



In order to adequately review development proposals, city staff requests that developers provide a traffic analysis to allow the staff to determine the need for street, highway, non-motorized and transit improvements to serve the proposed use and address the traffic impacts on the public transportation system. The following guidelines have been established to assist a professional engineer in providing the information needed for the staff to adequately analyze the development proposal.

**The written report should address the following areas utilizing appropriate charts and graphics:**

A description and location of the development site, proposed land uses and intensities, and the area of influence of site traffic. An access plan for the development, including the proposed internal circulation and available sight distances at major entry points. Include both a vicinity map and site plan.

**Existing conditions and analysis:**

Description of the existing conditions of streets, intersections, non-motorized facilities and transit improvements in the area that will potentially be impacted. Information on existing street widths, number of lanes, intersection geometrics, locations of traffic signals and other types of traffic control, parking restrictions, sidewalks, bicycle paths, transit stops, transit amenities (e.g., shelters) and transit routes should also be included.

24-hour traffic counts on the affected streets and turning movement counts, during morning and evening peak periods at the impacted intersections.

Capacity and level of service analysis for the existing conditions of the affected streets and impacted intersections. Refer to KMC 12.80.030 for the City's level of service standards.

Traffic accident data for the influence area both for mid-block locations and intersections for the last three years.

**Calculation, analysis, and representation of the following future conditions:**

Trip generation during the 24-hour and morning and evening peak periods, and peak hour of the generator for each land use category in the project should be calculated and shown. A trip table includes type of land use intensity, trip generation rates and trips generated should be prepared.

The distribution of generated traffic and assignment of that traffic to the street system during morning and evening peak periods and peak hour of the generator along with reasons for the assumed distribution.

Future 24-hour and peak period traffic volumes and assignments upon completion of the development (by phases if applicable).

Capacity analysis and levels of service for morning and evening peak periods and for the peak periods of the generator, if necessary. Refer to KMC 12.80.030 for the City's level of service standards.

Street access and transit improvement plan with recommendations by development phases identifying all needed improvements and the improvements that are the responsibility of the developer. These recommendations should be based on both the morning and evening peak hour projected volumes with an emphasis on the safety aspects of the design.

Proposed driveway locations, geometrics, sight distances and turn restrictions taking into consideration the proximity of nearby intersections and anticipated queues based on arrival rates, should be shown. Sight

distance data at driveways using city standards (refer to 2016 King County Road Standards for sight distance guidelines) where horizontal and vertical alignments are critical should be included.

Impact of the development on the street network, signal warrants, and mitigation techniques should be included wherever appropriate.

Concise summary of findings and recommendations for the approval of the City Staff before the development plan is presented to the City's Hearings Examiner for approval.

**Additional information that may be requested:**

Estimates of the cost of the recommended improvements and/or information on proposed street improvements in the area by the City, County or WSDOT.

A more intense analysis using network operational and simulation software for special projects.

**LEVELS OF ANALYSIS**

The following guidelines are provided to assist developers and their consultants determine the size of the area to study for a traffic impact analysis and the detail of the analysis that the City Staff will require. There are three levels of analysis. Each one has a different emphasis on the level of detail. Each development may have different or unique traffic issues and concerns that may require further study. City staff may require a higher level of analysis or the submittal of additional information due to specific project location.

***Level One on Site Analysis:***

**Description:** Placement and design of internal (on site) features such as parking layout, access to public streets, site circulation, intersection sight distance, pedestrian circulation, delivery and loading areas and internal public street layout.

**Threshold:** Small commercial or residential development, or an addition to an existing development creating less than 10 peak hour trips.

***Level Two Project Area Analysis:***

**Description:** On site analysis (Level One) plus the impact of the development and its traffic on adjacent and affected area streets, impacted intersections, adjoining developments, pedestrians and public transit facilities. The project analysis will include those facilities as designated by City Staff.

**Threshold:** Small to medium sized residential and commercial developments creating between 10 and 75 more peak hour trips.

***Level Three Corridor Analysis:***

**Description:** On site analysis (Level One) plus project area analysis (Level Two) plus the impact of the proposed development on a larger study area and the street and highway system that is being impacted by the addition or improvement of arterial streets and by other large developments in the study area.

**Threshold:** Large commercial and residential developments creating 75 or more peak hour trips creating 75 or more peak hour trips.

