



PLANNING COMMISSION AGENDA
June 8, 2016, 7:00 p.m.
Multipurpose Room/Council Chamber
Burien City Hall, 400 SW 152nd Street
Burien, Washington 98166

This meeting can be watched live on Burien Cable Channel 21 or on www.burienmedia.org

1. ROLL CALL

2. AGENDA CONFIRMATION

3. APPROVAL OF MINUTES

A. May 25, 2016

4. PUBLIC COMMENT

Public comment will be accepted on topics not scheduled for a public hearing.

5. NEW BUSINESS

A. Transportation Impact Fee Deferral Zoning Code Amendments

6. OLD BUSINESS

A. None

7. PLANNING COMMISSION COMMUNICATIONS

8. DIRECTOR'S REPORT

9. ADJOURNMENT

Future Agendas (Tentative)

June 22, 2016

- Transportation Impact Fee Deferral Zoning Code Amendments – Public Hearing
- Significant Tree Retention Discussion

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Planning Commissioners

Curtis Olsen (Chair)

Kim Davis
Anna Markee

Amy Rosenfield (Vice-Chair)
Kaelene Nobis

Butch Henderson
Douglas Weber

City of Burien

BURIEN PLANNING COMMISSION
May 25, 2016
7:00 p.m.
Multipurpose Room/Council Chambers
MINUTES

To hear the Planning Commission's full discussion of a specific topic or the complete meeting, the following resources are available:

- Watch the video-stream available on the City website, www.burienwa.gov
- Check out a DVD of the Council Meeting from the Burien Library
- Order a DVD of the meeting from the City Clerk, (206) 241-4647

CALL TO ORDER

Chair Curtis Olsen called the May 25, 2016, meeting of the Burien Planning Commission to order at 7:03 p.m.

ROLL CALL

Present: Butch Henderson, Anna Markee, Kaelene Nobis, Curtis Olsen, and Douglas Weber

Absent: Kim Davis and Amy Rosenfield, both excused

Administrative staff present: Brandi Eyerly, planner; and Chip Davis, Community Development Department director.

AGENDA CONFIRMATION

Direction/Action

Motion was made by Commissioner Henderson and seconded by Commissioner Weber to confirm the agenda. Motion passed 5-0.

APPROVAL OF MINUTES

Direction/Action

Motion was made by Commissioner Henderson, seconded by Commissioner Weber, and passed 5-0 to approve the minutes of the May 11, 2016, meeting.

PUBLIC COMMENT

Chestine Edgar, 1811 SW 152nd St., asked for clarification of Federal Way's definition of a significant tree that was included in this week's packet.

NEW BUSINESS

None.

OLD BUSINESS

A. Continued Discussion – Significant Tree Retention Zoning Code Amendments

Brandi Eyerly, planner, presented the information requested by the commissioners at their previous meeting. She said the International Society of Arboriculture (ISA) does not have a standard for determining a significant tree.

She said the discussion about the City's tree retention codes has come about because a large Sequoia tree was removed for the CVS development. She said the City of Renton's tree retention regulations were included in the meeting packet at the request of the City Council.

Ms. Eyerly explained that Burien's current significant tree retention regulations only cover undeveloped parcels and critical areas.

The commissioners discussed the definition of significant trees, agreeing that 6-inch diameter at breast height (DBH) seems to be the standard with other cities and it would be good to be consistent so developers knew what to expect.

They also discussed the five tree species that most jurisdictions exclude from their significant tree considerations because they each have some nuisance aspect.

There was discussion about tree replacement ratios and whether significant tree retention requirements should apply to developed lots as well as undeveloped lots to protect the tree canopy. There will be further discussion in the future about requirements on developed lots. The possibility of a "tree bank" also was discussed as a way to maintain the tree canopy without impacting parcels that have no room to replace a significant tree with a similar tree that eventually will grow too large for the lot. The conversation included concerns about private property rights vs. the public benefit of trees.

Ms. Eyerly reviewed the items she said she heard the commissioners reach consensus on: a single uniform caliper for significant tree definitions, possibly 6 inches; prohibiting the replanting of five "nuisance" trees; using the larger caliper significant trees as the basis for replacement ratios; fee-in-lieu of tree planting, such as a tree bank, when replanting trees is not feasible; a process for designation and protection of landmark trees; a higher standard for public tree replacement than for private tree replacement; a minimum tree density for private property, with incentives for tree retention; a public outreach program emphasizing the importance of trees to quality of life; and a chart showing the priority levels for retaining significant trees, similar to one in the City of Renton's code.

PLANNING COMMISSION COMMUNICATIONS

None.

DIRECTOR'S REPORT

Mr. Davis reminded the commissioners about the Short Course on Local Planning that Burien will be hosting with Mercer Island on Sept. 28 in the Multipurpose Room/Council Chamber. It is a regularly scheduled Planning Commission meeting night.

He told the commissioners that soon they will be working on a deferral of impact fee payments based on state law and Zoning Code language establishing a school impact fee for the Highline School District.

ADJOURNMENT

Direction/Action

Commissioner Henderson moved for adjournment; Commissioner Nobis seconded. Motion carried unanimously. The meeting adjourned at 8:56 p.m.

APPROVED: _____

Curtis Olsen, chair
Planning Commission

**CITY OF BURIEN, WASHINGTON
MEMORANDUM**

DATE: June 2, 2016

TO: Burien Planning Commission

FROM: Charles W. “Chip” Davis, AICP, Community Development Director

SUBJECT: Proposed Amendment to BMC 19.35 Transportation Impact Fee to Allow Deferred Payment of Impact Fees

PURPOSE

At this meeting the Commission will receive a presentation on proposed amendments to BMC 19.35, Transportation Impact Fees providing a process for deferred payment of transportation impact fees. The Planning Commission is scheduled to conduct a public hearing on the proposed amendments at their June 22, 2016 meeting.

