

**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

<b>AGENDA TITLE:</b>	Adoption of Ordinance No. 717 - Transportation Impact Fee Amendment for Certain Businesses
<b>DEPARTMENT:</b>	Economic Development
<b>PRESENTED BY:</b>	Dan Eernisse, Economic Development Program Manager
<b>ACTION:</b>	<input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

**PROBLEM/ISSUE STATEMENT:**

Staff brought proposed Ordinance No. 717 back to Council for final review and adoption on March 14, 2016, and Council amended the proposal to allow a full exemption for all businesses as defined in the ordinance. However, the amended ordinance was not adopted, as the discussion and vote were tabled until tonight to allow Staff time to consider the implications of an amendment brought by Councilmember Scully.

**RESOURCE/FINANCIAL IMPACT:**

Using 2015 as a baseline, the 100% exemption of the business TIF would reduce TIF collections by \$200,000 each year. Council should note that 2015 is only the first year of TIF collections; an accurate baseline will emerge only over time. RCW 82.02.060(2) states that any impact fees not collected under this type of exemption must be paid for from public funds rather than from the impact fee account. Later this year Council will consider potential revenue sources to back-fill the TIF business exemption as part of its Ten Year Financial Sustainability Plan discussion.

**RECOMMENDATION**

Staff recommends that Council adopt proposed Ordinance No. 717 with Councilmember Scully's amendment and the two staff-suggested amendments found in this report.

Approved By:            City Manager **DT**    City Attorney **MK**

## **BACKGROUND**

On July 21, 2014, the City Council adopted Ordinance Nos. 689 and 690, modifying the City's transportation concurrency methodology (Ord. No. 689) and establishing a transportation impact fee program (Ord. No. 690). This program became effective January 1, 2015. With the adoption of Ordinance No. 690, Shoreline Municipal Code (SMC) Chapter 12.40 Transportation Impact Fees (TIF) was established, and Section 3.01.015 Impact Fee Rate Table was added to Title 3 of the SMC.

On January 11, 2016, Council considered whether the TIF program posed a barrier to new businesses investing in Shoreline and if some form of relief should be considered. Council determined that the TIF program's impact on business was significant enough that some kind of relief should be considered, that deferring payment of TIF was not an effective means of providing relief, and whatever relief was provided should be objective and easy to administer.

The discussion was continued on February 29, 2016, where Council directed staff to bring back Ordinance No. 717 with a 50% exemption on the TIF rate, which would be applied to all eligible businesses as designated by a list of ITE codes. The staff report for the February 29 discussion can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2016/staffreport022916-9b.pdf>.

At the business meeting held on March 14, 2016, Council moved and seconded the proposed Ordinance No. 717, and subsequently amended it to increase the 50% exemption to a full 100% exemption (Attachment A). Following this amendment, Councilmember Scully moved to further amend the proposed ordinance to remove the requirement for the applicant to apply for, to be judged eligible for the TIF exemption, and to pay an administrative fee (Attachment B). The staff report for the March 14 discussion can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2016/staffreport031416-8a.pdf>

## **DISCUSSION**

Staff has provided proposed Ordinance No. 717 (Attachment A) which reflects Council action from the March 14, 2016, meeting at which it approved an amendment for 100% exemption. Attachment A reflects this amendment.

### **Amendment on the Table**

At Council's March 14, 2016, meeting, Councilmember Scully proposed an amendment to make the exemption automatic for businesses (Attachment B). Councilmember Scully's amendment specifically asked that SMC12.40.070(I) be amended by changing "may" to "shall" in the opening sentence and by striking sub-sections 1, 2a, 2b, 3 and 4. The amendment removes the requirement for the submission of an exemption application and the review of that application. The amendment also removes the administrative fee for such an application.

Because staff and council needed time to review the amendment and its implications, Council opted to table the discussion until tonight's meeting. This amendment will be on the table when the issue is taken up again in tonight's meeting.

Staff has reviewed its implications and supports the amendment. Staff believes that it simplifies the exemption program, since Council approved a 100% exemption, by removing the application and review process. Furthermore, Staff believes that it is acceptable to remove the administrative fee and subsidize whatever staff time is needed to track new trips and the exemption as it is estimated that this would be less than the one hour fee.

