

ORDINANCE NO. 4037

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE CITY'S IMPACT FEE REGULATIONS TO ADD A DEFERRAL SYSTEM FOR IMPACT FEES CHARGED TO SINGLE FAMILY RESIDENTIAL DEVELOPMENT AND CONSOLIDATING THE TWO IMPACT FEE CHAPTERS INTO ONE CHAPTER.

WHEREAS, the Washington state legislature amended the state laws regarding impact fees in 2015 by passing ESB 5923; and

WHEREAS, ESB 5923 requires cities collecting impact fees to adopt, by September 1, 2016, and maintain a system for the deferred collection of impact fees for single-family residential construction; and

WHEREAS, this ordinance is intended to satisfy the requirements of ESB 5923; and

WHEREAS, city staff is recommending that the city's impact fee regulations be re-codified so that the two types of impact fees (streets and parks) may be found at the same place in the code; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO ORDAIN AS FOLLOWS:

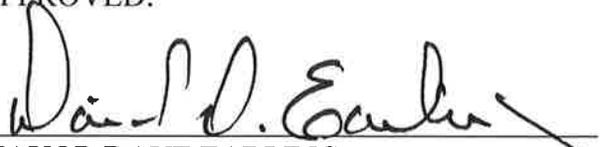
Section 1. Chapter 3.36 of the Edmonds City Code, entitled "Park Impact Fees," is hereby amended to be entitled "Impact Fees," and to read as set forth in **Attachment A** hereto, which is incorporated herein by this reference as if set forth in full (new text is shown in underline; deleted text is shown in ~~strike-through~~).

Section 2. Chapter 18.82 of the Edmonds Community Development Code, entitled "Traffic Impact Fees," is hereby repealed as the substance of that chapter was moved to the amended chapter 3.36 ECC as provided above.

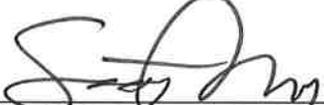
Section 3. Severability. If any section, subsection, clause, sentence, or phrase of this ordinance should be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:


MAYOR DAVE EARLING

ATTEST/AUTHENTICATED:


CITY CLERK, SCOTT PASSEY

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 
JEFF TARADAY

FILED WITH THE CITY CLERK: July 1, 2016
PASSED BY THE CITY COUNCIL: July 5, 2016
PUBLISHED: July 10, 2016
EFFECTIVE DATE: July 15, 2016
ORDINANCE NO. 4037

SUMMARY OF ORDINANCE NO. 4037

of the City of Edmonds, Washington

On the 5th day of July, 2016, the City Council of the City of Edmonds, passed Ordinance No. 4037. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS,
WASHINGTON, AMENDING THE CITY'S IMPACT
FEE REGULATIONS TO ADD A DEFERRAL SYSTEM
FOR IMPACT FEES CHARGED TO SINGLE FAMILY
RESIDENTIAL DEVELOPMENT AND
CONSOLIDATING THE TWO IMPACT FEE
CHAPTERS INTO ONE CHAPTER.

The full text of this Ordinance will be mailed upon request.

DATED this 6th day of July, 2016.


CITY CLERK, SCOTT PASSEY

ATTACHMENT A

Chapter 3.36

PARK IMPACT FEES

Sections:

- 3.36.010 Findings and authority.
- 3.36.020 Definitions.
- 3.36.030 Assessment and payment of impact fees.
- 3.36.040 Exemptions.
- 3.36.050 Credits.
- 3.36.060 Tax adjustments.
- 3.36.070 Appeals.
- 3.36.080 Establishment of impact fee accounts.
- 3.36.090 Refunds.
- 3.36.100 Use of funds.
- 3.36.110 Review.
- 3.36.120 Park impact fee rates.
- 3.36.125 Street impact fee rates.
- 3.36.130 Independent fee calculations.
- 3.36.140 Existing authority unimpaired.
- 3.36.150 Procedures guide.
- 3.36.160 Deferral system for single-family residences.

3.36.010 Findings and authority.

The city council of the city of Edmonds (the “council”) hereby finds and determines that new growth and development in the city of Edmonds will create additional demand and need for public facilities in the city of Edmonds, and the council finds that new growth and development should pay a proportionate share of the cost of new facilities needed to serve the new growth and development.

