



CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Tracey Dunlap, Director of Finance and Administration
Daryl Grigsby, Director of Public Works
Robin Jenkinson, City Attorney
Jenny Schroder, Director of Parks and Community Services
Eric Shields, Planning Director

Date: April 24, 2007

Subject: Public Hearing on Impact Fees Update (MIS07-00014)

Recommendation:

Council review additional materials and receive public comment at the May 1 Public Hearing.

Discussion:

As introduced at the April 3 City Council meeting and discussed in depth at the April 23 Special Study Session, the City is considering revisions to its adopted impact fees for transportation and parks as part of the process to prepare the 2008-2013 Capital Improvement Program (CIP). The existing impact fees, adopted in 1999 and based on 1998 studies (using 1997 project costs), have not been updated since that time. As authorized under the Growth Management Act, the City may charge impact fees to applicants of new development or for a change in use to pay for the cost of new public facilities that provide future capacity needed to accommodate new growth and development. The fees cannot pay for existing deficiencies in level of service for the public facilities or normal maintenance and repairs. The fee charged to each development is based on a proportionate share of the new facilities.

The draft rate studies updating the transportation and park impact fees and other supporting materials were provided in earlier City Council packets as follows:

- April 3 packet: Parks Impact Fee Rate Study (Attachment A)
- April 23 packet: Transportation Impact Fee Rate Study (revised) (Attachment 1)
- April 23 packet: Impact Fee Comparisons (Attachment 2)
- April 23 packet: Effect of Impact Fees on the Amount of Development (Attachment 3)
- April 23 packet: Summary of Transportation Commission Meeting Input (Attachment 4)
- April 3 packet: LWSD Letter regarding School Impact Fees (Attachment D)

The results of the rate studies represent the maximum supportable charge that the City could implement. The City Council could choose to implement a lower fee as a matter of policy. The following table

summarizes the calculated impact fees for single family residences from the 1999 study, the current charges, and the draft results from the 2007 update.

**Summary of Single Family
Residential Impact Fees per Dwelling Unit**

Transportation	1999 Study	Draft 2007 Study
Full Cost	\$1,931	\$3,432
@ Current 50% Recovery	\$ 966*	\$1,716
Parks		
Full Cost	\$1,224	\$3,621
@ Current 50% Recovery	\$ 612*	\$1,811

*current City of Kirkland impact fee

Review Process:

As of the date of this memorandum, more than half of the review process will be complete (summarized in the table below).

Council/Commission/Stakeholder Dates

Date	Time	Meeting
March 27	9:00 – 10:30 am	Finance Committee of City Council (Norkirk Room)
March 29	Noon	Chamber of Commerce Public Policy Committee
March 29	6:00 pm	Transportation Commission (Council Chambers)
April 3	7:30 pm	Present Draft Report to City Council (Chambers)
April 11/18	7:00 pm	Park Board (Council Chambers)
April 16	8:15 – 10:00 a.m.	Meet with stakeholders at Heritage Hall
April 23	Noon	Chamber of Commerce Public Policy Committee
April 23	7:00 – 9:00 pm	Special Council Study Session
April 24	9:00 – 10:30 am	Finance Committee of City Council (Norkirk Room)
April 26	7:00 – 8:30 pm	Meet with stakeholders in Peter Kirk Room
May 1	7:30 pm	Council Presentation/Public Hearing /preliminary policy direction
May 15	7:30 pm	Council provide final policy direction
June 5	7:30 pm	Council adopts updated impact fees/sets effective date

The feedback received to date includes:

- The Park Board met on both April 11 and April 18 to review the park impact fee rate study. After considerable discussion, the Park Board prepared the following recommendation to the City Council:
 1. The Park Board recommends that the City Council should adopt impact fee rates for parks that reflect 100% of full cost recovery.
 2. The Park Board recommends that impact fee rates should be indexed to inflation on an annual basis.
 3. The Park Board recommends that alternative methods for calculating impact fees should be considered during the next impact fee review process.

The Board also was in general agreement that further consideration of assessing impact fees to non-residential development should occur during the next review process.

- At their meeting on March 29, the Transportation Commission reviewed the draft rate study and discussed the information. The feedback from that meeting is summarized in Attachment 1 and includes:
 - There was agreement that the “concurrency” list (as opposed to the “capacity” list) should be used as the basis for the impact fee project list.
 - There is a large difference between the existing rates and those proposed in the new fee study, and the magnitude of this change caused some commissioners to feel that the proposed levels would be too high. However, commissioners felt that the impact fees should be implemented at 100% of the proposed level.
 - Impact fees should be indexed either to inflation or another index as appropriate in order to keep pace with the dramatically increasing construction costs.
 - Interlocal agreements to pay impact fees would be helpful, but should not be counted on to replace other strategies such as regular reviews and indexing
 - The rate study should be re-examined more regularly, in particular after annexation if it occurs.
- Attachment 2 to this memorandum contains a summary of stakeholder questions, responses, and comments from the various meetings as of April 16, 2006.
- A presentation was made to Kirkland Alliance of Neighborhoods on April 19.
- A letter containing citizen input on the issue (Attachment 3 to this memorandum).

Information on further input received during the public process will be provided at the May 1 City Council meeting.

Policy Issues:

Preliminary recommendations developed during the review process are summarized as follows (detailed descriptions of the policy considerations were provided in the earlier packets):

1. Cost Recovery Policy

Should the City Council adopt revised impact fee rate schedules for transportation and parks that reflect 100% of what can legally be charged as outlined in the new rate studies or a lesser amount?

Recommendation: The preliminary recommendation of the Finance Committee is that the impact fees reflect 100% cost recovery, recognizing the City’s financial needs. The final recommendation is pending public hearing comments.

2. Indexing with Inflation

Should the impact fee rate schedules be indexed for inflation on an annual basis, except when the rate schedules have been updated the preceding year to reflect revised project costs (generally coinciding with the CIP budget process)? If so, what inflation index should be used?

Recommendation: The preliminary recommendation of the Finance Committee is to provide for indexing of the fee with inflation. Staff is currently developing a more detailed description of this issue that will be provided in advance of the May 15 City Council meeting to assist in determining which inflation index should be selected for inclusion in the revised ordinance.

3. All Capacity Projects versus Only Concurrency Projects for Transportation

Should the City charge impact fees based on all capacity projects or just those projects necessary to meet concurrency requirements?

Recommendation: Based on the Transportation Commission recommendation, staff recommends basing the impact fee on only the concurrency projects rather than capacity projects. The rate study has been revised to reflect this recommendation. Further description of the basis for this recommendation is included in Attachment 1 to this memorandum.

4. Implementation Date

On what date should the revised impact fees take effect?

Recommendation: At the April 23 Study Session, the City Council requested options and impacts of different implementation dates, including how different types of projects at different stages of the development process would be impacted. A summary of the options will be prepared in advance of the May 15 City Council meeting, to support establishing an implementation date to be included in the revised ordinance.

5. Alternate Methods and Extension of Park Impact Fees to Non-Residential

Should alternate methods of calculation be considered?

Should the Parks Impact Fees be extended to non-residential development?

Recommendation: The Finance Committee recommends that the impact fees be updated every 3 years, consistent with adopted fiscal policies. City staff recommends evaluating alternate methods during the next update (2-3 years) to the impact fees or after the annexation decision is made, whichever occurs first. The issue of extending Park impact fees to non-residential land uses would require a Comprehensive Plan Amendment to the level of service methodology and a study of what park services the local non-residential sector uses. All of this would need to be done before a non-residential parks impact fee could be adopted and is recommended to be done before the next impact fee update.

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6. Adoption of School Impact Fees

Should the City of Kirkland impose and collect school impact fees on behalf of the Lake Washington School District?

Should this issue be considered at the same time as the City's Parks and Transportation Impact Fees or on a separate timetable?

Recommendation: The City Council has directed that the issue of imposing School Impact Fees be addressed after the City adopts its updated Parks and Transportation fees. In the meantime, City staff will gather additional information from the Lake Washington School District, as requested by the City Council, which will be provided when the School Impact Fees are brought forward for consideration.

Ordinance:

Attachment 4 to this memorandum contains the draft impact fee language changes for Transportation; the Parks impact fee code and related changes mirror the Transportation section. Highlights of the proposed changes include:

- **New provision to index the fee schedule for inflation on an annual basis** (Sections 27.04.120 and 27.06.120).
- **New provision to charge impact fees for a change in use when no building permit is required, but new use does create new impact** (Sections 27.040.030 and 27.06.030).
Currently, impact fees are only assessed when a building permit is issued. In limited situations, a building permit may not be required, but the new use creates impacts on city facilities. Examples would be a change from retail to office, general retail to auto sales or hotel with kitchens converted to apartments. The transportation fee schedule shows a higher number of trips and thus a greater fee for office versus retail use and auto sales versus general retail. Hotels do not pay an impact fee for parks, whereas apartments do pay the fee.
- **Add in the Exemption section that accessory dwelling units do not require impact fees** (Sections 27.04.050 and 27.06.050). The definition section and the fee schedule state this, but the exemption section does not.
- **Change the name of Road Impact Fees to Transportation Impact Fees** (Chapter 27.04).
The term transportation impact fee is more commonly used than road impact fee.
- **Minor housekeeping amendments** throughout both ordinances that include deleting sections no longer applicable and clarifying certain provisions on processing and accounting of the fees.

At the May 1st public hearing, staff is seeking guidance on what cost recovery is desired and whether increases will be phased-in to inform the 2008-2013 Capital Improvement Program budget development. Final policy direction will be requested at the May 15th meeting and the ordinance will be brought forward for adoption at the June 5th Council meeting.

