



AGENDA

City Council Study Session

6:30 PM - Monday, May 6, 2019

City Hall Council Chambers, Sammamish, WA

Page		Estimated Time
	CALL TO ORDER	6:30 pm
	EXECUTIVE SESSION Potential Litigation pursuant to RCW 42.30.110 (1)(i)	6:35 pm
	TOPICS	7:35 pm
2 - 24	1. Discussion: Introduction to Traffic Impact Fee Update Project View Agenda Item	
	ADJOURNMENT	10:00 pm

City Council meetings are wheelchair accessible. American Sign Language (ASL) interpretation is available upon request. Please phone (425) 295-0500 at least 48 hours in advance. Assisted Listening Devices are also available upon request.

Agenda Bill
 City Council Study Session
 May 06, 2019



SUBJECT:	Introduction to Traffic Impact Fee Update Project										
DATE SUBMITTED:	May 02, 2019										
DEPARTMENT:	Public Works										
NEEDED FROM COUNCIL:	<input type="checkbox"/> Action <input checked="" type="checkbox"/> Direction <input type="checkbox"/> Informational										
RECOMMENDATION:	Provide direction regarding key policies and technical issues discussed in the Traffic Impact Fee Update Project.										
EXHIBITS:	1. Exhibit 1 - IF Credits and Exemptions 2. Exhibit 2 - IF Escalations and Expenditures 3. Exhibit 3 - TIF Introduction Presentation										
BUDGET:	<table border="0"> <tr> <td>Total dollar amount</td> <td>N/S</td> <td><input type="checkbox"/> Approved in budget</td> </tr> <tr> <td>Fund(s)</td> <td>101-000-542-10-41-00 - Street Fund - Engineering Section - Professional Services</td> <td> <input type="checkbox"/> Budget reallocation required <input checked="" type="checkbox"/> No budgetary impact </td> </tr> </table>			Total dollar amount	N/S	<input type="checkbox"/> Approved in budget	Fund(s)	101-000-542-10-41-00 - Street Fund - Engineering Section - Professional Services	<input type="checkbox"/> Budget reallocation required <input checked="" type="checkbox"/> No budgetary impact		
Total dollar amount	N/S	<input type="checkbox"/> Approved in budget									
Fund(s)	101-000-542-10-41-00 - Street Fund - Engineering Section - Professional Services	<input type="checkbox"/> Budget reallocation required <input checked="" type="checkbox"/> No budgetary impact									
WORK PLAN FOCUS AREAS:	<table border="0"> <tr> <td><input checked="" type="checkbox"/> Transportation</td> <td><input type="checkbox"/> Community Safety</td> </tr> <tr> <td><input type="checkbox"/> Communication & Engagement</td> <td><input type="checkbox"/> Community Livability</td> </tr> <tr> <td><input type="checkbox"/> High Performing Government</td> <td><input type="checkbox"/> Culture & Recreation</td> </tr> <tr> <td><input type="checkbox"/> Environmental Health & Protection</td> <td><input checked="" type="checkbox"/> Financial Sustainability</td> </tr> </table>			<input checked="" type="checkbox"/> Transportation	<input type="checkbox"/> Community Safety	<input type="checkbox"/> Communication & Engagement	<input type="checkbox"/> Community Livability	<input type="checkbox"/> High Performing Government	<input type="checkbox"/> Culture & Recreation	<input type="checkbox"/> Environmental Health & Protection	<input checked="" type="checkbox"/> Financial Sustainability
<input checked="" type="checkbox"/> Transportation	<input type="checkbox"/> Community Safety										
<input type="checkbox"/> Communication & Engagement	<input type="checkbox"/> Community Livability										
<input type="checkbox"/> High Performing Government	<input type="checkbox"/> Culture & Recreation										
<input type="checkbox"/> Environmental Health & Protection	<input checked="" type="checkbox"/> Financial Sustainability										

NEEDED FROM COUNCIL:

Shall the Council provide direction regarding Traffic Impact Fee Study Update?

KEY FACTS AND INFORMATION SUMMARY:

SUMMARY

The City hired FCS Group to assist in updating the Transportation Impact Fee to incorporate the 2020-2025 Transportation Improvement Program. In addition, the project also team intended to thoroughly examine and update key policy and technical issues to ensure compliance, and provide flexibility and efficiency in administering the program. The current fee is \$14,063.63 per PM trip, which was last updated in 2014.

