

Chapter 3.88 IMPACT FEES ON NEW DEVELOPMENTS FOR CERTAIN PUBLIC FACILITIES

3.88.010 Purpose of provisions— Statutory authority.

The ordinance codified in this chapter is enacted pursuant to the provisions of RCW Chapter 82.02, and is intended to accomplish the following purposes:

- A. To insure that adequate facilities are available to serve new growth and development;
- B. To promote orderly growth and development by requiring that new development pay a proportionate share of the cost of new facilities needed to serve growth; and
- C. To insure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicate fees for the same impact.

3.88.020 Findings.

The city council finds and declares that:

- A. New residential and nonresidential development causes increased demands on public facilities, including streets, roads, parks, open space, recreational facilities, fire facilities, and schools;
- B. Projections indicate that new development will continue, and that it will place ever-increasing demands on the city to provide necessary public facilities;
- C. To the extent that new development places demands on the public facility infrastructure, those demands should be partially financed by shifting a proportionate share of the cost of such new facilities from the public at large to the developments actually creating the demand; and
- D. The imposition of impact fees upon residential and nonresidential development in order to finance specified public facilities, the demand for which is created by such development, is in the best interest of the general welfare of the city and its residents, is equitable, does not impose an unfair burden on such development by forcing developers and builders to pay more than their fair or proportionate share of the cost, and is reasonably necessary to provide the necessary public facility infrastructure to serve new development as planned for in the comprehensive plan and the capital facilities plan.

3.88.030 Definitions.

The following definitions shall apply for purposes of this chapter 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.

- A. "Act" means the Growth Management Act, Chapter 17, Laws of 1990, 1st Ex. Sess., Chapter 36.70A RCW et seq., and Chapter 32, Laws of 1991, 1st Sp. Sess., as now in existence or as hereinafter amended.
- B. "Building permit" means the permit required for new construction and additions pursuant to Chapter 15.04 of this code. The term building permit, as used herein, shall not be deemed to include permits required for the remodeling, rehabilitation, or other improvements to an existing structure or rebuilding a damaged or destroyed structure, provided there is no increase in the applicable unit of measure for nonresidential construction or number of dwelling units for residential construction.
- C. "Capital facilities plan" means the capital facilities plans adopted by the council as part of the capital facilities element of the comprehensive plan for Camas.

-
- D. "Capital facilities" means the facilities or improvements of the city.
- E. "City engineer" means the officially appointed or acting city engineer for the city.
- F. "City" means the city of Camas.
- G. "CMC" refers to the Camas Municipal Code.
- H. "Council" means the city council of the city of Camas.
- I. "County" means Clark County.
- J. "Department" means the city planning department.
- K. "Developer" means an individual, group of individuals, partnership, corporation, association, municipal corporation, state agency, or other person or entity and their successors and assigns undertaking development activity, including the design, engineering, or construction of facilities identified in one of the City's Capital Facility Plans.
- L. "Development activity" means any construction or expansion of a building or structure, or any change in use of a building; or the subdivision of land; or plat approval, PUD or PRD approval, boundary line adjustment, or any change in land use that creates additional demand and need for public schools, public streets and roads, publicly owned parks, open space and recreational facilities, and fire protection facilities.
- M. "Development approval" means any written authorization from the city which authorizes the commencement of a development activity, including, but not limited to, building permit, plat approval, PUD or PRD approval, binding site plan approval, boundary line adjustment, and a conditional use permit.
- N. "Director" means the applicable Department Director (Department Head) responsible for overseeing the implementation of a particular capital facility. Director includes the Fire Chief, Community Development (Planning) Director, Public Works Director and Parks & Recreation Director.
- O. "Encumbered" means to reserve, set aside or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for planned facilities.
- P. "Fee payer" means a person, corporation, partnership, an incorporated association, or any other similar entity or municipal corporation commencing a development activity which creates the demand for planned facilities, and which requires development approval and/or the issuance of a building permit. Fee payer includes an applicant for an impact fee credit.
- Q. "Fire chief" means the officially appointed or acting chief of the fire department of the city, also referred to herein as a "department head."
- R. "Fire impact fee" means the impact fee designated to pay for fire protection facilities.
- S. "Impact fee account" or "account" means the accounts established for the planned facilities for which impact fees are collected. The accounts shall be established pursuant to CMC Section 3.88.160A, and shall comply with the requirements of RCW 82.02.070.
- I. "Impact fee" means the payment of money imposed upon development as a condition of development approval, to pay for public facilities needed to serve new growth and development, and that is reasonably related to the new development that creates additional demand and need for public facilities, that is a proportionate share of the cost of the public facilities, and that is used for facilities that reasonably benefit the new development. Impact fee does not include reasonable permit or application fees. The impact fee hereby imposed consists of a traffic fee component, a park impact fee component, an open space impact fee component, a fire facility impact fee component, and a school impact fee component.
- U. "Impact fee deferral program" shall mean that program established by the city council pursuant to RCW 82.020.050 for the deferred collection of impact fees for single-family detached and attached residential construction which includes a process by which the applicant for a building permit for a single-family detached or attached residence may request a deferral of the full impact fee payment, on certain conditions.
-