BACKGROUND

During the 2015 legislative session, the Washington State Legislature enacted a new law (ESB 5923) that requires counties, cities and towns collecting impact fees to adopt a deferral system for new single-family detached and attached residential construction. This law gave local governments until September 1, 2016 to develop a deferral system that best meets statutory requirements and local objectives.

The new law allows local choice on at what point in the development process impact fees are collected, allows the imposition of a reasonable administrative fee and allows the deferral to be limited to the first 20 building permits per developer per year.

Since Burien is collecting a Transportation Impact Fee for all new development, we are subject to this legislation and are required to have the deferral language in place not later than September 1st. Staff has drafted proposed language to amend BMC 19.35, Transportation Impact Fees which addresses state requirements and includes the following provisions:

- A developer/applicant may request that payment of the impact fee be deferred until (1) final inspect; (2) issuance of a certificate of occupancy or equivalent certification; or (3) the closing of the first sale of the property after the issuance of the building permit, whichever comes first.
- The maximum term for the deferral is 18 months from the issuance of the building permit.
- The amount of impact fees that may be deferred is determined by the fee schedule in effect at the time the applicant applies for the deferral.
- Deferral of impact fees is limited to the first 20 single-family residential building permits, annually, per applicant.

- The applicant seeking a deferral must grant and record a lien against the property in favor of the City of Burien in the amount of the deferred fee.
- The City of Burien will collect a fee of \$50 per application to compensate for reasonable administrative costs for administering the deferral program. The fee shall be included on Burien's Permit Fee and Engineering Review Deposit Schedule and will be subject to annual review and adjustment.
- To limit the "spin-off LLC" issue, "applicant" has been defined to include "an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant".
- The City of Burien is authorized to institute foreclosure proceedings if impact fees are not paid.

Attachment 1 is a copy of BMC Chapter 19.35 in which proposed amended language has been underlined.

ACTION

Staff is requesting that the Planning Commission review proposed amendments to BMC 19.35 Transportation Impact Fees in preparation for the June 22nd Public Hearing.

Attachment:

1. BMC 19.35 Transportation Impact Fees Including Proposed Amendments

19.35 Transportation Impact Fees

19.35.010	Authority
19.35.020	Purpose
19.35.030	Definitions
19.35.040	Applicability
19.35.050	Geographic scope
19.35.060	Imposition of transportation impact fees
19.35.070	Service area
19.35.080	Exemptions
19.35.090	Assessment of transportation impact fees
19.35.100	Independent fee calculations
19.35.110	Credits
19.35.120	Project list
19.35.130	Time of payment of fees
19.35.140	Impact fee account
19.35.150	Use of funds
19.35.160	Refunds
19.35.170	Appeals
19.35.180	Authorization for interlocal agreements
19.35.190	Relationship to State Environmental Policy Act (SEPA)
19.35.200	Relationship to concurrency management
19.35.210	Necessity of compliance

19.35.010 Authority

This chapter is enacted pursuant to the Washington State Growth Management Act codified at Chapter 36.70A RCW and RCW 82.02 et seq., which authorizes cities planning under the Growth Management Act to assess, collect, and use impact fees to pay for capital projects related to transportation facilities needed to accommodate growth. The City of Burien is required to plan under the Growth Management Act and has adopted a Comprehensive Plan which includes a Capital Facilities Program which complies with RCW 36.70A.070(3), RCW 82.02.050(4), and all other applicable requirements. The City's Comprehensive Plan identifies the objective to pursue a transportation impact fee as part of the overall transportation financing mechanism. Consequently, the City of Burien is authorized to impose, collect, and use impact fees. [Ord. 493 § 1, 2008]

19.35.020 Purpose

The purpose of this chapter is to:

1. Develop a transportation impact fee program consistent with the Burien Comprehensive Plan for joint public and private financing of transportation improvements necessitated in whole or in part by development in the city;
2. Create a mechanism to charge and collect fees to ensure that all new development pays a proportionate share of the capital costs of off-site transportation facilities necessitated by new development;
3. Ensure that the city pays its fair share of the capital costs of transportation facilities necessitated by public use of the transportation system; and
4. Ensure fair collection and administration of such impact fees. [Ord. 493 § 1, 2008]

19.35.030 Definitions

The following are definitions provided for administering the transportation impact fee program. The public works director shall have the authority to resolve questions of interpretation or conflicts between definitions.

“Applicant” means any property owner, developer, or other person who seeks a building permit from the City of Burien.

“Building permit” means the official document or certification that is issued by the building department and that authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, tenant improvement, demolition, moving or repair of a building or structure or other construction permits in those instances where a building permit is not required.

“Capital facilities plan” means the capital facilities plan element of the city’s Comprehensive Plan adopted pursuant to Chapter 36.70A RCW, and such plan as amended.

“City Council” or **“Council”** means the City Council of the City of Burien.

“Development activity” means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land, that creates additional demand and need for public facilities,

“Director” means the director of the department of public works of the City of Burien or his/her designee.

“Encumbered” means the anticipated expenditure or funds restricted for anticipated expenditures on a transportation project.

“Finance director” means the finance director of the City of Burien or his/her designee.

“Impact fee” or **“transportation impact fee”** means a payment of money imposed upon development as a condition of development approval to pay for system improvements needed to serve new growth and development, and that is reasonably related to the new development that creates additional demand and need for system improvements, that is a proportionate share of the cost of the system improvements, and that is used for system improvements that reasonably benefit the new development.

“Impact fee account” or **“account”** means the account established for the system improvements for which impact fees are collected. The account shall be established pursuant to this chapter, and shall comply with the requirements of RCW 82.02.070.

“Interlocal agreement” or **“agreement”** means a roads interlocal agreement, authorized in this chapter, by and between the city and other government agencies concerning the collection and expenditure of impact fees, or any other interlocal agreement entered by and between the city and another municipality or public agency to implement the provisions of this chapter.

“Jurisdiction” means a municipality or county.