Staff requests direction from Council on four key areas: Impact Fee Credits and Exemptions (Exhibit 1), and Impact Fee Indexing and Expenditures (Exhibit 2). The exhibits describe in detail the current applicable state and city codes, the problem, and what is the recommended solution. Exhibit 2 also includes a recommendation for indexing the Parks fee in addition to the Traffic fee.

NEXT STEPS

Staff will return on June 4th to discuss the proposed code amendments and will schedule a Council public hearing for adoption after the 2020-2025 TIP is approved, which must occur by the end of June 2019.

FINANCIAL IMPACT:

If the Council does not update the TIF and associated proposed code amendments, the Issaquah-Fall City Road project will not be eligible for impact fees, parts of the code will remain ambiguous and allow exemptions that are beyond what the state statute permits.

OTHER ALTERNATIVES CONSIDERED:

Do not update the TIF or associated code amendments.

RELATED CITY GOALS, POLICIES, AND MASTER PLANS:

[Comprehensive Plan Transportation Element](#)



Issue Paper 1

IMPACT FEE CREDITS AND EXEMPTIONS

ISSUE

How may or must the City reduce or eliminate street impact fees for specific developments or specific types of developments?

STATUTORY REQUIREMENTS

The Revised Code of Washington (RCW) 82.02.060 governs both the possible and necessary ways to reduce impact fees.

Subsection 2 permits (but does not require) “an exemption for low-income housing, and other development activities with broad public purposes.” This language gives the City complete discretion in granting an exemption. However, when the City grants an exemption under this subsection, it must pay the impact fee on the developer’s behalf “from public funds other than impact fee accounts.”

Subsection 3 provides a narrow set of circumstances under which granting a full or partial exemption for low-income housing (as defined in subsection 8) would not obligate the City to pay the impact fee on the developer’s behalf. The City may waive up to 80 percent of an impact fee without paying the impact fee on the developer’s behalf if the City requires “the developer to record a covenant that, except as provided otherwise by this subsection, prohibits using the property for any purpose other than for low-income housing, and that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion.” Impact fee revenue that is lost because of actual or anticipated exemptions granted under this subsection must not result in higher impact fees for other developments.

Subsection 4 describes the one mandatory impact fee reduction. The City “shall 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 capital facilities plan and that are required . . . as a condition of approving the development activity.” While the statute does not explicitly address cases where the required credit would exceed the impact fee being charged, it is clear that the value of the compensation must equal the value of required system improvements provided by the developer. Whether the compensation in excess of the impact fee should take the form of (a) cash or (b) a credit against future impact fees is not specified.

Subsection 5 allows the City to adjust an impact fee (up or down) under “unusual circumstances in specific cases to ensure that impact fees are imposed fairly.” This provision does not empower the City to pursue policy objectives. Rather, it provides technical flexibility that must be used to ensure that an atypical development pays no less and no more than its equitable share.

Subsection 6 requires the City to have a process by which it will consider calculating or recalculating an impact fee based on data provided by the developer. The statute does not predetermine the outcome of the consideration, but it is clear that the determination of a development’s equitable share

is the paramount concern. As with Subsection 5, this subsection is about technical flexibility in the pursuit of equity.

The final paragraph of Subsection 8 defines “low-income housing” for the purposes of Subsections 2 and 3. Specifically, “‘low-income housing’ means housing with a monthly housing expense, that is no greater than thirty percent of eighty percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development.”

Because statute specifies a finite set of mechanisms by which impact fees may or must be reduced, we infer that there are no other mechanisms by which impact fees may or must be reduced for specific developments or specific types of developments.

CURRENT CODE PROVISIONS

The statutory requirements described above take the form of required or permitted provisions in “the local ordinance by which impact fees are imposed.” This section analyzes the alignment of RCW 82.02.060 with Chapter 14A.15 of the Sammamish Municipal Code (SMC).

SMC 14A.15.020(2) exempts any development that either “does not create additional demand” for transportation facilities or “is a project improvement.” These provisions are well aligned with statute. We mention this code section because it is an important mechanism for exempting developments without legal risk. All that is required is a credible finding that a development does not place any additional burden on the transportation system.

SMC 14A.15.030(1) mostly mirrors the provisions of RCW 82.02.060(2). However, the provision that relieves the City of the obligation to pay the impact fee if the waiver is under 80 percent is applicable only to low-income housing, not to “development activities with broad public purposes.” The code conflates two subsections of statute. In so doing, the City appears to reserve to itself more flexibility than the statute allows.

SMC 14A.15.030(2) provides exemptions for public developments and accessory dwelling units that are not mentioned in statute. In fact, RCW 82.02.090(1) lists the only two development activities that are explicitly exempt from impact fees: “buildings or structures constructed by a regional transit authority” and shelters for people who are homeless or are victims of domestic violence.

