

CITY OF MARYSVILLE  
Marysville, Washington

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, AMENDING THE MARYSVILLE CITY CODE TO ENACT A NEW CHAPTER 12.06 MARYSVILLE TRANSPORTATION BENEFIT DISTRICT, ESTABLISHING A TRANSPORTATION BENEFIT DISTRICT, SPECIFYING THE BOUNDARIES FOR THE TRANSPORTATION BENEFIT DISTRICT, SPECIFYING THE MAINTENANCE AND PRESERVATION OF EXISTING TRANSPORTATION IMPROVEMENTS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, the City Council of the City of Marysville has the responsibility under the Constitution of the State of Washington for the improvement, maintenance, protection and operation of public ways within the corporate limits of the City pursuant to RCW 35A.11.020 and Chapter 35A.47 RCW; and

WHEREAS, the improvement, maintenance, protection and operation of public ways requires preserving existing transportation improvements to avoid both catastrophic failure of the improvements which would require significant additional funds to reconstruct, as well as their gradual deterioration; and

WHEREAS, the number one priority in the “Washington Transportation Plan for 2007-2026” adopted by the Washington Transportation Commission (“State Transportation Plan”) is to preserve and extend prior investments in existing transportation facilities and the services they provide to people and commerce; and

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WHEREAS, the State Transportation Plan identifies in Section II that there is no more fundamental transportation investment than existing system preservation – keeping the physical infrastructure in safe and efficient operating condition; and

WHEREAS, the State Transportation Plan on page 72 establishes unfunded high priorities of state-wide significance and includes the need to “[p]reserve, maintain and operate city streets \$6 billion” thereby recognizing that the shortfall in funding to preserve, maintain and operate city streets is a matter of state-wide significance; and

WHEREAS, the investment principles from the Puget Sound Regional Council “Destination 2030 Metropolitan Transportation Plan for the Central Puget Sound Region” state that the first priority should be to maintain, preserve, make safe, and optimize existing transportation infrastructure and services and Regional Transportation. Policy 8.3 identifies the importance of maintaining and preserving the existing urban and rural transportation systems in a safe and usable state; and

WHEREAS, the City has limited transportation funding to pay for necessary transportation preservation and maintenance; and

WHEREAS, the funding dedicated for the preservation and maintenance of the City’s transportation infrastructure has been dramatically reduced due to the passage of Initiative 695 in 1999 and Initiative 776 in 2002, resulting in the significant loss of Motor Vehicle Excise Taxes and Snohomish County Local Vehicle License fees; and

WHEREAS, while dedicated revenues have decreased, the ongoing annual costs to preserve and maintain the City’s transportation infrastructure continue to rise

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leaving the City unable to continue to adequately preserve and maintain the City's transportation infrastructure; and

WHEREAS, Chapter 36.73 RCW provides for the establishment of transportation benefit districts and for the levying of additional revenue sources for transportation improvements within the District that are consistent with existing state, regional, and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels; and

WHEREAS, RCW 35.21.225 authorizes the City Council to establish a transportation benefit district subject to the provisions of Chapter 36.73 RCW; and

WHEREAS, the City desires to form a transportation benefit district which includes the entire City of Marysville as the boundaries currently exist or as they may exist following future annexations; and

WHEREAS, prior to establishing a transportation benefit district, the City Council shall conduct a public hearing upon proper notice, which shall describe the functions and purposes of the proposed transportation benefit district; and

WHEREAS, the City provided notice of and conducted the public hearing on November 12, 2013, regarding the proposed establishment of a transportation benefit district in accordance with RCW 36.73.050; and

WHEREAS, the City Council of the City of Marysville finds it to be in the best interests of the City to establish a citywide transportation benefit district for the preservation and maintenance of the City's transportation infrastructure consistent with

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Chapter 36.73 RCW, to protect the City's long-term investments in that infrastructure, to reduce the risk of transportation facility failure, to improve safety, to continue optimal performance of the infrastructure over time, and to avoid more expensive infrastructure replacements in the future; and

WHEREAS, the City Council of the City of Marysville shall be the governing body for the transportation benefit district acting in an ex officio and independent capacity;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Purpose. The purpose of this Ordinance is to establish a transportation benefit district pursuant to RCW 35.21.225 and RCW 36.73. The City Council finds it is in the public interest to provide adequate levels of funding for the purposes of ongoing transportation improvements that preserve, maintain and as appropriate, construct or reconstruct the transportation infrastructure of the City of Marysville, consistent with Chapter 36.73 RCW.