-
- V.** "Independent fee calculation" means the impact fee calculation, and/or economic documentation prepared by a fee payer, to support the assessment of an impact fee other than by the use of the schedules in Sections 3.88.060 to 3.88.100 of this chapter, or the calculations prepared by the planning director or city engineer where none of the impact fee categories or impact fee amounts in Sections 3.88.060 to 3.88.100 accurately describe or capture the impacts of the development activity on public streets and roads, publicly owned parks, open space and recreational facilities, and fire protection facilities.
- W.** "Low income housing" means a single-family or multifamily housing development, the construction of which is either undertaken by a housing authority operated pursuant to RCW Chapter 35.82, or financially assisted, pursuant to a federal, state or local governmental low-income housing program; provided, however, that the term shall apply only to the number of units within such housing development as are required to be occupied by low-income residents.
- X.** "Owner" means the owner of record of real property, or a person with an unrestricted written option to purchase property; 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.
- Y.** "Park impact fee" means the impact fee designated to pay for publicly owned parks, open space and recreational facilities.
- Z.** "Parks and Recreation ~~e~~Director" means the officially appointed or acting director of the city parks and recreation department, also referred to herein as a "department head."
- AA.** "Planned facilities" means public streets and roads, publicly owned parks, open space and recreational facilities, and fire protection facilities included in the capital facilities element of the comprehensive plan for Camas.
- BB.** "Planned residential development" (PRD) or "planned unit development" (PUD) shall be as defined in Section 18.93.020 of the CMC.
- CC.** "Planning director", or "**Community Development Director**" means the officially appointed or acting director of the city **community development and** planning department.
- DD.** "Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. No improvement or facility included in the capital facilities plan approved by the city council shall be considered a project improvement.
- EE.** "Public facilities" means the following capital facilities owned or operated by government entities: public streets and roads; publicly owned parks, open space, and recreational facilities; school facilities; and fire protection facilities of the city of Camas.
- FE.** "Service area" means a geographical area defined by the city of Camas in which a defined set of public facilities provide service to development within the area.
- GG.** "Standard of service" means the quantity and quality of service which the city council has determined to be appropriate and desirable for the city. A measure of the standard of service may include, but is in no way limited to, maximum levels of congestion on city streets and roads, maximum wait at stops, maximum fire department response times, minimum fire suppression capabilities, minimum park and open space required for a variety of types of parks and open space; minimum distance from residences to parks, and/or any other factors or standards the city council may deem appropriate.
- HH.** "System improvements" means public facilities that are included in the capital facilities plan and are designed to provide service to service areas within the community at large, in contrast to project improvements.
- II.** "Temporary dwelling units" means a development that provides temporary housing for individual persons for one or more days.
-

-
- JJ.** "Traffic impact fee" means the impact fee designated to pay for public streets and roads.
 - KK.** "Unit" means any building or portion thereof which contains living facilities including provisions for sleeping, cooking, eating, and sanitation, as required by the city, for not more than one family and including site-built buildings, mobile/manufactured homes and modular homes.
 - LL.** "Voluntary agreement" means an agreement between a developer and the city as authorized by RCW 82.02.020.

3.88.035 Preliminary determination.

Any person undertaking any construction or expansion of a building, structure or use, any change in the use of a building or structure, or any change in the use of land may request that the public works director conduct a preliminary review to determine whether such project creates an additional demand and need for public services. If the public works director determines that no such additional demand is created, then such project shall be exempt from the impact fees imposed by this chapter.

3.88.040 Impact fee imposition.

- A. All new development activity within the city shall be subject to the payment of impact fees, which shall be calculated by adding the impact fee components, as hereinafter provided for, that are applicable to each new development activity.
- B. The amount of impact fees shall be determined at the time of building permit application, or for development not requiring a building permit, at the time of site plan approval.
- C. Subject to the provisions of subsection 3.88.040(D) for pre-payment of impact fees, impact fees shall be due and collected at the time of building permit application, or for development not necessitating a building permit, at the time of site plan approval.
- D. Impact fees may, with the consent of the city, be prepaid. Prepaid impact fees, including the amounts of any developer credits under subsection 3.88.140(A) shall be deducted from impact fees at the time such fees are collected pursuant to subsection 3.88.040(C).
 - 1. Prepaid impact fees shall be tracked as individual components for purposes of future use. Prepayment of Transportation Impact Fees shall be based on the number of PM Peak Hour Vehicle trip ends for each use. Prepayment of Fire Impact Fees shall be based on the total square footage paid for non-residential or equivalent number of single family homes for residential. Prepayment of Park Impact Fees shall be based on the total square footage paid for non-residential or the equivalent number of single family homes based on the total square footage.
 - 2. Prepaid impact fees shall only be valid and held by the City for 5 years. Upon expiration of the 5 year period, the City will refund the prepaid impact fees at the original value for which they were purchased, plus any accrued interest.
- E. The amount of impact fees that may be deferred under the impact fee deferral program shall be determined by the fees in effect at the time an applicant applies for a deferral.

