



CITY OF KIRKLAND

Public Works Department

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MEMORANDUM

To: Marilynne Beard, Interim City Manager

From: Ray Steiger, PE, Interim Public Works Director
Rob Jammerman, Development and Environmental Services Engineering Manager

Date: June 1, 2010

Subject: Deferred Payment of Traffic and Park Impact Fees

RECOMMENDATION:

City Council approves the attached Interim Ordinance amending Title 27 of the Kirkland Municipal Code to allow applicants for certain New Single Family Residential Building Permits to defer the payment of the Traffic and Park Impact fee until the home is sold.

BACKGROUND DISCUSSION:

On March 22, 2010, Mr. Mike Miller, with Murray Franklyn Homes, gave a presentation to the Economic Development Committee (EDC) about a deferred impact fee payment program. The program would allow traffic and park impact fees for new single-family homes to be paid when the home is sold instead of when the Building Permit is issued and this is one way to assist developers during these difficult economic times. Mr. Miller was involved when the City of Sammamish set up their Deferred Impact Fee Payment Program and suggested that our process could be similar to theirs. The EDC discussed the program and directed staff to study the City of Sammamish program and present an interim ordinance to the City Council.

Following the EDC meeting, Public Works staff contacted staff at the City of Sammamish to discuss their Deferred Impact Fee Payment Program and found that the program is working well with no significant issues or problems; they did point out that the program does add administration staff time to the permitting process.

Given that the City of Sammamish program is working well, Public Works staff is recommending that Kirkland's program mirror their program. The following are the key elements to the program:

1. The program is available to new single-family Building Permit applicants that are building a home to be sold. The applicant must sign an affidavit stating that the home will be sold upon completion.
2. Prior to issuance of the Building Permit, the applicant must record a lien against the property for the impact fees.
3. The applicant is responsible for payment of the impact fees within 30 days of escrow closing. In most cases, the escrow company will wire the impact fee payment to us.
4. Because the program has been developed to help builders and developers during these difficult economic times, the program should have a sunset date. Staff is recommending that the program cease on May 31, 2011. This 11-month duration will give ample time to developers and builders to take advantage of the program and

discontinues the program before the effective date of annexation. The City of Sammamish's program is set to end on December 31, 2010.

5. The Public Works Department will be responsible for the administration of this program. After discussing the program in detail with staff from the City of Sammamish and with our Finance Department staff that will assist with the wire transfers and lien releases, we developed the following program administration cost estimates:

City Department	Estimated Hours/Deferred Payment	Full Cost Recovery
Finance – Admin Staff	1 Hrs	\$50
Public Works Eng. Staff*	3 Hrs	\$188
Total	4 Hrs	\$238 (round to \$240)

*2-hours per lien for Engineering Technician and 1-hour per lien for Development Plans Examiner

Given these cost estimate, staff recommends that a \$240 administration fee be applied to each Building Permit participating in the deferred impact fee payment program.

Other Impact Fee Language Changes

While making the proposed amendments to Title 27 of the KMC, it also provides a good opportunity to make a few clarification amendments to the code. The attached ordinance also includes amendments that address the following:

- Deleted the terms “**single**” and “**multifamily**” since the City charges a fee based on the housing type and not whether there is one detached unit on one lot or multiple detached units on one lot.
- Made the definition for “**residential**” the same in both the transportation and parks impact fee sections.
- Added a new subsection for **new subdivisions** in which the credit for an existing dwelling unit is given to the first building permit following demolition of the existing home which is how the City has been administering the credit. The applicant of a subdivision may allocate the credit differently if the allocation is stated in the application and made a condition of the subdivision.
- Clarified that the fee schedules in the impact fee ordinances are based on the 2007 rate studies and that the **fees may be increased each January 1* based on the index** stated in Chapter 27.04.120 and 27.06.120. The Public Works fee schedule has the most current impact fee rate.
- Clarified and changed the **Park Impact Fee schedule** to match the Transportation Impact Fee Schedule for residential housing units which is the intent of the Park Impact fee ordinance. Multiple detached units on one lot are charged the same as one detached unit on one lot. This is stated currently in the definition for “residential” (Section 27.06.020 (x)). Senior housing is not charged the detached rate even if the units are detached structures, similar to assisted living units.

