

SUBSTITUTE ORDINANCE O-4901

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO PARK AND FIRE IMPACT FEES, AMENDING SECTIONS OF CHAPTERS 27.06 AND 27.10 OF THE KIRKLAND MUNICIPAL CODE, AND ESTABLISHING NEW FEE SCHEDULE FOR THE CITY'S PARKS AND FIRE IMPACT FEES.

WHEREAS, RCW 82.02.050(2) authorizes cities that are required to plan under RCW 36.70A.040, which includes the City of Kirkland, to impose impact fees on development activity to provide fire protection facilities, and for the creation and maintenance of publicly owned parks, open space, and recreation facilities to serve new development; and

WHEREAS, in 2023, the Washington State Legislature added a new section, RCW 36.70A.681, to the Growth Management Act, stating in relevant part that cities may not assess impact fees on accessory dwelling units that are greater than 50 percent of the impact fees that would be imposed on the principal unit; and

WHEREAS, also in 2023, the Washington State Legislature amended RCW 82.02.060(1) to require that impact fees reflect the proportionate impact of new housing units based on the square footage, number of bedrooms, or trips generated, in the housing unit in order to produce a proportionally lower impact fee for smaller housing units and that such proportional fees be in effect six months after the City's next periodic comprehensive plan update; and

WHEREAS, in December 2024, the City adopted amendments to its Comprehensive Plan, pursuant to the provisions of RCW 36.70A.070, to address growth and development in the City through 2044; and

WHEREAS, the City has calculated park and fire impact fees for system improvements to ensure that new development pays its proportionate share of the costs of public facilities needed to serve new growth and development based on the proportionate impact based on trips generated, as provided in RCW 82.02.060(1), and elects to defer full implementation of the full fees over a period of years.

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

Section 1. Kirkland Municipal Code (KMC) 27.06.020, and the corresponding portions of Ordinance O-4503 §1 (2015), relating to park impact fees, is amended as follows, with new text shown in underline and deleted text shown in ~~strikethrough~~:

**27.06.020 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" means the Growth Management Act, Chapter 36.70A RCW.

(b) "Applicant" means the owner of real property according to the records of the King County recorder's office, 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 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, Washington.

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

(h) "Department" means the parks and community services department.

(i) "Director" means the director of the planning and building department, or the director's designee.

(j) "Encumbered" means to reserve, set aside or otherwise earmark the impact fees in order to pay for park planning, design, land surveys and acquisition, engineering, permitting, financing, administrative expenses, construction of parks and related facilities and any other commitments, contractual obligations or other liabilities incurred for public facilities.

(k) "Hearing examiner" means the person who exercises the authority of Kirkland Municipal Code Chapter 3.34.

(l) "Impact fee" means a payment of money imposed by the city on an applicant prior to issuance of a building permit in order to pay for the public facilities needed to serve new residential growth and development. "Impact fee" does not include a reasonable permit fee or application fee.

(m) "Impact fee account" or "account" means the account established for the system improvement for which impact fees are collected. The account shall be established pursuant to this chapter, and shall comply with the requirements of RCW 82.02.070.

(n) "Independent fee calculation" means the study or data submitted by an applicant to support the assessment of an impact fee other than the fee in the schedule in Section 27.06.150.

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

(p) "Interlocal agreement" or "agreement" means a park interlocal agreement, authorized in this chapter, by and between the city and other government agencies concerning the collection and expenditure of impact fees, or any other interlocal agreement entered by and between the city and another municipality, public agency or governmental body to implement the provisions of this chapter.

(q) "Low-income housing" means: (1) an owner-occupied housing unit affordable to households whose household income is less than eighty 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 where no more than thirty 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 sixty percent of the King County median income, adjusted for household size, as determined by HUD, and where no more than thirty percent of the household income is paid for housing expenses (rent and an 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 nonprofit housing developer or a private developer.

(r) "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.

(s) "Parks" means parks, open space, trails and recreational facilities.

(t) "Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development or users of a project, and are not system improvements. No improvement or facility included in the capital facilities plan shall be considered a project improvement.

(u) "Public facilities" means the public parks, open space, trails, and recreational facilities.

(v) "Rate study" means the "Rate Study for Impact Fees for Parks and Recreational Facilities," city of Kirkland, by Henderson, Young and Company, dated August 13, 2015, as updated and amended from time to time.