“Project improvements” mean site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. No

improvement or facility included in the capital facilities plan approved by the city council shall be considered a project improvement.

“Project list” means system improvements included in the transportation impact fee program as defined in 19.35.120 and Table 19.35-1 which is herein incorporated by reference.

“Proportionate share” means that portion of the cost of system improvements that are reasonably related to the service demands and needs of new development.

“Schedule” means the list of adopted transportation impact fees for development activity that is subject to impact fees which is based upon a formula or other calculation method consistent with RCW 82.02.060. The schedule of impact fees is defined in Table 19.35-2 which is herein incorporated by reference.

“Service area” means a geographic area defined by the city or interlocal agreement, in which a defined set of system improvements provide service to development within the area. Service areas shall be designated on the basis of sound planning or engineering principles. Development in a service area may, and will likely be found to, impact and be served by system improvements outside of the service area, and the resulting transportation impact fee will reflect a proportionate share charge based on those impacts.

“System improvements” mean public streets or roads that are included in the capital facilities plan and are designed to provide service areas within the community at large, in contrast to project improvements.

“Trip generation manual” means the most current edition of the report entitled “Trip Generation” produced by the Institute of Transportation Engineers. [Ord. 493 § 1, 2008]

19.35.040 Applicability

1. The requirements of this chapter apply to all development activity in the City of Burien for which a building permit or other construction permit is issued after the effective date of this ordinance.
2. Mitigation of impacts on transportation facilities located in jurisdictions outside the city will be required when there is an interlocal agreement between the city and the effective jurisdiction specifically addressing transportation impact identification and mitigation per section 19.35.180. [Ord. 493 § 1, 2008]

19.35.050 Geographic scope

The boundaries within which impact fees shall be charged and collected are co-extensive with the corporate city limits, and shall include all unincorporated areas annexed to the city on and after the effective date of the ordinance codified in this chapter. A revision of this chapter will be required prior to charging impact fees for developments in the annexed area(s). [Ord. 493 § 1, 2008]

19.35.060 Imposition of transportation impact fees

Any person who receives a building permit or other construction permit for any development activity or who undertakes any development activity within the city’s corporate limits for which a building permit, or other construction permit if a building permit is not required, shall pay the transportation impact fees as set forth in this chapter to the city. The impact fees shall be paid at the time of issuance of the permit. [Ord. 493 § 1, 2008]

19.35.070 Service area

For the purpose of this chapter, the entire city shall be considered one service area. [Ord. 493 § 1, 2008]

19.35.080 Exemptions

1. The transportation impact fees referenced in this chapter shall not apply to the following:
 - A. Alteration, expansion, enlargement, remodeling, rehabilitation, or conversion of an existing unit where no additional units are created and the use is not changed.
 - B. A change in use that results in no additional impact to the city’s transportation system.
 - C. The construction of accessory structures that will not create additional transportation impacts on system improvements.
 - D. A structure moved from one location within the city to another location within the city. The vacated lot will not be exempted from paying all appropriate impact fees upon development.
2. The director shall be authorized to determine whether a particular development for a proposed building permit, or certificate of occupancy if no building permit is required, falls within an exemption of this chapter. Determinations of the director shall be subject to the appeals procedures set forth in section 19.35.170. [Ord. 493 § 1, 2008]

19.35.090 Assessment of transportation impact fees

1. An impact fee schedule setting forth the amount of the transportation impact fees to be paid by a development is set out in Table 19.35-2 and incorporated herein by this reference.
2. The impact fee schedule, as set out in Table 19.35-2, shall be updated annually at a rate adjusted in accordance with the Washington State Department of Transportation Construction Cost Index (CCI) to establish revised fee schedules for each subsequent year.
3. The impact fee amount is calculated by using the following formula:

$$\begin{array}{l} \text{Amount of Transportation Impact Fee} \\ \text{that shall be paid for that development} \\ \text{use} \end{array} = \begin{array}{l} \text{Number of units of} \\ \text{each use} \end{array} \times \begin{array}{l} \text{Transportation Impact Fee per} \\ \text{unit amount for the service area in} \\ \text{which the development is located} \end{array}$$

- A. The number of units of each use is determined as follows: (i) for residential uses it is the number of dwelling units for which a building permit application has been made and (ii) for office, retail, or manufacturing uses it is the gross floor area of building(s) to be used for each use expressed in square feet divided by 1,000 square feet, or in the units defined in the schedules.
- B. Using the formula in 19.35.090.3, transportation impact fees shall be calculated separately for each use. The transportation impact fees that shall be paid are the sum of these calculations.

- C. If a development activity will include more than one use in a building or site, then the transportation impact fee shall be determined using the above formula by apportioning the space committed to the various uses specified on the schedule in Table 19.35-2.
 - D. If the type of use or development activity is not specified on the transportation impact fee schedules in Table 19.35-2, the director shall use the transportation impact fee applicable to the most comparable type of land use on the fee schedule. The director shall be guided in the selection of a comparable type by the most recent *Trip Generation* manual (Institute of Transportation Engineers) or other recognized national standard.
 - E. In the case of a change in use, development activity, redevelopment, or expansion or modification of an existing use, the transportation impact fee shall be based upon the net positive increase in the impact fee for the new development activity as compared to the impact fee that would have applied to the previous development activity. The director shall be guided in this determination by the sources and agencies listed above.
4. As described in this section, the impact fees set forth in the schedule included in Table 19.35-2 shall be presumed valid and appropriate, unless revised pursuant to the following provisions:
- A. An applicant may request a credit following the procedures set forth in Section 19.35.110.
 - B. An applicant may submit an independent fee calculation following the procedures set forth in Section 19.35.100. [Ord. 493 § 1, 2008]

