. 49

### MAYOR AND COUNCIL MEMBERS OF THE CITY OF SPOKANE

Mary B. Verner .....	Mayor
Joe Shogan .....	Council President
Michael Allen (District 2) .....	Council Member
Bob Apple (District 1) .....	Council Member
Steve Corker (District 3) .....	Council Member
Al French (District 1) .....	Council Member
Nancy McLaughlin (District 3) .....	Council Member
Richard Rush (District 2) .....	Council Member

### OFFICIAL GAZETTE (USPS 403480) 0% Advertising

The subscription for the Official Gazette is \$4.75 per year for Spokane County and \$13.75 per year for outside Spokane County, and it is published weekly by the Office of the City Clerk, 5th Floor, Municipal Bldg., Spokane, WA 99201-3342. Periodical postage paid at Spokane, WA

POSTMASTER: Send address changes to: Official Gazette, City Clerk, 5th Floor, Municipal Bldg., Spokane, WA 99201-3342

Subscription checks should be made payable to:  
CITY TREASURER

Official Gazette Online: [www.spokanecity.org](http://www.spokanecity.org)

NOTIFY OFFICIAL GAZETTE, CITY CLERK, 5TH FLOOR, MUNICIPAL BLDG., SPOKANE, IMMEDIATELY OF CHANGE OF ADDRESS. THIS WILL INSURE PROMPT DELIVERY OF YOUR GAZETTE.

### MINUTES OF SPOKANE CITY COUNCIL

Monday, November 24, 2008

#### BRIEFING SESSION

The Briefing Session of the Spokane City Council held on the above date was called to order at 3:30 p.m. in the Council Chambers in the Lower Level of the Municipal Building, 808 West Spokane Falls Boulevard, Spokane, Washington. Council President Shogan and Council Members Allen, Apple, Corker, and McLaughlin were present. Council Member French arrived at 3:48 p.m. Council Member Rush was absent. Asst. City Attorney Mike Piccolo and City Clerk Terri Pfister were also present. No Administrative representative from the Mayor's Office was present at the dais.

#### Roll Call

Council President Shogan and Council Members Allen, Apple, Corker, and McLaughlin were present. Council Member French arrived at 3:48 p.m. Council Member Rush was absent.

#### Advance Agenda Review

Council reviewed items on the December 1, 2008, Advance Agenda for any changes and/or additions.

Emergency Budget Ordinance C34348 (deferred from December 1, 2008) – Deferred to December 8, 2008, Agenda

Motion by Council Corker, seconded by Council Member Allen, to defer to December 8, 2008, Emergency Budget Ordinance C34348—budgeting additional utility tax revenue (\$3,000,000) that will be received in the General Fund by applying the Utility Tax on gross income as outlined in Spokane Municipal Code 8.10 on City utilities and the transfer of these funds to the Street Department—carried unanimously (Council Member French and Rush absent).

(Council Member French arrived at 3:48 p.m.)

Final Reading Ordinance C34358 Relating to the Definition of a Cabaret

Upon review of Final Reading Ordinance C34358—relating to the definition of a cabaret; amending Section 10.23.010 of the Spokane Municipal Code—Council held discussion on whether the ordinance would apply to nonprofits and churches. Council President Shogan requested staff to bring forward a clearer definition of “entertainment facility.”

Final Reading Ordinance C34360 (deferred from December 1, 2008) – Deferred to December 8, 2008, Agenda

Motion by Council Member Corker, seconded by Council Member Allen, to defer to December 8, 2008, Final Reading Ordinance C34360—adopting the Annual Budget of the City of Spokane for 2009, making appropriations to the various funds, departments and programs of the City of Spokane government for the fiscal year ending December 31, 2009, and providing it shall take effect immediately upon passage—carried unanimously (Council Member Rush absent).

### ADMINISTRATIVE SESSION

#### Current Agenda Review

Council reviewed items on the November 24, 2008, Current Agenda for any changes and/or additions.

Resolution 08-112 – Added to November 24, 2008, Agenda

Motion by Council Member Apple, seconded by Council President Shogan, to suspend the Council Rules, carried unanimously (Council Member Rush absent).

Motion by Council Member Corker, seconded by Council Member French, to place Resolution 08-112—regarding acceptance of Conservation Future funds for acquisition of the YMCA property in Riverfront Park—on the Council’s November 24, 2008, Current Agenda under “Special Considerations,” carried unanimously (Council Member Rush absent).

### CONSENT AGENDA

Upon motion of Council Member French, seconded by Council President Shogan, Council unanimously (Council Member Rush absent) approved Staff Recommendations for the following:

Set Hearing before City Council for Monday, December 1, 2008, on proposed Ballot Title and Summary of Measure for Initiative No. 2008-2, sponsored by the Peace and Justice Action League, to enact an ordinance requiring retail establishments with 95,000 square feet or more within the Spokane city limits to pay a minimum wage of 135% of the state minimum wage to employees who work 16 hours or more per week, after three months of employment. (LGL 08-21)

Set Hearing before City Council for Monday, December 1, 2008, on proposed Ballot Title and Summary of Measure for Initiative No. 2008-3, sponsored by Spokane Renewal, to amend the City Charter to limit the rate of a municipal gross receipts excise tax upon the business activities of public or private utilities to a maximum of six percent unless a higher rate is approved by the voters for a particular utility. Voter approved increases are effective for four years and may be re-approved for additional four-year periods by voter approval. Tax upon electric and gas may not exceed eight percent. (LGL 08-20)

Purchases for the Fleet Services Department of:

- a. three dump truck bodies from Reliance Trailer Company, LLC (Spokane)—\$137,266.36 (including tax) (OPR 08-1049); and
- b. six service bodies with accessories from Freedom Truck Center (Spokane)—\$126,588.80 (including tax) (OPR 08-1050).  
City Priority: Quality Service Delivery

Contract with Hyas Group, LLC (Portland, OR) for investment consulting services (including performance evaluation, ongoing investment and Plan consulting services) for the Employee 457 and 401(a) Deferred Compensation Plans from October 1, 2008 through September 30, 2011—total contract amount \$150,000 (\$50,000 annually). (OPR 08-1051)

City Priority: Quality Service Delivery

City of Spokane Investment Report for the month of October 2008 in accordance with the City of Spokane Investment Policy. (CPR 08-04)

Report of the Mayor of pending:

- a. Claims and payments of previously approved obligations, including those of Parks and Library, through November 17, 2008, total \$4,097,396.72 (Warrant Nos. 379353-379803), with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$3,886,699.21. (CPR 08-02)
- b. Payroll claims of previously approved obligations through November 15, 2008: \$5,446,772.05 (Warrant Nos. 443093-443623). (CPR 08-03)  
City Priority: Quality Service Delivery

### Executive Session/Council Recess

The City Council adjourned to an Executive Session at 4:40 p.m. for approximately 20 minutes to discuss pending litigation matters. City Attorney Howard Delaney and Assistant City Attorney Sam Faggiano were present during the Executive Session. The Council

reconvened at 6:03 p.m. for the Regular Legislative Session, with Council President Shogan and Council Members Allen, Apple, Corker, French, McLaughlin, and Rush present. Also present were Assistant City Attorney Mike Piccolo and City Clerk Terri Pfister.

### LEGISLATIVE SESSION

#### Words of Inspiration

There were no Words of Inspiration presented.

#### Pledge of Allegiance

The Pledge of Allegiance was led by Council President Shogan.

#### Roll Call

Council President Shogan and Council Members Allen, Apple, Corker, French, McLaughlin, and Rush were present.

#### PROCLAMATION

November 24 – 30, 2008 *National DECA Week*

Council Member McLaughlin read the proclamation. Two representatives from Lewis and Clark DECA were present to accept the proclamation.

#### BOARD VACANCIES/COUNCIL APPOINTMENTS

No Board Vacancies were announced.

There were no Appointments.

#### CITY ADMINISTRATION REPORT

##### Feed Spokane/Meals on Wheels

Maurice Smith, Feed Spokane, and Mollie Dalpae, Meals on Wheels, provided an update on Feed Spokane and Meals on Wheels.

##### Transportation Improvement Board Grant for Hillyard

Teri Stripes, Business and Development Services Neighborhood Business Centers Program Manager, announced the City of Spokane has been awarded Transportation Improvement Board grant funding totaling \$5.1 million for two projects in the Hillyard Neighborhood. She reported on the various Hillyard revitalization projects scheduled to occur in 2009, which include: rehabilitation of Market Street from Garland to Francis Avenues (as part of the City’s 10-year Street Bond), a streetscape project which will install curbs and sidewalks, three Local Improvement District projects that will pave five to six east-west dirt streets, new Hillyard Pool, and 35-unit senior apartment development. The projects will bring nearly \$15 million of redevelopment to the Hillyard Business Center next year. On behalf of the Community Assembly, Mayor Mary Verner presented Ms. Stripes with a sign in appreciation for all of her work.

##### SpokeFest Appreciation and Bicycle Advisory Board Update

Council Member Rush presented a Certification of Appreciation to Dr. Bill Bender in recognition and appreciation for the SpokeFest Association’s efforts and preparation for the Annual SpokeFest event. The Bicycle Advisory Board Members then presented to the Council an update on the Bicycle Advisory Board’s activities and events for 2008 and presented upcoming activities and events for 2009.

#### RECOGNITION OF VOLUNTEERS

Council Member Corker recognized two ladies (Donna Guardipee and her friend Colleen) who make quilts for the needy in the community. He noted the ladies have made over 224 quilts over the past two years which they have given to various organizations in the community. On behalf of the Council, Mr. Corker presented the ladies with a gift of \$100 to make quilts for needy families.

#### COUNCIL COMMITTEE REPORT

##### Public Works Committee

Council Member French reported on the Public Works Committee meeting held earlier today (November 24). Minutes of the Public Works Committee meetings are filed with the City Clerk’s Office

and are available for review following approval by the Finance Committee.

### **COUNCIL REPORTS**

(Council reports on events and activities during the past week and reports on upcoming events.)

#### **Council Member Rush**

- On Tuesday evening, attended the Master Bike Plan open house.
- Thursday, attended a benefit for the Lands Council.
- Also, on Thursday, attended the STA Board meeting. He noted the Board received a presentation and recommendation from Nelson/Nygaard regarding the placement of the bus plaza – whether to keep it in its current location with improvements or move it to the Intermodal Center.
- On Friday, attended a memorial for the deceased homeless at the Westminster Congregational Church.

#### **Council Member French**

- On Wednesday, attended the Growth Management Steering Committee of Elected Officials meeting, along with Council Members McLaughlin and Rush. He noted the majority of the time was spent updating the interlocal agreement between all of the communities within Spokane County, and he noted that agreement will be coming before the Council in the near future.
- Attended the monthly meeting for the Downtown Spokane Partnership.
- On Thursday, attended the Association of Washington Cities Legislative Committee meeting in Tukwila. He noted the Association of Washington Cities approved the Legislative Agenda for the upcoming legislative session.
- Also, on Thursday, attended the STA Board meeting.
- On Saturday, attended the Community Assembly Annual Retreat, along with Council President Shogan and Council Members Apple, Corker, and Allen.
- Earlier today, attended the Public Works Committee meeting.

#### **Council Member McLaughlin**

- Celebrated her daughter's birthday last week. She noted she took her daughter to a Gonzaga University girl's basketball game.
- Last week, attended: a Growth Management Steering Committee meeting, Business Leaders Luncheon, and toured the San Souci Mobile Park (as part of consideration of the Shoreline Master Plan).
- On Thursday and Friday, attended Association of Washington Cities meetings in Tukwila, and she provided an overview of the meetings.
- Attended the Public Works Committee meeting earlier today.
- Wished the Spokane community a Happy Thanksgiving.

#### **Council Member Corker**

- Last Tuesday, attended the Administrative Committee meeting of the Community Assembly.
- Also, on Tuesday, attended a Drug Court graduation.
- In addition, Tuesday evening, attended a meeting of the North Monroe Business District.
- On Wednesday, attended the City Forum and noted the Mayor provided an excellent presentation on the State of the City.

- On Thursday, attended two meetings involving Spokane Regional Health District. The first was a Legislative Affairs conference call with the leadership of the various health districts around the State regarding proposed budget cuts. The second was an Executive Board meeting to discuss the medical director position.
- On Thursday afternoon, attended the joint meeting of the City Council and Park Board.
- On Thursday evening, attended a meeting of the Northwest Neighborhood Council.
- On Friday, attended a meeting with some of the leadership of Envision Spokane.
- On Saturday, attended the Community Assembly retreat.

#### **Council Member Apple**

Commented on the economy, jobs, and the projects in Hillyard.

#### **Council President Shogan**

- Attended an open house reception hosted by CH2M Hill at their new downtown headquarters.
- Attended the Mayor's City Forum. He noted the Mayor's three principles for the City's future are: 1) to make the City more attractive to youth, 2) to increase our international business commerce, and 3) to enhance our green image and reality, including 4 percent "green-collar" jobs and sustainable business practices.
- Attended the Hunger and Homeless Awareness Walk on Thursday evening.
- Attended the joint meeting of the City Council and Park Board.
- Attended the Northwest Neighborhood Council and Hillyard Neighborhood Council meetings.
- On Friday morning, attended a breakfast hosted by Senator Chris Marr.
- On Saturday, attended the Community Assembly retreat.
- He noted he is wearing crimson and grey to honor the Cougars on their win over the University of Washington.

## **LEGISLATIVE AGENDA**

### **EMERGENCY BUDGET ORDINANCES**

The following Emergency Budget Ordinances passed upon Unanimous Roll Call Vote of Council:

Ordinances amending Ordinance No. C34159 passed the City Council December 17, 2007, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2008, making appropriations to the various funds, departments and programs of the City of Spokane government for the fiscal year ending December 31, 2008, and providing it shall take effect immediately upon passage," and declaring an emergency and appropriating funds in:

ORD C34353      General Fund  
FROM: Fire Protection Services, \$261,685;  
TO:      Overtime-Uniform, same amount.

