



**BUSINESS OF THE CITY COUNCIL  
CITY OF MERCER ISLAND**

**AB 6092  
June 7, 2022  
Regular Business**

**AGENDA BILL INFORMATION**

|                            |  |  |
|----------------------------|--|--|
| <b>TITLE:</b>              | AB 6092: Transportation Impact Fee Rate Update<br>(Second Reading Ord. No. 22C-06)   | <input type="checkbox"/> Discussion Only<br><input checked="" type="checkbox"/> Action Needed:<br><input checked="" type="checkbox"/> Motion<br><input checked="" type="checkbox"/> Ordinance<br><input type="checkbox"/> Resolution |
| <b>RECOMMENDED ACTION:</b> | Approve the Transportation Impact Fees Rate Study and adopt Ordinance No. 22C-06 amending the process for updating transportation impact fees. |  |

|                               |  |
|-------------------------------|--|
| <b>DEPARTMENT:</b>            | Community Planning and Development                                       |
| <b>STAFF:</b>                 | Jeff Thomas, Interim Director<br>Alison Van Gorp, Deputy Director        |
| <b>COUNCIL LIAISON:</b>       | n/a  |
| <b>EXHIBITS:</b>              | 1. Ordinance No. 22C-06<br>2. Draft Transportation Impact Fee Rate Study |
| <b>CITY COUNCIL PRIORITY:</b> | n/a  |

|                               |        |
|-------------------------------|--------|
| <b>AMOUNT OF EXPENDITURE</b>  | \$ n/a |
| <b>AMOUNT BUDGETED</b>        | \$ n/a |
| <b>APPROPRIATION REQUIRED</b> | \$ n/a |

**EXECUTIVE SUMMARY**

The purpose of this agenda bill is to adopt an ordinance amending MICC 19.19.100 to update the process for adopting new transportation impact fee rates (Exhibit 1) and to approve the updated Transportation Impact Fee Rate Study and proposed new transportation impact fee rates (Exhibit 2).

- The Planning Commission has recommended the draft code amendment included in Ordinance No. 22C-006 (Exhibit 1).
- The proposed amendment will allow the City to adopt transportation impact fee rate studies by reference, without having to further amend the development code.
- A consultant has prepared a Transportation Impact Fee Rate Study analyzing the City’s capital project list and calculating recommended updates to the impact fee rates (Exhibits 2).
- If approved, the transportation impact fees will be updated as detailed below. These changes will take effect as a part of the annual development and construction fee schedule update on January 1, 2023.
- Additional information requested by the City Council related to the implementation of commercial impact fees is also provided.

## BACKGROUND

### Process

The proposed code amendment was brought forward by the City as a part of the annual docket process in the fall of 2020. The City Council added these proposals to the final docket and the CPD work program with the approval of [Resolution No. 1594](#) on December 1, 2020. The proposal was assigned file number ZTR21-007. The City also included resources in the 2020-2021 biennial budget to fund consultant services to update the transportation impact fee rate study.

The Planning Commission first discussed and gave initial feedback regarding ZTR21-007 on March 23, 2022. Staff prepared a draft code amendment based on the initial feedback for the Planning Commission to consider after holding a public hearing. A State Environmental Policy Act (SEPA) determination of non-significance was issued on March 21, 2022, and the project was assigned SEPA register file number 202201240. The SEPA determination comment period was open from March 23 to April 4, 2022; no comments were received. The WA Department of Commerce was notified of the intent to adopt development code amendments on March 21, 2022. Notice of the Planning Commission public hearing was published in the *Mercer Island Reporter* on March 23, 2022, and in the CPD Weekly Permit Bulletin on March 21, 2022. The Planning Commission held a public hearing regarding ZTR21-007 on April 27, 2022.

The City Council held the first reading of Ordinance No. 22C-006 and reviewed the draft Transportation Impact Fee Rate Study on May 17, 2022. The City Council scheduled the second reading of the ordinance and review of the final rate study for June 7, 2022.