The city of Edmonds has conducted extensive studies documenting the procedures for measuring the impact of new developments on public facilities, has prepared the rate study and procedures guide for park impact fees, has prepared the rate study and procedures guide for transportation impact fees, and hereby incorporates these studies into this title by reference-and hereby incorporates these studies into this title by reference. Therefore, pursuant to Chapter 82.02 RCW, the council adopts the ordinance codified in this chapter to assess impact fees for parks and streets. The provisions of this chapter shall be liberally construed in order to carry out the purposes of the council in establishing the impact fee program. These fees can and will only be applied to projects resulting from city-wide development growth. These fees cannot be used to mitigate existing shortfalls of the park system or street system. [Ord. 3934 § 1 (Exh. A), 2013].

3.36.020 Definitions.

The following words and terms shall have the following meanings for the purposes of this chapter unless the context clearly requires otherwise. Terms otherwise not defined herein shall be defined pursuant to RCW [82.02.090](#) and ECDC Title [21](#) or given their usual and customary meaning.

A. "Accessory dwelling unit" is defined in ECDC [21.05.015](#).

B. "Building permit" means an official document or certification which is issued by the building official and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.

C. "Capital facilities plan" means the capital facilities plan element of a comprehensive plan adopted by the city of Edmonds pursuant to Chapter [36.70A](#) RCW, and such plan as amended. There are many references in state statutes to the "capital facilities plan" (CFP) as the basis for projects that are eligible for funding by impact fees. The parks element of the city of Edmonds comprehensive plan fulfills the requirements of RCW [82.02.050](#) et seq., pertaining to a "capital facilities plan," and is considered to be the "capital facilities plan" (CFP) for the purpose of Edmonds' impact fees for parks. The transportation element of the city of Edmonds comprehensive plan fulfills the requirements of RCW 82.02.050 et seq., pertaining to a "capital facilities plan," and is considered to be the "capital facilities plan" (CFP) for the purpose of Edmonds' impact fees for streets. All-Depending on the context, references to a CFP in the impact fee chapter, rate study, and procedures guide are interpreted as referring to either the parks element of the city of Edmonds comprehensive plan, or the transportation element of the city of Edmonds comprehensive plan, including the projects eligible for impact fees listed in Appendix C of the procedures guide for the transportation impact fees.

D. "City" means the city of Edmonds.

E. "Council" means the city council of the city of Edmonds.

F. "Department" means the development services department.

G. "Development activity" means any construction, expansion, or change in the use of a building or structure that creates additional demand and need for public facilities.

H. "Development approval" means any written authorization from the city of Edmonds which authorizes the commencement of a development activity.

I. "Director" means the director designed by the mayor to administer the ~~park~~ impact fee program or that director's designee.

J. "Dwelling unit" is defined in ECDC [21.20.050](#).

K. "Encumbered" means to reserve, set aside, or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for public facilities.

L. "Feepayer" is a person, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation commencing a land development activity which creates the demand for additional capital facilities, and which requires the issuance of a building permit. "Feepayer" includes an applicant for an impact fee credit.

M. Reserved.

N. "Hearing examiner" is defined in ECDC [21.40.010](#).

O. "Impact fee" means a payment of money imposed by the city of Edmonds on development activity pursuant to this chapter as a condition of granting development approval in order to pay for the public facilities needed to serve new growth and development. "Impact fee" does not include a reasonable permit fee, an application fee, the administrative fee for collecting and handling school impact fees, the cost of reviewing independent fee calculations or any other charge or fee based upon the administrative costs of processing a development application.

P. "Impact fee account" or "account" means the account(s) established for each type of public facility for which impact fees are collected. The accounts shall be established pursuant to ECC [3.36.080](#) and [3.36.090](#) and comply with the requirements of RCW [82.02.070](#).

Q. "Independent fee calculation" means the ~~park-impact~~ fee calculation and/or economic documentation prepared by a feepayer to support the assessment of an impact fee other than by the use of the rates listed in ECC [3.36.120](#) and ECC [3.36.125](#), or the calculations prepared by the director where none of the fee categories or fee amounts in ECC [3.36.120](#) and ECC [3.36.125](#) accurately describe or capture the impacts of the new development on public facilities.

