



Memorandum

To: Planning and Environmental Commission

From: Community Development Department

Date: May 8, 2017

Subject: A request for a recommendation to the Vail Town Council for a prescribed regulations amendment pursuant to Section 12-3-7 Amendment, Vail Town Code, to amend Title 12 of the Vail Town Code to add a new Chapter 26, Transportation Impact Fee, and setting forth details in regard thereto. (PEC17-0008)

Applicant: Town of Vail, represented by Tom Kassmel
Planner: Chris Neubecker

I. SUMMARY

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

Based upon staff's review of the criteria outlined in Section V of this memorandum and the evidence and testimony presented, the Community Development Department recommends the Planning and Environmental Commission (PEC) forward a **recommendation of approval** to the Vail Town Council for the proposed prescribed regulations amendment.

II. DESCRIPTION OF REQUEST

The Vail Transportation Impact Fee is intended to ensure that applicants for new developments pay for the transportation related impacts caused by the development. In order to codify this fee, the Town Council has requested the adoption of a new chapter within Title 12 of the Vail Town Code.

The Town of Vail has hired the consulting firm TischlerBise to develop an updated Transportation Impact Fee by providing a nexus study to show the connection between new development and the need for new transportation projects (Attachment A). The proposed regulation amendment is intended to codify the traffic mitigation fee, help fund

future transportation related projects as identified in the Vail Transportation Master Plan, and allow new development to “pay its way”.

The 2009 Vail Transportation Master Plan Update recommends completion of a nexus study in order to determine the impacts of development on the Town’s transportation infrastructure and recommends codifying the impact fee, including adjusting the fee based on the new transportation needs and cost information. Specifically, the Plan Update states:

Complete the Nexus study in 2009 for a traffic impact fee to codify the current practice and adjust the fee if desired based on the new transportation need and cost information

Over the past year there have been multiple discussions with the Town Council regarding the codification of a Transportation Impact Fee; the Town Council has directed staff to move forward with the codification process based on the most recent nexus study developed by TischlerBise.

The Planning and Environmental Commission’s role in the review of the Code language is to make a recommendation on the language that should be incorporated into the Town Code to allow for an implementable Transportation Impact Fee. The PEC may also make a recommendation of an alternate policy for financing the required transportation improvements, but the final determination will be made by Town Council.

III. 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 proposed new developments.

The Town of Vail has collected mitigating transportation fees for certain development zone districts (including Public Accommodation, Public Accommodation-2, Lionshead Mixed Use-1, and Lionshead Mixed Use-2) since 1999. The fee is not currently a codified amount, but an additional fee agreed upon by the Town and the developer for mitigation of vehicular trip impacts of a proposed development project. In 1999, the fee was set by Town Council to be \$5,000 per net new PM peak hour vehicular trip added to Vail’s road network. The fee was based on the improvements anticipated by: the Vail Transportation Master Plan; the total anticipated additional vehicular trips at that time; and the probable funding sources including Town of Vail capital funds, CDOT partnering funds, and development impact fees. In 2006, the fee was increased to \$6,500 as a direct result of inflation in construction costs, and the fee has not increased since.

In 2009 the Town adopted an updated Vail Transportation Master Plan, which included a more detailed and updated estimate of future projected transportation projects and costs. At the same time the Town engaged TischlerBise to develop a nexus study for traffic impact fees that was anticipated to be used to codify a traffic impact fee. The nexus study was completed in 2009, but the Transportation Impact Fee was not

adopted or codified by the Town Council. The Town Council at the time did not deem it appropriate to burden developers with additional fees during an economic downturn. The nexus study proposed to codify a Transportation Impact Fee based on proposed square footage and net unit increases of all development, not limiting it only to certain zone districts. This would include residential projects, and is typical of nationwide traffic impact fees. The 2009 nexus study identified \$134 Million of potential transportation related projects (Traffic, Transit, and Parking), of which \$22 Million was identified to be funded from the proposed traffic impact fee.

Since the 2009 impact fee was not codified, the Town has continued to rely on development agreements and has not increased the mitigation fee of \$6,500 per net new PM vehicular trip generated. The last large development impact fees agreed upon were for The Lion (Lionshead Inn) and the Marriott Residence Inn (The Roost) developments in 2010, and most recently, the Vail Valley Medical Center (VVMC) in 2015. Each used the 2006 fee of \$6,500 per net new PM peak hour vehicular trip. The VVMC has agreed to pay any new Transportation Impact Fee adopted prior to the start of construction of the East Phase of the VVMC development, if adopted by the Town Council and uniformly applied town wide.

