# CITY OF BLACK DIAMOND
**July 8, 2021 Regular Work Session**

**THIS IS OFFERED AS A ZOOM MEETING ONLY.**
**CALL IN AND JOINING INFORMATION FOLLOWS:**

**Zoom link to join meeting:**
https://zoom.us/j/4454477047?pwd=eGxRY3ZEeU14SVM2cGRBcUxCSjdmZz09
*(Note: You do not need a web cam to join the meeting, but you will need audio to hear the proceedings.)*
Meeting ID: 445 447 7047
Password: Council

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Meeting ID: 445 447 7047
Password:426953 (phone in only)

Work Sessions are meetings for Council to review upcoming and pertinent business of the City. Public testimony is only accepted at the discretion of the Council.

**6:00 P.M. – CALL TO ORDER, FLAG SALUTE, ROLL CALL**

**1)** Discussion and Review of Transportation Impact Fee Study and Related Ordinance

**ADJOURNMENT**

# Transportation Impact Fee Rate Study

*Prepared for*

**City of Black Diamond**
24301 Roberts Drive
Black Diamond, WA 98010

*Prepared by*

**Parametrix**
719 2nd Avenue, Suite 200
Seattle, WA 98104
T. 206.394.3700 F. 1.855.542.6353
www.parametrix.com

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# ACRONYMS AND ABBREVIATIONS

| | |
|---|---|
| CIP | Capital Improvement Plan |
| GFA | gross floor area |
| GMA | Growth Management Act |
| ITE | Institute of Transportation Engineers |
| LOS | level of service |
| PSRC | Puget Sound Regional Council |
| RCW | Revised Code of Washington |
| RIRO | right-in-right-out |
| SEPA | State Environmental Policy Act |
| SF | square foot |
| SR | State Route |
| TIP | Transportation Improvement Program |

# 1. INTRODUCTION

This report summarizes the policy and technical development of the Transportation Impact Fee program for the City of Black Diamond, Washington.

## 1.1 Definition of Impact Fees

Impact fees are a broad category of charges on new development assessed to pay for capital improvements (e.g., parks, schools, roads, etc.) necessitated by new development. Cities collect transportation impact fees to fund improvements that add capacity to the transportation system accommodating the travel demand added by new development.

The City developed this Traffic Impact Fee program based on the following findings:

- Development activity in the City, including residential, commercial, retail, office, and industrial development, will create additional demand and need for public road facilities.
- The City of Black Diamond is authorized under the state's Growth Management Act (Chapter 36.70A RCW) and RCW 82.02.050 et seq. to require new growth and development within the City to pay a proportionate share of the cost of new road facilities serving that new growth and development through the imposition of impact fees.
- Impact fees may be collected and spent for public road facilities needed for system improvements that are included within a capital facilities plan element of the City's comprehensive plan.
- Impact fees cannot pay for road maintenance and repair. These costs are paid by the City's general street fund, Real Estate Excise tax, grants, or other funding sources.

## 1.2 Statutory Basis for Impact Fees

The primary mechanism for imposing impact fees in Washington State is the Growth Management Act (GMA). Prior to the passage of the GMA, local agencies primarily relied on the State Environmental Policy Act (SEPA) process to require developers to fund mitigation projects necessitated by new development.

The GMA, passed in 1990, added RCW 82.02.050-.100 regarding impact fees and specifically authorized the use of impact fees for jurisdictions planning under the Growth Management Act. Impact fees are not mandatory and state law imposes strict limitations on the collection and use of impact fees. These limitations are intended to assure property owners that the fees collected are reasonably related to the actual impacts of development and will not be used for unrelated purposes, such as remedying preexisting deficiencies.

For a city to impose GMA impact fees, the following specific provisions are required:

- The city must have an ordinance authorizing impact fees.
- Fees may be collected and spent only for improvements identified in a Capital Facilities Plan element of the city's comprehensive land use plan.
- The city must establish one or more geographic service areas for fees.
- The city must have an established formula or other method for calculating impact fees.

- The fees cannot be used to finance any portion of improvements needed to remedy existing capacity deficiencies.
- The fees can be used to recoup the cost of improvements already made that address the needs of future development.
- The fees may not be arbitrary or duplicative of other fees imposed on development for the same impact.
- The fees must be earmarked specifically for eligible transportation improvements and be retained in special interest-bearing accounts.
- Fees may be paid under protest.
- Fees not expended within 10 years must be refunded with interest.
- The city cannot rely solely on impact fees to pay for needed improvements.

An accounting system is important to ensure that the impact fees collected are assigned to the appropriate improvement projects and the developer is not charged twice for the same improvement.

## 1.3 Impact Fee Structure

The methodology and results described next are consistent with the requirements of the GMA. All calculations are based on the adopted transportation facilities list described in the City's Capital Improvement Plan (CIP) and the City's Transportation Improvement Plan (TIP). The procedures described herein can be formally enacted by an impact fee ordinance incorporating this report by reference.

The key steps involved in the impact fee process are shown in **Figure 1**. Steps include developing a list of roadway system improvements and costs, allocating growth-related costs within the City, and identifying available funding. The remaining costs can be charged as impact fees, which are displayed in the form of a fee schedule. Each step is described in more detail in subsequent sections of this report.

Road impact fees for Black Diamond will be collected and expended within a signal service area that includes the entire City because of the compact size of the City.

To achieve the goal of simplicity, impact fee calculations are applied on an average basis for the entire transportation system rather than project-by-project. This is a key difference between impact fees and SEPA mitigation, whereby pro-rata shares of specific project improvements are collected.


**Figure 1. – Steps to Develop a Traffic Impact Fee Program**

## 1.4 Data Rounding

The data in this study were prepared using computer spreadsheet software. In some tables in this study, there will be very small variations from the results that would be obtained using a calculator to compute the same data. The reason for these insignificant differences is that the spreadsheet software calculated the results to more places after the decimal than are reported in the tables in the report.

# 2. IMPACT FEE PROJECT LIST

RCW 82.02.050 specifies that Transportation Impact Fees are to be spent on “system improvements.” System improvements can include physical or operational changes to existing roadways as well as new roadway connections that are built in one location to benefit projected needs at another location. These are generally projects that add capacity, such as new streets, additional lanes, widening, and signalization.

The impact fee structure for the City of Black Diamond was designed to determine the fair share of road improvement costs that may be charged to new developments. During the City's transportation planning process, the City identified projects needed by 2035 to meet the transportation needs of the adopted land uses in the Comprehensive Plan. The task was accomplished by examining existing roadway deficiencies and forecasting future needs. The City of Black Diamond used a cost model to estimate the costs for these capacity improvements. These capital projects form the basis for the impact fees project list, which includes public and private funding sources.

The impact fee project list was composed of  projects from the City’s TIP and CIP that add capacity to the roadway system. The project list, shown in **Table 1**, includes six projects, totaling $23.08 million.