3.88.050 Development service areas established.

Service areas, which may vary by type of public facilities, may be established in the capital facilities plan element of the comprehensive plan. Such service areas shall be defined so as to insure that those developments paying impact fees will be reasonably benefitted by the new public facilities. Additional or revised service areas may be designated by the city council by amendment to the capital facilities plan element of the comprehensive plan upon consideration of the following factors:

- A. The comprehensive plan;

-
- B. Standards for adequate public facilities incorporated in the capital facilities plan;
 - C. Projections for full development as permitted by land use ordinances and timing of development;
 - D. The need for and cost of unprogrammed capital improvements necessary to support projected development;
 - E. Such other factors as the city council may deem relevant.

3.88.055 Findings of adequacy.

- A. Prior to approving proposed plats, planned residential or planned unit developments or binding site plans, or granting other development approvals, the council or administrative personnel, as appropriate, shall make written findings that appropriate provisions are made for planned facilities. Findings of adequacy shall be based on the city's standards of service.
- B. Compliance with this requirement shall be sufficient to satisfy the requirements of RCW 58.17.110, 58.17.060 and the Act. The findings shall be made at the time of preliminary plat, PRD, PUD, binding site plan or other development approval.
- C. The city shall not approve applications for preliminary plats, PRD, PUD, binding site plans or other development approvals, unless the city is able to make the findings of adequacy; provided, that if the fee payer opts to dedicate land, to provide improvements and/or construction consistent with the requirements of CMC Section 3.88.140 governing credits, where appropriate, the city may make such findings.
- D. If any party for any reason is able to exempt itself from the operation of this chapter, the city reserves the right to review its land use plan in conjunction with its capital facilities plans in order to ensure adequacy. In the event that the impact fees that might have been paid would have been an integral part of the financing to ensure adequacy, the city reserves the right to deny approval for the development on these grounds.

3.88.060 Traffic impact fee formula.

The impact fee component for traffic shall be calculated using the most recent version of the Traffic Impact Fee Update and Transportation System Plan as adopted by the City Council. ~~following formula:~~ The Traffic Impact Fee ("TIF") formula is typically defined as: $TIF = T \times (1-B-D) \times C \times A$

- A. "TIF" means the traffic impact component of the total development impact fee.
- B. "T" means the average PM peak hour vehicle trip ends for each use, estimated by the ~~eighth or~~ current edition of the ITE Trip Generation Manual, computed by taking the size of the development times the PM peak hour trip generation rate.
- C. "B" is the reduction for bypass trips for ITE land use codes ~~in the 800s and 900s~~ estimated by the ~~second or~~ current edition of the ITE Trip Generation Handbook.
- D. "D" is the reduction for diverted linked trips for ITE land use codes ~~in the 800s and 900s~~ estimated by the ~~second or~~ current edition of the ITE Trip Generation Handbook.
- E. "C" is the cost per PM peak hour trip end as determined and adopted by Council.
- F. "A" is an adjustment to the cost of public facilities for past or future payments made or reasonably anticipated to be made in the form of user fees, debt service payments, taxes, or other payments earmarked for or pro-ratable to traffic system improvements contained in the capital facilities plan. ~~The adjustment for traffic impacts is determined to be forty percent so that "A" equals sixty percent.~~

3.88.070 Park and open space impact fee component formula.

~~A. A. The impact fee component for parks, trails and open spaces shall be calculated using the most recent version of the Park Impact Fee Study and Impact Fee Schedule as adopted by the City Council. The Park Impact Fee ("PIF") formula is typically defined as the combination of an Existing Facilities Component and a Future Facilities Component for residential and non-residential uses. The park and open space impact fee component shall consist of three subcomponents: an existing subcomponent, a future subcomponent, and an adjustment subcomponent.~~

~~A. The Existing Facilities Component is the eligible cost of capacity in existing parks, trails and open space facilities that serves future growth divided by the growth in system demand.~~

~~B. The Future Facilities Component is the eligible cost of planned (future) capacity increasing facilities, or projects, divided by the growth in system demand.~~

~~B. The existing subcomponent shall be calculated using the following formula:~~

$$~~PIF_E = \frac{\sum_{Cat=1}^8 (UAC_{Cat} \times C_{Cat})}{G} \times U~~$$

~~1. "PIF_E" means the existing subcomponent of the park and open space component of the total development impact fee.~~

~~2. "Cat" means the eight categories of existing and future park facilities used in the 2018 Parks Impact Fee Update.~~

~~3. "UAC_{Cat}" means the units (measured in acres or miles) of available capacity for each category of existing park facilities.~~

~~4. "C_{Cat}" means the average cost per unit for each category of existing park facilities.~~

~~5. "G" means the projected growth in population during the planning period.~~

~~6. "U" means the average number of occupants per dwelling unit, or 2.94 occupants per single family or multi-family dwelling unit and 0.74 occupant per accessory dwelling unit.~~

~~C. The future subcomponent shall be calculated using the following formula:~~

$$~~PIF_F = \frac{\sum_{Proj=1}^n (C_{Proj} \times E_{Proj})}{G} \times U~~$$

~~1. "PIF_F" means the future subcomponent of the park and open space component of the total development impact fee.~~

~~2. "Proj" means each project in the list used in the list of "n" projects used to calculate the future subcomponent.~~

~~3. "n" means the number of projects on the list of projects used to calculate the future subcomponent.~~

~~4. "C_{Proj}" means the total cost for each project in the list of "n" projects used to calculate the future subcomponent.~~