**Pipeline Projections:** Prior to beginning the traffic analysis the developer's consultant shall meet with city staff to determine which "pipeline" projects must be included in the analysis. Pipeline projects are defined as projects that have received some level of approval but full development has not been completed. **All traffic analysis shall include the effect of those pipeline projects designated by City Staff.**

## Kenmore Municipal Code - Attachments

### Chapter 12.80

#### INTEGRATED TRANSPORTATION PROGRAM

##### Sections:

- 12.80.010 Definitions.
- 12.80.020 Components of the integrated transportation program.
- 12.80.030 Level of service standards.
- 12.80.040 Concurrency requirements.
- 12.80.050 Transportation impact fees.
- 12.80.060 Safe site access.
- 12.80.070 Procedures for development review.
- 12.80.080 Administrative rules.
- 12.80.090 Appeals.
- 12.80.100 Relation to other permit authority.
- 12.80.110 Exceptions.

##### **12.80.010 Definitions.**

A. “Concurrency” means transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development, so that the level of service on a city transportation facility does not decline below the levels of service adopted in this chapter. “Concurrent with development” means that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

B. “Mobility unit” means one PM peak hour person trip end. Each person trip has two trip ends, one each at the origin and destination.

C. “Transportation improvement program” means the annual program of capital transportation projects programmed by the City to be implemented during a six-year period.

D. “City manager” means the City of Kenmore city manager or his or her designee(s). [Ord. 16-0420 § 2 (Exh. 1).]

##### **12.80.020 Components of the integrated transportation program.**

There are four components of the City’s integrated transportation program, the goal of which is to operate the program safely and efficiently for all modes of travel. These components are as follows:

A. Level of service (LOS) standards to evaluate the performance of the city’s multimodal transportation system and to ensure that the system is built over time to maintain LOS standards (KMC 12.80.030).

B. Concurrency requirements defining an adequate transportation system (KMC 12.80.040).

C. Transportation impact fees to require new growth and development to pay a proportionate share of the cost of new multimodal transportation improvements to serve the new growth and costs (Chapter 20.47 KMC).

D. Safe site access to facilitate safe and efficient operation of the transportation system through site-access improvements (KMC 12.80.060). [Ord. 16-0420 § 2 (Exh. 1).]

##### **12.80.030 Level of service standards.**

Level of service standards are established for different modes of travel within the City:

##### A. Roadway Level of Service Standards.

1. The level of service for roadways shall be as described in the most recent Transportation Research Board *Highway Capacity Manual*. The LOS shall be amended on a date selected by the city manager whenever the LOS in the *Highway Capacity Manual* is amended by the Transportation Research Board. The city manager may select and apply alternative LOSs, to be effective on a date selected by the city manager.

2. Roadway LOS shall be by functional classification of roadway:

- a. Boulevards (primary arterials) – LOS “E” or better;

b. Urban avenues and neighborhood connections (minor arterials) – LOS “D” or better; and

c. Local streets (collectors) – LOS “C” or better (see transportation element of the comprehensive plan).

3. Roadway LOS shall be measured at intersections of classified roadways, except as provided in subsection (A)(4) of this section.

4. Roadway LOS shall be measured at the corridor level on SR 522 and 68th Avenue/Juanita Drive/Simonds Road.

5. When a lower classification of roadway intersects with a higher classification of roadway (for example, when a local street connects with an urban avenue), the LOS for the higher classification shall apply.

#### B. Pedestrian Level of Service Standards.

1. The City has designated a yellow LOS for pedestrian facilities where indicated in the pedestrian priority network (all as defined in the transportation element of the comprehensive plan) as the minimum standard to achieve.

2. Outside of the pedestrian priority network, the City has not established an LOS for pedestrian facilities.

#### C. Bicycle Level of Service Standards.

1. The City has designated a yellow LOS for bicycle facilities where indicated in the bicycle priority network (all as defined in the transportation element of the comprehensive plan) as the minimum standard to achieve.

2. Outside of the bicycle priority network, the City has not established an LOS for bicycle facilities.

#### D. Transit Level of Service Standards.

1. The transportation element of the comprehensive plan contains guidance for providing quality transit service, amenities, and access to an identified transit priority network. While the City does not control transit service, it has established the following level of service standards for transit stop amenities and pedestrian access to transit:

a. The City has designated a yellow LOS for transit stop amenities and pedestrian access to transit (as defined in the transportation element of the comprehensive plan) as the minimum standard to achieve.

b. Outside of the transportation priority network, the City has not established an LOS for transit stop facilities. [Ord. 16-0420 § 2 (Exh. 1).]