### Transportation Impact Fees in Mercer Island

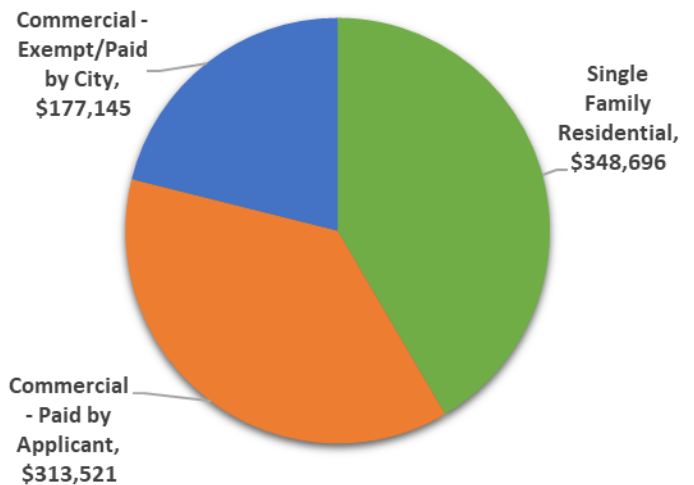
The Mercer Island City Council adopted transportation impact fees in early 2016, and the City began collecting fees soon thereafter. Payment of the fees is required as a part of the permitting process for new development. The initial fees were set based on rate studies conducted in 2015; the fees are indexed to the construction cost index and have been adjusted accordingly on an annual basis. The current transportation impact fees are shown in the table below.

| Land Use                           | Impact Fee | Unit of Measure                 |
|------------------------------------|------------|---------------------------------|
| <b>Residential</b>                 |            |                                 |
| Single Family (1-2 dwellings)      | \$4,914.53 | dwelling                        |
| Multi-Family (3 or more dwellings) | \$2,801.61 | dwelling                        |
| Senior Housing                     | \$1,326.75 | dwelling                        |
| <b>Commercial</b>                  |            |                                 |
| Lodging                            | \$2,948.46 | Guest room                      |
| Commercial Services                | \$19.56    | Square foot of gross floor area |
| School                             | \$639.32   | Student                         |
| Institutional                      | \$3.63     | Square foot of gross floor area |
| Light Industry                     | \$4.47     | Square foot of gross floor area |
| Warehouse                          | \$ 2.21    | Square foot of gross floor area |
| Supermarket                        | \$29.83    | Square foot of gross floor area |
| Gas Station                        | \$29.22    | Pump                            |
| Administrative Office              | \$7.32     | Square foot of gross floor area |
| Medical/ Dental Office             | \$17.54    | Square foot of gross floor area |
| Retail*                            | \$12.04    | Square foot of gross floor area |
| Restaurant*                        | \$20.61    | Square foot of gross floor area |

\*Retail and Restaurant uses are exempted by MICC 19.19.070(G) and are paid by the City pursuant to RCW 82.02.060.

Since the inception of transportation impact fees in 2016, the City has collected a total of \$662,217 paid by permit applicants. The fees collected were split roughly evenly between single family residential and commercial. There were no multi-family development projects permitted during this time period. Another \$177,145 was contributed by the City to backfill exempt retail and restaurant impact fees. Thus, a total of \$839,362 in transportation impact fees has been generated.

| <b>Transportation Impact Fee Revenue 2016-2021</b> |                  |
|--|------------------|
| Single Family Residential                          | \$348,696        |
| Multi-Family Residential                           | \$0              |
| Commercial – paid by applicant                     | \$313,521        |
| Commercial – exempt/paid by City                   | \$177,145        |
| <b>TOTAL</b>                                       | <b>\$839,362</b> |



### Application of Transportation Impact Fees to all Land Use Types

The current transportation impact fee code (MICC Ch. 19.19) requires payment of impact fees for all new development, including single family, multi-family, and commercial developments. This is consistent with state law, which requires that impact fees must be applied through established procedures and criteria that are not arbitrary (RCW 82.02.050). It would likely be considered arbitrary to only apply impact fees to residential development, for example, because both residential and commercial development have impacts on the transportation system. Thus, it is recommended that transportation impact fees be charged based on a consistent methodology across land uses.