**Table 1 List of Transportation Capacity Projects**

| Project # | Location | Description | Total Cost (in 2020 dollars) |
|---|---|---|---|
| 1 | SE 288th St & SE 216th St | Install roundabout | $4,800,000 |
| 2 | Robert Drive/SR 169/Black Diamond-Ravensdale | Two roundabouts (SR 169/Roberts Drive and SR 169/Pipeline Road) and modify SR 169/Black-Diamond-Ravensdale to right-in-right-out (RIRO) | $10,000,000 |
| 3 | SR 169/Baker Street | New traffic signal | $650,000 |
| 4 | SR 169/Lawson Street | New traffic signal | $1,000,000 |
| 5 | Morgan Street & Roberts Drive | New traffic signal | $625,000 |
| 6 | Lawson Connector/Lawson Parkway | New minor arterial connection with SR 169 with pedestrian facilities, bike lanes and street lighting | $6,000,000 |
| | | TOTAL | $23,075,000 |

SR = State Route

# 3. COST ALLOCATION

## 3.1 Methodology

The City used an impact fee methodology that distinguishes between facility improvements that address existing deficiencies and those needed to serve new growth (described in more detail in the following section). For growth-related projects, this method assumes that traffic generated by future development is the reason for the improvement project(s). **Figure 2** diagrams the process**.**

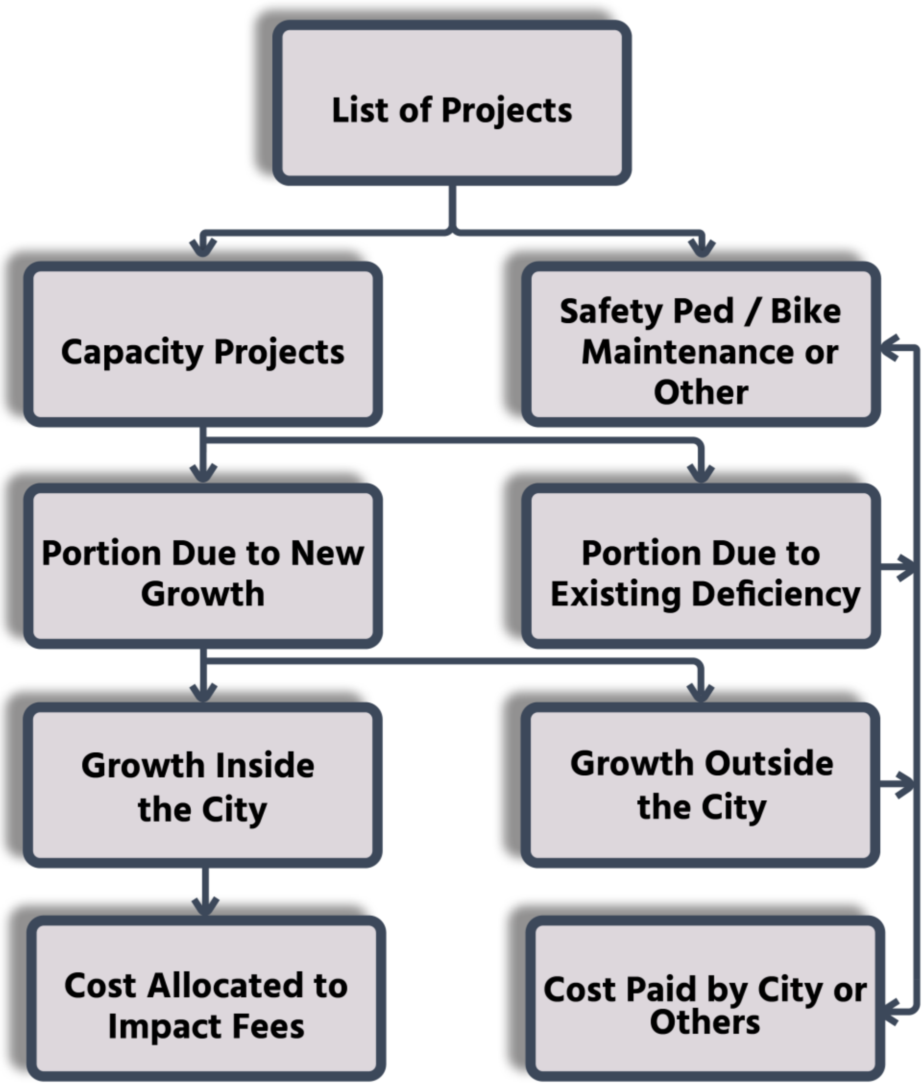


**Figure 2. Impact Fee Cost Allocation Concept**

## 3.2 Transportation Deficiencies

RCW 82.02.050(5)(a)(i) requires that the Capital Facilities element of a jurisdiction's comprehensive plan identify "deficiencies in public facilities serving existing development." Future development cannot be held responsible for the portion of added roadway capacity needed to serve existing development.

The City's 2019 Comprehensive Plan Transportation Element established a level of service (LOS) standard that is based on average vehicular delay experienced at intersections throughout the City. The adopted standard is LOS D for intersections along SR 169 and LOS C for all other arterial and collector roadways and transit routes within the Black Diamond city limits.

Using the level of service standards established in the City of Black Diamond Comprehensive Plan, two projects were found to have existing deficiencies with delays greater than the City's standards. **Table 2** summarizes the analysis findings.

**Table 2. Transportation Deficiency Calculation**

| Intersection | 2020 PM Peak Hour LOS | LOS Standard | Existing Deficiency % |
|---|---|---|---|
| Roberts Drive/SR 169/Black Diamond-Ravensdale | LOS F | LOS D | 35% |
| SR 169/Lawson Street | LOS E | LOS D | 20% |

Next, the City needed to determine the "existing deficiency portion" (as opposed to the portion that would be attributable to new growth). Under the GMA, the City is responsible for financing the existing deficiency portion, but the City can charge new development for the remainder of the roadway improvement. The City can select from several approaches to proportionately allocate the cost between existing deficiencies and the impacts of new development. The Black Diamond Impact Fee Program uses a method based on the amount of excess "existing and future new traffic" that exceeds the current threshold capacity of the roadway facility. The service threshold capacity represents the amount of traffic volume that an intersection can accommodate and still operate within City of Black Diamond LOS standards (e.g., LOS D for intersections along SR 169 and LOS C for all other arterial and collector roadways.)

The formula for determining the existing deficiency percentage is as follows:

***Existing Deficiency Percentage = Existing Excess Traffic / (Existing Excess Traffic +New Traffic)***

= (Existing Traffic - Service Threshold) / [(Existing Traffic - Service Threshold)
+ (2026 Traffic - Existing Traffic) ]

## 3.3 Travel Growth

The City's travel demand model, developed in Emme software, was used in this study to prepare traffic forecasts. The model generated "PM peak hour" vehicle trips based on housing and employment data provided by the City and the Puget Sound Regional Council (PSRC). Then the model distributed the trips between different zones within the City. Finally, the model assigned the trips to the roadway network to predict traffic volumes.

To match the City's TIP schedule, a 6-year land use growth estimate was used in the forecasts. **Table 3** shows Black Diamond land uses in terms of housing units (single-family and multi-family) and employment (retail, office, and industrial) growth anticipated between 2020 and 2026.

**Table 3. Black Diamond Population and Employment Growth**

| Land Use | Growth 2020–2026 | % Growth |
|---|---|---|
| Households (single and multi-family) | 1,908 | 28% |
| Employment (retail, office and industrial) | 1,724 | 70% |

Using these land-use forecasts, it is estimated that 4,960 new PM peak hour vehicle trip ends would be generated within the City during the 6-year period. This growth in vehicle trip ends was used to calculate the impact fee rates.

## 3.4 Cost Allocation Results

The cost allocation process distributes the growth costs for each project based upon the travel patterns within and outside the City limits. The City's traffic model was used to perform a "select link" assignment. A select link assignment provides origin and destination information for each vehicle trip traveling through a particular improvement project group. Trips that pass through Black Diamond, but do not have any origins or destinations internal to Black Diamond (e.g., through-trips), cannot be included in the calculation of impact fees.