19.35.100 Independent fee calculations

- 1. If, in the judgment of the director, none of the land use categories set forth in the fee schedule in Table 19.35-2 accurately describes the proposed land use, the applicant shall provide to the department for its review and evaluation an independent fee calculation, prepared by a traffic engineer approved by the director and paid for by the applicant. The independent fee calculation shall show the basis upon which it was made and shall include, but not limited to, trip generation characteristics. The director may accept this calculation and impose an impact fee based on this calculation, or it may obtain a second independent fee calculation and then decide which impact fee calculation is more appropriate. The second independent fee calculation will be paid for by the city.
- 2. If an applicant requests not to have the impact fees determined according to the schedule in Table 19.35-2, then the applicant shall submit to the director an independent fee calculation, prepared by a traffic engineer approved by the director and paid for by the applicant. The independent fee calculation shall show the basis upon which it was made and shall include, but not be limited to, trip generation characteristics.
- 3. When an independent fee calculation is sought under 19.35.100.2, the city may issue a building permit or certificate of occupancy when no building permit is required for a change in use, prior to completion of the independent fee calculation; provided, that the impact fee must be collected based on the fee schedule in Table 19.35-2, at the time of issuance. If the director ultimately approves the independent fee calculation, the city shall refund the portion of the fee that exceeds the approved independent fee calculation.
- 4. Any independent fee calculation proposed under this section shall be accompanied by a study that complies with the following standards:

- A. The study shall follow accepted traffic impact fee assessment practices and methodologies and be consistent with the methods used in developing the city's transportation impact fee schedules.
 - B. The study shall use acceptable data sources and the data shall be comparable with the uses and intensities proposed for the proposed development activity.
 - C. The study shall comply with the applicable State laws governing impact fees including RCW 82.02.050 – 82.02.100 as these statutes may be amended from time to time.
 - D. The study, including any data collection and analysis, shall be prepared and documented by a professional traffic engineer.
 - E. The study shall show the basis upon which the independent fee calculation was made.
5. The director shall consider the independent fee calculation study and related documentation submitted by the applicant, but is not required to accept the calculation if the director decides that the study is not accurate or reliable. If the director finds the study to be unreliable, the director may require the applicant to submit additional or different documentation for consideration. If the director decides that third-party engineers are needed to review the calculation and related documentation, the applicant shall pay for the reasonable cost of a review by such engineers. If an acceptable independent fee calculation study is not presented, the applicant shall pay the transportation impact fees based upon the process and schedules referenced in this chapter. If an acceptable independent fee calculation study is presented, the director may adjust the fee to an appropriate amount.
 6. Determinations made by the director pursuant to this section may be appealed to the hearing examiner subject to the procedures set forth in Section 19.35.170. [Ord. 493 § 1, 2008]

19.35.110 Credits

1. An applicant may request a credit for the value of dedicated land, improvements, or construction if the land and/or the facility constructed are (a) required as a condition of development approval; and (b) included within the project list entitled, Transportation Impact Fee Project List, which is attached to this ordinance as Table 19.35-1, and incorporated herein by reference as if set forth in full.
2. Each request for a credit or credits shall include a legal description of land donated, a detailed description of improvements or construction provided, and a legal description or other adequate description of the development to which the credit will be applied.
3. The credit shall not exceed the impact fee payable by the applicant.
4. For each request for a credit, the land value or costs of construction shall be determined as follows:
 - A. The amount of credit for land dedicated shall be the higher of either the value of the land established in the impact fee project list, if such value is identified, or by an appraisal conducted by an independent professional appraiser chosen by the fee payer from a list of at least three such appraisers provided by the city. The cost of the appraisal shall be borne by the fee payer. For purposes of this section, the date of value shall be the date the land was dedicated to the county. The appraisal shall only value the land dedicated and not any alleged

damages to any abutting property.

- B. The amount of credit for facilities constructed shall be based upon the actual cost of construction at the time of construction.
5. After the director has determined the amount of the credit, the department shall include the determination with issuance of the building permit along with a statement setting forth the dollar amount of the credit, the basis for the credit, where applicable, the description of the land dedicated and the date of the determination.
6. Any credit must be requested before payment of the impact fee and prior to issuance of the building permit or other construction permit. Any claim not so made shall be deemed waived.
7. No credit shall be given for project improvements.
8. Determinations made by the director pursuant to this chapter shall be subject to the appeals procedures set forth in section 19.35.170. [Ord. 493 § 1, 2008]

19.35.120 Project list

1. The project list for the city's transportation impact fee program is established in Table 19.35-1 and is herein incorporated by reference.
2. Transportation impact fees shall only be imposed for system improvements that are reasonably related to the new development.
3. Transportation impact fees shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development.
4. Transportation impact fees shall be used for system improvements that will reasonably benefit the new development.
5. Transportation impact fees must be spent on system improvements included in the project list (Table 19.35-1).
6. The director shall periodically review the project list and costs for the transportation impact fee program and shall recommend updates, if any, as part of an amendment to BMC 19.35. [Ord. 493 § 1, 2008]

19.35.130 Time of payment of fees

1. All applicants shall pay an impact fee in accordance with the provisions of this chapter at the time that the applicable building permit or certificate of occupancy when a building permit is not required, is ready for issuance, **unless the applicant applies for deferred payment of impact fees pursuant to BMC 19.35.135**. The impact fee paid shall be based upon the schedule in effect at the time of the issuance.
2. If the development is modified or conditioned in such a way as to alter the land uses or unit count for the development after issuance of the building permit or certificate of occupancy, the impact fee will be recalculated accordingly, based on the provisions of this chapter. If the recalculated fee is greater than the previously paid fee, the city shall withhold or revoke the certificate of occupancy until the updated fee is paid. If the recalculated fee is less than the

previously paid fee, then the city will refund the difference, unless the fees have already been spent or encumbered by the city.

3. No building permit or certificate of occupancy shall be issued until the impact fee is paid, unless the applicant applies for deferred payment of impact fees pursuant to BMC 19.35.135.
4. Impact fees may be paid under protest in order to obtain a permit or other approval of development activity. [Ord. 493 § 1, 2008]
5. The city may impose an application fee, as provided for in the city's adopted Permit Fees and Engineering Review Deposit Schedule, to cover the reasonable cost of administration of the impact fee program. The fee is not refundable and is collected from the applicant of the development activity permit at time of permit issuance.