R. "Interest" means the average interest rate earned in the last fiscal year by the city of Edmonds.

S. Reserved.

T. "Occupancy permit" means the permit issued by the city of Edmonds authorizing the building to be occupied where a development activity results in a change in use of the preexisting structure, or the creation of a new use where none previously existed.

U. "Owner" means the owner of record of real property, or a person with an unrestricted written option to purchase property; 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.

V. "Procedures guide" means the administrative guidance document prepared by the director pursuant to ECC [3.36.150](#).

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

X. "Public facilities" means the public parks, open space and recreation facilities owned by the city of Edmonds or other governmental entities in the context of the park impact fee and means the public streets and roads owned by the city of Edmonds or other governmental entities in the context of the street impact fee.

Y. "Rate study" means the "Rate Study for Impact Fees for Parks, Open Space and Recreation Facilities," city of Edmonds, dated July 12, 2013 in the context of the park impact fee and means the "Rate Study for Impact Fees for Roads," city of Edmonds, dated October 29, 2009 in the context of the street impact fee.

Z. "Residential" or "residential development" means all types of construction intended for human habitation. This shall include, but is not limited to, single-family, duplex, triplex, and other multifamily development. This also includes the residential portion of mixed-use developments.

AA. Reserved.

BB. "Service area" means the entire corporate limits of the city of Edmonds.

CC. "Significant past tax payment" means taxes exceeding five percent of the amount of the impact fee, and which were paid prior to the date the impact fee is assessed and were earmarked or proratable to the same system improvements for which the impact fee is assessed.

DD. Reserved.

EE. "State" means the state of Washington.

FF. Reserved.

GG. "System improvements" means public facilities that are included in the city of Edmonds capital facilities plan and are designed to provide service to service areas within the community at large, in contrast to project improvements. [Ord. 3934 § 1 (Exh. A), 2013].

3.36.030 Assessment and payment of impact fees.

A. Required. The city shall collect impact fees, based on the rates in ECC 3.36.120 and ECC 3.36.125, from any applicant seeking development approval from the city for any development activity within the city as provided herein, including the expansion of existing structures or uses or change of existing uses that creates additional demand for public facilities.

1. For the purposes of this chapter, development activity shall not include miscellaneous improvements that do not add any demand for public facilities, including, but not limited to, fences, walls, swimming pools accessory to a residential use, and signs.

2. For the purposes of this chapter, development activity shall not include replacement of a residential structure with a new residential structure of the same type at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior residential structure. Replacement of a residential structure with a new residential structure of the same type shall be interpreted to include any residential structure for which there is no increase in the number of residential units.

3. For the purposes of this chapter, development activity shall not include alterations, expansions, enlargement, remodeling, rehabilitation or conversion of an existing dwelling unit where no additional dwelling units are created and the use is not changed. Note: accessory dwelling units (ADU) are not considered to create additional dwelling units because ECDC 20.21.020 does not consider ADUs as increasing the overall density of a single-family residential neighborhood.

B. Timing and Calculation of Fees. Impact fees shall be assessed based upon the park impact fee rates in effect at the time of issuance of the building permit, including but not limited to change of use permit or remodel permit.

1. For a change in use of an existing building or dwelling unit, including any alteration, expansion, replacement or new accessory building, the impact fee shall be the applicable impact fee for the new use, less an amount equal to the applicable impact fee for the prior use.

2. For mixed use developments, impact fees shall be imposed for the proportionate share of each land use based on the applicable measurement in the impact fee rates set forth in ECC [3.36.120](#) and [ECC 3.36.125](#).

3. Where the impact fees imposed are determined by the square footage of the development, the building official will establish the gross floor area created by the proposed development.Reserved.

4. Applicants that have been awarded credits prior to the submittal of the complete building permit application pursuant to ECC [3.36.050](#) shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the director pursuant to ECC [3.36.050](#) setting forth the dollar amount of the credit awarded.

5. Applicants shall pay an administrative fee that covers the cost of staff time in administering the impact fee program. The amount of the administrative fee shall be established and updated from time to time by resolution of the city council.

