

ORDINANCE O-4758

AN ORDINANCE OF THE CITY OF KIRKLAND AUTHORIZING THE COLLECTION OF IMPACT FEES FOR FIRE PROTECTION FACILITIES AND ADDING CHAPTER 27.10 TO THE KIRKLAND MUNICIPAL CODE.

1 WHEREAS, the City Council of the City of Kirkland finds that
2 new development will create additional demand and need for fire
3 protection facilities; and
4

5 WHEREAS, the Washington State Legislature passed the
6 Growth Management Act of 1990 and 1991, RCW 36.70A et seq.
7 and RCW 82.02 et seq. (the "Act"), which authorizes the collection
8 of impact fees on development activity to provide fire protection
9 facilities to serve new development; and
10

11 WHEREAS, the Act requires that impact fees may only be
12 collected for public facilities which are addressed by a capital
13 facilities element of a comprehensive land use plan; and
14

15 WHEREAS, the Act requires that impact fees cannot exceed
16 a proportionate share of the costs of the new fire protection facility
17 improvements and the City must have additional funding sources
18 to fund these improvements; and
19

20 WHEREAS, the City Council of the City of Kirkland
21 recognizes the proportionate share of the expense of new fire
22 protection facilities necessitated by the impacts of new
23 development should be borne by the developers of new growth
24 through the imposition of fire impact fees as authorized by the
25 Growth Management Act (RCW 82.02.050 – 82.02.100); and
26

27 WHEREAS, the City has prepared a Capital Facilities Plan in
28 compliance with the Act; and
29

30 WHEREAS, fire impact fees have been calculated for new
31 development based upon a specified formula.
32

33 NOW, THEREFORE, the City Council of the City of Kirkland
34 do ordain as follows:
35

36 Section 1. A new Chapter 27.10, "Fire Impact Fees," is
37 added to Title 27 of the Kirkland Municipal Code to read as follows:
38

39 **27.10.010 Findings and Authority.**

40 The City Council finds and determines that new growth and
41 development in the city, including but not limited to new
42 residential, commercial, retail, office, and industrial development

will create additional demand and need for fire protection facilities in the city and the Council finds that new growth and development should pay a proportionate share of the cost of fire protection facilities needed to serve the new growth and development. The City has conducted a study documenting the procedures for measuring the impact of new developments on fire protection facilities. This study has contributed to the rates established in the fee schedule of the City of Kirkland. The City has prepared a capital facilities plan documenting the impact of new development within the City. The city council accepts the methodology and data contained in the capital facilities plan. Therefore, pursuant to Chapter 82.02 RCW, the city council adopts this chapter to assess impact fees for new fire protection facilities within the City. The provisions of this chapter shall be liberally construed in order to carry out the purposes of the council in establishing the impact fee program.

27.10.020 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" shall mean 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 planning 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.

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

(h) "Department" means the Fire Department.

(i) "Director" means the Director of the Planning and Building Department, or the director's designee.

(j) "Fire protection facilities" means fire stations, fire training facilities and structures, fire trucks and apparatus, and any furnishings and equipment that are used with fire stations, fire training facilities and structures, fire trucks and apparatus which can be capitalized.

(k) "Fire protection system improvements" means fire protection facilities that will benefit new development and that have been included in the city of Kirkland's capital facilities plan and are designed to provide service to service areas within the community at large (not private facilities).

(l) "Gross floor area" is the total square footage of all floors in a structure as defined in Chapter 5 KZC.

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

(n) "Impact fee" means a payment of money imposed by the city on an applicant prior to issuance of a building permit as a condition of granting a building permit 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.

(o) "Impact fee account" or "Account" means the account established for the fire protection facilities' impact fees are collected. The account shall be established pursuant to this chapter and shall comply with the requirements of RCW 82.02.070.

(p) "Independent fee calculation" means the study of data submitted by an applicant to support the assessment of an impact fee other than the fee in the schedule attached as set forth in KMC 27.10.150 of this chapter.

