

ORDINANCE O-4641

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO EMERGENCY HOUSING DEVELOPMENT IMPACT FEE EXEMPTIONS.

1 WHEREAS, the Washington Legislature enacted Substitute
2 House Bill 2538, Chapter 133, Laws of 2018, exempting the buildings or
3 structures constructed as shelters that provide emergency housing for
4 people experiencing homelessness and emergency shelters for victims
5 of domestic violence from development activity impact fees imposed by
6 cities in accordance with Chapter 82.02 RCW; and
7

8 WHEREAS, as a result of this change in state law it is necessary
9 to enact conforming amendments to portions of the Kirkland Municipal
10 Code ("KMC") related to transportation impact fees (Chapter 27.04
11 KMC), park impact fees (Chapter 27.06 KMC), and school impact fees
12 (Chapter 27.08 KMC).
13

14 NOW, THEREFORE, the City Council of the City of Kirkland do
15 ordain as follows:
16

17 Section 1. Kirkland Municipal Code Section 27.04.050 is
18 amended to read as follows:
19

20 **27.04.050 Exemptions.**

21 (a) The following building permit applications shall be exempt from
22 impact fees:

23 (1) Replacement of a structure with a new structure of the same gross
24 floor area at the same site or lot when such replacement occurs within
25 five years of the demolition or destruction of the prior structure. For
26 replacement of structures in a new subdivision, see Section
27 27.04.030(f).

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

31 (3) Any building permit for a legal accessory dwelling unit approved
32 under Title 23 of this code, the Kirkland Zoning Code, as it is considered
33 part of the single-family use associated with this fee.

34 (4) Alteration of an existing nonresidential structure that does not
35 expand the usable space.

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

38 (6) Demolition or moving of a structure.

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

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

45 the city manager for an exemption. The application shall be on forms
46 provided by the city and shall be accompanied by all information and
47 data the city deems necessary to process the application.

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

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

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

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

63 (D) The city manager shall review applications for exemptions under
64 subsection (a)(7)(A) of this section pursuant to the above criteria and
65 shall advise the applicant, in writing, of the granting or denial of the
66 application. In addition, the city manager shall notify the city council
67 when such applications are granted or denied.

68 (E) The determination of the city manager shall be the final decision
69 of the city with respect to the applicability of the low-income housing
70 exemption set forth in this subsection.

71 (F) Any claim for exemption must be made before payment of the
72 impact fee. Any claim not so made shall be deemed waived. The claim
73 for exemption must be accompanied by a draft lien and covenant
74 against the property guaranteeing that the low-income housing use will
75 continue. Before approval of the exemption, the planning and building
76 department shall approve the form of lien and covenant, which shall, at
77 a minimum, meet the requirements of RCW 82.02.060. Prior to issuance
78 of a certificate of occupancy for any portion of the development, the
79 applicant shall execute and record the approved lien and covenant with
80 the King County recorder's office. The lien and covenant shall run with
81 the land. In the event the property is no longer used for low-income
82 housing, the current owner shall pay the current impact fee plus interest
83 to the date of the payment.

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

88 (B) Any applicant for an exemption from the impact fee which meets
89 the criteria set forth in subsection (a)(8)(C) of this section shall apply to
90 the city manager for an exemption. The application shall be on forms
91 provided by the city and shall be accompanied by all information and
92 data the city deems necessary to process the application.