### Impact Fees are Non-Transferable

Impact fees are triggered by development (i.e. either construction of a new building or remodeling/tenant improvement work within an existing building) and are linked to the specific buildings and locations where the development occurs. Impact fees are not transferrable to another location. For example, if a family built a new house on Vacant Lot A and paid an impact fee, they could not transfer that impact fee payment to Vacant Lot B in the future if they planned to build another new house. Rather, the impact fee paid for Vacant Lot A would remain linked to that house/property and the family would then need to pay a new impact fee for the construction of the new house on Vacant Lot B.

### Impact Fees are Tied to New Impacts

For residential development, impact fees are charged on the net new units on a property. Thus, if one residence is demolished, and two new homes are built in its place, an impact fee would only be charged for the one net new home.

For commercial development, impact fees are charged based on the use of the space, and the number of trips generated by that use, based on the Institute of Transportation Engineers (ITE) trip generation manual. A restaurant, for example, will generate more trips than an office use and would therefore garner a higher impact fee. For tenant improvements in existing spaces (essentially an interior remodel of the space for a new tenant), the impact fee is charged based on the difference between the previous and proposed uses (i.e. the “delta” between the respective impact fee rates).

### Impact Fees do not Expire

Finally, staff would like to clarify information provided at the May 17, 2022 City Council meeting. At this meeting, it was conveyed that if existing commercial spaces sit vacant for 12 months or longer, the full impact fee will apply, regardless of the prior use of the space. While many other local jurisdictions apply such a provision, there is in fact no “12 -month rule” in either Mercer Island City Code or State law that pertains to tenant improvements or remodeling of commercial buildings in this manner.

Instead, the MICC dictates that in the case of a change of use in an existing commercial space, impact fees should be charged based on the difference in impact fee rates between the previous and proposed uses, regardless of the length of time a space may have been vacant between uses. It is also worth noting that the MICC does include 12-month provisions in relation to transportation concurrency requirements as well as in relation to the exemption of impact fees when a legally established building is rebuilt after an “act of god” as described below.

## Impact Fee Exemptions

The City Code currently includes several exemptions from transportation impact fees ([MICC 19.19.070](#)), outlined below.

- Affordable housing units may request an exemption from 80% of the required impact fee. Affordable housing is defined as housing units affordable to those earning 80% of the area median income for ownership housing and 60% of the area median income for rental housing (MICC 19.19.070(A) and 19.19.020).
- Rebuilding legally established buildings destroyed or damaged by fire, flood, explosion, act of God or other accident or catastrophe, provided that a complete building permit is submitted to the City within 12 months of the date of loss (MICC 19.19.070(B)).
- Remodeling or replacing a legally established building, provided that a complete building permit is submitted to the City within 12 months of the date of demolition and no additional dwelling units are created and no change of use occurs (MICC 19.19.070(B)).
- Conversion of dwelling units to condominium ownership where no new dwelling units are created (MICC 19.19.070(E)).
- Any development activity that is exempt from impact fees pursuant to RCW 82.02.100, due to mitigation of the same system improvement under the State Environmental Policy Act (MICC 19.19.070(D)).
- Any development activity for which transportation impacts have been mitigated pursuant to a condition of plat approval to pay fees, dedicate land, or construct or improve transportation facilities, unless the condition of the plat approval provides otherwise; and further provided, that the condition of the plat approval predates the effective date of impact fee imposition (MICC 19.19.070(E)).
- Any development activity for which transportation impacts have been mitigated pursuant to a voluntary agreement entered into with the City to pay fees, dedicate land or construct or improve transportation facilities, unless the terms of the voluntary agreement provide otherwise; and further provided, that the agreement predates the effective date of fee imposition (MICC 19.19.070(F)).
- Retail and restaurant uses (MICC 19.19.070(G)). A retail use is defined in MICC 19.16.010 as “an establishment engaged in selling goods or merchandise and rendering services incidental to the sale of such goods.” This definition appears to be inclusive of supermarkets. A restaurant use is “an establishment where food and drink are prepared and consumed. Such an establishment may also provide catering services.” This definition appears to be inclusive of fast-food restaurants and coffee/donut/bagel shops and exclusive of “Bars” which have their own definition in the MICC related to “the sale or dispensing of liquor by the drink for on-site consumption...”