19.35.135 Option for deferred payment of impact fees

1. An applicant may request, at any time prior to building permit issuance, and consistent with the requirements of this section, to defer to the final inspection the payment of an impact fee for a residential development unit. The following shall apply to any request to defer payment of an impact fee:
 - A. The applicant shall submit to the city a written request to defer the payment of an impact fee for a specifically identified building permit. The applicant's request shall identify, as applicable, the applicant's corporate identity and contractor registration number, the full names of all legal owners of the property upon which the development activity allowed by the building permit is to occur, the legal description of the property upon which the development activity allowed by the building permit is to occur, the tax parcel identification number of the property upon which the development activity allowed by the building permit is to occur, and the address of the property upon which the development activity allowed by the building permit is to occur. All applications shall be accompanied by an administrative fee as provided for in the city's adopted Permit Fees and Engineering Deposit Schedule.
 - B. The impact fee amount due under any request to defer payment of impact fees shall be based on the schedule in effect at the time the applicant provides the city with the information required in subsection A of this section.
 - C. Prior to the issuance of a building permit that is the subject of a request for a deferred payment of impact fee, all applicants and/or legal owners of the property upon which the development activity allowed by the building permit is to occur must sign a deferred impact fee payment lien in a form acceptable to the city attorney. The deferred impact fee payment lien shall be recorded against the property subject to the building permit and be granted in favor of the city in the amount of the deferred impact fee. Any such lien shall be junior and subordinate only to one mortgage for the purpose of construction upon the same real property subject to the building permit. In addition to the administrative fee required in subsection A of this section, the applicant shall pay to the city the fees necessary for recording the lien agreement with the King County recorder.
 - D. The city shall not approve a final inspection until the transportation impact fees identified in the deferred impact fee payment lien are paid in full.

- E. In no case shall payment of the impact fee be deferred for a period of more than 18 months from the date of building permit issuance.**
- F. Upon receipt of final payment of the deferred impact fee as identified in the deferred impact fee payment lien, the city shall execute a release of lien for the property. The property owner may, at his or her own expense, record the lien release.**
- G. In the event that the deferred impact fee is not paid within the time provided in this subsection, the city shall institute foreclosure proceedings under the process set forth in Chapter 61.12 RCW.**
- H. An applicant is entitled to defer impact fees pursuant to this section for no more than 20 single-family dwelling unit building permits per year in the city. For the purposes of this section, an “applicant” includes an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant.**

19.35.140 Impact fee account

1. There is created and established a special purpose, non-lapse transportation impact fee fund. As necessary, the city shall establish separate accounts within such fund and maintain records for each such account whereby transportation impact fees collected can be segregated by service area in accordance with this chapter.
2. All interest shall be retained in the account and expended for the purposes for which the impact fees were imposed.
3. The city shall provide a report for the previous calendar year on each impact fee account showing the source and amount of moneys collected, earned or received and system improvements that were financed in whole or in part by impact fees.
4. The transportation impact fees paid to the city shall be held and disbursed as follows:
 - A. The transportation impact fees collected shall be placed in a deposit account within the impact fee fund;
 - B. When the council appropriates capital improvement project (CIP) funds for a project on the project list, the fees held in the transportation impact fee fund shall be transferred to the CIP fund. Any non-impact fee moneys appropriated for the project may comprise both the public share of the project cost and an advancement of that portion of the private share that has not yet been collected in transportation impact fees;
 - C. The first money spent by the finance director on a project after a council appropriation shall be deemed to be the fees from the impact fee fund;
 - D. Fees collected after a project has been fully funded by means of one or more council appropriations shall constitute reimbursement to the city of the public moneys advanced for the private share of the project.
 - E. Projects shall be funded by a balance between transportation impact fees and public funds, and shall not be funded solely by transportation impact fees.
 - F. Transportation impact fees shall be expended or encumbered for a permissible use within six years of receipt, unless an extraordinary or compelling reason exists for the fees to be held

longer than six years. The finance director may recommend to the council that the city hold fees beyond six years in cases where extraordinary or compelling reasons exist. Such reasons shall be identified in written findings by the council. [Ord. 493 § 1, 2008]

19.35.150 Use of funds

1. Transportation impact fees shall only be used for transportation system improvements identified in the capital facilities plan and on the project list as set forth in Table 19.35-1.
2. Transportation impact fees referenced in this chapter may be spent for public improvements, including but not limited to planning, land acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing and administrative expenses, applicable impact fees or mitigation costs, capital equipment pertaining to planned facilities, and any other expenses which can be capitalized.
3. Transportation impact fees may also be used to recoup public improvement costs previously incurred by the city to the extent that new growth and development will be served by the previously constructed improvements or incurred costs.
4. In the event that bonds or similar debt instruments are or have been issued for the advanced provision of public improvements for which impact fees may be expended, impact fees may be used to pay the principal on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the new development. [Ord. 493 § 1, 2008]

19.35.160 Refunds

1. An applicant may request and shall receive a refund when the developer does not proceed with the development activity for which transportation impact fees were paid, and the applicant shows that no impact has resulted, and the city has not yet spent or encumbered the fees; however, the impact fee administrative fee shall not be refunded. If the city has spent or encumbered the fees, no refund shall be made to the applicant.
2. If an owner appears to be entitled to a refund of transportation impact fee under RCW 82.02.080, the finance director shall notify the owner by first class mail deposited with the United States Postal Service at their last known address. The owner must submit a request for a refund to the finance director in writing within one year of the date the right to claim the refund arises or the date the notice is given, whichever is later. Any transportation impact fees that are not expended or encumbered within the time limitations established by this chapter and for which no application for a refund has been made within this one-year period, shall be retained and expended on any transportation project.
3. In the event that transportation impact fees must be refunded for any reason, they shall be refunded with interest earned to the owners as they appear of record with the King County assessor at the time of refund.
4. When the city seeks to terminate any or all impact fee requirements, all unexpended or unencumbered funds shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the city shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail to the last known address of claimants. Claimants shall request refunds as in subsection (2) of this section. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained

by the city, but must be expended on the system improvements included in the project list (Table 19.35-1). This notice requirement shall not apply if there are no unexpended or unencumbered balances within an account or accounts being terminated. [Ord. 493 § 1, 2008]