With the resurgence in redevelopment, and the Town's outdated mitigation fee, Council has requested that the Town evaluate adopting an updated Transportation Impact Fee. This past March TischlerBise updated the Transportation Impact Fee Study and presented it to Council. The Town Council then requested formal codification of the Transportation Impact Fee, based on the nexus study and presentations.

IV. APPLICABLE PLANNING DOCUMENTS

Title 12 – Zoning Regulations, Vail Town Code

Section 3-7 Amendment (in part)

A. Prescription: The regulations prescribed in this title and the boundaries of the zone districts shown on the official zoning map may be amended, or repealed by the town council in accordance with the procedures prescribed in this chapter.

B. Initiation:

1. An amendment of the regulations of this title or a change in zone district boundaries may be initiated by the town council on its own motion, by the planning and environmental commission on its own motion, by petition of any resident or property owner in the town, or by the administrator.

2. A petition for amendment of the regulations or a change in zone district boundaries shall be filed on a form to be prescribed by the administrator. The petition shall include a summary of the proposed revision of the regulations, or a complete description of proposed changes in zone district boundaries and a map indicating the existing and proposed zone district boundaries. If the petition is for a change in zone district boundaries, the petition shall include a list of the owners of all properties within the boundaries of the area to be rezoned or changed, and

the property adjacent thereto. The owners' list shall include the names of all owners, their mailing and street addresses, and the legal description of the property owned by each. Accompanying the list shall be stamped, addressed envelopes to each owner to be used for the mailing of the notice of hearing. The petition also shall include such additional information as prescribed by the administrator.

V. CRITERIA FOR REVIEW

Section 12-3-7 C2 of the Zoning Regulations identifies the factors that the Planning and Environmental Commission must consider before making a recommendation for a change to the text of the code. These factors include the following:

2. Prescribed Regulations Amendment:

a. Factors, Enumerated: Before acting on an application for an amendment to the regulations prescribed in this title, the planning and environmental commission and town council shall consider the following factors with respect to the requested text amendment:

(1) The extent to which the text amendment furthers the general and specific purposes of the zoning regulations; and

The general purposes of the Zoning Regulations are to promote the health, safety, morals, and general welfare of the town, and to promote the coordinated and harmonious development of the town in a manner that will conserve and enhance its natural environment and its established character as a resort and residential community of high quality. The proposed Transportation Impact Fee will be used to advance the harmonious development of the town through transportation infrastructure projects that improve safety and facilitate movement of vehicles and pedestrians throughout the town, and help to ensure that the established character of the town remains that of a resort and residential community of high quality.

Some of the specific purposes of the Zoning Regulations are to “provide for adequate light, air, sanitation, drainage, and public facilities” and to “promote safe and efficient pedestrian and vehicular traffic circulation and to lessen congestion in the streets.” The transportation projects financed with this impact fee will help advance each of these purposes.

(2) The extent to which the text amendment would better implement and better achieve 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

The Vail Comprehensive Plan is a series of master plans and documents, including the 2009 Vail Transportation Master Plan Update. The Master Plan Update specifically mentions the updating of this impact fee as one of the next steps in the Plan: “*Complete*

the Nexus study in 2009 for a traffic impact fee to codify the current practice and adjust the fee if desired based on the new transportation need and cost information.” The proposed text amendment would better implement and better achieve the applicable elements of the adopted goals, objectives, and policies outlined in the Vail comprehensive plan by ensuring fairness and consistency in the development review process. Codifying the impact fee will also ensure that the Town’s regulatory and land use documents are updated and current, and provide ease of compliance and enforcement.

(3) The extent to which the text amendment demonstrates how conditions have substantially changed since the adoption of the subject regulation and how the existing regulation is no longer appropriate or is inapplicable; and

This is not a new impact fee, but it is a codification and update to an existing fee. Since the adoption of the original fee, the Town completed a nexus study to show the relationship between development projects and the need for new transportation projects. The study identifies an update to the fee as the appropriate manner to finance the costs of new transportation infrastructure projects. The existing regulation is no longer appropriate because of the cost of constructing new transportation infrastructure projects, and because the nexus study has provided an update to the impacts generated by new development.

(4) The extent to which the text amendment provides a harmonious, convenient, workable relationship among land use regulations consistent with municipal development objectives; and

The text amendment provides a harmonious, convenient and workable relationship among land uses by requiring the costs of new transportation projects to be paid by the new development that is causing the need for these projects. This is consistent with municipal development objectives by having new development pay for its fair share for the impacts it causes.

(5) Such other factors and criteria the planning and environmental commission and/or council deem applicable to the proposed text amendment.

b. Necessary Findings: Before recommending and/or granting an approval of an application for a text amendment the planning and environmental commission and the town council shall make the following findings with respect to the requested amendment:

(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; 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.

VI. VAIL CAPITAL PROJECTS

As a part of the 2009 Vail Transportation Master Plan and the 2009 Traffic Impact Fee Nexus Study, the Town identified a list of anticipated transportation capital projects that would accommodate projected growth. The project list and projected development growth has been recently updated, and now includes pedestrian and transit oriented projects. The preliminary total 2016 estimated cost of these multimodal projects is approximately \$95M over the next 25 years. The cost of these improvements (Attachment C) is anticipated to be partially paid through the impact fee from the development of approximately 2,000 new residential units and approximately 500,000 square feet of new commercial development that is projected for the future of Vail. The project list has broken down the associated fiscal responsibilities, and split them between project specific costs, Transportation Impact Fee costs, and Town of Vail costs or other revenue sources.

In order to implement a Transportation Impact Fee, the anticipated transportation projects have been split into two categories, Project level and System level improvements. Project level improvements are directly related to an individual development and its required access. These types of Project level improvements are generally paid for by the individual developer. System level improvements enhance the carrying capacity of the transportation network system-wide and benefit multiple developments. System level improvements directly benefit new development and may also benefit existing users. The Vail Transportation Master Plan Project List includes both Project level and System level improvements. Of the total \$95M of total project costs, approximately \$20M is considered Project level, and approximately \$75M is considered System level.

The majority, 72%, or \$54M, of the \$75M of total System Level project costs will need to be funded by the Town of Vail or other revenue resources; while 28%, or \$21M, should be funded by the Transportation Impact Fee. The anticipated Project Level costs would be paid 100% by the specific project developments, approximately \$20M.

VII. DRAFT TRANSPORTATION IMPACT FEE STUDY

TischlerBise has provided an updated nexus study, The Vail Transportation Impact Fee Study (March 10, 2017), and draft fee schedule for the Town's review. The draft fee schedule is based on anticipated future development, the current estimated cost of the capital projects to accommodate future development, and the appropriate proportioned fiscal responsibility. Since completion of the nexus study, it has been discussed that removing the square footage relationship within the detached unit, single family homes,

would be beneficial to the implementation of the fee. The proposed revised draft fee schedule is below.

Transportation Impact Fee Schedule

Maximum Supportable Transportation Impact Fees	
<u><i>Residential Dwellings (per Unit)</i></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><i>Accommodation Unit (per Unit)</i></u>	
Accommodation Unit (In Core Area)	\$ 5,960.00
Accommodation Unit (Outside Core Area)	\$ 7,450.00
<u><i>Commercial (per square foot of floor area)</i></u>	
Restaurant & Retail Establishments	\$ 13.90
Facilities Health Care	\$ 9.93
Office & Other Services	\$ 6.20

Core Area is defined as per Figure 1 in the Vail Transportation Impact Fee Study (Attachment D)

The categories within the Transportation Impact Fee Schedule are further defined below and within Title 12-2-2. Any uses or development types not specifically defined below or within Title 12-2-2 shall be interpreted by the Administrator in accordance with the Vail Transportation Impact Fee Study.

Dwelling, Two Family or Multiple Family includes;

Dwelling, Two Family
Dwelling, Multiple Family
Fractional Fee Club Unit

Accommodation Unit includes;

Accommodation Unit
Accommodation Unit, Attached
Lodge Dwelling Unit
Lodge Unit, Limited Service
Timeshare Unit

Restaurant and Retail includes;

Eating and drinking establishments
Retail stores and establishments
Theaters

Office & Other Services includes;

Professional offices, business offices and studios

Banks and financial institutions
Personal services and repair shops
Child Daycare Center
Health Clubs / Spa
Commercial Ski Storage/Ski Club
Religious Institutions

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

Transportation Impact Fee Comparison

	<i>Per Housing Unit</i>		<i>Per 1,000 Sq Ft</i>	
	<i>Single Family</i>	<i>Multifamily</i>	<i>Retail</i>	<i>Office</i>
National Average (1)	\$3,228	\$2,202	\$5,685	\$3,430
Incorporated Areas in Colorado				
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
Counties in Colorado				
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*

If the proposed Vail Transportation Impact Fee is adopted, the following is a projection of the amount of funding that would be generated by each development type:

<i>Development Type</i>	<i>Additional Development Units</i>	<i>Fee per Development Unit</i>	<i>Projected Revenue</i>	<i>Percent of Impact Fees</i>
Attached Housing Units in Core Area	705	\$5,960	\$4,202,000	20%
Attached Housing Units Outside Core	554	\$7,450	\$4,127,000	20%
Employee Housing Units in Core Area	41	\$5,960	\$244,000	1%
Employee Housing Units Outside Core	310	\$7,450	\$2,310,000	11%
Detached Housing Units	120	\$9,686	\$1,162,000	6%
Hotel Rooms in Core Area	270	\$5,960	\$1,609,000	8%
Hotel Rooms Outside Core	102	\$7,450	\$760,000	4%
Commercial KSF	320	\$13,900	\$4,448,000	21%
Hospital KSF	140	\$9,930	\$1,390,000	7%
Office & Other Services KSF	88	\$6,200	\$546,000	3%
		Total =>	\$20,798,000	100%

VIII. DISCUSSION ITEMS

Based on discussions at the previous Planning and Environmental Commission meeting, staff provides the following additional information.