~~(w) "Residential" means housing, such as detached, attached or stacked units (includes cottage, carriage and two-/three-unit homes approved under Chapter 113 KZC), and senior and assisted living units intended for occupancy by one or more persons and not offering other services. For the purpose of this chapter, an accessory dwelling unit as regulated in Chapter 115 KZC is considered an adjunct to the associated primary structure and is not charged a separate impact fee.~~

(w) "Residential non-stacked" means any dwelling unit considered an attached dwelling unit, as defined in KZC 5.255 or a detached dwelling unit as defined by KZC 5.260. For the purpose of this chapter, an accessory dwelling unit as regulated in Chapter 115 KZC is considered a separate dwelling unit and charged a separate impact fee.

(x) "Residential stacked" means any dwelling unit as defined in KCZ 5.265.

~~(xy)~~ "System improvements" means public facilities included in the capital facilities plan and designed to provide service to service areas within the community at large, in contrast to project improvements.

Section 2. KMC 27.06.030, and the corresponding portions of Ordinance O-4503 §2 (2015), relating to park impact fees, is amended 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, 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. 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.

(c) The 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. 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 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.

(e) For building permits within new subdivisions approved under Kirkland Municipal Code Title 22 (Subdivisions), a credit shall be applied for the square footage of any dwelling unit that exists on the land within the subdivision prior to the subdivision if the dwelling unit is demolished. The credit for that square footage 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.

(f) At the time of issuance of any detached or attached residential building permit, the applicant may elect to have the impact fee payment deferred until the building permit is complete or eighteen months after issuance of the building permit, whichever occurs first. The impact fee due and owing, less any credits awarded, 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.

(i) For any alteration, expansion, enlargement, remodeling, rehabilitation, or conversion of an existing structure, the impact fee shall be assessed based on the net new square footage added to the structure.

(j) For any replacement of an existing structure, a credit shall be applied for the square footage of the existing structure being replaced, provided the existing structure is demolished and that the replacement occurs within five years of the demolition of the prior structure.

(k) For any credit granted for an existing structure under this chapter, the square footage of the existing structure shall be based on property information utilized by the King County Department of Assessments.

(l) To ensure compliance with RCW 36.70A.681(1)(a), the impact fee assessed on the construction of an accessory dwelling unit regulated in Chapter 115 KZC will not be greater than 50 percent of the impact fee that would be imposed on the principal unit.

Section 3. KMC 27.06.050, and the corresponding portions of Ordinance O-4641 §2 (2018), relating to park impact fees, is amended 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. 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 27.06.030(e).~~

(1.2) Any building permit for a legal accessory dwelling unit approved under Title 23 of this code, the Kirkland Zoning Code, with a floor area of 800 square feet or fewer.

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

(3.4) Demolition or moving of a structure.

(4.5)(A) Any applicant for the construction or creation of low-income housing may request an exemption of eighty percent of the required impact fee for low-

income housing units subject to the criteria in subsection (a)(5)(C) of this section.

(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 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 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.

(5.6) 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.

(b) Unless otherwise established in this section, the director shall be authorized to determine whether a particular development for a proposed building permit 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 4. KMC 27.06.150, and the corresponding portions of Ordinance O-4761 §2 (2021), relating to park impact fees, is amended as follows:

**27.06.150 Fee schedule.**

The impact fee schedule below is based on the city's latest rate study. As authorized under KMC 27.06.120(a), the fees on the schedule may be increased at the discretion of the Director of Finance and Administration each January 1st based on the June-to-June Seattle-Tacoma-Bellevue Area CPI-W. The fee for each year is effective as of January 1st of that year. See the public works department's fee schedule for the current impact fee.

Park Impact Fee Schedule	Unit	Current Fee	Year 2022 Fee	Year 2023 Fee	Year 2024 Fee
Single-Family Residential	Per Dwelling Unit	\$4,435	\$5,629	\$6,822	\$8,016
Multifamily	Per Dwelling Unit	\$3,371	\$4,278	\$5,186	\$6,093
Residential Suites	Per Dwelling Unit	\$0	\$2,264	\$2,744	\$3,224

Park Impact Fee Schedule	Unit	2025	2026	2027
Residential Non-Stacked	sq ft	\$5.04	\$5.04	\$5.04
<b>Maximum Residential Non-Stacked Fee</b>	<b>dwelling unit</b>	<b>\$9,072.00</b>	<b>\$10,206.00</b>	<b>\$11,340.00</b>
Residential Stacked	sq ft of gross floor area	\$5.04	\$5.04	\$5.04
Accessory Dwelling Unit >800 sq ft (Residential Non-Stacked)	sq ft	\$0.00	\$2.52	\$5.04
Cottages (Residential Non-Stacked)	sq ft	\$3.69	\$4.37	\$5.04

Section 5. KMC 27.10.020, and the corresponding portions of Ordinance O-4758 §1 (2021), relating to fire impact fees, is amended as follows:

**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) "Conditioned floor area" has the same meaning as it is defined in Chapter 2, Section R202 of the 2021 Washington State Energy Code.