19.35.170 Appeals

An applicant may appeal the amount of an impact fee determined by the director as provided in BMC 19.65.065 Type 1 Decision Appeal Provisions. [Ord. 493 § 1, 2008]

19.35.180 Authorization for interlocal agreements

The city council is authorized to execute, on behalf of the city, an interlocal agreement with other local governments for the collection, expenditure, and reporting of impact fees. [Ord. 493 § 1, 2008]

19.35.190 Relationship to State Environmental Policy Act (SEPA)

1. All development shall be subject to environmental review pursuant to SEPA and other applicable city ordinances and regulations.
2. Further mitigation in addition to the impact fee shall be required for identified adverse impacts appropriate for mitigation pursuant to SEPA that are not mitigated by an impact fee.
3. Nothing in this chapter shall be construed to limit the city's authority to deny development permits when a proposal would result in significant adverse transportation impacts identified in an environmental impact statement and reasonable mitigation measures are insufficient to mitigate the identified impact. [Ord. 493 § 1, 2008]

19.35.200 Relationship to concurrency management

Neither compliance with this chapter or the payment of any fee hereunder shall constitute a determination of transportation concurrency under this chapter. [Ord. 493 § 1, 2008]

19.35.210 Necessity of compliance

A building permit, or other construction permit in those instances where a building permit is not required, issued after the effective date of this ordinance shall be null and void if issued without substantial compliance with this chapter by the department, the approving authority and the director. [Ord. 493 § 1, 2008]

**Table 19.35-1
Transportation Impact Fee Project List**

ID	Project Name	Project Limits	Total Cost	Impact Fee Cost	Impact Fee Project
1	1 st Ave S – Phase 1	SW 146 th St to SW 163 rd Pl	\$11,535,100	\$9,035,100	PARTIAL
2A	1 st Ave S – Phase 2	SW 140 th St to SW 146 th St	\$7,527,800	\$2,258,300	PARTIAL
2B	1 st Ave S – Phase 3	SW 128 th St to SW 140 th St	\$15,000,000	\$2,500,000	PARTIAL
3	Sylvester Rd SW	SW 160 th St to 6 th Ave SW	\$1,000,000	\$0	No
4	SW 160 th St	Sylvester Rd SW to 1 st Ave S	\$1,500,000	\$1,500,000	YES
5	Ambaum Blvd SW/SW 148 th St	Intersection	\$168,900	\$0	No
6	4 th Ave SW/SW 148 th St	Intersection	\$254,400	\$0	No
7	4 th Ave SW/SW 153 rd St	Intersection	\$354,800	\$354,800	YES
8	Ambaum Blvd SW Corridor Study	SW 116 th St to 1 st Ave S (116 th , 126 th , 128 th , 136 th , 156 th)	\$240,000	\$0	No
9	1 st Ave S Interim Left-Turn Signals	SW 136 th St & SW 143 rd St Intersections	\$150,000	\$0	No
10	21 st Ave SW	15700 Block of 21 st Ave S	\$492,520	\$0	No
11	16 th Ave S		\$40,000	\$0	No
12	Maplewild Ave SW	29 th Pl SW to 33 rd Ave SW	\$5,700,000	\$0	No
13	Overlay Projects	CITYWIDE – Arterials and Neighborhood Streets	\$2,432,670	\$0	No
14	Downtown Street and Sidewalk Improvements	Downtown Burien	\$6,500,000	\$0	No
15	8 th Ave S	S 128 th St to S 152 nd St	\$7,602,655	\$2,280,800	Partial
16	4 th Ave SW Pedestrian Safety Project, Phase 2	SW 153 rd St to SW 156 th St (east side of street)	\$1,355,015	\$0	No

Total City Costs	\$61,853,860	\$17,929,000
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Sources: City of Burien Long-range Transportation Improvement Program. City of Burien 2008 Adopted Budget, and City Staff

*Re-typed version of chart that was adopted by Ord. 493, 2009.

**Table 19.35-2
Schedule of Transportation Impact Fees**

Land Use Category – Trip Generation, 7 th Edition*	Notes	ITE Land Use Code	ITE Average PM Peak Hour Trip Rate (1)	Unit**	Pass-By Trip Reduction Factor*** (2)	Net New Trip Rate (3)	Impact Fee Per Unit (4)
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Residential

Single-Family Detached Housing	3	210	1.01	Dwelling Unit	1.00	1.01	957
Apartment	3	220	0.62	Dwelling Unit	1.00	0.62	588
Low-Rise Apartment (1-2 Floors)	3	221	0.58	Occupied Dwelling Unit	1.00	0.58	550
High-Rise Apartment (> 10 floors)	3	222	0.35	Dwelling Unit	1.00	0.35	332
Mid-Rise Apartment (3-10 floors)	3	223	0.39	Dwelling Unit	1.00	0.39	370
Residential Condominium/Townhouse	3	230	0.52	Dwelling Unit	1.00	0.52	493
Mobile Home Park	3	240	0.59	Occupied Dwelling Unit	1.00	0.59	559
Senior Adult Housing – Detached	3	251	0.26	Dwelling Unit	1.00	0.26	246
Senior Adult Housing – Attached		252	0.11	Occupied Dwelling Unit	1.00	0.11	104
Congregate Care Facility	1	253	0.17	Occupied Dwelling Unit	1.00	0.17	161
Assisted Living		254	0.22	Bed	1.00	0.22	209
Recreational Homes	1	260	0.26	Dwelling Unit	1.00	0.26	246
Residential Planned Unit Development (PUD)	3	270	0.62	Dwelling Unit	1.00	0.62	588

