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ORDINANCE NO. 279

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, ESTABLISHING AND IMPOSING PARK IMPACT FEES UPON CERTAIN NEW RESIDENTIAL DEVELOPMENT AND ESTABLISHING STANDARDS AND PROCEDURES FOR EXEMPTIONS, CREDITS, REFUNDS AND APPEALS FROM IMPOSITION OF SUCH FEES.

WHEREAS, the City of Woodinville adopted a Parks Recreation and Open Space Plan establishing the intent of the citizens to protect, develop, and maintain a comprehensive system of trails, open space, parks, and recreation facilities for current residents and for future generations; and

WHEREAS, the Parks Recreation Open Space Plan contains a complete description of the existing level of service for parks and the impacts of future growth on that level of service; and

WHEREAS, the City Council wishes to ensure that those public park facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below established minimum standards for the City; and

WHEREAS, the adopted Parks Recreation and Open Space Plan directs staff to prepare residential impact fees as one of several methods for acquiring, developing, and constructing park and recreational facilities in a manner that fairly distributes costs and benefits

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON,

DO ORDAIN AS FOLLOWS:

Section 1. A new Chapter 3.36 is hereby added to the Woodinville Municipal Code to read as follows:

Chapter 3.36	Park Impact Fees
3.36.010.	Purpose.
3.36.020.	Authority.
3.36.030.	Definitions.
3.36.040.	Applicability.
3.36.050.	Exemptions.
3.36.060.	Service Area.
3.36.070.	Impact Fee Account Funds Established.
3.36.080.	Use of Funds.
3.36.090.	Impact Fee Assessment and Collection.
3.36.100.	Impact Fee Adjustments, Independent Calculations.
3.36.110.	Impact Fee Credits.
3.36.120.	Impact Fee Refunds.
3.36.130.	Appeals and Payments Under Protest.
3.36.140.	Council Review of Impact Fees.
3.36.150.	[reserved]
3.36.160.	Impact Fee Calculations.
3.36.170.	Schedule of Fees.

3.36.010. Purpose.

This chapter is intended to:

- (a) Assist in the implementation of the Comprehensive plan for the City of Woodinville.
- (b) Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below established minimum standards for the City.
- (c) Establish standards and procedures so that new development pays a proportionate share of costs for new facilities and services and does not pay arbitrary or duplicative fees for the same impact.

3.36.020. Authority.

- (a) This chapter is enacted pursuant to the Washington State Growth Management Act codified at chapter 36.70A RCW and at RCW 82.02.050 to 82.02.100.

(b) The City has conducted studies documenting costs and demand for new facilities and services. These studies are included in the Parks, Recreation and Open Space Plan, and are hereby incorporated into this ordinance by reference as if set forth in full. The Comprehensive Plan and all of the related documents are incorporated into the Chapter by reference.

3.36.030. Definitions

(a) Dwelling Unit: See definition in WMC 21.06.180.

(b) Encumber: To transfer funds from the general park impact fee fund to an account created to fund, in whole or in part, a particular system improvement. Once funds have been encumbered they cannot be used to fund any other system improvement. Funds may only be encumbered by an action of the City Council.

(c) Project Improvements: 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 a capital facilities plan approved by the City Council shall be considered a project improvement.

(d) System Improvements: Park facilities that are included in the City's Six-Year Capital Facilities Plan and are designed to provide service to the community at large, in contrast to project improvements.

3.36.040. Applicability.

All persons receiving building permits for dwelling units within the City of Woodinville after the effective date of this ordinance shall be required to pay impact fees in an amount and manner set forth in this Chapter.

3.36.050. Exemptions.

The following development activities are exempt from paying park impact fees because they do not have a measurable impact on the City's park facilities, or because the City has chosen to exempt them pursuant to RCW 82.02.060(2).

(a) Existing dwelling unit. Any alteration, expansion, reconstruction, remodeling or replacement of existing single family or multifamily dwelling units that does not result in the creation of additional dwelling units.

(b) Facilities for long-term care. Any housing facility or long-term care facility exclusively providing any or all of the following services as defined in RCW 74.39A.009: "assisted living services," "enhanced adult residential care," or "nursing home"; PROVIDED that this exemption ceases if the housing facility is later converted to permanent use as a single-family or multi-family residence not providing such services, in which case impact fees would be imposed at that point; and PROVIDED FURTHER that where a housing facility

provides a mixture of independent senior housing in combination with any of the above mentioned services, the exemption shall be limited to that portion of the facility providing such services, and the impact fee shall be appropriately calculated on a per dwelling unit basis for that portion of the facility not providing such services.

(c) Temporary accommodation. Any dwelling unit licensed and operated as transient accommodations under Chapter 70.62 RCW and WAC 248-144-026(26), such as hotels, motels, condominiums and resorts, PROVIDED that this exclusion ceases if the housing is later converted to permanent use as a single-family or multi-family residence not subject to such restrictions.