#### **12.80.040 Concurrency requirements.**

A. Transportation *concurrency* shall be determined using the City owned and maintained *mobility unit* spreadsheet. This spreadsheet compares the amount of transportation capital facilities constructed or programmed in the next six years (*mobility unit* capacity) to the amount of *mobility units* that would be generated by new development (*mobility unit* demand). If the City’s *mobility unit* capacity is larger than the *mobility units* that would be generated by new development, then the transportation system will be deemed to be concurrent.

1. *Mobility unit* capacity shall be determined annually in coordination with the City’s *transportation improvement program*.

B. The *city manager* may approve a reduction in estimated *mobility units* based on the types of land uses that are to be developed or expected travel characteristics of the development.

1. The calculation of *mobility unit* reductions as described in this section shall be based upon sound and recognized technical information and analytical processes that represent current engineering practice. In all cases, the *city manager* shall have final approval of all such data, information and technical procedures used to calculate *mobility unit* reductions. [Ord. 16-0420 § 2 (Exh. 1).]

#### **12.80.050 Transportation impact fees.**

A. Transportation impact fees shall be assessed and collected as described in Chapter 20.47 KMC.

B. *Mobility units* calculated for *concurrency* requirements (KMC 12.80.040) shall also be used to calculate transportation impact fees. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.060 Safe site access.**

A. Developments shall provide for safe site access to facilitate safe and efficient operation of the multimodal transportation system, in accordance with the City road standards adopted in Chapter 12.50 KMC.

B. For the purposes of this chapter, the developer shall achieve “safe site access” by mitigating either or both of the following when the development is complete and able to generate traffic:

1. A roadway intersection that provides access to a proposed development and that will function at a level of service worse than specified in KMC 12.80.030; or
2. A roadway intersection or approach lane where the *city manager* determines that a hazard to safety could reasonably result.

C. The developer shall provide improvements which bring the site access into compliance with the level of service and within a time schedule as may be required by the city manager. Approval to construct the development shall not be granted until the developer has satisfied the concurrency definition and its elements, as set forth in KMC 12.80.010(A). [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.070 Procedures for development review.**

Following the submission of a development application, the *city manager* shall calculate the transportation impact fee to be paid under Chapter 20.47 KMC, and shall determine whether necessary transportation improvements are provided for as set forth in KMC 12.80.010(A) and that any required site access improvements are provided. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.080 Administrative rules.**

For transportation impact fees, transportation *concurrency*, and safe site access, the *city manager* may adopt such administrative rules and procedures as are necessary to implement this chapter. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.090 Appeals.**

A. The city manager’s final decision on impact fees and/or transportation *concurrency* may be appealed to the hearing examiner using the procedures set forth in Chapter 19.30 KMC. The appeal shall be submitted within 21 calendar days of the date of issuance of the City’s written decision.

B. Along with the information required by KMC 19.30.080(B), the applicant must show that either:

1. The City committed a technical error; or
2. Alternative data or a mitigation plan submitted to the City was inadequately considered. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.100 Relation to other permit authority.**

The procedures set forth in this chapter do not limit the authority of the City to deny or to approve with conditions the following:

- A. Any zone reclassification request, based on its expected impacts on the multimodal transportation system;
- B. Any proposed development or zone reclassification, if the City determines that a hazard to safety would result from direct traffic impacts of the development or reclassification, without roadway or intersection improvements, regardless of level of service standards; or
- C. Any proposed development subject to review under the Washington State Environmental Policy Act. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.110 Exceptions.**

The *city manager* may grant an exception to or deviation from the requirements of this chapter. Any exception or deviation shall be in writing and supported by a finding that extraordinary conditions exist which make full compliance infeasible or would be an unreasonable hardship. [Ord. 16-0420 § 2 (Exh. 1).]

## Chapter 20.47

### TRANSPORTATION AND PARK IMPACT FEES

#### Sections:

#### Article I. General

- 20.47.010 Findings and authority.
- 20.47.020 Definitions.
- 20.47.030 Assessment of impact fees.
- 20.47.035 Temporary suspension of road impact fees relating to change of use.
- 20.47.040 Exemptions.
- 20.47.050 Credits.
- 20.47.060 Tax adjustments.
- 20.47.070 Appeals.
- 20.47.080 Establishment of impact fee accounts.
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#### Article II. Rates

- 20.47.120 Transportation impact fee.
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- 20.47.140 Independent fee calculations.

