

ORDINANCE O-4383

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO TRANSPORTATION AND PARK IMPACT FEE EXEMPTIONS FOR CREATION OR CONSTRUCTION OF LOW-INCOME HOUSING AND AMENDING KIRKLAND MUNICIPAL CODE CHAPTERS 27.04 AND 27.06.

The City Council of the City of Kirkland does ordain as follows:

Section 1. Kirkland Municipal Code ("KMC") 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 Section 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.

(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 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). 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 and budgeted for~~

~~this purpose by the Kirkland city council. If claims for exemptions under this subsection exceed the funds the Kirkland city council has budgeted for the payment of impact fees for low-income housing, this subsection shall not apply to claims made after the budgeted funds were committed or allocated until additional funds are budgeted.~~

(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.C 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 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 ~~may~~ 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.B 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 ~~disabled person~~.

(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 ~~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 ~~Recorder's Office~~ 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) ~~Unless otherwise established in this section,~~ the planning 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. KMC 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 Section 27.04.030(f).

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

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

(4) Demolition or moving of a structure.

(5)(A) 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)(5)(C). ~~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 and budgeted for this purpose by the Kirkland city council. If claims for exemptions under this subsection exceed the funds the Kirkland city council has budgeted for the payment of impact fees for low income housing, this subsection shall not apply~~

~~to claims made after the budgeted funds were committed or allocated until additional funds are budgeted.~~

(B) Any applicant for an exemption from the impact fee which meets the criteria set forth in subsection (a)(5)(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 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.C of the City of Kirkland Comprehensive Plan.

(D) The city manager shall review applications for exemptions under subsection (a)(5)(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 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.

(b) Unless otherwise established in this section, the planning 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 of this code. Determinations of the director shall be subject to the appeals procedures set forth in Section 27.06.130.

Section 3. 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 4. 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 20th day of November, 2012.

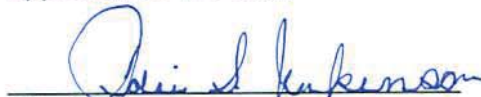
Signed in authentication thereof this 20th day of November, 2012.


MAYOR

Attest:


City Clerk

Approved as to Form:


City Attorney

PUBLICATION SUMMARY
OF ORDINANCE O-4383

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO TRANSPORTATION AND PARK IMPACT FEE EXEMPTIONS FOR CREATION OR CONSTRUCTION OF LOW-INCOME HOUSING AND AMENDING KIRKLAND MUNICIPAL CODE CHAPTERS 27.04 AND 27.06.

SECTION 1. Amends Kirkland Municipal Code ("KMC") Section 27.04.050 relating to low income housing exemptions to payment of transportation impact fees.

SECTION 2. Amends KMC Section 27.06.050 relating to low income housing exemptions to payment of park impact fees.

SECTION 3. Provides a severability clause for the ordinance.

SECTION 4. 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 20th day of November, 2012.

I certify that the foregoing is a summary of Ordinance O-4383 approved by the Kirkland City Council for summary publication.



City Clerk