~~5. "E_{Proj}" means the impact fee eligibility (expressed as a percentage) for each project in the list of "n" projects used to calculate the future subcomponent. This percentage represents the proportion of each project that will create capacity for future users.~~

~~6. "G" means the projected growth in population during the planning period.~~

7. ~~"U" means the average number of occupants per dwelling unit, or 2.94 occupants per single-family or multi-family dwelling unit and 0.74 occupant per accessory dwelling unit.~~

D. ~~The adjustment subcomponent shall be calculated using the following formula:~~

$$PIF_A = \frac{FB}{REET \times E_{cap}}$$

1. ~~"PIF_A" means the adjustment subcomponent of the park and open space component of the total development impact fee.~~
2. ~~"FB" means the fund balance of unspent parks impact fee revenue.~~
3. ~~"REET" means that portion of projected real estate excise tax revenues that is expected to be dedicated to parks capital.~~
4. ~~"E_{cap}" means the weighted average impact fee eligibility, which is identified as the "capital cost eligibility" applied to projected real estate excise tax revenues in the 2018 parks impact fee update adopted by the city.~~

3.88.090 Fire facility impact fee component formula.

The impact fee component for fire shall be calculated using the most recent version of the Fire Impact Fee Study as adopted by the City Council. The Fire Impact Fee ("FIF") formula is typically defined as the allocable capital costs to serve customer growth divided by the total growth in customers served by the new capital for single-family residential, multi-family residential, and all other occupancies.

A. ~~The impact fee component for fire facilities for residential structure shall be calculated using the following formula:~~

$$RFFIF = \frac{RR \times AE \times SF \times A}{TNSF}$$

1. ~~"RFFIF" means the residential fire facilities impact fee;~~
2. ~~"RR" means the percentage of responses to fires involving residential structures;~~
3. ~~"AE" means the total estimated capital expenditures for fire facilities for the next twenty years multiplied by a percentage equal to that portion of the estimated capital expenditures attributed to new growth;~~
4. ~~"SF" means the square footage of the new residential structure for which the impact fee is being calculated;~~
5. ~~"TNSF" means the projected total square footage for all new residential structures projected to be built during the next twenty years;~~
6. ~~"A" means 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 pro-ratable to the particular system improvement.~~

B. ~~The impact fee component for fire facilities for nonresidential structures shall be calculated using the following formula:~~

$$PIF = \frac{C \times S \times U \times A}{P}$$

1. ~~"NRRFFIF" means the nonresidential fire facilities impact fee;~~
2. ~~"NRR" means the percentage of responses to fires involving nonresidential structures;~~

3. ~~"AE" means the total estimated capital expenditures for the fire department for the next twenty years times a percentage equal to that portion of the total estimated capital expenditures attributable to new growth;~~
4. ~~"SF" means the square footage of the new nonresidential structure for which the impact fee is being calculated;~~
5. ~~"TNBSF" means the projected total square footage for all new nonresidential structures projected to be built during the next twenty years;~~
6. ~~"A" means 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 pro-ratable to the particular system improvement.~~

3.88.100 School impact fee component formula.

- A. Plan adoption. The city will collect impact fees on behalf of a school district provided the school district's capital facilities plan is adopted by reference as a component of the most current Comprehensive Plan in accordance with city policies and procedures.
- B. The impact fee component for schools shall be separately calculated by each school district in accordance with state statutes and current best practices and approved by the school district board prior to requesting the city update or revise the school impact fee ("SIF").
- C. No new or revised school impact fees shall be effective until adopted by the council following a duly advertised public hearing to consider the school district's capital facilities plan or plan update.
- D. School impact fees will be collected by the city pursuant to provisions in 3.88.040 then passed through to the respective school district for their use in funding school capital facilities. The City may charge applicable administrative fees in addition to the school impact fees in accordance with the City's fee schedule.

The impact fee component for schools shall be calculated using the following formula:

$$SIF = CS(SF) - (SM) - TC \times A$$

1. ~~"SIF" means the school's component of the total development impact fee.~~
2. ~~"CS" means the cost of each type of facility listed in the respective school district capital facilities plan divided by: the number of students per type of facility at capacity of the facility less the number of students representing over capacity at existing facilities. "Type of facility" means elementary school, middle school and high school.~~
3. ~~"SF" means student factor. The "student factor" is the number of students typically generated from one residential unit for each type of school facility. This is determined by dividing the total number of residential units in the district by the current enrollment numbers for each type of school facility.~~
4. ~~"SM" means state match. "State match" is that amount received from the state of Washington towards school construction costs. The state match component of the formula is that amount representing the per student amount of state matching funds. This is calculated for each type of facility as: student factor \times Boeckh Index \times SPI square foot standard \times state matching percentage.~~
5. ~~"TC" means tax credit. This is calculated as:~~

$$\frac{(1+i)^{20}-1}{(1+i)^{20}}$$

~~\times average assed value for the dwelling unit~~

~~\times current school district capital property tax levy rate~~

where i = the current interest rate as stated in the ~~Bond Buyer Twenty Bond General Obligation Box index.~~

6. ~~"FC" means facilities credit. This is the value of any improvements listed in the district's capital facilities plan provided by the developer.~~

7. ~~"A" means an adjustment for the portion of anticipated additional tax revenues resulting from a development that is pro-ratable to system improvements contained in the capital facilities plan. The adjustment for school impacts is determined to be eighty five percent for single family residences and eighty five percent for each multifamily unit.~~

3.88.105 Resolution.

The council shall from time to time adopt a resolution or resolutions calculating the monetary amount of each component of the impact fee by using the formulas established by this chapter.