C. Payment. Unless deferred pursuant to ECC 3.36.160, impact fees shall be paid at the time the building permit or business license is issued by the city. The department shall not issue the required building permit or business license or other approval unless and until the impact fees set forth in ECC [3.36.120](#) and [ECC 3.36.125](#) have been paid in the amount that they exceed exemptions or credits provided pursuant to ECC [3.36.040](#) or [3.36.050](#), PROVIDED THAT building permits may be issued without impact fee payment when payment is deferred in accordance with [ECC 3.36.160](#). [Ord. 3934 § 1 (Exh. A), 2013].

3.36.040 Exemptions.

A. Except as provided for below, the following shall be exempted from the payment of all impact fees under this chapter:

1. Alteration of an existing nonresidential structure that does not involve a change in use and does not expand the usable space or add any residential units;

2. Miscellaneous improvements that do not expand usable space or add any residential units, including, but not limited to, fences, walls, swimming pools, and signs;

3. Demolition or moving of a structure;

4. Expansion of an existing structure that results in the addition of 100 square feet or less of gross floor area;

5. Replacement of a structure with a new structure of the same size and use at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure. Replacement of a structure with a new structure of the same size shall be interpreted to include any structure for which the gross square footage of the building will not be increased by more than 100 square feet; or

6. Alterations, expansions, enlargement, remodeling, rehabilitation or conversion of an existing dwelling unit where no additional dwelling units are created and the use is not changed [Accessory dwelling units (ADU) are not considered to create additional dwelling units because ECDC 20.21.020 does not consider ADUs as increasing the overall density of a single-family residential neighborhood, and

because the city's traffic model does not assign additional trips to the network as a result of ADUs.].

B. A. Except as provided for below, the following shall be exempted from the payment of ~~all-park~~ impact fees under this chapter:

1. Low-income housing provided by nonprofit organizations such as, but not limited to, Habitat for Humanity. Owners of low-income single-family dwelling units, condominiums and other low-income housing shall execute and record a lien against the property, in favor of the city, for a period of 10 years guaranteeing that the dwelling unit will continue to be used for low-income housing or that impact fees from which the low-income housing is exempted, plus interest, shall be paid. The lien against the property shall be subordinate only to the lien for general taxes. In the event that the development is no longer used for low-income rental housing, the owner shall pay the city the impact fee from which the owner or any prior owner was exempt, plus interest at the statutory rate. Any claim for an exemption for low-income owner occupied housing must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

B. C. The director shall be authorized to determine whether a particular development activity falls within an exemption identified in this section, in any other section, or under other applicable law. Determinations of the director shall be in writing and shall be subject to the appeals procedures set forth in ECC [3.36.070](#). [Ord. 3934 § 1 (Exh. A), 2013].

3.36.050 Credits.

A. Pursuant to the requirement of RCW [82.02.060](#)(4), a feepayer shall be entitled to a credit for the value of any dedication of land for, improvement to, or new construction of any ~~park~~-system improvements provided by the feepayer, to facilities that are identified in the capital facilities plan and that are required by the city as a condition of approving the development activity.

B. The director shall determine if requests for credits meet the criteria in subsection (A) of this section.

C. For each request for a credit or credits, the director shall select an appraiser or the feepayer may select an independent appraiser acceptable to the director.

D. The appraiser must be prequalified by the city and shall not have a fiduciary or personal interest in the property being appraised. A description of the appraiser's certification shall be included with the appraisal, and the appraiser shall certify that he/she does not have a fiduciary or personal interest in the property being appraised.

E. The appraiser shall be directed to determine the total value of the dedicated land, improvements, and/or construction provided by the feepayer on a case-by-case basis.

F. The feepayer shall pay for the cost of the appraisal or request that the cost of the appraisal be deducted from the credit which the director may be providing to the feepayer, in the event that a credit is awarded.

G. After receiving the appraisal, the director shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, the legal description of the site donated where applicable, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate, and return such signed document to the director before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within 60 calendar days shall nullify the credit.

H. No credit shall be given for project improvements required of the development by city code and/or SEPA; only dedications in excess of those required by law are eligible for credit. In no event shall this provision be interpreted to authorize cash payment. Nothing herein shall be interpreted to limit the discretion of the city council to decline to accept any proposed dedication.

I. A feepayer can request that a credit or credits for impact fees be awarded to him/her for significant past tax payments. For each request for a credit or credits for significant past tax payments for ~~park~~ impact fees, the feepayer shall submit receipts and a calculation of past tax payments earmarked for or proratable to the particular system improvement. The director shall determine the amount of credits, if any, for significant past tax payments for public ~~park~~ facilities.