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Attachments

- 1 – Transportation Commission Input (Revised)
- 2 – Stakeholder Question/Comments and Answers/Responses through April 16, 2007
- 3 – Citizen Letter on Cost Recovery
- 4 – Revised Transportation Impact Fee Language

cc: Sandi Hines, Financial Planning Manager
Ray Steiger, Capital Projects Manager
Teresa Swan, Senior Planner
Michael Cogle, Park Planning & Development Manager
Teresa Levine, Interim Financial Operations Manager


CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
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MEMORANDUM

To: Tracey Dunlap, Director of Finance & Administration

From: David Godfrey, Transportation Engineering Manager

Date: April 10, 2007 *(REVISED 4/24/07)*

Subject: Transportation Commission comments on impact fees

At their meeting on March 29, the Transportation Commission reviewed the draft impact fee rate study. The following are the notes from that meeting which have been reviewed by the Commissioners who were present at the meeting:

Impact fees

Don Samdahl and Randy Young presented findings of the impact fee study. Randy Young described the basics of Impact Fee law in Washington, and Don Samdahl followed with more specifics related to transportation. He reviewed key pieces of the rate study and explained how the values were determined.

Ray Steiger explained how additional non-impact fee funding (sales tax, REET, grants) is required to supplement impact fees in order to fund the City's transportation projects. Since impact fees account for less than 30% of the City's annual transportation funding, increasing the cost of the City's project list would not only generate additional impact fees, but would also require that other funding levels be increased accordingly. As can be seen graphically (attached to this memo) an increase in the transportation network would detrimentally impact funding levels for the City's maintenance (overlay and sidewalk maintenance) and non-motorized projects. For these reasons, staff proposed using the "concurrency project list" as opposed to the "capacity project list" for the impact fee basis. The Commission discussed the information and agreed that:

- There was agreement that the "concurrency" list (as opposed to the "capacity" list) should be used as the basis for the impact fee project list.
- There is a large difference between the existing rates and those proposed in the new fee study, and the magnitude of this change caused some commissioners to feel that the proposed levels would be too high. However, commissioners felt that the impact fees should be implemented at 100% of the proposed level.
- Impact fees should be indexed either to inflation or another index as appropriate in order to keep pace with the dramatically increasing construction costs.
- Interlocal agreements to pay impact fees would be helpful, but should not be counted on to replace other strategies such as regular reviews and indexing
- The rate study should be re-examined more regularly, in particular after annexation if it occurs.

Don Samdahl explained that Commissioner Pascal had raised a series of good questions to which he will be responding. The revised rate study addresses Commissioner Pascal's key comments.

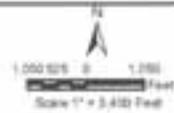


2022 Concurrency Project List



Legend

-  HOV Improvement
-  Roadway
-  Intersection
-  # Number of Lanes



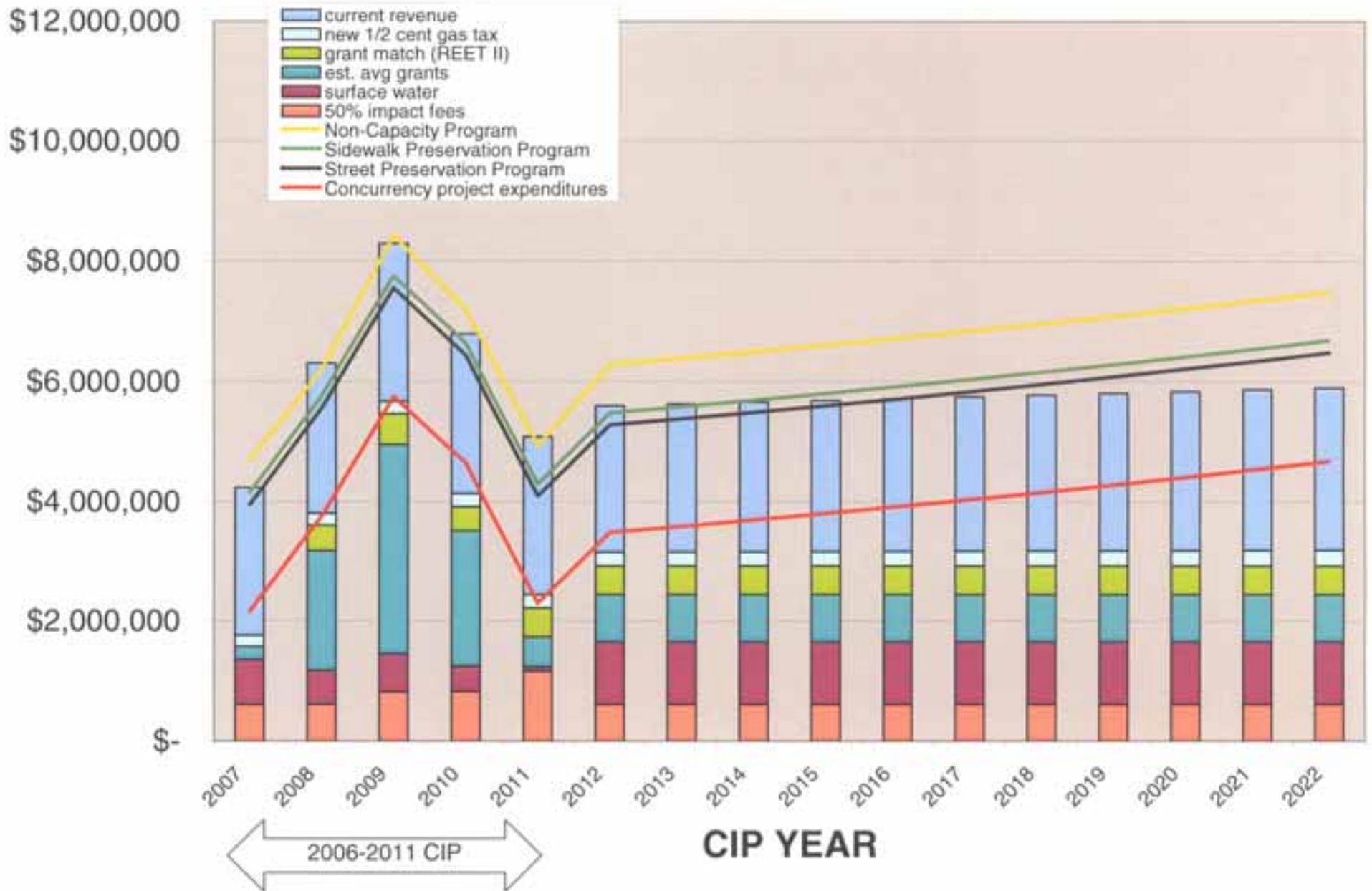
2022 Capacity Project List

Total Remaining Needs: \$ 48,042,500 \$ 89,551,500 (2007 uninflated costs - impact fee study)

