

Chapter 17.150**SHORELINE MANAGEMENT
STANDARDS**

Sections:

17.150.010 Shoreline Master Program.

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Development within the shoreline jurisdiction is regulated by the city's Shoreline Master Program. Please refer to that document for regulations. (Ord. 1110 § 3, 2002; Ord. 929 Ch. 10(L), 1995).

Chapter 17.151**IMPACT FEES – PUBLIC FACILITIES**

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17.151.010 Authority and purpose.

The ordinance codified in this chapter is enacted pursuant to this provisions of Chapter 82.02 RCW, and is intended to accomplish the following purposes:

- (1) To ensure that adequate facilities are available to serve new growth and development;
- (2) To promote orderly growth and development by requiring that new development pay a proportionate share of the cost of new facilities need to serve growth; and
- (3) To ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicate fees for the same impact. (Ord. 886 § 1, 1993).

17.151.020 Findings.

The city council finds and declares that:

- (1) New residential and nonresidential development causes increased demands on

public facilities, including streets, roads, parks, open space, recreational facilities, fire facilities and schools;

(2) Projections indicate that new development will continue and that it will place ever-increasing demands on the city to provide necessary public facilities;

(3) To the extent that new development places demands on the public facility infrastructure, those demands should be partially financed by shifting a proportionate share of the cost of such new facilities from the public at large to the developments actually creating the demand; and

(4) The imposition of impact fees upon residential and nonresidential development in order to finance specified public facilities, the demand for which is created by such development, is in the best interest of the general welfare of the city and its residents, is equitable, does not impose an unfair burden on such development by forcing developers and builders to pay more than their fair or proportionate share of the cost and is reasonably necessary to provide the necessary public facility infrastructure to serve new development as planned for in the city Comprehensive Plan and the city capital facilities plan. (Ord. 886 § 2, 1993).

17.151.030 Definitions.

As used in this chapter:

“Building permit” means the permit required for new construction and additions pursuant to SMC Title 14. The term “building permit” as used herein shall not be deemed to include permits required for the remodeling, rehabilitation, or other improvement to an existing structure, or rebuilding a damaged or destroyed structure; provided there is no increase in the applicable unit of measure for nonresidential construction or the number of dwelling units for residential construction.

“Capital facilities plan” means the capital facilities plan element of the Stanwood Comprehensive Plan. Any reference to the capital facilities plan shall include the city of Stanwood six-year street plan adopted by the city council.

“Development activity” means any construction or expansion of a building, structure

or use, any change in the use of a building or structure, or any changes in the use of land, that creates additional demand and need for public facilities, except for the reconstruction or renovation of an existing single-family residential structure on an existing lot.

“Impact fee” means the payment of money imposed upon development as a condition of development approval to pay for public facilities need to serve new growth and development that creates additional demand and need for public facilities, that is a proportionate share of the cost of the public facilities and that is used for facilities that reasonably benefit the new development. “Impact fee” does not include a reasonable permit application or plant investment fee. The impact fee imposed consist of a traffic impact fee component, a park and open space impact fee component, a fire facility impact fee component and a school impact fee component.

“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 the owner of the real property if the contract is recorded.

“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 that are not system improvements. No improvement or facility included in a capital facilities plan approved by the city council shall be considered a project improvement.

“Public facilities” means the following capital facilities owned or operated by governmental entities:

- (1) Public streets, road and appurtenances;
- (2) Publicly owned parks, open space and recreational facilities;
- (3) School facilities; and
- (4) Fire protection facilities of the city.

“Service area” means a geographical area defined by the city in which a defined set of public facilities provides service to development within the area.

“System improvements” means public facilities that are included in the capital facilities

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plan and are designed to provide service to service areas within the community at large, in contrast to project improvements. (Ord. 1007, 1997; Ord. 886 § 3, 1993).

17.151.040 Imposition of impact fees.

There is imposed upon all new development activity within the city an impact fee which shall be calculated by adding the impact fee components as hereinafter provided for that are applicable to each such new development activity. (Ord. 886 § 4, 1993).

17.151.050 Establishment of development service areas.

Service areas, which may vary by type of public facilities, may be established in the capital facilities plan element of the city. Such service areas shall be defined so as to ensure that those developments paying impact fees will be reasonably benefited by the new public facilities. Additional or revised service areas may be designated by the city council by amendment to the capital facilities plan element of the Comprehensive Plan upon consideration of the following factors:

- (1) The Comprehensive Plan;
- (2) Standards for adequate public facilities incorporated in the capital facilities plan;
- (3) Projections for full development as permitted by land use ordinances and timing of development;
- (4) The need for and cost of unprogrammed capital improvements necessary to support projected development;
- (5) Such other factors as the city council may deem relevant. (Ord. 886 § 5, 1993).

17.151.060 Traffic impact fee component formula based on number of trips generated.

Based on schedule for number of trips generated for residential and commercial development.