3.88.110 Computation of fees.

- A. The impact fee for nonresidential development shall be computed by applying the traffic impact fee component formula, the parks impact fee component formula, and the fire facility impact fee component formula, and then totaling the results. The impact fee for each residential dwelling unit shall be computed by applying the traffic impact fee component formula, the park impact fee component formula, the open-space impact fee component formula, the fire facility impact fee component formula, and the school impact fee component formula, and then totaling the results.
- B. If the development for which approval is sought contains a mix of residential and nonresidential uses, then the impact fee must be separately calculated for each type of use.
- C. The city council shall have the authority to adjust the standard impact fee at the time the fee is imposed to consider unusual circumstances peculiar to specific development activity to insure that impact fees are imposed fairly.
- D. Upon application by the developer of any particular development activity, the city council may consider studies and data submitted by the developer, and if warranted, may adjust the amount of the impact fee. Such adjustment shall be deemed warranted if:
 - 1. The public facility improvements would not reasonably benefit the proposed development;
 - 2. The public facility improvements identified are not reasonably related to the proposed development;
 - 3. The formulae set forth for calculating the impact fee components do not accurately reflect traffic, park and open space, fire facility, or school impacts.

3.88.120 Collection of fees.

- A. The city shall collect impact fees, based on the schedules in Sections 3.88.060 through 3.88.100, from any applicant seeking a building permit from the city.
- B. Except as may be due to exemptions or credits provided pursuant to the applicable section of this code, or pursuant to an ~~independent fee calculation accepted by the community development director~~ adjustment of the fee as approved by the Director as outlined in Section 3.88.135, ~~or impact fees imposed by the community development director pursuant to Section 3.88.135,~~ the city shall not issue a building permit(s) for residential buildings or commercial or industrial tenant improvement unless and until the impact fees set forth in the schedules in this chapter have been paid.

-
- C. Notwithstanding subsection B, for the purposes of commercial or industrial uses, the community development director may allow for payment of impact fees up to but no later than final occupancy.
 - D. Collection of impact fees may be deferred annually for the first twenty single-family residential construction building permits by an applicant until issuance of a certificate of occupancy or eighteen months from the original building permit issuance, whichever occurs first, upon application under the impact fee deferral program, subject to the provisions and conditions therein and RCW 82.02.050, and collection by the city of an administrative fee as established by the adopted fee schedule.

3.88.130 Exemptions.

- A. The following shall be exempted from the payment of all impact fees:

- 1. Replacement of a demolished or destroyed structure of the same size and use, and located on the same parcel or lot as that of the demolished or destroyed structure. Said replacement must occur within five years of the date the structure was demolished or destroyed.

The owner of a demolished or destroyed structure shall be required to submit a copy of a demolition permit, utility bill or other acceptable documentation that proves the structure in question existed within the appropriate time frame. The owner will receive a unit for unit exemption for residential uses. Exemptions for commercial or industrial users will be based on the level of impact generated by the new use as it compares to the existing or previous use.

Conversion of a lesser impact land use to a greater impact land use will require the payment of the appropriate impact fees. The new fee will be based on the total impact generated by the new land use, minus the similar impact fee associated with the existing land use. Conversion of a greater land use to a lesser land use will not be entitled to reimbursement of impact fees;

- 2. Alteration, expansion, enlargement, remodeling, rehabilitation or conversion of an existing unit where no additional units are created and the use is not changed;
- 3. The construction of accessory structures that will not create significant impacts on planned facilities;
- 4. Miscellaneous improvements, including, but not limited to, fences, walls, swimming pools and signs;
- 5. ~~A structure moved from one location within the city to another location within the city. The vacated lot will not be exempted from paying all appropriate impact fees. In the event the structure is moved outside the city, the vacant lot will be eligible for impact fee exemptions if all applicable criteria can be satisfied;~~
- 6. ~~Upon application therefore, the council may, on a case by case basis, exempt a public school district from payment of all or a portion of the impact fees imposed upon a public school development.~~

- ~~B. Except as otherwise provided pursuant to the terms of a voluntary agreement entered into between the city and a developer, the payment of fees, the dedication of land, or the construction of planned facilities by the developer pursuant to the terms of a voluntary agreement negotiated with the city with specific reference to the improvements identified in the capital facilities plans and in anticipation of the imposition of impact fees, and entered into between the city and a developer prior to the effective date of the ordinance codified in this chapter, shall be deemed to be complete mitigation for the impacts of the specific development on the planned facilities. The units in such development may be charged a reduced fee pursuant to an independent fee calculation under CMC Section 3.88.135. The developer shall provide the planning director documentation demonstrating compliance with the terms of the voluntary agreement.~~