Institutional

County Park	1	412	0.06	Acre	1.00	0.06	57
Beach Park	1	415	1.30	Acre	1.00	1.30	1,232
Regional Park	1	417	0.20	Acre	1.00	0.20	190
Golf Course	1	430	0.30	Acre	1.00	0.30	284
Multipurpose Recreational Facility	1	435	3.35	1,000 sf GFA	1.00	3.35	3,176
Bowling Alley	1	437	3.54	1,000 sf GFA	1.00	3.54	3,356
Movie Theater with Matinee	1	444	0.07	Seat	1.00	0.07	66
Casino/Video Lottery Establishment		473	13.43	1,000 sf GFA	1.00	13.43	12,732
Tennis Courts	1	490	3.88	Tennis Court	1.00	3.88	3,678
Recreational Community Center	1	495	1.64	1,000 sf GFA	1.00	1.64	1,555
Health/Fitness Club	1	492	4.05	1,000 sf GFA	1.00	4.05	3,839
Elementary School	4	520	n/a (see note)	1,000 sf GFA	1.00	n/a	n/a
Middle School/Junior High School		522	1.19	1,000 sf GFA	1.00	1.19	1,128
High School		530	0.97	1,000 sf GFA	1.00	0.97	920
Church		560	0.66	1,000 sf GFA	1.00	0.66	626

**Table 19.35-2
Schedule of Transportation Impact Fees**

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Institutional (cont)

Day Care Center		565	13.18	1,000 sf GFA	1.00	13.18	12,495
Library		590	7.09	1,000 sf GFA	1.00	7.09	6,721
Hospital		610	1.18	1,000 sf GFA	1.00	1.18	1,119
Nursing Home	1	620	0.42	1,000 sf GFA	1.00	0.42	398
Clinic	1	630	1.23	Employee	1.00	1.23	1,166

Business & Commercial

Hotel		310	0.59	Room	1.00	0.59	559
All Suites Hotel	1	311	0.40	Room	1.00	0.40	379
Motel		320	0.47	Room	1.00	0.47	446
Resort Hotel	3	330	0.42	Room	1.00	0.42	398
Building Materials and Lumber Store	2(a), 3	812	4.49	1,000 sf GFA	0.75	3.37	3,192
Free-Standing Discount Superstore		813	3.87	1,000 sf GFA	0.72	2.79	2,642
Specialty Retail Center	1, 2(b), 3	814	2.71	1,000 sf GLA	0.66	1.79	1,696
Free-Standing Discount Store		815	5.06	1,000 sf GFA	0.83	4.20	3,981
Hardware/Paint Store	3	816	4.84	1,000 sf GFA	0.74	3.58	3,395
Nursery (Garden Center)	2(a)	817	3.80	1,000 sf GFA	0.72	2.74	2,594
Nursery (Wholesale)	2(a)	818	5.17	1,000 sf GFA	0.72	3.72	3,529
Shopping Center	5	820	n/a (see note)	1,000 sf GLA	0.66	n/a	n/a
Factory Outlet Center	2(b)	823	2.29	1,000 sf GFA	0.66	1.51	1,433
New Car Sales	2(a)	841	2.64	1,000 sf GFA	0.75	1.98	1,877
Automotive Parts Sales	1, 3	843	5.98	1,000 sf GFA	0.57	3.41	3,231
Tire Store		848	4.15	1,000 sf GFA	0.72	2.99	2,833
Tire Superstore	2(e)	849	2.11	1,000 sf GFA	0.72	1.52	1,440
Supermarket	3	850	10.45	1,000 sf GFA	0.64	6.69	6,340
Convenience Market (Open 24-Hours)		851	52.41	1,000 sf GFA	0.39	20.44	19,377
Convenience Market (Open 15-16 Hours)	1, 2(i)	852	34.57	1,000 sf GFA	0.39	13.48	12,781
Convenience Store with Gasoline Pumps		853	19.22	Vehicle Fueling Position	0.34	6.53	6,195
Discount Supermarket	3	854	8.90	1,000 sf GFA	0.77	6.85	6,497
Discount Club	2(f)	861	4.24	1,000 sf GFA	0.77	3.26	3,095

**Table 19.35-2
Schedule of Transportation Impact Fees**

Land Use Category – Trip Generation, 7 th Edition*	Notes	ITE Land Use Code	ITE Average PM Peak Hour Trip Rate (1)	Unit**	Pass-By Trip Reduction Factor*** (2)	Net New Trip Rate (3)	Impact Fee Per Unit (4)
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Business & Commercial (cont)

