

## CHAPTER 19.53 (NEW) PARKS IMPACT FEES

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### 19.53.010 Authority and Purpose.

- A. **Authority.** The City of Everett's impact fee financing program has been developed pursuant to the city of Everett's policy powers, the Growth Management Act as codified in Chapter 36.70A of the Revised Code of Washington (RCW).
- B. **Purpose.** The purposes of this chapter are:
1. Maintain an impact fee program, consistent with the Comprehensive Plan, for the joint public and private funding of public parks facilities and services necessitated in whole or in part by development within the city;
  2. Charge and collect fees to ensure that development bears its proportionate share of the capital costs of public parks facilities necessitated by development; and
  3. Ensure fair collection and administration of such parks impact fees.

### 19.53.020 Findings.

The City Council finds and determines that growth and development in the city create additional demand and need for public parks facilities in the city, and the City Council finds that growth and development should pay its proportionate share of the costs of the facilities needed to serve the growth and development in the city. Therefore, pursuant to RCW 36.70A and RCW 82.02.050 through 82.02.100, which authorize the city to impose and collect impact fees to fund public facilities that serve growth, the City Council adopts this ordinance to impose parks impact fees for parks services. It is the Council's intent that the provisions of this ordinance be liberally construed in establishing the parks impact fee program.

### 19.53.030 Definitions.

Terms or words not defined herein shall be defined pursuant to RCW 82.02.090 and Everett Municipal Code 19.04 when given their usual and customary meaning. For the purposes of this ordinance, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the following meanings:

1. "**Building permit**" means an official document or certification of the city of Everett issued by the city's building official which authorizes the construction, alteration, enlargement, conversion,

reconstruction, remodeling, rehabilitation, erection, placement, demolition, moving, or repair of a building or structure.

2. "**City**" means the city of Everett, Washington, County of Snohomish.
3. "**Development activity**" means any construction, reconstruction, or expansion of a building, structure, or use, or any changes in use of a building or structure, or any changes in the use of land, requiring development approval.
4. "**Development approval**" means any written authorization from the city, which authorizes the commencement of the "development activity."
5. "**Encumber**" means to reserve, set aside, or earmark the parks impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for the provision of parks services.
6. "**Fee payer**" is a person, corporation, partnership, an incorporated association or governmental agency, municipality, or similar entity commencing a land development activity that requires a building permit and creates a demand for additional parks capital facilities.
7. "**Impact fee**" means the payment of money imposed by the city on development activity pursuant to this ordinance as a condition of granting development approval in order to pay for the parks facilities needed to serve growth and development that is a proportionate share of the cost of parks capital facilities used for facilities that reasonably benefit development. Impact fees do not include reasonable permit fees, application fees, administrative fees for collecting and handling parks impact fees, or the cost of reviewing independent fee calculations.
8. "**Low-income housing**" means housing where monthly costs, including utilities other than telephone, do not exceed 30% of the resident's household monthly income and where household monthly income must be 80% or less of the Snohomish County Median family income adjusted for family size as reported by the U.S. Department of Housing and Urban Development.
9. "**Owner**" means the owner of record of real property, as found in the records of Snohomish County, Washington, 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 property.
10. "**Parks facilities**" means those capital facilities identified as park, recreational, and open space facilities in the City's Parks, Recreation, and Open Space Plan or equivalent parks system plan.
11. "**Proportionate share**" means that portion of the cost for parks facility improvements that are reasonably related to the service demands and needs of development.

#### **19.53.040 Parks Impact Fee Assessment.**

- A. The city shall collect parks impact fees from applicants seeking development approvals from the city for any development activity in the city for which building permits are required, effective January 1, 2022, consistent with the provisions of this ordinance.
- B. Parks impact fees shall be assessed at the time of a complete building permit application that complies with the city's building and development codes. Parks impact fees shall be collected from the fee payer at the time the building permit is issued.
- C. Unless exempt under Everett Municipal Code 19.53.110, the city shall not issue the required building permit unless or until the parks impact fees are paid.