**Figure 3** illustrates the cost allocation results. The dollar amounts shown in Figure 3 are approximate values expressed in millions of dollars. The actual amounts used in the calculations are accurate to a single dollar.

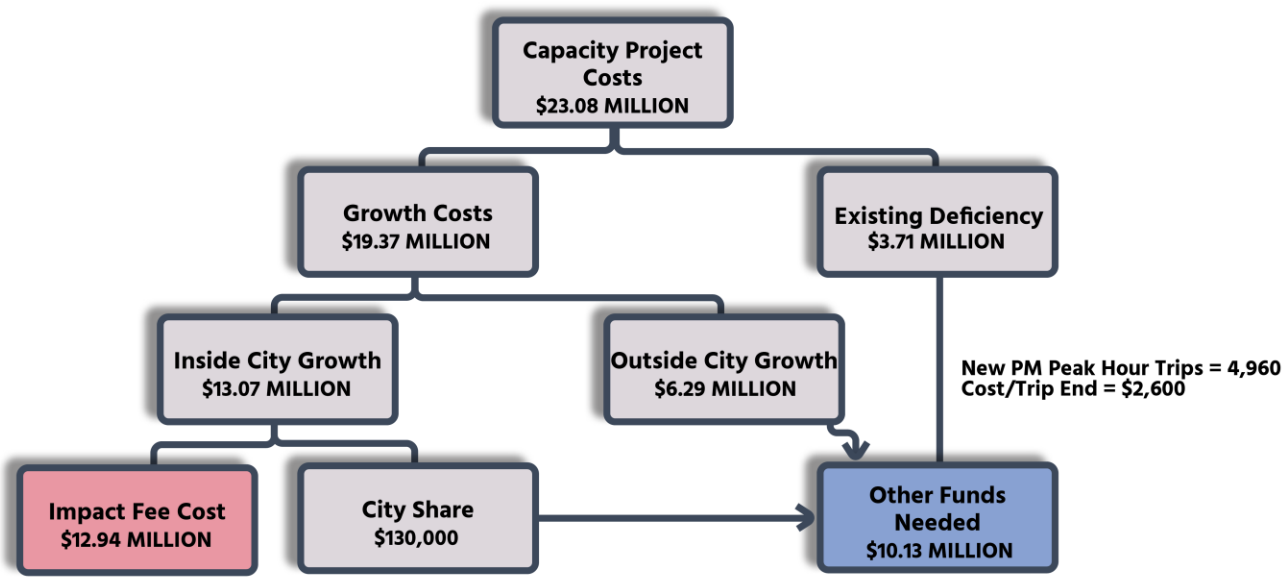


**Figure 3. Impact Fee Cost Allocation Results**

The total cost of the capacity projects on the capacity project list is approximately $23 million, as previously shown in **Table 1**. This was divided into growth costs and existing deficiencies, estimated to be approximately $3.7M. The growth costs were further divided into “in-City growth” and “outside City growth” components using the City’s traffic model data. The details of this calculation are shown in **Appendix A**.

As shown in **Figure 4**, the City’s responsibility is 44 percent ($10.13 million) of the $23.08 million project list. This includes the existing deficiencies, growth outside the City and the City’s share of growth in the city. The $10.13 million would be expected to be obtained from City funds, new grants and other sources. The remaining $12.94 million would be funded using impact fees.

Impact fees would constitute the remaining 56 percent ($12.94 million) of the approximate total $23 million cost of the improvement projects.

The final step in the cost allocation process dealt with calculating the "cost per new trip end" within Black Diamond, derived by dividing the total eligible project cost by the total number of new PM peak hour trip ends based in Black Diamond.

A total of 4,960 new PM peak hour vehicle trip ends are estimated to occur within the City between 2020 and 2026. With a total impact fee cost of $12.88 million, the cost per trip end is approximately $2,600.

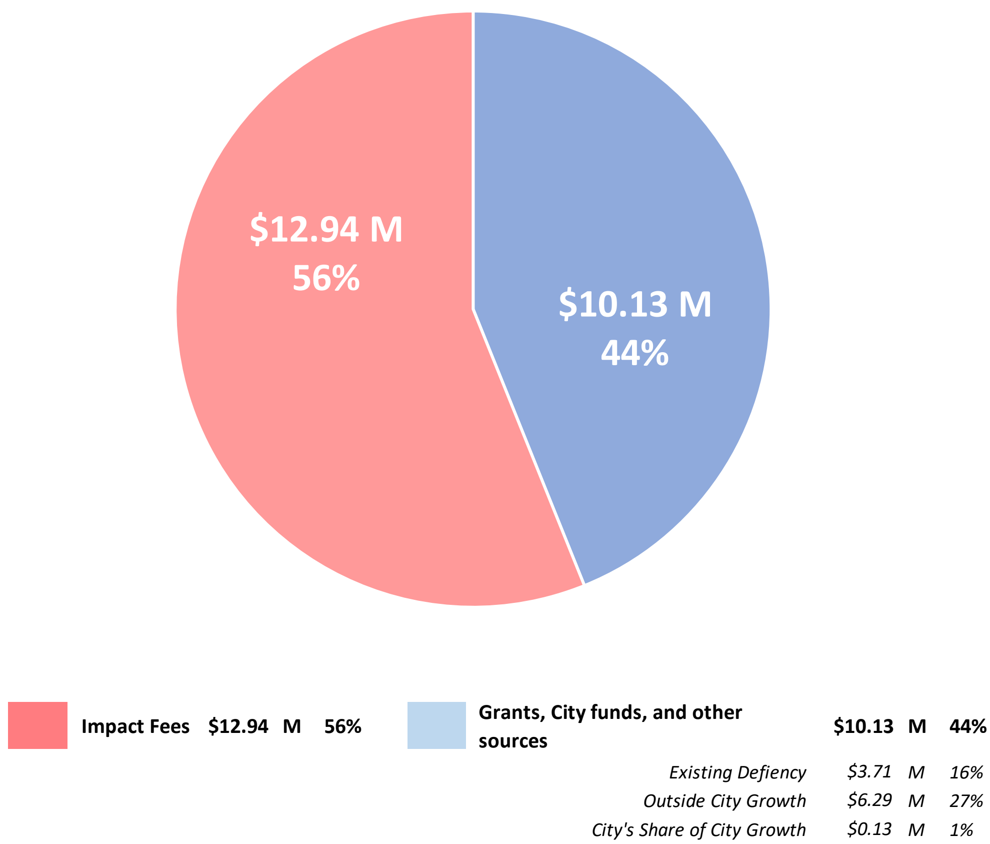


**Figure 4. Impact Fee Program Funding Sources**

# 4. IMPACT FEE SCHEDULE

The impact fee schedule was developed by adjusting the "cost per trip end" information to reflect differences in trip-making characteristics for a variety of land use types within the study area. In other words, the impact fees paid are a function of the trip generation estimated for each new project. The fee schedule is a table where fees are represented as dollars per unit for each land use category. **Table 4** shows the various components of the fee schedule (trip generation rates and new trip percentages).

## 4.1 Trip Generation

Trip-generation rates for each land use type are from the Institute of Transportation Engineers (ITE) Trip Generation (10th Edition). The trip-generation rates represent the total traffic entering and leaving a property at driveway points during the weekday PM peak hour. For certain land uses (e.g., supermarkets) a substantial amount of this traffic is already passing by the property and simply turns into and out of the driveway. Pass-by trips are an intermediate stop *on the* way from the trip origin to the primary destination. These trips were already on the adjacent roadway and are not considered to be “new” to the street system and therefore are subtracted out prior to calculating the impact fee. The resulting trips are considered “new” and are therefore subject to the impact fee calculations. The “new” trip percentages are derived from ITE data.

