

ORDINANCE 2011-19

AN ORDINANCE OF THE EATONVILLE TOWN COUNCIL CONCERNING IMPACT FEES, REPEALING EMC 17.60.010, 17.60.020, 17.60.030, 17.60.040, 17.60.050, 17.60.060, 17.60.080, 17.60.090, 17.60.100, 17.60.110, 17.60.120, 17.60.130, 17.60.140, 17.60.150, 17.60.160, 17.60.170, 17.60.180, and 17.60.190, AND SETTING AN EFFECTIVE DATE.

Whereas, the Town presently administers impact fees under chapter 17.60 of the Eatonville Municipal Code (EMC); and

Whereas, the Town's school impact fee is supported by a recent rate study but the methods for collecting the fees and defending challenges to the rate study are not currently outlined in an interlocal agreement; and

Whereas, the Town has notified the school district of its intention to repeal ordinance 96-02 and has suggested that the school district prepare an interlocal agreement to accompany a replacement ordinance and the most recent school impact fee rate study; and

Whereas, the Town Council has set an effective date for the repeal of the school impact fee for December 31st, 2011 to allow the district time to prepare an agreement and to provide the district with time to prevent any interruptions to school impact fee revenues; and

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF EATONVILLE AS FOLLOWS:

Section 1: Sections 1-6, and Sections 8-19 of Ordinance 96-02, codified as EMC 17.60.010, 17.60.020, 17.60.030, 17.60.040, 17.60.050, 17.60.060, 17.60.080, 17.60.090, 17.60.100, 17.60.110, 17.60.120, 17.60.130, 17.60.140, 17.60.150, 17.60.160, 17.60.170, 17.60.180, and 17.60.190, respectively are hereby repealed.

Section 2. Effective Date. This ordinance shall take effect on December 31, 2011.

PASSED by the Town Council and approved by the Mayor of the Town of Eatonville, Washington, at a regular meeting thereof this ___ day of _____, 2011.

TOWN OF EATONVILLE

RAYMOND HARPER, MAYOR

ATTEST:

By: _____
Chrystal McGlone, Town Clerk

APPROVED AS TO FORM:

By: _____

Patterson Buchanan Fobes Leitch & Kalzer, Inc., P.S., Town Attorneys

ORDINANCE 96-02

AN ORDINANCE OF THE EATONVILLE TOWN COUNCIL ADOPTING FEES FOR PUBLIC STREETS AND ROADS, FOR PUBLIC PARKS AND RECREATIONAL FACILITIES, AND FOR FIRE PROTECTION FACILITIES, AND IMPOSING SUCH IMPACT FEES ON NEW DEVELOPMENT ACTIVITY WITHIN THE TOWN OF EATONVILLE FOR THE PURPOSE OF FINANCING NEW PUBLIC FACILITIES NECESSITATED BY SUCH DEVELOPMENT

BE IT ORDAINED by the Town Council of the Town of Eatonville, Washington, as follows:

Section 1. AUTHORITY AND PURPOSE This ordinance is enacted pursuant to the provisions of Chapter 82.02, Revised Code of Washington, and is intended to accomplish the following purposes:

1. To insure 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 needed to serve growth; and
3. To insure 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.

Section 2. The Town Council finds and declares that:

1. New residential and non-residential development causes increased demands on public facilities, including streets, roads, parks and recreational facilities, fire facilities, and schools;
2. Projections indicate that new development will continue, and that it will place ever increasing demands on the Town 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;
4. The imposition of impact fees upon residential and non-residential 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 Town 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 Town of Eatonville Comprehensive Plan and the Town of Eatonville's Capital Facilities Plan.

Section 3. DEFINITIONS

1. "Building Permit" means the permit required for new construction and additions pursuant to Chapter 16 of the Eatonville Municipal Code. 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 non-residential construction or the number of dwelling units for residential construction.

2. "Capital facilities plan" means the capital facilities plan element of the Town of Eatonville Comprehensive Plan, as now in existence or as hereafter amended.

3. "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.

4. "Impact fee" means the payment of money imposed upon development as a condition of development approval to pay for public facilities needed to serve new growth and development, and that is reasonably related to the new 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 fees do not include a reasonable permit or application fee. The impact fee hereby imposed consists of a traffic impact fee component, a park impact fee component, a fire facility impact fee component, and a school impact fee component.

5. "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.

6. "Project improvements" mean 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 improvement. No improvement or facility included in a capital facilities plan approved by the Town Council shall be considered a project improvement.

7. "Public facilities" mean the following capital facilities owned or operated by governmental entities;

- a. public streets and roads;
- b. Publicly owned parks and recreational facilities;
- c. school facilities; and
- d. fire protection facilities of the Town of Eatonville, and
- e. power, water and sewer utilities of the Town.

8. "Service area" means a geographical area defined by the Town of Eatonville in which a defined set of public facilities provide service to development within the area.

9. "System improvements" means public 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.

10. "Temporary dwelling unit" means a development that provides temporary housing for individual persons for one or more days.

11. "Board of Adjustment" shall mean the Town of Eatonville Planning Commission, until such time as a Board of Adjustment is established by the Council.

Section 4. IMPOSITION OF IMPACT FEE There is hereby imposed upon all new development activity within the Town, except those developments exempted under Section 5 of Ordinance 96-04, 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.

Section 5. 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 Town of Eatonville Comprehensive Plan. Such service areas shall be defined so as to insure 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 Town Council by amendment of 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 Town Council may deem relevant.