#### Article III. Miscellaneous Provisions

- 20.47.150 Existing authority unimpaired.
- 20.47.155 Park space in lieu of impact fee.

#### Article I. General

##### **20.47.010 Findings and authority.**

The city council of the City of Kenmore (the “council”) hereby finds and determines that new growth and development, including but not limited to new *residential*, commercial, retail, office, and industrial development, in the City of Kenmore will create additional demand and need for *public facilities* in the City of Kenmore, and the council finds that new growth and development should pay a proportionate share of the cost of new facilities needed to serve the new growth and development. The City of Kenmore has conducted extensive studies documenting the procedures for measuring the impact of new developments on *public facilities*, has prepared the *rate study* and *parks study*, and hereby incorporates these studies into this chapter by reference. Therefore, pursuant to Chapter 82.02 RCW, the council adopts this chapter to assess impact fees for transportation and parks. The provisions of this chapter shall be liberally construed in order to carry out the purposes of the council in establishing the impact fee program. [Ord. 16-0420 § 7 (Exh. 5).]

##### **20.47.020 Definitions.**

The following words and terms shall have the following meanings for the purposes of this chapter, unless the context clearly requires otherwise. Terms otherwise not defined herein shall be defined pursuant to RCW 82.02.090, or given their usual and customary meaning.

- A. “Accessory dwelling unit” means a separate complete *dwelling unit* attached to or contained within the *structure* of the primary dwelling; or contained within a separate *structure* that is accessory to the primary *dwelling unit* on the premises.
- B. “Building permit” means an official document or certification which is issued by the building official and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.
- C. “Capital facilities plan” means the capital facilities plan element of a comprehensive plan adopted by the City of Kenmore pursuant to Chapter 36.70A RCW, and such plan as amended.
- D. “City manager” means the city manager or the city manager’s designee.
- E. “Council” means the city council of the City of Kenmore.

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

G. “Development approval” means any written authorization from the City of Kenmore which authorizes the commencement of a *development activity*.

H. “Dwelling unit” means one or more rooms designed for occupancy by a person or *family* for living and sleeping purposes, containing *kitchen facilities* and rooms with internal accessibility, for use solely by the dwelling’s occupants. *Microhousing dwelling units* may share *kitchen facilities* with other dwelling units in place of providing *kitchen facilities* within each unit.

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 *public facilities*.

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

K. “Gross floor area” means the total square footage of any building, structure, or use, including accessory uses.

L. “Hearing examiner” means the examiner who acts on behalf of the City in considering and applying land use regulatory codes as provided under this code. Where appropriate, “hearing examiner” also refers to the office of the hearing examiner.

M. “Impact fee” means a payment of money imposed by the City of Kenmore on *development activity* pursuant to this chapter as a condition of granting *development approval* in order to pay for the *public facilities* needed to serve new growth and development. “Impact fee” does not include a reasonable permit fee, an application fee, the administrative fee for collecting and handling impact fees, or the cost of reviewing independent fee calculations.

N. “Impact fee account” or “account” means the account(s) established for each type of public facility for which impact fees are collected. The accounts shall be established pursuant to KMC 20.47.080 and 20.47.090, and comply with the requirements of RCW 82.02.070.

O. “Independent fee calculation” means the transportation impact calculation, park impact calculation, and/or economic documentation prepared by a *feepayer* to support the assessment of an *impact fee* other than by the use of the rates listed in Article II of this chapter, or the calculations prepared by the *city manager* where none of the fee categories or fee amounts in Article II of this chapter accurately describe or capture the impacts of the new development.

P. “Interest” means the average interest rate earned in the last fiscal year by the City of Kenmore.

Q. “ITE Land Use Code” means the classification code number assigned to a type of land use by the Institute of Transportation Engineers in the version of “Trip Generation” adopted by the City.

R. “Low-income housing” means housing with a monthly housing expense that is no greater than 30 percent of 80 percent of the median family income adjusted for family size in King County, as determined by the United States Department of Housing and Urban Development (HUD). In the event that HUD no longer publishes median income figures for King County, the county may use or determine such other method as it may choose to determine the King County median income, adjusted for household size.

