

ORDINANCE NO. 005/2003

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON, ADDING A NEW CHAPTER 20.10 TO THE MONROE MUNICIPAL CODE IN ORDER TO IMPOSE PARK IMPACT FEES. (ZCA200209)

WHEREAS, the City Council of the City of Monroe intends that adequate parks and recreation facilities be provided to serve new growth and development, and

WHEREAS, in order to ensure that new parks and recreation facilities are available when needed, the Council has determined that the cost of the parks and recreation facilities must be shared by the public and the private sectors, and that a proportionate share of the expense of new parks and recreation facilities necessitated by new development should be borne by developers through the City's imposition of park impact fees, and

WHEREAS, such park impact fees are authorized by the Growth Management Act as a tool for cities to use in order to ensure that growth pays for growth, and

WHEREAS, in 2001 the Monroe City Council directed that the park and recreation element of the Monroe Comprehensive Plan be updated to reflect the City's current and projected needs and to provide further documentation of the need for park impact fees, and

WHEREAS, as a result of that update, the Monroe City Council has adopted amendments to the park and recreation element and the capital facilities element of the Monroe Comprehensive Plan, and

WHEREAS, the Monroe Planning Commission held a hearing on the imposition of park impact fees on June 11, 2002 and forwarded a recommendation to the City Council that impact fees be enacted, and

WHEREAS, the City Council has determined to enact park impact fees,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONROE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Park Impact Fees Imposed. A new Chapter 20.10 is hereby added to the Monroe Municipal Code to read as follows:

20.10.010 Findings and Authority. The demand for parks and recreation facilities is proportionate to the size of a user population. The larger a population grows the greater the demand for City parks and recreation facilities. In order to offset the impacts of new residential development on the City's park system, the City has determined to levy park impact fees consistent with City standards as new development occurs. Impact fees are authorized under the State Environmental Policy Act (SEPA) and the Growth Management Act (GMA) to help offset the cost of capital facilities brought about by new growth and development. Impact fees imposed

under this chapter will be used to acquire and/or develop parks, open space and recreation facilities that are consistent with the capital facilities and park and recreation elements of the Monroe Comprehensive Plan.

20.10.020 Purpose.

A. The purpose of this chapter is to implement the capital facilities and park and recreation elements of the Monroe Comprehensive Plan, SEPA and the GMA by

1. Ensuring that adequate park, open space and recreation facilities are available to serve new development;

2. Maintaining the high quality of life in Monroe by ensuring that growth pays for growth and that existing service levels for existing residents and businesses are not adversely impacted by growth and new development activity; and

3. Establishing standards and procedures whereby new development pays its proportionate share of the cost of park, open space and recreation facilities that are reasonably related to the new development, and whereby park, open space and recreation facilities are jointly financed by public and private interests.

B. The provisions of this chapter shall be liberally construed to effectively carry out its purpose in the interest of the public health, safety and welfare.

20.10.030 Definitions. As used in this chapter, the following terms have the meanings set forth below:

A. "Building permit" means a permit issued by the Monroe Building Official and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure. As the term relates to park impact fees, "building permit" includes a permit issued for the siting or location of a mobile home.

B. "Capital facilities" means those park, open space and recreation facilities or improvements addressed in the park and recreation and capital facilities elements of the Monroe Comprehensive Plan, as the same now exists or may be hereafter amended. Capital facilities costs include the cost of park planning, land acquisition, site improvements, buildings, and equipment, but exclude the cost of maintenance and operation.

C. "Capital facilities program (CFP)" means a six-year plan that is approved by the City Council in order to finance the development of capital facilities necessary to support the projected population of Monroe over the six-year period. The City's CFP is found in the capital facilities element of the Monroe Comprehensive Plan, as the same now exists or may be hereafter amended.

D. "City" means the City of Monroe, Washington.

E. "Developer" means an individual, group of individuals, partnership, corporation, association, municipal corporation, state agency, or other person proposing or undertaking development activity within the City.

F. "Development activity" as the term relates to park impact fees, means any construction or expansion of a building, structure, or use, any changes in the use of a building or structure, or any changes in the use of land, that created additional demand and need for public park, open space or recreation facilities.

G. "Development approval" means any written authorization from the City that authorizes commencement of a development activity.

H. "Director" means the Community Development Director of the City of Monroe.

I. "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 park, open space or recreation capital facilities. Impact fees shall be considered encumbered on a first in, first out basis.

J. "Environments and facilities – Regional/Citywide" are those park, recreation, and open space facilities that are described in the park and recreation element of the Monroe Comprehensive Plan and that meet the criteria for designation as regional/citywide facilities set forth in the said Plan.

