

**CITY OF BUCKLEY, WASHINGTON**

**ORDINANCE NO. 16- 19**

**AN ORDINANCE OF THE CITY OF BUCKLEY, WASHINGTON, AMENDING SECTIONS 3.50.070 AND 3.50.085 OF THE BUCKLEY MUNICIPAL CODE RELATED TO ALTERNATE STREET IMPACT FEE CALCULATIONS AND IMPACT FEE DISCOUNTS.**

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**WHEREAS**, impact fees are authorized for those jurisdictions planning under the Growth Management Act and are charges assessed by local governments against new development projects that attempt to recover the cost incurred by government in providing the public facilities required to serve the new development; and

**WHEREAS**, the City has adopted code provisions governing the assessment and collection of impact fees for parks and recreation, schools and transportation in Chapter 3.50 of the Buckley Municipal Code; and

**WHEREAS**, the current fees listed in BMC 3.50 were developed through evaluation and fee calculation in separate elements of the adopted 2016 Comprehensive Plan; and

**WHEREAS**, on December 12, 2017 the City Council approved a new Transportation Element 5 through adoption of Ordinance No. 25-17; and

**WHEREAS**, Element 5 of the Comprehensive Plan is the Transportation Element that includes new updated capital improvement projects, construction estimates, proportionate impact fee calculations and ITE Trip Generation Table; and

**WHEREAS**, BMC 3.50.070 provides that an applicant can petition the planning director for an alternative calculation of the impact fee by providing evidence of a study more specifically related to the proposed use, warranting a different trip generation estimate than the trip generation numbers provided in Appendix E of the transportation element of the city of Buckley comprehensive plan; and

**WHEREAS**, BMC 3.50.070 provides that the petition will be considered only if the proposed use is not specifically included in Appendix E, or if the applicant is able to show site-specific information warranting a reduction for pass-through traffic; and

**WHEREAS**, while the City's code provides a pathway for pass-through traffic reductions the code is silent on how this reduction for pass-through traffic is calculated; and

**WHEREAS**, the ITE Handbook does provide reference to pass-by trip reduction factors for proposed uses; and

**WHEREAS**, the City desires to clarify how this reduction in pass-through traffic is calculated for proposed uses by referencing the ITE Handbook and providing some examples; and

**WHEREAS**, in April 2018 the City Council adopted Ordinance #07-08 that created an incentive program to encourage and facilitate certain businesses to locate in designated areas of the city where development is desired; and

**WHEREAS**, this program allows up to a maximum of a 30% discount from the traffic impact fee that would otherwise be imposed under BMC 3.50.060 for those qualifying uses; and

**WHEREAS**, the City's code does not clarify how this potential discount relates to an alternate fee calculation under BMC 3.50.070 and the City desires to offer clear guidance on the correlation between the two calculations; and

**WHEREAS**, the City's Administration, Finance and Public Safety Committee reviewed the proposed amendment to the impact fee ordinance at their meeting on July 9, 2019 and supports the clarification of how the pass-through traffic reduction is calculated and relationship between any alternate fee calculation and discount for qualifying uses;

**WHEREAS**, the City Council finds that the clarification of how the pass-through traffic reduction is calculated and relationship between any alternate fee calculation and discount for qualifying uses are in the public interest and consistent with the intent and purpose of the Growth Management Act, Chapter 37.70A RCW;

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

**Section 1.** BMC 3.50.070 entitled “Alternative street facilities impact fee calculation” is hereby amended to read as follows:

**3.50.070 Alternative street facilities impact fee calculation.**

The applicant may petition the planning director for an alternative calculation of the impact fee by providing evidence of a study more specifically related to the proposed use, warranting a different trip generation estimate than the trip generation numbers provided in Appendix E of the transportation element of the City of Buckley Comprehensive Plan.

(1) The petition will be considered only if the proposed use is not specifically included in Appendix E, or if the applicant is able to show site-specific information warranting a reduction for pass-through traffic.

(a) Pass-by reductions. The Daily Weekday Trips referenced in Appendix E excludes pass-by trips. Utilizing the ITE Handbook, as now constituted or as hereafter amended or modified, an applicant can determine the pass-by trip reduction factor for a proposed use. The pass-by trip reduction factor reduces the average trip rate based on average pass-by trip percentages or a reduction for trips that would have traveled on a street adjacent to a new use, even if the new use was not constructed. Reduction rates vary by land use and factors such as building size and volume of adjacent street traffic. The following are examples of potential Average Pass-By Trip Percentages with their resulting Pass-By Trip Reduction Factors, which translate to a savings on the impact fee. These are examples only. The City will accept Pass-By Trip Percentages as listed in the latest edition of the ITE Handbook.

<u>Example Land Use</u>	<u>Example Average Pass-By Trip %</u>	<u>Example Pass-By Trip Reduction Factor</u>
<u>Discount Supermarket (LU 854)</u>	<u>23%</u>	<u>0.77</u>

<u>Shopping Center (LU 820)</u>	<u>34%</u>	<u>0.66</u>
<u>Fast Food Restaurant with Drive-Through Window (LU 934)</u>	<u>50%</u>	<u>0.50</u>
<u>Coffee / Donut Shop with Drive-Through Window and No Indoor Seating (LU 938)</u>	<u>89%</u>	<u>0.11</u>

(2) If the planning director approves the petition, the applicant shall pay the alternative impact fee calculated by using the approved trip generation numbers multiplied by the fee per trip identified in the transportation element of the City of Buckley Comprehensive Plan, as now constituted or hereafter amended or modified, in lieu of the fees provided for in BMC 3.50.060.

**Section 2.** BMC 3.50.085 entitled “Street impact fee discounts” is hereby amended to read as follows:

**3.50.085 Street impact fee discounts.**

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.

(1) Once the traffic impact fee is calculated per section 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; ~~restaurants commonly known as fast casual are herein defined as intermediate eating establishments between fast food and casual dining offering a high quality food standard, prepared to order dishes and a sit-down atmosphere but do not include full service or a drive in or drive through window and at which alcohol may be served to accompany a meal;~~ 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 the following:

(i.) 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; ~~service; and (2) restaurants with drive in or drive through service typically referred to as “fast food restaurants,” which are herein defined as eating establishments that serve food prepared in quantity by a standardized method for quick dispensing;~~

- (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, daycare child care centers, glass studio works, locksmithing, pet grooming, photography studio, repair of products listed in subsection (1)(a)(iv) 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 station sales (unless connected/associated with a grocery or convenient store), vehicle parts (new/manufactured), 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% street impact fee discount described in this section which are based on the fees imposed under 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 20.32.

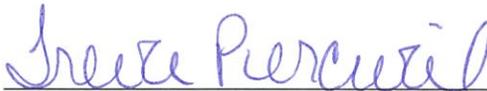
**Section 3.**      Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence,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

**Section 4.**      Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

APPROVED by the Buckley City Council this 23<sup>rd</sup> day of July, 2019.

  
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MAYOR, PAT JOHNSON

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
TREVA PERCIVAL, CITY CLERK

APPROVED AS TO FORM

  
\_\_\_\_\_  
OFFICE OF THE CITY ATTORNEY:

Published: July 31, 2019

Effective: August 5, 2019