



CITY OF KIRKLAND

City Attorney's Office

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MEMORANDUM

To: Dave Ramsay, City Manager

From: Robin S. Jenkinson, City Attorney

Date: August 17, 2007

Subject: Impact Fee Ordinance Amendment

Recommendation:

Council review and consider amendment to the exemption in the transportation impact fee sections of the Kirkland Municipal Code (KMC).

Discussion:

On June 5, 2007, the City Council passed Ordinance No. 4100 which adopted a new impact fee schedule for transportation facilities. At that time, there was some Council interest expressed in creating an exemption from impact fees for the development activities of human services agencies. Staff was asked to prepare an amendment which would create this exemption.

State law allows the City to provide an exemption from its impact fee ordinances for "low income housing and other development activities with broad public purposes." RCW 82.02.060(2). The impact fee provisions in the KMC currently provide an exemption for low income housing. The attached ordinance would add an exemption for community-based human services providers from the transportation impact fees. To be eligible for the impact fee exemption a human services agency would be required to make application to the City Manager. The human services agency would need to meet each of the following criteria:

- Have tax exempt status under Section 501(c)(3) of the Internal Revenue Code
- Provide services responsive to a variety of cultures and languages
- Provide services and programs to those considered most vulnerable and/or at risk, such as youth, seniors, and those with financial need, special needs and disabilities
- The services must meet the Human Services Goals and Policies set forth in the Comprehensive Plan

The City Manager would review the application based upon the criteria above and notify the applicant, in writing, of the granting or denial of the application. In addition, the City Manager would notify the City Council when such applications are granted or denied.

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As is true, under State law for exemptions for low-income housing, the City is required to cover, with public funds other than the impact fee account, any impact fees that would have been paid for development activities from which human services agencies are exempt.

Please let me know if you have any questions.

Attachment

ORDINANCE NO. 4112

AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING CHAPTER 27.04 OF THE KIRKLAND MUNICIPAL CODE (KMC) RELATING TO TRANSPORTATION IMPACT FEES; AMENDING KMC 27.04.050 TO PROVIDE AN EXEMPTION FOR DEVELOPMENT ACTIVITIES BY HUMAN SERVICES AGENCIES WITH BROAD PUBLIC PURPOSES.

WHEREAS, the City of Kirkland passed Ordinance No. 4100, on June 5, 2007, which adopted a new impact fee schedule for the impact of new growth and development on City of Kirkland transportation facilities; and

WHEREAS, RCW 82.02.060(2) allows the City to provide an exemption from its impact fee for low-income housing and other development activities with broad public purposes; and

WHEREAS, Kirkland Municipal Code 27.04.050 currently provides an exemption from transportation impact fees for low-income housing; and

WHEREAS, the City Council wishes to further provide an exemption for other development activities undertaken by community-based nonprofit human services agencies to ensure that a broad range of adequate support services are available to low and moderate-income citizens; and

WHEREAS, the City Council has previously adopted the Human Services Element of the City of Kirkland Comprehensive Plan which documents the need for human services and establishes human services goals and policies which define the City's role in contributing to the social development of the community; and

WHEREAS, the City Council finds the benefit of providing impact fee exemptions to community-based nonprofit human services agencies to encourage such agencies to locate in the City constitutes "development activities with broad public purposes" as that term is used in RCW 82.02.060(2); and

WHEREAS, the City Council further finds that the adoption of such a measure is consistent with and implements the City's Comprehensive Plan adopted in accordance with Chapter 36.70A RCW;

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

Section 1. Kirkland Municipal Code 27.04.050, "Exemptions," is hereby amended 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 twenty-four consecutive months of the demolition or destruction of the prior structure.
 - (2) Replacement, alteration, expansion, enlargement, remodeling, rehabilitation or conversion of an existing dwelling unit where no additional units are created and the use is not changed.

(3) Any building permit for a legal accessory dwelling unit approved under Title 23 of this code (zoning code) as it is considered part of the single family use associated with this fee.

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

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

(6) Demolition or moving of a structure.

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

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

(8)(A) Development activities of community-based human services agencies which meet the human services needs of the community such as providing employment assistance, food, shelter, clothing, or health services for low and moderate income residents.

(B) Any applicant for an exemption from the impact fee which meets the criteria set forth in subsection (8)(C) of this section may apply to the City Manager for an exemption. The application shall be on forms provided by the City and shall be accompanied by all information and data the City deems necessary to process the application.

(C) Exemption Criteria. To be eligible for the impact fee exemption established by this section, the applicant shall meet each of the following criteria:

1. The applicant must have secured federal tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

2. The applicant's services must be responsive to the variety of cultures and languages that exist in the City.

3. The applicant must provide services and programs to those considered most vulnerable and/or at risk, such as youth, seniors, and those with financial need, special needs and disabilities.

4. The applicant's services must meet the Human Services Goals and Policies set forth in XII.B. of the City of Kirkland Comprehensive Plan.

(D) The City Manager shall review applications for exemptions under Subsection 8(A) pursuant to the above criteria and shall advise the applicant, in writing, of the granting or denial of the application. In addition, the City Manager shall notify the City Council when such applications are granted or denied.

(E) The determination of the City Manager shall be subject to the appeals procedures set forth in Section 27.04.130.

(F) Any claim for exemption must be made before payment of the impact fee. Any claim not so made shall be deemed waived. The claim for exemption must be accompanied by a draft lien and covenant against the property guaranteeing that the

human services use will continue. Before approval of the exemption, the department shall approve the form of lien and covenant. Within ten days of approval, the applicant shall execute and record the approved lien and covenant with the King County department of records and elections. The lien and covenant shall run with the land. In the event the property is no longer used for human services, the current owner shall pay the current impact fee plus interest to the date of the payment.

(G) The amount of impact fees not collected from human services agencies pursuant to this exemption shall be paid from public funds other than the impact fee account.

(b) The director shall be authorized to determine whether a particular development for a proposed building permit or a change in land use when no building permit is required falls within an exemption of this chapter or in this code. Determinations of the director shall be subject to the appeals procedures set forth in Section 27.04.130.

Section 2. 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 3. This ordinance shall be in force and effect five days after 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 _____, 2007.

Signed in authentication thereof this _____ day of _____, 2007.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney