

CITY OF BUCKLEY, WASHINGTON

ORDINANCE NO. 13-23

AN ORDINANCE OF THE CITY OF BUCKLEY, WASHINGTON, AMENDING THE CITY'S TRAFFIC IMPACT FEE CODE IN THE DOWNTOWN DESIGN REVIEW DISTRICT AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, the City has been discussing ways to improve economic development, and

WHEREAS, recent permitting in the Downtown Design Review District has revealed an impediment to new development in this area in that the imposition of Traffic Impact Fees can represent a major cost to development, and

WHEREAS, the City has not charged a Traffic Impact Fee in the Downtown Design District Area in the last decade because nearly all buildings in the Downtown Design District Area have been historically utilized for uses with equal to or higher than historical traffic counts than the currently proposed use, and

WHEREAS, the City Council wishes to promote economic development and remove a real or perceived impediment to the development or occupancy of new uses in the Downtown Design District Area, and

WHEREAS, the Buckley Planning Commission reviewed the proposed ordinance on March 20, 2023, and

WHEREAS, the Buckley City Council held an open public hearing on the amendment on May 9, 2023, and

WHEREAS, the alteration of fees is exempt from SEPA review pursuant to WAC 197-11-800; and

WHEREAS, the proposed fee change does not need to be reviewed by the Department of Commerce, and

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

Section 1. Section 3.50.085 Street impact fee discounts is hereby amended as follows:

3.50.085 Street impact fee discounts or elimination.

In order to encourage and facilitate certain businesses to locate in designated areas of the city where development is desired, and to recruit into the city those types of businesses deemed beneficial to the city and the community and/or which the city currently lacks in sufficient number or volume, pursuant to RCW [82.02.060](#)(2) and (4) there is hereby established a funding source adjustment from the traffic impact fee set forth in this chapter for development activity which meets the criteria of ~~subsection (1)~~ of this section.

A. Pass-By Rates

(1) Once the traffic impact fee is calculated per BMC [3.50.060](#), including any reductions based on pass-by rates or other site-specific studies, any permitted development that meets all of the following criteria may apply for a 30 percent discount from the traffic impact fee that would otherwise be imposed under BMC [3.50.060](#):

(a) Qualifying Uses. All uses consist only of those uses that meet one or more of the following definitions:

(i) Food service uses including but not limited to bakeries, confectioneries, coffeehouses, delicatessens, ice cream parlors, juice bars, family sit-down restaurants, casual dining restaurants, fine dining restaurants, fast food restaurant with or without drive-in or drive-through service, coffee/donut shops with or without drive-through service; restaurants or establishments that are commonly known as brewpubs, microbreweries, or wineries are herein defined as eating and drinking establishments having a microbrewery on the premises that produces beer, ale, or other malt beverage, or wine, and where the majority of the beer/wine produced is consumed on the premises and at which food may be served to accompany the alcohol. These establishments may also sell beer or wine at retail and/or act as wholesaler for beer or wine of its own production for off-site consumption, with appropriate state licenses;

(A) Nonqualified restaurant establishments that are not eligible for an impact fee discount include drinking establishments (bars, cocktail lounges, nightclubs and taverns), restaurants or other establishments in which alcoholic beverages are served as the primary function of the business, not including brewpubs as described above;

(ii) Office uses including, but not limited to, banks, business services, financial institutions, general business offices, medical/dental offices or professional offices;

(iii) Recreational and cultural uses including, but not limited to, art galleries, bowling alleys, health clubs, dance studios, martial arts studios, libraries, museums, indoor movie or stage theater, indoor skating rink, racquetball court and tennis court, subject to the limitations set forth below;

(iv) Commercial retail sales store including, but not limited to, the sale or rental of the following items: antiques, apparel and accessories, art, bicycle stores, bookstores, carpets, drug stores, fabrics, flowers, furniture, home furnishings and appliances, flower stores, garden supply stores, gifts, groceries and/or food, hobby, toy and game stores, jewelry stores, motor vehicle supplies, office supplies and equipment, paint, pets and pet supplies, plant nurseries, landscaping materials, and greenhouses, pottery, shoes, sporting goods stores, specialty stores, stationery and gift stores, new vehicle sales;

(v) Commercial service including, but not limited to, banking, beauty salons and barber shops, commercial printing (small-scale), consulting, convenience market with or without gasoline pumps, day care child care centers, glass studio works, locksmithing, pet grooming, photography studio, repair of products listed in subsection (1)(a)(i)(A)(4) of this section, signs, tailoring, telecommunication sales;

(vi) Mixed use structure with a maximum of eight dwelling units per individual structure where all residential units are part of a mixed use occupancy with qualifying nonresidential uses in the commercial building, and meeting the design requirements, and located on a principal or collector arterial street;

(b) The development's uses do not include or consist of any of the following uses: adult entertainment businesses, marijuana (sales, production and/or processing), gasoline service stations (unless connected/associated with a grocery or convenience store), vehicle detailing, or livestock as defined in BMC [9.10.020\(19\)](#);

(c) The combined building space in a development of all structures within the development is not greater than 50,000 square feet; and

(d) The development is located entirely within the geographical area depicted in the traffic impact fee discount map (attached as Exhibit A to the ordinance codified in this section), as now or hereafter amended, a copy of which is available from the city clerk's office.