3.36.055 Affordable Housing / Accessory Housing Exemption.

In addition to the exemptions in WMC 3.36.050, the following shall be exempt from the requirement to pay all impact fees:

(a) Any accessory dwelling unit as that term is defined in WMC 21.06.183.

(b) Low- or moderate-income housing projects developed or owned by public housing agencies or private non-profit housing developers.

(c) Residential housing units dedicated for occupancy by low- or moderate-income households and whose rents or purchase price is affordable to low- or moderate-income persons under the regulations of the U.S. Department of Housing and Urban Development or its successor.

(d) Individual low- or moderate-income dwelling units (as defined in the current King County Comprehensive Housing Affordability Strategy (CHAS)) to be purchased by households with prices within their eligibility limits based on standard lending criteria.

(e) As a condition of receiving an exemption under this section, the owner shall execute and record in King County's real property title records a City-drafted lien, covenant or other contractual provision against the property that provides that the proposed housing unit or development will continue to be used for low- or moderate-income housing and remain affordable to those households under the regulations of the U.S. Department of Housing and Urban Development. The term of this provision shall be 10 years for individual owners and 15 years for private and private non-profit developers/builders. The lien, covenant, or other contractual provision shall run with the land and apply to subsequent owners and assigns. In the event that the housing unit(s) is no longer used for low- or moderate-income housing during the term of the provision, then the owner shall pay the amount of impact fees from which the housing unit(s) was exempted into the City's account for paying low- and moderate-income impact fees.

(f) Any claim or request for an exemption under this section shall be made no later than the time of issuance of a building permit. Any claim not made when required by this section shall be deemed waived.

(g) The impact fees not collected from low- and moderate-income housing shall be paid from public funds from sources other than impact fees or interest on impact fees and budgeted for this purpose by the Woodinville City Council.

(h) If claims or requests for exemptions under this section exceed the funds the Woodinville City Council has budgeted for the payment of impact fees for low- and moderate-income housing and accessory housing, this section shall not apply to claims or requests for exemptions under this section made after the budgeted funds were committed or allocated until additional funds are budgeted.

3.36.060. Service Area.

The service area established in this Section assures a proportional benefit of public facilities to development applicants and establishes a nexus between those paying for the fees and those benefiting from the capital facilities. Because the City's size allows its park and recreation facilities to provide a reasonable benefit to its entire population regardless of their location within the City, the service area for the Park Impact Fee shall be the entire City of Woodinville.

3.36.070. Impact Fee Account Funds Established.

There is hereby created and established a special purpose park and recreation facilities impact fee fund ("the Park Impact Fee Fund") to receive park impact fees. All park impact fees and any investment income generated by such fees shall be deposited into the Park Impact Fee Fund. Procedures for administration of the funds shall be established by the Finance Director. These funds shall be expended in accordance with the City's normal budget procedures subject to the limitations set forth in WMC 3.36.080 and RCW 82.02.070. Annually, the City shall prepare a report on the impact fee account showing the source and amount of all moneys collected, interest earned, and capital or system improvements that were financed in whole or in part by these impact fees.

3.36.080. Use of Funds.

(a) Park impact fees shall be used for development of parks, open space, passive recreation parks, linear trail parks, and recreation facilities to serve new growth and development in Woodinville provided that such impact fees may only be spent on system improvements.

(b) Impact fees may be spent on the following items to the extent that they relate to a particular system improvement: facility planning, land acquisition, site improvements, necessary off-site improvements, facility construction, facility engineering and design work, facility permitting fees, facility financing, grant matching funds, applicable mitigation costs, capital equipment pertaining to public facilities, and any other expenses which can be capitalized and are consistent with the Capital Facilities Plan.

(c) Impact fees may also be used to recoup park facility improvement costs previously incurred to the extent that new growth and development will be served by the previously acquired or constructed improvements or incurred costs.

(d) In the event that bonds or similar debt instruments are or have been issued for the construction of public facility or system 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 Chapter and are used to serve new development. The Capital Facilities Plan should distinguish between facilities and funds needed to serve new development and those facilities and funds needed to correct existing deficiencies.

3.36.090. Impact Fee Assessment and Collection.

(a) City staff shall determine the total impact fee owed at the time of building permit issuance based on the fee schedule in effect at the time of such issuance.

(b) Impact fee collection shall also occur at the time of building permit issuance.

3.36.100. Impact Fee Adjustments, Independent Calculations.

(a) A fee payer may request an adjustment to the impact fees determined according to the fee schedule adopted by this ordinance by preparing and submitting to the Parks and Recreation Department an independent fee calculation for the development activity for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made.