SMC 14A.15.030(3) contains provisions for low-income housing that meet the requirements of RCW 82.02.060(3).

SMC 14A.15.040 contains provisions for credits that meet the requirements of RCW 82.02.060(4). Like the statute, the code does not explicitly address cases where the required credit would exceed the impact fee being charged. However, SMC 14A.15.040(6) provides that the City shall specify “the project or development to which the credit may be applied.”

SMC 14A.15.120 contains provisions that satisfy the requirements of RCW 82.02.060(5) and 82.02.060(6).

RECOMMENDATION

We find that, for the most part, the City's provisions for reducing or eliminating street impact fees for specific developments or specific types of developments both comply with the requirements of statute and reserve the maximum amount of flexibility for the City.

One exception to this finding is SMC 14A.15.030(1). The phrase, "if the waiver is greater than 80 percent of the impact fee" should be deleted. As currently used in the code, this phrase applies to "development activities with broad public purposes," but the statute supports application only to low-income housing.

Another exception is SMC 14A.15.030(2). We recommend either repeal of this subsection (because it allows unreimbursed exemptions beyond those allowed in statute) or clarification that impact fees will be reimbursed from a non-impact fee source. In addition, since traffic impact fees are charged based on the trip generation of developed land uses, under no circumstances would we expect that a traffic impact fee would be imposed on a public road project.

We further recommend greater clarity about how credits issued under SMC 14A.15.040 can be spent, especially when the value of credits earned exceeds the amount of the impact fee. We specifically recommend that, when the value of credits earned exceeds the amount of the impact fee, credits should be redeemable only for impact fees charged to the same developer for subsequent phases of the same development.



Memorandum

To: Stephanie Sullivan, City of Sammamish

Date: May 2, 2019

From: Doug Gabbard, FCS GROUP

CC: John Ghilarducci, FCS GROUP

RE Impact Fees Escalation and Expenditure

This memorandum fulfills task 3.4 of the Sammamish Traffic Impact Fee Update Project by defining, analyzing, and providing recommendations for two legal questions that the City may wish to consider. These are (1) how to administratively adjust impact fees to an index and adopt by resolution (2) whether the City is obligated to spend impact fee revenue only on those projects that were included in the last calculation of an impact fee before it was collected.

FEE INDEXING

Impact fees are largely calculated from the estimated costs of specific public facilities to be constructed in the future. Even when the list of projects upon which an impact fee is calculated does not change, the estimated costs can change frequently as a result of inflation or changes in supply or demand.

A simple way to hedge this risk is to select an index that closely tracks the costs of constructing public facilities in the City's region. The selected index can then be used as the basis of an annual adjustment of impact fees without revisiting the underlying analysis that calculated the impact fees.

We recommend the following indices.

For traffic impact fees, we recommend the Construction Cost Index (CCI) for Seattle as published by the *Engineering News Record*. This index provides monthly observations. Annual adjustments should be based on observations from the same month each year. Which month is chosen is less important than the consistency of using the same month each year.

For example, suppose that we wanted to calculate our first update based on the latest index observation that is available today. For December 2018, the CCI for Seattle was 11,537.66. One year earlier (in December 2017) the CCI for Seattle was 11,442.97. Over one year, the index increased by 94.69 points or 0.83 percent. As a result, we would increase traffic impact fees by 0.83 percent.

For park impact fees, we recommend a weighted average of the CCI for Seattle as described above and the quarterly purchase-only House Price Index (HPI) for the Seattle-Bellevue-Everett metropolitan division (not seasonally adjusted) as published by the Federal Housing Finance Agency (<https://www.fhfa.gov/DataTools/Downloads/Pages/House-Price-Index.aspx>). The weighting of the HPI should be based on the proportion of eligible costs in the current parks impact fee analysis that was for land acquisition.