Full street and frontage improvements including curb, gutter, water, sewer, drainage and other necessary utilities shall generally be required of any development. All such improvements shall be regarded as project improvements unless the improvements are

deemed to be system improvements as defined in SMC 17.151.030. (Ord. 1007, 1997; Ord. 886 § 6, 1993).

17.151.070 Park and open space impact fee component.

The impact fee component for parks and recreational facilities shall be calculated using the following formula:

$$PIF = \frac{C \times S \times U \times A}{P}$$

(1) "PIF" means the park and recreational facility component of the total development impact fee.

(2) "C" means the average cost per acre for land appraisal and acquisition plus an average development cost of \$50,000 per acre. Such cost may be adjusted periodically, but not more often than once every year. Park development costs shall be based on actual, recent comparable construction and shall include associated project improvements such as streets.

(3) "S" means the parks standard in acres per thousand residents for neighborhood parks and community parks established in the city comprehensive park and recreational plan to total 10 acres.

(4) "P" means 1,000 people.

(5) "U" means the average number of occupants per dwelling unit, or 2.4 occupants for a single-family/duplex dwelling unit, 1.7 occupants for any other multifamily dwelling unit.

(6) "A" means an adjustment of rate portion of anticipated tax revenues resulting from a development that is proratable to system improvements contained in the capital plan facilities. The adjustment for park impacts is determined to be 40 percent, so that "A" equals 60 percent. (Ord. 886 § 7, 1993).

17.151.080 Fire facility impact fee component formula.

(1) Applicability. The provisions of this section shall be applicable to all property development within the city. "Property development" shall mean any application for a building permit for commercial or for a single-

family dwelling, mobile home, duplex or multifamily dwelling; and any application for approval of a mobile home park, mobile home subdivision or residential planned unit development; and any application for approval of a short plat or long plat subdivision.

(2) Basis for Mitigation Assessment. All mitigation assessments shall be made on a per unit basis or square foot basis. "Unit" shall mean for residential development each dwelling unit, mobile home or lot as applicable and as defined in this title. Where the number of dwelling units or mobile homes is not precisely known at the time of the development, "unit" shall mean at least one dwelling unit or mobile home for each lot, to be increased when the number of dwelling units or mobile homes becomes known or fixed through application for a building permit or other applicable permit. Impact fee assessment shall not be imposed so as to have the effect of imposing more than the cost of one unit for any dwelling unit or mobile home. These requirements are not intended to have the effect of requiring new fire service facility assessments for units which have previously been subject to dedication or assessment individually or as part of a large project. "Unit" for nonresidential development shall mean each additional square foot added to an existing structure or each square foot of building in a new structure, such as commercial or industrial buildings.

(3) Impact Fee Assessment Formulas. The formulas used to calculate impact fee assessments for fire facilities are as found in "Exhibit A Section 4 – Impact Fees," attached to the ordinance codified in this section. These formulas shall be reviewed and revised as determined by the city council to reflect changes in development and acquisition baseline costs.

Impact fee assessments under this section shall be due and payable for subdivisions and short plats at final approval. All other additions, buildings and structures shall be due and payable at time of building permit.

(4) Administration of Cash Payments to City. There is hereby created and established a special purpose nonoperating fire facilities impact fee, to which all impact fee assessments

are paid. Fund administration shall be as follows:

(a) Separate Account. Any cash made shall be deposited in the fund and administered as a separate account for fire capital expenditures and the account balance shall be applied only to completion of improvements or acquisition projects specified in the fire facilities capital improvement plan as approved or amended by the city council.

(b) Interest Earned. Interest and investment income earned by the fund shall be redeposited in the fund and allocated proportionally to each subaccount.

(c) Time Limit for Expenditures. Any funds remaining for a development shall be refunded with interest to the property owner of record when the time periods for expenditure of those funds have passed, as provided in applicable state laws.

(5) Appeals and Adjustments. Any person desiring to appeal from a decision made in the enforcement of the provisions of this section or any person seeking an adjustment to the dedication for impact fee assessments required by this section due to unusual circumstances in specific cases shall submit, in writing, a request for a hearing before the city council and determination of the matter appealed within 10 days after receiving written notice of the specific dedication or impact fee assessments required by this section. The city council shall consider such item at its next available meeting and shall issue such determination as it deems fair and equitable.

(6) Violation of this section is a gross misdemeanor punishable by a fine of not more than \$1,000 and a jail term of not more than one year. Each day that such violation is allowed to continue shall be considered a separate and additional violation of this section. (Ord. 913 §§ 1 – 5, 7, 1994).

17.151.090 Calculation of impact fee.

(1) The impact fee for nonresidential development shall be computed by applying the traffic impact fee component formula and the fire facility impact fee component formula and then totaling the results. The impact fee for each residential dwelling unit shall be com-

mutated by applying the traffic impact fee component formula, the park and open space impact fee component formula, the fire facility impact fee component formula and the school impact fee component formula, contained in Chapter 17.153 SMC, and then totaling the results.

