

## ORDINANCE #1923

---

### AN ORDINANCE OF THE COUNCIL OF THE CITY OF FERNDALE, WASHINGTON AMENDING CHAPTER 12.40 OF THE FERNDALE MUNICIPAL CODE, ESTABLISHING THE FERNDALE CITY COUNCIL AS THE GOVERNING BODY OF THE TRANSPORTATION BENEFIT 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**, a TBD was enacted in 2011 through Ordinance 1686, establishing that the governing body was to be comprised of the City Council acting in an *ex officio* and independent capacity; and

**WHEREAS**, in 2015 legislation was passed authorizing cities or counties that have a TBD with the same boundaries as the city or county to absorb the TBD and assume all the TBD's rights, powers, function, and obligations, with the result that the TBD Board would cease to exist as a separate entity;

**WHEREAS**, a public hearing was held on November 16, and the determination was made that public interest would be satisfied by the assumption of all TBD's rights, powers, functions and obligations by the

- Ferndale City Council;

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

**Section 1:** Chapter 12.40 – Transportation Benefit District shall be amended 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~~ City Council 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.~~

TBD business shall be conducted as part of regular City Council

meetings, and the City Council shall assume all of the TBD's rights, powers, function and obligations.

#### **12.40.030 Powers of Ferndale TBD.**

**Ferndale TBD board** The Ferndale City Council 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~~ Ordinance 1686. The TBD Projects may be amended in accordance with the material change policy described in Section 12.40.020(C) of ~~this ordinance~~ Ordinance 1686 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.**

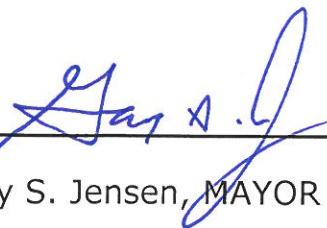
If any section, subsection, sentence, clause, paragraph, phrase, or word of this chapter should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not

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  
16<sup>th</sup> day of November, 2015.**

**ATTEST:**

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

  
\_\_\_\_\_  
Susan Duncan, CITY CLERK

11-17-15

Date