- ~~C. Except as otherwise provided pursuant to the terms of a plat condition or a SEPA mitigation condition; the payment of fees, the dedication of land, or the construction of planned facilities by the developer pursuant to the terms of a plat condition or a SEPA mitigation condition negotiated with the city with specific reference to the improvements identified in the capital facilities plan and in anticipation of the imposition of impact fees, and imposed prior to the effective date of the ordinance codified in this chapter, shall be~~

~~deemed to be complete mitigation for the impacts of the specific development on the planned facilities. The units in such development may be charged a reduced fee pursuant to an independent fee calculation under CMC Section 3.88.135. The developer shall provide the planning director documentation demonstrating compliance with the terms of the voluntary agreement.~~

- ~~BD.~~ The ~~planning~~ director shall be authorized to determine whether a particular development activity falls within an exemption identified in this section, in any other section, or under other applicable law. Determinations of the ~~planning~~ director shall be in writing and shall be subject to the appeals procedures listed in Section 3.88.150 of the CMC.

3.88.135 Independent fee calculation.

- A. If the ~~planning~~ director believes in good faith that none of the impact fee categories or impact fee amounts set forth in the schedules in Sections 3.88.060 through 3.88.100 accurately calculate the impacts of a development activity on planned facilities, the ~~planning~~ director may ~~conduct~~ accept an independent fee calculation ~~s for consideration~~. The ~~planning director~~ city may impose alternative impact fees on a specific development activity based on these calculations. The resultant alternative impact fees ~~and the calculations~~ shall be set forth in writing and ~~shall be mailed~~ provided to the fee payer.
- B. If a ~~director determines an adjustment to the fees calculated~~ fee payer opts not to have the impact fees determined according to the schedules in Sections 3.88.060 through 3.88.100 may be warranted, then the fee payer shall prepare and submit to the ~~planning~~ director an independent fee calculation for the development activity for which final plat, PRD, PUD, binding site plan, or other development approval, or a building permit, is sought. While there is a presumption that the calculations set forth in the city's capital facilities plans and Sections 3.88.060 through 3.88.100 are valid, ~~the~~ documentation submitted shall show the basis upon which the independent fee calculation was made, including empirical data and analysis based on professional studies and other relevant information. The appropriate ~~department heads~~ director shall review the independent fee calculation ~~and provide an analysis to the planning director concerning whether the independent fee calculation shall be accepted, rejected, or accepted in part. The planning director may adopt, reject, or adopt in part, the independent fee calculation based on the analysis prepared by appropriate department heads, and~~ based on specific characteristics of the development activity, and/or principles of fairness. ~~The impact fees or alternative impact fees and the calculations shall be set forth in writing and shall be mailed to the fee payer.~~
- C. Any fee payer submitting an independent fee calculation will be required to pay the city a fee to cover the cost of reviewing the independent fee calculation in accordance with the city's adopted fee schedule. ~~The fee shall be five hundred dollars, unless~~ In the event it is necessary for the city to enlist the services of an outside consultant to assist in the review of the independent fee calculation. ~~In this instance,~~ the fee payer will be required to pay any consultant charges over the base ~~five hundred dollar amount~~ fee identified in the fee schedule. ~~Individual single family lots will be exempt from the review fee. The city shall require the fee payer to post a cash deposit of five hundred dollars prior to initiating the review.~~
- ~~D.~~ Determinations by any Director under this section may be appealed pursuant to CMC Section 3.88.150. While there is a presumption that the calculations set forth in the city's capital facilities plans are valid, the planning director shall consider the documentation submitted by the fee payer and the analysis prepared by the appropriate department heads, but is not required to accept such documentation or analysis which the planning director reasonably deems to be inaccurate or not reliable, and may, in the alternative, require the fee payer to submit additional or different documentation for consideration. The planning director is authorized to adjust the impact fees on a case-by-case basis based on the independent fee calculation, the specific characteristics of the development activity, and/or principles of fairness. The impact fees or alternative impact fees and the calculations shall be set forth in writing and shall be mailed to the fee payer.
- ~~E.~~ Determinations made by the planning director pursuant to this section may be appealed to the planning commission.