(This action budgets revenue from the Washington State Patrol and Department of Natural Resources as reimbursement for employees deployed for State Mobilization fires.)

City Priority: Public Safety

ORD C34354 General Fund  
 FROM: Community, Trade and Economic  
 Development, \$3,750;  
 TO: Various Accounts, same amount.  
 (This action budgets grant funding that will  
 be used to provide parenting classes at East  
 Central Community Center.)  
 City Priorities: Human Services and  
 Quality Service Delivery

There were no Emergency Ordinances.

## RESOLUTIONS

For Council Action on Resolution 08-112, see section of minutes under "Special Considerations" (below).

### SPECIAL CONSIDERATIONS

#### Resolution 08-112 – YMCA Property in Riverfront Park

The City Clerk provided a full reading of Resolution 08-112 into the record. Park Board Member Steve McNutt then provided an overview of the matter. Council inquiry and debate ensued, with comment and input by Mr. McNutt, Parks Director Barry Russell, Chief Financial Officer Gavin Cooley, and City Attorney Howard Delaney, and public testimony was received. Subsequently, the following action was taken:

Upon 3-3 Roll Call Vote (Council Members Allen, French and McLaughlin voting "no" and Council Member Corker abstaining), the Spokane City Council rejected Resolution 08-112 regarding acceptance of Conservation Future funds for acquisition of the YMCA property in Riverfront Park.

Council President Shogan requested Council Member Corker to state the reason he abstained from the vote. Council Member Corker stated he didn't feel there was adequate notice to the public, and he does not feel the Council is in a position to represent the public without that opportunity to testify. Council President Shogan asked Assistant City Attorney Mike Piccolo whether Mr. Corker's comments are grounds for an abstention or if an abstention needs to involve a conflict of interest. Assistant City Attorney Mike Piccolo commented that Mr. Corker's comments were probably more a vote against the resolution, but on procedural reasons. Council Member Corker requested a revote. The following action was taken:

Upon 3-4 Roll Call Vote (Council Members Allen, Corker, French, and McLaughlin voting "no"), the Spokane City Council rejected Resolution 08-112 regarding acceptance of Conservation Future funds for acquisition of the YMCA property in Riverfront Park.

## FINAL READING ORDINANCES

### Final Reading Ordinances C34342, C34343, and C34344 (deferred from November 17, 2008)

City Attorney Howard Delaney requested a one-week deferral of Final Reading Ordinances C34342, C34343, and C34344 in order to allow the Mayor to attempt to complete negotiations with the County. Subsequently, the following action was taken:

Motion by Council Member Corker, seconded by Council Member Apple, to defer Ordinances C34342 (establishing a municipal court), C34343 (creating a probation department), and C34344 (relating to the trial court improvement fund) to December 1, 2008, for final action; carried unanimously.

## Final Reading Ordinance C34352

The following Final Reading Ordinance passed upon Unanimous Roll Call Vote of Council:

ORD C34352 Relating to floodplain management; amending Spokane Municipal Code Sections 17E.030.080 and 17E.030.130.  
 City Priority: Growth Management

## Council Recess

Council recessed at 8:26 p.m. The Council reconvened at 8:38 p.m., with Council Member McLaughlin returning to the meeting at 8:46 p.m.

## Final Reading Ordinances C34337 through C34341 (deferred from November 17, 2008)

Council continued (from November 17) its deliberations on Final Reading Ordinances C34337 through C34341. Council President Shogan noted the Council would only take public testimony on amendments to the ordinances. The Council considered each of the ordinances separately.

### Final Reading Ordinance C34337 – relating to interference of pedestrian and vehicular traffic

Assistant City Attorney Mike Piccolo presented proposed changes to Ordinance C34337, as follows:

1. Under SMC 10.10.025(B)(1), add the word "intentionally" before the word "engage."
2. Under SMC 10.10.025(C), the word "knowingly" is stricken and replaced with the word "intentionally."

Council took the following action:

Motion by Council Member French, seconded by Council Member Corker, to accept the changes recommended by Legal; carried unanimously (Council Member McLaughlin absent).

Council received public testimony on Ordinance C34337, as amended. Subsequently, the following action was taken:

Upon Unanimous Roll Call Vote, the Spokane City Council passed Final Reading Ordinance C34337, as amended, relating to interference of pedestrian and vehicular traffic; amending Spokane Municipal Code 10.10.025.

### Final Reading Ordinance C34338 – relating to sitting or lying down on public sidewalks

Assistant City Attorney Mike Piccolo presented proposed changes to Ordinance C34338, as follows:

1. Under SMC 10.10.026(B)(1), add further explanation, as follows: "or due to a sensory, mental or physical disability."
2. Under SMC 10.10.026(B)(2), add "sensory, mental or physical" before the word "disability."
3. Under SMC 10.10.026(B), add No. 7, to read: "engaging in constitutionally protected expressive activities which would otherwise be unreasonably restricted by the limitations in subsection (A)."

Council took the following action:

Motion by Council Member French, seconded by Council Member Apple, to accept the amendments offered up by Legal Counsel; carried unanimously.

Subsequent to public testimony and Council comment, the following action was taken:

Upon Unanimous Roll Call Vote, the Spokane City Council passed Final Reading Ordinance C34338, as amended, relating to sitting or lying down on public sidewalks in certain places at certain times; and adopting a new Section 10.10.026 to Chapter 10.10 of the Spokane Municipal Code.

Final Reading Ordinance C34339 – relating to street performers

Assistant City Attorney Mike Piccolo presented additional language to be added to Ordinance C34339, as subsection “D” under SMC 10.40.010, as follows:

“A person who engages in constitutionally protected expressive activities in the public right-of-way shall not be required to obtain a business license unless the person engages in business activities. Constitutionally protected expressive activities conducted in the public right-of-way shall include, but is not limited, to street performers. For the purposes of this section, a street performer means an individual, including street musicians, who performs any form of artistic expression. The voluntary contribution of money or other items of value by members of the public to the individual in association with the expressive activity shall not result in the requirement of obtaining a business license. A person who engages in constitutionally protected aggressive activities in the public right-of-way must still comply with all other regulations regarding conduct in the public right-of-way.”

Subsequent to public testimony and council comment, the following actions were taken:

**Motion** by Council Member Apple, seconded by Council Member Rush, to approve the amendment; **carried unanimously.**

Upon Unanimous Roll Call Vote, the Spokane City Council passed Final Reading Ordinance C34339, as amended, relating to street performers; amending Spokane Municipal Code 10.40.010 of the Spokane Municipal Code.

Final Reading Ordinance C34340 – regarding regulation of solicitation

Assistant City Attorney Mike Piccolo presented the following proposed changes to Final Reading Ordinance C34340:

- Under the fourth “WHEREAS” clause, to replace the word “streets” with the word “roadways” and under SMC 10.10.027(A), the addition of the following language: “‘Roadway’ shall have the meaning set forth in RCW 46.04.500.”
- Under SMC 10.10.027, removal of the definition of the word “Coercion.”
- Under SMC 10.10.027, removal of subsection “C” relating to “Solicitation by Coercion.”

The following action was taken:

**Motion** by Council Member French, seconded by Council Member Allen, to accept the amendments offered up by Legal; **carried unanimously.**

Mr. Piccolo noted there are additional proposed changes to Ordinance C34340, as follows:

- On page 4, under SMC 10.10.027(B)(1)(b), add the following language after the word “person”: “to stand in the roadway for the purpose of engaging in solicitation;” strike the following language: “or organization to engage

in solicitation within any public right of way,” and add the following sentence: “No person may engage in solicitation activities that would obstruct traffic in violation of SMC 10.10.025.” SMC 10.10.027(B)(1)(b), with proposed amendments reads, as follows: It is unlawful for any person to stand in the roadway for the purpose of engaging in solicitation unless the person has first obtained a special events permit pursuant to chapter 10.39 SMC. No person may engage in solicitation activities that would obstruct traffic in violation of SMC 10.10.025.”

- On page 5, under SMC 10.10.027(D), add the following additional language: “including those individuals and organizations that have obtained a special events permit.

Council took the following action:

**Motion** by Council Member French, seconded by Council Member McLaughlin, to accept the changes offered up by Legal; **carried unanimously.**

Subsequent to public testimony and Council comment, the following action was taken:

Upon Unanimous Roll Call Vote, the Spokane City Council passed Final Reading Ordinance C34340, as amended, regarding regulation of solicitation; adopting a new Section 10.10.027 to Chapter 10.10 of the Spokane Municipal Code.

Final Reading Ordinance C34341 – regarding solicitations to occupants of vehicles on arterial streets

Assistant City Attorney Mike Piccolo recommended the withdrawal of Final Reading Ordinance C34341. Subsequent to Council comment, the following action was taken:

**Motion** by Council Member French, seconded by Council Member McLaughlin, to **withdraw Final Reading Ordinance C34341** regarding solicitations to occupants of vehicles on arterial streets; adopting a new Section 10.10.028 to Chapter 10.10 of the Spokane Municipal Code; **carried unanimously.**

**FIRST READING ORDINANCES**

The following Ordinances were read the First Time with further action deferred:

- ORD C34355** Changing the zone for property located on Barnes Road just east of its intersection with Sundance Drive in the City and County of Spokane, State of Washington, by amending the Official Zoning Map to show a Planned Unit Development Overlay Zone for said property.  
City Priority: Growth Management
- ORD C34356** Changing the zone for property located on the east side of Sundance Drive north of its intersection with Barnes Road in the City and County of Spokane, State of Washington, by amending the Official Zoning Map to show a Planned Unit Development Overlay Zone for said property.  
City Priority: Growth Management
- ORD C34357** Related to initiatives; amending Spokane Municipal Code 2.02.050.  
City Priority: Quality Service Delivery

ORD C34358 Relating to the definition of a cabaret; amending Section 10.23.010 of the Spokane Municipal Code.  
City Priority: Public Safety

**For Council action on Final Reading Ordinance C34359, see section of minutes under "Hearings."**

### SPECIAL CONSIDERATIONS

**For the Special Consideration item (Resolution 08-112), see section of minutes following "Emergency Budget Ordinances."**

### HEARINGS

#### Hearing on Proposed 2009 City of Spokane Budget (continued from November 17, 2008)

The Council continued (from November 17) its hearing on the Proposed 2009 City of Spokane Budget, with a focus on Safety and Reduced Vulnerability. No individuals came forward to speak on the matter. The following action was taken:

Motion by Council Member French, seconded by Council Member Corker, to keep the hearing open with regard to the 2009 City of Spokane Budget and defer decision until next week (December 1, 2008); carried unanimously.

#### Hearing on Vacation of the S 30' of 44<sup>th</sup> Avenue E of Julia Street (ORD C34359)

Council held a hearing on the vacation of the south 30 feet of 44<sup>th</sup> Avenue east of Julia Street and west of Myrtle Street adjacent to Lots 9 and 10, Block 1, Windsong 2<sup>nd</sup> Addition requested by Kurt Kilayko (Moran Prairie Neighborhood). Subsequent to Council comment by Acting Engineering Services Director Eldon Brown and the opportunity for public testimony, with no individuals requesting to speak, the following action was taken:

Motion by Council Member French, seconded by Council President Shogan, to approve, subject to conditions (in the Department of Engineering Services Street Vacation Report dated November 24, 2008), the vacation of the south 30 feet of 44<sup>th</sup> Avenue east of Julia Street and west of Myrtle Street adjacent to Lots 9 and 10, Block 1, Windsong 2<sup>nd</sup> Addition requested by Kurt Kilayko. Motion carried unanimously.

First Reading Ordinance C34359—vacating the south 30 feet of 44<sup>th</sup> Avenue east of Julia Street and west of Myrtle Street adjacent to Lots 9 and 10, Block 1, Windsong 2<sup>nd</sup> Addition—was read for the First Time, with further action deferred.

### OPEN FORUM

Mr. Henry Valder commented on the economy, homelessness, and affordable housing.

Mr. Mike Rowles commented on the homeless and invited Council Members to attend an event on December 6 from 5:30 p.m. to 7:30 p.m. at the Central Methodist Church.

Mr. Samuel Davis commented on panhandling.

### ADJOURNMENT

There being no further business to come before the City Council, the Regular Legislative Session of the Spokane City Council adjourned at 9:57 p.m.

### RESOLUTION NO. 2008-0105

A RESOLUTION SETTING THE ASSESSMENT ROLL HEARING FOR THE DOWNTOWN PARKING AND BUSINESS IMPROVEMENT AREA (BUSINESS IMPROVEMENT DISTRICT – BID) AND PROVIDING NOTICE OF THE 2009 ASSESSMENTS TO BUSINESS AND PROPERTY OWNERS

WHEREAS, pursuant to the laws of Washington State and City Ordinance C-32923, as revised, the City Council intends to hold a hearing on the assessments levied upon businesses and properties within the Downtown Parking and Business Improvement Area (PBIA); and

WHEREAS, through this Resolution, the City Council intends to provide notice that there will be a hearing upon the assessment roll prepared under the above-identified Ordinance.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE SPOKANE CITY COUNCIL:

1. Notice is hereby given that the assessment rolls for businesses and properties prepared under Ordinance C-32923, as revised, will be on file in the Office of the City Clerk on the 10th day of November 2008, and are open for public inspection.
2. The City Council has fixed the 8th day of December 2008 at 6:00 p.m., or as soon thereafter as practicable in the City Council Chambers of the Municipal Building, as the time and place for hearing upon said rolls.
3. The City Council declares its intent to impose special assessments in a manner that measures special benefits from each of the purposes set forth in Ordinance C-32923, as revised. The special assessments will finance the PBIA (BID) budgets and programs approved by the City Council.
4. All persons who may desire to object to the assessment roll shall make their objections in writing and file them with the City Clerk at, or prior to the date fixed for hearing.