S. “Mobility unit” means one PM peak hour person trip end. Each person trip has two trip ends, one each at the origin and destination.

T. “Open space” means for the purposes of this chapter undeveloped public land that is permanently protected from development (except for the development of trails or other passive public access or use).

U. “Owner” means the owner of record of real property, or a person with an unrestricted written option to purchase property; provided, that if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the real property.

V. “Parks” means parks, *open space*, and recreational facilities, including but not limited to ball fields, golf courses, athletic fields, soccer fields, swimming pools, tennis courts, volleyball courts, neighborhood parks, community parks, and *open space*.

W. “Parks study” means the “Rate Study for Impact Fees for Parks,” City of Kenmore, dated May 15, 2001.

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

Y. “Public facilities” means the following capital facilities owned or operated by the City of Kenmore or other governmental entities: (1) public transportation facilities; and (2) publicly owned *parks*, *open space*, and recreation facilities.

Z. "Rate study" means the "Transportation Impact Fee Rate Study Update," prepared for the City of Kenmore by Fehr & Peers, dated December 2015.

AA. "Residential" or "residential development" means all types of construction intended for human habitation. This shall include, but is not limited to, single-family, duplex, triplex, and other multifamily development.

BB. "Square footage" means the square footage of the *gross floor area* of the development.

CC. "State" means the State of Washington.

DD. "System improvements" means *public facilities* that are included in the City of Kenmore's *capital facilities* plan and are designed to provide service to service areas within the community at large, in contrast to *project improvements*.

EE. "Transportation facility" means public easements or right-of-way that enables motor vehicles, transit vehicles, bicycles and/or pedestrians to travel between destinations.

FF. "Trip generation" means the number of *mobility units* generated by a *development activity*. [Ord. 16-0420 § 7 (Exh. 5).]

#### **20.47.030 Assessment of impact fees.**

A. The City shall collect *impact fees*, based on the rates in Article II of this chapter, from any applicant seeking *development approval* from the City for any *development activity* within the City, where such *development activity* requires the issuance of a building permit.

B. For mixed use developments, *impact fees* shall be imposed for the proportionate share of each land use based on the applicable measurement in the *impact fee* rates set forth in Article II of this chapter.

C. *Impact fees* shall be calculated at the time the complete application for a building permit is submitted using the *impact fee* rates then in effect. Except as provided in subsection F of this section, *impact fees* shall be paid at the time the permit is issued by the City.

D. Applicants that have been awarded credits prior to the submittal of the complete *building permit* application pursuant to KMC 20.47.050 shall submit, along with the complete *building permit* application, a copy of the letter or certificate prepared by the *city manager* pursuant to KMC 20.47.050 setting forth the dollar amount of the credit awarded. Except as provided in subsection F of this section, *impact fees*, as determined after the application of appropriate credits, shall be collected from the *feepayer* at the time the *building permit* is issued.

E. Except as provided in subsection F of this section, the *city manager* shall not issue the required permit unless and until the *impact fees* set forth in Article II of this chapter have been paid in the amount that they exceed exemptions or credits provided pursuant to KMC 20.47.040 or 20.47.050.

F. An applicant for a building permit for a single-family detached or attached residence may request a deferral of the full *impact fee* payment, deferring collection of the *impact fee* payment until issuance of a certificate of occupancy or equivalent certification and subject to this subsection F. The certificate of occupancy or equivalent certification shall not be issued until the *impact fees* have been paid in full. The amount of *impact fees* that may be deferred must be determined by the fees in effect at the time the permit application is deemed complete. The term of an *impact fee* deferral under this subsection may not exceed 18 months from the date of *building permit* issuance. An applicant seeking a deferral under this subsection must grant and record a deferred *impact fee* lien against the property in favor of the City in the amount of the deferred *impact fee*. The deferred *impact fee* lien, which must include the legal description, tax account number, and address of the property, must also be:

1. In a form approved by the City;
2. Signed and notarized by all *owners* of the property, with all signatures acknowledged as required for a deed, and recorded in the county where the property is located;
3. Binding on all successors in title after the recordation; and
4. Junior and subordinate to any mortgage or deed of trust for the purpose of construction upon the same real property granted by the person who applied for the deferral of *impact fees*.