## **Two Staff-suggested Amendments**

1. If Councilmember Scully's amendment is adopted and the application process is removed, ITE codes may need interpretation to properly categorize some new businesses. Staff suggests that the following language be added to allow staff to make an administrative determination in these cases:

*"I move that Ordinance No. 717 be amended to include:*

*"SMC 12.40.070(l) Business Exemption – New Section 1(b)*

*"If none of the ITE fee categories in Section 1(a) accurately describes or captures a new business, the director shall determine the applicable ITE fee category and whether that ITE category is the type of business intended to be eligible for exemption under this Section."*

2. The Light industrial (110) and Manufacturing (140) categories were not included in the list of eligible businesses when efforts were being made to narrow which businesses were exempted. Given the more broad approach Council embraced in its most recent discussions, staff recommends that these two categories be added to the eligible list. This would, among other things, ensure that a business with both retail and manufacturing, such as a brewery operation with an attached tasting room, receives a full exemption. Otherwise, the area of the tasting room would be exempt but the brewery operation would not. Staff therefore recommends the following amendment:

*"I move that Section 1. SMC12.40.070.2 of Ordinance No. 717 be amended to include Light industrial (110) and Manufacturing (140) as exempted businesses."*

## **RESOURCE/FINANCIAL IMPACT**

Using 2015 as a baseline, the 100% exemption of the business TIF would reduce TIF collections by \$200,000 each year. Council should note that 2015 is only the first year of TIF collections; an accurate baseline will emerge only over time. RCW 82.02.060(2) states that any impact fees not collected under this type of exemption must be paid for from public funds rather than from the impact fee account. Later this year Council will consider potential revenue sources to back-fill the TIF business exemption as part of its Ten Year Financial Sustainability Plan discussion.

## **RECOMMENDATION**

Staff recommends that Council adopt proposed Ordinance No. 717 with Councilmember Scully's amendment and the two staff-suggested amendments found in this report.

## **ATTACHMENTS**

Attachment A – Proposed Ordinance No. 717

Attachment B – Proposed Ordinance No. 717 with Councilmember Scully's proposed amendment reflected

CITY OF SHORELINE, WASHINGTON

ORDINANCE NO. 717

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, AMENDING CHAPTER 12.40 TRANSPORTATION IMPACT FEES TO THE SHORELINE MUNICIPAL CODE TO INCLUDE ~~A PARTIAL~~AN EXEMPTION FOR BUSINESS.

WHEREAS, on July 21, 2014, the Shoreline City Council adopted Ordinance 690, establishing a transportation impact fee program and adopting a new Chapter 12.40 to Title 12 of the Shoreline Municipal Code; and

WHEREAS, impact fees can impose a substantial burden on all types of businesses, especially if applicants must pay fees at the time of building permit issuance, well before business operations begin; and

WHEREAS, this burden may have a detrimental effect of a business's ability to locate within the City of Shoreline, adversely impacting economic development within the City as well as frustrating the vision for the community; and

WHEREAS, the community's vision, as stated in Vision 2029, is to create vibrant, walkable neighborhoods that feature a diverse array of local shops, restaurants, and services; and

WHEREAS, the City's Comprehensive Plan contains framework community and economic development goals including one to create a business friendly environment that supports small and local businesses; and

WHEREAS, by providing incentives for businesses to locate within the City, a broad public purpose is achieved by fulfilling the community's vision and goals; and

WHEREAS, the City seeks to amend Chapter 12.40 to establish ~~a partial~~an exemption of transportation impact fees to fulfill these goals;

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

**Section 1. SMC 12.40.070.** A new section, section "I," of SMC 12.040.070 *Exemptions*, is hereby adopted to read as follows:

**12.40.070(I) Businesses –~~Partial~~EExemption.** A business building permit applicant may receive ~~a fifty percent (50%) partial~~an exemption of ~~the full amount of applicable impact fees.~~This partial exemption of impact fees for businesses is considered under the following conditions:

1. An applicant for ~~a partial~~ exemption must request the exemption no later than the time of application for a building permit. Any request not so made shall be deemed waived.

~~2. An applicant is entitled to a partial exemption of fifty percent (50%) of the full amount of applicable impact fees. That portion of the impact fees not exempt shall be due and payable before the issuance of a building permit by the City.~~

3.2. To be eligible for an exemption, an applicant shall meet the following criteria:

- a. Submit an impact fee exemption application for the development which the applicant wishes to receive an exemption; and
- b. Pay the applicable administrative fee; and
- c. Qualify as a “business” based on the following Institute of Transportation Engineers (ITE) code categories:

ITE Code	Land Use Category/Description
310	Hotel
320	Motel
444	Movie theater
492	Health/fitness club
565	Day care center
710	General office
720	Medical office
820	General retail and services (includes shopping center)
841	Car sales
850	Supermarket
851	Convenience market – 24 hour
854	Discount supermarket
880	Pharmacy/drugstore
912	Bank
932	Restaurant – sit down
934	Fast food
937	Coffee/donut shop
941	Quick lube shop
944	Gas station
948	Automated car wash

4.3. The City Manager, or designee, shall review an application for ~~partial~~ exemption pursuant to the above criteria and shall advise the applicant, in writing, of the granting or denial of the application. The determination of the City Manager, or designee, shall be the final decision of the city with respect to the applicability of the business ~~partial~~ exemption.