At the time and place fixed, and at such other times as the hearing may be continued to, the City Council will consider the assessment roll as a board of equalization for the purpose of considering objections or comments made thereto, or any part thereof, and may correct, revise, raise, lower, change or modify such roll, or any part thereof, or set aside such roll and order that such assessments be made de novo, or take such other action as the circumstances may warrant, including confirmation of the assessment rolls.

This is the only hearing held on the assessment roll, and it will be final unless appealed according to City Ordinance C-32923.

5. The Department of Public Works and Utilities is directed to mail, at least fifteen days before the date fixed for hearing, a notice to the business and property owners identified in the assessment rolls setting forth the date and time of public hearing, including the amount of the special assessment.
6. The City Clerk is directed to publish notice of the hearing on the assessment rolls in the Official Gazette for two consecutive weeks, the last publication being one week before the date fixed for public hearing.

ADOPTED by the City Council this 10<sup>th</sup> day of November, 2008.

November 19 & 26, 2008 and December 3, 2008

**NOTICE**

The ordinances that appear in this issue of the *Official Gazette* are being published pursuant to passage by the Spokane City Council. It should be noted that these ordinances may be subject to veto by the Mayor. If an ordinance is vetoed by the Mayor, the Mayoral veto will be published in a subsequent issue of the *Official Gazette*.

**NOTICE OF REPUBLICATION**

Ordinance C34505 is being republished due to a correction under Section 3 – Effective Date. The ordinance was previously published in the November 26, 2006, edition (Vol. 98, No. 48) of the *Official Gazette*. In the previously published version, the ordinance (Section 3 – Effective Date) contained the following language in parentheses: “i.e., a transportation benefit district, a street utility tax, or similar broad based tax or fee.” This language has been deleted. The clarifying words “new and additional” have been added prior to the words “permanent funding mechanism.”

**ORDINANCE NO. C-34305**

An ordinance establishing transportation impact fees; and adopting a new Chapter 17D.030 to Title 17 of the Spokane Municipal Code.

WHEREAS, in May 2001, the City of Spokane adopted its Comprehensive Plan under the Growth Management Act (Chapter 36.70A RCW or “GMA”); and

WHEREAS, the Comprehensive Plan and the entire legislative record relative to its initial adoption and subsequent amendments thereto, including environmental review documents and transportation studies, are incorporated into this Ordinance by reference; and

WHEREAS, GMA requires the City of Spokane to adopt development regulations that are consistent with and implement the City’s Comprehensive Plan; and

WHEREAS, GMA calls for comprehensive plans to include a transportation element that implements and is consistent with the land use element of the comprehensive plans. Transportation elements are required (1) to establish level of service standards for all locally owned arterials and transit routes, (2) to specify actions for improving the level of service of facilities that are operating below the adopted standards, (3) to forecast future traffic volumes to provide information on the location, timing, and capacity needs of future growth and development, and (4) to provide a discussion of how the future capacity needs will be financed; and

WHEREAS, the City of Spokane’s Comprehensive Plan satisfies each of the foregoing elements, and, pursuant to the fourth element, identifies impact fees as a source of funding to finance the City’s growth related transportation needs (“Capital Facilities Plan”); and

WHEREAS, currently, design and construction of growth related transportation projects depend heavily upon statewide competitive State and Federal grants. The grant application and funding process is lengthy and unpredictable. Growth related or capacity increasing projects often score poorly in this competitive process, particularly if local matching dollars are not available. As a result, the City lacks sufficient funds to construct growth related transportation projects on a timely basis. This results in frustration for both developers and for existing neighborhoods that are impacted by new growth and development that is occurring ahead of perceived needs for new transportation facilities; and

WHEREAS, the City annually updates its Six Year Comprehensive Street Program, which is an element of the Capital Facilities Plan; and

WHEREAS, GMA requires the City of Spokane to plan for future growth and to provide the facilities necessary for accommodating that growth; and

WHEREAS, the Comprehensive Plan and Capital Facilities Plan are the planning documents that help guide the City in fulfilling GMA’s infrastructure planning requirements; and

WHEREAS, the City’s Capital Facilities Plan identifies existing deficiencies in the City’s public facilities and the means by which those deficiencies will be eliminated within a reasonable time; and

WHEREAS, the Capital Facilities Plan also identifies the additional demands that will be placed on the City’s existing public facilities by new development and the additional public facilities that are necessary to accommodate the City’s anticipated growth (“Growth Related Public Facilities”); and

WHEREAS, to assist cities in providing Growth Related Public Facilities, GMA and RCW 82.02.050 *et seq.* authorize cities to impose impact fees for (a) public streets and roads; (b) publicly owned parks, open space, and recreation facilities; (c) school facilities; and (d) fire protection facilities in jurisdictions that are not part of a fire district (“Impact Fees”); and

WHEREAS, the legislature’s intent in authorizing Impact Fees was (a) to ensure that adequate facilities are available to serve new growth and development; (b) to promote orderly growth and development by establishing standards by which cities may require, by ordinance, that new growth and development pay a proportionate share of the cost of new facilities needed to serve new growth and development; and (c) to ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicative fees for the same impact; and

WHEREAS, Impact Fees may only be used for public facilities included in the Capital Facilities Plan that are designed to provide service to service areas within the community at large (*i.e.*, system improvements), in contrast to site improvements and facilities that are planned and designed to provide service for a particular development and that are necessary for the use and convenience of the occupants or users of a particular development (*i.e.*, project improvements); and

WHEREAS, said impact fees may not exceed a proportionate share of the costs of system improvements that are reasonably related to the service demands and needs of new development and that reasonably benefit the new development and may not be imposed to make up for any existing system improvement deficiencies; and

WHEREAS, the ordinance by which impact fees is imposed must include a schedule of impact fees for each type of development activity that is based on a formula or other method of calculating such impact fees that incorporates, among other things, (a) the cost of public facilities necessitated by new development; (b) an adjustment to the cost of such public facilities for past or future payments made by new development that are earmarked for or proratable to the particular system improvement; (c) the availability of other means of funding public facility improvements; and (d) the cost of existing public facilities improvements and how those facilities were financed; and

WHEREAS, the ordinance may provide an exemption for low-income housing and other development activities with broad public purposes, but the impact fees otherwise payable by such development activity must be paid from public funds other than impact fee accounts; and

WHEREAS, the ordinance must provide a credit for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the City's capital facilities plan and that are required by the City as a condition of approving the development activity; and

WHEREAS, the ordinance must also include a provision allowing a developer to perform an independent fee calculation; and

WHEREAS, the ordinance must establish one or more reasonable service areas within which the City shall calculate and impose impact fees for various land use categories per unit of development; and

WHEREAS, this Ordinance satisfies each of the requirements set forth above; and

WHEREAS, in cooperation with an External Working Group (EWG) appointed by the Mayor, City staff prepared Technical Memoranda No. 1 through 10. Thereafter, City staff prepared subsequent supplemental technical memorandums. Collectively, these technical memorandums and supporting attachments constitute the main body of work for the 2007 Transportation Impact Fee Rate Study ("Rate Study"); and

WHEREAS, the Rate Study, its Executive Summary, and subsequent technical memorandums prepared by City staff provide an appropriate methodology for calculating and imposing transportation impact fees consistent with the requirements of Chapter 36.70A RCW and RCW 82.02.050 *et seq*; and

WHEREAS, as set forth in the Rate Study, the Growth Management Act and RCW 82.02.050 specify that "Impact fees may be collected and spent only for the public facilities defined in RCW 82.02.090 which are addressed by a capital facilities plan element of a comprehensive land use plan adopted pursuant to the provisions of RCW 36.70A.070; and

WHEREAS, the Rate Study and proposed impact fee ordinance satisfy this requirement as follows, as documented in Impact Fee Technical Memorandum #7: (i) Started with the Transportation Element (Chapter 4) of the Comprehensive Plan (adopted 2005, updated January 2007); (ii) the Transportation Element followed the GMA-required process to define a transportation system needed for a 20-year period; (iii) the identified 20-year transportation CIP projects (Section 4.8) formed the initial basis for developing the impact fee program; (iv) identified projects from the City's Transportation Capital Facilities program; (v) the Capital Facilities and Utilities Element of the Comprehensive Plan specifies that street facility improvements are addressed in the annually adopted six-year capital improvement program (CIP); (vi) this element states that "These CIP programs are reviewed for consistency with the Comprehensive Plan and are updated by the Plan Commission and adopted by the City Council" (Comprehensive Plan Chapter 5, p. 6); (vii) similarly, the Transportation Element (Chapter 4) identifies the six-year Comprehensive Street Program as the official source of transportation capital facilities; (viii) the Transportation Capital Facilities Program (section 4.7) specifies that the Comprehensive Street Program is "adopted by reference as a part of the Comprehensive Plan" (p. 84); in January 2007, the Six-Year Comprehensive Street Program was physically removed from the Comprehensive Plan and put on-line at [www.spokancity.org/services/documents](http://www.spokancity.org/services/documents); (ix) selected impact fee projects and costs from the City's Six-Year Comprehensive Street Program (adopted as part of the 2007-13 Capital Facilities Plan); (x) in selecting these projects, City staff identified only those projects that provide street 'capacity' to serve new growth; (xi) conducted level of service (LOS) analyses to determine that these projects are needed to

accommodate new growth within the region; first, a comprehensive analysis of LOS was conducted in 2000 as part of the *City of Spokane Levels of Service Standards/Concurrency Management System* (Huckell/Weinman Associates and The TRANSPRO Group, April 12, 2000); (xii) this study confirmed that many City arterials would require improvements to meet the City's LOS standards by 2020 in response to expected growth projections; (xiii) second, the SRTC conducted a modeling analysis in 2007 to determine the degree of existing deficiencies and future transportation needs; (xiv) this analysis indicated that the proposed impact fee projects would address some existing deficiencies but also provide capacity to meet new growth demands; (xv) the SRTC 2015 model was used for this analysis (SRTC Memo from Deborah LaCombe to Glenn Miles, *City of Spokane Traffic Impact Fee Modeling Results*, June 7, 2007); and

WHEREAS, the City has followed a logical sequence of steps to arrive at the impact fee project list. As required by the GMA, the projects are grounded in the adopted Transportation Element of the Comprehensive Plan and are further specified within the Capital Facilities and Utilities Plan Element. The City has a process in place to update the specific Six-year street projects on an annual basis, including a provision that this annual update serves as an update to the Comprehensive Plan; and

WHEREAS, an ongoing Baseline Study commissioned by the City will provide useful information to the City to update the short and long-range transportation project needs. These needs would likely result in a future update to the Transportation Element of the Comprehensive Plan, and a revision to the Six-Year Street Program. At that point, it would be logical to reexamine the impact fee project list and make appropriate revisions to the program. This reexamination process is typical for agencies as they update their impact fee programs over time in response to new information; and

WHEREAS, the City conducted a detailed analysis of new development's share of impact fee project costs (Technical Memorandum #8.1). As cited in RCW 82.02.050, cities cannot rely solely on impact fees to finance system improvements and must provide for a balance between impact fees and other sources of public funds and cannot rely solely on impact fees; and

WHEREAS, thereafter the City satisfied this limitation as follows:

(i) By statute, the City may expend impact fee revenues on any project listed in its capital facilities plan that will provide additional capacity for new growth and development. In developing the current impact fee proposal, City staff identified approximately \$47 million of such growth related projects in the capital facilities element of the Comprehensive Plan ("Growth Related System Improvements"). These Growth Related System Improvements form the basis for the City's proposed transportation impact fee funding program which includes public and private sources. *See* Technical Memorandum No. 8.1;

(ii) The City analyzed each of the \$47 million in Growth Related System Improvements using recent data from the SRTC model which disclosed that approximately \$11 million in project costs will correct existing deficiencies while the remaining \$36 million in project cost will provide additional capacity for new growth and development. From the \$36 million in impact fee eligible Growth Related System Improvement costs, the City selected approximately \$17 million in project costs on which the base the cost per trip for purposes of calculating impact fees. Technical Memorandum 7;

(iii) By statute, the City is not limited to spending impact fee revenues on this priority list but may instead expend impact fee revenue on any Growth Related System Improvements in

the City's capital facilities plan, as amended from time to time. Priorities may change and the list of priority capacity enhancing projects may also change with corresponding changes in the priority list upon which impact fees are calculated. Some projects may be added while others may be eliminated.

(iv) the City is not relying solely on impact fees to finance Growth Related System Improvements but is instead providing for a balance between impact fees and other sources of public funds by (a) collecting approximately 1/3 of the cost of Growth Related System Improvements via impact fees (*i.e.*, \$17 million of \$47 million); (b) leveraging impact fees and other local funds to obtain matching State and Federal grants to fund the difference – *i.e.*, in general, the impact fee cost for Growth Related System Improvements is equal to the total project costs minus costs attributable to outside city growth, other public funds including assumed grants, and other non-eligible costs.