## 4.2 Schedule of Rate

The impact fee schedule of rates as well as the various components of the fee schedule are shown in **Table 4**. In the fee schedule, fees are shown as dollars per unit of development for various land use categories, as defined in **Appendix B**. The impact fee program is flexible in that if a use does not fit into one of the categories, an impact fee can be calculated based on the development’s projected trip generation.

Two examples (residential and retail) of the impact fee rate calculation are shown below.

<u>Multi-Family Residential</u>

<u>The following is an example of a 6-unit multi-family housing project.</u>

*New Trip Rate = PM Peak Hour Trip Generation Rate x Percent of New Trips*
*= 0.56 x 100% = 0.56 trips per dwelling unit*

*Impact Fee Rate = New Trip Rate x Average Cost per Trip End*
*= 0.56 trip/dwelling x $2,609 = $1,461/dwelling unit*

*Total Impact Fee = 6 units x $1,461/dwelling unit = $8,766*

<u>General Retail</u>

The following is an example for a 25,000 square feet (10 ksf) general retail store.

*New Trip Rate = PM Peak Hour Trip Generation Rate x Percent of New Trips*
*= 3.81 trips/ksf x 66% = 2.51 trips/ksf*

*Impact Fee Rate = New Trip Rate x Average cost per trip end*
*= 2.51 trip/ksf x $2,609 x 1ksf/1,000sf = $6.55/sf*

*Total Impact Fee = $6.55/sf x 25,000sf = $163,750*

## Table 4. Impact Fee Schedule

| Land Use | Land Use Code | Unit of Measure[1] | Basic Rate PM Peak Trips/Unit[2] | New Trips %[3] | New Trip Rate | Impact Fee Rate |
|---|---|---|---|---|---|---|
| **Residential** | | | | | | |
| Single Family | 210 | dwelling | 0.99 | 100% | 0.99 | $2,583 |
| Multi-Family | 220 | dwelling | 0.56 | 100% | 0.56 | $1461 |
| Senior Housing - attached | 252 | dwelling | 0.26 | 100% | 0.26 | $678 |
| Senior Housing - detached | 251 | dwelling | 0.30 | 100% | 0.3 | $783 |
| Assisted Living | 253 | dwelling | 0.18 | 100% | 0.48 | $470 |
| Mobile Home in Mobile Home Park | 240 | dwelling | 0.46 | 100% | 0.46 | $1,200 |
| **Institutional** | | | | | | |
| Elementary/Middle School/Jr High School | 520 | student | 0.17 | 100% | 0.17 | $444 |
| High School | 530 | student | 0.14 | 100% | 0.14 | $365 |
| Church | 560 | SF GFA | 0.49 | 100% | 0.49 | $1.28 |
| Hospital | 610 | SF GFA | 0.97 | 100% | 0.97 | $2.53 |
| Library | 590 | SF GFA | 8.16 | 100% | 8.16 | $21.21 |
| Day Care | 565 | SF GFA | 11.12 | 100% | 11.12 | $29.01 |
| **Industrial** | | | | | | |
| Light Industry/Industrial Park | 110 | SF GFA | 0.63 | 100% | 0.67 | $1.64 |
| Heavy Industry/Manufacturing | 120, 140 | SF GFA | 0.67 | 100% | 0.67 | $1.75 |
| Mini-Warehousing/Storage | 151 | SF GFA | 0.17 | 100% | 0.17 | $0.44 |
| Warehousing | 150 | SF GFA | 0.19 | 100% | 0.19 | $0.50 |
| **Restaurant** | | | | | | |
| High-Turnover Restaurant | 932 | SF GFA | 9.77 | 58% | 5.7 | $14.81 |
| Fast-Food Restaurant with Drive-Through | 934 | SF GFA | 32.67 | 50% | 16.3 | $42.53 |
| Coffee Shop with Drive-Through | 937 | SF GFA | 43.38 | 50% | 21.7 | $56.62 |
| **Commercial Services** | | | | | | |
| Bank with Drive-Through | 912 | SF GFA | 20.45 | 53% | 10.84 | $28.28 |
| General Retail | 820 | SF GFA | 3.81 | 66% | 2.51 | $6.55 |
| Supermarket > 5,000 SF | 850 | SF GFA | 9.24 | 64% | 5.91 | $15.42 |
| Convenience Market < 5,000 SF | 851 | SF GFA | 49.11 | 39% | 19.15 | $49.96 |
| Pharmacy/Drugstore with Drive-Through | 880, 881 | SF GFA | 10.29 | 47% | 4.8 | $12.52 |
| Hardware/Paint Store | 816 | SF GFA | 2.68 | 74% | 2.0 | $5.22 |
| Furniture Store | 890 | SF GFA | 0.52 | 47% | 0.2 | $0.52 |
| Car Sales - New/Used | 840/841 | SF GFA | 3.75 | 100% | 3.8 | $9.91 |
| Gas Station | 944 | fueling station | 14.03 | 44% | 6.2 | $16,176 |
| Autocare Center | 942/943 | SF GFA | 2.26 | 100% | 3.1 | $6.00 |
| Health Club | 492 | SF GFA | 3.45 | 100% | 3.45 | $9.00 |
| **Commercial - Office** | | | | | | |
| Administrative Office | 710, 715, 750 | SF GFA | 1.15 | 100% | 1.15 | $3.00 |
| Medical Office/Dental Office | 720 | SF GFA | 3.46 | 100% | 3.46 | $9.03 |

[1] For uses with unit of measure "SF GFA," the impact fee is dollars per square foot, and the trip rate is given as trips per 1,000 sq ft

[2] ITE Trip Generation (10th Edition): 4-6 PM Peak Hour Trip Ends

[3] Excludes pass-by trips: see "Trip Generation Handbook: An ITE Proposed Recommended Practice" (2014)

SF = square feet

GFA = gross floor area

# 5. FUTURE IMPACT FEE UPDATES

The City of Black Diamond impact fee rate analysis generated by this report should be reviewed and approved in the following manner:

1. The City of Black Diamond Municipal Code should be updated to include a chapter on "Transportation Impact Fees," authorizing the assessment and collection of transportation impact fees on development activity within the City, based on the methodology described in this rate study, and
2. The rate schedule in Table 4 should be reviewed and amended by the City Council as deemed appropriate after the effective date of the approved ordinance, and
3. Effective from the adoption of an ordinance, transportation impact fees should be adjusted annually based on the Construction Cost Index for Seattle. A major update with a new rate study should occur every 3 years or as needed to account for new projects added to the 6-Year Transportation Improvement Program (TIP) and the Capital Improvement Program (CIP).

# Appendix A

## Cost Allocation Results

# APPENDIX A

## Cost Allocation Results

The cost allocation results are summarized in this Appendix. **Table A-1** illustrates how the impact fee project costs (shown in **Table 1**) were divided into growth-related costs attributable to the City. In order to determine this proportion, the City's travel demand model was used to identify the portion of trip-making associated with existing and growth-related traffic. A technique called" select-link" analysis was used to isolate the vehicle trips using each of the impact fee projects.