For example, suppose that we wanted to calculate our first update based on the latest index observations that are available today. Suppose further that, in the current parks impact fee analysis, land acquisition accounted for 25 percent of the eligible costs. The increase of 0.83 percent for the

January 17, 2019
 CITY OF SAMMAMISH
 Transportation Impact Fee Update

FCS GROUP Memorandum

CCI for Seattle (calculated above) would account for 75 percent of the index adjustment for parks impact fees. The other 25 percent would come from the quarterly purchase-only House Price Index (HPI) for the Seattle-Bellevue-Everett metropolitan division (not seasonally adjusted) as published by the Federal Housing Finance Agency. For the third quarter of 2018, the index value was 426.28 (from the “index_nsa” column). One year earlier (the third quarter of 2017), the index value was 390.34. Over one year, the HPI increased by 35.94 points or 9.21 percent. If the change in CCI of 0.83 percent has a weighting of 75 percent and the change in HPI of 9.21 percent has a weighting of 25 percent, then the blended change is 2.92 percent. This calculation is summarized below:

Sample Calculation for Parks	CCI	HPI	Blended
One year before latest observation	11,442.97	390.34	
Latest observation	11,537.66	426.28	
Index change	0.83%	9.21%	
Weighting	75.00%	25.00%	
Blended adjustment	0.62%	2.30%	2.92%

IMPACT FEE EXPENDITURE

Impact fees are largely calculated from the estimated costs of specific public facilities to be constructed in the future. For the City’s Traffic Impact Fee, these facilities are specified in the Transportation Improvement Plan (TIP).

The current practice is to spend impact fee revenues only on projects that were part of the TIP when the revenue was collected. Because of changes in conditions or priorities, projects can be removed from the TIP before they are constructed, and projects that will be constructed in the near future can be added. When changes like these occur, the City’s current practice limits its ability to fund added projects with impact fees.

We believe that this current practice is more strict than statutory requirements. Imagine that the TIP includes a particular roadway extension project designed to accommodate additional demand from growth. Over time, impact fee revenue is collected, and that revenue is intended, in part, to fund that roadway extension. However, because of the way that nearby properties actually develop, it becomes necessary to accommodate this same growth with a different roadway extension. So, a substitution is made in the TIP. Under current practice, monies collected under the old TIP can potentially become stranded, while the new project must wait to accumulate impact fee revenue. As long as impact fees are imposed based on a TIP that was defensible at the time it was created, we suggest that revenue derived therefrom may be spent on projects on the current TIP.

City of Sammamish



Transportation Impact Fee Update

John Ghilarducci
Doug Gabbard

May 6, 2019



Outline

- ◆ **Project Purpose and Introduction**
- ◆ **What Is an Impact Fee?**
- ◆ **Obtain Council Direction on**
 - Impact Fee Credit
 - Impact Fee Exemptions
 - Impact Fee Indexing
 - Impact Fee Expenditure
- ◆ **Next Steps**
- ◆ **Questions**



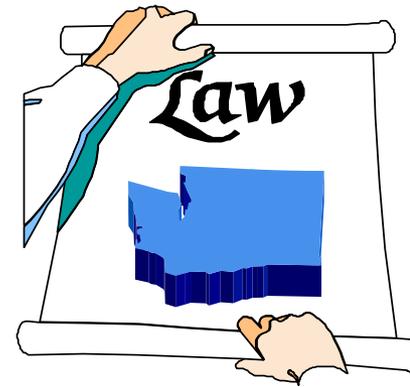
Project Purpose and Introduction

- ◆ **Update Transportation Impact Fee to incorporate the 2019-2024 Transportation Improvement Program**
- ◆ **Address Key Policies and Technical Issues**
 - Impact Fee Credits
 - Impact Fee Exemptions
 - Impact Fee Indexing
 - Impact Fee Expenditure
- ◆ **Update the Transportation Impact Fee**



What Is an Impact Fee?

RCW 82.02.090: An impact fee is “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 or application fee.”





What is an Impact Fee?

- ◆ **Fees authorized by Growth Management Act**
 - ◆ Chapter 82.02 RCW
- ◆ **RCW 82.02.050(2)**
 - ◆ “...the financing for system improvements to serve new development must provide for a balance between impact fees and other sources of public funds and cannot rely solely on impact fees.”



What is an Impact Fee?

- ◆ **RCW 82.02.050(4)**
 - ◆ System improvements must be reasonably related to the new development.
 - ◆ Impact fees cannot exceed a proportionate share of system improvement costs.
 - ◆ System improvements must reasonably benefit the new development.



Current TIF – Sample Categories & Fees

ITE Code	ITE Land Use	Impact Fee per Unit	Unit
210	Single Family House	\$14,204.27	Dwelling Unit
220	Apartment	\$8,719.45	Dwelling Unit
520	Elementary School	\$3.64	Square Foot
522	Middle School	\$3.64	Square Foot
530	High School	\$2.97	Square Foot
931	Quality Restaurant	\$11.61	Square Foot
944	Gas Station	\$7,913.83	VSP

* Source: Institute of Transportation Engineers (ITE) Trip Generation Manual, 7th Edition



Impact Fee Credit

- ◆ **RCW 82.02.060(4)**
 - ◆ Credit for the value of system improvements that developers are required to make.
- ◆ **Current Code Does Not Address How to Give Credit**
- ◆ **Recommendation:** If value of the credit is more than the impact fee, credit should be given to offset impact fees owed by the same developer for subsequent phases of the same development.