WHEREAS, on October 26, 2007, the EWG reviewed the most recent draft of the proposed Ordinance Establishing Transportation Impact Fees and, after lengthy debate, concluded that the draft ordinance represented a reasonable compromise in implementing the methodology set forth in the Rate Study; and

WHEREAS, the EWG then took action recommending that City staff forward the Ordinance to the Plan Commission for public workshops, hearings and deliberation to advance the City's objective of adding a New Chapter 17D.030 pertaining to transportation impact fees to the Spokane Municipal Code; and

WHEREAS, the Plan Commission formed a sub-committee to examine various aspects of the Rate Study and proposed ordinance together with its related fee schedules; and

WHEREAS, the work of the Plan Commission sub-committee resulted in recommendations to (i) reduce the proposed number of service areas from five to four, each of which is comprised of a geographic area designated on the basis of sound planning or engineering principles as set forth in the Rate Study, as amended; (ii) incorporate additional pass-by trip information as applied by the City of Olympia in recognition that, consistent with local experience in Spokane, the number of trips assigned to certain land uses by the ITE manual are pass-by and not new trips; and (iii) incorporation of trip length adjustment factors in recognition that the relative length of trips generated by various land uses is not equal and that corresponding impact fee assessments should reflect the relative distance in the trips generated by various land uses; and

WHEREAS, in incorporating trip length adjustment factors, the City relied on data gathered by the City of Olympia and determined, with the assistance of its consultant, that said data would reasonably apply to the City's designated service areas; and

WHEREAS, as outlined in the Supplemental Technical Memorandum, the service areas identified in the Ordinance are based on sound planning and engineering principles; and

WHEREAS, a majority of the Plan Commission thereafter voted in favor of moving the proposed impact fee ordinance to City Council and opted to defer to the Council with respect to the fee schedules accompanying the ordinance; and

WHEREAS, on or about March 27, the responsible official issued a determination of non-significance (DNS) under SEPA (Chapter 43.21C RCW) relating to this Ordinance and notice of said DNS was published in the Spokesman Review on March 28 and April 2, 2008; and

WHEREAS, the City's proposal to implement transportation impact fees has been the subject of a thorough public notice and

participation process with multiple opportunities for input from the public and stakeholder groups, including open house events, Plan Commission workshops and hearings, City Council workshops and hearings, presentations to and meetings with various stakeholder groups including, without limitation, Greater Spokane, Inc. and the Spokane Homebuilders Associations; and

WHEREAS, due to concerns about the national and local economy, the City's administration has proposed implementation of transportation impact fees in phases; and

WHEREAS, this implementation schedule may be adjusted from time to time pursuant to the required review provisions set forth in the ordinance, and depending on the findings of the ongoing transportation baseline analysis; and

WHEREAS, the City Council adopts the foregoing, together with the Rate Study and its supporting documentation as supplemented by the work of the Plan Commission and its sub-committee, as its findings of fact justifying its adoption of this ordinance; Now, Therefore

The City of Spokane does ordain:

**Section 1 - Findings of Fact.** That the Rate Study and the preambles to this Ordinance are adopted as the City Council's findings of fact in support of its adoption of this Ordinance.

**Section 2. Transportation Impact Fees.** That there is adopted a new Chapter 17D.030 to title 17 of the Spokane Municipal Code to read as follows:

## **CHAPTER 17D.030**

### **Transportation Impact Fees**

Sections:

- 17D.030.010 Findings and Authority
- 17D.030.020 Definitions
- 17D.030.030 Concurrency
- 17D.030.040 Assessment of Impact Fees
- 17D.030.050 Independent fee calculations
- 17D.030.060 Exemptions
- 17D.030.070 Credits
- 17D.030.080 Administrative Costs
- 17D.030.090 Appeals
- 17D.030.100 Establishment of Impact Fee Account
- 17D.030.110 Refunds
- 17D.030.120 Use of Funds
- 17D.030.130 Administrative guidelines
- 17D.030.140 Review
- 17D.030.150 Authorization for Interlocal Agreements
- 17D.030.160 Existing Authority Unimpaired
- 17D.030.170 Severability
- 17D.030.180 Appendix A – Impact Fee Schedule
- 17D.030.190 Appendix B – Service Area Maps
- 17D.030.200 Appendix C – Trip Rates, Pass-By Trips, and Trip Length Adjustment Factors
- 17D.030.210 Phased implementation

#### **17D.030.010 Findings and Authority**

The City Council finds and ordains as follows:

- A. That new growth and development, including but not limited to new residential, commercial, retail, office, industrial and institutional development, in the City of Spokane will create additional demand and need for public transportation facilities (public streets and public roadways) in the City of Spokane;
- B. That new growth and development should pay a proportionate share of the cost of new public transportation facilities needed to serve the new growth and development;

- C. That transportation impact fees are a lawful and commonly used instrument to aid in meeting capacity related Growth Management Act transportation concurrency requirements.
- D. The City has conducted extensive studies documenting the procedures for measuring the impact of new growth and development on public facilities, has prepared the Rate Study, and has reviewed the Rate Study, and hereby incorporates these studies into this title by reference. Based on the foregoing, the City has prepared a formula and method of calculating transportation impact fees to serve new development that provides a balance between impact fees and other sources of public funds. The data and method of calculating contained in the Rate Study is consistent with the data collected as part of the development of the comprehensive plan, the traffic impact analysis' completed for projects since the creation of that data and the studies and data collection accumulated by Spokane Regional Transportation Council and other jurisdictions;
- E. That the provision for low-income housing is a factor that should be considered in mitigation of an impact fee.
- F. That whenever impact fees are imposed, the Director of Engineering Services, or the Director's designee shall make the following findings:
1. That the impact fees are imposed for system improvements that are reasonably related to the new development;
  2. That the fees do not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development; and
  3. That the fees will be used for system improvements that will reasonably benefit the new development.

Now, therefore, pursuant to Chapter 82.02 RCW, the City Council adopts this chapter to authorize appropriate and lawful impact fees for public transportation facilities. The provisions of this title shall be liberally construed in order to carry out the purposes of the City Council in establishing a transportation impact fee program.

#### **17D.030.020 Definitions**

As used in this chapter, the following words and terms shall have the following meanings 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.

- A. "Act" means the Growth Management Act, as codified in Chapter 36.70A RCW, as now in existence or as hereafter amended.
- B. "Accessory dwelling unit" means a dwelling unit that has been added onto, created within, or separated from a single-family detached dwelling for use as a complete independent living unit with provisions for cooking, eating, sanitation, and sleeping.
- C. "Applicant" means the owner of real property according to the records of the Spokane County, or the applicant's authorized agent.
- D. "Baseline Study" means the 2008 Transportation Baseline study that is being developed by HDR Engineering and Planning, City Project No. 2005155.
- E. "Building permit" means the official document or certification that is issued by the building department and that authorizes the construction, alteration, enlargement, conversion,

reconstruction, remodeling, rehabilitation, erection, tenant improvement, demolition, moving or repair of a building or structure.

- F. "Capital Facilities" means the facilities or improvements included in the Capital Facilities Plan.
- G. "Capital Facilities Plan" means the capital facilities plan element of the City's Comprehensive Plan adopted pursuant to Chapter 36.70A RCW, as amended from time to time.
- H. "Certificate of occupancy" means the term as defined in the International Building Code. In the case of a change in use or occupancy of an existing building or structure which may not require a building permit, the term shall specifically include certificate of occupancy and for residential development the final inspection, as those permits are defined or required by this code.
- I. "City" means the City of Spokane.
- J. "City Council" means the City Council of the City of Spokane.
- K. "Comprehensive Plan" means the City of Spokane Comprehensive Plan adopted pursuant to Chapter 46.70A RCW, as amended from time to time.
- L. "Concurrent" or "Concurrency" means that the public facilities are in place at the time the impacts of development occur, or that the necessary financial commitments are in place, which shall include the impacts fees anticipated to be generated by the development, to complete the public facilities necessary to meet the specified standards of service defined in the Comprehensive Plan within six (6) years of the time the impacts of development occur.
- M. "Department" means the Department of Engineering Services.
- N. "Development activity" means any construction or expansion of a building, structure, or use, or 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.
- O. "Development approval" means any written authorization from the City that authorizes the commencement of development activity.
- P. "Director" means the Director of Engineering Services, or the Director's designee.
- Q. "Dwelling unit" means a single unit providing complete and independent living facilities for one or more persons, including permanent facilities for living, sleeping, eating, cooking, and sanitation needs.
- R. "Encumbered" means to have reserved, set aside or otherwise earmarked the impact fees in order to pay for commitments, contractual obligations or other liabilities incurred for public facilities.
- S. "Feepayer" is a person, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation commencing a land development activity that creates the demand for additional public facilities, and which requires the issuance of a building permit. "Feepayer" includes an applicant for an impact fee credit.
- T. "Green Streets" mean well landscaped, tree-lined corridors designed for both pedestrian and vehicular use as defined in SMC Chapter 11.19.194J.
- U. "Gross floor area" is the total square footage of all floors in a structure as defined in Chapter 17A.020 SMC.

- V. "Hearing Examiner" means the person who exercises the authority of SMC Chapter 17G.050.
- W. "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 fee, an application fee, or the cost for reviewing independent fee calculations.
- X. "Impact fee account" or "account" means the account(s) established for each service area for the system improvements for which impact fees are collected. The accounts shall be established pursuant to this chapter, and shall comply with the requirements of RCW 82.02.070
- Y. "Independent fee calculation" means the impact fee calculation and or economic documentation prepared by a feepayer to support the assessment of an impact fee other than by the use of schedule set forth in SMC 17D.030.180, or the calculations prepared by the Director where none of the fee categories or fee amounts in the schedules in this chapter accurately describe or capture the impacts of the new development on public facilities.
- Z. "Interest" means the interest rate earned by local jurisdictions in the State of Washington Local Government Investment Pool, if not otherwise defined.
- AA. "Interlocal agreement" or "agreement" means a transportation interlocal agreement, authorized in this chapter, by and between the City and other government agencies concerning the collection and expenditure of impact fees, or any other interlocal agreement entered by and between the City and another municipality, public agency or governmental body to implement the provisions of this chapter.
- BB. "ITE Manual" means Institute of Transportation Engineers (ITE) Trip Generation Manual (7<sup>th</sup> Edition), as amended from time to time.
- CC. "Low-income housing" means any unit of housing where the eligibility requirements for rental or purchase require the renter or purchaser to have certified household income equal to or less than fifty percent (50%) of area median income, adjusted for household size ("AMI"), and where the eligibility requirements for homeownership require the purchaser to have certified household income equal to or less than eighty percent (80%) of AMI. In addition, the developer and/or owner shall have entered into a binding, irrevocable programmatic commitment with one or more of the agencies listed below (as evidenced at the time of qualification for the transportation impact fee exemption by recorded deed restriction or such other documentation as may be reasonably required by the City). The agencies shall include the United States Department of Housing and Urban Development, Washington State Housing Finance Commission, Washington State Department of Community Trade and Economic Development, City of Spokane Community Development Department, Northeast Washington Housing Solutions, and such other Federal, State or local governmental or non-profit agencies which shall offer like programs at the time of exemption application. Development activity that is comprised of a mix of affordable and market rate housing and/or affordable housing and commercial space shall be defined as low-income housing only for those specific units that are set aside as low-income housing with the aforementioned income limits. Programs that may otherwise be defined elsewhere as "low-income housing" and/or "affordable housing", but have income eligibility limits above those described above or no income limits, shall not be defined as low-income housing for purposes of this chapter."
- DD. "Owner" means the owner of real property according to the records of the Spokane County department of records and elections; provided that if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the real property.
- EE. "Pass-by trip rates" means those Rate Study Pass-by Rates set forth in Section 17D.030.200.
- FF. "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.
- GG. "Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development and that 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 the City's Capital Facilities Plan shall be considered a project improvement.
- HH. "Public facilities" means publicly owned streets and roads, including related sidewalk and streetscape improvements required by the City's Comprehensive Plan and related development regulations.
- II. "Rate Study" means the 2007 Transportation Impact Fee Rate Study, dated October 26, 2007 as updated and amended from time to time.
- JJ. "Residential" means housing, such as single-family dwellings, accessory dwelling units, apartments, condominiums, mobile homes and/or manufactured homes, intended for occupancy by one or more persons and not offering other services.
- KK. "Square footage" means the square footage of the gross floor area of the development as defined Chapter 17A.020 SMC.
- LL. "Service area" means one of the ~~five~~ four geographic areas defined by the City in which a defined set of public facilities provide service to development within each of the identified areas. The City has identified the service areas, based on sound planning and engineering principles. These service areas are generally referred to as the Downtown Service Area, the Northwest Service Area, the Northeast Service Area, and the South-Service Area. Maps depicting the service areas are set forth in SMC 17D.030.190 and shall also be maintained by the Director in the offices of the Engineering Services Department and shall be available for public inspection during regular business hours.
- MM. "System improvements" means public facilities 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.
- NN. "Trip length adjustment factor" means the trip length adjustment factors identified in Section 17D.030.200.
- 17D.030.030 Concurrency**
- A. Pursuant to Chapter 36.7A RCW and Chapter 17D.010 of the Spokane Municipal Code, development approval is prohibited if the development activity will cause the level of service of public facilities to decline below the standards adopted in the transportation element of the Comprehensive Plan, unless system improvements or strategies to accommodate the impacts of the development activity are

made concurrent with the development activity. The concurrency requirement is satisfied if the required system improvements are in place at the time of development activity, or that a financial commitment is in place, which shall include the impact fees anticipated to be generated by the development, to complete the system improvements or strategies required to meet the specified standards of service defined in the Comprehensive Plan within six (6) years of development approval. Any combination of the following shall constitute a "financial commitment" for the purposes of this chapter and Section 17D.010 SMC:

1. The City has received voter approval of and/or has bonding authority;
2. The City has received approval for federal, state or other funds;
3. The City has received a secured commitment from a feepayer that the feepayer will construct the required public facilities and/or system improvement(s) and the City has found such public facilities and/or system improvement(s) to be acceptable and consistent with its Capital Facilities Plan; and/or
4. The City has other assured funding, including but not limited to impact fees that have been paid or that shall be payable as a result of the development approval.