**Table A-1. Cost Allocation**

| # | Intersection | Existing Deficiency | Project | Estimate of Project Costs | Existing Deficiency Portion of the Project | Total Growth Costs | Outside City Growth | Outside City Growth Costs | Inside City Growth | Inside City Growth Costs | City's Share of Inside Growth (1%) | Impact Fee Cost |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | SE 288th St & SE 216th St | 0% | Roundabout | $4,800,000 | $0 | $4,800,000 | 5% | $229,474 | 95% | $4,570,526 | $45,705 | $4,524,821 |
| 2 | SR 169 & SE Black Diamond-Ravensdale Rd<br>SR 169 & Roberts Drive | 35% | SR 169 Roundabouts | $10,000,000 | $3,511,709 | $6,488,294 | 39% | $2,518,788 | 61% | $3,696,507 | $39,695 | $3,929,812 |
| 3 | SR 169 & Baker Street | 0% | New signal | $650,000 | $0 | $650,000 | 36% | $236,888 | 64% | $413,112 | $4,131 | $408,981 |
| 4 | SR 169 & Lawson Rd | 20% | New signal | $1,000,000 | $195,652 | $804,348 | 46% | $370,177 | 54% | $434,171 | $4,342 | $429,829 |
| 5 | Morgan Street & Roberts Drive | 0% | New signal | $625,000 | $0 | $625,000 | 9% | $58,871 | 91% | $556,129 | $5,661 | $560,468 |
| 6 | Lawson Connector/ Lawson Parkway | 0% | New roadway | $6,000,000 | $0 | $6,000,000 | 48% | $2,880,000 | 52% | $3,120,000 | $31,200 | $3,088,800 |
| | | | TOTAL | $23,075,000 | $3,707,358 | $19,367,642 | 32% | $6,294,197 | 68% | $13,073,445 | $130,734 | $12,942,711 |
| | | | | | | | | | | | **Project Costs Allowable for Impact Fees within City of Black Diamond** | **$12,942,711** |

# Appendix B

## Land Use Definitions

# APPENDIX B

## Land Use Definitions

The following land use definitions are derived from the ITE Trip Generation (10th Edition). They have been modified as appropriate for the City of Black Diamond.

**RESIDENTIAL**

**Single Family**: One or more detached housing units located on an individual lot. Also includes accessory dwelling units and duplexes. (ITE # 210)

**Multi Family**: A building or buildings designed to house three or more families living independently of each other. Includes apartments, condos and attached townhouses. (ITE # 220, 221, 230, 233)

**Senior Housing**: Residential units similar to apartments or condominiums restricted to senior citizens. (ITE # 251, 255)

**COMMERCIAL-SERVICES**

The following land use categories fall under the impact fee category "Commercial Services" which represent a broad variety of uses.

- Walk-in Bank (ITE # 911)
- Drive-in Bank (ITE # 912)
- Hair Salon (ITE # 918)
- Copy, Print, and Express Ship Store (ITE # 920)
- Drinking Place (ITE # 925)
- Coffee/Donut Shop (ITE # 936, 937, 938)
- Bread/Donut/Bagel Shop (ITE # 939, 940)
- Automobile Care Center (ITE # 942)
- Automobile Parts and Service Center (ITE # 943)
- Automated Car Wash (ITE # 948)
- Health/Fitness Club (ITE # 492, 493)

**COMMERCIAL-INSTITUTIONAL**

**School**: The following land use categories fall under the impact fee category "school." The rate is based on the "High School" ITE trip generation, due it to being most like other types of schools in Black Diamond.

- Elementary School (ITE # 520)
- Middle School/Junior High School (ITE # 522)
- High School (ITE # 530)
- Private School (ITE # 534, 536)

**Institutional:** The following land use categories all fall under the impact fee category ”Institutional.”

- Church (ITE # 560)
- Day Care Center (ITE # 565)
- Museum (ITE # 580)
- Library (ITE # 590)
- Hospital (ITE #610)
- Elementary School/Middle School/Junior High School (ITE #520, 522)
- High School (ITE # 530)

## INDUSTRIAL

**Light Industrial/Industrial Park**: Industrial parks are a mix of manufacturing, service, and warehouse facilities with a wide variation in the proportion of each type of use from one location to another. Industrial parks include research centers facilities or groups of facilities that are devoted nearly exclusively to research and development activities. Light industrial facilities include printing plants, material testing laboratories, bio-technology, medical instrumentation or supplies, communications and information technology, and computer hardware and software. (ITE #s 110, 130)

**Warehousing/Storage**: Facilities that are primarily devoted to the storage of materials, including vehicles. They may also include office and maintenance areas. (ITE # 150)

## RESTAURANT

Restaurant: The following land use categories fall under the impact fee category “restaurant.” The rate is based on the “Quality Restaurant” ITE trip generation, due it to being similar to other restaurants in terms of new trips and most similar to the types of restaurants in Black Diamond.

- Quality Restaurant (ITE # 931)
- High-Turnover (Sit-Down) Restaurant (ITE # 932)
- Fast-Food Restaurant (ITE # 933, 934, 935)

## COMMERCIAL-RETAIL

General Retail: The following land use categories fall under the impact fee category “General Retail.” The rate is based on the “Shopping Center” ITE trip generation, due it to being most like other types of retail shops in Black Diamond.

- Tractor Supply Store (ITE # 810)
- Construction Equipment Rental Store (ITE # 811)
- Building Materials and Lumber Store (ITE # 812)
- Free-Standing Discount Superstore (ITE # 813)
- Variety Store (ITE # 814)
- Free-Standing Discount Store (ITE # 820)
- Hardware/Paint Store (ITE # 816)
- Nursery (ITE # 817, 818)
- Shopping Center (ITE # 820)
- Factory Outlet Center (ITE # 823)

- Specialty Retail Center (ITE # 826)
- Automobile Sales (ITE # 841)
- Tire Store (ITE # 848, 849)
- Convenience Market (ITE # 851, 852)
- Discount Club (ITE # 857)
- Wholesale Market (ITE # 860)
- Sporting Goods Superstore (ITE # 861)
- Home Improvement Superstore (ITE # 862)
- Electronics Superstore (ITE # 863)
- Toy/Children's Superstore (ITE # 864)
- Baby Superstore (ITE # 865)
- Pet Supply Superstore (ITE # 866)
- Office Supply Superstore (ITE # 867)
- Book Store (ITE # 868)
- Discount Home Furnishing Store (ITE # 869)
- Bed and Linen Superstore (ITE # 872)
- Department Store (ITE # 875)
- Apparel Store (ITE # 876)
- Arts and Crafts Store (ITE # 879)
- Pharmacy/Drugstore (ITE # 880, 881)
- Furniture Store (ITE # 890)
- DVD/Video Rental Store (ITE # 896)
- Medical Equipment Store (ITE # 897)

**Supermarket:** Retail store which sells a complete assortment of food, food preparation and wrapping materials, and household cleaning and servicing items. (ITE # 850, 854)

**<u>COMMERCIAL-OFFICE</u>**

**Administrative Office**: An administrative office building houses one or more tenants and is the location where affairs of a business, commercial or industrial organization, professional person or firm are conducted. The building or buildings may be limited to one tenant, either the owner or lessee, or contain a mixture of tenants, including professional services, insurance companies, investment brokers, and company headquarters. Services such as a bank or savings and loan, a restaurant or cafeteria, miscellaneous retail facilities, and fitness facilities for building tenants may also be included. (ITE # 710)

**Medical Office/Dental Clinic:** A facility that provides diagnoses and outpatient care on a routine basis but is unable to provide prolonged in-house medical/surgical care. A medical office is generally operated by either a single private physician/dentist or a group of doctors and/or dentists. (ITE # 720)