Impact Fee Exemption

- ◆ **RCW 82.02.060(3)**
 - ◆ May provide an exemption from impact fees for low-income housing.
- ◆ **SMC 14A.15.030(2):** Currently allows unreimbursed exemptions beyond those in statute, i.e. development activity undertaken by the City, public schools and ADUs
- ◆ **Recommendation:** Remove these exemptions, or include clarification in the code that the impact fee shall be reimbursed from a non-impact fee source.



Impact Fee Indexing

- ◆ **SMC 14A.15.100:** Allows administrative adjustments, but fee is part of the code and therefore requires an ordinance to be adjusted. Current index was discontinued in 2016.
- ◆ **Recommendations:**
 - ◆ Revise code to place impact fee amounts in the fee schedule. This would allow the fee to be adjusted through a resolution and is consistent with current code authority.
 - ◆ Update indices to be used for transportation and parks.



Impact Fee Indexing

- ◆ **Fee Indexing**
 - ◆ For transportation, use *ENR*'s CCI for Seattle.
 - ◆ For parks, use CCI (for capital costs) and FHFA's HPI for Seattle-Bellevue-Everett (for land acquisition costs)



Impact Fee Expenditure

- ◆ **RCW 82.02.070**
 - ◆ “Earmarked . . . and retained in special interest-bearing accounts.”
 - ◆ “Expended only in conformance with the capital facilities plan element of the comprehensive plan.”
 - ◆ Ten year limit.
- ◆ **Current Practice Can Strand Impact Fee Funds**
- ◆ **Recommendation:** Revise policy to allow expenditure of fees on all eligible projects in the adopted TIP.



Next Steps

- ◆ Discussion: Proposed TIF Code Amendments June 4th
- ◆ Adopt Resolution: 2020-2025 TIP June 18th
- ◆ Public Hearing / Ordinance June/July
Adopt TIF Code Amendments Including Updated Fee



Questions?



Extra Slides



TIF Program Comparison

	Bellevue	Issaquah	Kirkland	Redmond	Sammamish	Shoreline	Vancouver
Population on April 1st, 2018	142,400	37,110	87,240	64,050	63,470	55,730	183,500
TIF for Single-Family Residence	\$5,139	\$8,622.27	\$5,009.00	5,531.96 - \$6,771.67, depending on location	\$14,204.27	\$6,566.72	\$1,385.50-\$2,465.00, depending on location
Unit of Demand	Peak hour vehicle trips	Peak hour person trips	Peak hour person trips	Peak hour person-miles	Peak hour vehicle trips	Peak hour vehicle trips	Average daily trips
Indexing?	Yes, based on "the WSDOT Construction Cost Index"	Yes, based on "the construction cost index published by the Engineering News Record"	Yes, based on "the June to June Seattle-Tacoma-Bremerton Area Consumer Price Index"	Yes, based on the Construction Cost Index published by the <i>Engineering News Record</i>	Yes, based on council's discretion or "the five-year average WSDOT Construction Cost Index"	Yes, based on "the most recent annual change of the Construction Cost Index published in the Engineering News-Records (ENR) for the Seattle area"	Yes, "based on the Engineering News Record (ENR) Construction Cost Index (CCI) for Seattle."
Land Uses Exempt for Social Benefit	<ul style="list-style-type: none"> Child care Affordable housing Public transportation Parks Nonprofit social services Libraries Public schools Hospitals All exemptions reimbursed. 	<ul style="list-style-type: none"> Affordable housing City projects Accessory units 	<ul style="list-style-type: none"> Low-income housing (<i>partial</i>) Community-based human services agencies Homeless shelters Accessory dwelling units 	<ul style="list-style-type: none"> Accessory dwelling units Parking garages City development 	<ul style="list-style-type: none"> City development Public schools Accessory dwelling units 	<ul style="list-style-type: none"> Low-income housing Community-based human services agencies Business (<i>reimbursed</i>) 	<ul style="list-style-type: none"> Public schools and school district facilities Low-income housing (<i>reimbursed</i>) Business (<i>partial and reimbursed</i>)
Credit in Excess of TIF	Reimbursement from subsequent TIF revenue, but capped at eligibility	Not mentioned	Not mentioned	Capped at eligibility and total impact fee	Not mentioned	Not mentioned	Capped at total impact fee