J. Any claim for credit must be made no later than 20 calendar days after the submission of an application for a building permit. The failure to timely file such a claim shall constitute a final bar to later request any such credit.

K. Determinations made by the director pursuant to this section shall be subject to the appeals procedures set forth in ECC 3.36.070.

L. A feepayer may, in the alternative, appeal an assessment or mitigation requirement which he believes exceeds the total which may lawfully be imposed. See ECDC 18.50.020(C). [Ord. 3934 § 1 (Exh. A), 2013].

3.36.060 Tax adjustments.

Pursuant to and consistent with the requirements of RCW 82.02.060, the rate study has provided adjustments for future taxes to be paid by the new development which are earmarked or proratable to the same new public facilities which will serve the new development. The impact fee rates in ECC 3.36.120 and ECC 3.36.125 have been reasonably adjusted for taxes and other revenue sources which are anticipated to be available to fund public improvements. [Ord. 3934 § 1 (Exh. A), 2013].

3.36.070 Appeals.

A. Any feepayer may pay the impact fees imposed by this chapter under protest in order to obtain a building permit.

B. Appeals regarding the amount of the impact fee imposed on any development activity may only be filed by the feepayer of the property where such development activity will occur. This provision shall control over any other provisions of city ordinance.

C. The feepayer must first file a request for review regarding impact fees with the director, as provided herein:

1. The request shall be in writing on the form provided by the city;
2. The request for review by the director shall be filed within 14 calendar days of the feepayer's payment of the impact fees at issue. The failure to timely file such a request shall constitute a final bar to later seek such review;
3. An administrative fee will be imposed for the request for review by the director; this shall be the same as that imposed for a request for reconsideration of a staff decision;
4. The director shall issue his/her determination in writing within 14 days from the receipt of a request for review.

D. Determinations of the director with respect to the applicability of the impact fees to a given development activity, the availability or value of a credit, or the director's decision concerning the independent fee calculation which is authorized in ECC [3.36.130](#), or the fees imposed by the director pursuant to ECC [3.36.120](#) and ECC [3.36.125](#), or any other determination which the director is authorized to make pursuant to this chapter, can be appealed to the hearing examiner.

E. The decision of the director may be appealed to the hearing examiner as a Type II decision ~~in accordance with Chapter 20.06 ECDC~~. [Ord. 3934 § 1 (Exh. A), 2013].

3.36.080 Establishment of impact fee accounts.

A. Impact fee receipts shall be earmarked specifically and deposited in special interest-bearing accounts.

B. There is hereby established a separate impact fee account for the ~~park impact~~ fees collected pursuant to this chapter, the park impact account. ~~There is also hereby established a separate impact fee account for the street impact fees collected pursuant to this chapter, the street impact account.~~ Funds withdrawn from ~~this~~ ~~these~~ account must be used in accordance with the provisions of ECC [3.36.100](#) and applicable state law. Interest earned on the fees shall be retained in the ~~respective~~ accounts and expended for the purposes for which the impact fees were collected.

C. On an annual basis, the finance director shall provide a report to the council on the impact fee accounts showing the source and amount of all monies collected, earned, or received, and the public improvements that were financed in whole or in part by impact fees.

D. Impact fees shall be expended or encumbered within 10 years of receipt, unless the council identifies in written findings extraordinary and compelling reason or reasons for the city to hold the fees beyond the 10-year period. Under such circumstances, and prior to the expiration of the 10-year period, the council shall establish the period of time within which the impact fees shall be expended or encumbered. [Ord. 3934 § 1 (Exh. A), 2013].

3.36.090 Refunds.

A. If the city fails to expend or encumber the impact fees within 10 years of when the fees were paid or, where extraordinary or compelling reasons exist, such other time

periods as established pursuant to ECC 3.36.080, the current owner of the property on which impact fees have been paid may receive a refund of such fees. 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 notify potential claimants by first class mail that they are eligible for an ~~park~~ impact fee refund. This notification shall be done by first class mail deposited with the United States Postal Service at the last known address of such claimants. A potential claimant must be the owner of the property.

C. Owners seeking a refund of impact fees must submit a written request for a refund of the fees to the director within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later.