#### **19.53.050 Use of Parks Impact Fees.**

- A. Parks impact fees shall be used for parks facilities that will reasonably benefit new residents, businesses, employees, and customers generated by development, and only for park facilities addressed by the city's adopted Capital Facilities Element of the Comprehensive Plan and any supporting plans adopted by reference therein.

- B. Fees shall not be used to make up deficiencies in city facilities serving an existing development.
- C. Fees shall not be used for maintenance and operations, including personnel.
- D. Parks impact fees shall be used for but not limited to: land acquisition; site improvements; engineering and architectural services; permitting, financing; administrative expenses and applicable mitigation costs; and capital equipment pertaining to parks facilities.
- E. Parks impact fees may also be used to recoup public improvement costs incurred by the city to the extent that new residents, businesses, employees, and customers generated by development will be served by the previously constructed improvement.
- F. In the event bonds or similar debt instruments are or have been issued for parks facility improvements, impact fees may be used to pay the principal on such bonds.

**19.53.060 Parks Impact Fee Formula.**

- A. The impact fee formula is based on the assumptions found in the City of Everett Parks Impact Fees Rate Study, 2021, Exhibit A, attached hereto and by this reference fully incorporated herein.

**TABLE 1. PARKS IMPACT FEE RATE SCHEDULE: RESIDENTIAL & COMMERCIAL**

<b>Land Use Type</b>	<b>Fee</b>
<b>Residential, Levied per Unit</b>	
1 Bedroom and Studio	\$941
2 Bedrooms	\$1,882
3 Bedrooms or More <sup>1</sup>	\$2,823
<b>Commercial, Levied per Square Feet</b>	
Office and Services	\$0.26
Retail	\$0.38
Industrial	\$0.21

- B. Each development shall mitigate its impacts on the city's parks facilities by payment of a fee that is based on the type of land use of the development and proportionate to the cost of the parks facility improvements necessary to serve the needs of growth. For residential development, fee amount is based on number of bedrooms across all residential units within development; for commercial development, fee amount is based on gross square footage of the development as defined in EMC 19.04.040.
- C. Applications for a change of use shall receive credit based on the existing use. This credit is calculated by deducting the fee amount of the existing use from the fee of the proposed use.

**19.53.070 Parks Impact Fee Updates.**

- A. Annual: the park impact fee rate schedule shall be updated annually using the following procedure:
  1. The planning and community development director ("director") shall use the average of the Building Cost Index and Construction Cost Index for Seattle published by the Engineering News Record to calculate annual inflation adjustments in the impact fee rates. The park impact fees shall not be adjusted for inflation should the index remain unchanged or show negative growth.
  2. The indexed impact fee rates shall be effective January 1.
- B. Revised Basis: The park impact fee schedule set forth in 19.53.060 shall be updated and revised no later than [five years after the effective date of this ordinance].

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<sup>1</sup> Instead of capping at 3 bedrooms, residential rates could be structured to add \$941 more per bedroom.

**19.53.080 Individual Project Parks Impact Fee Adjustments.**

- A. The city may adjust a parks impact fee at the time the fee is imposed in order to consider unusual circumstances in specific cases to ensure that impact fees are imposed fairly.
- B. In calculating the fee imposed on a particular development, the city shall permit consideration of studies and data submitted by a developer in order to adjust the amount of the fee. The developer shall submit an independent fee calculation study to the director, who shall review the study to determine that the study:
  - 1. Is based on accepted impact fee assessment practices and methodologies;
  - 2. Uses acceptable data sources and the data used is comparable with the uses and intensities planned for the proposed development activity;
  - 3. Complies with applicable state laws governing impact fees;
  - 4. Is prepared and documented by professionals who are mutually agreeable to the city and the developer and who are qualified in their respective fields; and
  - 5. Shows the basis upon which the independent fee calculation was made.
- C. In reviewing the study, the director may require the developer to submit additional or different documentation. If an acceptable study is presented, the director may adjust the fee for the particular development activity. The director shall consider the documentation submitted by the applicant, but is not required to accept such documentation that the director reasonably deems to be inaccurate or unreliable.
- D. A developer requesting an adjustment or independent fee calculation may pay the impact fees imposed by this ordinance in order to obtain a building permit while the City determines whether to partially reimburse the developer by making an adjustment or by accepting the independent fee calculation or request the deferral process outlined in 19.53.125.