Attachment 1 – Ordinance to amend Title 27 of the KMC

ORDINANCE NO. 4243

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO IMPACT FEES, ESTABLISHING IMPACT FEE CREDITS FOR RESIDENTIAL SUBDIVISIONS IN CERTAIN SITUATIONS, PROVIDING THE OPTION FOR DEFERRAL OF PAYMENT OF IMPACT FEES FOR SINGLE FAMILY RESIDENCES TO THE INITIAL SALE OF THE RESIDENCE, AND MAKING OTHER MISCELLANEOUS CHANGES.

WHEREAS, pursuant to the provisions of state law, Chapter 35A.63 of the Revised Code of Washington (RCW) and Chapter 36.70A RCW, the Kirkland City Council has adopted the Kirkland Municipal Code (KMC), including Title 27, which regulates impact fees; and

WHEREAS, as a result of the current downturn in the local economy, a diminishing number of new residential units are being built, which adversely impacts the City's housing stock, local economy and revenue for governmental services; and

WHEREAS, unless the City acts, the housing market may continue to languish and adverse consequences of decreased revenues, abandoned projects, and underutilized land will occur; and

WHEREAS, a need exists to amend Title 27 to afford more flexibility to applicants on the timing of street impact fee and parks and recreational facilities impact fee payments; and

WHEREAS, the ordinance amendments are procedural in nature, and therefore exempt from State Environmental Policy Act (SEPA) review; and

WHEREAS, the City Council finds the proposed amendments to the Kirkland Municipal Code to be consistent with and to implement the intent of the Comprehensive Plan; and

WHEREAS, the City Council has concluded that it is in the interest of the public health, safety and welfare to adopt this ordinance;

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. Kirkland Municipal Code Section 27.04.020 concerning transportation impact fees is hereby amended to read as follows:

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, Chapter 36.70A RCW.

(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 Chapter 36.70A RCW, and such plan as amended.

(6) "City" means the city of Kirkland, Washington.

(7) "Council" means the city council of the city.

(8) "Department" means the public works department.

(9) "Director" means the director of the public works department, or the director's designee.

(10) "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.

(11) "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).

(12) "Hearing examiner" means the person who exercises the authority of Chapter 3.34 of this code.

(13) "Impact fee" means a payment of money imposed by the city on an applicant prior to issuance of a building permit or a change in land use when no building permit is required pursuant to this chapter as a condition of granting a building permit, or as a requirement for a change in use 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.

(14) "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.

(15) "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 in Section 27.04.150.

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

(17) "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.

(18) "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.

(19) "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.

(20) "Prior use" means the use with the highest impact fee per unit, based on the schedule in Section 27.04.150, in existence since January 1, 2006, as documented by city records.

(21) "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.

(22) "Public facilities" means the public streets and roads of the city or other governmental entities.

(23) "Rate study" means the Transportation Impact Fee Rate Study, City of Kirkland, by Mirai, Associates, dated April 10, 2007.

(24) "Residential" means housing, such as detached, attached or stacked dwelling units (includes cottage, carriage and two/three unit homes approved under Chapter 113 of Title 23), single-family dwellings, senior and assisted dwelling units 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 (zoning code) of this code (~~zoning code~~), is considered an adjunct to the associated primary structure ~~single family dwelling unit~~ and is not charged a separate impact fee. ~~For the purpose of this chapter, single family dwellings include one or more detached dwelling units on one lot.~~

(25) "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.

(26) "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).

(27) "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.

Section 2. Kirkland Municipal Code Section 27.04.030 concerning park impact fees is hereby amended to read as follows:

27.04.030 Assessment of impact fees.

(a) The city shall collect impact fees, based on Section 27.04.150, from any applicant seeking a building permit from the city, or any person or entity seeking a change in land use based on the land use categories on the schedule in Section 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 for a change in land use when no building permit is required based on the land use categories on the schedule in Section 27.04.150. Unless the use of an independent fee calculation has been approved, or unless a development agreement entered into pursuant to RCW 36.70B.170 provides otherwise, the fee shall be calculated based on impact fee schedule in effect at the time a complete building permit application is filed. For a change in use for which no building permit is required, the fee shall be calculated based on the impact fee schedule in effect on the date of payment of the impact fee.