(2) If the development for which approval is sought contains a mix of residential and non-

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residential uses, then the impact fee must be separately calculated for each type of use.

(3) The city council shall have the authority to adjust the standard impact fee at the time the fee is imposed to consider unusual circumstances peculiar to specific development activity to ensure that impact fees are imposed fairly.

(4) Upon application by the developer of any particular development activity, the city council may consider studies and data submitted by the developer and if warranted, may adjust the amount of the impact fee. Such adjustment shall be deemed warranted if:

(a) The public facility improvements would not reasonably benefit the proposed development;

(b) The public facility improvements identified are not reasonably related to the proposed development;

(c) The formula set forth for calculating the impact fee components do not accurately reflect traffic, park and open space, fire facility or school impacts. (Ord. 886 § 9, 1993).

17.151.100 Collection of impact fee.

The impact fee imposed under this chapter shall be due and payable at the time of final approval for subdivisions of five units or more. Others (one to four units) shall be payable prior to approval or issuance of building permit or site approval. (Ord. 886 § 10, 1993; Ord. 899 § 2, 1994).

17.151.110 Impact fee credits.

The owner shall be entitled to a credit against the applicable impact fee component for the value of any dedication of land for, improvements to, or new construction of any system improvements to facilities that are identified in the capital facilities plan and that are required by the city as conditions of approval for the development. That portion of the open space network and related improvements used as a credit for required open space for a project is not eligible for this credit. The amount of the credit shall be determined upon recording of a final plat for a subdivision, recording of a short plat, issuance of a building permit, or upon site plan approval, whichever

shall first occur. The amount of the credit shall be indicated on any final plat recorded for a subdivision and on any recorded short plat. In the event the amount of any credit exceeds the amount of the impact fee due, the city shall not be required to reimburse the difference to the developer. (Ord. 886 § 11, 1993).

17.151.120 Appeals.

Any person aggrieved by the amount of the impact fee calculated and imposed upon a particular development activity may appeal such determination to the city council by filing written notice of appeal with the planning director within 20 days of the issuance of the determination of the impact fee. The planning director shall cause a notice of the time and place of hearing to be mailed to the developer. At such hearing, the developer shall be entitled to be heard and to introduce evidence on his own behalf. The planning director shall thereupon ascertain the amount of the impact fee and the planning director shall immediately notify the developer thereof by mail. (Ord. 886 § 12, 1993).

17.151.130 Accounting.

All impact fees collected shall be deposited in the Growth Management Act capital projects fund. The clerk-treasurer shall establish separate designated reserve accounts for public roads and streets, for fire facilities, for school facilities and for public park, open space and recreational facilities, and shall maintain records for each such account. All interest earned by the fund shall be allocated to the separate designated reserve accounts in the same proportion that the balance of each reserve account bears to the total fund balance. All interest shall be retained in the account and expended for the purposes for which the impact fees were imposed. The clerk-treasurer shall provide an annual report on or before April 1st of each year for the previous calendar year on each impact fee account showing the source and amount of the moneys collected, earned or received and system improvements that were financed in whole or in part by impact fees. (Ord. 886 § 13, 1993).

17.151.140 Expenditure.

Impact fees for system developments shall be expended only in conformance with the capital facilities plan. Impact fees shall be expended or encumbered for a permissible use within six years of collection, unless there exists an extraordinary and compelling reason for fees to be held longer than six years. Such extraordinary or compelling reasons shall be identified in written findings by the city council. (Ord. 886 § 14, 1993).

17.151.150 Refunds.

(A) The current owner of property on which an impact fee has been paid may receive a refund of such fee if the city fails to expend or encumber the impact fees within six years of collection or such greater time as may be established in written findings by the city council documenting extraordinary or compelling reasons for extension beyond six years. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first-in, first-out basis. The current owner likewise may receive a proportionate refund when the public funding of applicable service area projects by the end of such six-year period has been insufficient to satisfy the ratio of public to private funding for such service area as established in the capital facilities plan. The city shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of each claimant.

(B) The request for a refund must be submitted to the city council in writing within one year of the date the right to claim a refund arises or within one year of the date notice is given, whichever is later. Any impact fees that are not expended within these time limitations and for which no application for refund has been made as herein provided shall be retained and expended on the indicated capital facilities. Refunds of impact fees under this subsection shall include any interest earned on the impact fees.

(C) A developer may request and shall receive a refund, including any interest earned on the impact fees, when the developer does

not proceed with the development activity and no impact has resulted. (Ord. 886 § 15, 1993).

17.151.160 Impact fee as additional and supplemental requirement.

The impact fee is additional and supplemental to, and not in substitution of, any other requirements imposed by the city on the development of land or the issuance of building permits; provided, that any other such city development regulation which would require the developer to undertake dedication or construction of a facility contained within the city capital facilities plan shall be imposed only if the developer is given a credit against impact fees as provided for in this chapter. (Ord. 886 § 16, 1993).