Sales Tax Equivalent

The PEC requested staff to provide the equivalent sales tax increase that would generate the necessary funding in lieu of the Transportation Impact Fee. Based on 2016 sales tax collection, it would take an additional 0.13% of sales tax to equate to ~\$21 Million over the next 25 years. This does not take into account the growth of a sales tax base over the next 25 years, nor does it take into account the escalation of the cost of construction and the relating increases in the Transportation Impact Fee. Speculating each of these would not be prudent at this time; we assume at this point that each of the escalations may cancel each other out over time.

Any sales tax increase would require a vote of the community. At this time the Town Council has directed Town Staff to implement a Transportation Impact Fee and not an increase in sales tax.

Fee based on Parking Space Requirements

Staff has consulted with TischlerBise on how parking relates to development within the Vail Town Code. Both staff and TischlerBise recommend against relating the fee to parking for the following reasons:

- Parking requirement for communities reflect not only anticipated parking demand, but also incentives to encourage certain types of development or land uses. For example, in parts of Vail Village and Lionshead, there is no parking requirement for commercial uses. Not all land uses have a parking requirement.
- Parking requirements are based on the minimum number of parking spaces. Some developments will include more parking than is required by code.

- A larger burden might be put on single family dwellings as their number of parking spaces would range from 2 to 5, whereas multiple unit developments and hotels range from 0.4 to 2.5 spaces per unit.

IX. RECOMMENDED IMPLEMENTATION OF PLAN

Staff has had multiple discussions with Town Council with regards to the Vail Transportation Impact Fee Study and recommends the following implementation for the administration of this fee. These recommendations have been incorporated within the Code amendments attached:

- Modify the Transportation Impact Fee Rate Schedule, as shown above, to exclude the incremental detached single family square footage rate, and replace with a single fee rate for all new homes based on number of units. Therefore, the impact fee would apply only to new construction on vacant residential lots or on lots that demolish a single family home and build back with a duplex (or otherwise increase the number of units on a property). The fee would be \$9,686 per new detached housing unit.
- Upon codification of the fee, Town staff will administer the fee in accordance with the terms and conditions as provided for in the amended Town Code, 12-26.
- The fee shall apply to all development and redevelopment except Employee Housing Units (EHUs).
- The fee rate schedule will be adopted by Resolution and will be updated on a yearly basis as needed, based on updated costs estimates of the identified capital projects.
- Project level improvements shall not be eligible for credits towards the impact fee, however if a developer constructs a system improvement on the capital improvement list, a credit and/or reimbursement may be provided to the developer for the amount of construction, up to the amount shown within the capital improvement project list.

X. VAIL FEE ANALYSIS

In order to better understand the true cost of development within Vail, and identify all of the fees and other costs the Town requires, staff has completed an analysis of a variety of project types. The analysis shows that, in general, the town imposes fees and other taxes that equate to approximately 3% of the value of the total construction valuation of a project. One exception shown is for the Solaris project, which paid approximately 7% of the total project valuation; the large discrepancy for this particular project is generated by the large Housing Fee-In-Lieu payment. The Transportation Impact Fee will generally increase the cost of development by 0% to 0.9%.

XI. STAFF RECOMMENDATION

Based upon the analysis of the review criteria contained in Section V of this memorandum and on the evidence and testimony presented, the Community Development Department recommends that the Planning and Environmental Commission make a recommendation to the Town Council to **approve** the proposed prescribed regulations amendment to Title 12, Chapter 26, Transportation Impact Fees, of the Town Code.

If the Planning and Environmental Commission chooses to recommend **approval** of the proposed prescribed regulations amendments, the Community Development Department recommends the following **motion**:

“The Planning and Environmental Commission forwards a recommendation of approval to the Vail Town Council for a prescribed regulations amendment to the Vail Town Code, Title 12, by the adoption of a new Chapter 26, Transportation Impact Fees.”

Before recommending approval of an application for a text amendment, the Planning and Environmental Commission shall make the following **findings** with respect to the requested amendment:

(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; 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.

VI. ATTACHMENTS

Attachment A - Vail Transportation Impact Fee Study, March 10, 2017

Attachment B - Draft Ordinance

Attachment C - Development Fee Analysis

Attachment D – Core Area Map