(c) The department shall establish the impact fee rate for a land use that is not listed on the rate schedule in Section 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 Section 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 Section 27.04.150.

(f) For building permits within new subdivisions approved under Title 22 (subdivisions) in this code, a credit shall be applied for any dwelling unit that exists on the land within the subdivision prior to the subdivision if the dwelling unit is demolished. The credit shall apply to the first complete building permit application submitted to the City subsequent to demolition of the existing dwelling unit, unless otherwise allocated by the applicant of the subdivision as part of approval of the subdivision.

(g) For complete building permit applications received on or prior to May 31, 2011, at the time of issuance of any single family residential building permit for a dwelling unit that is being constructed for resale, the applicant may elect to record a covenant against the title to the property that requires payment of the impact fees due and owing, less any credits awarded, by providing for automatic payment through escrow of the impact fee due and owing to be paid at the time of closing of sale of the lot or unit. Applicants electing to use this process shall pay a \$240 administration fee for each individual lien filed.

(fh) The building division of the fire and building department shall not issue any building permit unless and until the impact fee has been paid. For a change in land use when a building permit 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.

Section 3. Kirkland Municipal Code Section 27.04.050 is hereby amended to read as follows:

27.04.050 Exemptions.

(a) The following building permit applications shall be exempt from impact fees:

(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 five years of the demolition or destruction of the prior structure. For replacement of structures in a new subdivision, see Chapter 27.04.030(f).

(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 Title 23 of this code (Zoning Code) as it is considered part of the single-family use associated with this fee.

Section 4. Kirkland Municipal Code Section 27.04.150 is hereby amended to read as follows:

27.04.150 Transportation impact fee schedule

The impact fee schedule below is based on the City's 2007 rate study. As authorized under Section 27.04.120(b), the schedule may automatically increase each January 1st based on the Washington State Department of Transportation Construction Cost Index. See the Public Works Department's fee schedule for the current impact fee.

Land Uses	Unit of Measure	ITE Land Use Code	Fee Per Unit
Cost per Trip End >			\$3,398.20
Residential			
Detached Housing	dwelling	210	\$3,432.00
Attached and Stacked Housing	dwelling	220, 221, 230, 233; See Note 2	\$2,012.00
Senior Housing	dwelling	See Note 1	\$1,006.00
Nursing Home	bed	620	\$598.00
Congregate Care/Assisted Living	dwelling	253, 254	\$462.00
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	\$2,291.00
Extended Stay Motel	room	311	\$1,553.00
Service Station	VFP	944	\$9,151.00
Service Station/Minimart	VFP	945	\$6,625.00
Service Station/Minimart/Car Wash	VFP	946	\$9,901.00
Car Wash	stall	947	\$5,594.00
Movie Theater	seats	445	\$550.00
Health Club	sq. ft./GFA	492	\$9.14
Racquet Club	sq. ft./GFA	491	\$4.12

Marina	berth	420	\$512.00
Commercial – Institutional			
Elementary School/Jr. High School	student	520	\$435.00
High School	student	530	\$272.00
University/College	student	550	\$553.00
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-Through	sq. ft./GFA	933	\$25.39
Fast Food Restaurant w/ Drive-Through	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
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
Freestanding 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	\$3,427.00
Video Rental	sq. ft./GFA	896	\$7.72
Supermarket	sq. ft./GFA	850	\$15.98
Tire Store	service bay	849	\$4,379.00
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 Leasable Area

GFA = Gross Floor Area

Note 1. Senior Housing rate is one-half of attached and stacked housing rate.

Note 2. Includes cottage, carriage and two-/three-unit homes approved under Chapter 113 of Title 23.

Section 5. Kirkland Municipal Code Section 27.06.020 is hereby amended to read as follows:

27.06.020 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.

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

(b) "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.

(c) "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.

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

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

(f) "City" means the city of Kirkland, Washington.