If the deferred *impact fees* are not paid in accordance with a deferral authorized by this subsection, and in accordance with the term provisions established in this subsection, the City may institute foreclosure proceedings in accordance with Chapter 61.12 RCW. Upon receipt of final payment of all deferred *impact fees* for a property, the City must execute a release of deferred *impact fee* lien for the property. The property *owner* at the time of the release, at his or her expense, is responsible for recording the lien release. The extinguishment of a deferred *impact fee* lien by the foreclosure of a lien having priority does not affect the obligation to pay the *impact fees* as a condition of final inspection, certificate of occupancy, or equivalent certification. Each applicant for a single-family *residential* construction permit, in accordance with his or her contractor registration number or other unique identification number, is entitled to annually receive deferrals under this subsection for the first 20 single-family *residential* construction *building permits* per



City. A nonrefundable fee, as set forth in a fee resolution adopted by the city *council*, associated with implementing this subsection shall accompany the request. [Ord. 16-0420 § 7 (Exh. 5).]

#### **20.47.035 Temporary suspension of road impact fees relating to change of use.**

Notwithstanding any other provision of this chapter, the City temporarily eliminates the collection of the road impact fee from any applicant seeking development approval from the City for any change of use in an existing building in the north subarea of the regional business zone; provided, that this section shall not apply to dwelling units; provided further, that this section shall not apply to projects that add to, increase or expand the gross floor area of an existing building; and provided further, that this section shall apply only to the use, renovation or remodeling of an existing building and shall not apply to redevelopment projects or other projects in which an existing building is replaced or substantially redeveloped. The term “existing building” in this section means a building that was constructed before July 1, 2015. This section shall apply to projects for which a complete development approval application is filed with the City on April 1, 2017, through December 31, 2019. This section shall automatically expire on December 31, 2019. [Ord. 17-0436 § 2.]

#### **20.47.040 Exemptions.**

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

1. Alteration, expansion or replacement of an existing *residential* structure that does not add any *dwelling units*;
2. Miscellaneous improvements that do not increase the impacts of the development on the City’s public facilities, including, but not limited to, fences, walls, swimming pools, and signs;
3. Demolition or moving of a structure;
4. Expansion or replacement of an existing single-family residential structure that maintains its single-family character;
5. Replacement of a nonresidential structure with a new structure of the same size and use at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure. Replacement of a structure with a new structure of the same size shall be interpreted to include any structure for which the gross square footage of the building will not be increased by more than 100 square feet;
6. Any permit application that has been submitted to the City before closing time on the business day before the effective date of an amendment to this chapter and subsequently determined to be a complete application, based on the information on file as of the effective date of this amendment;
7. Pursuant to RCW 82.02.060, the City may provide exemptions for low-income housing and other development activities with broad public purposes. The impact fees amounts waived in excess of 80 percent for low-income housing pursuant to RCW 82.02.060(3) will be paid for through the City’s other funding sources, as identified in the December 2015 Transportation Impact Fees rate study by Fehr & Peers;
8. *Accessory dwelling units*; provided, that *impact fees* would be assessed if at any time the *accessory dwelling unit* was converted to another land use or *dwelling unit* based on the fees in effect at the time of conversion. [Ord. 16-0420 § 7 (Exh. 5).]

#### **20.47.050 Credits.**

A. A *feepayer* can request that a credit or credits for *impact fees* be awarded to him/her for the total value of dedicated land, improvements, or construction provided by the *feepayer*. Credits will be given only if the land, improvements, and/or the facility constructed are:

1. Included within the *capital facilities plan* and identified on the list of *impact fee* projects in the *rate study*; and
2. At suitable sites and constructed at acceptable quality as determined by the City.

B. The *city manager* shall determine if requests for credits meet the criteria in subsection A of this section.

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

D. The appraiser must possess an MAI or other equivalent certification and shall not have a fiduciary or personal interest in the property being appraised. A description of the appraiser’s certification shall be included with the appraisal, and the appraiser shall certify that he or she does not have a fiduciary or personal interest in the property being appraised.

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

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

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

H. No credit shall be given for *project improvements*.

I. Any claim for credit must be made with the *impact fee* calculation submittal. The failure to timely file such a claim shall constitute a final bar to later request any such credit.

J. Determinations made by the *city manager* pursuant to this section shall be subject to the appeals procedures set forth in KMC 20.47.070. [Ord. 16-0420 § 7 (Exh. 5).]