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

(r) "Low-income housing" means (1) an owner-occupied housing unit affordable to households whose household income is less than 80 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 30 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 60 percent of the King County median income, adjusted for household size, as determined by HUD, and no more than 30 percent of the household income is paid for housing expenses (rent and 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 non-profit housing developer or a private developer.

(s) "Multifamily dwelling" means 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 units homes approved under Chapter 113 of Title 23 of this code (Zoning Code).

(t) "Owner" means the owner of real property according to the records of the King County Recorder's Office 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.

(u) "Residential" means housing, such as detached, attached or stacked dwelling units (includes cottage, carriage and two-

/three-unit homes approved under Chapter 113 KZC, and senior and assisted dwelling units intended for occupancy by one or more persons and not offering other services). For the purpose of this chapter, an accessory dwelling unit, regulated in Chapter 115 KZC, is considered an adjunct to the associated primary structure, and is not charged a separate impact fee. "Single-family dwelling" means detached living unit as defined in Chapter 5 of Title 23 of this code (zoning code).

(v) "Square footage" means the square footage of the gross floor area of the development as defined in Chapter 5 KZC.

27.10.030 Assessment of impact fees.

(a) The city shall collect impact fees, based on the fee schedule in KMC 27.10.150 of this chapter, from any applicant seeking a building permit from the city.

(b) All impact fees shall be collected from the applicant prior to issuance of the building permit based on the land use categories in Section 27.10.150. Unless the use of an independent fee calculation has been approved by the director, or unless a development agreement entered into pursuant to RCW 36.70B.170 provides otherwise, the fee shall be calculated based on the impact fee schedule in effect at the time a complete building permit application is filed.

(c) The city shall establish the impact fee rate for a land use that is not listed on the rate schedule in Section 27.10.150. The applicant shall submit all information requested by the department for purposes of determining the impact fee rate pursuant to Section 27.10.040.

(d) 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 27.10.150.

(e) For building permits within new subdivisions approved under Kirkland Municipal Code Title 22 (Subdivisions), 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.

(f) At the time of issuance of any single-family detached or attached residential building permit, the applicant may elect to have the impact fee payment deferred until the building permit is completed or eighteen months after issuance of the building

permits, whichever occurs first. The impact fee due and owing per Section 27.10.030(c), shall be paid prior to building permit final inspection, building permit final occupancy, or eighteen months after the date of building permit issuance, whichever is applicable. Applicants electing to use this deferred impact fee process shall pay a two-hundred-forty-dollar administration fee with each respective building permit prior to issuance of such building permit.

(g) Except as otherwise provided in this section, the city shall not issue any building permit unless and until the impact fee has been paid.

(h) The payment of impact fees may be delayed through a development agreement approved by the city council pursuant to Chapter 36.70B RCW, provided the following criteria are met:

(1) Payment of fees may be delayed to no later than issuance of the certificate of occupancy;

(2) The development agreement shall provide mechanisms, such as withholding of the certificate of occupancy and/or property liens, to assure that the city will collect the deferred fees;

(3) The delay shall not reduce the availability of funds to implement the city's adopted capital improvement program in a timely manner; and

(4) Projects must provide significant public benefit, including but not limited to:

(A) Projects that implement adopted city council goals;

(B) Projects with economic benefit to the city;

(C) Projects that involve partnerships with other governmental agencies; and

(D) Projects that include affordable housing as defined by the Kirkland Zoning Code.

27.10.040 Independent fee calculations.

(a) If, in the judgment of the director, none of the fee categories or fee amounts set forth in the schedule in Section [27.10.150](#) of this chapter accurately describes the impacts resulting from issuance of the proposed building permit, the applicant shall provide to the department for its review and evaluation an independent fee calculation, paid for by the applicant. The director may impose on the proposed building permit an alternative impact fee based on the independent fee calculation. With the independent fee calculation, the applicant shall pay to the department an administrative processing fee of one hundred dollars per calculation unless a different fee is provided for in Title 5 of this code.

(b) If an applicant requests not to have the impact fees determined according to the schedule in Section 27.10.150 of this chapter, then the applicant shall submit to the director an independent fee calculation, paid for by the applicant, for the building permit. The independent fee calculation shall show the basis upon which it was made. With the request, the applicant shall pay to the department the administrative processing fee provided for in Title 5 of this code.