(g) "Council" means the city council of the city.

(h) "Department" means the parks and community service department.

(i) "Director" means the director of the parks and community service department, or the director's designee.

(j) "Encumbered" means to reserve, set aside or otherwise earmark the impact fees in order to pay for park planning, design, land surveys and acquisition, engineering, permitting, financing, administrative expenses, construction of parks and related facilities and any other commitments, contractual obligations or other liabilities incurred for public facilities.

(k) "Hearing examiner" means the person who exercises the authority of Chapter 3.34.

(l) "Impact fee" means a payment of money imposed by the city on an applicant prior to issuance of a building permit or a change in land use when no building permit is required as a condition of granting a building permit or as a requirement for a change in use in order to pay for the public facilities needed to serve new residential growth and development. "Impact fee" does not include a reasonable permit fee or application fee.

(m) "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.

(n) "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 set forth in Section 27.06.150 of this chapter.

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

(p) "Interlocal agreement" or "agreement" means a park 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.

(q) "Low-income housing" means: (1) 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 where no more than thirty percent of the household income is paid for housing expenses, or (2) 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 where 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.

~~(r) "Multifamily dwelling" means an attached, stacked, duplex, or assisted living unit as defined in Chapter 5 of Title 23 of this code (Zoning Code) and cottage, carriage and two-/three unit homes approved under Chapter 113 of Title 23 of this code (Zoning Code).~~

(sr) "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.

(ts) "Parks" means parks, open space, and recreational facilities.

(ut) "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.

(vu) "Public facilities" means the public parks, open space, and recreational facilities.

(wv) "Rate study" means the "Rate Study for Impact Fees for Parks and Recreational Facilities," city of Kirkland, by Henderson, Young and Company, dated March 27, 2007.

~~(xw) "Residential" means housing, such as single-family dwellings (detached), multifamily dwellings (attached or stacked units (includes cottage, carriage and two-/three-unit homes approved under Chapter 113 of Title 23), accessory dwelling units, apartments, condominiums, mobile homes and/or manufactured homes or, senior and assisted living units, intended for occupancy by one or more persons. For the purpose of this chapter, an accessory dwelling unit, as defined in Chapter 5 and regulated in Chapter 115 of Title 23 (zoning code) of this code (Zoning Code), is considered an adjunct to the associated primary structure single-family dwelling unit and is not charged a separate impact fee. For the purpose of this chapter, single-family dwellings include one or more detached dwelling units on one lot.~~

~~(y) "Single family dwelling" means a detached living unit as defined in Chapter 5 of Title 23 of this code (Zoning Code).~~

(zx) "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.

Section 6. Kirkland Municipal Code Section 27.06.030 is hereby amended to read as follows:

27.06.030 Assessment of impact fees.

(a) The city shall collect impact fees, based on the schedule in Section 27.06.150 of this chapter, from any applicant seeking a building permit from the city, or any person or entity seeking a change in land use to one of the land use categories in Section 27.06.150 when no building permit is required.

(b) All impact fees shall be collected from the applicant prior to issuance of the building permit, or prior to occupancy for a change in land use when no building permit is required based on the land use categories in Section 27.06.150. Unless the use of an independent fee calculation has been approved, or unless a development agreement entered into pursuant to RCW 36.70B.170 provides otherwise, the fee shall be calculated based on impact fee schedule in effect at the time a complete building permit application is filed. For a change in use for which no building permit is required, the fee shall be calculated based on the impact fee schedule in effect on the date of payment of the impact fee.

(c) The department shall establish the impact fee rate for a land use that is not listed on the rate schedule set forth in Section 27.06.150 of this chapter. The applicant shall submit all information requested by the department for purposes of determining the impact fee rate pursuant to Section 27.06.040.

(d) For a change in use, 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.

(e) For building permits for mixed use developments, impact fees shall be imposed on the residential component of the development found on the schedule in Section 27.06.150 of this chapter.

(f) For building permits within new subdivisions approved under Title 22 (subdivisions) in this code, a credit shall be applied for any dwelling unit that exists on the land within the subdivision prior to the subdivision if the dwelling unit is demolished. The credit shall apply to the first complete building permit application submitted to the City subsequent to the demolition of the existing dwelling unit, unless otherwise allocated by the applicant of the subdivision as part of approval of the subdivision.

