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**Memorandum**

To: Vail Town Council

From: Community Development Department

Date: June 6, 2017

Subject: First reading of Ordinance No. 4, Series of 2017, an ordinance for a prescribed regulations amendment, pursuant to Section 12-3-7, Amendment, Vail Town Code, to amend Title 12 of the Vail Town Code with the addition of a new Chapter 26, Transportation Impact Fee. (PEC17-0008)

## **I. SUMMARY**

The applicant, the Town of Vail, represented by Tom Kassmel, Town Engineer, is requesting a prescribed regulations amendment to Title 12 of the Vail Town Code to add a new Chapter 26, Transportation Impact Fee, pursuant to Section 12-3-7 Amendment, Vail Town Code, and setting forth details in regard thereto.

The proposed transportation impact fee would apply to new developments, including creation of any new residential dwelling units, or any new commercial floor area. The fee does not apply to residential remodels where no additional units are added, or to commercial remodels that do not increase square footage. This new fee would be paid by the owner or developer, and would be collected by the Community Development Department at the time of issuance of a building permit. Revenues from this fee would be used by the Town of Vail for new transportation related infrastructure projects that are necessary due to the increased traffic from the incremental new development.

## **II. BACKGROUND**

A transportation impact fee is a development fee assessed to offset costs that a jurisdiction will incur to improve transportation infrastructure as a result of increased traffic from new developments. The Town of Vail has collected transportation fees for certain development zone districts (including Public Accommodation, Public Accommodation-2, Lionshead Mixed Use-1, and Lionshead Mixed Use-2) since 1999.

In 2016, the Town of Vail hired the consulting firm TischlerBise to develop an updated transportation impact fee. The impact fee is proposed to codify the current traffic mitigation fee to help fund future transportation related projects identified in the Vail Transportation Master Plan. The proposed fee will be applied in all zone districts, and will require developers to pay their proportional share for the necessary transportation

infrastructure improvements that are directly related to the impacts created by the new development.

Over the past year there have been multiple public discussions regarding the codification of a transportation impact fee. These public discussions were as follows:

- January 2016: Town Council: Review of the current traffic mitigation fee and the previous effort to codify a traffic impact fee in 2009, and discussion of the next steps to reengage codification.
- June 2016: Town Council: Discussion with consultant, TischlerBise, regarding:
- What is a traffic impact fee?
  - Why implement a traffic impact fee?
  - What's wrong with our current mitigation fees?
  - Can the Town waive fees for certain types of developments?
- Nov. 2016: Town Council: Review and confirmation of the Transportation Master Plan capital project list and to what extent (percentage) a transportation impact fee can fund projects.
- January 2017: Town Council: Presentation by TischlerBise of the draft schedule of transportation impact fees based on the completed Nexus Study.
- February 2017: Town Council: Review and discussion of the impact fee and the capital projects list.
- March 2017: Public Open House: Review and discuss the proposed transportation impact fee
- April 2017: PEC: Review and discussion of the impact fee and the capital projects list.
- May 2017: PEC: Review of an application for a prescribed regulations amendment to Title 12, the Transportation Impact Fee Study, and the proposed ordinance. The recommendation of the PEC to the Town Council was for approval of the transportation impact fee and ordinance as presented by staff (Vote 4-3).

Much of the public comment and discussion with the Planning and Environmental Commission (PEC) surrounded the additional burden this fee would impose on new development, and how a broader based fee or tax (i.e. increase in sales tax) would be less burdensome on new development. Based on 2016 sales tax collections, a sales tax increase of 0.13% would be necessary to equal the revenue expected from the proposed transportation impact fee. However, a tax increase would require a vote of the Vail residents. A sales tax would also require payment across the community, not only by those creating the new developments.