5.4. The City shall collect an administrative fee from the applicant seeking ~~a partial~~ exemption of impact fees under this section as provided in SMC 3.01.015(B).

6.5. The amount of impact fees not collected from businesses pursuant to this ~~partial~~ exemption shall be paid from public funds other than the impact fee account.

**Section 2. Report of the Economic Development Program Manager.** No later than six (6) months prior to the date this Ordinance is to expire, as provided in Section 4, the Economic Development Program Manager shall prepare a report evaluating the use of the ~~partial~~ exemption by businesses for the City Council's consideration. The report should detail, at a minimum, how many businesses, by land use category, were granted the exemption, how much in transportation impact fees were foregone by the exemption, and the source of public funds identified to cover the exempted impact fees.

**Section 3. Severability.** If any portion of this chapter is found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other chapter or any other section of this chapter.

**Section 4. Publication, Effective Date, and Expiration.** A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days after publication and shall expire and be of no further effect on December 31, 2018, unless otherwise extended by the City Council.

**PASSED BY THE CITY COUNCIL ON MARCH 21, 2016**

\_\_\_\_\_  
Mayor Christopher Roberts

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Jessica Simulcik-Smith  
City Clerk

\_\_\_\_\_  
Margaret King  
City Attorney

Date of Publication: \_\_\_\_\_, 2016  
Effective Date: \_\_\_\_\_, 2016

**CITY OF SHORELINE, WASHINGTON**

**ORDINANCE NO. 717**

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WHEREAS, impact fees can impose a substantial burden on all types of businesses, especially if applicants must pay fees at the time of building permit issuance, well before business operations begin; and

WHEREAS, this burden may have a detrimental effect of a business's ability to locate within the City of Shoreline, adversely impacting economic development within the City as well as frustrating the vision for the community; and

WHEREAS, the community's vision, as stated in Vision 2029, is to create vibrant, walkable neighborhoods that feature a diverse array of local shops, restaurants, and services; and

WHEREAS, the City's Comprehensive Plan contains framework community and economic development goals including one to create a business friendly environment that supports small and local businesses; and

WHEREAS, by providing incentives for businesses to locate within the City, a broad public purpose is achieved by fulfilling the community's vision and goals; and

WHEREAS, the City seeks to amend Chapter 12.40 to establish an exemption of transportation impact fees to fulfill these goals;

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

**Section 1. SMC 12.40.070.** A new section, section "I," of SMC 12.040.070 *Exemptions*, is hereby adopted to read as follows:

**12.40.070(I) Businesses –Exemption.** A business building permit applicant ~~may~~shall receive an exemption of impact fees under the following conditions:

~~1. —An applicant for an exemption must request the exemption no later than the time of application for a building permit. Any request not so made shall be deemed waived.~~



2.1. To be eligible for an exemption, an applicant shall meet the following criteria:

~~a. Submit an impact fee exemption application for the development which the applicant wishes to receive an exemption; and~~

~~b. Pay the applicable administrative fee; and~~

~~c. Qualify as a “business” based on the following Institute of Transportation Engineers (ITE) code categories:~~

ITE Code	Land Use Category/Description
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851	Convenience market – 24 hour
854	Discount supermarket
880	Pharmacy/drugstore
912	Bank
932	Restaurant – sit down
934	Fast food
937	Coffee/donut shop
941	Quick lube shop
944	Gas station
948	Automated car wash

~~3. The City Manager, or designee, shall review an application for an exemption pursuant to the above criteria and shall advise the applicant, in writing, of the granting or denial of the application. The determination of the City Manager, or designee, shall be the final decision of the city with respect to the applicability of the business exemption.~~

~~4. The City shall collect an administrative fee from the applicant seeking an exemption of impact fees under this section as provided in SMC 3.01.015(B).~~

~~5.2. The amount of impact fees not collected from businesses pursuant to this exemption shall be paid from public funds other than the impact fee account.~~

**Section 2. Report of the Economic Development Program Manager.** No later than six (6) months prior to the date this Ordinance is to expire, as provided in Section 4, the Economic Development Program Manager shall prepare a report evaluating the use of the exemption by businesses for the City Council’s consideration. The report should detail, at a minimum, how many businesses, by land use category, were granted the exemption, how much in transportation impact fees were foregone by the exemption, and the source of public funds identified to cover

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