K. "Environments and facilities – local" are those park, recreation, and open space facilities that are described in the park and recreation element of the Monroe Comprehensive Plan and that meet the criteria for designation as local facilities set forth in the said Plan.

L. "Existing development" means that development which physically exists or for which the Developer holds a valid building permit as of the effective date of the first ordinance establishing this chapter.

M. "Impact fee" means a payment of money imposed upon new growth or development as a condition of development approval in order to pay for park, open space or recreation facilities needed to serve such new growth or development. "Impact fee" does not include any permit or application fee.

N. "Level-of-service – existing /proposed (ELOS/PLOS)" means the ratio of park, recreation, and open space lands and facility units (acres, fields, square feet, etc.) to the number of persons in the City's population (expressed as unit per 1,000 persons).

O. "New development" means any and all development for which a permit is issued after the effective date of the first ordinance establishing this chapter.

P. "Owner" means the owner of record of real property, although when real property is being purchased under a real estate contract, the purchaser shall be considered to be the owner of the real property if the contract is recorded.

Q. "Previously incurred system improvements" means system improvements that were accomplished in order to serve new growth and development.

R. "Prior system improvement deficiencies" means deficiencies in public facilities serving existing development and that do not meet the proposed level of service.

S. "Private recreational facility" means any recreational facility not owned or dedicated to the public or a government agency.

T. "Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project and are not system improvements. No park, open space or recreation improvement or facility included in the capital facilities plan shall be considered a project improvement.

U. "Proportionate share" means that portion of the cost of park, open space and recreation improvements that are reasonably related to the service demands and needs of new development.

V. "Service area" means a geographic area defined by the City or, in the case of facilities providing service to areas outside the City, by interlocal agreement, as being that area in which a defined set of park, open space and recreation facilities provide service to development within the area.

W. "System improvements" means park, open space and recreation facilities that are included in the capital facilities plan and are designed to provide service-to-service areas within the community at large, in contrast to project improvements.

20.10.040 Service Areas. The park service area for the existing and proposed park, open space and recreation facilities of the City of Monroe is hereby defined as that area which is coextensive with the corporate boundaries of the City, as they now exist or as they may be amended through annexation or other means from time to time. Within the citywide park service area, park, recreation, and open space lands, facilities and services will be provided using a two-tiered approach that includes:

A. A regional or citywide system organized and providing service throughout the entire City; and

B. A local system organized and providing service in neighborhood service areas and which may be oriented around neighborhood parks, elementary and middle schools, and similar sites. The City may have multiple local service areas depending on residential neighborhood boundaries and the location of proximate or nearby sites and facilities.

20.10.050 Level of Service. The level of service for each type of park facility for which an impact fee is imposed under the provisions of this chapter is established by the park and recreation element of the Monroe Comprehensive Plan.

20.10.060 Imposition of Park Impact Fees.

A. Any person or entity who, after the effective date of this chapter, seeks to develop land within Monroe by applying for a residential subdivision, a residential planned unit development, a building permit for a residential building, or a permit for residential mobile home installation, is hereby required to pay a park impact fee in the manner and the amount set forth in this chapter.

B. No new residential subdivision, residential planned unit development, residential building permit or permit for residential mobile home installation shall be approved or issued unless and until the park impact fee has been paid as provided in this chapter.

20.10.070 Computation of the Park Impact Fee Amount – Fee Schedule.

A. The regional/citywide and local park impact fee for each development activity on which an impact fee is imposed as provided in this chapter shall be determined as according to the following schedule:

The fee per type of housing shall be determined by the following schedule:

Housing Type	Single Family Detached	Single Family Attached (duplex)	Single Family Attached 3-4 units/structure	Single Family Attached 5+ units/structure	Mobile Home
Calculation of park impact fee/unit					
Value of ELOS parks/person	\$2,450.98	\$2,450.98	\$2,450.98	\$2,450.98	\$2,450.98
Average number persons/type of housing unit*	2.7	2.3	2.3	2.1	2.2
Value of ELOS parks/type of housing unit	\$6,617.65	\$5,637.25	\$5,588.23	\$5,073.53	\$5,490.20
Percent of value to be charged for impact fee	70%	70%	70%	70%	70%
Total impact fee/unit	\$4,632.35	\$3,946.08	\$3,911.76	\$3,551.47	\$3,843.14
Amount of fee allocated to local/citywide facilities					
Percent allocated to local facilities	10%	10%	10%	10%	10%
Local facilities allocation/unit	\$463.24	\$394.61	\$391.18	\$355.15	\$384.31
Percent allocated to citywide facilities	90%	90%	90%	90%	90%
Regional facilities allocation/unit	\$4,169.12	\$3,551.47	\$3,520.59	\$3,196.32	\$3,458.82

* Persons per housing unit based on 1990 census extrapolated to include likely composition of 1996 annexations.