D. Any impact fees for which no application for a refund has been made within this one-year period shall be retained by the city and expended on the appropriate public facilities.

E. Refunds of impact fees under this section shall include any interest earned on the impact fees by the city.

F. When the city seeks to terminate any or all components of the impact fee program, all unexpended or unencumbered funds from any terminated component or components, including interest earned, shall be refunded pursuant to this section. 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 at the last known address of the claimants. 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 appropriate public facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

G. The city shall also refund to the current owner of property for which impact fees have been paid, including interest earned on the impact fees, if the development activity for which the impact fees were imposed did not occur; provided, that if the city has expended or encumbered the impact fees in good faith prior to the application for a refund, the director can decline to provide the refund. 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 can petition the director for an offset. The petitioner must provide receipts of impact fees previously paid for a development of the same or substantially similar nature on the same property or some portion thereof. Determinations of the director shall be in writing and shall be subject to the appeals procedures set forth in ECC 3.36.070. [Ord. 3934 § 1 (Exh. A), 2013].

3.36.100 Use of funds.

A. Pursuant to this chapter, impact fees:

1. Shall be used for public improvements that will reasonably benefit new development; and

2. Shall not be imposed to make up for deficiencies in public facilities serving existing developments; and

3. Shall not be used for maintenance or operations.

B. ~~Park-i~~ Impact fees may be spent for public improvements, including, but not limited to, planning, engineering, surveying, land acquisition, right-of-way acquisition, site improvements, necessary off-site improvements, construction, architectural, permitting, financing, and administrative expenses, applicable impact fees or mitigation costs, and any other expenses which can be capitalized.

C. Impact fees may also be used to recoup public improvement costs previously incurred by the city to the extent that new growth and development will be served by the previously constructed improvements or incurred costs.

D. In the event that bonds or similar debt instruments are or have been issued for the advanced provision of public 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 section and are used to serve the new development. [Ord. 3934 § 1 (Exh. A), 2013].

3.36.110 Review.

The fee rates set forth in ECC [3.36.120](#) and [ECC 3.36.125](#) may be reviewed and adjusted by the 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. The fee rates may be adjusted 12 months after the effective date of the ordinance codified in this chapter, or 12 months after the most recent review by the council.

The council may determine the amount of any adjustment up or down and revise the fee rates set forth in ECC [3.36.120](#) and [ECC 3.36.125](#). [Ord. 3934 § 1 (Exh. A), 2013].

3.36.120 Park impact fee rates.

The park impact fee rates in this section are generated from the formula for calculating impact fees set forth in the rate study, which is incorporated herein by reference. Except as otherwise provided for independent fee calculations in ECC [3.36.130](#), exemptions in ECC [3.36.040](#) and credits in ECC [3.36.050](#), all new developments in the city will be charged the park impact fee applicable to the type of development as follows:

A. ~~Effective October 1, 2013, through September 30, 2014:~~

~~1. Single-family house: \$1,367.03 per dwelling unit.~~

~~2. Multifamily residential housing: \$1,170.06 per dwelling unit.~~

~~3. Nonresidential development: \$0.67 per square foot.~~

B. Effective October 1, 2014:

1. Single-family house: \$2,734.05 per dwelling unit.

2. Multifamily residential housing: \$2,340.16 per dwelling unit.

3. Nonresidential development: \$1.34 per square foot. [Ord. 3934 § 1 (Exh. A), 2013].

3.36.125 Street impact fee rates.

The street impact fee rates in this section are generated from the formula for calculating impact fees set forth in the rate study, which is incorporated herein by reference. Except as otherwise provided for independent fee calculations in ECC 3.36.130, exemptions in ECC 3.36.040 and credits in ECC 3.36.050, all new developments in the city will be charged the street impact fee applicable to the type of development as follows:

- A. Light industrial, ITE Land Use Code 110: \$1.50 per square foot.
- B. Manufacturing, ITE Land Use Code 140: \$1.12 per square foot.
- C. Mini-warehouse, ITE Land Use Code 151: \$0.40 per square foot.
- D. Single-family house, ITE Land Use Code 210: \$1,196.33 per dwelling unit.
- E. Apartment, ITE Land Use Code 220: \$776.56 per dwelling unit.
- F. Condominium, ITE Land Use Code 230: \$629.65 per dwelling unit.
- G. Mobile home, ITE Land Use Code 240: \$671.62 per dwelling unit.
- H. Senior housing, ITE Land Use Code 251: \$157.41 per dwelling unit.
- I. Motel, ITE Land Use Code 320: \$629.65 per room.
- J. Marina, ITE Land Use Code 420: \$188.89 per boat berth.
- K. Movie theater, ITE Land Use Code 444: \$2.48 per square foot.
- L. Health/fitness club, ITE Land Use Code 492: \$2.78 per square foot.
- M. High school, ITE Land Use Code 530: \$0.82 per square foot.
- N. Church, ITE Land Use Code 560: \$0.69 per square foot.
- O. Day care center, ITE Land Use Code 565: \$6.57 per square foot.
- P. Nursing home, ITE Land Use Code 620: \$199.39 per bed.
- Q. General office, ITE Land Use Code 710: \$2.07 per square foot.
- R. Medical office, ITE Land Use Code 720: \$3.81 per square foot.
- S. Specialty retail, ITE Land Use Code 814: \$0.93 per square foot.
- T. Shopping center, ITE Land Use Code 820: \$1.34 per square foot.
- U. Supermarket, ITE Land Use Code 850: \$4.80 per square foot.
- V. Convenience market 15-16 hours, ITE Land Use Code 852: \$5.80 per square foot.
- W. Drive-in bank, ITE Land Use Code 912: \$7.00 per square foot.
- X. Restaurant: sit-down, ITE Land Use Code 932: \$4.70 per square foot.
- Y. Fast food no drive-up, ITE Land Use Code 933: \$9.19 per square foot.
- Z. Fast food with drive-up, ITE Land Use Code 934: \$11.23 per square foot.
- AA. Coffee/donut shop, no drive-up, ITE Land Use Code 936: \$5.73 per square foot.
- AB. Coffee/donut shop, drive-up, no indoor seating, ITE Land Use Code 938: \$10.55 per square foot.
- AC. Gas station with convenience, ITE Land Use Code 945: \$3,347.62 per vehicle fueling position.

3.36.130 Independent fee calculations.

A. If in the judgment of the director, none of the fee categories or fee amounts set forth in ECC [3.36.120](#) and/or ECC [3.36.125](#) accurately describe or capture the impacts of a new development on parks and/or streets, the department may ask the applicant to conduct independent fee calculations and the director may impose alternative fees on a specific development based on those calculations. The alternative fees and the calculations shall be set forth in writing and shall be agreed to by the director and the feepayer. The documentation submitted shall show the basis upon which the independent fee calculation was made.

B. Any feepayer submitting an independent fee calculation will be required to pay the city of Edmonds a fee to cover the cost of reviewing the independent fee calculation. The fee required by the city for conducting the review of the independent fee calculation shall be \$200.00 plus the actual cost of outside consultant review if required by the city, unless otherwise established by the director, and shall be paid by the feepayer prior to initiation of review.

C. While there is a presumption that the calculations set forth in the rate study are valid, the director shall consider the documentation submitted by the feepayer, but is not required to accept such documentation or analysis which the director reasonably deems to be inaccurate or not reliable, and may, in the alternative, require the feepayer to submit additional or different documentation for consideration. The director is authorized to adjust the impact fees on a case-by-case basis based on the independent fee calculation, the specific characteristics of the development, and/or principles of fairness. The fees or alternative fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.

D. Determinations made by the director pursuant to this section may be appealed to the office of the hearing examiner as set forth in ECC [3.36.070](#). [Ord. 3934 § 1 (Exh. A), 2013].

3.36.140 Existing authority unimpaired.

Nothing in this chapter shall preclude the city from requiring the feepayer or the proponent of a development activity to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, Chapter [43.21C](#) RCW, based on the environmental documents accompanying the underlying development approval process, and/or Chapter [58.17](#) RCW, governing plats and subdivisions; provided, that the exercise of this authority is consistent with the provisions of Chapters [43.21C](#) and [82.02](#) RCW. [Ord. 3934 § 1 (Exh. A), 2013].