(i) If the Department agrees with the independent fee calculation, a written agreement to accept such amount shall be transmitted to the fee payer who shall, in turn, present it to the Permit Center upon impact fee collection.

(ii) If the Department does not agree with the independent fee calculation, the fee payer may appeal this decision to the Hearing Examiner through procedures outlined in Section 2.30.060 of the Woodinville Municipal Code.

3.36.110. Impact Fee Credits.

(a) A developer shall be entitled to a credit against the park impact fee collected under the fee schedule adopted by this ordinance in any of the following situations:

(i) whenever a project is granted approval subject to a condition that the developer actually provide system improvements, or

(ii) whenever a developer has agreed, pursuant to the terms of a voluntary agreement with the City, to provide land for system improvements, or

(iii) whenever a developer has agreed to make system improvements to existing park facilities, or

(iv) whenever a developer has paid a park mitigation fee which is allocated toward providing system improvements.

(b) If, in any of the cases in subsection (a), the land dedicated, facility constructed, or fee paid is allocated partly toward system improvements and partly toward project improvements, the credit shall be limited to that portion allocated to system improvements.

(c) For the purposes of calculating the credit, the land value or costs of construction shall be determined as follows:

(i) The amount of credit for land dedicated shall be the higher of either the value of the land established in the Parks, Recreation, and Open Space Plan, if such value is identified, or by an appraisal conducted by an independent professional appraiser chosen by the fee payer from a list of at least three such appraisers provided by the City. Either the fee payer or the City may request an appraisal, in which event the cost of the appraisal shall be borne by the requesting party. For the purposes of this Section, the date of value shall be the date the land was dedicated to the City.

(ii) The amount of credit for facilities constructed shall be based upon the actual cost of construction at the time of construction.

(d) In cases where a developer would be entitled to a credit under this section, but the amount of the credit has yet to be determined on a per dwelling unit basis, the City shall take the Total Credit Amount available to the entire plat or project, calculated by applying subsections (a) through (c), above, and divide that amount by the number of dwelling units planned for that plat or project. The impact fee and credit may then be calculated and collected on a per dwelling unit basis as building permits are issued. Where building permits for some, but not all, of the dwelling units within a plat or project have already been obtained at the time this ordinance becomes effective, the credit for the unpermitted dwelling units will be calculated to arrive at a per dwelling unit amount in the same manner. For example, if a plat is planned for 20 dwelling units, and building permits have only been issued for 10 of those units, the per dwelling unit credit for the remaining ten units will equal the Total Credit Amount divided by 20.

(e) The fee payer shall be entitled to such credit against the impact fee regardless of whether the system improvement was provided before or after the effective date of this ordinance.

(f) Determinations made pursuant to this Section may be appealed to the Examiner under section 2.30.060 of the Woodinville Municipal Code.

(g) A credit must be requested within 30 days of building permit issuance or it is deemed waived.

(h) No refund will be allowed in the event that the impact fee credit exceeds the amount of the impact fee itself.

3.36.120. Impact Fee Refunds.

(a) The current owner of property on which impact fees have been paid may receive a refund of such fees if the impact fees have not been expended or encumbered within six

years of their receipt by the City. 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 provide for the refund of fees according to the requirements of this Section and RCW 82.02.080.

(i) The City shall notify potential claimants of the refund availability by first-class mail deposited with the United States Postal Service addressed to the owner of the property as shown in the King County tax records.

(ii) An owner's request for a refund must be submitted to the City Finance Director in writing within one year of the date the right to claim the refund arises or the date that notice is given, whichever date is later.

(c) Any impact fees that are not expended or encumbered within six years of their receipt by the City, and for which no application for a refund has been made within this one-year period, shall be retained by the City and expended consistent with the provisions of this Chapter.

(d) Refunds of impact fees shall include any interest earned on the impact fees.

(e) Should the City seek to terminate any or all impact fee requirements, all unexpended or unencumbered funds, including interest earned, shall be refunded to the current owner of the property for which an impact fee was paid. Upon the finding that any or all fee requirements are to be terminated, the City shall place notice of such 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 addressed to the owner of the property as shown in the King County tax records. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the City, but must be expended for the original purposes, consistent with the provisions of this Section. The notice requirement set forth above shall not apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

(f) A developer may request and shall receive a refund, including interest earned on the impact fees, when:

(i) The developer does not proceed to finalize the development activity as required by statute or City Code or the Uniform Building Code; and

(ii) The City has not expended or encumbered the impact fees prior to the application for a refund. In the event that the City has expended or encumbered the fees in good faith, no refund shall be forthcoming. However, if within a period of three years, the same or subsequent owner of the property proceeds with the same or substantially similar development activity, the owner shall be eligible for a credit against any then-existing park impact fee requirement. The owner must petition the City in writing and provide receipts of impact fees paid by the owner for a development of the same or substantially similar nature on the same

property or some portion thereof. The City shall determine whether to grant a credit and such determinations may be appealed by following the procedures set forth in this Chapter.