3.88.140 Credits.

A. Development Credit.

- (1) A developer (as defined in CMC 3.88.030) shall be entitled to a credit against the applicable impact fee for the dedication of land or the for the design or engineering or construction of an "eligible improvement." For purposes of this section, an eligible improvement shall mean an improvement or real property that is identified in one of the City's Capital Facilities Plan as being funded by impact fees, in the amount(s) identified and/or calculable in the Capital Facilities Plan.
- (2) The amount of the credit shall be the dollar amount assigned to the improvement or to the land in the Capital Facilities Plan. Where only a portion of the improvement is constructed or a portion of the land is dedicated, the amount of the credit shall be pro-rated.
- (3) Credits earned for one category of impact fee, e.g. traffic, may not be applied against a different category of impact fee, e.g. schools.
- (4) Approval from the city council shall be required prior to the start of the construction or dedication of any eligible improvement. "Approval" in the context of this subsection (4) shall be satisfied if the city, requires the construction of the eligible improvement as a condition of approval for a land use application. If a developer wishes to construct an eligible improvement that is not otherwise a condition to an approved land use application, prior approval must be obtained from the city council.
- (5) Credits shall be issued as follows:
 - (A) For traffic, fire, and parks and open space impact fees, no credits shall be granted until either the eligible improvements have been ~~designed, engineered or~~ constructed by the developer and such work has been accepted by the city ~~council~~; or until the land has been dedicated by the developer and such dedication has been accepted by the city ~~council~~.
 - (B) For school impact fees, no credit shall be granted ~~until the school board adopts a resolution certifying that the eligible improvements have been designed or engineered or constructed and accepted by the school board, or that the land has been dedicated and accepted by the school board. The resolution shall further~~ without written authorization from the school district to the City identifying the dollar amount of the credit, ~~and~~ the developer to whom the credit should be issued, and a description of the improvements completed associated with the credit.
- (6) If impact fees become due and payable prior to the developer becoming eligible for the issuance of credits as provided for in section (5), the developer may apply to the community development director to defer collection of the impact fees until construction or dedication is completed. The community development director may condition deferral upon:
 - a) The developer posting a bond or other financial security satisfactory to the city in an amount equal to one hundred twenty-five percent (125%) of the deferred impact fees, which bond or other financial security shall be conditioned upon the developer either paying the deferred impact fees or completing construction or dedication within a specified time, or
 - b) The withholding of an occupancy permit, or
 - c) Such other conditions acceptable to the city.
- ~~(7) If the developer is dissatisfied with the decision of the community development director, the developer may seek to have that decision reviewed by the city council.~~
- (8) Upon acceptance of the eligible improvement, the developer ~~identified in the motion or resolution~~ may submit an application for the impact fee credit to the ~~city's finance department on a form to be created by the finance department~~ director. After submission of a credit application and verification of entitlement thereto, ~~the finance department shall issue a credit voucher to the developer specifying the amount of the impact fee credit and the type of credit~~ the director shall submit to the City Council

for concurrence. Upon ratification, the director or finance department shall issue a credit in writing to the developer specifying the type and amount of credit.

- (9) The credit may, at the option of the developer, be applied all or in part to the impact fees owing for the developer's project.
- (10) To the extent the credit exceeds the amount of the impact fee owed by the developer, or the developer chooses not to apply the impact fee to the developer's project, the unused credit may be applied to a different project of the developer or transferred to another developer to be applied to that developer's development project.
- (11) Before the impact fee credit can be transferred to a different developer, the holder of the impact fee credit shall file with the finance department an application to transfer the credit on a form to be created by the finance department. The application shall identify the transferee, and the amount and type of the impact fee credit being transferred. The transfer application shall be accompanied by an administrative fee in an amount as may be set by resolution of the city council.
- (12) When credits are to be redeemed, the holder of the impact fee credit shall file an application for redemption on a form to be created by the finance department. The application for redemption shall be accompanied by an administrative fee in such amount as may be set by resolution of the city council. When impact fee credits are being redeemed, such redemption shall not allow the impact fee credits to be prorated among more than one residential lot in amounts that are less than the then existing impact fee per lot. (For example, where impact fees are five thousand dollars per residential lot and a developer wishes to redeem eleven thousand dollars worth of credits, the developer shall not be allowed to apply one thousand dollars per residential lot over eleven lots. The developer may apply five thousand dollars to two residential lots and one thousand dollars to one residential lot.)
- (13) The finance department shall be responsible for maintaining appropriate records documenting the issuance, transfer, and redemption of impact fee credits.
- (14) Expiration of credits. Any credits issued after the effective date of this ordinance shall expire and become null and void ten (10) years from the date of ratification by the city council of the original credit. Transferring of credits or partial use of credits shall in no event extend the expiration date or further use of credits.

- B. Low-Income Housing Credit. A credit of seventy-five percent of the total impact fees assessed for parks, open space, fire and transportation shall be given to housing which meets the requirements of low-income housing as defined in Section 3.88.030.
- C. Industrial Expansion Credit. Collection of the impact fee for industrial development which is projected to generate annual property taxes payable to the city in excess of one hundred thousand dollars shall be deferred for three years. If the industrial development is obligated to pay to the city real property taxes averaging one hundred thousand dollars per year or more for the three-year deferral period, then the developer shall be entitled to a credit against impact fees equal to twenty-five percent of the total real property taxes paid by such developer during the three-year deferral period. In the event that the credit calculated hereunder exceeds the amount of the impact fee, the city shall have no obligation to reimburse the difference to the developer. The deferral period shall commence in the first year during which the initial phase of improvements have been completed and are placed on the real property tax assessment rolls.

3.88.150 Appeals.

A. A developer may appeal the amount of any impact fee determined by the Director to the City Hearing Examiner. The developer shall have the burden of proving:

1. An error was committed in calculating the assessment of the impact fee or the developer's proportionate share.
2. Such fee does not mitigate a direct impact.

3. The City based its determination on incorrect data. A developer may also submit such other information deemed relevant or appropriate for the purpose of disputing the impact fee.

B. The Director shall meet with the developer and such other parties as are deemed necessary in order to resolve the dispute. If the dispute is not resolved by the Director, the developer may appeal the imposition of the impact fee to the Hearing Examiner. The Hearing Examiner only determines whether the fee is reasonable, but does not make any adjustment thereto. The Hearing Examiner may remand the matter to the applicable Department for further consideration consistent with the Hearing Examiner's decision.