#### **20.47.060 Tax adjustments.**

Pursuant to and consistent with the requirements of RCW 82.02.060, the *rate study* and *parks study* have provided adjustments for future taxes to be paid by the new development which are earmarked or proratable to the same new *public facilities* which will serve the new development. The *impact fee* rates in Article II of this chapter have been reasonably adjusted for taxes and other revenue sources which are anticipated to be available to fund public improvements. [Ord. 16-0420 § 7 (Exh. 5).]

#### **20.47.070 Appeals.**

A. Appeals of City decisions on transportation impact fees shall be conducted according to KMC 12.80.090.

B. Appeals of City decisions on park impact fees shall be conducted as follows:

1. Appeals may only be filed by the *feepayer* for the property where the *development activity* will occur.
2. The *feepayer* must first file a request for review by the city manager regarding the *impact fees* with the *city clerk*, as follows:
  - a. The request shall be in writing on the form provided by the City;
  - b. The request for review by the *city manager* shall be filed within 14 calendar days of the *feepayer*'s payment of the *impact fees* at issue; the failure to timely file such a request shall constitute a final bar to later seek such review;
  - c. No administrative fee will be imposed for the request for review by the *city manager*; and
  - d. The *city manager* shall issue his or her determination in writing.
3. Determinations of the *city manager* under subsection (B)(2) of this section with respect to the applicability of the *impact fees* to a given *development activity*, the availability or value of a credit, or the *city manager*'s decision concerning the *independent fee calculation* which is authorized in Article II of this chapter, or the fees imposed by the *city manager* pursuant to Article II of this chapter, or any other determination which the *city manager* is authorized to make pursuant to this chapter, can be appealed to the hearing examiner.
4. Appeals shall be taken within 14 calendar days of the *city manager*'s issuance of a written determination by filing a notice of appeal specifying the grounds thereof, and depositing the necessary fee, which is set forth in the existing fee schedules for appeals of such decisions. The *city manager* shall transmit to the office of the hearing examiner all papers constituting the record for the determination, including, where appropriate, the *independent fee calculation*.
5. The hearing examiner shall fix a time for the hearing of the appeal, give notice to the parties in interest, and decide the same as provided in this code. At the hearing, any party may appear in person or by agent or attorney.
6. The hearing examiner is authorized to make findings of fact regarding the applicability of the *impact fees* to a given *development activity*, the availability or amount of the credit, or the accuracy or applicability of an *independent fee calculation*. The decision of the hearing examiner shall be final, except as provided in this section.
7. The hearing examiner may, so long as such action is in conformance with the provisions of this chapter, reverse or affirm, in whole or in part, or may modify the determinations of the *city manager*. [Ord. 16-0420 § 7 (Exh. 5).]

#### **20.47.080 Establishment of impact fee accounts.**

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

B. There are hereby established two separate *impact fee* accounts for the fees collected pursuant to this title: the transportation impact account and the *parks* impact account. Funds withdrawn from these accounts must be used in accordance with the provisions of KMC

20.47.100 and applicable *State* law. *Interest* earned on the fees shall be retained in each of the accounts and expended for the purposes for which the *impact fees* were collected.

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

D. *Impact fees* shall be expended or *encumbered* within 10 years of receipt, unless the *council* identifies in written findings extraordinary and compelling reason or reasons for the City to hold the fees beyond the 10-year period. Under such circumstances, the *council* shall establish the period of time within which the *impact fees* shall be expended or *encumbered*. [Ord. 16-0420 § 7 (Exh. 5).]

#### **20.47.090 Refunds.**

A. The current owner of the property for which an impact fee has been paid may receive a refund of such fees if the City fails to expend or encumber the impact fees within 10 years of when the fees were paid or such other period of time established by RCW 82.02.070(3) on public facilities intended to benefit the development activity for which the impact fees were paid. Refunds shall be subject to the provisions of RCW 82.02.080. The request for refund must be submitted to the city manager in writing. [Ord. 16-0420 § 7 (Exh. 5).]

#### **20.47.100 Use of funds.**

A. Pursuant to this chapter, *impact fees* shall:

1. Be used for public improvements that will reasonably benefit the new development; and
2. Not be imposed to make up for deficiencies in *public facilities* serving existing developments; and
3. Not be used for maintenance or operation.

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

C. Park *impact fees* may be spent for public improvements, including, but not limited to, planning for *parks* that will reasonably benefit the new development, land acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable *impact fees* or mitigation costs, and capital equipment pertaining to park facilities.