Section 2. Creation of New City Code Chapter Providing for Formation of a transportation benefit district. The City of Marysville adopts a new chapter 12.06 to the Marysville Municipal Code entitled "Marysville Transportation Benefit District," which is set forth as follows:

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**12.06.010 Establishing transportation benefit district.**

There is created a transportation benefit district to be known as the Marysville Transportation Benefit District or “District” with geographical boundaries comprised of the corporate limits of the City as they currently exist or as they may exist following future annexations.

**12.06.020 Governing board.**

A. The governing board “Board” of the transportation benefit district shall be the Marysville City Council acting in an ex officio and independent capacity, which shall have the authority to exercise the statutory powers set forth in Chapter 36.73 RCW. The Board shall be known as the “Marysville Transportation Benefit District Board.”

B. The treasurer of the transportation benefit district shall be the City Finance Director.

C. The Board shall develop a material change policy to address major plan changes that affect project delivery or the ability to finance the plan, pursuant to the requirements set forth in RCW 36.73.160(1). At a minimum, if a transportation improvement exceeds its original cost by more than twenty percent, as identified in the District’s original plan, a public hearing shall be held to solicit public comment regarding how the cost change should be resolved.

D. The Board shall issue an annual report, pursuant to the requirements of RCW 36.73.160(2).

**12.06.030 Functions of the District.**

The District Board may authorize a vehicle tax fee of up to \$20 per vehicle as provided for by RCW 82.80.140. Any expansion of the authorized purposes of the District shall be undertaken only after notice, hearing and adoption of an ordinance in accordance with RCW 36.73.050(2)(b) or a vote of the people pursuant to RCW 36.73.065(3).

B. When authorized by the voters pursuant to the

requirements of Chapter 36.73, other taxes, fees, charges and tolls or increases in these revenue services may be assessed for the preservation, maintenance and operations of City streets. Additional transportation improvements may be added to the functions of the District upon compliance with the requirements of said chapter.

C. The Board shall have and exercise all powers and functions provided by Chapter 36.73 to fulfill the functions of the District.

**12.06.040 Transportation improvements funded.**

The funds generated by the transportation benefit district shall be used for transportation improvements that preserve, maintain and operate the existing transportation infrastructure of the City, consistent with the requirements of Chapter 36.73 RCW and may include but shall not be limited to “transportation improvements” as defined in RCW 36.73.015(4). The funds may be utilized for any lawful purpose under the Chapter; but all funds raised through the TBD shall be expended only for such preservation, construction, maintenance and operation in accordance with the provisions of Chapter 36.73 RCW as the same exists or is hereafter amended. The funds expended by the District shall preserve, maintain and operate the City's previous investments in the transportation infrastructure, reduce the risk of transportation facility failure, improve safety, continue the cost-effectiveness of the City's infrastructure investments, and continue the optimal performance of the transportation system. Additional transportation improvement projects may be funded only after compliance with the provisions of RCW 36.73.050(2)(b) following notice, public hearing and enactment of an authorizing ordinance.

**12.06.050 Dissolution of District.**

The transportation benefit district shall be automatically dissolved when all indebtedness of the District has been retired and when all of the District's anticipated responsibilities have been satisfied. Street preservation, maintenance and operation are ongoing, long-term obligations of the City. Pursuant to RCW 36.73.050 and 36.73.170 the District shall automatically dissolve when all indebtedness of the District has been retired and anticipated responsibilities have been satisfied, but in no event without further action of the Marysville City Council shall the District extend more than 20 years from the effective date of this ordinance.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance.

