

ORDINANCE # 1686

---

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FERNDALE, WASHINGTON AMENDING THE FERNDALE MUNICIPAL CODE TO ENACT A NEW CHAPTER, 12.40 TRANSPORTATION BENEFIT DISTRICT, ESTABLISHING A TRANSPORTATION BENEFIT DISTRICT; SPECIFYING THAT THE BOUNDARIES OF THE DISTRICT WILL COINCIDE WITH CITY BOUNDARIES; AND SPECIFYING THE TRANSPORTATION IMPROVEMENTS TO BE FUNDED BY THE DISTRICT.

---

**WHEREAS**, RCW 35.21.225 authorizes the legislative authority of a city to establish a transportation benefit district (“TBD”), for the purpose of acquiring, constructing, improving, providing, and funding transportation improvements within the TBD, subject to the provisions of RCW 36.73; and

**WHEREAS**, the City Council finds it to be in the best interest of the City to establish a citywide Transportation Benefit District for the preservation, maintenance and reconstruction of the City’s streets and related infrastructure consistent with RCW 36.73, to protect the City’s long-term investments in that infrastructure, to reduce the risk of transportation facility failures and 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’s Six-Year (2012-2017) Transportation Improvement Program identifies projects that may be funded by a TBD, including Project #3 entitled “Thornton Road – Maureen to Vista,” Project #6 entitled “Barrett Road – Roadway Repair Project,” and Project #7 entitled “Pavement Rehabilitation Program” (collectively the “TBD Projects”); and

**WHEREAS**, the City Council finds that the TBD projects and program are transportation improvements within the meaning of RCW 36.73.015; and

**WHEREAS**, on November 21, 2011, the City Council conducted a public hearing in accordance with RCW 36.73.050, after giving proper notice describing the TBD projects and program to be funded by the TBD; and

**WHEREAS**, the City Council finds it to be in the best interest of the City to establish a citywide TBD to fund and implement the TBD projects and program consistent with RCW 36.73; and

**WHEREAS**, the City Council shall establish a governing body for the TBD comprised of the City Council acting in an *ex officio* and independent capacity;

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

**Section 1: Purpose**

The purpose of this Ordinance is to establish a Transportation Benefit District (TBD) pursuant to RCW 35.21.225 and RCW 36.73.

**Section 2: Findings**

The City Council finds it is in the public interest to establish a TBD to provide adequate levels of funding for the purposes of ongoing transportation improvements that preserve, maintain, and as appropriate reconstruct the City's transportation infrastructure consistent with RCW 36.73. The City Council further finds that projects within the City's Six-Year (2012-2017) Transportation Improvement Program including, but not limited to, Project #3 entitled "Thornton Road – Maureen to Vista", Project #6 entitled "Barrett Road – Roadway Repair Project", and Project #7 entitled "Pavement Rehabilitation Program" constitute transportation improvements that may be funded by a TBD.

**Section 3: Formation of a Transportation Benefit District**

Chapter 12.40 of the Ferndale Municipal Code is hereby enacted to be known as "Transportation Benefit District." Sections 12.40.010, .020, .030, .040, .050, .060, .070 and .900 are hereby enacted to read as follows:

Chapter 12.40

TRANSPORTATION BENEFIT DISTRICT

Sections:

- 12.40.010 Establishing transportation benefit district.
- 12.40.020 Governing board.
- 12.40.030 Powers of Ferndale TBD.
- 12.40.040 Transportation improvements funded.
- 12.40.050 Annual Report to the public.
- 12.40.060 Dissolution of district.
- 12.40.070 Liberal construction.
- 12.40.900 Severability.

**12.40.010 Establishing transportation benefit district.**

There is created a transportation benefit district to be known as the Ferndale Transportation Benefit District or "TBD" with geographical boundaries comprised of the corporate limits of the city as they currently exist or as they may exist following future annexations.

**12.40.020 Governing board.**

- A. The governing board of the transportation benefit district shall be the Ferndale 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.
- 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 (20%), as identified in the TBD's original plan, a public hearing shall be held to solicit public comment regarding how the cost change should be resolved.
- D. The board meetings shall be governed by the procedural rules applicable to meetings of the City Council, as these rules may be amended by the City Council from time to time. The board meeting actions shall be taken in the same manner and follow the same procedure as for the adoption of City Council resolutions. The board meetings shall, whenever possible, take place on the same dates scheduled for City Council meetings.

**12.40.030 Powers of Ferndale TBD.**

Ferndale TBD board shall possess all of the powers of a transportation benefit district authorized pursuant to Chapter 36.73 RCW, including without limitation the power to request voter approval of, and thereafter impose and collect, a sales and use tax in accordance with RCW 82.14.0455.

**12.40.040 Transportation improvements funded.**

The funds generated by Ferndale TBD shall be used for the TBD projects described in Section 2 of this ordinance. The TBD Projects may be amended in accordance with the material change policy described in Section 12.40.020(C) of this ordinance and in accordance with the notice, hearing and other procedures described in RCW 36.73, including RCW 36.73.050(2)(b), as the same may be amended from time to time.

**12.40.050 Annual Report to the public.**

As required by RCW 36.73.160(2), as the same may be amended from time to time, the TBD shall post on the City's web site an annual report, indicating the status of transportation

improvement costs, transportation improvement expenditures, revenues, and construction schedules.

**12.40.060 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.

**12.40.070 Liberal construction.**

This chapter is to be liberally construed to accomplish the purpose of establishing a transportation benefit district with the broadest possible authority under RCW 36.73 as it now exists or is hereafter amended.

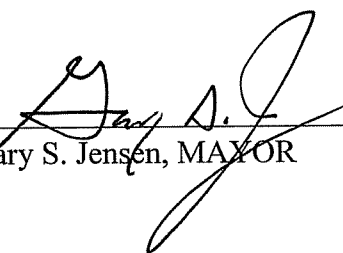
**12.40.900 Severability.**

If any section, subsection, sentence, clause, paragraph, phrase, or word of this chapter should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, paragraph, phrase or word of this chapter.

This Ordinance shall take effect and be in force five (5) days after its passage, approval, and publication, as provided by law.

**PASSED by the Council of the City of Ferndale, Washington, on this 21<sup>st</sup> day of November 2011.**

**ATTEST:**

  
\_\_\_\_\_  
Gary S. Jensen, MAYOR

  
\_\_\_\_\_  
Sam Taylor, CITY CLERK