Home Improvement Superstore		862	2.45	1,000 sf GFA	0.52	1.27	1,208
Electronic Superstore	1	863	4.50	1,000 sf GFA	0.60	2.70	2,560
Toy Children’s Superstore	1, 2(b)	864	4.99	1,000 sf GFA	0.66	3.29	3,122
Pet Supply Superstore	1, 2(b)	866	4.96	1,000 sf GFA	0.66	3.27	3,103
Office Supply	1, 2(f)	867	3.40	1,000 sf GFA	0.77	2.62	2,482
Book Superstore	1, 2(b)	868	19.53	1,000 sf GFA	0.66	12.89	12,220
Discount Home Furnishing Superstore	1, 2(b)	869	4.01	1,000 sf GFA	0.66	2.65	2,509
Apparel Store	2(b)	870	3.83	1,000 sf GFA	0.66	2.53	2,396
Art and Craft Store	1, 2(f)	879	6.21	1,000 sf GFA	0.77	4.78	4,533
Pharmacy/Drug Store without Drive-Through		880	8.42	1,000 sf GFA	0.47	3.96	3,752
Pharmacy/Drug Store with Drive Through		881	8.62	1,000 sf GFA	0.51	4.40	4,168
Furniture Store		890	0.46	1,000 sf GFA	0.47	0.22	205
Video Rental Store	2(b), 3	896	13.60	1,000 sf GFA	0.66	8.98	8,509
Walk-in Bank	1, 2(d)	911	33.15	1,000 sf GFA	0.53	17.57	16,656
Drive-in Bank		912	45.74	1,000 sf GFA	0.53	24.24	22,982
Quality Restaurant		931	7.49	1,000 sf GFA	0.56	4.19	3,976
High Turnover (Sit –Down) Restaurant		932	10.92	1,000 sf GFA	0.57	6.22	5,901
Fast Food Restaurant without Drive-Through	1, 2(g)	933	26.15	1,000 sf GFA	0.50	13.08	12,395
Fast Food Restaurant with Drive-Through		934	34.64	1,000 sf GFA	0.50	17.32	16,419
Quick Lubrication Vehicle Shop	2(c)	941	5.19	Servicing Position	0.57	2.96	2,804
Automobile Care Center	1, 2(c)	942	3.38	1,000 sf GLA	0.57	1.93	1,826
Automobile Parts and Service Center	1, 2(c)	943	4.46	1,000 sf GLA	0.57	2.54	2,410
Gasoline/Service Station		944	13.86	Vehicle Fueling Position	0.58	8.04	7,621
Gasoline/Service Station w/ Convenience Market		945	13.38	Vehicle Fueling Position	0.44	5.89	5,581
Gasoline/Service Station w/ Convenience Market & Car Wash	2(h)	946	13.33	Vehicle Fueling Position	0.44	5.87	5,560
Self-Service Car Wash	2(h)	947	5.54	Wash Stall	0.44	2.44	2,311

Office

General Office Building	3	710	1.49	1,000 sf GFA	1.00	1.49	1,413
Corporate Headquarters Building	3	714	1.40	1,000 sf GFA	1.00	1.40	1,327

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Schedule of Transportation Impact Fees**

Land Use Category – Trip Generation, 7 th Edition*	Notes	ITE Land Use Code	ITE Average PM Peak Hour Trip Rate (1)	Unit**	Pass-By Trip Reduction Factor*** (2)	Net New Trip Rate (3)	Impact Fee Per Unit (4)
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Office (cont)

Single Tenant Office Building	3	715	1.73	1,000 sf GFA	1.00	1.73	1,640
Medical Dental Office Building	3	720	3.72	1,000 sf GFA	1.00	3.72	3,527
Government Office Building	1	730	1.20	1,000 sf GFA	1.00	1.20	1,138
United States Post Office		732	10.89	1,000 sf GFA	1.00	10.89	10,324
Office Park	3	750	1.50	1,000 sf GFA	1.00	1.50	1,422
Research and Development Center	3	760	1.08	1,000 sf GFA	1.00	1.08	1,024
Business Park	3	770	1.29	1,000 sf GFA	1.00	1.29	1,223

Industrial

General Light Industrial	3	110	0.98	1,000 sf GFA	1.00	0.98	929
General Heavy Industrial	1	120	0.88	Employee	1.00	0.88	834
Industrial Park		130	0.86	1,000 sf GFA	1.00	0.86	815
Manufacturing	3	140	0.74	1,000 sf GFA	1.00	0.74	702
Warehousing	3	150	0.47	1,000 sf GFA	1.00	0.47	446
Mini-Warehouse		151	0.26	1,000 sf GFA	1.00	0.26	246
Utilities	1	170	0.76	1,000 sf GFA	1.00	0.76	720

Port and Terminal

Truck Terminal	1	30	0.55	Employee	1.00	0.55	521
Park-and-Ride Lot with Bus Service	3	90	0.62	Parking Space	1.00	0.62	588

*Trip Generation, Institute of Transportation Engineers, 7th Edition, 2003

**Abbreviations include: GFA = Gross Floor Area, sf = square feet, and GLA = Gross Leasable Area

***The Pass-By Trip Reduction Factor reduces the Average Trip Rate based on average Pass-By trip percentages in the *ITE Trip Generation Handbook* (2nd Edition, 2004).

NET NEW TRIP RATE CALCULATION:

ITE Trip Rate (1)	X	Pass-By Reduction Factor (2)	=	Net New Trip Rate (3)
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IMPACT FEE CALCULATION:

Net New Trip Rate (3)	X	\$948 Per New PM Peak Hour Trip	=	Impact Fee per Unit of Development (4)
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NOTES:

(1) *Trip Generation* (7th Edition, 2003) has less than 6 studies supporting this average rate. Applicants are strongly encouraged to conduct, at their own expense, independent trip generation studies in support of their application.

(2) No pass-by rates are available. Pass-by rates were estimated from other similar uses.

Code	Land Use	Pass-By	Trip Reduction Factor
2 (a)	No Data Available 25% Estimated Pass-by		0.75
2 (b)	Shopping Center (850)	0.66	
2 (c)	Auto Parts Sales (843)		0.57
2 (d)	Bank/Drive-in (912)		0.53
2 (e)	Tire Store (848)		0.72
2 (f)	Discount Supermarket (854)		0.77
2 (g)	Fast Food Restaurant with Drive-Through (934)		0.50
2 (h)	Gasoline/Service Station w/ Convenience Market (945)		0.44
2 (i)	Convenience Market (24 Hr) (851)	0.39	

(3) Alternatively, the PM peak hour trip regression equation in *Trip Generation* can be used instead of the average trip rate identified in the table. However, the equation must be used according to the instructions in *Trip Generation*.

(4) No Average PM peak hour trip rate available. Need to perform own PM peak hour traffic count for the identified land use to calculate impact fee.

(5) ITE *Trip Generation* (7th Edition, 2003) equation used instead of trip rate.

Note: The information in this document is a retyped version of the chart and notes that were adopted by Ord. 493, 2009