(i) "Department" means the fire department.

(j) "Director" means the director of the planning and building department, or the director's designee.

(k) "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.

(l) "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).

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

(n) "Hearing examiner" means the person who exercises the authority of Chapter 3.34.

(on) "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.

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

(qp) "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 Section 27.10.150.

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

(sf) "Low-income housing" means (1) an owner-occupied housing unit affordable to households whose household income is less than eighty 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 thirty 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 sixty percent of the King County median income, adjusted for household size, as determined by HUD, and no more than thirty 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.

(ts) "Multifamily dwelling" means attached, stacked, duplex, or assisted living unit as defined in Chapter 5 of Title 23 (Zoning Code) and cottage, carriage and two/three-unit homes approved under Chapter 113 of Title 23 (Zoning Code).

(ut) "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.~~

(v) "Residential non-stacked" means any dwelling unit considered an attached dwelling unit as defined in KZC 5.255 or a detached dwelling unit as defined by KZC 5.260. 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.



(w) "Residential stacked" means any dwelling unit as defined in KZC 5.265.

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

(xv) "Single-family dwelling" means detached living unit as defined in Chapter 5 of Title 23 (Zoning Code).

Section 6. KMC 27.10.030, and the corresponding portions of Ordinance O-4758 §1 (2021), relating to fire impact fees, is amended as follows:

**27.10.030 Assessment of impact fees.**

(a) The city shall collect impact fees, based on the fee schedule in Section 27.10.150, 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 Title 22 (Subdivisions), a credit shall be applied for the square footage of any dwelling unit that exists on the land within the subdivision prior to the subdivision if the dwelling unit is demolished. The credit for that square footage 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 subsection (c) of this section 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.

(i) For any alteration, expansion, enlargement, remodeling, rehabilitation, or conversion of an existing structure, the impact fee shall be assessed based on the net new square footage added to the structure.

(j) For any replacement of an existing structure, a credit shall be applied for the square footage of the existing structure being replaced, provided the existing structure is demolished and that the replacement occurs within five years of the demolition of the prior structure.

(k) For any credit granted for an existing structure under this chapter, the square footage of the existing structure shall be based on property information utilized by the King County Department of Assessments.

(l) To ensure compliance with RCW 36.70A.681(1)(a), the impact fee assessed on the construction of an accessory dwelling unit regulated in Chapter 115 KZC will not be greater than 50 percent of the impact fee that would be imposed on the principal unit.

(m) When an attached accessory dwelling unit, as regulated in Chapter 115 KZC, is added or constructed as part of a single-family dwelling unit, the attached accessory dwelling unit will be considered together with the single-family dwelling unit for purposes of applying the maximum impact fee cap stated in the schedule in KMC 27.10.150.

Section 7. KMC 27.10.050, and the corresponding portions of Ordinance O-4758 §1 (2021), relating to fire impact fees, is amended as follows:

#### **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.~~

~~(2.3) Any building permit for a legal accessory dwelling unit approved under Title 23, the Kirkland Zoning Code, with a floor area of 800 square feet or fewer as it is considered part of the single family use associated with this fee.~~

~~(3.4) Alteration of an existing nonresidential structure that does not expand the usable space.~~

~~(4.5) Miscellaneous improvements, including but not limited to fences, walls, swimming pools, mechanical units, and signs.~~

~~(5.6) Demolition or moving of a structure.~~

~~(6.7)(A) Any applicant for the construction or creation of low-income housing may request an exemption of eighty 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.~~

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

573  
574 (F) Any claim for exemption must be made before payment of the impact fee. Any  
575 claim not so made shall be deemed waived. The claim for exemption must be  
576 accompanied by a draft lien and covenant against the property guaranteeing that  
577 the low-income housing use will continue. Before approval of the exemption, the  
578 planning and building department shall approve the form of lien and covenant, which  
579 shall, at a minimum, meet the requirements of RCW 82.02.060. Prior to issuance of  
580 a certificate of occupancy for any portion of the development, the applicant shall  
581 execute and record the approved lien and covenant with the King County recorder's  
582 office. The lien and covenant shall run with the land. In the event the property is no  
583 longer used for low-income housing, the current owner shall pay the current impact  
584 fee plus interest to the date of the payment.