(c) An applicant may request issuance of a building permit prior to completion of an independent fee study; provided, that the impact fee is collected based on the fee schedule in Section 27.10.150. A partial refund may be forthcoming if the fee collected exceeds the amount determined in the independent fee calculation and the department agrees with the independent fee calculation.

(d) While there is a presumption that the calculations set forth in the capital facilities plan used to prepare the fee schedule in Section 27.10.150 are correct, the director shall consider the documentation submitted by the applicant, but is not required to accept such documentation which the director reasonably deems to be inaccurate or not reliable, and may, in the alternative, require the applicant to submit additional or different documentation. The director is authorized to adjust the impact fee on a case-by-case basis based on the independent fee calculation, the specific characteristics of the building permit and/or principles of fairness.

(e) Determinations made by the director pursuant to this section may be appealed to the hearing examiner subject to the procedures set forth in Section 27.10.120.

27.10.050 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 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 Section 27.10.030(e).

(2) Replacement, alteration, expansion, enlargement, remodeling, rehabilitation, or conversion of an existing dwelling unit where no additional units are created.

(3) Any building permit for a legal accessory dwelling unit approved under Title 23 of this code, the Kirkland 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.

(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) Any applicant for the construction or creation of low-income housing may request an exemption of 80 percent of the required impact fee for low-income housing units subject to the criteria in subsection (a)(7)(C) of this section.

(B) Any applicant for an exemption from the impact fees which meets the criteria set forth in subsection (a)(7)(C) of this section shall 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:

(i) The applicant must be proposing a greater number of low-income housing units or a greater level of affordability for those units than is required by the Kirkland Zoning Code and/or the Kirkland Municipal Code. The allowed exemption shall only apply to those low-income units in excess of the minimum required by code unless the development will be utilizing public assistance targeted for low-income housing.

(ii) The applicant must demonstrate to the city manager's satisfaction that the amount of the impact fee exemption is justified based on the additional affordability provided above that required by code and is necessary to make the project economically viable.

(iii) The proposed housing must meet the goals and policies set forth in Section VII of the city of Kirkland comprehensive plan.

(D) The city manager shall review applications for exemptions under subsection (a)(7)(A) of this section 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 the final decision of the city with respect to the applicability of the low-income housing exemption set forth in this subsection.

(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 low-income housing use will continue. Before approval of the exemption, the planning and building department shall approve the form of lien and covenant, which shall, at a minimum, meet the requirements of RCW 82.02.060. Prior to issuance of a certificate of occupancy for any portion of the development, the applicant shall execute and record the approved lien and covenant with the King County recorder's office. The lien and covenant shall run with the land. In the event the property 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.

(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 (a)(8)(C) of this section shall 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:

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

(ii) The applicant's services must be responsive to the variety of cultures and languages that exist in the city.

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

(iv) The applicant's services must meet the human services goals and policies set forth in Section XII of the city of Kirkland comprehensive plan.

(v) The applicant shall certify that no person shall be denied or subjected to discrimination in receipt of the benefit of services and programs provided by the applicant because of sex, marital status, sexual orientation, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

(vi) The applicant must provide direct human services at the premises for which the applicant is seeking exemption.

(D) The city manager shall review applications for exemptions under subsection (a)(8)(A) of this section 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 the final decision of the city with respect to the applicability of the community-based human services exemption set forth in this subsection.

(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 recorder's office. 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.

(9) Buildings or structures constructed as shelters that provide emergency housing for people experiencing homelessness and emergency shelters for victims of domestic violence as defined by state law.

(10) Fire stations and fire protection facilities.

(b) Unless otherwise established in this section, the public works director shall be authorized to determine whether a particular development for a proposed building permit falls within an exemption of this chapter or in this code. Determinations of the planning and building director shall be subject to the appeals procedures set forth in Section 27.04.130.