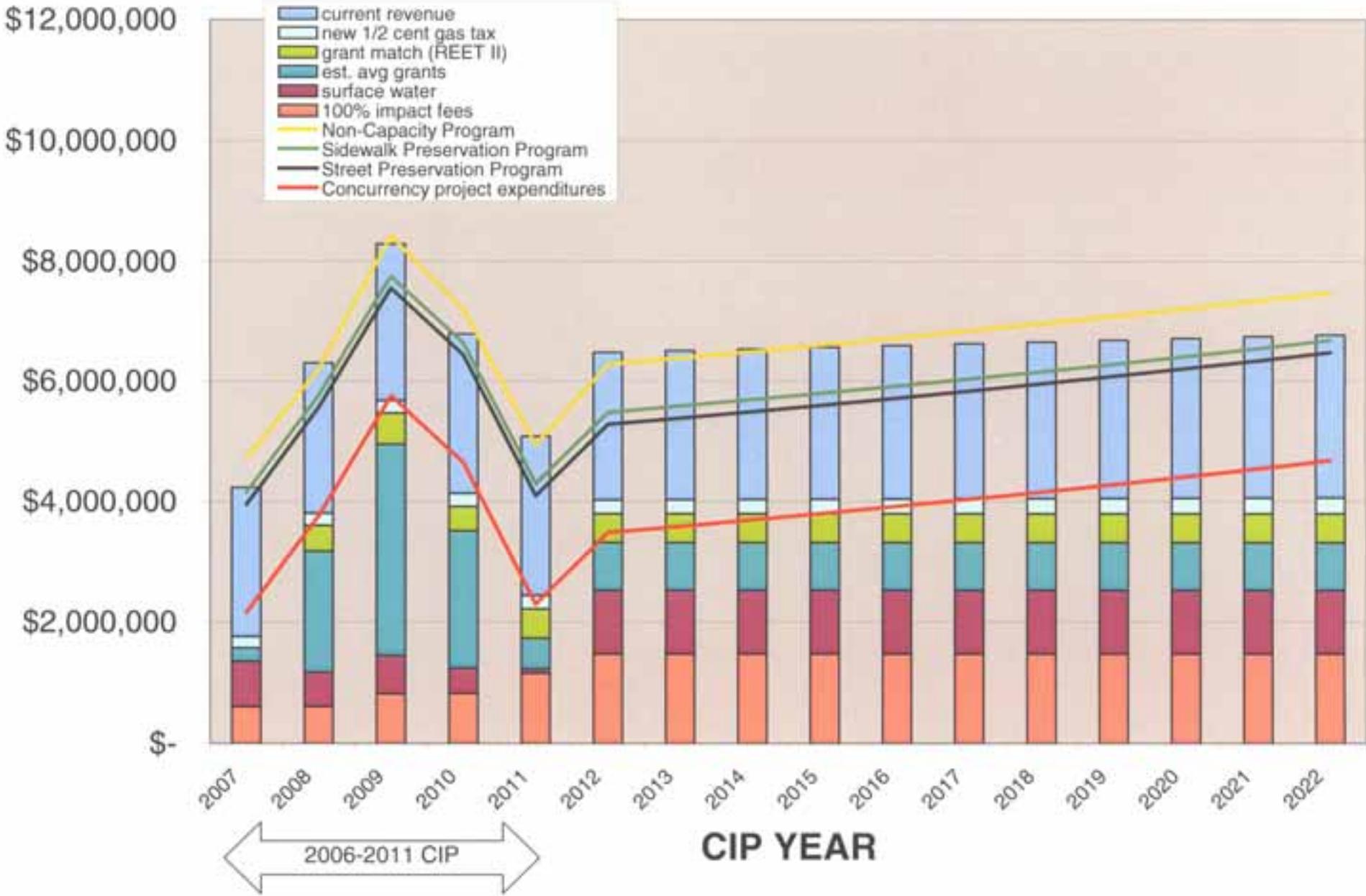
Surface water element \$ 17,168,700

	3% inflation (concurrency projects)		3% inflation (capacity projects)				3% inflation (capacity projects)
		0% inflation		5% inflation	7% inflation		
2007	\$ 3,002,658	\$ 5,596,969	\$ 5,596,969	\$ 5,596,969	\$ 5,596,969	\$ 5,596,969	1,073,044
2008	3,092,738	5,596,969	5,764,878	5,876,817	5,988,757	5,988,757	1,105,235
2009	3,185,518	5,596,969	5,937,824	6,170,658	6,407,970	6,407,970	1,138,392
2010	3,281,084	5,596,969	6,115,959	6,479,191	6,856,527	6,856,527	1,172,544
2011	3,379,518	5,596,969	6,299,438	6,803,150	7,336,484	7,336,484	1,207,720
2012	3,480,902	5,596,969	6,488,421	7,143,308	7,850,038	7,850,038	1,243,952
2013	3,585,329	5,596,969	6,683,073	7,500,473	8,399,541	8,399,541	1,281,270
2014	3,692,888	5,596,969	6,883,566	7,875,497	8,987,509	8,987,509	1,319,708
2015	3,803,675	5,596,969	7,090,073	8,269,272	9,616,634	9,616,634	1,359,300
2016	3,917,785	5,596,969	7,302,775	8,682,738	10,289,799	10,289,799	1,400,079
2017	4,035,319	5,596,969	7,521,858	9,116,872	11,010,085	11,010,085	1,442,081
2018	4,156,378	5,596,969	7,747,514	9,572,716	11,780,791	11,780,791	1,485,344
2019	4,281,070	5,596,969	7,979,939	10,051,352	12,605,446	12,605,446	1,529,904
2020	4,409,502	5,596,969	8,219,337	10,553,919	13,487,827	13,487,827	1,575,801
2021	4,541,767	5,596,969	8,465,917	11,081,615	14,431,975	14,431,975	1,623,075
2022	4,678,041	5,596,969	8,719,895	11,635,696	15,442,213	15,442,213	1,671,767
Total expenditures	\$ 60,524,186	\$ 89,551,500	\$ 112,817,435	\$ 132,410,242	\$ 156,088,564	\$ 156,088,564	21,629,216
Annual smoothed expenses	\$ 3,782,762	\$ 5,596,969	\$ 7,051,090	\$ 8,275,640	\$ 9,755,535	\$ 9,755,535	\$ 1,351,826

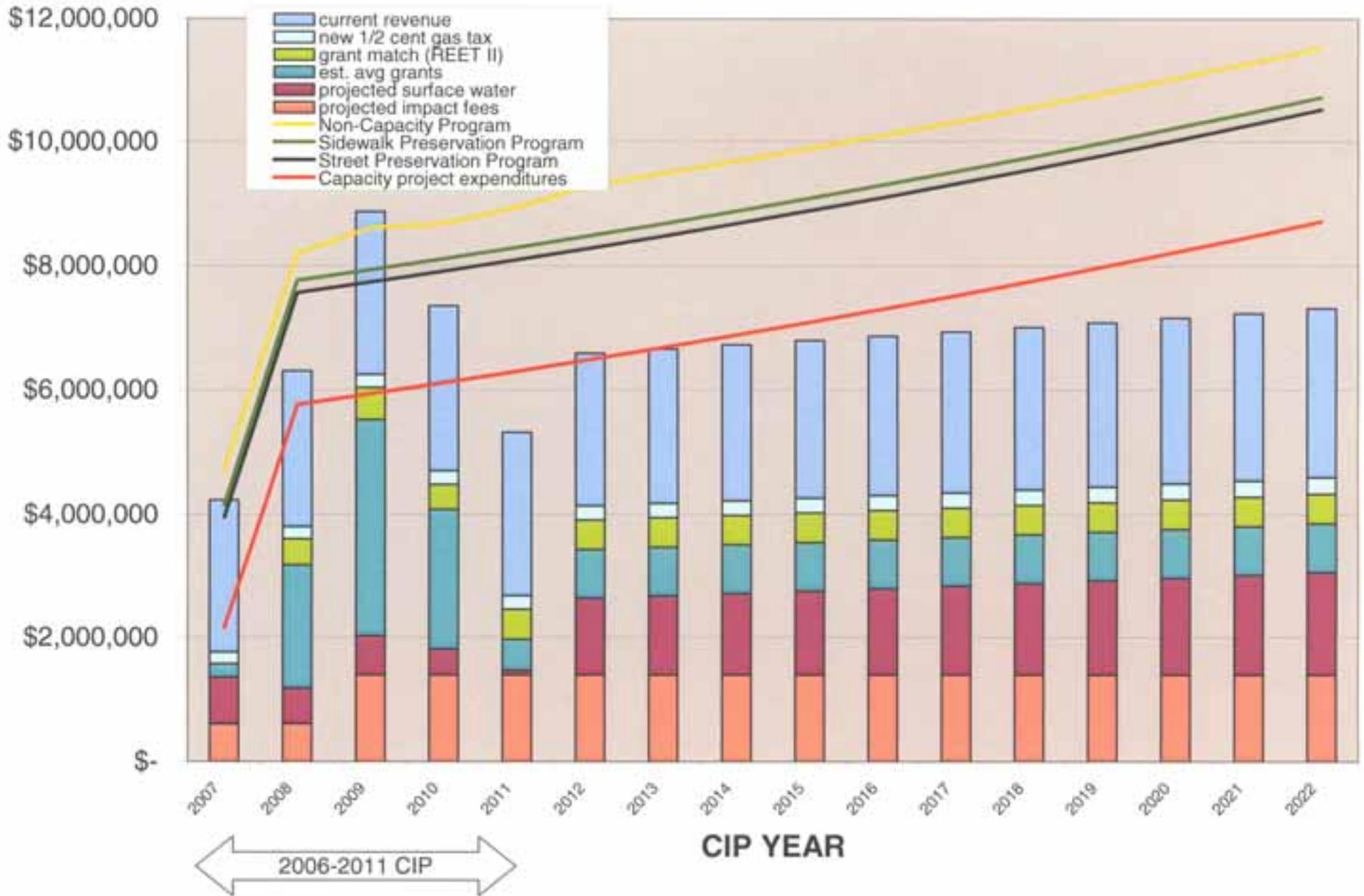
2007-2022 TRANSPORTATION FUNDING VS CONCURRENCY NEEDS (assuming current 50% of \$1,754)



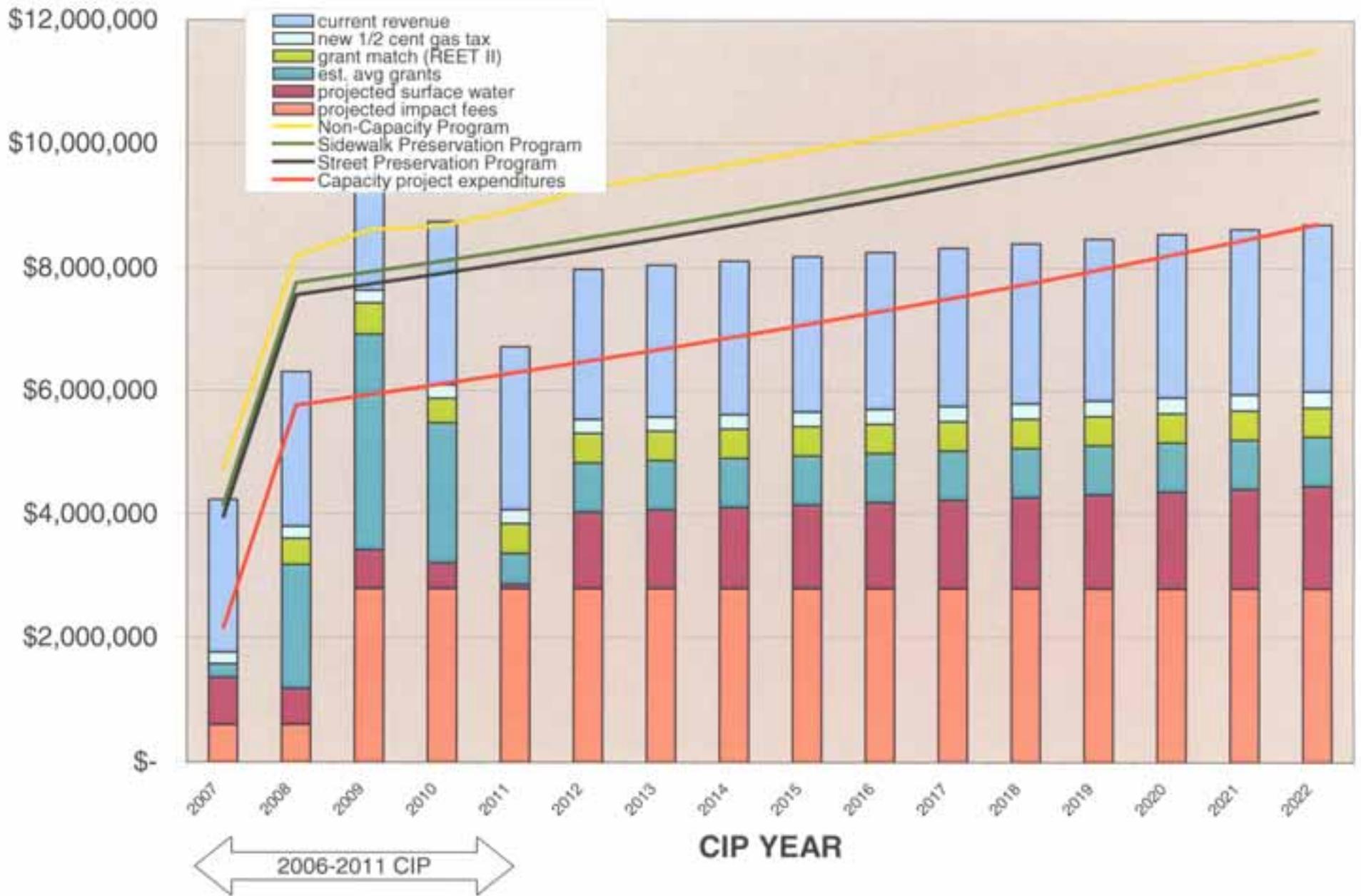
2007-2022 TRANSPORTATION FUNDING VS CONCURRENCY NEEDS (assuming 100% of updated \$2,155 after 2011)



2007-2022 TRANSPORTATION FUNDING VS CAPACITY NEEDS (assuming 50% of \$4073)



2007-2022 TRANSPORTATION FUNDING VS CAPACITY NEEDS (assuming 100% of \$4073)



Impact Fee Update
Question/Comments and Answers/Responses from the
Various Public Meetings through April 16, 2006

1. Why should I pay for Transportation Impact Fees for projects in Totem Lake when my development is in the south end of the City?

Transportation Impact Fees pay for specific city wide system improvements. The city is compact enough to make the reasonable assumption that vehicle trips to and from each business will use most or the entire roadway network. For example, owners, employees, customers and deliveries will come from all directions and will use various roads within the city to get to and from the each business. On the other hand, SEPA mitigation is for near site improvements with a strong nexus to impacts and mitigation of those impacts.

2. Why should have to I pay for the fees since I am required to pay for the curb, gutter, sidewalk and some street pavement in front of my development?

Once you leave the development to travel to work, shopping, recreational activities and other trips, you use the citywide road system. If the improvements made in front of your property are part of a Transportation Impact Fee project, a credit is provided against the impact fee owed. The City cannot double charge for frontage improvements that are part of an impact fee project and collect the entire impact fee. In some cases, the frontage improvement offsets the entire impact fee due.

3. Why must I pay the impact fee when I pick up my building permit and not wait until I am ready to occupy the building?

There are several reasons for collecting at building permit issuance and not at final occupancy:

- Issuance of the building permit is when the City collects all fees and the only point in which the City can be certain that the fees will be paid. Just as the City collects for all inspections and other city actions before a permit is issued, impact fees must be paid up front. Several years ago, one Washington State County jurisdiction tried collecting impact fees at occupancy and they ended having to use a collection agency to collect on many of the outstanding fees. Many applicants forgot about the fees and did not have the money on hand to pay when they were ready to occupy. This can be a major problem with large developments where the impact fee is substantial. This is the reasons that *no city or county in Washington State collects impact fees at occupancy.*
- Final occupancy is a very hectic and stressful time for both the applicant and the City. The City generally has 24 hours to respond to a final inspection and be ready to make certain that all requirements have been met. The applicants are always in a hurry to move in and sometimes will move in without the required final occupancy permit or final inspection. Many people, particular the single family homeowner who is new to development, would try to make a case of hardship and ask to move in and pay the fee later. Collections would become a serious issue for the City.

- Single family permits do not require occupancy permits, but rather just final inspections. It would be very easy for forget to collect impact fees.
- GMA says that water and sewer must be in place at occupancy, but gives jurisdiction up to 6 years to have transportation and park facilities in place. The City needs the fees early in the process so that we can budget, plan, design and build the needed facilities so that they are in place within 6 years.

4. I read the RCW on impact fees to say that the City must use other funds to pay for capacity projects before collecting impact fees.

Our consultant, Randy Young, has provided the attached analysis of the State RCW on impact fees (following this Q&A). City Attorney Robin Jenkinson has reviewed Randy's analysis and agrees with his conclusions. Randy says that all other local jurisdictions take the same position that impact fees can be used to pay for nearly all capacity projects. The RCWs do not define what is "nearly all" so it is up to each jurisdiction to determine what that share is. For Parks, the rate study subtracts out 10% of the total cost of the projects as the City's share. For transportation, the rate study subtracts grants and other funding sources out of the total cost of the projects as the City's share. In addition, the City must pay the entire share of impact fees attributed to pass through traffic, which in the case of the city is over 50%.

5. Impact fees increase the cost of housing.

Our consultant, Randy Young, has provided studies that show that land costs and other factors are the driving force behind the cost of housing and not impact fees (April 23 packet, Attachment 3). One case in point is that the Kirkland has one of the lowest impact fee charges in the area, but our cost of housing is comparable if not more than other local areas. We were one of the last cities in the area to start collecting impact fees, but this has not slowed the cost of housing in the city.

6. I look around and see lots of open space in our park system. Why do we not lower our level of service and not charge for park impact fees?

First, an amendment to Kirkland's Park Comprehensive Plan and to the city wide Comprehensive Plan would be required to change our level of service. The purpose of this project is to adjust the impact fee schedules based on the adopted level of service. Secondly, in addition to open space areas, the park system is made of various facilities, such as tennis courts, basketball courts and baseball fields. These facilities are in constant demand. We have park facilities that we cannot even collect impact fees for because of our existing deficiencies and the inability to fund the projects, including neighborhood parks and an indoor recreational facility. Third, impact fees are collected to provide needed facilities for future growth and not for the existing population.

Issue and Response: Kirkland Impact Fees

March 29, 2007

Does Kirkland have to use other money for infrastructure before it can charge impact fees?

It has been suggested by a stakeholder that the impact fee enabling statute, RCW 82.02.050 – 090, requires the City to spend other revenues to build infrastructure needed by growth before the City can charge impact fees for that infrastructure. The following is a summary of the sections of RCW 82.02.050 – 090 that pertain to the relationship between impact fees and other revenues, but none of them require the City to adopt or use any particular sources or amounts of revenue other than impact fees to pay for the infrastructure needed by new development.

RCW 82.02.050 (2) authorizes cities planning under the Growth Management Act (RCW 36.70A.040) to impose impact fees “... provided that the financing for system improvements to serve new development must provide for a balance between impact fees and other sources of public funds and cannot rely solely on impact fees.”

The term “balance” is not defined in the impact fee statute. If the legislature had intended a particular meaning for the term, it would have included the definition, or a required outcome, in the statute. If the legislature had intended limits on the range of choices local governments could use to define “balance” it would have included the limits or thresholds in the statutes. In fact, the legislature did adopt such a limit at the end of the same sentence in which “balance” appears. The limit is that local governments “...cannot rely solely on impact fees” in financing system improvements to serve new development. The legislature did not define “balance” or “cannot rely solely” so it left to local governments the responsibility to determine the appropriate mix of impact fees and other sources of public funds.

As the City of Kirkland seeks to determine the appropriate mix of funding, it notes that the “balance” required by the statute refers to “financing for system improvements to serve new development” and does not refer to a balance in funding new development’s proportionate share of those improvements. There is an important difference between the “system improvements needed to serve new development” and new development’s “proportionate share” of those needed improvements. Specifically, the “system improvements needed to serve new development” include the entire road or park, not just growth’s share of those roads or parks. The legislature made this distinction when it defined “proportionate share” as “... that portion of public facility improvements that are reasonably related to the service demands and needs of new development” (RCW 82.02.090 (5)). If the legislature had intended the outcome of a specific balance of funding, it could have required a balance in funding the “proportionate share.” The legislature chose a different test, using “balance” to refer to the entire “system improvements to serve new development.” Furthermore, if the legislature had intended that other revenues be maximized, and spent first before impact fees, it could have said so in the enabling statute.

In arriving at the City's proposed financing for the system improvements, and the proposed impact fee, the City must comply with all of RCW 82.02.050 – 82.02.090. Singling out the requirement to "balance" is not sufficient guidance for the proper calculation of the impact fee. Other sections of the statutes also provide guidance, requirements and limits in determining the impact fee. The section that immediately follows "balance" but "cannot rely solely on impact fees" is RCW 82.02.050 (3). This contains three subsections that limit impact fees. Subsection (b) provides that impact fees "Shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development." As noted earlier, the term "proportionate share" is defined in RCW 82.02.090 (5) as "... that *portion* of public facility improvements that are reasonably related to the service demands and needs of new development. (emphasis added)" Thus, the City may charge an impact fee up to the full amount of the portion of public facilities that provide the City's adopted level of service to meet the needs of new development (subject to the limit "cannot rely solely on impact fees").

The City has been very careful, and conservative, in determining the "proportionate share" of improvements that are needed to serve new development. As a result, and in compliance with RCW 82.02.050 (3), the City can, and proposes to, charge an impact fee in an amount that does not exceed growth's "proportionate share" of the system improvements that are reasonably related to the service demands and needs of new development.