#### **17D.030.040 Assessment of Impact Fees**

A. The City shall collect impact fees, based on the schedules in Section 17D.030.180 of this chapter, or an independent fee calculation as provided for in Section 17D.030.050 of this chapter, from any applicant seeking development approval from the City. The impact fees in Section 17D.030.180 are generated from the formula for calculating impact fees set forth in the Rate Study, one copy of which shall be kept on file with the Office of the City Clerk and which is adopted and incorporated herein by reference. Except as otherwise provided in this chapter, all new development approval in the City will be charged the transportation impact fees in Section 17D.030.180. Subject to the review provisions set forth in Section 17D.030.140 below, the transportation impact fees in Section 17D.030.180 will be adjusted annually in accordance with the Washington State Department of Transportation Construction Cost Index ("CCI"), with the first such increase taking effect within 2 years of adoption of this Ordinance and with subsequent increases to coincide with the City's annual adoption of its Six-Year Street Plan; provided, the impact fees shall never be reduced solely because of a decline in the CCI. Provided further, for purposes of this chapter only, the following shall not constitute development activity:

1. Replacement of a commercial structure with a new structure of the same size and use or a residential structure with the same number of residential units, both at the same site or lot, where demolition of the prior commercial or residential structure occurred after May 2001. Replacement of a commercial structure with a new commercial structure of the same size shall be interpreted to include any structure for which the gross square footage of the building will not be increased by more than one hundred twenty (120) square feet. It shall be the feepayer's responsibility to establish the existence of a qualifying prior use to the Director's reasonable satisfaction.
2. Expansions of existing residential structures that do not add residential dwelling units.

3. Alteration of an existing nonresidential structure that does not expand the usable space, add any residential units, or result in a change in use.
4. Miscellaneous improvements that do not create additional demand and need for public facilities, including, but not limited to, fences, walls, swimming pools, and signs.
5. Demolition or moving of a structure.
6. Re-use or change in use of existing structure.
  - a. Re-use or change in use of an existing structure that does not create additional demand and need for public facilities (*i.e.*, where the trip generation of the re-use is equal to or less than trip generation of prior use) shall not constitute development activity for purposes of this chapter.
  - b. It shall be the feepayer's responsibility to establish the existence of a qualifying prior use to the Director's reasonable satisfaction.
  - c. For a change in use of an existing structure that does create additional demand and need for public facilities (*i.e.*, where the trip generation of the re-use is greater than the trip generation of the prior use), the City shall collect impact fees for the new use based on the schedules in SMC 17D.030.180, less the fees that would have been payable as a result of the prior use.

B. The Director shall be authorized to determine whether a particular development activity constitutes development activity subject to the payment of impact fees under this chapter. Determinations of the Director shall be in writing issued within 14 days of submitting a complete application and shall be subject to the appeals procedures set forth in SMC 17D.030.090.

C. ~~Impact fees shall be assessed and collected prior to issuance of a building permit for each unit in a development, using either the impact fee schedules then in effect or an independent fee calculation, at the election of the applicant and pursuant to the requirements set forth in SMC 17D.030.050.~~ Impact fees shall be assessed prior to the issuance of a building permit for each unit in a development, using either the impact fee schedules then in effect or an independent fee calculation, at the election of the applicant and pursuant to the requirements set forth in SMC 17D.030.050. The impact fees shall be paid at the issuance of a building permit or at the completion of construction. To defer the payment of the impact fee to the end of construction, the developer shall provide prior to issuance of a building permit a recorded "Certificate of Title Notice" evidencing an encumbrance on the title for each parcel of land, on forms provided by the City Attorney's Office, recorded with the Spokane County Auditor's Office which requires that the impact fee be paid as part of the closing of the construction financing, transfer of title to another party or issuance of a certificate of occupancy, whichever shall first occur. For commercial development involving multiple users, impact fees shall be assessed and collected prior to issuance of building permits that authorize completion of tenant improvements for each use. ~~The City shall not accept an application for a building permit if other land use approvals are required and have not yet been granted by the City.~~ Furthermore, the City shall not accept an application for a building permit unless, prior to submittal or concurrent with submittal, the feepayer submits complete applications for all other discretionary

reviews needed, including, but not limited to, design review, the environmental determination, and the accompanying checklist.

- D. Applicants that have been awarded credits prior to the submittal of the complete building permit application pursuant to SMC 17D.030.070, shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the Director pursuant to SMC 17D.030.070 setting forth the dollar amount of the credit awarded. Impact fees, as determined after the application of appropriate credits, shall be collected from the feepayer at the time the building permit is issued for each unit in the development.
- E. For mixed use buildings or development, impact fees shall be imposed for the proportionate share of each land use based on the applicable unit of measurement found on the schedule in SMC 17D.030.180.
- F. The Department shall place a hold on permits for development approval unless and until the impact fees required by this chapter, less any permitted exemptions, credits or deductions, have been paid.

#### **17D.030.050 Independent fee calculations**

- A. If in the reasonable judgment of the Director, a proposed development activity does not fall under one of the fee categories set forth in Section 17D.030.180, the Department may prepare independent fee calculations and the Director may impose alternative fees on a specific development based on those calculations; provided, the Director's fee calculations shall be limited as provided in Section C below, and shall incorporate applicable rate study pass-by trip rates and trip length adjustment factors as set forth in Section 17D.030.200. The alternative fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.
- B. Alternatively, if an applicant believes that the applicant's proposed development activity does not fall under one of the fee categories set forth in Section 17D.030.180, the applicant may, at the applicant's option, identify a development activity or land use code in the ITE Manual that most closely resembles the applicant's proposed development activity and calculate the applicant's fees based on the number of trips assigned to that development activity by the ITE Manual. In calculating such fees, the applicant shall incorporate applicable pass-by trip rates and trip length adjustment factors set forth in Section 17D.030.200.
- C. In addition to the options described in subsections A and B of this Section 17D.030.050, an applicant may elect to have impact fees determined according to Section 17D.030.180 or in the alternative, if an applicant opts not to have the impact fees determined according to Section 17D.030.180, the applicant may elect an independent fee calculation for the development activity for which a building permit is sought. In that event, the applicant may prepare and submit his/her own independent fee calculation. The applicant must make the election between fees calculated under Section 17D.030.180 and an independent fee calculation prior to issuance of the building permit for the development. If the applicant elects to prepare its own independent fee calculation, the applicant must submit documentation showing the basis upon which the independent fee calculation was made. Provided, independent fee calculations shall use the same formulas and methodology and cost per trip used to establish the impact fees set forth in Section 17D.030.180 and shall be limited to adjustments in trip generation rates used in the Rate Study, and shall not include travel demand forecasts, trip

distribution, transportation service areas, costs of road projects, or cost allocation procedures.

- D. Any applicant electing an independent fee calculation pursuant to subsection C of this Section 17D.030.050 shall be required to pay the City of Spokane a fee to cover the cost of reviewing the independent fee calculation, as follows: two hundred fifty dollars (\$250.00) plus a deposit of two hundred fifty dollars (\$250.00) towards the City's actual costs incurred in reviewing the independent fee calculation; no such fee shall apply to calculations performed under subsections A and B of this Section. The applicant shall remit all remaining actual costs of the City's review of the independent fee calculation prior to and as a precondition of the City's issuance of the building permit. If the City's actual costs are lower than the deposit amount, the difference shall be remitted to the applicant.
- E. While there is a presumption that the calculations set forth in the Rate Study are valid, the Director shall consider the documentation submitted by a feepayer pursuant to subsections B and C of this Section 17D.030.050, but is not required to accept such documentation or analysis which the Director reasonably deems to be inaccurate or not reliable, and may modify or deny the request, or, in the alternative, require the feepayer 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 Director's decision shall be set forth in writing and shall be mailed to the feepayer.
- F. Determinations made by the Director pursuant to this Section may be appealed to the office of the hearing examiner subject to the procedures set forth in SMC Chapter 17G.050.

#### **17D.030.060 Exemptions**

- A. Low-income housing, as defined in this chapter, shall be exempted from the payment of impact fees.
- B. The City Council finds that the following development activities have broad public purposes and shall be exempted from the payment of impact fees:
  1. Public transportation facilities;
  2. Public parks and recreational facilities;
  3. Public libraries;
  4. ~~Publicly operated elementary, middle, junior high and senior high schools, and administrative, maintenance and other facilities of a school district;~~
    - a. Publicly operated schools, colleges, and universities and associated support facilities.
    - b. Not for profit schools, colleges, and universities and associated support facilities.
  5. Development activities of community-based human services agencies which meet the human services needs of the community such as providing employment assistance, food, shelter, clothing, or health services for low and moderate-income residents; and
  6. Hospitals for the treatment of humans.
- C. Requests for the exemptions set forth in subsection B of this section 17D.030.060 shall be submitted to the Department on such forms as the Director may provide. The Mayor shall review applications for exemption under subsection B of this Section 17D.030.060 and shall advise the applicant, in

writing, of the granting or denial of the application. In addition, the Mayor shall notify the City Council when such applications are granted or denied. The Mayor's determination shall be subject to the appeals procedures set forth in Section 17D.030.090.

- D. Any claim for an exemption under this Section 17D.030.060 must be made before payment of the impact fee. Any claim not so made shall be deemed waived. The claim for exemption must be accompanied by a draft lien and covenant against the property guaranteeing that the low-income housing or other development having a broad public purpose will continue for a period of not less than 15 years. Before final approval of the exemption, the department shall approve the form of the lien and covenant. Within ten days of the approval, the applicant shall execute and record the approved lien and covenant with the Spokane County Auditor. The lien and covenant shall run with the land. In the event that the housing unit is not used for low-income housing for the prescribed period, or in the event that other exempted development activity is converted to a non-exempt use during the prescribed period, the current owner shall pay the impact fees then in effect plus interest to the date of the payment.
- E. The impact fee for an exempt development shall be calculated as provided for in this Chapter and paid with public funds other than the impact fee account. Such payment may be made by including such amount(s) in the public share of system improvements undertaken within the applicable service area.

#### **17D.030.070 Credits**

- A. A feepayer can request a credit for the total value of dedicated land or public facilities provided by the feepayer if the land and public facilities are identified as system improvements or in cases where the Director, in the Director's discretion, determines that such dedication of land or public facilities would serve the goals and objectives of the capital facilities plan.
- B. The City Council finds that certain types of development activity (including development with the City's Center and Corridor zones) is likely to generate fewer p.m. peak hour vehicle trips than other development activity. Consistent with this finding, a feepayer may also request a partial credit for the following:
1. Development within Center and Corridor Zones shall qualify for a partial credit of ten percent (10%) of the impact fees otherwise payable as a result of the development activity.
  2. Mixed use development incorporating an "active" first floor (*e.g.* office, retail) and residential shall qualify for a partial credit of ten percent (10%) of the impact fees otherwise payable as a result of the development activity.
  3. Development of Green Streets, as defined in the Spokane Municipal Code, that provide pedestrian connections to surrounding neighborhoods and districts shall entitle a feepayer to a partial credit of ten percent (10%) of the impact fees otherwise payable as a result of the development activity. The credit provided for in this section shall only apply to the extent a feepayer is developing a Green Street on the entire length of the block on which the development activity is occurring. The credit provided for in this section shall be limited to the cost incurred by the feepayer in developing the Green Street.
  4. The cumulative credits granted in subsections B1 through B3 above for ~~in the~~ Center and Corridor development, mixed use development incorporating active first floors,

and development of Green Streets, shall not exceed twenty percent (20%) of the impact fees otherwise payable as a result of the development activity.

5. The Director shall be authorized to determine whether a particular development activity falls within a credit identified in this Section B, in any other Section, or under other applicable law. Determinations of the Director shall be in writing issued within 14 days of a complete application and shall be subject to the appeals procedures set forth in SMC 17D.030.090.
- C. For each request for a credit, under subsection A above, if appropriate, the Director shall select an appraiser or the feepayer may select an independent appraiser acceptable to the Director. The appraiser must be a Washington State Certified Appraiser or must possess other equivalent certification and shall not have a fiduciary or personal interest in the property being appraised. A description of the appraiser's certification shall be included with the appraisal, and the appraiser shall certify that he/she does not have a fiduciary or personal interest in the property being appraised.
- D. The appraiser shall be directed to determine the total value of the dedicated land and/or public facilities provided by the feepayer on a case-by-case basis.
- E. The feepayer shall pay for the cost of the appraisal. The feepayer may request that the cost of the appraisal be deducted from the credit which the Director may be providing to the feepayer, in the event that a credit is awarded.
- F. After receiving the appraisal, and where consistent with the requirements of this Section, the Director shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, the legal description of the site donated where applicable, 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 letter or certificate indicating his/her agreement to 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 sixty (60) calendar days shall nullify the credit. The credit must be used within seventy-two (72) months of the award of the credit.
- G. Any claim for credit must be made prior to issuance of a building permit; provided, any claim for credit submitted later than twenty (20) calendar days after the submission of an application for a building permit shall constitute a waiver and suspension of timelines established by state and/or local law for processing of permit applications.
- H. In no event shall the credit exceed the amount of the impact fees that would have been due for the proposed development activity.
- I. No credit shall be given for project improvements.
- J. Determinations made by the Director pursuant to this Section shall be subject to the appeals procedures set forth in SMC 17D.030.090.

#### **17D.030.080 Administrative Costs**

- A. All development approvals subject to payment of impact fees under this Chapter 17D.030 SMC shall pay an administrative fee. The administrative fee shall be the greater of \$50.00 or three percent (3%) of the impact fees payable under this chapter as a result of the development approval, not to exceed \$1,000.00; provided, the administrative fee for a single family dwelling unit shall be \$50.00. The administrative fee shall be

deposited in an administrative fee account within the impact fee account and shall be used to defray the City's costs of processing and accounting for impact fees and the City's costs in administration and update of the Rate Study. Payment of the administrative fee does not constitute payment of the fees relating to independent fee calculations as provided in SMC 17D.030.050C.

- B. The administrative fee, in addition to the actual impact fees, shall be paid by the applicant to the City at the same time as the impact fee is paid.

**17D.030.090 Appeals**

- A. Any feepayer may pay the impact fees imposed by this Chapter under protest in order to obtain a building permit or occupancy permit. Any appeal filed prior to the payment of impact fees shall constitute a waiver and suspension of timelines established by state and/or local law for the processing of permit applications.
- B. Appeals regarding the impact fees imposed on any development activity shall only be filed by the feepayer of the property where such development activity will occur.
- C. The feepayer must first file a request for review regarding impact fees with the Director, as provided herein:
1. The request shall be in writing on the form provided by the City;
  2. The request for review by the Director shall be filed no later than fourteen (14) calendar days after the feepayer pays the impact fees at issue;
  3. No administrative fee will be imposed for the request for review by the Director; and
  4. The Director shall issue a determination in writing.
- D. Determinations of the Director with respect to the applicability of the impact fees to a given development activity, the availability or value of a credit, or the Director's decision concerning the independent fee calculation, or any other determination which the Director is authorized to make pursuant to this title, can be appealed to the hearing examiner subject to the procedures set forth in Chapter 17G.050 SMC.