With the exception of the affordable housing exemption, any exemption granted under the above provisions of the MICC requires the City to pay the impact fees in place of the applicant, as required by RCW 82.02.060. The City utilizes the General Fund to pay for exempted impact fees. Between 2016 and 2021, the City has exempted eight restaurant and retail applicants, totaling \$177,145.

## ISSUE/DISCUSSION

### **Draft Transportation Impact Fee Rate Study**

The City contracted with Fehr and Peers to conduct an updated transportation impact fee rate study. The consultants have prepared a Transportation Impact Fee Rate Study analyzing the City's capital project list and calculating recommended updates to the impact fee rates (Exhibit 2).

#### Impact Fee Eligible Transportation Improvement Projects

The impact fee rate study looks at the planned capital improvements that are needed to add capacity to accommodate projected new development. Development-related improvements are capital projects that add capacity that is intended to serve the needs generated by new development. For example, in areas where new development capacity is planned, improvements such as new sidewalks, new bike lanes, additional turn lanes and new traffic signals might be needed to serve the new trips generated by the future development. The total cost of development-related improvements is pro-rated for each new residential and/or commercial development that is projected over the planning period. The impact fees charged for each unit of new development would then pay for a proportional share of the cost of the needed improvements.

The project list included in the updated rate study was developed in close partnership between the consultants and the City's Public Works staff. Capital projects included in the Transportation Improvement Plan (TIP) and Comprehensive Plan were reviewed for inclusion in the rate study based on eligibility criteria in state law. Staff used their professional judgement and knowledge of the planned projects to identify the projects (or portions of projects) that are development-related improvements. In addition, the consultant team has worked closely with CPD staff to understand the City's housing and employment growth targets and the areas in the city where development capacity exists, and future development is likely to occur. The rate study includes the list of eligible projects and the total estimated cost to construct the eligible projects. The recommended impact fees are calculated by dividing the total project cost by the projected growth in transportation trips generated by new development.

#### Revised Rate Study

The consultant has updated the rate study since the May 17, 2022 City Council meeting to correct the units of measure in the proposed transportation impact fee schedule; several lines now list the unit of measure as 1,000 square feet of gross floor area (Exhibit 2, Table 4). In addition, the rate for childcare uses was reduced based on a 90% pass-by factor. Several uses in the proposed fee schedule (e.g. banks, restaurants, general retail, supermarket and gas station) include a "pass-by factor" to account for trips that otherwise would have passed by the location if not for the commercial use. The pass-by factor is shown in the "New Trips" column in Table 2 of the rate study (Exhibit 2). The assumption for the 90% pass-by factor for childcare businesses is that parents typically select a location that is either near their home or workplace, or on the way in between, so childcare businesses have a high rate of "pass-by" traffic.

### **Recommended Impact Fee Rates**

The updated rate study prepared by the consultant recommends an impact fee of \$4,418 per PM peak trip. This is a slight decrease compared to the current rate. The decrease is a result of the estimated cost to construction the impact fee related transportation improvement projects identified in the Comprehensive Plan and Transportation Improvements Plan, as described above.

The consultant applied this new rate to each land use category based on the estimated number of PM peak trips generated by that use, based on the ITE Trip Generation Manual. The ITE Trip Generation Manual has

also been updated since the last rate study, and now includes newer data on trip generation for different types of businesses/land uses.