Section 4. Effective Date. Pursuant to RCW 35A.47.040, this ordinance has been passed at least five days after its first introduction and by a majority of the whole membership of the City Council at a regular meeting. This ordinance, shall take effect five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the City Council and APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

CITY OF MARYSVILLE

By \_\_\_\_\_  
JON NEHRING, MAYOR

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Attest:

By \_\_\_\_\_  
APRIL O'BRIEN, DEPUTY CITY CLERK

Approved as to form:

By \_\_\_\_\_  
GRANT K. WEED, CITY ATTORNEY

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**PUBLIC WORKS**  
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Date: November 5, 2013  
To: Mayor Nehring and Marysville City Council  
From: Public Works Staff  
Subject: Marysville Transportation Benefit District  
Ordinance to Establish a Transportation Benefit District

**Recommendation:**

Mayor Nehring, and staff recommend the City Council approve an ordinance to enact a new Chapter 12.06 Marysville Transportation Benefit District, establishing a Transportation Benefit District, specifying the boundaries for the transportation benefit district, specifying the maintenance and preservation of existing transportation improvements, and fixing a time when the same shall become effective.

**Summary:**

Engrossed Senate and House Bill 1858 authorized a funding mechanism for cities and counties that could provide necessary resources to help maintain and preserve transportation infrastructure. The following provides information on the need to generate funding for these purposes as they relate to the City of Marysville, and overall framework regarding Transportation Benefit Districts.

**City of Marysville Transportation Infrastructure – Needed Funding**

The City has limited revenue to pay for basic preservation, maintenance and construction of the City's transportation infrastructure. Over the years funding dedicated for these purposes has decreased.

While dedicated revenues have decreased, the ongoing annual costs to preserve and maintain the City's transportation infrastructure continue to rise, leaving the City unable to adequately fund this need. The City is now at the point of needing to make decisions between preserving and maintaining its transportation infrastructure or providing basic parks maintenance, public safety, and other City services.

State Legislation allows local governments to establish a Transportation Benefit District (TBD) and accompanying funding sources to provide for the preservation, maintenance and construction of local transportation infrastructure. With the establishment of a City of Marysville TBD and

levying a 0.2% sales and use tax, the City will begin to replace in part, transportation funding that has been lost to the City, and help preserve and maintain the City's infrastructure.

### **Transportation Benefit District Background Information:**

In 1987, the Washington State Legislature approved legislation that allows jurisdictions the ability to establish Transportation Benefit Districts as an option for local governments to fund transportation improvements. Since 2005, the Legislature has amended the TBD statute to expand its uses and revenue authority.

A TBD can fund transportation improvements contained in any existing state or regional transportation plan that is necessitated by existing or reasonably foreseeable congestion levels. This can include maintenance and improvements to city streets, county roads, state highways, investments in high capacity transportation, public transportation, transportation demand management and other transportation projects identified in a regional transportation planning organization plan or state plan.

A TBD may also fund operations, maintenance, and preservation of the programs and facilities referenced above; such activities are noted in state and regional transportation plans. The State Transportation Plan identifies that there is no more fundamental transportation investment than existing system preservation and considers it a matter of state-wide significance.

Investment Principles from the Puget Sound Regional Council state that the first priority should be to maintain, preserve, make safe, and optimize existing transportation infrastructure and services. Regional Transportation Policy identifies the importance of maintaining and preserving the existing urban and rural transportation system in a safe and usable state. This being said, any transportation improvement also needs to be "necessitated by existing or reasonably foreseeable congestion levels". Although there is no statutory definition of congestion, not every street, road, transit program, etc. may qualify as a transportation improvement.

Transportation Benefit Districts are quasi-municipal corporations and independent taxing districts created for the sole purpose of acquiring, constructing, improving, providing, and funding transportation improvements within the district. A TBD Board has several revenue options, some of which are subject to voter approval. TBD's offer flexibility, i.e., they allow cities and counties the ability to work on addressing both regional and local transportation challenges. The legislative authority of a county or city may create a TBD by ordinance following the procedures set forth in Chapter 36.73 of the Revised Code of Washington. A county or city proposing to create a TBD may include other counties, cities, port districts, or transit districts through interlocal agreements. Members of the legislative authority proposing to establish the TBD shall serve as governing body of the TBD, albeit in an ex-officio and independent capacity.