**ORDINANCE NO. ____________**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, AMENDING TITLE 3 OF THE BLACK DIAMOND MUNICIPAL CODE TO ESTABLISH A NEW CHAPTER 3.80 ENTITLED “TRANSPORTATION IMPACT FEES”; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**



**WHEREAS**, the City has authority to adopt impact fees to address the impact on transportation facilities caused by new development, pursuant to Ch. 82.020 RCW; and

**WHEREAS**, the City Council desires to ensure that those transportation facilities necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use, or within the period provided by law, without decreasing the current service levels below established minimum standards for the City; and

**WHEREAS**, the City Council held a public hearing and considered this Ordinance during its regular City Council meeting of ______________, 2021;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**<u>Section 1. New Municipal Code Chapter</u>.** Title 3 of the Black Diamond Municipal Code is amended to add a new Chapter 3.80, entitled “Transportation Impact fees,” containing the following provisions:

## Chapter 3.80
## TRANSPORTATION IMPACT FEES

**3.80.010 Authority and Purpose.**
**3.80.020 Definitions.**
**3.80.030 Council Review of Impact Fees.**
**3.80.040 Applicability.**
**3.80.050 Service Area.**
**3.80.060 Assessment of Transportation Impact Fees.**
**3.80.070 Collection of Transportation Impact Fees.**
**3.80.080 Exemptions.**
**3.80.090 Determination of Transportation Impact Fees, Reductions, Credits, Adjustments and Independent Calculations, and Appeals.**

**3.80.010 Authority and Purpose.**

A. This Chapter is enacted pursuant to the Growth Management Act as codified in chapter 36.70A RCW and the provisions of RCW 82.02.050 through 82.02.100.

B. The purposes of this Chapter are to:

1. Develop a program consistent with the City's Comprehensive Plan for joint public and private financing of transportation facilities as such facilities are necessitated in whole or in part by development within the City;

2. Ensure that those transportation facilities necessary to support Development shall be adequate to serve the Development at the time the Development is available for occupancy and use, or within the period established by law, without decreasing current service levels below established minimum standards for the City.

3. Create a mechanism to charge and collect Transportation Impact Fees to ensure that all new Development bears its proportionate share of the capital costs of transportation facilities reasonably related to new Development; and

4. Establish standards and procedures so that new Development pays a proportionate share of costs for new facilities and services and does not pay arbitrary or duplicative fees for the same impact.

C. The City has conducted studies documenting the procedures for measuring the impact of new growth and Development on public transportation facilities, has prepared the fee study, and has reviewed the fee study, and hereby incorporates these studies into this Chapter by reference. Based on the foregoing, the City has prepared a formula and method of calculating Transportation Impact Fees to serve new Development that provides a balance between Transportation Impact Fees and other sources of public funds.

D. The provisions of this Chapter shall be liberally construed to effectively carry out its purposes in the interest of the public health, safety, and welfare.

**3.80.020 Definitions.**

For purposes of this Chapter, the following terms have the indicated meanings:

A. “Applicant” means a person, firm, company, partnership, or corporation, and all successors in interest thereto, proposing a Development in the city.

B. "Capital Facilities Element" means the capital facilities plan element of the City of Black Diamond’s Comprehensive Plan.

C. “City” means the City of Black Diamond.

D. “Commercial” means any activity carried out for the purpose of financial gain for an individual or organization, whether profit or nonprofit.

E. “Developer” means a person or persons or entity or entities that owns, or holds purchase options or other control over, property on which Development is proposed.

F. “Development” means any:

1. construction or expansion of a building, structure, or use;
2. change in use of a building or structure; or
3. change in the use of land;

that creates additional demand for transportation facilities.

G. “Dwelling Unit” means a dwelling unit as defined in Section 18.100.270 of the Black Diamond Municipal Code as now, or may be hereafter amended.

H. “Encumber” means to transfer impact fee dollars from the Transportation Impact Fee Fund to a fund for a particular system improvement that is fully funded in the current year’s budget or construction contracts let.

I. “Low-Income Housing” means housing with a monthly housing expense that is no greater than thirty percent of eighty percent of the median family income adjusted for family size, for King County, as reported by the United States Department of Housing and Urban Development.

J. “P.M. Peak Hour” means the consecutive 60-minute period between the hours of 4:00 p.m. and 6:00 p.m. during which the highest volume of traffic occurs.

K. “Project Improvements” means 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.

L. “System Improvements” means traffic capacity-adding transportation facilities that are included in the City’s Six-year Transportation Improvement Plan and are designed to provide service to the community at large, in contrast to Project Improvements or existing transportation facility preservation projects, such as repaving projects.

M. “Transportation Impact Fee” means a payment of money imposed upon Development as a condition of development approval and/or building permit approval to mitigate all or any portion of the transportation impact from the Development. "Transportation Impact Fee" does not include a reasonable permit or application fee, administrative fees for collecting and handling impact fees, the cost of reviewing independent fee calculations, or the administrative fee required for an appeal.

N. “Transportation Impact Fee Fund” means the fund established for the transportation facilities for which Transportation Impact Fees are collected.

O. "Transportation Impact Fee Schedule" means the table of impact fees adopted by the City Council establishing the standard amount that Applicants shall pay as a condition of Development within the City.

P. “Transportation Impact Fee Study” means the study dated ______, which determined the Transportation Impact Fee and subsequent updates.

**3.80.030 Council review of impact fees.**

A. The Transportation Impact Fee Schedule may be reviewed and amended by resolution of the City Council from time to time, as the City Council deems appropriate.

B. Further, Transportation Impact Fee Schedule shall be updated for inflation annually using the following procedures:

1. The Public Works Director shall use the Construction Cost Index for Seattle (June-June) published by the Engineering News Record to calculate annual inflation adjustments in the Transportation Impact Fee Schedule. The Transportation Impact Fee Schedule shall not be adjusted for inflation should the index remain unchanged.

2. The indexed Transportation Impact Fee Schedule shall be effective January 1 of each year. A copy of the indexed impact fee Schedule shall be provided to the City Council each December, but

the indexed Schedule shall become effective without further Council action.

C. The Public Works Director shall review the Transportation Impact Fee Schedule annually to determine whether a new Transportation Impact Fee rate study should be prepared.

**3.80.040 Applicability.**

A. A Transportation Impact Fee is hereby imposed on every Development activity in the City based upon the rates established in the Transportation Impact Fee Schedule. The Transportation Impact Fee Schedule shall establish such rates based upon the land use as defined within the Transportation Impact Fee Schedule. Should a definition of a particular land use category (such as, but not limited to: single family residential, etc.) otherwise contained within the Black Diamond Municipal Code conflict with a land use category definition contained within the Transportation Impact Fee Schedule, the definition contained within the Transportation Impact Fee Schedule shall control for purposes of calculating the Transportation Impact Fees due.

B. Any Transportation Impact Fee imposed shall be reasonably related to the impact caused by the Development and shall not exceed a proportionate share of the costs of System Improvements that are reasonably related to the Development.

C. Transportation Impact Fees shall be based on the Capital Facilities Element adopted by the City as part of the City's comprehensive plan and on the City's Six-year Transportation Improvement Plan.

D. The City shall also impose an application fee to cover the City's reasonable costs to administer the Transportation Impact Fee program. The administrative fee, in addition to the actual Transportation Impact Fees, shall be paid by the Applicant to the City at the time of building permit application. The administrative fee shall be deposited into an administrative fee account within the Transportation Impact Fee fund. Administrative fees shall be used to defray the cost incurred by the City in the administration and update of the Transportation Impact Fee program, including, but not limited to, review of independent fee calculations and the value of credits. The administrative fee is not creditable or refundable.