**17D.030.100 Establishment Of Impact Fee Account.**

- A. Impact fee receipts shall be earmarked specifically and deposited in special interest-bearing accounts for each service area. The fees received shall be prudently invested in a manner consistent with the investment policies of the City.
- B. There is hereby established an impact fee account for the fees collected pursuant to this chapter known as the Transportation Impact Account. Except as provided in Section 17D.030.080, funds withdrawn from this account must be used in accordance with the provisions of Section 17D.030.120. Interest earned on the fees shall be retained in each of the accounts and expended for the purposes for which the impact fees were collected.
- C. On an annual basis, the Chief Financial Officer and Director shall provide a report to the Council on the 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 and contributions towards meeting concurrency goals and requirements.
- D. Impact fees shall be expended or encumbered within six years of receipt, unless the council identifies in written findings an extraordinary and compelling reason or reasons for the City to hold the fees beyond the six-year period. Under such

circumstances, the Council shall establish the period of time within which the impact fees shall be expended or encumbered.

**17D.030.110 Refunds**

- A. If the City fails to expend or encumber the impact fees within six years of when the fees were paid, the current owner of the property for which impact fees have been paid may receive a refund of such fees; provided, a refund is not required where extraordinary or compelling reasons exist for holding the fees longer than six years, as identified in written findings by the City Council. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first in, first out basis.
- B. The City shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of the claimants.
- C. Property owners seeking a refund of impact fees must submit a written request for a refund of the fees to the Director within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later.
- D. Any impact fees for which no application for a refund has been made within the one-year period shall be retained by the City and expended on the appropriate public facilities.
- E. Refunds of impact fees under this chapter shall include any interest earned on the impact fees by the City.
- F. A feepayer may request and shall receive a refund, including interest earned on the impact fees, when the feepayer and/or the feepayer's successors and assigns do not proceed with the development activity and there has been no impact to the City's transportation system. A request for a refund pursuant to this section must be accompanied by an acknowledgement that the feepayer's underlying development approval, including any associated permits, has expired and that any application to reinstate the development approval shall be subject to the payment of impact fees pursuant to this chapter.

**17D.030.120 Use Of Funds**

Impact fees may be used only as allowed by Chapter 82.02 RCW.

**17D.030.130 Administrative guidelines**

The Director shall be authorized to adopt forms, applications, brochures, and guidelines for the implementation of this chapter in accordance with City policy which may include the adoption of a procedures guide for impact fees.

**17D.030.140 Review**

The Rate Study and the fee schedules set forth in this chapter shall be reviewed by the City Council upon completion of the Baseline Study and as it may deem necessary and appropriate every two years in conjunction with the annual update of the capital facilities plan element of the City's Comprehensive Plan.

A Transportation Impact Fee Advisory Board consisting of individuals representing the building, real estate, and property development industries, the broader business community, community leaders, community assembly, and citizens shall be appointed by the Mayor to review proposed changes to the Rate Study and the fee schedules set forth in this chapter prior to their review and adoption by the City Council. This review shall occur when the City Council may deem it necessary and appropriate every two years in conjunction with the annual update of the capital facilities plan element of the City's Comprehensive Plan. Provided, this Section shall not be interpreted as requiring review by an advisory board or City Council prior to the automatic fee adjustments contemplated in SMC 17D.030.040A.

**17D.030.150 Authorization for Interlocal Agreements**

Consistent with other terms of this chapter, interlocal agreements by and between the City and other government agencies are permissible, as authorized by RCW 36.70A.040 (6) (d).

**17D.030.160 Existing Authority Unimpaired**

Nothing in this chapter shall preclude the City from requiring the applicant for development approval to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, based on the environmental documents accompanying the underlying development approval process, and/or Chapter 58.17 RCW, governing plats and subdivisions; provided, that the exercise of this authority is consistent with the provisions of RCW 82.02.050 (1) (c). Nothing in this chapter shall preclude the City from entering into a development agreement as authorized in RCW 36.70B.170 *et seq.* addressing, without limitation, the amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications.

**17D.030.170 Severability**

If any section or portion of a section of this Chapter is found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other chapter or any other section of this Chapter.

**17D.030.180 Appendix A – Impact Fee Schedule****17D.030.190 Appendix B – Service Area Map****17E.030.200 Appendix C – Trip Rates, Pass-By Trips, and Trip Length Adjustment Factors****17D.030.210 Phased Implementation.**

~~====~~Option 1: That the fees set forth in Section 17D.030.180 shall be implemented in phases as follows: All applicants seeking development approval during the first calendar year following the effective date of this ordinance shall pay 1/4<sup>th</sup> of the fees otherwise payable in Section 17D.030.180; all applicants seeking development approval during the second calendar year shall pay 1/2 of the fees otherwise payable under Section 17D.030.180; all applicants seeking development approval during the third calendar year shall pay 3/4 of the fees otherwise payable under Section 17D.030.180; and all applicants seeking development approval during the fourth calendar year and thereafter shall pay the full fees set forth in Section 17D.030.180. Provided, this implementation schedule may be adjusted with the City Council's approval from time to time pursuant to the required review provisions set forth in this chapter, and shall be reviewed and adjusted as appropriate depending on the findings of the Baseline Study.

~~====~~Option 2: That the fees set forth in Section 17D.030.180 shall be implemented in phases as follows: All applicants seeking development approval during the first calendar year following the effective date of this ordinance shall pay 1/3 of the fees otherwise payable in Section 17D.030.180; all applicants seeking development approval during the second calendar year shall pay 2/3 of the fees otherwise payable under Section 17D.030.180; and all applicants seeking development approval during the third calendar year and thereafter shall pay the full fees set forth in Section 17D.030.180. Provided, this implementation schedule may be adjusted with the City Council's approval from time to time pursuant to the required review provisions set forth in this chapter, and shall be reviewed and adjusted as appropriate depending on the findings of the Baseline Study.

~~====~~Option 3: That the fees set forth in Section 17D.030.180 shall be implemented in phases as follows: All applicants seeking

development approval during the first calendar year following the effective date of this ordinance shall pay 1/2 of the fees otherwise payable in Section 17D.030.180; and all applicants seeking development approval during the second calendar year and thereafter shall pay the full fees set forth in Section 17D.030.180. Provided, this implementation schedule may be adjusted with the City Council's approval from time to time pursuant to the required review provisions set forth in this chapter, and shall be reviewed and adjusted as appropriate depending on the findings of the Baseline Study.

~~Section 3 – Effective Date. That this ordinance shall become effective the later of October 1, 2009 or the date of the second regularly scheduled legislative session of the City Council following its receipt of the findings of the Baseline Study, which shall be the effective date. That this ordinance shall become effective after October 1, 2009, or the date of the second regularly scheduled legislative session of the City Council following its receipt of the findings of the baseline study and adjusting the rate schedule to reflect those findings, if warranted, and the occurrence of the adoption by the Council of a new and additional permanent funding mechanism (i.e., a transportation benefit district, a street utility tax, or similar broad based tax or fee) to supplement the City's ability to eliminate existing deficiencies within a reasonable time.~~

Adopted by the City Council on this 17<sup>th</sup> day of November, 2008.

(Delivered to the Mayor on the 24<sup>th</sup> day of November, 2008)

**Appendix A****Impact Fee Schedule****DOCUMENTS ARE AVAILABLE****In****CITY CLERK'S OFFICE****Appendix B****Service Area Map****DOCUMENTS ARE AVAILABLE****In****CITY CLERK'S OFFICE****Appendix C****ITE Trip Rates, Pass-By Trips, and Trip Length Adjustment Factors Used in Fee Schedule****DOCUMENTS ARE AVAILABLE****In****CITY CLERK'S OFFICE****ORDINANCE NO. C-34337**

An ordinance related to interference of pedestrian and vehicular traffic, amending SMC 10.10.025.

The City of Spokane does ordain:

Section 1. That SMC 10.10.025 is amended to read as follows:

**10.10.025 ((Pedestrian)) Interference with Pedestrian or Vehicular Traffic**

- A. Consistent with the findings of other Washington State cities, the city council finds that it is important to the general welfare of the citizens and residents of the City to protect and preserve the public safety of pedestrians and to insure the safe and efficient movement of pedestrian and vehicular traffic in public places. The city council further finds that public places as defined in this section serve the primary purpose of enabling

pedestrian and vehicular traffic to safely and efficiently move about from place to place and that public places in the urban core have become increasingly congested and should be maintained to serve their primary purpose. Spokane, as well as other cities in Washington, has experienced an increase in the number of incidents of aggressive solicitation by individuals towards pedestrians and that pedestrian interference in public places deteriorates from the primary purpose and threatens public health, safety and welfare. The City has a compelling interest in protecting its citizens from threatening, intimidating or harassing behavior caused by aggressive solicitations, in preserving the quality of life in its urban center and in protecting and preserving the public health, safety and welfare.

B. The following definitions apply in this section:

1. "Aggressively solicit" means to ~~((solicit with the intent to intimidate another person into giving money or goods regardless of the solicitor's purpose or intended use of the money or goods))~~ solicit anything of value and intentionally engage in conduct that would likely intimidate a reasonable person, including but not limited to touching, following, persistently soliciting anything of value after being refused, using violent or threatening language or gestures, or taking similar actions for the purpose of inducing another person into giving anything of value regardless of the solicitor's purpose.
2. "Intimidate" means to engage in conduct which would make a reasonable person fearful of imminent harm to his person or property or feel threatened.
3. "Obstruct pedestrian or vehicular traffic" means to intentionally walk, stand, sit, lie or place an object in such manner as to obstruct or impede, or a person of ordinary sensibilities would conclude it tends to obstruct or impede, the free passage of pedestrians and/or vehicles through the area; or that requires, or would require, evasive action by a pedestrian and/or vehicle to avoid physical contact.
  - a. If the impediment or obstruction is caused by the size of a particular group of persons, all persons within the group are equally subject to this section.
  - b. Acts ~~((authorized as an))~~ committed as a valid exercise of one's constitutional rights, which incidentally interferes with pedestrian or vehicular traffic in order to exercise that right, and or acts authorized by a special events permit or an obstruction permit issued pursuant to SMC 11.02.03458(D), SMC 12.02.0706 or SMC 12.02.0730 do not constitute obstruction of pedestrian or vehicular traffic.
4. "Public place" means an area generally ~~((visible to public view))~~ open to the public and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks and streets open to the general public, including those that serve food or drink or provide entertainment, and the doors and entrances to buildings or dwellings and the grounds enclosing them.
5. Solicit" and all derivative forms of "solicit" means to ask, beg, or plead whether orally, non-verbally or in a written or printed manner, for the purpose of immediately receiving contributions, alms, charity, or gifts of items of value for oneself or another person ~~((for money or goods whether by words, bodily gestures, signs or other means)).~~

- C. A person is guilty of ~~((pedestrian))~~ interference with pedestrian or vehicular traffic if, in a public place, he or she intentionally ~~((knowingly))~~:
  1. obstructs pedestrian or vehicular traffic, or
  2. aggressively solicits.
- D. ~~((Pedestrian i))~~ Interference with pedestrian or vehicular traffic is a misdemeanor.
- E. The provisions of this ~~((chapter))~~ section are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, section or portion of this ~~((chapter))~~ section, or the invalidity of the application thereof to any person or circumstance does not affect the validity of the remainder of this ~~((chapter))~~ section, or the validity of its application to other persons or circumstances.

Passed by the City Council on November 24, 2008.

(Delivered to the Mayor on the 24<sup>th</sup> day of November, 2008)

### ORDINANCE NO. C-34338

An ordinance relating to sitting or lying down on public sidewalks in certain places at certain times; and adopting a new section 10.10.026 to chapter 10.10 of the Spokane Municipal Code.

WHEREAS, public sidewalks in business districts are created and maintained for the primary purpose of enabling pedestrians to safely and efficiently move about from place to place, facilitating deliveries of goods and services, and providing potential customers with convenient access to goods and services; and

WHEREAS, during normal business hours, the public sidewalks in the downtown core are prone to congestion, and should be kept available to serve these primary purposes, and

WHEREAS, except in places provided therefore or where reasonably necessary, sitting or lying on the public sidewalks in the downtown core during the hours of greatest congestion interferes with the primary purposes of the public sidewalks, threatens public safety, and damages the public welfare; and

WHEREAS, pedestrians, particularly the elderly, disabled, or vision-impaired, are put at increased risk when they must see and navigate around individuals sitting or lying upon the public sidewalk; and

WHEREAS, the public welfare is promoted by an economically healthy downtown which attracts people to shop, work and recreate. These areas provide easily accessible goods and services, employment opportunities, and tax revenue necessary to support essential public services, and the economic productivity necessary to maintain and improve property within these areas; and

WHEREAS, in some circumstances, people sitting or lying on the sidewalks deter many members of the public from frequenting those areas, which contributes to undermining the essential economic viability of those areas. Business failures and relocations can cause vacant storefronts which contribute to a spiral of deterioration and blight which harms the public health, safety and welfare. An important factor in protecting public safety is attracting people to the streets and sidewalks of the City's business districts, because the presence of many law-abiding citizens serves as a deterrent to crime and increases the public's sense of security and the safety of all; and

WHEREAS, there are numerous other places within the downtown core where sitting or lying down can be accommodated without unduly interfering with the safe flow of pedestrian traffic,

impeding commercial activity, threatening public safety or harming the public welfare. These other places include city parks and plazas, alleyways, private plazas, arcades and common areas open to the public, and generally on private property with the permission of the property owner. In addition, public sidewalks outside the downtown core and all sidewalks outside the designated hours are available for sitting or lying down; and

WHEREAS, the limited regulation of sitting or lying down on sidewalks is both reasonably necessary and appropriately balances the public interest and individual rights;—Now, Therefore,

The City of Spokane does ordain:

Section 1. That there is adopted a new section 10.10.026 to read as follows:

**10.10.026 Sitting, Lying on Sidewalk in Retail Zone.**

A. Prohibition.

No person may sit or lie down upon a public sidewalk, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk, during the hours between seven a.m. and nine p.m. in the retail zone of the congested district as defined in SMC 16A.04.020.