3.36.150 Procedures guide.

The director is authorized to develop a procedures guide to facilitate the city's administration and enforcement of this chapter. The procedures guide shall be consistent with the provisions of this chapter, shall be for the sole convenience of the city, and shall not vest any rights in or for any other person. [Ord. 3934 § 1 (Exh. A), 2013].

3.36.160 Deferral system for single-family residences.

- A. An applicant for a building permit for a single-family detached or attached residence may request a deferral of the full impact fee payment until final inspection. The building official may withhold certification of final inspection, until the impact fees have been paid in full.
- B. The amount of impact fees that may be deferred under this section must be determined by the fees in effect at the time the applicant applies for a deferral.
- C. The term of an impact fee deferral under this section may not exceed eighteen months from the date of building permit issuance.
- D. An applicant seeking a deferral under this section must grant and record a deferred impact fee lien against the property in favor of the city in the amount of the deferred impact fee. The deferred impact fee lien, which must include the legal description, tax account number, and address of the property, must also be:
- (i) In a form approved by the city attorney;
 - (ii) Signed by all owners of the property, as demonstrated by a current title report, with all signatures acknowledged as required for a deed;
 - (iii) Recorded with the Snohomish County auditor's office;
 - (iii) Binding on all successors in title after the recordation; and
 - (iv) Junior and subordinate to one mortgage for the purpose of construction upon the same real property granted by the person who applied for the deferral of impact fees.
- E. If impact fees are not paid in accordance with a deferral authorized by this section, the city may institute foreclosure proceedings in accordance with chapter 61.12 RCW.
- F. In addition to the administrative fee collected pursuant to ECC 3.36.030.B.5, the city shall collect an additional reasonable administrative fee to implement this section from permit applicants who are seeking to delay the payment of impact fees under this section. The amount of the administrative fee shall be established and updated from time to time by resolution of the city council.
- G. The section shall be construed to be consistent with state law and RCW 82.02.050, in particular.

Everett Daily Herald

Affidavit of Publication

State of Washington }

County of Snohomish } ss

Kathleen Landis being first duly sworn, upon oath deposes and says: that he/she is the legal representative of the Everett Daily Herald a daily newspaper. The said newspaper is a legal newspaper by order of the superior court in the county in which it is published and is now and has been for more than six months prior to the date of the first publication of the Notice hereinafter referred to, published in the English language continually as a daily newspaper in Snohomish County, Washington and is and always has been printed in whole or part in the Everett Daily Herald and is of general circulation in said County, and is a legal newspaper, in accordance with the Chapter 99 of the Laws of 1921, as amended by Chapter 213, Laws of 1941, and approved as a legal newspaper by order of the Superior Court of Snohomish County, State of Washington, by order dated June 16, 1941, and that the annexed is a true copy of EDH709864 ORDINANCE NO. 4037 as it was published in the regular and entire issue of said paper and not as a supplement form thereof for a period of 1 issue(s), such publication commencing on 07/10/2016 and ending on 07/10/2016 and that said newspaper was regularly distributed to its subscribers during all of said period.

The amount of the fee for such publication is \$27.52.

Kathleen Landis

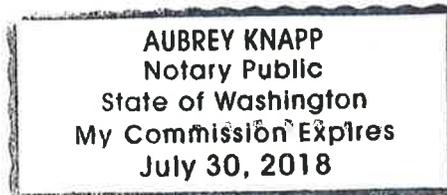
Subscribed and sworn before me on this

11 day of July,
2016.

Aubrey Knapp

Notary Public in and for the State of
Washington.

City of Edmonds - LEGAL ADS | 14101416
LINDA HYND



ORDINANCE SUMMARY
of the City of Edmonds, Washington
On the 5th day of July, 2016, the City Council of the City of Edmonds, passed the following Ordinance, the summary of the content of said ordinance consisting of title is provided as follows:

ORDINANCE NO. 4037

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE CITY'S IMPACT FEE REGULATIONS TO ADD A DEFERRAL SYSTEM FOR IMPACT FEES CHARGED TO SINGLE FAMILY RESIDENTIAL DEVELOPMENT AND CONSOLIDATING THE TWO IMPACT FEE CHAPTERS INTO ONE CHAPTER.
The full text of this Ordinance will be mailed upon request.
DATED this 6th day of July, 2016.

CITY CLERK, SCOTT PASSEY

Published: July 10, 2016.

EDH709864

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