C. An appeal from a decision of the Director must be filed with the Hearing Examiner within 10 calendar days of the Director's written decision regarding the fee amount.

~~Any person aggrieved by the amount of the impact fee calculated and imposed upon a particular development activity may appeal such determination to the board of adjustment by filing written notice of appeal with the city clerk within twenty days of the issuance of the determination of the impact fee. The chairman of the board of adjustment shall cause a notice of the time and place of hearing to be mailed to the developer. At such hearing, the developer shall be entitled to be heard and to introduce evidence on his own behalf. The board of adjustment shall thereupon ascertain the amount of the impact fee, and the city clerk shall immediately notify the developer thereof, by mail.~~

~~(Ord. 1873 § 15, 1992)~~

3.88.160 Accounting procedures—Reports.

A. All impact fees collected shall be deposited in the growth management act capital projects fund. The finance director shall establish separate designated reserve accounts for public roads and streets, for fire facilities, for school facilities, and for public park, open space, and recreational facilities, and shall maintain records for each such account. All interest earned by the fund shall be allocated to the separate designated reserve accounts in the same proportion that the balance of each reserve account bears to the total fund balance. All interest shall be retained in the account and expended for the purposes for which the impact fees were imposed.

~~B. The finance director shall provide an annual report on or before April 1st of each year for the previous calendar year on each impact fee account showing the source and amount of the moneys collected, earned or received, and system improvements that were financed in whole or in part by impact fees.~~

~~C.~~ Pursuant to and consistent with the requirements of RCW 82.02.060, the capital facilities plans have provided adjustments for future taxes to be paid by the developer, which are earmarked or proratable to the planned facilities which will serve the development activity. The impact fee schedules in Sections 3.88.060 through 3.88.100 have been reasonably adjusted for taxes and other revenue sources which are anticipated to be available to fund particular planned facilities.

3.88.170 Expenditure of fees.

A. Impact fees for system developments shall be expended only in conformance with the capital facilities plan. Impact fees shall be expended or encumbered for a permissible use within ~~six-ten~~ years of collection, unless there exists an extraordinary and compelling reason for fees to be held longer than ~~sixten~~ years. Such extraordinary or compelling reasons shall be identified in written findings by the city council.

B. Pursuant to this chapter:

1. Impact fees collected for public streets and roads, impact fees for publicly owned parks, open space and recreational facilities, and impact fees for fire protection facilities shall be used solely for those respective purposes, and only those that will reasonably benefit the development activity.

2. Impact fees shall not be imposed to solely benefit existing customers unless otherwise allowed by law.

~~Impact fees shall not be imposed to make up for deficiencies in existing facilities serving existing developments.~~

3. Impact fees shall not be used for maintenance or operation.
- C. Impact fees may be spent for planned facilities, including but not limited to planning, land acquisition, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable impact fees or mitigation costs, capital equipment pertaining to planned facilities, and any other similar expenses which can be capitalized.
- D. Impact fees may also be used to recoup city improvement costs previously incurred by the city to the extent that new growth and development activity will be served by the previously constructed improvements or incurred costs.
- E. In the event that bonds or similar debt instruments are or have been issued for the advanced provision of city improvements for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the development activity.

3.88.180 Refunds.

- A. The current owner of property on which an impact fee has been paid may receive a refund of such fee if the city fails to expend or encumber the impact fees within ~~six-ten~~ years of collection, or such greater time as may be established in written findings by the city council documenting extraordinary or compelling reasons for extension beyond ~~six-ten~~ years. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first-in, first-out basis. The current owner likewise may receive a proportionate refund when the public funding of applicable service area projects by the end of such ~~six-ten~~-year period has been insufficient to satisfy the ratio of public to private funding for such service area as established in the capital facilities plan. The city shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of each claimant.
- B. The request for a refund must be submitted to the city council in writing within one year of the date the right to claim a refund arises or within one year of the date notice is given, whichever is later. Any impact fees that are not expended within these time limitations, and for which no application for refund has been made as herein provided, shall be retained and expended on the indicated capital facilities. Refunds of impact fees under this subsection shall include any interest earned on the impact fees.
- C. A developer may request and shall receive a refund, including any interest earned on the impact fees, when the developer does not proceed with the development activity and no impact has resulted. All refunds shall be provided on a dollar for dollar basis according to the original payment.
- D. Any administrative fee and/or application fee are not eligible for a refund.
- E. Refunds will not be made for amounts less than \$100.00.
- F. The applicant must submit a written request for a refund and provide a receipt of impact fees paid. No refund will be processed prior to cancellation of any applicable permit, land use or approval or pending application thereof.

3.88.190 Impact fee as additional and supplemental requirement.

The impact fee is additional and supplemental to, and not in substitution of, any other requirements imposed by the city on the development of land or the issuance of building permits; provided, that any other such city development regulation which would require the developer to undertake dedication or construction of a facility contained within the city capital facility plan shall be imposed only if the developer is given a credit against impact fees as provided for in this chapter.

3.88.200 Review of impact fees.

The impact fee schedules set forth in Sections 3.88.060 through 3.88.100 shall be reviewed and amended by the city council as it may deem necessary and appropriate, ~~in conjunction with the annual update of the capital facilities plan element of the city's comprehensive plan.~~