- 93 (C) Exemption Criteria. To be eligible for the impact fee exemption
94 established by this section, the applicant shall meet each of the following
95 criteria:
- 96 (i) The applicant must have secured federal tax-exempt status under
97 Section 501(c)(3) of the Internal Revenue Code.
- 98 (ii) The applicant's services must be responsive to the variety of
99 cultures and languages that exist in the city.
- 100 (iii) The applicant must provide services and programs to those
101 considered most vulnerable and/or at risk, such as youth, seniors, and
102 those with financial needs, special needs and disabilities.
- 103 (iv) The applicant's services must meet the human services goals and
104 policies set forth in Section XII of the city of Kirkland comprehensive
105 plan.
- 106 (v) The applicant shall certify that no person shall be denied or
107 subjected to discrimination in receipt of the benefit of services and
108 programs provided by the applicant because of sex, marital status,
109 sexual orientation, race, creed, color, national origin, or the presence of
110 any sensory, mental, or physical disability or the use of a trained dog
111 guide or service animal by a person with a disability.
- 112 (vi) The applicant must provide direct human services at the premises
113 for which the applicant is seeking exemption.
- 114 (D) The city manager shall review applications for exemptions under
115 subsection (a)(8)(A) of this section pursuant to the above criteria and
116 shall advise the applicant, in writing, of the granting or denial of the
117 application. In addition, the city manager shall notify the city council
118 when such applications are granted or denied.
- 119 (E) The determination of the city manager shall be the final decision
120 of the city with respect to the applicability of the community-based
121 human services exemption set forth in this subsection.
- 122 (F) Any claim for exemption must be made before payment of the
123 impact fee. Any claim not so made shall be deemed waived. The claim
124 for exemption must be accompanied by a draft lien and covenant
125 against the property guaranteeing that the human services use will
126 continue. Before approval of the exemption, the department shall
127 approve the form of lien and covenant. Within ten days of approval, the
128 applicant shall execute and record the approved lien and covenant with
129 the King County recorder's office. The lien and covenant shall run with
130 the land. In the event the property is no longer used for human services,
131 the current owner shall pay the current impact fee plus interest to the
132 date of the payment.
- 133 (G) The amount of impact fees not collected from human services
134 agencies pursuant to this exemption shall be paid from public funds
135 other than the impact fee account.
- 136 (9) Buildings or structures constructed as shelters that provide
137 emergency housing for people experiencing homelessness and
138 emergency shelters for victims of domestic violence as defined by state
139 law.

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

146
147 Section 2. Kirkland Municipal Code Section 27.06.050 is
148 amended to read as follows:
149

150 **27.06.050 Exemptions.**

151 (a) The following building permit applications shall be exempt from
152 impact fees:

153 (1) Replacement, alteration, expansion, enlargement, remodeling,
154 rehabilitation or conversion of an existing dwelling unit where no
155 additional units are created. Replacement must occur within five years
156 of the demolition or destruction of the prior structure. For replacement
157 of structures in a new subdivision, see Section 27.06.030(e).

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

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

162 (4) Demolition or moving of a structure.

163 (5)(A) Any applicant for the construction or creation of low-income
164 housing may request an exemption of eighty percent of the required
165 impact fee for low-income housing units subject to the criteria in
166 subsection (a)(5)(C) of this section.

167 (B) Any applicant for an exemption from the impact fee which meets
168 the criteria set forth in subsection (a)(5)(C) of this section shall apply to
169 the city manager for an exemption. The application shall be on forms
170 provided by the city and shall be accompanied by all information and
171 data the city deems necessary to process the application.

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

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

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

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

187 (D) The city manager shall review applications for exemptions under
 188 subsection (a)(5)(A) of this section pursuant to the above criteria and
 189 shall advise the applicant, in writing, of the granting or denial of the
 190 application. In addition, the city manager shall notify the city council
 191 when such applications are granted or denied.

192 (E) The determination of the city manager shall be the final decision
 193 of the city with respect to the applicability of the low-income housing
 194 exemption set forth in this subsection.

195 (F) Any claim for exemption must be made before payment of the
 196 impact fee. Any claim not so made shall be deemed waived. The claim
 197 for exemption must be accompanied by a draft lien and covenant
 198 against the property guaranteeing that the low-income housing use will
 199 continue. Before approval of the exemption, the planning and building
 200 department shall approve the form of lien and covenant, which shall, at
 201 a minimum, meet the requirements of RCW 82.02.060. Prior to issuance
 202 of a certificate of occupancy for any portion of the development, the
 203 applicant shall execute and record the approved lien and covenant with
 204 the King County recorder's office. The lien and covenant shall run with
 205 the land. In the event the property is no longer used for low-income
 206 housing, the current owner shall pay the current impact fee plus interest
 207 to the date of the payment.

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

212 (b) Unless otherwise established in this section, the director shall be
 213 authorized to determine whether a particular development for a
 214 proposed building permit falls within an exemption of this chapter or of
 215 this code. Determinations of the director shall be subject to the appeals
 216 procedures set forth in Section 27.06.130.