Another section of the impact fee statute that pertains to the relationship between impact fees and other revenues is RCW 82.02.060 (1) (b) requires Kirkland to include in its fee calculations "An adjustment to the cost of the public facilities for past or future payments made or reasonably anticipated to be made by new development to pay for particular system improvements in the form of user fees, debt service payments, taxes, or other payments earmarked for or proratable to the particular system improvement;". This section does not limit the City's authority to decide which other revenues to charge, or how to use those other revenues. This section simply requires that in circumstances in which the City chooses to use other revenue for the same infrastructure project(s) as the impact fee, the City must adjust (i.e., reduce) the cost basis of the infrastructure projects by the amount of the other revenue paid by new development in order to avoid double-charging the development for its proportionate share of the cost of the infrastructure. The transportation impact fee study assigns portions of costs to "through" trips, and subtracts those costs from the impact fee calculation, leaving City to choose how to fund those costs with revenues other than impact fees. The park impact fee study make two adjustments. The first uses growth's percentage of the population to calculate the amount of park project costs that will be paid by other revenues from growth. The second adjustment subtracts 10% of growth's proportionate share in order to "not rely solely on impact fees" in calculating the impact fee rates for parks.

RECEIVED

APR 18 2007

BY AWI PLANNING DEPARTMENT PM

10905 NE 41st Drive
Kirkland, WA 98033
April 18, 2007

Kirkland City Council
City of Kirkland
123 5th Ave
Kirkland, WA 98033

Dear Councilmembers

As a long time resident of Kirkland I have watched the city grow; sometime for the better and sometime not. We have many unmet needs and opportunities for Kirkland to excel. The problem, as you know, is the resources.

I believe there is no credible reason for impact fees to be "discounted" for any one. We all believe in the value of capitalism and personal responsibility. Now is the time to demonstrate it by requiring everyone to pay their share.

Impact fees should be at 100%.

Sincerely



Hugh Givens

Title 27

IMPACT FEES

Chapters:

27.04 **Transportation Road Impact Fees**

27.06 **Park Impact Fees**

Draft

Chapter 27.04

Transportation~~ROAD~~ IMPACT FEES

Sections:

- 27.04.010 Findings and authority.
- 27.04.020 Definitions.
- 27.04.030 Assessment of impact fees.
- 27.04.040 Independent fee calculations.
- 27.04.050 Exemptions.
- 27.04.060 Credits.
- 27.04.070 Adjustments.
- 27.04.080 Establishment of impact fee account.
- 27.04.090 Authorization for interlocal agreements.
- 27.04.100 Refunds.
- 27.04.110 Use of funds.
- 27.04.120 Review of schedule and fee increases.
- 27.04.130 Appeals.
- 27.04.135 Responsibility for payment of fees
- 27.04.140 Existing authority unimpaired.
- 27.04.150 Fee schedule.

27.04.010

Findings and authority.

The city council finds and determines that new growth and development, including but not limited to new residential, commercial, retail, office, industrial, ~~and~~ institutional development, and changes in land uses, in the city will create additional demand and need for public facilities (public streets and roads) in the city and finds that new growth and development should pay a proportionate share of the cost of new public facilities needed to serve the new growth and development. The city has conducted an extensive study documenting the procedures for measuring the impact of new developments on public facilities and has prepared a rate study. The city council accepts the methodology and data contained in the rate study. Therefore, pursuant to RCW Chapter 82.02, the city council adopts this chapter to assess impact fees for public facilities. (Ord. 3685 § 1 (part), 1999)

27.04.020

Definitions.

The following words and terms shall have the following meanings unless the context clearly requires otherwise. Terms otherwise not defined herein shall be defined pursuant to RCW 82.02.090, or given their usual and customary meaning.

(1) "Act" means the Growth Management Act, RCW Chapter 36.70A.

(2) "Applicant" means the owner of real property according to the records of the King County department of records and elections, or the applicant's authorized agent.

(3) "Building permit" means the official document or certification that is issued by the building division of the fire and building department and that authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, tenant improvement, demolition, moving or repair of a building or structure.

(4) "Capital facilities" means the facilities or improvements included in the capital facilities plan.

(5) "Capital facilities plan" means the capital facilities plan element of the city's comprehensive plan adopted pursuant to RCW Chapter 36.70A, and such plan as amended.

~~(6) "Certificate of occupancy" means the term as defined in the Uniform Building Code adopted in Title 21 of this code. In the case of a change in use or occupancy of an existing building or structure which may not~~

~~require a building permit, the term shall specifically include certificate of occupancy and for residential development the final inspection, as those permits are defined or required by this code.~~

~~(67)~~ “City” means the city of Kirkland, Washington.

~~(78)~~ “Council” means the city council of the city.

~~(89)~~ “Department” means the public works department.

~~(940)~~ “Director” means the director of the public works department, or the director’s designee.

~~(1044)~~ “Encumbered” means to reserve, set aside or otherwise earmark the impact fees in order to pay for transportation planning, engineering design studies, land surveys, right-of-way acquisition, engineering, permitting, financing, administrative expenses, construction of roads and related facilities, and any other commitments, contractual obligations or other liabilities incurred for public facilities.

~~(1142)~~ “Gross floor area” is the total square footage of all floors in a structure as defined in Chapter 5 of Title 23 of this code (zoning code).

~~(1243)~~ “Hearing examiner” means the person who exercises the authority of Chapter 3.34 of this code.

~~(1344)~~ “Impact fee” means a payment of money imposed by the city on an applicant prior to issuance of a building permit, ~~or a certificate of occupancy if a building permit is not required~~, pursuant to this chapter as a condition of granting a building permit, ~~or certificate of occupancy permit if no building permit is required~~, in order to pay for the public facilities needed to serve new growth and development. “Impact fee” does not include a reasonable permit fee or application fee.

~~(1445)~~ “Impact fee account” or “account” means the account established for the system improvement for which impact fees are collected. The account shall be established pursuant to this chapter, and shall comply with the requirements of RCW 82.02.070.

~~(1546)~~ “Independent fee calculation” means the study or data submitted by an applicant to support the assessment of an impact fee other than the fee in the schedule attached as Appendix AKMC 27.04.150 to this chapter.

~~(1647)~~ “Interest” means the interest rate earned by local jurisdictions in the State of Washington Local Government Investment Pool, if not otherwise defined.

~~(1748)~~ “Interlocal agreement” or “agreement” means a roads interlocal agreement, authorized in this chapter, by and between the city and other government agencies concerning the collection and expenditure of impact fees, or any other interlocal agreement entered by and between the city and another municipality, public agency or governmental body to implement the provisions of this chapter.

~~(1849)~~ “Low-income housing” means (A) an owner-occupied housing unit affordable to households whose household income is less than eighty percent of the King County median income, adjusted for household size, as determined by the United States Department of Housing and Urban Development (HUD), and no more than thirty percent of the household income is paid for housing expenses, or (B) a renter-occupied housing unit affordable to households whose income is less than sixty percent of the King County median income, adjusted for household size, as determined by HUD, and no more than thirty percent of the household income is paid for housing expenses (rent and an appropriate utility allowance). In the event that HUD no longer publishes median income figures for King County, the city may use or determine such other method as it may choose to determine the King County median income, adjusted for household size. The director will make a determination of sales prices or rents which meet the affordability requirements of this section. An applicant for a low-income housing exemption may be a public housing agency, a private nonprofit housing developer or a private developer.

~~(1920)~~ “Owner” means the owner of real property according to the records of the King County department of records and elections; provided, that if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the real property.

~~(2024)~~ “Prior use” means the use with the highest impact fee per unit, based on the schedule in KMC 27.04.150 in existence, since January 1, 19982006, as documented by City records, ~~based on the schedule in Appendix AKMC 27.04.150.~~

~~(2122)~~ “Project improvements” means site improvements and facilities that are planned and designed to provide service for a particular development or users of a project, and are not system improvements. No improvement or facility included in the capital facilities plan shall be considered a project improvement.

~~(2223)~~ “Public facilities” means the public streets and roads of the city or other governmental entities.

(2324) "Residential" means housing, such as single-family dwellings, accessory dwelling units, apartments, condominiums, mobile homes and/or manufactured homes, intended for occupancy by one or more persons and not offering other services. For the purpose of this chapter, an accessory dwelling unit, as defined in Chapter 5 and regulated in Chapter 115 of Title 23 of this code (zoning code), is considered an adjunct to the associated single-family dwelling unit and is not charged a separate impact fee.

(2425) "Rate study" means the Transportation Impact Fee Rate Study, City of Kirkland, by Mirai, Associates BRW, Inc., dated March 20071999.

(2526) "Road" means a right-of-way which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, street, and other thoroughfare, except an alley.

(2627) "Square footage" means the square footage of the gross floor area of the development as defined in Chapter 5 of Title 23 of this code (zoning code).

(2728) "System improvements" means public facilities included in the capital facilities plan and designed to provide service to service areas within the community at large, in contrast to project improvements. (Ord. 3770 § 1, 2000; Ord. 3685 § 1 (part), 1999)

27.04.030

Assessment of impact fees.

(a) The city shall collect impact fees, based on the schedule in Appendix AKMC 27.04.150, from any applicant seeking a building permit from the city, or ~~certificate of occupancy permit if a building permit is not required~~any applicant seeking a change in land use based on the land use categories on the schedule in KMC 27.04.150 when no building permit is required. The public works department is authorized to determine what land use category found in the rate schedule applies to the application.

(b) All impact fees shall be collected from the applicant prior to issuance of the building permit; or prior to occupancy of a new use that is a change in land use based on the land use categories on the schedule in KMC 27.04.150 if a building permit is not required~~certificate of occupancy permit if no building permit is required~~, using the impact fee schedule then in effect or pursuant to an independent fee calculation accepted by the director pursuant to Section 27.04.040.

(c) The department shall establish the impact fee rate for a land use that is not listed on the rate schedule in Appendix AKMC 27.04.150. The applicant shall submit all information requested by the department for purposes of determining the impact fee rate pursuant to Section 27.04.040. The adopted cost per trip in Appendix AKMC 27.04.150 shall be the basis for establishing the impact fee rate.

(d) For a change in use of an existing building or dwelling unit, or portion thereof, the impact fee shall be the applicable impact fee for the land use category of the new use, less the impact fee for the land use category of the prior use. For any change in use that includes an alteration, expansion, replacement or new accessory building, the impact fee shall be the applicable impact fee for the land use category of the new gross floor area (or if applicable, gross leasable area), less the impact fee for the land use category of the prior gross floor area (or if applicable, gross leasable area).