B. If development approval is requested for mixed uses, then the fee shall be determined using the above schedule by apportioning the space committed to uses specified on the schedule.

C. If the type of development activity that is applied for is not specified on the above fee schedule, the Director shall use the fee applicable to the most comparable type of development activity or land use on the above fee schedule. The Director shall be guided in the selection of a comparable type by the Monroe Comprehensive Plan and its Technical Appendices, and by Title 18 of the Monroe Municipal Code. If the Director determines that there is not a comparable development activity or land use on the above fee schedule then the Director shall determine the appropriate fee by considering demographic or other documentation that is available from state, local, and regional authorities.

D. In the case of a change of use, redevelopment, or expansion or modification of an existing use for which a park impact fee is required by this chapter, the impact fee shall be based upon the net positive increase in the impact fee for the new as opposed to the previous use. The Director shall be guided in this determination by the sources and agencies listed above.

20.10.080 Alternative Method of Computation.

A. As an alternative to calculation of the park impact fee according to the schedule set forth in Section 20.10.070, a developer may opt to prepare and submit an independent fee calculation study for the requested development activity to the City Council. Any such study shall be prepared at the developer's sole cost and expense.

B. The independent fee calculation study shall comply with the following standards:

1. The study shall follow accepted impact fee assessment practices and methodologies.

2. The study shall use acceptable data sources and the data shall be comparable with the uses and intensities proposed for the proposed development activity

3. The study shall comply with the applicable state laws governing park impact fees.

4. The study, including any data collection and analysis, shall be prepared and documented by professionals qualified in their respective fields.

5. The study shall show the basis upon which the independent fee calculation was made.

C. The City Council shall consider the independent fee calculation study submitted by the developer but is not required to accept such study if the City Council decides that the study is not accurate or reliable. The City Council may, in the alternative, require the person submitting the study to submit additional or different documentation for consideration. If the City Council decides that outside experts are needed to review the study, the developer shall be responsible for paying the cost of review by outside experts.

D. If an acceptable independent fee calculation study is not presented, the developer shall pay the impact fees based upon the process and schedule set forth in Section 20.10.070. If an acceptable independent fee calculation study is presented, the City Council may adjust the fee to that appropriate to the particular development activity.

20.10.090 Credits.

A. Pursuant to RCW 82.02.060(3), a reasonable credit shall be allowed for the conveyance of land for, improvements to, or new construction of any park system improvements provided by a developer, to park, open space or recreation facilities identified in the capital facilities element of the Comprehensive Plan and that are the subject of impact fees to be paid by the developer under this chapter. Any request for a credit against impact fees shall be made and decided no later than the approval of the permit triggering the imposition of impact fees.

B. All land proposed to be conveyed to the City in exchange for a credit against impact fees shall meet all of the following requirements:

1. The land must be conveyed free and clear of all liens and encumbrances;

2. The land must be readily accessible to the general public;

3. The land must have a site, size, and location consistent with a park system improvement described in the Comprehensive Plan; and

4. The land must be suitable for the proposed park uses and for inclusion in the City's park system, as determined by the Community Development Director.

The City may decide to accept land which does not meet all of these standards in unusual circumstances where the land to be conveyed provides a unique benefit, such as where the land has waterfront access, or provides significant open space or trail corridor.

C. The amount of the credit shall be the value of the land and improvements conveyed to the City, provided, that in no case shall the amount of the credit exceed the amount of the impact fee imposed on the development activity. If the value of the land and improvements exceed the total park impact fees to be paid by the development, no impact fees shall be due. If the value of the land and improvements is less than the impact fees due, the developer will be required to pay the difference.

D. Credits shall not be transferable from one property, project, or development activity to another.

20.10.100 Adjustments. The City Council is authorized to adjust the impact fees to be calculated under this chapter where the developer demonstrates that unusual circumstances make

the standard impact fee applied to such development unfair or unjust. The circumstances that form the basis for the adjustment shall not be circumstances that are generally applicable to similar land uses or to all development activity in the vicinity. Unusual circumstances may include that the development activity will have substantially less impact on the system improvements than other development activities in the same land use category. Any request for an adjustment shall be made no later than the time of the application triggering imposition of impact fees. Adjustments granted under this section shall not be transferable from one property, project or development activity to another.