585  
586 (7.8)(A) Development activities of community-based human services agencies which  
587 meet the human services needs of the community such as providing employment  
588 assistance, food, shelter, clothing, or health services for low- and moderate-income  
589 residents.

590  
591 (B) Any applicant for an exemption from the impact fee which meets the criteria  
592 set forth in subsection ~~(a)(8)~~(C) of this section shall apply to the city manager for an  
593 exemption. The application shall be on forms provided by the city and shall be  
594 accompanied by all information and data the city deems necessary to process the  
595 application.

596  
597 (C) Exemption Criteria. To be eligible for the impact fee exemption established by  
598 this section, the applicant shall meet each of the following criteria:

599  
600 (i) The applicant must have secured federal tax-exempt status under Section  
601 501(c)(3) of the Internal Revenue Code.

602  
603 (ii) The applicant's services must be responsive to the variety of cultures and  
604 languages that exist in the city.

605  
606 (iii) The applicant must provide services and programs to those considered  
607 most vulnerable and/or at risk, such as youth, seniors, and those with financial  
608 needs, special needs, and disabilities.

609  
610 (iv) The applicant's services must meet the human services goals and  
611 policies set forth in Section XII of the city of Kirkland comprehensive plan.

612  
613 (v) The applicant shall certify that no person shall be denied or subjected to  
614 discrimination in receipt of the benefit of services and programs provided by  
615 the applicant because of sex, marital status, sexual orientation, race, creed,  
616 color, national origin, or the presence of any sensory, mental, or physical  
617 disability or the use of a trained dog guide or service animal by a person with  
618 a disability.  
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(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.

(8.9) 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.

(9.10) 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.

Section 8. KMC 27.10.110, and the corresponding portions of Ordinance O-4758 §1 (2021), relating to fire impact fees, is amended as follows:

**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 (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 may 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, if any, 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.

Section 9. KMC 27.10.150, and the corresponding portions of Ordinance O-4758 §1 (2021), relating to fire impact fees, is amended as follows:

**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 be increased at the discretion of the Director of Finance and Administration 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.

Land Use Type	Total Fee	Unit of Development	2025	2026	2027
Commercial	\$ 1.40	per sq ft of gross floor area	\$1.30	\$1.30	\$1.30
Office and Industrial	0.07	per sq ft of gross floor area	\$0.11	\$0.11	\$0.11
Schools	0.53	per sq ft of gross floor area	\$1.14	\$1.14	\$1.14
Health Care	3.24	per sq ft of gross floor area	\$6.40	\$6.40	\$6.40
Government	3.03	per sq ft of gross floor area	\$2.93	\$2.93	\$2.93
Single-Family	1,019.38	per Dwelling Unit			
<u>Residential Non-Stacked</u>		per sq ft of conditioned floor area	\$0.73	\$0.73	\$0.73
<u>Accessory Dwelling Unit &gt;800 sq ft (Residential Non-Stacked)</u>		per sq ft of conditioned floor area	\$0.00	\$0.37	\$0.73
<u>Cottages (Residential Non-Stacked)</u>		per sq ft of conditioned floor area	\$0.29	\$0.51	\$0.73
<b><u>Maximum Residential Non-Stacked Fee</u></b>		<b><u>dwelling unit</u></b>	<b><u>\$2,336.00</u></b>	<b><u>\$2,628.00</u></b>	<b><u>\$2,920.00</u></b>

Multifamily	412.92	per Dwelling Unit			
<u>Residential Stacked</u>		<u>per sq ft of gross floor area</u>	<u>\$0.29</u>	<u>\$0.29</u>	<u>\$0.29</u>

Section 10. 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 11. This ordinance shall be in force and effect on July 1, 2025, after publication, as required by law, in the summary form attached to the original of this ordinance.

Passed by majority vote of the Kirkland City Council in open meeting this 3rd day of June, 2025.

Signed in authentication thereof this 3rd day of June, 2025.

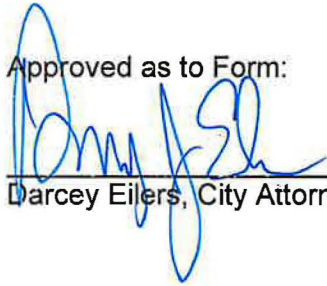
  
Kelli Curtis, Mayor

Attest:

  
Elizabeth Adkisson, Acting City Clerk

Publication Date: June 9, 2025

Approved as to Form:

  
Darcey Eilers, City Attorney