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

E. In the event that bonds or similar debt instruments are or have been issued for the advanced provision of public improvements for which *impact fees* may be expended, *impact fees* may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the new development. [Ord. 16-0420 § 7 (Exh. 5).]

#### **20.47.110 Review.**

The fee rates set forth in Article II of this chapter may be reviewed and adjusted by the *council* as it deems necessary and appropriate in conjunction with the annual update of the *capital facilities plan* element of the City's comprehensive plan. The *council* may determine the amount of the adjustment and revise the fee rates set forth in Article II of this chapter. Absent such affirmative *council* adjustment, the city manager may adjust transportation *impact fees* annually in accordance with a five-year rolling average of the Washington State Department of Transportation Construction Cost Index ("CCI"), coinciding with the *city council's* annual fee resolution. [Ord. 16-0420 § 7 (Exh. 5).]

## **Article II. Rates**

#### **20.47.120 Transportation impact fee.**

The transportation *impact fee* rates shall be determined by the formula for calculating *impact fees* set forth in the *rate study*, which is incorporated herein by reference. Except as otherwise provided for *independent fee calculations* in KMC 20.47.140, exemptions in KMC 20.47.040, and credits in KMC 20.47.050, all new developments in the City will be charged the transportation *impact fee* applicable to the type of development, in an amount imposed by the city *council* by resolution. [Ord. 16-0420 § 7 (Exh. 5).]

#### **20.47.130 Park impact fee.**

The park *impact fee* rates shall be determined by the formula for calculating *impact fees* set forth in the *parks study* and the Parks, Recreation, and Open Space Plan, which are incorporated herein by reference. Except as otherwise provided for independent fee calculations in KMC 20.47.140, exemptions in KMC 20.47.040, and credits in KMC 20.47.050, all new *residential* developments in

the City will be charged the park *impact fee* applicable to the type of *dwelling unit*, in an amount imposed by the *city council* by resolution. [Ord. 16-0420 § 7 (Exh. 5).]

**20.47.140 Independent fee calculations.**

A. If, in the judgment of the *city manager*, none of the fee categories or fee amounts set forth in KMC 20.47.120 or 20.47.130 accurately describe or capture the impacts of a new development on transportation or *parks*, an *independent fee calculation* may be performed and the *city manager* may impose alternative fees on a specific development based on those calculations. The alternative fees and the calculations shall be set forth in writing and shall be mailed to the *feepayer*.

B. If a *feepayer* opts not to have the *impact fees* determined according to KMC 20.47.120 or 20.47.130, then the *feepayer* shall prepare and submit to the *city manager* an *independent fee calculation* for the *development activity* for which a *building permit* is sought. The documentation submitted shall show the basis upon which the *independent fee calculation* was made.

C. Any *feepayer* submitting an *independent fee calculation* will be required to pay the City a fee to cover the cost of reviewing the *independent fee calculation*, in the amount established by the *city council* by resolution, unless otherwise established by the *city manager*, and shall be paid by the *feepayer* prior to initiation of review.

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

E. Determinations made by the *city manager* pursuant to this section may be appealed as set forth in KMC 20.47.070. [Ord. 16-0420 § 7 (Exh. 5).]

**Article III. Miscellaneous Provisions**

**20.47.150 Existing authority unimpaired.**

Nothing in this chapter shall preclude the City from requiring the *feepayer* or the proponent of a *development activity* to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, based on the environmental documents accompanying the underlying *development approval* process, and/or Chapter 58.17 RCW, governing plats and subdivisions; provided, that the exercise of this authority is consistent with the provisions of Chapters 43.21C and 82.02 RCW. [Ord. 16-0420 § 7 (Exh. 5).]

**20.47.155 Park space in lieu of impact fee.**

A. The payment of a *parks impact fee*, consistent with this chapter, shall be the preferred method of meeting park space requirements for all new development, except as provided in subsection B of this section.

B. At the discretion of the City, the *feepayer* may be able to receive credit towards their *impact fee* for land dedicated, improvements made or other construction completed for park purposes.

1. Such land improvements or construction completed shall be adjacent to other publicly owned land; or
2. Be within an area of the City designated within the City comprehensive plan as in need of park space; or
3. Would in some other way further the goals and objectives of the *capital facilities plan* or other City plans;
4. All such improvements shall be constructed at an acceptable quality as determined by the City. [Ord. 16-0420 § 7 (Exh. 5).]