217
 218 Section 3. Kirkland Municipal Code Section 27.08.050 is
 219 amended to read as follows:
 220

221 **27.08.050 Exemptions.**

222 (a) The following building permit applications shall be exempt from
 223 impact fees:

224 (1) Replacement, alteration, expansion, enlargement, remodeling,
 225 rehabilitation or conversion of an existing dwelling unit where no
 226 additional units are created and the use is not changed. Replacement
 227 must occur within five years of the demolition or destruction of the prior
 228 structure. For replacement of structures in a new subdivision, see
 229 Section 27.08.030(d).

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

232 (3) Miscellaneous improvements to an existing dwelling unit, including
 233 but not limited to fences, walls, swimming pools, mechanical units, and
 234 signs.

235 (4) Demolition or moving of a structure within the city's jurisdiction.

236 (5)(A) Construction or Creation of Low-Income Housing. Any claim
237 for an exemption must be made before payment of the impact fee. Any
238 claim not so made shall be deemed waived. The claim for exemption
239 must be accompanied by a draft lien and covenant against the property
240 guaranteeing that the low-income housing will continue. Before
241 approval of the exemption, the department shall approve the form of
242 the lien and covenant. Within ten days of approval, the applicant shall
243 execute and record the approved lien and covenant with the King
244 County recorder's office. The lien and covenant shall run with the land.
245 In the event that the housing unit is no longer used for low-income
246 housing, the current owner shall pay the current impact fee plus interest
247 to the date of the payment.

248 (B) The amount of impact fees not collected from low-income housing
249 pursuant to this exemption shall be paid by the Lake Washington School
250 District. The impact fees for these units shall be considered paid for by
251 the Lake Washington School District through its other funding sources,
252 without the district actually transferring funds from its other funding
253 sources into the impact fee account.

254 (6) Construction or creation of any form of housing for the elderly,
255 including nursing homes, retirement centers, and any type of housing
256 units for persons age fifty-five and over, which have recorded covenants
257 or recorded declaration of restrictions precluding school-aged children
258 as residents of those units. In the event that the housing unit is no
259 longer used for senior housing as defined in this subsection, the current
260 owner shall pay the current impact fee plus interest to the date of the
261 payment.

262 (7) Any development activity that is exempt from the payment of an
263 impact fee pursuant to RCW 82.02.100, due to mitigation of the same
264 system improvement under the State Environmental Policy Act.

265 (8) Any development activity for which school impacts have been
266 mitigated pursuant to a voluntary agreement entered into with the Lake
267 Washington School District to pay fees, dedicate land or construct or
268 improve school facilities, unless the terms of the voluntary agreement
269 provide otherwise; and provided, that the voluntary agreement predates
270 the effective date of the fee imposition.

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

275 (b) The director shall be authorized to determine whether a particular
276 proposed development falls within an exemption of this chapter or of
277 this code. Determinations of the director shall be subject to the appeals
278 procedures set forth in Section 27.08.120.

279
280 Section 4. If any provision of this ordinance or its application to
281 any person or circumstance is held invalid, the remainder of the
282 ordinance or the application of the provision to other persons or
283 circumstances is not affected.

284 Section 5. This ordinance shall be in force and effect five days
285 from and after its passage by the Kirkland City Council and publication
286 pursuant to Section 1.08.017, Kirkland Municipal Code in the summary
287 form attached to the original of this ordinance and by this reference
288 approved by the City Council.
289

290 Passed by majority vote of the Kirkland City Council in open
291 meeting this 17th day of April, 2018.
292

293 Signed in authentication thereof this 17th day of April, 2018.


Amy Walen, Mayor

Attest:


Kathi Anderson, City Clerk

Publication Date: April 23, 2018

Approved as to Form:


Kevin Raymond, City Attorney

PUBLICATION SUMMARY
OF ORDINANCE O-4641

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO EMERGENCY HOUSING DEVELOPMENT IMPACT FEE EXEMPTIONS.

SECTIONS 1-3. Adds an exemption of development impact fees for emergency housing.

SECTION 4. Provides a severability clause for the ordinance.

SECTION 5. 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 17th day of April, 2018.

I certify that the foregoing is a summary of Ordinance O-4641 approved by the Kirkland City Council for summary publication.



Kathi Anderson, City Clerk