Section 6. TRAFFIC IMPACT FEE COMPONENT FORMULA BASED ON NUMBER OF TRIPS GENERATED Based on schedule for number of trips generated by residential and commercial development, to be determined. (Reserved)

Section 7. PARK 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, acquisition and development cost of \$50,000.00 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 and utilities.

3. "S" means the parks standard in acres per thousand residents for neighborhood parks and community parks established in the Town of Eatonville Comprehensive Park and Recreational Plan to total 10.0 acres. (Neighborhood Parks - 2.0 acres; Community Parks - 8.0 Acres).

4. "P" means 1,000 people.

5. "U" means the average number of occupants per dwelling unit, or 2.51 occupants for a single family/duplex dwelling unit, 1.9 occupants for any other multi-family dwelling unit, and 1.0 occupants for a temporary dwelling unit.

6. "A" means an adjustment for the portion of anticipated additional tax revenues resulting from a development, and for the level of local participation from existing residences; that is proratable to system improvements contained in the capital facilities plan. The adjustment for park impacts is determined to be 31.9%, so that "A" equals 31.9%.

Section 8. LIGHT, WATER, SEWER IMPACT FEE COMPONENT The impact fee component for the utilities shall be calculated on a case by case basis, to be determined by the Public Works Director, based on the comprehensive plan, which defines when and where development can and should be accommodated.

Section 9. FIRE FACILITY IMPACT FEE COMPONENT FORMULA
(Reserved)

Section 10. SCHOOL IMPACT FEE COMPONENT FORMULA
(Reserved)

Section 11. CALCULATION OF IMPACT FEE

1. The impact fee for non-residential 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 computed by applying the traffic impact fee component formula, the park impact fee component formula, the fire facility impact fee component formula, and the school impact fee component formula, and then totaling the results.

2. If the development for which approval is sought contains a mix of residential and non-residential uses, then the impact fee must be separately calculated for each type of use.

3. The Town 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 insure that impact fees are imposed fairly.

4. Upon application by the developer of any particular development activity, the Town 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 formulae set forth for calculating the impact fee components do not accurately reflect traffic, park and open space, fire facility, or school impacts.

Section 12. COLLECTION OF IMPACT FEE The impact fee imposed under this ordinance shall be due and payable at the time of issuance of a building permit.

Section 13. IMPACT FEE EXEMPTIONS (Reserved)

Section 14. 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 Town as a condition 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 Town shall not be required to reimburse the difference to the developer.

Section 15. 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 Board of Adjustment by filing written notice of appeal with the Town Clerk within twenty (20) days of the issuance of the determination of the impact fee. The appeal must be accompanied by a filing fee of \$350 to validate the appeal. The Chairman of the Board of Adjustment 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 Board of Adjustment shall thereupon ascertain the amount of the impact fee, and the Town Clerk shall immediately notify the developer thereof, by mail.

Section 16. ACCOUNTING All impact fees shall be deposited in the Growth Management Act Capital Projects Fund. The Town Treasurer shall maintain accounting records to distinguish the type of impact fee collected (public roads and streets, for fire facilities, for public park and recreational facilities) and deposited in the GMA Capital Projects Fund. All interest earned by the fund shall be allocated to the separate designated impact fee reserves 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. Town Treasurer shall provide an annual report on or before October 1 of each year for the previous calendar year on each impact fee account showing the source and amount of the monies collected, earned, or received, and system improvements that were financed in whole or in part by impact fees. This report shall be used in budget preparations for the ensuing budget year.

Section 17. EXPENDITURE Impact fees for system developments shall be expended only in conformance with the capital facilities plans. Impact Fees shall be expended or encumbered for a permissible use within six (6) years of collection, unless there exists an extraordinary and compelling reason for fees to be held longer than six (6) years. Such extraordinary or compelling reasons shall be identified in written findings by the Town Council.

Section 18. REFUNDS

1. The current owner of property on which an impact fee has been paid may receive a refund of such fee if the Town 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 Town Council documenting extraordinary or compelling reasons for extension beyond six (6) 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 proportionate refund when the public funding of applicable service area projects by the end of such six (6) 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 Town shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of each claimant.

2. The request for a refund must be submitted to the Town Council in writing within one (1) year of the date the right to claim a refund arises or within one (1) 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.

3. 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.

Section 19. IMPACT FEE AS ADDITIONAL AND SUPPLEMENTAL REQUIREMENT Impact fee is additional and supplemental to, and not in substitution of, any other requirements imposed by the Town on the development of land or the issuance of building permits, such as SEPA or other related impacts or mitigation; provided, that any other such Town development regulation which would require the developer to undertake dedication or construction of a facility contained within the Town capital facility plan shall be imposed only if the developer is given a credit against impact fees as provided for herein.

Section 20. SEVERABILITY Should any section, clause, part or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.

Section 21. CODIFICATION Sections 1 through 21 shall be codified as a Chapter 17.60, titled "Impact Fees"; of the Eatonville Municipal Code.

Section 22. EFFECTIVE DATE This ordinance shall take force and be in effect five (5) days from and after its publication according to law.

PASSED by the Council of the Town of Eatonville at a regular meeting held this 22 day of April, 1996.

Richard Hey
Mayor

ATTEST: Shirley A. Rowntree
Town Clerk

APPROVED AS TO FORM:

Hollis H. Barnett
Hollis H. Barnett, Town Attorney