In addition, the consultant has also provided an expanded list of impact fee rates that better aligns with all the residential and commercial land uses allowed by the development code (MICC Title 19). This expanded list will enable City staff to more easily apply the appropriate rates to development project applications. It also establishes more appropriate rates for uses such as banks and childcare facilities. The disaggregation of a few of the categories also contributed to significant changes in rates, such as those for “General Retail” and “Commercial Services”.

The Current and proposed transportation impact fee rates are summarized in the table below.

| Land Use                           | Current Impact Fee | Proposed Impact Fee | Unit of Measure                       |
|------------------------------------|--------------------|---------------------|---------------------------------------|
| <b>Residential</b>                 |                    |                     |                                       |
| Single Family (1-2 dwellings)      | \$4,914.53         | \$4,153             | dwelling                              |
| Multi-Family (3 or more dwellings) | \$2,801.61         | \$1,856             | dwelling                              |
| Senior Housing                     | \$1,326.75         | \$1,237             | dwelling                              |
| Care Facility                      | --                 | \$928               | dwelling                              |
| <b>Commercial</b>                  |                    |                     |                                       |
| Lodging                            | \$2,948.46         | \$2,607             | Guest room                            |
| Commercial Services                | \$19.56            | \$7.78              | 1,000 square feet of gross floor area |
| Auto Service Center                | --                 | \$9.10              | 1,000 square feet of gross floor area |
| Bank                               | --                 | \$60.33             | 1,000 square feet of gross floor area |
| School                             | \$639.32           | \$619               | Student                               |
| Daycare                            | --                 | \$4.91              | 1,000 square feet of gross floor area |
| Institutional                      | \$3.63             | \$3.00              | 1,000 square feet of gross floor area |
| Light Industry/Industrial Park     | \$4.47             | \$2.21              | 1,000 square feet of gross floor area |
| Warehouse/Storage                  | \$ 2.21            | \$0.80              | 1,000 square feet of gross floor area |
| Gas Station                        | \$29.22            | \$35,807            | Pump                                  |
| Administrative Office              | \$7.32             | \$6.36              | 1,000 square feet of gross floor area |
| Medical/ Dental Office             | \$17.54            | \$17.36             | 1,000 square feet of gross floor area |
| Recreation                         | --                 | \$0.20              | 1,000 square feet of gross floor area |
| General Retail*                    | \$12.04            | \$23.94             | 1,000 square feet of gross floor area |
| Supermarket*                       | \$29.83            | \$30.05             | 1,000 square feet of gross floor area |
| Restaurant*                        | \$20.61            | \$19.30             | 1,000 square feet of gross floor area |
| Quick Restaurant/Coffee Shop*      | --                 | \$69.25             | 1,000 square feet of gross floor area |

\*Retail and Restaurant uses are exempted by MICC 19.19.070(G) and are paid by the City pursuant to RCW 82.02.060.

**Planning Commission Recommended Code Amendments**

The draft code amendments shown in Ordinance No. 22C-06 will amend the transportation impact fee update requirements in MICC 19.19.100. The proposed code amendments enable the impact fee rates to be updated periodically without the need for further code amendments in the future (Exhibit 1). Instead, once a rate

study is approved by City Council, the new rates will be adopted as part of the annual development and construction fee schedule update.

#### **Additional Policy Considerations**

The City Council could consider expanding the restaurant and retail impact fee exemption to include other types of commercial uses, however additional analysis would be required to understand the financial impact to the City.

### **NEXT STEPS**

Once approved, the new transportation impact fee rates will be included as part of the annual development and construction fee schedule update planned for the November-December 2022 timeframe and will take effect on January 1, 2023. Adoption of Ordinance No. 22C-06 will allow the City to adopt new impact fee rates based on future rate studies through the annual development and construction fee schedule update, without the need for additional code amendments.

### **RECOMMENDED ACTION**

Approve the Transportation Impact Fee Rate Study and adopt Ordinance No. 22C-06 amending the process for updating transportation impact fees.