

ORDINANCE O-4419

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE TIMING OF PAYMENT OF IMPACT FEES AND AMENDING SECTIONS 27.04.030 AND 27.06.030 OF THE KIRKLAND MUNICIPAL CODE, FILE NO. PLN13-01420.

WHEREAS, on June 4, 2013, the City Council adopted O-4411 amending Title 27 of the Kirkland Municipal Code to allow the City Council to modify the timing for the collection of impact fees; and

WHEREAS, on June 18, 2013, the City Council directed that criteria be incorporated into Title 27 of the Municipal Code to define the circumstances when a delay in the collection of impact fees would be allowed in the future;

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

Section 1. Kirkland Municipal Code Section 27.04.030 is 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 the 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-city~~ 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. ~~The timing of the payment of impact fees may be modified in a development agreement approved by the city council pursuant to Chapter 36.70B RCW.~~

(f) For building permits within new subdivisions approved under Title 22 (Subdivisions) of 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) At the time of issuance of any single-family residential building permit issued 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 two-hundred-forty-dollar administration fee for each individual lien filed.

(h) Except as otherwise provided in this section, ~~The building division of the fire and building department the city~~ 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.

(i) 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.

Section 2. Kirkland Municipal Code Section 27.06.030 is 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 the 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~~ city 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. ~~The timing of the payment of impact fees may be modified in a~~

~~development agreement approved by the city council pursuant to Chapter 36.70B RCW.~~

(f) For building permits within new subdivisions approved under Title 22 (subdivisions) of 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) At the time of issuance of any single-family residential building permit issued 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 two-hundred-forty-dollar administration fee for each individual lien filed.

(h) ~~Except as otherwise provided in this section, The building division of the fire and building department~~ the city 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.

(i) 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.

Section 3. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or

unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

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 1st day of October, 2013.

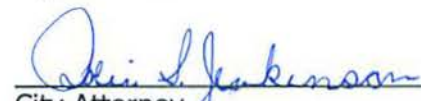
Signed in authentication thereof this 1st day of October, 2013.


MAYOR

Attest:


City Clerk

Approved as to Form:


City Attorney

PUBLICATION SUMMARY
OF ORDINANCE O-4419

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE TIMING OF PAYMENT OF IMPACT FEES AND AMENDING SECTIONS 27.04.030 AND 27.06.030 OF THE KIRKLAND MUNICIPAL CODE, FILE NO. PLN13-01420.

SECTIONS 1 - 2. Amends the Kirkland Municipal code relating to the timing of payment of 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 1st day of October, 2013.

I certify that the foregoing is a summary of Ordinance O-4419 approved by the Kirkland City Council for summary publication.



City Clerk