(g) For complete building permit applications received on or prior to May 31, 2011, at the time of issuance of any single family residential building permit for a dwelling unit that is being constructed for resale, the applicant may elect to record a covenant against the title to the property that requires payment of the impact fees due and owing, less any credits awarded, by providing for automatic payment through escrow of the impact fee due and owing to be paid at the time of closing of sale of the lot or unit. Applicants electing to use this process shall pay a \$240 administration fee for each individual lien filed.

(fh) The building division of the fire and building department shall not issue any building permit unless and until the impact fee has been paid. For a change in land use when a building permit 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.

Section 7. Kirkland Municipal Code Section 27.06.050 is hereby amended to read as follows:

27.06.050 Exemptions.

(a) The following building permit applications shall be exempt from impact fees:

(1) 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. Replacement must occur within five years of the demolition or destruction of the prior structure. For replacement of structures in a new subdivision, see Chapter 27.06.030(f).

(2) Any building permit for a legal accessory dwelling unit approved under Title 23 of this code (Kirkland Zoning Code).

Section 8. Kirkland Municipal Code Section 27.06.150 is hereby amended to read as follows:

27.06.150 Fee schedule.

Park Impact Fee Schedule

The impact fee schedule below is based on the City's 2007 rate study. As authorized under Section 27.06.120(b), the schedule may automatically increase each January 1st based on the CPI-W Index. See the Public Works Department's fee schedule for the current impact fee.

Type of Land Use	Impact Fee	Per Unit
Single-family dwelling (d Detached unit)	\$3,621	Dwelling unit
Multifamily dwelling (a Attached, stacked, and senior or assisted living unit) development, and cottage, carriage and two-/three-unit homes approved under chapter 113 of title 23 (zoning code) of this code.	\$2,368	Dwelling unit

Section 9. Applicability.

(1) Public notice given prior to the effective date of this Ordinance for any pending development permit application shall remain valid for such permit application.

(2) This Ordinance shall not otherwise affect the vesting date for any application as provided for under the state law vesting doctrine.

Section 10. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

Section 11. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2010.

Signed in authentication thereof this _____ day of _____, 2010.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4243

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO IMPACT FEES, ESTABLISHING IMPACT FEE CREDITS FOR RESIDENTIAL SUBDIVISIONS IN CERTAIN SITUATIONS, PROVIDING THE OPTION FOR DEFERRAL OF PAYMENT OF IMPACT FEES FOR SINGLE FAMILY RESIDENCES TO THE INITIAL SALE OF THE RESIDENCE, AND MAKING OTHER MISCELLANEOUS CHANGES.

SECTION 1. Updates the definition of "Residential" housing.

SECTION 2. Adds a new language to KMC 27.04.030 for new subdivisions in which the credit for an existing dwelling unit is given to the first building permit following demolition of the existing home and adds new language to KMC 27.04.030 allowing impact fees to be paid upon sale of the property.

SECTION 3. Updates the exemptions for replacement of a structure with a new structure clarifying where to locate information on replacement in a new subdivision.

SECTION 4. Updates the transportation impact fee schedule clarifying where to locate the indexed fee schedule adjustments.

SECTION 5. Removes the definition of "Multifamily dwelling" and "Single family dwelling" and updates the definition of "Residential" housing.

SECTION 6. Adds a new language to KMC 27.06.030 for new subdivisions in which the credit for an existing dwelling unit is given to the first building permit following demolition of the existing home and adds new language to KMC 27.06.030 allowing impact fees to be paid upon sale of the property.

SECTION 7. Updates the exemptions for replacement of structures in a new subdivision clarifying where to locate information on replacement in a new subdivision.

SECTION 8. Updates the park impact fee schedule clarifying where to locate the indexed fee schedule adjustments.

SECTION 9. Provides that vesting and public notice requirements are not affected by this Ordinance.

SECTION 10. Provides a severability clause for the ordinance.

SECTION 11. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2010.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

City Clerk