

ORDINANCE NO. 4876

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO TITLE 14 "IMPACT FEES" AND AMENDING SECTIONS 14.04.050, 14.04.160, AND 14.04.170 OF THE ELLENSBURG CITY CODE.

WHEREAS, the Growth Management Act of 1995 (GMA), Chapter 36.70A RCW, grants counties and cities the authority to assess impact fees for transportation, or more specifically, "public streets and roads"; and

WHEREAS, RCW 82.02.050 - .110 and WAC 365-196-850, authorize cities to adopt by ordinance a schedule of impact fees to ensure that adequate facilities are available to serve new growth and development; and

WHEREAS, the Ellensburg City Council adopted Ordinance 4534 in 2009, implementing Traffic Impact Fees in the City of Ellensburg; and

WHEREAS, these traffic impact fees assess new development, based on development type, an amount outlined in the December 2007 report, titled "Impact Fee Report with Recommendations"; and

WHEREAS, the Ellensburg City Council adopted Ordinance 4808 in 2018, updating the Traffic Impact Fee (TIF) and the associated TIF project list based on traffic modeling and forecasting; and

WHEREAS, due to continued growth, updated traffic modeling and forecasting was used to complete a new "Traffic Impact Fee Rate Study," dated August 18, 2021 outlining necessary Traffic Impact Fee projects and establishing updated 'Traffic Impact Fees' for Council Consideration;

NOW, THEREFORE, the City Council of the City of Ellensburg, Washington do hereby ordain as follows:

**Section 1. Section 14.04.050 of the Ellensburg City Code, as last amended by Section 1 of Ordinance 4808, is hereby amended to read as follows:**

**14.04.050 Exemptions.**

The following development activities are exempt or partially exempt from paying traffic impact fees because they do not have a measurable impact on the city's transportation facilities, or because the city has chosen to exempt them, pursuant to RCW 82.02.060(2) or ~~(3)~~(4), as development with broad public purposes, and as provided for in subsection (E) of this section:

- A. Existing Dwelling Unit. Any alteration, expansion, reconstruction, remodeling, replacement, or demolition/removal of an existing single-family, duplex or multifamily dwelling unit that does not result in the generation of additional peak hour trips.
- B. Existing Nonresidential Building. Any alteration, reconstruction, remodeling, replacement, or demolition/removal of an existing nonresidential building that does not result in the generation of any new peak hour trips.
- C. Any development activity in the central commercial district is considered to be redevelopment, not new development, and therefore is not subject to this chapter.
- D. The director of public works and utilities shall be authorized to determine whether a particular development activity falls within an exemption from traffic impact fees identified in this section or under other applicable law. Determinations of the director of public works and utilities shall be in writing and shall be subject to appeal to the city council as provided in ECC 14.02.300.
- E. Low-income housing, as defined in ECC 14.04.030, or early learning centers, as defined in RCW 43.31.565, shall qualify for an exemption from the payment of traffic impact fees, subject to the following:
1. Any claim for an exemption under this section must be made before payment of the traffic impact fee. Any claim not so made shall be deemed waived.
  2. The claim for exemption must ~~be accompanied by a draft lien and covenant against the property guaranteeing that the low-income housing will continue for a period of not less than 12 years~~ comply with the requirements for recording a covenant mandated by RCW 82.02.060, as currently enacted or hereafter amended, . Before final approval of the exemption, the department shall approve the form of the lien and covenant. Within 10 days of exemption approval, the applicant shall execute and record the approved lien and covenant with the county auditor. The lien and covenant shall run with the land.
  3. Upon determination by the director that a particular development falls within an exemption for low-income housing or early learning center, the request will be brought to city council for a decision on granting a partial or full exemption, as permitted in RCW 82.02.060(2) or ~~(3)~~(4), based on budget considerations, development activity, affordable housing needs and priorities, requirements for such exemptions for early learning centers in RCW 82.02.060(4) and such other considerations as deemed appropriate by the city council.
  4. In the event that the housing unit is not used for low-income housing or early learning center for the prescribed period, or in the event that other exempted development activity is converted to a nonexempt use during the prescribed period, the current owner shall pay the traffic impact

fees then in effect plus interest to the date of the payment, or such other amount as required by RCW 82.02.060.

F. Transitional Exemption. This chapter is not applicable to building permits for development projects for which the city's SEPA official has issued a final SEPA determination prior to the effective date of the ordinance codified in this chapter for which a final traffic impact mitigation has been determined. For purposes of this exemption, a SEPA determination will include the issuance of a final declaration of nonsignificance (DNS), final mitigated declaration of nonsignificance (MDNS), and, if an environmental impact statement (EIS) was required, issuance of a final EIS. [Ord. 4845 § 1, 2019; Ord. 4808 § 2, 2018; Ord. 4804 § 4, 2018; Ord. 4534 § 1, 2009.]

**Section 2. Section 14.04.160 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4808, is hereby amended to read as follows:**

**14.04.160 Traffic impact fee calculations.**

A. The traffic impact fee shall be calculated using a schedule that identifies a particular fee amount for a particular type of development.

B. The traffic impact fee per peak hour vehicle trip has been calculated using the data shown in "Traffic Impact Fee Rate Study Update, dated ~~July 2018~~ August 18, 2021," which is filed in the office of the city clerk and incorporated herein by this reference as if set forth in full. [Ord. 4808 § 2, 2018; Ord. 4534 § 1, 2009.]

**Section 3. Section 14.04.170 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4808, is hereby amended to read as follows:**

**14.04.170 Schedule of fees.**

A traffic impact fee shall be assessed against all new development based on development type in an amount provided for in the Traffic Impact Fee Schedule, Appendix C, of the "Traffic Impact Fee Rate Study Update, dated ~~July 2018~~ August 18, 2021," which is filed in the office of the city clerk and incorporated herein by this reference as if set forth in full. The traffic impact fee is hereby established at ~~\$1,817~~ \$2,324 per peak hour trip (PHT). This fee schedule represents the city's determination of the appropriate share of system improvement costs to be paid by new growth and development. [Ord. 4808 § 2, 2018; Ord. 4534 § 1, 2009.]


**Section 4. Severability.** If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

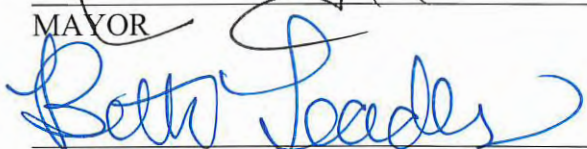
**Section 5. Corrections.** Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

**Section 6. Effective Date.** This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 7<sup>th</sup> day of September, 2021.

ATTEST:

  
MAYOR

  
CITY CLERK

Approved as to form:

  
CITY ATTORNEY

Publish: 9-11-2021

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. 4876 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4876 was published as required by law.

  
BETH LEADER