To better understand the cost of this fee on development, staff provided the PEC with an updated cost of development table, which outlines the actual costs of development in Vail from Town of Vail fees and taxes. Typically the cost of fees and taxes that developers pay to the Town of Vail is approximately 3-4% of the construction valuation, with the proposed transportation impact fee adding 0% to 0.9%, however more typically, it would add 0-0.4%. (See Attachment C.)

### III. PLANNING AND ENVIRONMENTAL COMMISSION RECOMMENDATION

On May 8, 2017, the Planning and Environmental Commission voted 4-3 to recommend that the Vail Town Council approve Ordinance No. 4, Series of 2017, upon first reading. This recommendation was based upon the review of the criteria outlined in Section V of the May 8, 2017 memorandum to the PEC and the evidence and testimony presented. Please see the PEC Meeting Results included as Attachment E for additional detail on the PEC discussion.

The Commissioners that voted against this recommendation did so for a variety of reasons. Two Commissioners (Perez and Stockmar) indicated that the ordinance was not ready for adoption. Commissioner Stockmar requested additional information on how communities with similar geography (long but narrow geographic boundaries) address this issue. Commissioner Perez questioned the separate rates for development inside and outside the commercial core areas. Commissioner Gillette felt that the proposed fee would be a burden on developers, and that a sales tax would be a fairer method of collecting fees.

### IV. TRANSPORTATION IMPACT FEE STUDY

TischlerBise has provided an updated nexus study, The Vail Transportation Impact Fee Study (March 10, 2017), and an updated fee schedule for the Town's review. The fee schedule is based on anticipated future development, the current estimated cost of the capital projects to accommodate future development, and the proportional fiscal responsibility. Since completion of the nexus study, and its review by Town Council, Staff and PEC recommend that the Residential Single Family Dwelling fee be simplified to a per unit relationship, eliminating the square footage relationship. This will simplify implementation and will eliminate the fee for remodels and demo/rebuilds, unless an additional unit is constructed. The proposed draft fee schedule is below. The previous draft versions are included in Attachment D for comparison.

#### *Transportation Impact Fee Schedule*

Maximum Supportable Transportation Impact Fees	
<u>Residential Dwellings (per Unit)</u>	
Dwelling, Two Family or Multiple Family (In the Core Area)	\$ 5,960.00
Dwelling, Two Family or Multiple Family (Outside the Core Area)	\$ 7,450.00
Dwelling, Single Family	\$ 9,686.00
Employee Housing Unit	\$0
<u>Accommodation Unit (per Unit)</u>	
Accommodation Unit (In Core Area)	\$ 5,960.00
Accommodation Unit (Outside Core Area)	\$ 7,450.00
<u>Commercial (per square foot of floor area)</u>	
Restaurant & Retail Establishments	\$ 13.90
Facilities, Health Care	\$ 9.93

For comparison, the following cities and counties have adopted impact fees shown within the table below. The jurisdiction most similar to Vail is Pitkin County, which last had its Road Impact Fee updated in 2013.

***Transportation Impact Fee Comparison***

	<u>Per Housing Unit</u>		<u>Per 1,000 Sq Ft</u>	
	<i>Single Family</i>	<i>Multifamily</i>	<i>Retail</i>	<i>Office</i>
National Average (1)	\$3,228	\$2,202	\$5,685	\$3,430
<b>Incorporated Areas in Colorado</b>				
Durango (1)	\$2,169	\$1,298	\$3,810	\$2,823
Ft. Collins 2016 Draft (2)	\$6,217	\$4,095	\$8,113	\$5,977
Vail current*	\$0	\$2,366	\$10,569	\$9,685
Proposed in Core Area of Vail (2)	not applicable	\$5,960	\$13,900	\$6,200
Proposed Outside Core Area (2)	\$9,686	\$7,450	\$13,900	\$6,200
<b>Counties in Colorado</b>				
Eagle Co. (1)	\$4,378	\$3,034	\$9,026	\$5,164
Jefferson Co. (1)	\$3,276	\$2,725	\$7,120	\$4,790
Larimer Co. (2)	\$3,418		\$8,812	\$4,726
Pitkin Co. (2)	\$9,339	\$5,115	\$10,910	\$5,130
Weld Co. (2)	\$2,377		\$3,296	\$2,174