20.10.110 Payment of Fee.

A. Impact fees shall be imposed upon development activity in the City, based upon the schedule set forth in this ordinance, and shall be collected by the City from any applicant where such development activity requires final plat, PRD approval, issuance of a residential building permit or a mobile home permit and the fee for the lot or unit has not been previously paid.

B. For a plat or PRD applied for on or after the effective date of this ordinance, the impact fees due on the plat or the PRD shall be assessed and collected from the applicant at the time of final approval, using the impact fee schedule in effect when the plat or PRD was approved, provided, that the applicant's may opt to have impact fees allocated to the lots or dwelling units in the project and collected when the building permits are issued. Where the applicant exercises this latter option, the fees to be collected shall be those in effect at the time building permits are issued. Residential development proposed for short plats shall not be governed by this section, but shall be governed by subsection D below.

C. If on the effective date of this chapter, a plat or PRD has already received preliminary approval and is not otherwise exempt from the payment of impact fees under Section 20.10.160, such plat or PRD shall not be required to pay the impact fees at the time of final approval, but the impact fees shall be allocated to the lots or dwelling units and assessed and collected from the lot or unit owner at the time the building permits are issued, using the impact fee schedule then in effect. If on the effective date of this chapter, an applicant has applied for preliminary plat or PRD approval, but has not yet received such approval, the applicant shall follow the procedures set forth in subsection B above.

D. For existing lots or lots not covered by subsection B above, application for single family and multifamily residential building permits, mobile home permits, and site plan approval for mobile home parks proposed, the total amount of the impact fees shall be assessed and collected from the applicant when the building permit is issued, using the impact fee schedules then in effect.

E. Any application for preliminary plat or PRD approval which has been approved subject to conditions requiring the payment of impact fees established pursuant to this ordinance shall be required to pay the fee in accordance with the conditions of approval.

F. Arrangement may be made for later payment of the impact fee with the approval of the City only if the City determines that it will be unable to use or will not need the payment until a later time, provided that sufficient security, as defined by the City, is provided to assure payment. Security shall be made to and held by the City, which will be responsible for tracking and documenting the security interest.

20.10.120 Appeals - Payment Under Protest.

A. Determinations made by the Director pursuant to this chapter may be appealed to the City Council by filing a written appeal as provided in Section 21.60.020 of the Monroe Municipal Code.

B. Impact fees may be paid under protest in order to obtain a permit or other approval of development activity.

20.10.130 Impact Fee Accounts.

A. Park impact fee accounts are hereby established for the purpose of depositing and maintaining the funds received under this chapter and any previously collected park impact fees paid pursuant to SEPA or other authority. Separate park impact fee accounts shall be maintained for park and recreation facilities and for local park and recreation facilities.

B. The City Finance Department shall earmark all funds collected under this chapter and under such previous collections as to the person paying, the date paid, and the development or property for which paid. The account shall be separate from all other accounts of the City and shall be interest-bearing. All interest shall be retained in the account and expended for the purposes for which the impact fee was imposed.

20.10.140 Use of Impact Fees.

A. Impact fees shall be expended solely for regional/citywide and local park, open space and recreation facilities under the jurisdiction of Monroe described in and in conformance with the capital facilities program. Impact fees may be expended for facility planning, land acquisition, site improvements, application fees, necessary off-site improvements, required mitigation, construction, engineering, architectural, permitting, financing, and administrative expenses, relocatable facilities, capital equipment, repayment of system improvement costs previously incurred to the extent that new growth and development will be served by such system improvements, and any other expenses which could be capitalized and which are consistent with the capital facilities program. Impact fees shall not be used for maintenance or operations.

B. In the event that bonds or similar debt instruments are issued for the advanced provision of system improvements for which impact fees may be expended and where consistent with provisions of the bond covenants, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities are consistent with the requirements of this section.

C. Impact fees collected under this chapter shall be expended or encumbered for a permissible use within six years of the date they are received by the City, unless the City Council finds that there exists an extraordinary and compelling reason for the fees to be held longer than six years. Such a finding shall be made in writing.

D. Impact fees collected under the authority of SEPA and the voluntary agreement provisions of RCW 82.02.020 shall be expended or encumbered for a permissible use within five years of the date they are received by the City.

E. Funds may be used to provide refunds as described in Section 20.10.150.

F. Monroe shall be entitled to retain not more than six percent of the funds collected as compensation for the expense of collecting the fee and administering this chapter.