27.10.060 Fire impact fees relating to change of use.

The city shall not impose fire impact fees to the extent the assessment of the fee is the result of a change to a land use category that results in a higher fee under Section 27.10.150; provided, that this section shall not apply to a project:

(a) To the extent the project will add, increase, or expand the gross floor area of an existing building; or

(b) For which a certificate of occupancy has been issued and the impact fees have been paid, but the tenant land use is changed before the space is occupied;

and provided further, that this section applies only to the use, renovation, or remodeling of existing structures, and does not apply to redevelopment projects or other projects in which existing structures are replaced or substantially redeveloped.

27.10.070 Adjustments.

Pursuant to and consistent with the requirements of RCW 82.02.060, the City's capital facilities plan has provided adjustments for past and future taxes paid or to be paid by the new development which are earmarked or proratable to the same new system improvements that will serve the new development. The schedule set forth in Section [27.10.150](#) of this chapter has been reasonably adjusted for taxes and other revenue sources that are anticipated to be available to fund system improvements.

27.10.080 Establishment of Impact Fee Accounts.

(a) An impact fee account is established for the fees collected pursuant to this chapter and shall be entitled the fire impact fee account. Impact fees shall be earmarked specifically and deposited in the special interest-bearing account. Funds withdrawn from this account shall be used in accordance with the provisions of Section 27.10.100. Interest earned on impact fees shall be retained in the account and expended for the purpose for which the impact fees were collected.

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

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

27.10.090 Refunds.

(a) If the city fails to expend or encumber the impact fees within ten years of payment (or where extraordinary or compelling reasons exist, such other time periods as established pursuant to Section 27.10.080), the current owner of the property for which impact fees have been paid may receive a refund of the fee. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first-in, first-out basis.

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

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

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

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

(f) If the city terminates the impact fee program, all unexpended or unencumbered funds, including interest earned, shall be refunded pursuant to this chapter. The city shall publish

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

(g) The city shall refund the impact fee paid plus interest to the current owner of property for which the impact fee had been paid, if the development was never completed or occupied; provided, that if the city expended or encumbered the impact fee in good faith prior to the application for a refund, the director may decline to provide the refund. If within a period of three years, the same or subsequent owner of the property proceeds with the same or substantially similar development, the owner can petition the director for an offset. The petitioner shall provide receipts of impact fees previously paid for a development of the same or substantially similar nature on the same property or some portion thereof. The director shall determine whether to grant an offset, and the determinations of the director may be appealed pursuant to the procedures in Section 27.10.130.

27.10.100 Use of funds.

(a) Pursuant to this chapter, impact fees may be spent for fire protection facilities and fire protection system improvements that will reasonably benefit the new development, including but not limited to, architectural and/or engineering design studies, land surveys, land acquisition, engineering, permitting, financing, administrative expenses, relocatable facilities, capital equipment, construction, site improvements, necessary off-site improvements, applicable impact fees or mitigation costs and other expenses which could be capitalized, and which are consistent with the City's capital facilities plan.

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

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

(d) In the event that bonds or similar debt instruments are or have been issued for the advanced provision of system improvements, impact fees may be used to pay debt service on

such bonds or similar debt instruments to the extent that system improvements provided are consistent with the requirements of this chapter and are used to serve the new development.

27.10.110 Review of schedule and fee increases.

(a) The schedule in Section 27.10.150 will be amended to reflect changes to the capital facilities plan in Chapter XIII of Title 17 of this code (the comprehensive plan). Amendments to the schedule for this purpose shall be adopted by the council.

(b) The fees on the schedule in Section 27.10.150 shall be indexed to provide for an automatic fee increase each January 1st beginning in the year 2022. The June to June Seattle-Tacoma-Bellevue Area Consumer Price Index (CPI-W) will be used to determine the increase in fees for each year to reflect increased project costs. In the event that the fees on the schedule in Section 27.10.150 are increased during the preceding calendar year due to changes to the capital facilities plan pursuant to subsection (a) of this section, the fees will not be indexed the following January. The finance and administration department shall compute the fee increase and the new schedule shall become effective immediately after the annual fee increase calculation.

(c) A new rate study, which establishes the schedule in Section 27.10.150, shall be updated every three years, unless the city determines that circumstances do not warrant an update.