(e) For mixed use buildings or developments, impact fees shall be imposed for the proportionate share of each land use based on the applicable unit of measurement found on the schedule in Appendix AKMC 27.04.150.

~~(f) For existing or new mixed use buildings or developments, the impact fee for any building permit, or certificate of occupancy if a building permit is not required, shall be determined by multi-tenant averaging, if the owner has entered into a multi-tenant averaging agreement with the city. The public works director is authorized to prepare and execute the agreement. For purposes of this subsection, "multi-tenant averaging" shall be determined as follows:~~

~~(1) Concurrent with execution of the agreement, determine the total impact fee for all land use categories, based on the schedule in Appendix A ("total impact fee").~~

~~(2) For a proposed change of use, determine the total impact fee for the continuing and new uses, based on the schedule in Appendix A ("new total impact fee").~~

~~(3) If the new total impact fee is greater than the total impact fee, then an impact fee is due and owing for the difference between the two impact fees. If the opposite is true, no impact fee is due and owing.~~

~~(4) When an impact fee is due and owing due to a change in use, the amount of the total impact fee shall be increased to the amount of the new total impact fee for purposes of determining future impact fees.~~

~~(fg) The building division of the fire and building department shall not issue any building permit, or certificate of occupancy if no building permit is required, unless and until the impact fee has been paid. For a change in land use when a building is not required, an applicant shall not occupy or permit a tenant to occupy the subject property unless and until the impact fee has been paid.~~

~~(h) Notwithstanding the provisions of subsections (b) and (g) of this section, for a period of one year following the effective date of the ordinance codified in this subsection, an applicant for a building permit that meets the criteria of this subsection (h) may defer the payment of impact fees imposed on the building permit until the start of construction of the development that is authorized by the permit. For the purposes of this subsection (h), the following criteria shall apply:~~

~~(1) Only an applicant for a building permit subject to an impact fee of \$10,000 or greater is eligible to defer the impact fee payment until the start of construction of the development that is authorized by the permit.~~

~~(2) "Start of construction" is defined as the initial performance of any clearing, grading, underground utilities work, foundation work, or other construction activity of any nature whatsoever on the development that is authorized by the building permit.~~

~~(3) If the applicant allows the building permit to expire without starting construction of the development that is authorized by the permit, the applicant shall not be required to pay the impact fees to the city.~~

~~(4) The building permit applicant shall post a performance security equal to the amount of the fee prior to the issuance of the building permit. The performance security shall be released upon payment of the impact fee or expiration of the building permit, whichever occurs first.~~

~~(5) The deferment of the payment of the impact fee by the applicant shall have no effect on (a) the expiration date of the building permit, or (b) the requirement in Section 27.04.130 that an appeal of the imposition of the impact fee be filed prior to issuance of the building permit.~~

~~(6) If the applicant starts construction of the development authorized by the building permit prior to paying the impact fee, the city shall issue and post a stop work order on the development. The applicant shall have no right to appeal or challenge a stop work order posted pursuant to this subsection (h)(6).~~

~~(7) The owner of the property that is the subject of the building permit shall sign an agreement, in a form approved by the city attorney, to be recorded with the King County records office, acknowledging the following:~~

~~(A) The owner has opted to defer the payment of the impact fee, indicating the amount of the impact fee.~~

~~(B) The deferred impact fee is due to the city at the start of construction.~~

~~(C) The owner cannot appeal the payment of the impact fee.~~

~~(D) The owner is subject to a stop work order if the owner starts construction before paying the impact fee, and such stop work order cannot be appealed.~~

~~(E) The owner will forfeit the performance security if the owner defaults on the impact fee payment. (Ord. 3802 § 1, 2001; Ord. 3770 § 2, 2000; Ord. 3685 § 1 (part), 1999)~~

27.04.040

Independent fee calculations.

(a) If in the judgment of the director, none of the fee categories or fee amounts set forth in the schedule in ~~Appendix AKMC 27.04.150~~ accurately describes the impacts resulting from issuance of the proposed building permit, or ~~for a change in use if certificate of occupancy if no building permit is required~~, the applicant shall provide to the department for its review and evaluation an independent fee calculation, prepared by a traffic engineer approved by the director. The director may impose on the proposed building permit, ~~or certificate of occupancy if no building permit is required~~, an alternative impact fee based on this calculation. With the independent fee calculation, the applicant shall pay to the department an administrative processing fee of one hundred dollars per calculation, ~~unless otherwise listed in Title 5 of the KMC.~~

(b) If an applicant requests not to have the impact fees determined according to the schedule in ~~Appendix AKMC 27.04.150~~, then the applicant shall submit to the director an independent fee calculation, prepared by a traffic engineer approved by the director and paid for by the applicant, for the building permit, or ~~for a change~~

~~in use certificate of occupancy~~ if no building permit is required. The independent fee calculation shall show the basis upon which it was made and shall include, but not be limited to, trip generation characteristics. With the request, the applicant shall pay to the department an administrative processing fee of two hundred dollars per fee calculation, unless otherwise listed in Title 5 of the KMC.

(c) At the request of the applicant, the public works department may prepare the independent fee calculation, depending on staff availability and provided that the applicant pays in advance the cost to prepare the calculation at the billable rate of the city's transportation engineer who will prepare the calculation.

(d) An applicant may request issuance of a building permit or permission to occupy for a change in use if no building permit is required, prior to completion of an independent fee, provided that the impact fee is collected based on the fee schedule in KMC 27.04.150. A partial refund may be forthcoming if the fee collected exceeds the amount determined in the independent fee calculation and the public works department agrees with the independent fee calculation.

(ee) While there is a presumption that the calculations set forth in the rate study used to prepare the fee schedule in KMC 27.04.150 are correct, the director shall consider the documentation submitted by the applicant, but is not required to accept such documentation which the director reasonably deems to be inaccurate or not reliable, and may, in the alternative, require the applicant to submit additional or different documentation. The director is authorized to adjust the impact fee on a case-by-case basis based on the independent fee calculation, the specific characteristics of the building permit, or ~~change in use certificate of occupancy permit~~ if no building permit is required, and/or principles of fairness.

(fd) Determinations made by the director pursuant to this section may be appealed to the hearing examiner subject to the procedures set forth in Section 27.04.130. (Ord. 3685 § 1 (part), 1999)

27.04.050

Exemptions.

(a) The following building permit applications, ~~or certificate of occupancy if no building permit is required,~~ shall be exempt from impact fees:

~~(1) Any building permit application, or certificate of occupancy application if no building permit is required, that has been submitted to the building division of the fire and building department before five p.m. the business day before the effective date of the ordinance codified in this chapter and subsequently determined to be a complete application by the public works department, the fire and building department and the planning department based on the information on file as of the effective date of the ordinance codified in this chapter.~~

(1) Replacement of a structure with a new structure of the same gross floor area and use at the same site or lot when such replacement occurs within twelve consecutive months of the demolition or destruction of the prior structure.

(2) Replacement, alteration, expansion, enlargement, remodeling, rehabilitation or conversion of an existing dwelling unit where no additional units are created and the use is not changed.

(3) Any building permit for a legal accessory dwelling unit approved under the KZC as it is considered part of the single family use associated with this fee.

(4) Alteration of an existing nonresidential structure that does not expand the usable space or change the use.

(5) Miscellaneous improvements, including but not limited to fences, walls, swimming pools, mechanical units, and signs.

(6) Demolition or moving of a structure.

(7)(A) Construction or Creation of Low-Income Housing. Any claim for an exemption must be made before payment of the impact fee. Any claim not so made shall be deemed waived. The claim for exemption must be accompanied by a draft lien and covenant against the property guaranteeing that the low-income housing will continue. Before approval of the exemption, the department shall approve the form of the lien and covenant. Within ten days of approval, the applicant shall execute and record the approved lien and covenant with the King County department of records and elections. The lien and covenant shall run with the land. In the event that the housing unit is no longer used for low-income housing, the current owner shall pay the current impact fee plus interest to the date of the payment.

(B) The amount of impact fees not collected from low-income housing pursuant to this exemption shall be paid from public funds other than the impact fee account.

(b) The director shall be authorized to determine whether a particular development for a proposed building permit, ~~or certificate of occupancy if no building permit is required,~~ falls within an exemption of this chapter or in this code. Determinations of the director shall be subject to the appeals procedures set forth in Section 27.04.130. (Ord. 3685 § 1 (part), 1999)

27.04.060

Credits.

(a) An applicant may request a credit or credits for the value of dedicated land, improvements, or construction if the land and/or the facility constructed are included within the capital facilities plan or the director makes the finding that such land and/or facility would serve the goals and objectives of the capital facilities plan.

(b) Each request for a credit or credits shall include a legal description of land donated, a detailed description of improvements or construction provided, and a legal description or other adequate description of the development to which the credit will be applied.

(c) For each request for a credit or credits, the director shall determine the value of the dedicated land, improvements, or construction on a case-by-case basis. In the event that the applicant disagrees with the director's valuation, the applicant may submit an appraisal for the director's consideration, prepared by a state-certified real estate appraiser who has an MAI or SRA designation from the Appraisal Institute, establishing the fair market value of the dedicated land, improvements, or construction. The applicant shall pay the cost of the appraisal.

(d) After the director has determined the amount of the credit, the department shall include the determination with issuance of the building permit, ~~or occupancy permit if no building permit is required,~~ a statement setting forth the dollar amount of the credit, the basis for the credit, where applicable, the description of the land donated to which the credit is applied and the date of the determination.

(e) Any claim for credit must be made before payment of the impact fee and prior to issuance of the building permit, ~~or certificate of occupancy if no building permit is required.~~ Any claim not so made shall be deemed waived.

(f) No credit shall be given for project improvements or right-of-way dedications for direct access improvements to and/or within the subject development.

(g) Determinations made by the director pursuant to this chapter shall be subject to the appeals procedures set forth in Section 27.04.130. (Ord. 3685 § 1 (part), 1999)

27.04.070

Adjustments.

Pursuant to and consistent with the requirements of RCW 82.02.060, the rate study has provided adjustments for past and future taxes paid or to be paid by the new development which are earmarked or proratable to the same new system improvements that will serve the new development. The schedule in ~~Appendix AKMC 27.04.150~~ has been reasonably adjusted for taxes and other revenue sources that are anticipated to be available to fund system improvements. (Ord. 3685 § 1 (part), 1999)

27.04.080

Establishment of impact fee account.

(a) An impact fee account is established for the fees collected pursuant to this chapter and shall be entitled the ~~transportation roads~~ impact fee account. Impact fees shall be earmarked specifically and deposited in the special interest-bearing account ~~and shall be prudently invested in a manner consistent with the investment policies of the city.~~ Funds withdrawn from this account shall be used in accordance with the provisions of Section 27.04.110. Interest earned on impact fees shall be retained in the account and expended for the purpose for which the impact fees were collected.

(b) On an annual basis, the finance director shall provide a report to the council on the account showing the source and amount of all moneys collected, earned, or received, and system improvements that were financed in whole or in part by impact fees.

(c) Impact fees shall be expended or encumbered within six years of receipt, unless the council identifies in written findings an extraordinary and compelling reason or reasons for the city to hold the fees beyond the six-year period. Under such circumstances, the council shall establish the period of time within which the impact fees shall be expended or encumbered. (Ord. 3685 § 1 (part), 1999)

27.04.090

Authorization for interlocal agreements.

The city manager is authorized to execute, on behalf of the city, an interlocal agreement with other state and local governments for the collection, expenditure, and reporting of impact fees. (Ord. 3685 § 1 (part), 1999)

27.04.100

Refunds.

(a) If the city fails to expend or encumber the impact fees within six years of payment, (or where extraordinary or compelling reasons exist, such other time periods as established pursuant to Section 27.04.080), the current owner of the property for which impact fees have been paid may receive a refund of the fee. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first in, first out basis.

(b) The city shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of such claimants.

(c) Property owners seeking a refund of impact fees must submit a written request for a refund of the fees to the director within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later.

(d) Any impact fees for which no application for a refund has been made within the one-year period shall be retained by the city and expended on the appropriate public facilities.

(e) Refunds of impact fees under this chapter shall include any interest earned on the impact fees by the city.

(f) When the city terminates the impact fee program, all unexpended or unencumbered funds, including interest earned, shall be refunded pursuant to this chapter. The city shall publish notice of the termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail to the last known address of the claimants. All funds available for refund shall be retained for a period of one year after the second publication. At the end of one year, any remaining funds shall be retained by the city, but must be expended for the appropriate public facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within the account.

(g) The city shall also refund the impact fee paid plus interest to the current owner of property for which the impact fee had been paid, if the development was never completed or occupied; provided, that if the city expended or encumbered the impact fee in good faith prior to the application for a refund, the director may decline to provide the refund. If within a period of three years, the same or subsequent owner of the property proceeds with the same or substantially similar development, the owner can petition the director for an offset. The petitioner shall provide receipts of impact fees previously paid for a development of the same or substantially similar nature on the same property or some portion thereof. The director shall determine whether to grant an offset, and the determinations of the director may be appealed pursuant to the procedures in Section 27.04.130. (Ord. 3685 § 1 (part), 1999)

27.04.110

Use of funds.

(a) Impact fees may be spent for system improvements, including but not limited to transportation planning, engineering design studies, land surveys, right-of-way acquisition, engineering, permitting, financing, administrative expenses, construction of streets and roads and related facilities such as curbs, gutters, sidewalks, bike lanes, storm drainage and installation of traffic signals, signs and street lights.

(b) Impact fees shall be expended or encumbered on a first in, first out basis.

~~(cb)~~ Impact fees may be used to recoup cost for system improvement previously incurred by the city to the extent that new growth and development will be served by the previously constructed system improvements.

~~(de)~~ In the event that bonds or similar debt instruments are or have been issued for the advanced provision of system improvements, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that system improvements provided are consistent with the requirements of this chapter and are used to serve the new development. (Ord. 3685 § 1 (part), 1999)

27.04.120

Review of schedule and Fee Increases.

(a) The schedule in KMC 27.04.150 will be amended to reflect changes to the 20-year transportation project list as part of adoption of amendments to the capital facilities plan in Chapter XIII of Title 17 of this code. Amendments to the schedule for this purpose shall be adopted by the council.

(b) The fees on the schedule in KMC 27.04.150 shall be indexed to provide for an automatic fee increase each January. The *(to be determined by City Council)* Index will be used to determine the increase in fees for each year to reflect increased project costs. In the event that the fees on the schedule in KMC 27.04.150 are increased during the preceding calendar year due to changes to the 20-year transportation project list pursuant to Section 27.04.120(a), the fees will not be indexed the following January. The finance and administration department shall compute the fee increase and the new schedule shall become effective immediately after the annual fee increase calculation.

(ca) A new rate study, which establishes the schedule in KMC 27.04.150, shall be updated every four years, unless the city determines that circumstances have not changed to warrant an update. ~~The schedule in Appendix A shall be reviewed by the council no later than three years after the effective date of the ordinance codified in this chapter, and every three years thereafter.~~

~~(b) The schedule in Appendix A may be reviewed by the council as it deems appropriate in conjunction with the update of the capital facilities plan. (Ord. 3685 § 1 (part), 1999)~~

27.04.130

Appeals.

(a) An appeal of an impact fee imposed on a building permit, ~~or certificate of occupancy if no building permit is required~~, may only be filed by the applicant of the subject property. An appeal of an impact fee assessed pursuant to KMC 27.04.135(b) or (c) may be filed by a property owner or occupancy responsible for the change in use if no building permit is required. An applicant may either file an appeal and pay the impact fee imposed by this chapter under protest, or appeal the impact fee before issuance of the building permit ~~or certificate of occupancy if no building permit is required~~. No appeal may be filed after the impact fee has been paid and the building permit ~~or certificate of occupancy~~ has been issued or occupancy has occurred for a change in use if no building permit is required.

(b) An appeal shall be filed with the hearing examiner on the following determinations of the director:

(1) The applicability of the impact fees to a given building permit or change in use if no building permit is required ~~certificate of occupancy~~ found in Sections 27.04.030 and 27.04.050;

(2) The decision on an independent fee calculation in Section 27.04.040;

(3) The availability or value of a credit in Section 27.04.060; or

(4) Any other determination which the director is authorized to make pursuant to this chapter.

(c) An appeal, in the form of a letter of appeal, along with the required appeal fee, shall be filed with the department for all determinations by the director, prior to issuance of a building permit, ~~or certificate of occupancy if no building permit is required~~. The letter must contain the following:

(1) A basis for and arguments supporting the appeal; and

(2) Technical information and specific data supporting the appeal.

(d) The fee for filing an appeal shall be two hundred fifty dollars.

(e) Within twenty-eight calendar days of the filing of the appeal, the director shall mail to the hearing examiner the following:

(1) The appeal and any supportive information submitted by the appellant;

(2) The director's determination along with the record of the impact fee determination and, if applicable, the independent fee calculation; and

(3) A memorandum from the director analyzing the appeal.

(f) The hearing examiner shall review the appeal from the applicant, the director's memorandum, and the record of determination from the director. No oral testimony shall be given, although legal arguments may be made. The determination of the director shall be accorded substantial weight.

(g) The hearing examiner is authorized to make findings of fact and conclusions of law regarding the decision. The hearing examiner may, so long as such action is in conformance with the provisions of this chapter, reverse or affirm, in whole or in part, or modify the determination of the director, and may make such order, requirements, decision or determination as ought to be made, and to that end shall have the powers which have been granted to the director by this chapter. The hearing examiner's decision shall be final.

(h) The hearing examiner shall distribute a written decision to the director within fifteen working days.

(i) The department shall distribute a copy of the hearing examiner decision to the appellant within five working days of receiving the decision.

(j) In the event the hearing examiner determines that there is a flaw in the impact fee program, that a specific exemption or credit should be awarded on a consistent basis, or that the principles of fairness require amendments to this chapter, the hearing examiner may advise the council as to any question or questions that the hearing examiner believes should be reviewed as part of the council's review of the fee schedule in Appendix AKMC 27.04.150 as provided by Section 27.04.120. (Ord. 3685 § 1 (part), 1999)

27.04.135

Responsibility for payment of fees.

(a) The building permit applicant is responsible for payment of the fees authorized by this chapter in connection with a building permit application.

(b) In the event that a building permit is erroneously issued without payment of the fees authorized by this chapter, the building official may issue a written notice to the property owner and occupant advising them of the obligation to pay the fees authorized by this chapter. Such notice shall include a statement of the basis under which the fees under this chapter are being assessed, the amount of fees owed, and a statement that the property owner or occupant may appeal the fee determination within 20 calendar days of the date the notice was issued. Any appeals of such a fee determination shall be processed in accordance with the procedures set forth in KMC 27.04.130.

(c) In the event a change in land use for which no building permit is required results in an obligation to pay impact fees, the finance director may issue a written notice to the property owner and occupant advising them of the obligation to pay the fees authorized by this chapter. Such notice shall include a statement of the basis under which the fees under this chapter are being assessed, the amount of fees owed, and a statement that the property owner or occupant may appeal the fee determination within 20 calendar days of the date the notice was issued. Any appeals of such a fee determination shall be processed in accordance with the procedures set forth in KMC 27.04.130.