*Sources: (1) National Impact Fee Survey by Duncan Associations (2012). Single Family assumes 2,000 square feet. Nonresidential fees per thousand square feet assume a building with 100,000 square feet of floor area.*

*(2) TischlerBise. Single Family in Vail and Pitkin County assumes 4,000 square feet.*

*\* Current fees in Vail are based on the net increase in PM Peak Hour vehicle trip ends generated by the entire development, with mitigation limited to certain areas and*

## **V. ORDINANCE**

In order to implement this Transportation Impact Fee, the Town Council will need to adopt the attached Ordinance 4, Series of 2017, Transportation Impact Fee, and then adopt the fee schedule by Resolution. Staff recommends approving Ordinance No. 4, Series 2017, as recommended by the Planning and Environmental Commission, with one clarification to section 12-26-4.C (changes are shown in **bold underline**):

“C. Credit shall be provided for any construction of Town-approved **System Level** transportation infrastructure or facilities **as identified in the Vail Transportation Impact Fee Study**, undertaken by the applicant at the applicant's cost that offset the transportation impacts of the project.”

This clarification is important to ensure that a developer or applicant is not eligible for a credit for Project Level improvements (those improvements that are only needed due to an individual development project) or other infrastructure not identified in the Vail

Transportation Impact Fee Study. Staff requests that any motion for approval of this ordinance include a reference to this modified language in Section 12-26-4 C of the proposed ordinance.

## VI. ACTION REQUESTED OF THE TOWN COUNCIL

The Planning and Environmental Commission recommends adopting Ordinance No. 4, Series 2017 upon first reading.

Should the Vail Town Council choose to approve Ordinance No. 4, Series of 2017, upon first reading, the Planning and Environmental Commission recommends the Council passes the following **motion**:

*“The Vail Town Council approves, on first reading, Ordinance No. 4 Series of 2017, an ordinance for a prescribed regulation amendment, pursuant to Section 12-3-7, Amendment, Vail Town Code, to amend Title 12, Vail Town Code through the addition of a new Chapter 26, Transportation Impact Fee, and setting forth details in regard thereto, with the following change to Section 12-26-4 C of the proposed code language, which shall read as follows:*

*“C. Credit shall be provided for any construction of Town-approved **System Level** transportation infrastructure or facilities **as identified in the Vail Transportation Impact Fee Study**, undertaken by the applicant at the applicant's cost that offset the transportation impacts of the project.”*

Should the Vail Town Council choose to approve Ordinance No. 4, Series of 2017 on first reading, the Planning and Environmental Commission recommends the Council makes the following **findings**:

*“Based upon the review of the criteria outlined in Section V of the Staff memorandum to the Planning and Environmental Commission dated May 8, 2017 and the evidence and testimony presented, the Vail Town Council finds:*

- 1. That the amendment is consistent with the applicable elements of the adopted goals, objectives and policies outlined in the Vail Comprehensive Plan and is compatible with the development objectives of the Town; and*
- 2. That the amendment furthers the general and specific purposes of the Zoning Regulations outlined in Section 12-1-2, Purpose, Vail Town Code; and*
- 3. That the amendment promotes the health, safety, morals, and general welfare of the Town and promotes the coordinated and harmonious*

*development of the Town in a manner that conserves and enhances its natural environment and its established character as a resort and residential community of the highest quality."*

## **VII. ATTACHMENTS**

Attachment A – Ordinance No. 4, Series 2017

Attachment B – Vail Transportation Impact Fee Study, March 10, 2017

Attachment C – Cost of Development Table

Attachment D – Draft Fee Schedule Versions

Attachment E – Planning and Environmental Commission Results of May 8, 2017

Attachment F – Planning and Environmental Commission Staff memo of May 8, 2017