(2) Any claim for a discount must be filed in writing with the building permit application and addressed to the city clerk. Any claim not so made shall be deemed waived. During the application review process, an applicant may apply for a reduction for pass-through traffic under BMC [3.50.070](#), in addition to the 30 percent street impact fee discount described in this section, which is based on the fees imposed under BMC [3.50.060](#).

(3) The claim for a discount must be accompanied by a covenant guaranteeing that the qualifying uses and building size restrictions, required under the above criteria, will be continued for a period of 10 years unless released by written approval of the city. Before approval of the discount, the city attorney shall approve the form of the covenant. Within 10 days of approval, the applicant shall execute and record the approved covenant with the Pierce County auditor's office. The covenant shall be valid for a period of 10 years from the date of issuance of a certificate of occupancy for the qualifying building. The covenant shall run with the land and shall provide notice to all future owners of the restricted use(s) and building size, and that in the event the development is no longer used for the identified qualifying uses, or exceeds the building size limitation, the current owner shall pay the balance of the original traffic impact fee plus interest to the date of the payment.

(4) The amount of the impact fees not collected pursuant to this discount shall be paid from public funds other than the impact fee account.

(5) The city administrator, or his/her designee, shall be authorized to determine whether a particular development meets the criteria for a discount. The decision of the administrator shall be appealable to the hearing examiner in conformance with the procedural requirements of BMC Title [20](#). (Ord. 16-19 § 2, 2019; Ord. 13-19 § 3, 2019; Ord. 07-18 § 1, 2018).

B. Downtown Design District.

(1) The City recognizes that the majority of the buildings within the Downtown Design District (BMC 19.50.070), especially those in the Historic Commercial Zone, have served

many purposes over the years. As businesses and uses come and go over time, the buildings themselves are unlikely to change significantly. Some new uses will draw more traffic than others, though the parking capacity for the area is limited. This district and zone are designed for pedestrian scale access and thus changes of use should not materially increase the number of vehicular trips from this district beyond the historical average. Therefore, the requirement to pay street impact fees is eliminated for any permitted development that meets all of the following:

(a) Qualifying Uses. All uses consist only of those uses that meet one or more of the following definitions:

(i) Food service uses including but not limited to bakeries, confectioneries, coffeehouses, delicatessens, ice cream parlors, juice bars, family sit-down restaurants, casual dining restaurants, fine dining restaurants, fast food restaurant with or without drive-in or drive-through service, coffee/donut shops with or without drive-through service; restaurants or establishments that are commonly known as brewpubs, microbreweries, or wineries are herein defined as eating and drinking establishments having a microbrewery on the premises that produces beer, ale, or other malt beverage, or wine, and where the majority of the beer/wine produced is consumed on the premises and at which food may be served to accompany the alcohol. These establishments may also sell beer or wine at retail and/or act as wholesaler for beer or wine of its own production for off-site consumption, with appropriate state licenses;

(A) Nonqualified restaurant establishments that are not eligible for an impact fee discount include drinking establishments (bars, cocktail lounges, nightclubs and taverns), restaurants or other establishments in which alcoholic beverages are served as the primary function of the business, not including brewpubs as described above;

(ii) Recreational and cultural uses including, but not limited to, art galleries, bowling alleys, health clubs, dance studios, martial arts studios, libraries, museums, indoor movie or stage theater, indoor skating rink, racquetball court and tennis court, subject to the limitations set forth below;

(iii) Commercial retail sales store including, but not limited to, the sale or rental of the following items: antiques, apparel and accessories, art, bicycle stores, bookstores, carpets, drug stores, fabrics, flowers, furniture, home furnishings and appliances, flower stores, garden supply stores, gifts, groceries and/or food, hobby, toy and game stores, jewelry stores, motor vehicle supplies, office supplies and equipment, paint, pets and pet supplies, plant nurseries, landscaping materials, and greenhouses, pottery, shoes, sporting goods stores, specialty stores, stationery and gift stores, new vehicle sales;

(iv) Commercial service including, but not limited to, banking, beauty salons and barber shops, commercial printing (small-scale), consulting, convenience market with or without gasoline pumps, day care child care centers, glass studio works, locksmithing, pet grooming, photography studio, repair of products listed in subsection (1)(a)(i)(A)(4) of this section, signs, tailoring, telecommunication sales;

(b) The development's uses do not include or consist of any of the following uses: adult entertainment businesses, marijuana (sales, production and/or processing), gasoline service stations (unless connected/associated with a grocery or convenience store), vehicle detailing, or livestock as defined in BMC 9.10.020(19);

(c) The development is located entirely within the Downtown Design Review District.

Section 2. If any provisions of this Ordinance is held invalid, such invalidity shall not effect any other provisions, or the application thereof, which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

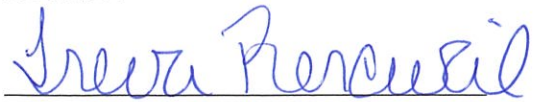
Section 3. This Ordinance shall be in full force and effective May 30, 2023. A summary of this Ordinance may be published in lieu of publishing the Ordinance in its entirety.

Introduced, passed and approved this 23rd day of May 2023.



Beau Burkett, Mayor

ATTEST:



Treva Percival, City Clerk

APPROVED AS TO FORM:



Phil Olbrechts, City Attorney

PUBLISHED: May 31, 2023

EFFECTIVE: June 5, 2023