(g) The amount to be refunded shall include the interest earned by this portion of the account from the date that it was deposited into the Impact Fee Fund.

3.36.130. Appeals and Payments Under Protest.

(a) An appeal of the initial decision of the City with regard to the imposition of an impact fee or the amount of any impact fees, impact fee credit, or impact fee refund may be taken before the Hearing Examiner pursuant to Section 2.30.060 of the Woodinville Municipal Code. The right to such an administrative appeal is triggered by the City's issuance or denial of a building permit.

(b) Any applicant may pay the impact fees imposed by this Chapter under protest in order to obtain a building permit.

3.36.140. Council Review of Impact Fees.

The impact fee schedule adopted by this ordinance shall be reviewed by the City Council, as it deems necessary and appropriate in conjunction with the annual update of the Capital Facilities Plan element of the City's Comprehensive Plan.

3.36.160. Impact Fee Calculations.

(a) The park impact fee shall be calculated using the same schedule for all dwelling units regardless of type.

(b) The park impact fee schedule shown in this chapter has been calculated using the formula shown in Attachment A.

(c) The fee schedule based on this formula is the City's determination of the appropriate share of system improvement costs to be paid by new growth and development.

3.36.170. Schedule of Fees.

A park impact fee shall be assessed against all new residential development in the amount of \$1,796.00 per dwelling unit.

Section 2. Appeal provisions. A new section 2.30.060, entitled "Impact fee appeals," is hereby added to the Woodinville Municipal Code, to read as follows:

2.30.060 Impact fee appeals

(a) To appeal the amount of an impact fee, the amount of an impact fee credit, or the denial of a permit based upon a failure to pay an impact fee, the appellant must file a notice of appeal with the Permit Center within 14 days of impact fee collection or permit denial. The notice of appeal shall clearly state the grounds for such appeal. Filing an appeal shall require the payment of a fee as set forth in Section 2.30.030.

(b) The Permit Center will schedule a hearing before the Hearing Examiner who shall operate pursuant to the authority granted in Chapter 2.27 of the Woodinville Municipal Code. For the purposes of appeals under this Section, the Examiner is authorized to make Findings of Fact and a Decision regarding any of the following: the applicability of the impact fee requirement to a given development activity, the availability or amount of a credit, or the accuracy or applicability of an independent fee calculation.

(c) The decision of the Hearing Examiner shall be a final decision appealable to the City Council by either the original appellant or city staff.

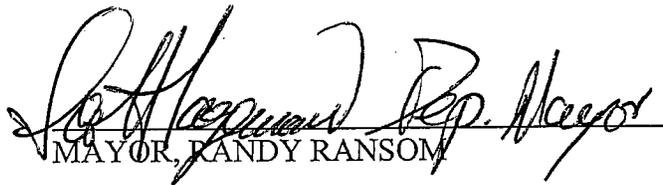
(d) The decision of the City Council, upon appeal from the Hearing Examiner, shall be the final administrative decision. This decision may be appealed to superior court under state law.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

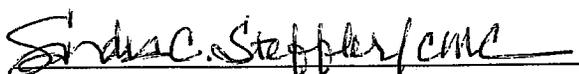
Section 4. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

PASSED by the City Council of the City of Woodinville this 12th day of March, 2000.

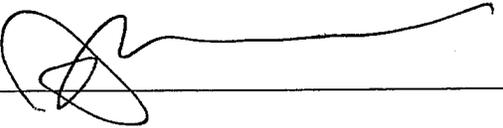
APPROVED:


MAYOR, RANDY RANSOM

ATTEST/AUTHENTICATED:


CITY CLERK, SANDRA STEFFLER

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY  _____

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL: 3.12.2001
PUBLISHED: 3.19.2001
EFFECTIVE DATE: 3.24.2001
ORDINANCE NO. 279

Attachment A

The Woodinville Park Impact Fee shall be calculated according to the following formula:

$$\text{TV} \div \text{DU} \times \text{AI} = \text{Impact Fee (rounded to the nearest dollar)}$$

Where

TV represents the total value of park land within the City, and

DU represents the total number of dwelling units within the City, and

AI is a percentage that represents the actual investment in TV made by existing Woodinville residents once grant funding and other external sources of capital funding for park facilities have been subtracted.

Currently, the figures are as follows:

$$\text{TV} = \$6,944,397.00$$

$$\text{DU} = 3206$$

$$\text{AI} = 82.93\%$$

So the impact fee is derived as follows:

$$\$6,944,397.00 \div 3206 \times 82.93\% = \$1,796.00$$