**19.53.090 Credits.**

In computing the fee applicable to a given development, credit shall be given for the fair market value measured at the time of dedication, for any dedication of land for improvements to, or new construction of, any parks facilities that are identified in the Comprehensive Plan Capital Facilities Element and that are required by the city as a condition of approving the development activity.

**19.53.100 Appeals.**

- A. Any fee payer may pay the impact fees imposed by this ordinance under protest in order to obtain a building permit.
- B. Appeals regarding parks impact fees imposed on any development activity may only be submitted by the fee payer of the property where such development activity will occur. No appeal shall be permitted unless and until the impact fee at issue has been paid.
- C. Determinations by the City staff with respect to the applicability of parks impact fees to a given development activity, or the availability of a credit, can be appealed to the City's Hearing Examiner pursuant to this section.
- D. An appeal shall be filed within 10 working days of payment of the impact fees under protest or within 10 working days of the city's issuance of a written determination of a credit or exemption decision by filing with the Hearing Examiner a notice of appeal giving the reasons for the appeal and paying the accompanying appeal fee as set forth in the existing fee schedule for land use decisions.

**19.53.110 Exemptions.**

- A. The parks impact fees are generated from the formula for calculating the fees as set forth in this ordinance. The amount of the impact fees is determined by the information contained in the adopted parks master plan and related documents, as appended to the city's Comprehensive Plan.

All development activity located within the city shall be charged a parks impact fee; provided, that the following exemptions shall apply.

- B. The following shall be exempt from parks impact fees:
1. Replacement of a structure with a new structure having the same use, at the same site, and with the same gross floor area, when such replacement is within 12 months of demolition or destruction of the previous structure.
  2. Alteration, expansion, or remodeling of an existing dwelling or structure where no new units are created and the use is not changed.
  3. Construction of non-habitable accessory residential structures.
  4. Miscellaneous improvements including, but not limited to, fences, walls, swimming pools, and signs that do not create an increase in demand for parks services.
  5. Demolition of or moving an existing structure within the city from one site to another.
  6. Colleges, schools, and government facilities.
  7. Parks impact fees for the construction of low-income housing may be reduced at the discretion of the director when requested by the property owner in writing prior to permit submittal and subject to the following criteria:
    - a. Submittal of a fiscal impact analysis of how a reduction in impact fees for the project would contribute to the creation of low-income housing;
    - b. Low-income housing fee reduction table.

Unit Size	Affordability Target	Fee Reduction
2 or more bedrooms	80%	40%
2 or more bedrooms	60%	60%
Any size	50%	80%
<sup>1</sup> – Units to be sold or rented to a person or household whose monthly housing costs, including utilities other than telephone, do not exceed 30% of the household's monthly income. <sup>2</sup> – Percentage of Snohomish County Median family income adjusted for family size as reported by the U.S. Department of Housing and Urban Development.		

- c. The developer must record a covenant per RCW 82.02.060(4)(c) that prohibits using the property for any purpose other than for low-income housing at the original income limits for a period of at least 50 years. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing and that if the property is converted to a use other than low income housing within 50 years, the property owner must pay the City the applicable impact fees in effect at the time of conversion.
8. Parks impact fees for the construction of early learning facilities may be reduced at the discretion of the director when requested by the property owner in writing prior to permit submittal and subject to the following criteria:
  - a. Submittal of a written request to the director specifying the facility policy for minimum enrolled percent of children and families that qualify for state subsidized child care;
  - b. Early learning facility fee reduction table.

Percent of Children and Families Using the Facility that Qualify for State Subsidized Child Care	Fee Reduction
25%	100%

- c. The developer must record a covenant per RCW 82.02.060(4)(c) that prohibits using the property for any purpose other than for early childhood education and assistance at the original income limits for a period of at least 10 years. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing and that if the property is converted to a use other than low income housing within 10 years, the property owner must pay the City the applicable impact fees in effect at the time of conversion.
  - d. Should the early learning facility fail to achieve the required percentage of children and families qualified for state subsidized child care using the early learning facility at any point during a calendar year, the property owner is responsible for paying 20% of the impact fee that would have been imposed on the development without exemption. Payment must be made within 90 days of city notification to the property owner. Any balance remaining thereafter shall be a lien on the property as described in Everett Municipal Code 19.53.125(F).
  - e. Should the property be converted to a use other than an early learning facility, the property owner is responsible for paying the applicable parks impact fee in effect at the time of the use conversion.
9. Change of use that has less impact than the existing use shall not be assessed a parks impact fee.
10. A fee payer required to pay for system improvements pursuant to RCW 43.21C.060 shall not be required to pay an impact fee for the same improvements under this ordinance.