27.10.120 Appeals.

(a) An appeal of an impact fee imposed on a building permit may only be filed by the applicant of the building permit for the subject property. An applicant may either file an appeal and pay the impact fee imposed by this chapter under protest or appeal the impact fee before issuance of the building permit. No appeal may be filed after the impact fee has been paid and the building permit has been issued.

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

(1) The applicability of the impact fees to a given building permit pursuant to Sections 27.10.030 and 27.10.050;

(2) The decision on an independent fee calculation in Section 27.10.040; or

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

(c) An appeal, in the form of a letter of appeal, along with the required appeal fee, shall be filed with the department for all

555 determinations by the director, prior to issuance of a building
556 permit. The letter must contain the following:

- 557 (1) A basis for and arguments supporting the appeal; and
558 (2) Technical information and specific data supporting the
559 appeal.

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

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

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

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

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

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

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

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

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

590 (j) In the event the hearing examiner determines that there is
591 a flaw in the impact fee program, that a specific exemption per
592 Section 27.10.030(c) should be awarded on a consistent basis, or
593 that the principles of fairness require amendments to this chapter,
594 the hearing examiner may advise the council as to any question
595 or questions that the hearing examiner believes should be
596 reviewed as part of the council's review of the fee schedule in
597 Section 27.10.150 as provided by Section 27.10.110.

(k) The hearing examiner's final decision is subject to appeal to the Superior Court of the State of Washington, King County, pursuant to the rules and regulations set forth in the Land Use Petition Act, Chapter 36.70C, RCW.

27.10.130 Responsibility for payment of fees.

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

(b) In the event that a building permit is erroneously issued without payment of the fees authorized by this chapter, the building official may issue a written notice to the property owner and occupant advising them of the obligation to pay the fees authorized by this chapter. Such notice shall include a statement of the basis under which the fees under this chapter are being assessed, the amount of fees owed, and a statement that the property owner or occupant may appeal the fee determination within twenty calendar days of the date the notice was issued. Any appeals of such a fee determination shall be processed in accordance with the procedures set forth in KMC 27.10.120.

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

27.10.140 Existing authority unimpaired.

Nothing in this chapter shall preclude the city from requiring the applicant for a building permit, to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, based on the environmental documents accompanying the underlying development approval process, and/or Chapter 58.17 RCW, governing plats and subdivisions; provided, that the exercise of this authority is consistent with the provisions of RCW 82.02.050(1)(c).

27.10.150 Fire Impact Fee Schedule.

The impact fee schedule below is based on the city's latest rate study. As authorized under Section 27.10.110(b), the schedule may automatically increase each January 1st based on the June to June Seattle-Tacoma-Bellevue Area Consumer Price Index. See the public works department's fee schedule for the current impact fee.

642

643

644

645

646

647

648

649

650

651

652

653

654

655

656

657

658

659

660

661

662

663

664

665

666

667

668

Land Use Type	Total Fee	Unit of Development
Commercial	\$ 1.40	per Sq. Ft.
Office & Industrial	0.07	per Sq. Ft.
Schools	0.53	per Sq. Ft.
Health Care	3.24	per Sq. Ft.
Government	3.03	per Sq. Ft.
Single-Family	1,019.38	per Dwelling Unit
Multifamily	412.92	per Dwelling Unit

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 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 _____, 2021.

Signed in authentication thereof this _____ day of _____, 2021.

Penny Sweet, Mayor

Attest:

Kathi Anderson, City Clerk

Approved as to Form:

Kevin Raymond, City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4758

AN ORDINANCE OF THE CITY OF KIRKLAND AUTHORIZING THE COLLECTION OF IMPACT FEES FOR FIRE PROTECTION FACILITIES AND ADDING CHAPTER 27.10 TO THE KIRKLAND MUNICIPAL CODE.

SECTION 1. Establishes a new Chapter 27.10 entitled "Fire Impact Fees."

SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. 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 _____, 2021.

I certify that the foregoing is a summary of Ordinance 4758 approved by the Kirkland City Council for summary publication.

Kathi Anderson, City Clerk