Although a TBD has powers similar to that of a city, e.g., impose taxes, eminent domain powers, contracting, etc., it is a separate taxing district. If the City wishes to form a TBD, the City Council will need to:

- Publish notice of a public hearing (at least once, ten days or more before the proposed hearing in a news paper of general circulation within the proposed TBD). This has been done.
- Hold a public hearing (the legislative authority of the jurisdiction must hear objections from any person affected by the creation of the TBD). A public hearing is scheduled for November 12, 2013.

- Adopt an ordinance creating a TBD. The ordinance must include:
    - A finding that the creation of a TBD must be in the public's best interest
    - The boundaries of the TBD
    - The functions and powers of the TBD
    - Description of the transportation improvements proposed by the district
- NOTE: The creation of the fees should be by separate ordinance after the TBD Board has been created and seated.

### Functions of the Transportation Benefit District

In practical terms, the governing board of the TBD shall be the Marysville City Council and serve as a separate government, much like a water district. The TBD Board shall conduct business independent of a City Council meeting and have the authority to exercise the statutory powers set forth in Chapter 36.73 RCW. The treasurer of the TBD shall be the City Finance Director.

To the extent City employees work on TBD projects, the City will have to be paid. There are also additional administrative considerations. The TBD would need to have all the same administrative functions, including but not limited to: approved procedures, clerk functions (meeting notices, agendas, minutes, records, etc.), finance functions (budget, accounting, auditing, etc.), legal services. These services are most often arranged for through an Interlocal Agreement between the TBD and the City.

The boundaries of a TBD may be less than the boundaries of those jurisdictions participating in the TBD. For example a city may chose to have the TBD boundaries identical with the corporate limits of the city, or just include a portion of the city. However, if a TBD chooses to exercise the taxing authority that does not require a public vote (e.g. vehicle license and/or transportation impact fees), the boundaries of the TBD must be citywide. According to the draft Ordinance, the geographical boundaries of a Marysville TBD would be comprised of the corporate limits of the City as they currently exist or as they may exist following future annexations.

### TBD revenue options subject to voter approval:

1. Property taxes – a 1-year excess levy or an excess levy for capital purposes.
2. Up to 0.2% sales and use tax
3. Annual vehicle fee above \$20 and up to \$100 per vehicle registered within the district.
4. Vehicle tolls.

### TBD revenue options not subject to voter approval:

1. Annual vehicle fee up to \$20 per vehicle registered within the district. This fee is collected at the time of vehicle license renewal.
2. Transportation impact fees on commercial and industrial buildings. Residential buildings are excluded. In addition, a city must provide a credit for a commercial or industrial transportation impact if the respective city has already imposed a transportation impact fee.

### Other Requirements

Revenue rates, one imposed, may not be increased, unless authorized by voter approval. The TBD must issue and annual report to include the status of project costs, revenues, expenditures, and construction schedules.

### **Financial Impact:**

If a TBD were created for the City of Marysville and a funding mechanism, e.g. 0.2% sale and use tax was adopted; the City of Marysville could expect to receive approximately \$1.6 million in revenue in a full calendar year. The caveat is that this is only an estimate and is subject to change base on actual numbers generated by the taxes collected.

**Benefits of Establishing a Transportation Benefit District:**

- Creates a funding mechanism where there is a clear nexus between a user group (drivers and vehicles) and use of roadway network.
- Funds from a City-wide TBD will be dedicated to maintain, preserve and/or construct City of Marysville transportation infrastructure.
- Assists in maintaining current level of service for transportation infrastructure maintenance and preservation.
- The establishment of the 0.2% sales and use tax will not increase, unless approved by voters.
- The TBD must issue an annual report to include the status of project costs, revenues, expenditures, and schedules, thus providing accountability.

**Conclusion:**

The improvement, maintenance, protection and operation of public ways require preserving existing transportation improvements to avoid both catastrophic failures of the improvements which would require significant additional funds to reconstruct, as well as their gradual deterioration. Unless the City of Marysville establishes a Transportation Benefit District or other funding mechanism, the City will not be able to sustain current level of service related to transportation infrastructure maintenance and preservation.