**19.153.120 Residential Impact Fee Deferral.**

- A. In compliance with the requirements of RCW 82.02.050, the city authorizes an impact fee deferral request process for single-family residential construction. Subject to the limitations imposed in the Everett Municipal Code, the provisions of this chapter shall apply to all building permit applications for single-family detached and single-family attached residential construction. For the purposes of this chapter, an "applicant" includes an entity that controls the named applicant, is controlled by the named applicant, or is under common control with the named applicant.
- B. Applicants for single-family attached or single family detached residential building permits may request to defer payment of required impact fees until the sooner of:
  - 1. final inspection; or
  - 2. the closing of the first sale of the property occurring after the issuance of the applicable building permit.
- C. A request for impact fee deferral shall be declared at the time of preliminary plat application (for platted development) or building permit application (for non-platted development) in writing on a form or forms provided by the city, along with applicable application fees.
- D. The amount of impact fees to be deferred shall be determined by the city as of the date the request for deferral is submitted.
- E. The term of an impact fee deferral granted under this chapter may not exceed 18 months from the date the building permit is issued ("Deferral Term"). If the condition triggering payment of the deferred impact fees does not occur prior to the expiration of the Deferral Term, then full payment of the impact fees shall be due on the last date of the Deferral Term
- F. Deferred Impact Fee Lien.
  - 1. Applicant's Duty to Record Lien. An applicant requesting a deferral under this chapter must grant and record a deferred impact fee lien, in an amount equal to the deferred impact fees, against the property in favor of the City in accordance with the requirements of RCW 82.02.050(3)(c).

2. Satisfaction of Lien. Upon receipt of final payment of all deferred impact fees for the property, the City shall execute a release of deferred impact fee lien for the property. The property owner at the time of the release is responsible, at his or her own expense, for recording the lien release.
- G. The deferral entitlements allowed under this chapter shall be limited to the first 20 single-family residential construction building permits per applicant, as identified by contractor registration number or other unique identification number, per year.

**19.53.130 Refunds.**

- A. If the city fails to expend or encumber the impact fees within 10 years from the date the fees were paid, unless extraordinary, compelling reasons exist for fees to be held longer than 10 years, the current owner of the property on which the impact fees were paid may receive a refund of such fees. Such extraordinary or compelling reasons shall be identified in written findings by the City Council.
- B. The city shall notify potential claimants by first class mail that they are entitled to a refund. 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.
- C. Owners seeking a refund must submit a written request for a refund of the fees to the city within one year of the date the right to claim a refund arises or notice is given, whichever comes later.
- D. Any impact fees for which no application has been made within the one-year period shall be retained by the city and expended on appropriate parks facilities.
- E. Refunds of impact fees shall include any interest earned on the impact fees by the City.

**19.53.140 Authority Unimpaired.**

- A. Nothing in this ordinance shall preclude the city from requiring the fee payer to mitigate adverse environmental effects of a specific development pursuant to the State Environmental Policy Act, Chapters 43.21C RCW and/or Chapter 58.17 RCW, governing plats and subdivisions, provided that the exercise of this authority is consistent with Chapters 43.21C and 82.02 RCW.

**19.53.200 Phase in period.**

- A. Impact fees under this chapter shall be waived for building permits issued before [six months from the effective date of this ordinance].
- B. Impact fees under this chapter shall be reduced by half for building permits issued after [six months from the effective date of this ordinance] but before [one year from the effective date of this ordinance].
- C. The Impact fee shall be implemented consistent with the fees in EMC 19.53.060 beginning [one year from the effective date of this ordinance].