20.10.150 Impact Fee Refunds.

A. If a development approval for which a impact fee has been paid under this chapter expires without commencement of construction, then the developer shall be entitled to a refund, with interest, of the impact fee paid, except that Monroe shall retain a percentage of the fee to offset a portion of the costs of collection and refund

B. The current Owner of property on which impact fees have been paid may receive a refund of such fees, or any portion thereof if the City has failed to expend or encumber the impact fees, or any applicable portion, within the time periods specified in Section 20.10.140.

C. The City shall notify potential claimants for impact fee refunds by first class mail deposited with the United States postal service at the last known address of the said claimants.

D. A request for a refund must be submitted to the City Council in writing within one year of the date that the right to claim the refund arises or the date that the notice is given, whichever is later. Any impact fees that are not expended or encumbered and for which no application for refund has been made within the one-year period shall be retained and expended on the indicated capital facilities. Refunds under this subsection shall include interest earned on the impact fees, provided, that if the City's failure to expend or encumber the fee within the time periods set forth in Section 20.10.140 is due to delay attributable to the developer of the project for which the fee was collected, the refund shall be without interest.

E. If the City should terminate the impact fee requirements of this chapter, all unexpended or unencumbered funds, including interest earned, shall be refunded pursuant to this section. Upon a determination to terminate such impact fee requirements, the City shall publish a notice of such termination and the availability of refunds in the City's official newspaper at least two times and shall notify all potential claimants by first class mail at the last known address of claimants. A request for a refund must be submitted to the City Council in writing within one year of the date that the notice is given. Any impact fees for which no application for refund has been made within the one-year period shall be retained and expended on the indicated capital facilities. No notice shall be required if there are no unexpended or unencumbered balances within the account at the time of termination.

20.10.160 Exemptions. The following development activities shall be exempted from payment of impact fees:

A. Reconstruction, remodeling or construction - of the following facilities, subject to the recording of a covenant or recorded declaration of restrictions precluding use of the property for other than the exempt purpose. Provided, that if the property is used for a nonexempt purpose, then the park impact fees then in effect shall be paid:

1. Shelters or dwelling units for temporary placement which provide housing to persons on a temporary basis for not more than 4 weeks.

2. Construction or remodeling of transitional housing facilities or dwelling units that provide housing to persons on a temporary basis for not more than 24 months, in connection with job training, self-sufficiency training and human services counseling - the purpose of which is to help persons make the transition from homelessness to placement in permanent housing.

B. Rebuilding or replacement of an existing legally established dwelling unit(s) where no additional dwelling unit(s) is created.

C. Alteration or expansion:

1. Of an existing building where no additional residential units are created and where the use is not changed, and/or

2. The construction of accessory buildings or structures.

D. Mobile homes where:

1. The installation of a replacement mobile home on a lot or other such site when a park impact fee for such mobile home site has previously been paid pursuant to this ordinance or where a mobile home legally existed on such site on or prior to the effective date of this ordinance.

2. The construction of any nonresidential building or structure or the installation of a nonresidential mobile home. Any claim or exemption must be made no later than the time of application for a building permit or permit for mobile home installation. Any claim not so made shall be deemed waived.

E. Condominium projects in which existing dwelling units are converted into condominium ownership where no new dwelling units are created.

F. Previous mitigation where:

1. The development activity is exempt from the payment of an impact fee pursuant to RCW 82.02.100, due to mitigation of the same system improvement under the State Environmental Policy Act (SEPA).

2. The development activity's park impacts have been mitigated pursuant to a condition of plat or PRD approval to pay fees, dedicate land or construct or improve park facilities, unless the condition of the plat or PRD approval provides otherwise - provided that the condition of the plat or PRD approval predates the effective date of fee imposition as provided herein.

3. Any development activity for which park impacts have been mitigated pursuant to a voluntary agreement entered into with the City to pay fees, dedicate land or construct or improve park facilities, unless the terms of the voluntary agreement provide otherwise - provided that the agreement predates the effective date of fee imposition as provided herein.

20.10.170 Annual Report. The City Finance Department, in conjunction with the Director, shall prepare an annual report to the City Council showing the source and amount of all monies collected, earned, or received and the park, open space and recreation system improvements that were financed in whole or in part by impact fees imposed under this chapter. The report may be part of an existing annual report or may be a separate report.

20.10.180 Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 2. Effective Date. This ordinance shall be in full force and effect five (5) days from and after its publication, as required by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, Washington, at a regular meeting thereof held this 19th day of February, 2003.

1st Reading: 02/19/03

CITY OF MONROE, WASHINGTON

Published: 02/26/03

Effective: 03/03/03

Donnetta Walser, Mayor

ATTEST:

Betty King, City Clerk

APPROVED AS TO FORM:

Donald Lyderson, City Attorney