B. Exceptions.

The prohibition in subsection (A) does not apply to any person:

1. sitting or lying down due to a medical emergency or due to a sensory, mental or physical disability;
2. who, as the result of a sensory, mental or physical disability, utilizes a wheelchair, walker or similar device to move about the public sidewalk;
3. operating or patronizing a business with permission to occupy the sidewalk;
4. participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on the public sidewalk pursuant to a special event or other applicable permit;
5. sitting on a chair or bench supplied by a public agency or by the abutting private property owner pursuant to the appropriate permit or license; or
6. sitting within a bus stop zone while waiting for public or private transportation.
7. engaging in constitutionally protected expressive activities which would otherwise be unreasonably restricted by the limitations in subsection (A).

C. No person shall be cited under this section unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that the conduct violates this section and has been given a reasonable amount of time to comply or has refused to comply. If the individual fails to comply in a reasonable time, a law enforcement officer may then issue a citation under this section.

D. This section does not permit any conduct which is prohibited by SMC 10.10.025 regarding interference with pedestrian or vehicular traffic.

E. A violation of SMC 10.10.026 is a misdemeanor.

F. The provisions of this section are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, section or portion of this section, or the invalidity of the application thereof to any person or circumstance does not affect the validity of the remainder of this section, or the validity of its application to other persons or circumstances.

Passed by the City Council on November 24, 2008.

(Delivered to the Mayor on the 24<sup>th</sup> day of November, 2008)

**ORDINANCE NO. C -34339**

An ordinance relating to street performers; amending SMC 10.40.010 of the Spokane Municipal Code.

WHEREAS, the City supports and seeks to protect the activities of street performer, including street musicians, who perform any valid form a constitutionally protected expressive activities in the public right-of-way,

WHEREAS, the City must also implement reasonable regulations to protect the public health, safety, welfare from adverse effects that can result from commercial and non-commercial activities in the public right-of-way,

WHEREAS, the City also has a legitimate government interest in regulating business activities which take place on the public right-of-way, and

WHEREAS, it is the City's desire to implement an ordinance that protects the rights of street performers to perform constitutional protected expressive activities in the public right-of-way while also enforcing reasonable regulations regarding business and commercial activities which occur on the public right-of-way.

The City of Spokane does ordain:

Section 1. That SMC 10.40.010 is amended to read as follows:

**10.40.010 Peddler Designation – When Required.**

A regular or temporary business license issued under chapter 8.01 SMC must have a special designation as “peddler” under any of the following circumstances:

- A. Where the person is eligible for a temporary business license, and is engaged in the business of selling or delivering goods or services within the City from a fixed or temporary location as an itinerant vendor.
  1. Examples are people selling food or wares from mobile carts on the sidewalk or roving vehicles in the streets. (Cross Reference: SMC 8.01.220).
- B. Where the person travels from door to door as the principle means of conducting business offering, exposing for sale, or selling within the City any goods, merchandise, service or product.
- C. Where the person engages in any business in the City with no permanent location. (Cross Reference: SMC 8.01.070).
- D. A person who engages in constitutionally protected expressive activities in the public right-of-way shall not be required to obtain a business license unless the person engages in business activities. Constitutionally protected expressive activities conducted in the public right-of-way shall include, but is not limited to, street performers. For the purposes of this section, a street performer means an individual, including street musicians, who performs any form of artistic expression. The voluntary contribution of money or other items of value by members of the public to the individual in association with the expressive activity shall not result in the requirement of obtaining a business license. A person who engages in constitutionally protected expressive activities in the public right-of-way must still comply with all other regulations regarding conduct in the public right-of-way.

Passed by the City Council on November 24, 2008.

(Delivered to the Mayor on the 24<sup>th</sup> day of November, 2008)

### **ORDINANCE NO. C-34340**

An ordinance regarding regulation of solicitation; adopting a new section 10.10.027 to chapter 10.10 of the Spokane Municipal Code.

WHEREAS, individuals engage in solicitation in public places, whether orally, non-verbally or in a written or printed manner, for the purpose of immediately receiving contributions, alms, charity, or gifts of items of value for oneself or another person; and

WHEREAS, solicitations that occur in certain locations where a person's attention can be distracted can lead citizens feeling vulnerable; and

WHEREAS, solicitation by coercion causes fear and intimidation upon citizens, harms tourism and businesses and can lead to greater levels of violence; and

WHEREAS, solicitation of individuals driving on public roadways poses traffic and public safety concerns to drivers and pedestrians, as well as the person engaging in the solicitation; and

WHEREAS, the purpose of this ordinance is to protect citizens from the fear and intimidation accompanying certain kinds of solicitation, to promote tourism and business, and to preserve the quality of urban life while providing safe and appropriate venues for individuals to engage in solicitation; and

WHEREAS, the City has a legitimate governmental interest in protecting the public health, safety and welfare by imposing limited restrictions on the places where solicitations may not occur and by prohibiting solicitations by coercion; - NOW, THEREFORE,

The City of Spokane does ordain:

Section 1. That there is adopted a new section 10.10.027 to chapter 10.10 to read as follows:

#### **10.10.027 Regulation of Solicitation**

A. Definitions. The following definitions apply in this section:

1. "Automated teller machine" means a machine, other than a telephone:
  - a. that is capable of being operated by a customer of a financial institution;
  - b. by which the customer may communicate to the financial institution a request to withdraw, deposit, transfer funds, make payment, or otherwise conduct financial business for the customer or for another person directly from the customer's account or from the customer's account under a line of credit previously authorized by the financial institution for the customer; and
  - c. the use of which may or may not involve personnel of a financial institution.
2. "Exterior public pay telephone" means any coin or credit card reader telephone that is:
  - a. installed or located anywhere on a premises except exclusively in the interior of a building located on the premises; and
  - b. accessible and available for use by members of the general public.

3. "Public transportation facility" means a facility or designated location that is owned, operated, or maintained by a city, county, county transportation authority, public transportation benefit area, regional transit authority, or metropolitan municipal corporation within the state.
4. "Public transportation stop" means an area officially marked and designated as a place to wait for a bus, a light rail vehicle, or any other public transportation vehicle that is operated on a scheduled route with passengers paying fares on an individual basis.
5. "Public transportation vehicle" has the meaning given that term in RCW 46.04.355, as currently adopted or as it may be amended in the future.
6. "Roadway" shall have the meaning set forth in RCW 46.04.500.
7. "Self service car wash" means a structure:
  - a. at which a vehicle may be manually washed by its owner or operator with equipment that is activated by the deposit of money in a coin-operated machine; and
  - b. that is accessible and available for use by members of the general public.
8. "Self service fuel pump" means a fuel pump:
  - a. from which a vehicle may be manually filled with gasoline or other fuel directly by its owner or operator, with or without the aid of an employee or attendant of the premises at which the fuel pump is located; and
  - b. that is accessible and available for use by members of the general public.
9. "Solicit" and all derivative forms of "solicit" means to ask, beg, or plead, whether orally, non-verbally or in a written or printed manner, for the purpose of immediately receiving contributions, alms, charity, or gifts of items of value for oneself or another person.

B. Place of solicitation.

1. Solicitation near designated locations and facilities.
  - a. It is unlawful for any person to solicit another person within fifteen (15) feet of:
    - i. an automated teller machine;
    - ii. the entrance of a building, unless the solicitor has permission from the owner or occupant;
    - iii. an exterior public pay telephone;
    - iv. a self-service car wash;
    - v. a self-service fuel pump;
    - vii. a public transportation stop;
    - viii. any parked vehicle as occupants of such vehicle enter or exit such vehicle when the occupants are the subject of the solicitation, or
    - ix. designated loading/unloading, for-hire vehicle, or taxi zones.
  - b. It is unlawful for any person to stand in the roadway for the purpose of engaging in solicitation unless the person has first obtained a special events permit pursuant to chapter 10.39 SMC. No person may

engage in solicitation activities that would obstruct traffic in violation of SMC 10.10.025.

2. For purposes of subsection B, measurement will be made in a straight line, without regard to intervening structures or objects, from the nearest point at which a solicitation is being conducted to whichever is applicable of the following:
    - a. the nearest entrance or exit of a facility in which an automated teller machine is enclosed or, if the machine is not enclosed in a facility, to the nearest part of the automated teller machine;
    - b. the nearest entrance or exit of a building;
    - c. the nearest part of an exterior public pay telephone;
    - d. the nearest part of the structure of a self-service car wash;
    - e. the nearest part of a self-service fuel pump;
    - f. the nearest part of any sign or marking designating an area as a public transportation stop; or
    - g. any door of a parked vehicle that is being used by an occupant of such vehicle to enter or exit such vehicle.
- C. Penalties.  
A violation of SMC 10.10.027 is a misdemeanor.
- D. This section shall not prohibit lawful solicitations, including those individuals and organizations that have obtained a special events permit.
- E. The provisions of this section are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, section or portion of this section, or the invalidity of the application thereof to any person or circumstance does not affect the validity of the remainder of this section, or the validity of its application to other persons or circumstances.

Passed by the City Council NOVEMBER 24, 2008.

(Delivered to the Mayor on the 24<sup>th</sup> day of November, 2008)

### **ORDINANCE NO. C-34352**

An ordinance relating to floodplain management; amending SMC sections 17E.030.080 and 17E.030.130.

WHEREAS, the Washington State Legislature enacted the Growth Management Act (GMA) in 1990. GMA requires cities to adopt development regulations that protect critical areas that are required to be designated under RCW 36.70A.170; and

WHEREAS, the City of Spokane is a voluntary participant in the National Flood Insurance Program and as such is required to maintain Spokane Municipal Code Chapter 17E.030 Floodplain Management in compliance with regulations as specified by Federal Emergency Management Act (FEMA); and

WHEREAS, Section 1315 of the National Flood Insurance Act of 1968 prohibits FEMA from providing flood insurance to property owners unless the community adopts and enforces floodplain management criteria established under the authority of Section 1361 (c) of the Act. These criteria area established in the NFIP regulations at 44 CFR §60.3; and

WHEREAS, the Washington State Department of Ecology conducted a Community Assistance Visit (CAV) on September

25, 2008, and advised staff of minor revisions to be made to 17E.030.080 and 17E.030.130; and

WHEREAS, the revisions must be made by December 1, 2008 to remain in compliance with the FEMA National Flood Insurance Program;

NOW, THEREFORE THE CITY OF SPOKANE, WASHINGTON DOES ORDAINE, that Chapter 17E.030 Floodplain Management is amended as follows:

Section 1. That SMC section 17E.030.080 is amended to read as follows:

#### **17E.030.080 Duties and Responsibilities of the Local Administrator**

- A. The duties and responsibilities of the local administrator shall include, but not be limited to, review of:
  1. all development permits to determine that the permit requirements of this chapter have been satisfied, all necessary information has been provided for a determination that the application is counter complete;
  2. all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required; and
  3. all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of SMC 17E.050.160 are met.
  4. all development permits to determine if the proposed development complies with the policies, provisions, and requirements of the shoreline master program, as now or hereafter amended.
- B. Use of Other Base Flood Data in "A" Zones.  
When base flood elevation data has not been provided (A Zones) in accordance with SMC 17E.030.050, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer SMC 17E.050.140 and SMC 17E.050.160.
- C. Information to be Obtained and Maintained.
  1. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in subsection (B) of this section, the local administrator shall record, ~~when provided by the applicant,~~ the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
  2. For all new or substantially improved flood proofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in subsection above, the local administrator shall:
    - a. obtain and record the elevation (in relation to mean sea level) to which the structure was flood proofed; and
    - b. maintain the flood proofing certifications required in SMC 17E.030.060.
  3. The local administrator shall maintain for public inspection all records pertaining to the provisions of this chapter.
- D. Alteration of Watercourses.