**3.80.050 Service Area.**

There shall be one service area which shall be consistent with the corporate limits of the City.

### 3.80.060 Assessment of Transportation Impact Fees.

A. The City shall assess Transportation Impact Fees from any Applicant seeking a building permit from the City, using the Transportation Impact Fee Schedule in effect at the time of building permit issuance, unless payment is deferred pursuant to this Chapter, in which case the Transportation Impact Fees shall be assessed based on the Transportation Impact Fee Schedule in effect at the time of the deferral application.

B. Unless the proposed Development is exempt or subject to adjustments, credits, or an independent fee calculation accepted by the City, the City shall not issue building permit(s) unless and until the Transportation Impact Fees have been paid.

### 3.80.070 Collection of Transportation Impact Fees.

A. Except as provided in subsection (B) of this section, the Transportation Impact Fees imposed under this Chapter are due and payable at the time of issuance of a building permit.

B. Transportation Impact Fee payments may be deferred for single-family detached and attached residential construction (as such terms are defined within the Transportation Impact Fee Schedule) until the City conducts a final building inspection as authorized by RCW 82.02.050(3). Each Applicant for Transportation Impact Fee deferral is entitled annually (per calendar year) to obtain deferral for only the first 20 single-family residential construction building permits applied for by that Applicant.

1. In order to defer the payment of Transportation Impact Fees, all Applicants and legal owners of the subject property upon which the Development activity is to occur must sign an impact fee deferral agreement in a form acceptable to the City Attorney. The Applicant must also pay an administrative fee, along with fees necessary for recording the agreement in the King County real property records. The impact fee deferral agreement shall require the applicant to grant and record an impact fee lien as required by RCW 82.02.050(3)(c) prior to issuance of the building permit. The City shall withhold final building inspection approval, issuance of a certificate of occupancy, and any other equivalent final certification until the deferred Transportation Impact Fees have been paid in full.

2. In no event shall the term of an impact fee deferral exceed 18 months.

3. In the event that the Transportation Impact Fees are not paid within the time provided in this subsection, the City may commence foreclosure proceedings under the process set forth in Chapter 61.12 RCW, except as may be revised herein. The then-present owner shall also pay the City's reasonable attorney fees and costs incurred in the foreclosure process. Notwithstanding the foregoing, the City shall not commence foreclosure proceedings until 30 calendar days after providing written notification to the then-present owner of the property via certified mail with return receipt requested advising of its intent to commence foreclosure proceedings. If the then-present owner cures the default within the 30-day cure period, no attorney fees and/or costs will be owed. In addition, the City retains its full authority to withhold inspections and to suspend, revoke, or refuse to issue certificates of occupancy and other building permits and to commence enforcement actions due to nonpayment of impact fees.

4. Upon written request following full payment of Transportation Impact Fees that have been deferred pursuant to this chapter, the City shall execute a written release of the lien recorded pursuant to this Chapter. The release shall be in a form approved by the City Attorney and shall be recorded against the title of the subject property by and at the expense of the current landowner.

**3.80.080 Exemptions.**

The following Development activities do not create any additional transportation impacts and are exempt from paying Transportation Impact Fees pursuant to this ordinance:

A. Existing Dwelling Unit. Any alteration, expansion, reconstruction, remodeling, replacement, or demolition/removal of an existing Dwelling Unit that does not result in the generation of any new P.M. Peak Hour trips.

B. Existing Nonresidential Building. Any alteration, expansion, reconstruction, remodeling, replacement, or demolition/removal of an existing nonresidential building that does not result in the generation of any new P.M. Peak Hour trips.

C. Condominium projects in which existing Dwelling Units are converted into condominium ownership and that do not result in the generation of any new P.M. peak hour trips.

D. Any Development activity that is exempt from the payment of a Transportation Impact Fee pursuant to RCW 82.02.100, due to mitigation required by the State Environmental Policy Act (“SEPA”).

E. Any Development activity for which transportation impacts have been mitigated pursuant to a condition of Development approval or development agreement to pay fees, dedicate land, or construct or improve facilities, unless the condition of the Development approval or a development agreement provides otherwise; provided that the condition of the Development approval or development agreement predates the effective date of this Chapter.

F. Any Development activity for which transportation impacts have been mitigated pursuant to a voluntary agreement entered into with the City pursuant to RCW 82.02.020 to pay fees, dedicate land, or construct or improve transportation facilities, unless the terms of the voluntary agreement provide otherwise; provided that the agreement predates the effective date of this Chapter.

G. A Developer who is constructing, reconstructing, or remodeling any form of Low-Income Housing may request an exemption of up to 80 percent of the required Transportation Impact Fees. Any claim for an exemption for Low-Income Housing must be made prior to payment of the Transportation Impact Fee, and any claim not so made shall be deemed waived. Prior to issuance of a certificate of occupancy for any portion of the Development, the owner shall execute and record against the property in the King County real property records a City-prepared covenant that shall guarantee that the Low-Income Housing shall continue, which covenant shall run with the land, address annual reporting requirements to the City, price restrictions, and household income limits and be consistent with the provisions of RCW 82.02.060(3) as now adopted or hereafter amended. In the event that the exempt housing unit is no longer used for Low-Income Housing, the then-current owner shall pay the applicable Transportation Impact Fees in effect at the time of conversion.

**3.80.100 Determination of Transportation Impact Fees, Reductions, Credits, Adjustments and Independent Calculations, and Appeals.**

A. Determination of Transportation Impact Fees. The City shall determine the amount of a Developer’s Transportation Impact Fees according to the Transportation Impact Fee Schedule.

B. Reductions. The Transportation Impact Fee amount established by the Transportation Impact Fee Schedule shall be reduced by the amount of any payment previously made for the Development activity in question, either as a condition of Development approval (such as, but not limited to a SEPA condition) or pursuant to a voluntary agreement.

C. Credits.

1. Whenever a Developer is subject to a Development condition that the Developer actually construct a System Improvement acceptable to the City or improve an existing System Improvement, the Developer shall be entitled to a credit for the actual cost of constructing or improving such System Improvement(s) against the Transportation Impact Fee that would be chargeable under the Transportation Impact Fee schedule, unless an applicable development agreement between the City and the Developer provides otherwise. The cost of construction of such System Improvement(s) shall be estimated for purposes of calculating an estimated credit, but must be documented, and the documentation confirmed after the construction is completed to assure that an accurate credit amount is provided. If construction costs are less than the calculated fee amount, the difference remaining shall be chargeable as a Transportation Impact Fee.

2. Whenever a Developer is subject to a Development condition that the Developer dedicate land to the City to mitigate its transportation impacts, the Developer shall be entitled to a credit to the Transportation Impact Fee chargeable under the Transportation Impact Fee Schedule, unless an applicable development agreement between the City and the Developer provides otherwise. The value of a credit for dedication of land shall be established on a case-by-case basis by an appraiser selected by or acceptable to the City. The appraiser must be licensed in good standing by the state of Washington for the category of the property appraised. The appraisal and review shall be at the expense of the Applicant. The appraisal shall be in accordance with the most recent version of the Uniform Standards of Professional Appraisal Practice, as published by The Appraisal Foundation, and shall be subject to review and acceptance by the City. If the amount of a credit is less than the calculated fee amount, the difference remaining shall be chargeable as a Transportation Impact Fee.