(d) If a property owner or occupant fails to appeal the issuance of a fee notice under subsection (b) or (c) of this section, or if the property owner or occupant's appeal is unsuccessful, the City is authorized to institute collection proceedings for the purpose of recovering the unpaid impact fees.

27.04.140

Existing authority unimpaired.

Nothing in this chapter shall preclude the city from requiring the applicant for a building permit, or a change in use certificate of occupancy if no building permit is required, to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, RCW Chapter 43.21C, based on the environmental documents accompanying the underlying development approval process, and/or

RCW Chapter 58.17, governing plats and subdivisions; provided, that the exercise of this authority is consistent with the provisions of RCW 82.02.050 (1)(c). (Ord. 3685 § 1 (part), 1999)

27.04.150
Fee Schedule.

Transportation Impact Fee Schedule

Land Uses	Unit of Measure	ITE Land USE Code	Fee Per Unit
Cost per Trip End >			\$3,398.20
Residential			
Detached Housing	dwelling	210	\$3,432
Attached and Stacked Housing	dwelling	220,221,230,233	\$2,012
Senior Housing	dwelling	See note 4	\$761
Nursing Home	bed	620	\$598
Congregate Care/ Assisted Living	dwelling	253,254	\$462
Commercial - Services			
Drive-in Bank	sq ft/GFA	912	\$39.97
Walk-in Bank	sq ft/GFA	911	\$38.62
Day Care Center	sq ft/GFA	565	\$19.20
Library	sq ft/GFA	590	\$8.78
Post Office	sq ft/GFA	732	\$13.48
Hotel/Motel**	room	310	\$2,291
Extended Stay Motel	room	311	\$1,553
Service Station	VFP	944	\$9,151
Service Station/Minimart	VFP	945	\$6,625
Service Station/Minimart/Car Wash	VFP	946	\$9,901
Carwash	stall	947	\$5,594
Movie Theater	seats	445	\$550
Health Club	sq ft/GFA	492	\$9.14
Racquet Club	sq ft/GFA	491	\$4.12
Marina	Berth	420	\$512
Commercial - Institutional			
Elementary School/Jr. High School	student	520	\$435
High School	student	530	\$272
University/College	student	550	\$553
Church	sq ft/GFA	560	\$2.37
Hospital	sq ft/GFA	610	\$4.58
Commercial - Restaurant			
Restaurant	sq ft/GFA	931	\$19.78
Fast Food Restaurant w/o drive thru	sq ft/GFA	933	\$25.39
Fast Food Restaurant w drive thru	sq ft/GFA	934	\$33.63
Tavern	sq ft/GFA	936	\$19.32
Industrial			
Light Industry/High Technology	sq ft/GFA	110	\$5.29
Industrial Park	sq ft/GFA	130	\$4.64
Warehousing/Storage	sq ft/GFA	150	\$2.54

Land Uses	Unit of Measure	ITE Land USE Code	Fee Per Unit
Commercial - Retail			
Shopping Center	sq ft/GLA	820	\$4.02
Auto Parts Sales	sq ft/GFA	943	\$5.15
Auto Care Center	sq ft/GLA	942	\$3.91
Car Sales - New/Used	sq ft/GFA	841	\$9.43
Convenience Market	sq ft/GFA	851	\$29.77
Discount Club	sq ft/GFA	861	\$11.53
Electronics Superstore	sq ft/GFA	863	\$6.42
Free Standing Discount Store	sq ft/GFA	815	\$7.22
Furniture Store	sq ft/GFA	890	\$0.46
Hardware/Paint Store	sq ft/GFA	816	\$5.59
Home Improvement Superstore	sq ft/GFA	862	\$3.50
Other Retail Sales	sq ft/GFA	814	\$3.13
Nursery/Garden Center	sq ft/GFA	817	\$4.39
Pharmacy(with Drive Through)	sq ft/GFA	881	\$7.11
Quick Lubrication Vehicle Shop	Service Bay	941	\$3,427
Video Rental	sq ft/GFA	896	\$7.72
Supermarket	sq ft/GFA	850	\$15.98
Tire Store	Service Bay	849	\$4,379
Commercial - Office			
General Office Building	sq ft/GFA	710	\$6.64
Medical Office/Clinic	sq ft/GFA	720	\$13.00

VFP= Vehicle Fueling Positions (Maximum number of vehicles that can be fueled simultaneously)
GLA= Gross Leasible Area
GFA= Gross Floor Area

* For uses with Unit of Measure in sq ft, trip rate is given as trips per 1000 sq ft

** Hotel/Motel: Assumes 83% room occupancy (per ITE)

*** New Trip % and Trip Lengths for selected uses are based upon characteristics of similar land use types
Primary sources for PM Peak Hour Trip Rates, Percent New Trips, & Average Trip Length:

1. ITE's "Trip Generation, 7th Edition" Report
2. Pinellas County Impact Fee Study
3. City of Tampa Transportation Impact Fee Update
4. Senior Housing rate is 1/2 of Attached and Stacked Housing

Appendix A

Road Impact Fee Schedule

<u>Type of Land Use</u>	<u>Impact Fee</u>	<u>Per Unit</u>
Cost per trip Ch. 27.04, App. A	\$877.00	
<i>Residential</i>		
Single family dwelling	\$966.00	Dwelling Unit
Multifamily dwelling	\$586.00	Dwelling Unit
<i>Commercial—Residential</i>		
Retirement community	\$207.00	Dwelling Unit
Nursing home	\$153.00	Bed
Assisted living	\$130.00	Dwelling Unit
<i>Commercial—Services</i>		
Drive in bank	\$13.46	Square Foot/GFA
Walk in bank	\$10.87	Square Foot/GFA
Day care	\$5.41	Square Foot/GFA
Library	\$2.47	Square Foot/GFA
Post office	\$3.76	Square Foot/GFA
Hotel/motel	\$645.00	Room
Extended stay motel	\$382.00	Room
Service station	\$2,704.00	Vehicle Fuel Pump
Service station/minimart	\$1,864.00	Vehicle Fuel Pump
Service station/minimart/car wash	\$2,756.00	Vehicle Fuel Pump
Movie theater	\$23,780.00	Screen
Car wash	\$23,010.00	Site
Health club	\$2.73	Square Foot/GFA
Racquet club	\$1.16	Square Foot/GFA
Marina	\$144.00	Berth
<i>Commercial—Institutional</i>		
Elementary, middle/junior high	\$114.00	Student
High school	\$76.00	Student
University/college	\$156.00	Student
Church	\$0.67	Square Foot/GFA
Hospital	\$1.01	Square Foot/GFA
<i>Commercial—Restaurant</i>		
Restaurant	\$5.56	Square Foot/GFA
Fast food restaurant w/o drive thru	\$7.14	Square Foot/GFA
Fast food restaurant w/ drive thru	\$9.15	Square Foot/GFA
<i>Commercial—Retail Shopping Center</i>		
Up to 9,999 square feet	\$2.43	Square Foot/GFA
10,000 square feet — 49,999 square feet	\$2.13	Square Foot/GFA
50,000 square feet — 99,999 square feet	\$1.56	Square Foot/GFA
100,000 square feet — 199,999 square feet	\$1.52	Square Foot/GFA

200,000 square feet — 299,999 square feet	\$1.39	Square Foot/GFA
300,000 square feet — 399,999 square feet	\$1.65	Square Foot/GFA
Over 400,000 square feet	\$1.85	Square Foot/GFA
Supermarket	\$4.95	Square Foot/GFA
Convenience market	\$8.59	Square Foot/GFA
Nursery/garden center	\$1.24	Square Foot/GFA
Miscellaneous retail sales (see note c. below)	\$0.84	Square Foot/GFA
Furniture store	\$0.13	Square Foot/GFA
Car sales — New/used	\$2.81	Square Foot/GFA
Auto care center	\$1.10	Square Foot/GFA
Quick lubrication vehicle shop	\$964.00	Service Bay
Auto parts sales	\$1.94	Square Foot/GFA
Pharmacy (with drive through)	\$2.41	Square Foot/GFA
Freestanding discount store	\$1.70	Square Foot/GFA
Hardware/paint store	\$1.44	Square Foot/GFA
Discount club	\$2.91	Square Foot/GFA
Video rental	\$2.17	Square Foot/GFA
Home improvement superstore	\$1.15	Square Foot/GFA
Tire store	\$1,128.00	Service Bay
Electronic superstore	\$1.81	Square Foot/GFA
<i>Commercial — Administrative Office</i>		
Up to 9,999 square feet	\$4.71	Square Foot/GFA
10,000 square feet — 49,999 square feet	\$4.71	Square Foot/GFA
50,000 square feet — 99,999 square feet	\$2.73	Square Foot/GFA
100,000 square feet — 199,999 square feet	\$2.07	Square Foot/GFA
200,000 square feet — 299,999 square feet	\$1.81	Square Foot/GFA
Over 300,000 square feet	\$1.69	Square Foot/GFA
Medical office/clinic	\$4.01	Square Foot/GFA
<i>Commercial — Industrial</i>		
Light industry/manufacturing/high technology	\$1.37	Square Foot/GFA
Industrial park	\$1.28	Square Foot/GFA
Warehousing/storage	\$0.71	Square Foot/GFA

VFP = Vehicle fueling positions (maximum number of vehicles that can be fueled simultaneously)

GLA = Gross leasible area

GFA = Gross floor area

Notes:

~~_____ This use includes a detached dwelling unit on one lot or multiple units on one lot.~~

~~_____ This use includes attached or stacked dwelling units on one lot.~~

~~_____ This use includes all retail other than those in a shopping center or those specifically listed above.~~

(ad) Mixed use developments shall be assessed impact fees based on the proportionate share for each land use on the subject property.

(be) For a use not listed in this schedule, contact the public works department's traffic section.

(Ord. 3685 § 1 (part), 1999)