1. The local administrator shall notify adjacent communities and the Washington state department of ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
  2. The local administrator shall require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.
- E. Interpretation of FIRM Boundaries.  
The local administrator shall make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in SMC 17E.030.090.
- Section 2. That SMC section 17E.030.130 is amended to read as follows:
- 17E.030.130 General Standards**  
In all areas of special flood hazards, the following standards, in addition to those imposed by other existing regulations are required:
- A. Anchoring.
1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
  2. All manufactured homes shall likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to:
    - a. use of over-the-top is provided at each of the four corners of the manufactured home, with two additional ties per site at intermediate locations, with manufactured homes less than fifty feet long requiring one additional tie per side;
    - b. frame ties is provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than fifty feet long requiring four additional ties per side;
    - c. all components at the anchoring system are capable of carrying a force of four thousand eight hundred pounds; and
    - d. any additions to the manufactured home are similarly anchored.
  3. The guidebook "Manufactured Home Installation in Flood Hazard Areas, FEMA-85, 9/85" is adopted by reference for further manufactured home anchoring techniques. AO Zone Drainage. Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.
- B. AO Zone Drainage.  
Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.
- C. Construction Materials and Methods.
1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
  3. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- D. Utilities.
1. all new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
  2. any proposed water well shall be located on high ground that is not in the floodway (WAC 173-160-171).
  3. new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
  4. on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- E. Subdivision Proposals.  
All subdivision proposals shall:
1. be consistent with this chapter;
  2. be consistent with the need to minimize flood damage;
  3. have public utilities and facilities, such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage;
  4. have adequate drainage provided to reduce exposure to flood damage; and
  5. be generated by an engineer hired by the applicant for subdivision proposals and other proposed developments which contain at least fifty lots or five acres, whichever is less; where base flood elevation data has not been provided or is not available from another source.
- F. Review of Building Permits.  
Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for building and land use permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, et cetera, where available. Failure to elevate at least two feet above highest adjacent grade in these zones may result in higher insurance rates. The applicant will provide studies and information as necessary for review.
- Adopted by the City Council on November 24, 2008.  
(Delivered to the Mayor on the 1<sup>st</sup> day of December, 2008)

---

**ORDINANCE NO. C-34353**

An ordinance amending Ordinance No. C-34159, passed the City Council December 17, 2007, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2008, making appropriations to the various funds, departments, and programs of the City of Spokane government for the fiscal year ending December 31, 2008, and providing it shall take effect immediately upon passage", and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2008 budget Ordinance No. C-34159, as above entitled, and which passed the City Council December 17, 2007, it is necessary to make changes in the appropriations of the General Fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

WHEREAS, this ordinance has been on file in the City Clerk's Office for five days; - Now, Therefore,

The City of Spokane does ordain:

Section 1. That in the budget of the General Fund, and the budget annexed thereto with reference to the General Fund, the following changes be made:

FROM:	0440-35140	General Fund – Fire Dept.	
	99999-34220	Fire Protection Services	\$ <u>261,685</u>
TO:	0440-35140	General Fund – Fire Dept.	
	22200-51215	Overtime - Uniform	\$ <u>261,685</u>

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need to budget revenue from the Washington State Patrol and Department of Natural Resources as reimbursement for employees deployed for State Mobilization fires, the need for which could not reasonably have been anticipated at the time of adoption of the 2008 budget, and because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage.

Passed the City Council November 24, 2008.

(Delivered to the Mayor on the 1<sup>st</sup> day of December, 2008)

**ORDINANCE NO. C-34354**

An ordinance amending Ordinance No. C-34159, passed the City Council December 17, 2007, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2008, making appropriations to the various funds, departments, and programs of the City of Spokane government for the fiscal year ending December 31, 2008, and providing it shall take effect immediately upon passage", and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2008 budget Ordinance No. C-34159, as above entitled, and which passed the City Council December 17, 2007, it is necessary to make changes in the appropriations of the General Fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

WHEREAS, this ordinance has been on file in the City Clerk's Office for five days; - Now, Therefore,

The City of Spokane does ordain:

Section 1. That in the budget of the General Fund, and the budget annexed thereto with reference to the General Fund, the following changes be made:

FROM:	0350-95751	General Fund – East Central Community Center	
	71230-33442	CTED	\$ <u>3,750</u>
TO:	0350-95751	General Fund – East Central Community Center	
	71230-08490	Temp Seasonal	1,575
	71230-52110	Social Security	121
	71230-52400	Industrial Insurance	3
	71230-53201	Operating Supplies	646

71230-54201	Contractual Services	405
71230-54999	Other Misc. Charges	<u>1000</u>
		\$ <u>3,750</u>

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need to budget grant funding that will be used to provide parenting classes at East Central Community Center, the need for which could not reasonably have been anticipated at the time of adoption of the 2008 budget, and because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage.

Passed the City Council November 24, 2008.

(Delivered to the Mayor on the 1<sup>st</sup> day of December, 2008)

**Job Opportunities  
City of Spokane**

**ENGINEER IN TRAINING SPN 231**

**OPEN ENTRY EXAMINATION**

**SALARY:** \$46,562 annual salary, payable bi-weekly, to a maximum of \$57,065

**DATE OPEN:** Monday, December 1, 2008

**DATE CLOSED:** Applications will be accepted until the close of business on Friday, December 19, 2008.

Applicants who have filed a basic application will have until the close of business on Monday, December 22, 2008 to return the supplemental application form.

**OFFICE HOURS:** 8:00 a.m. to 5:00 p.m. – Monday through Friday, except holidays

**DUTIES:**

Performs professional engineering work in connection with the planning, development, design and construction of Public Works projects. Participates in the design, planning, and construction of various public works projects including streets, bridges, tunnels, structures, and utility projects including water, sewage, refuse and related utilities facilities. Drafts preliminary and final designs; prepares specifications. Makes complex computations and time and material estimates. May be required to work in the field during emergencies. Operates an automobile, drafting equipment, computer, telephone, reprographic equipment, and calculator.

**OPEN REQUIREMENTS:** (All requirements must be met at the time of application.)

Graduation from an accredited four-year college or university with a Bachelor's Degree in Civil Engineering; OR, students in their final (senior) year in a Bachelor's Degree program in Civil Engineering at an accredited four-year college or university; OR, possession of a recognized Engineer-in-Training certificate based upon qualifying experience in Civil Engineering. No additional experience is required. Applicants must possess a valid driver's license or evidence of equivalent mobility.

**NOTE:** The employment offer shall be contingent upon the successful graduation from an accredited four year college or university with a Bachelor's Degree in Civil Engineering; OR, possession of a recognized Engineer-In-Training certificate based upon qualifying experience in Civil Engineering.

**EXAMINATION:**

The examination will consist of a supplemental application form (Training and Experience Evaluation). Weight assigned is 100%.

Upon request, at time of application, the City will provide alternative accessible tests to individuals with disabilities that impair manual, sensory or speaking skills needed to take the test, unless the test is intended to measure those skills.

**NOTE: Under continuous testing policy, additional examinations may be scheduled with results merged into one eligibility list according to final ratings.**

**TO APPLY:**

To apply online or download and print an application, go to [www.spokanecity.org](http://www.spokanecity.org). To request an application packet be mailed to you, call our Civil Service office at (509) 625-6160. If mailing your application, submit to Civil Service Commission, 808 W. Spokane Falls Blvd., Spokane, WA 99201-3315.

By order of the SPOKANE CIVIL SERVICE COMMISSION, dated at Spokane, Washington, this 25<sup>th</sup> day of November, 2008.

CAROL LAWTON  
Chair

GLENN KIBBEY  
Chief Examiner

**THE CITY OF SPOKANE IS AN EQUAL  
EMPLOYMENT OPPORTUNITY EMPLOYER**

## Notice for Bids on Paving, Sidewalks, Sewer, Etc.

### CITY OF SPOKANE REQUEST FOR QUALIFICATIONS FOR

#### Geotechnical and Environmental On-Call Services

The City of Spokane Department of Engineering Services is soliciting interest from consulting firms with expertise in Geotechnical and Environmental Services. Consultants will be considered for the following types of projects.

**PROJECT DESCRIPTION**

The work to be performed by the CONSULTANT will consist of various projects, yet to be determined, on an on-call basis over a two year period of time beginning January 1, 2009. In addition, there will be an option for a third year based on mutual consent. Estimated individual project fees are expected to range from \$2,500 to \$50,000 and shall be negotiated for each project, with most projects expected to be in the lower end of this range. Total expenditures over the two or three year life shall not exceed \$250,000. The successful consultant shall be prepared to provide documented expertise in the following areas:

- Classification of soils by appropriate methods – visual, sieve analysis, Atterberg limits
- Determination of soil properties by appropriate means – field tests (ex. Standard Proctor test), laboratory tests (ex. Shear tests, consolidation, permeability), or by correlation
- Foundation design parameters (bearing capacity, settlement, lateral earth pressure, etc.)
- Pavement subgrade characterization (Resilient Modulus) and pavement thickness calculations
- Water mounding in relationship to stormwater injection
- Geophysical studies, test borings, test excavations, infiltration testing, aquifer testing
- Identification of restrictive infiltration layers below the ground surface

- Slope stability and groundwater seepage

The successful candidate shall show the ability to either complete Phase 1 and Phase 2 site assessments or work with subconsultant(s) having expertise in environmental work of that nature.

**SUBMITTAL**

The submittal should document the consultant's expertise and experience in each of the above itemized areas including project lists, resumes and other relevant information.

Submittals should include the following information: firm name, phone and fax numbers; name of principal-in-charge and project manager(s) for various areas of work itemized above; and number of employees available to contribute.

Submittals will be evaluated and ranked based on the following criteria and weighted as noted:

1) Qualifications of key personnel	20%
2) Ability and commitment to respond to work request	20%
3) Expertise and approach to various tasks as described above	25%
4) Familiarity with relevant codes and standards	10%
5) Past performance/references relevant to areas itemized above Including experience with the City of Spokane	25%

Submittal shall be limited to four (4) pages, excluding project lists and resumes.

The City of Spokane recognizes there is a need to provide the maximum practicable opportunity for increased participation by minority and women-owned business enterprises (MBE's and WBE's). The City therefore establishes the following laudatory goals for this contract:

MBE	6%
WBE	4%
Or a combined total of	10%

Selection of the successful applicant will **not** be based on meeting these laudatory goals.

Please submit six (6) copies of your Statement of Qualifications to the Purchasing Department, 4th Floor City Hall, 808 West Spokane Falls Boulevard, Spokane, WA 99201, by Monday, December 15, 2008 not later than 1:00 PM. No submittals will be accepted after that date and time. Any questions regarding this RFQ should be directed to Gary Nelson at (509) 625-6700.

November 26, December 3 and 10, 2008

## Notice for Bids on Supplies, Equipment, Maintenance, Etc.

### REQUEST FOR BIDS

### INSTALLATION OF MICROWAVE ANTENNA AND WAVE GUIDES

City of Spokane Police Department

#### BID #3545-08

Sealed Bids will be opened at the 1:15 p.m. public bid opening on **MONDAY, DECEMBER 8, 2008** in the Council Chambers, 808 West Spokane Falls Boulevard, Spokane, Washington 99201, for **INSTALLATION OF MICROWAVE ANTENNA AND WAVE GUIDES** for the City of Spokane Police Department.

The Request for Bids document is available by contacting Connie Wahl, City of Spokane Purchasing, 4<sup>th</sup> Floor, City Hall, 808 West Spokane Falls Blvd, Spokane WA 99201, Phone: (509) 625-6411 or purchasinghelp@spokanecity.org

Bid proposal documents should be submitted to City of Spokane Purchasing no later than 1:00 p.m. on Monday, December 8, 2008. Bid proposals must be sent sufficiently ahead of time to be received by the required date and time. The City of Spokane is not responsible for Bid proposals delivered late. Only firm Proposals with signatures will be evaluated.

**Submit one (1) original and five (5) copies of the Proposal to:**

City of Spokane - Purchasing  
4<sup>th</sup> Floor – City Hall  
808 W. Spokane Falls Blvd.  
Spokane, Washington 99201

The right is reserved to reject any and all Proposals and to waive any informalities in the Proposals.

All response packages are to be clearly marked with:  
“**BID #3545-08, INSTALLATION OF MICROWAVE ANTENNA AND WAVE GUIDES, DUE 12/8/08**”.

Connie Wahl, C.P.M., CPPB  
City of Spokane Purchasing

November 26 & December 3, 2008

**DUCTILE IRON TYTON JOINT PIPE**

Water Department

**BID #3552-08**

Sealed bids will be opened at 1:15 p.m., MONDAY, DECEMBER 15, 2008, in the Council Chambers, 808 West Spokane Falls Boulevard, Spokane, Washington 99201, for DUCTILE IRON TYTON JOINT PIPE for the City of Spokane Water Department.

Detailed specifications and proposal forms are available from City Purchasing, by contacting Thea Bremer at purchasinghelp@spokanecity.org

**Submittal Instructions:**

Bid proposal forms may be submitted to the Purchasing Department until 1:00 P.M. on the date of opening. Proposals must be sent sufficiently ahead of time to be received by the opening date and time. City of Spokane is not responsible for proposals delivered late.

**Submit one (1) original and two (2) copies of response to:**

Division of Purchasing  
City of Spokane  
4<sup>th</sup> Floor – City Hall  
808 W. Spokane Falls Blvd.  
Spokane WA 99201

The right is reserved to reject any and all proposals and to waive any informalities in the bidding. Special attention will be directed to the qualifications of the proposer when considering this contract. Only firm proposals with signatures will be tabulated.

Envelopes containing proposals are to be marked:  
“**DUCTILE IRON TYTON JOINT PIPE, BID 3552-08, DUE 12/15/08**”.

Thea Bremer  
Purchasing Department

November 26 & December 3, 2008

**VALVE BOX & SERVICE (CURB) BOX, REPAIR LIDS & MANHOLE RINGS & COVERS**

Water Department

**BID #3553-08**

Sealed bids will be opened at 1:15 p.m., MONDAY, DECEMBER 15, 2008, in the Council Chambers, 808 West Spokane Falls Boulevard, Spokane, Washington 99201, for VALVE BOX & SERVICE (CURB) BOX, REPAIR LIDS & MANHOLE RINGS & COVERS for the City of Spokane Water Department.

Detailed specifications and proposal forms are available from City Purchasing, by contacting Thea Bremer at purchasinghelp@spokanecity.org

**Submittal Instructions:**

Bid proposal forms may be submitted to the Purchasing Department until 1:00 P.M. on the date of opening. Proposals must be sent sufficiently ahead of time to be received by the opening date and time. City of Spokane is not responsible for proposals delivered late.

**Submit one (1) original and two (2) copies of response to:**

Division of Purchasing  
City of Spokane  
4<sup>th</sup> Floor – City Hall  
808 W. Spokane Falls Blvd.  
Spokane WA 99201

The right is reserved to reject any and all proposals and to waive any informalities in the bidding. Special attention will be directed to the qualifications of the proposer when considering this contract. Only firm proposals with signatures will be tabulated.

Envelopes containing proposals are to be marked:

“**VALVE BOX & SERVICE (CURB) BOX, REPAIR LIDS & MANHOLE RINGS & COVERS, BID 3553-08, DUE 12/15/08**”.

Thea Bremer  
Purchasing Department

November 26 & December 3, 2008