3. In the event the amount of a credit calculated under this section is greater than the amount of the Transportation Impact Fees due, the Applicant may apply such excess credit toward impact fees imposed on other Developments within the same service area; provided, however if the System Improvement is one for which a latecomers agreement would be authorized, then the Applicant shall only be entitled to a latecomers agreement. In any event the City shall not be

responsible for payment to the Applicant of any amount credited and not used.

4. No credit shall be given for Project Improvements.

5. An Applicant must request a credit pursuant to this section prior to payment of the Transportation Impact Fees and the issuance of the first building permit associated with the Development. Any claim not timely made shall be waived.

D. Adjustments.

1. An Applicant may request an adjustment to a Development's calculated Transportation Impact Fees by preparing and submitting to the City's Public Works Director an independent fee calculation for the Development activity for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. Independent fee calculations for Transportation Impact Fees shall use the same formulas and methodology used to establish the Transportation Impact Fees in this Chapter and shall be limited to adjustments in trip generation rates used in the Transportation Impact Fee study, and shall not include travel demand forecasts, trip distribution, transportation assignment, transportation service areas, costs of road projects, or cost allocation procedures. If the City's Public Works Director agrees with the independent fee calculation, a written agreement to accept such amount shall be transmitted to the Applicant who shall, in turn, present it to the Public Works department upon impact fee collection.

2. Pursuant to RCW 82.02.060(5), an Applicant may request an adjustment to their calculated Transportation Impact Fees on the basis that the Applicant's specific case presents unusual circumstances and that imposition of the Transportation Impact Fees as calculated based on the Transportation Impact Fee Schedule results in unfairness.

3. An Applicant must request an adjustment pursuant to this section prior to payment of the Transportation Impact Fees and the issuance of the first building permit associated with the Development. Any claim not timely made shall be waived.

E. Appeals.

1. Notwithstanding any other provision of the BDMC, any decision of the City with regard to Transportation Impact Fee amounts, including

any credits or adjustments, shall be appealable to the City's hearing examiner.

2. Any appeals must be filed within ten (10) days of the decision being appealed. The notice of appeal shall be made upon a form to be supplied by the City. A nonrefundable fee of two hundred fifty dollars shall be paid at the time the notice of appeal is submitted. A hearing shall then be scheduled before the hearing examiner within thirty days of the filing of the notice of appeal and appeal fee.

3. Notwithstanding any other provision of the Black Diamond Municipal Code, only the Applicant has standing to appeal Transportation Impact Fee matters.

4. The appeal procedures and decision requirements shall follow the provisions set forth in BDMC Chapter 2.30, Hearing Examiner, or as hereafter amended.

F. Transportation Impact Fees may be paid under protest in order to obtain a permit or other approval of Development activity.

**3.80.100 Transportation Impact Fee accounts and refunds.**

A. Transportation Impact Fee receipts shall be earmarked specifically and retained in a special interest-bearing account. All Transportation Impact Fees and any investment income generated by such fees shall remain in that fund until spent, Encumbered, or refunded pursuant to the provisions of this Chapter.

B. On an annual basis, the City's Finance Director shall provide a report to the City Council on the Transportation Impact Fee fund showing the source and amount of all monies collected, earned, or received, and System Improvements that were financed in whole or in part by Transportation Impact Fees. Additionally, on an annual basis, the City's Public Works Director shall provide a report to the City Council on the amount of Transportation Impact Fees that were not collected as a result of the provisions of this Chapter.

C. The current owner of property for which Transportation Impact Fees have been paid may receive a refund of such fees if the Transportation Impact Fees have not been expended or Encumbered within 10 years of their receipt by the City. In determining whether fees have been expended or Encumbered, fees shall be considered expended or Encumbered on a first-in, first-out basis. Notwithstanding the above, this refund mechanism only applies to Transportation Impact Fees and shall not apply to funds expended for mitigation projects or funds collected pursuant to a mitigation and/or development agreement.

D. The City shall provide for the refund of fees according to the requirements of this section and RCW 82.02.080.

1. The City shall notify potential claimants of the refund availability by first-class mail deposited with the United States Postal Service addressed to the owner of the property as shown in the county tax records.
2. A request for a refund must be submitted to the City's Finance Director in writing within one year of the date the right to claim the refund arises or the date that notice is given, whichever date is later.

E. Any Transportation Impact Fees that are not expended or Encumbered within 10 years of their receipt by the City, and for which no application for a refund has been made within this one-year period, shall be retained by the City and expended consistent with the provisions of this chapter.

F. Refunds of Transportation Impact Fees shall include any interest earned on the fees.

G. Should the City seek to terminate all Transportation Impact Fee requirements, all unexpended or unencumbered funds, including interest earned, shall be refunded to the current owner of the property for which an impact fee was paid. Upon the finding that 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 addressed to the owner of the property as shown in the county tax records. 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 for the original purposes, consistent with the provisions of this Chapter. The notice requirement set forth above shall not apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

H. An Applicant may request and shall receive a refund on paid Transportation Impact Fees, including interest earned on the Transportation Impact Fees, when:

1. The Applicant does not proceed to finalize the Development activity as required by statute or City code or the International Building Code; and

2. The City has not expended or Encumbered the Transportation Impact Fees prior to the application for a refund. In the event that the City has expended or Encumbered the fees in good faith, no refund shall be forthcoming. However, if within a period of three years, the same or subsequent owner of the property proceeds with the same or substantially similar Development activity, the owner shall be eligible for a credit against any then-existing Transportation Impact Fee requirement. The owner must petition the City in writing and provide receipts of Transportation Impact Fees paid by the owner for a Development of the same or substantially similar nature on the same property or some portion thereof. The City shall determine whether to grant a credit and such determinations may be appealed by following the procedures set forth in this Chapter.

**3.80.110 Use of Funds.**

A. Transportation Impact Fees shall:

1. Be used for System Improvements that will reasonably benefit new Development; and

2. Not be imposed to make up for deficiencies in the facilities serving existing Development; and

3. Not be used for maintenance or operation.

B. Transportation Impact Fees will be spent for System Improvements listed in the City's Six-Year Transportation Improvement Plan and identified as being funded in whole or part by Transportation Impact Fees. Expenditures may include but are not limited to: facility planning, land acquisition, site improvements, necessary off-site improvements, construction, engineering, permitting, financing, grant match funds and administrative expenses, mitigation costs, capital equipment pertaining to public facilities, and any other capital cost related to a particular system improvement.

C. Transportation Impact Fees may also be used to recoup costs previously incurred by the City to finance System Improvements identified per subsection (B) of this section and directly benefiting new growth and development.

D. In the event that bonds or similar debt instruments are or have been issued for the construction of a public facility or System Improvement for which Transportation Impact Fees may be expended, Transportation Impact Fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this chapter and are used to serve new development.

**3.80.120 Existing Authority Unimpaired.**

Nothing in this Chapter is designed to supersede or replace the provisions of BDMC Chapter 11.11, Concurrency Management. Further, nothing in this Chapter shall preclude the City from requiring an Applicant to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, based on the environmental documents accompanying the underlying development approval process, and/or Chapter 58.17 RCW governing plats and subdivisions; provided, that the exercise of the City's existing authority is consistent with the provisions of Chapters 43.21C and 82.02 RCW.

**Section 2. Severability.** Should any section, paragraph, sentence, clause, or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**Section 3. Effective Date.** This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND AT A REGULAR MEETING THEREOF ON THE _____ DAY OF______, 2021.**

CITY OF BLACK DIAMOND

___________________________________
Carol Benson, Mayor

Attest:

______________________________
Brenda L. Martinez, City Clerk

Approved as to form:

David Linehan, City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.
Date of Publication:
Effective Date: