

ORDINANCE NO. 03-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON AMENDING THE IMPACT FEE EXEMPTION REQUIREMENTS AND PROCESS TO CMC CHAPTER 12.105 TRANSPORTATION IMPACT FEES AND CMC CHAPTER 18.120 SCHOOL IMPACT FEES.

WHEREAS, the Washington State Legislature passed the Growth Management Act of 1990 and 1991, Chapter 36.70A RCW and Chapter 82.02 RCW which authorizes the collection of impact fees; and

WHEREAS, Section 12.105.050 of the Covington Municipal code (CMC) authorizes the City of Covington to adopt and collect transportation impact fees; and

WHEREAS, Section 18.120.020 of the CMC authorizes the city to collect school impact fees on behalf of the school district and to adopt the school impact fee schedule on an annual basis; and

WHEREAS, Section 12.105.140 and Section 18.120.080 of the CMC adopt impact fee exemptions for low and moderate income housing developments; and

WHEREAS, the City Council desires to adopt regulations modifying the impact fee exemption process for low or moderate incoming housing developments; and

WHEREAS, the requirements of the State Environmental Policy Act (SEPA), as adopted in CMC 16.10 have been met; and

WHEREAS, the Covington Planning Commission held a public hearing on the proposed impact fee exemption process within Covington zoning code regulations on November 17, 2011; and

WHEREAS, the Covington Planning Commission unanimously recommended approval of the proposed changes to the impact fee exemption process.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Covington Municipal Code Chapters 12.105 transportation impact fees and 18.120 school impact fees are amended as provided in the attached Exhibit A and fully incorporated herein by this reference.

Section 2. This ordinance shall be in full force and effect five days after proper posting and publication. A summary of this ordinance may be published in lieu of publishing the ordinance in its entirety.

Section 3. If any provision of this ordinance, or ordinance modified by it, is determined to be invalid or unenforceable for any reason, the remaining provisions of this ordinance and ordinances and/or resolutions modified by it shall remain in full force and effect.

Passed by the City Council in an open public meeting on the 24th day of January, 2012.


Mayor Margaret Harto

PUBLISHED: January 27, 2012

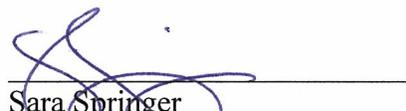
EFFECTIVE: February 1, 2012

ATTESTED:



Sharon Scott
City Clerk

APPROVED AS TO FORM:


Sara Springer
City Attorney

CHAPTER 12.105
TRANSPORTATION IMPACT FEES

12.105.140 Exemptions from transportation impact fees.

(1) The following development activities are exempt from paying transportation impact fees because they do not have a measurable impact on the City's transportation facilities, or because the City has chosen to exempt them pursuant to RCW 82.02.060(2):

(a) Public school districts shall be exempted from payment of transportation impact fees.

(b) Existing Dwelling Unit. Any alteration, expansion, reconstruction, remodeling or replacement of existing single-family or multifamily dwelling units that does not result in the creation of additional dwelling units.

(c) Existing Nonresidential Building. Any alteration, reconstruction, remodeling or replacement of an existing nonresidential building that does not result in the generation of any new daily vehicle trips.

(d) Any accessory dwelling unit (ADU) permitted in accordance with applicable zoning regulations.

(2) In addition to the exemptions in subsection (1) of this section, the following ~~may~~ shall be exempt from the requirement to pay transportation impact fees:

(a) Low- or moderate-income housing projects developed or owned by public housing agencies or private nonprofit housing developers.

(b) Residential housing units dedicated for occupancy by low- or moderate-income households and whose rents or purchase prices are affordable to low- or moderate-income persons under the regulations of the U.S. Department of Housing and Urban Development or its successor.

(c) Individual low- or moderate-income dwelling units (as defined by King County's housing programs) to be purchased by households with prices within their eligibility limits based on standard lending criteria.

(3) The developer shall be responsible for providing documentation to the City that their project qualifies for an exemption as outlined in subsection (2) of this section.

(4) Any claim or request for an exemption under this section shall be made no later than the time of issuance of a building permit. If a building permit is not required for the development activity, the claim shall be made when the fee is tendered. Any claim not made when required by this section shall be deemed waived.

(5) ~~The amount of the transportation impact fees not collected from low- or moderate-income household development shall be paid from public funds other than impact fee accounts. The determination to grant or deny an exemption under subsection (2) of this section shall be in the sole discretion of the City Council after consideration in an open public meeting of the public benefit of the specific project, the hardship to the project of the impact fee, the impacts of the project, the availability of public funding to pay the transportation impact fees payable on the project, and any other factors deemed relevant by the City Council. The City Council may also vote to exempt specific projects, or components thereof, within proposed development activities with broad public purposes from all or part of the required transportation impact fees upon such conditions as the City Council deems appropriate. If an~~

exemption is granted, the exempted transportation impact fee attributable to the development shall be paid from public funds other than impact fees or interest on impact fees.

~~(5) The Department is hereby authorized to adopt administrative rules to implement this section. Such rules shall provide for the administration of this program and shall:~~

~~(a) Encourage the construction of housing for low- or moderate-income households by public housing agencies or private nonprofit housing developers participating in publicly sponsored or subsidized housing programs;~~

~~(b) Encourage the construction in private developments of housing units for low- or moderate-income households that are in addition to units required by another housing program or development condition;~~

~~(c) Ensure that housing that qualifies as low- or moderate-cost meets appropriate standards regarding household income, rent levels or sale prices, location, number of units, and development size; and~~

~~(d) Ensure that developers who obtain an exemption from or reduction of transportation impact fees pursuant to subsection (2) of this section will in fact build the proposed low- and moderate-cost housing and make it available to low-income households for a minimum of 15 years.~~

(6) As a condition of receiving an exemption under subsection (2) of this section, the owner shall execute and record in King County's real property title records a City-drafted lien, covenant, or other contractual provision against the property that provides that the proposed housing unit or development will continue to be used for low- or moderate-income housing and remain affordable to those households under the regulations of the U.S. Department of Housing and Urban Development. The term of this provision shall be ten (10) years for individual owners and fifteen (15) years for private and private nonprofit developers/builders. The lien, covenant, or other contractual provision shall run with the land and apply to subsequent owners and assigns. In the event that the housing unit(s) is no longer used for low- or moderate-income housing during the term of the provision the owner shall promptly pay to the City the transportation impact fee owed according to the current fee resolution.

CHAPTER 18.120 SCHOOL IMPACT FEES

18.120.080 Exemption or reduction for low or moderate income housing.

(1) Low- or moderate-income housing projects being developed by public housing agencies or private nonprofit housing developers ~~shall~~ may be exempt from the payment of school impact fees. The amount of the school impact fees not collected from low- or moderate-income household development shall be paid from the school district's public funds other than impact fee accounts. The impact fees for these units shall be considered paid for by the school district through its other funding sources, without the district actually transferring funds from its other funding sources into the impact fee account. The Department shall review all school impact fee exemption applications for low- or moderate-income housing developments pursuant to criteria and procedures adopted by administrative rule and shall advise the Community

~~Development Director as to whether the project qualifies for the exemption. The Community Development Director shall notify the school district of all applications for exemptions and reductions and whether the project qualifies for the exemption. The Community Development Department shall review proposed developments of low or moderate income housing by such public or nonprofit developers pursuant to criteria and procedures adopted by administrative rule, and shall determine whether the project qualifies for the exemption.~~

(2) Private developers who dedicate residential units for occupancy by low- or moderate-income households may apply to the Department for reductions in school impact fees pursuant to ~~the criteria established for public housing agencies and private nonprofit housing developers pursuant to~~ subsection (1) of this section, ~~and subject to the provisions of subsection (1) of this section. The Department shall review proposed developments of low or moderate income housing by such private developers pursuant to criteria and procedures adopted by administrative rule, and shall advise the Community Development Department as to whether the project qualifies for the exemption.~~ If the Department recommends the exemption ~~to the school district~~, the calculated school impact fee for the development shall be reduced by an amount that is proportionate to the number of units in the development that satisfy the adopted criteria.

(3) Individual low- or moderate-income home purchasers (as defined pursuant to the City of Covington Comprehensive Housing Affordability Strategy (CHAS)) who are purchasing homes at prices within their eligibility limits based on standard lending criteria and meet other means tests established by rule by the Department are exempted from payment of the school impact fee; provided, that at such time as the property in question is transferred to another owner who does not qualify for the exemption, ~~at which time the~~ full school impact fee according to the current fee resolution shall be due and payable upon the property transfer.

~~(4) Any claim or request for an exemption under this section shall be made no later than the time of application for a building permit. If a building permit is not required for the development activity, the claim shall be made when the fee is tendered. Any claim not made when required by this section shall be deemed waived.~~

~~(5)~~ The Department is hereby instructed and authorized to adopt administrative rules to implement this section. Such rules shall provide for the administration of this program and shall:

- (a) Encourage the construction of housing for low- or moderate-income households by public housing agencies or private nonprofit housing developers participating in publicly sponsored or subsidized housing programs;
- (b) Encourage the construction in private developments of housing units for low- or moderate-income households that are in addition to units required by another housing program or development condition;
- (c) Ensure that housing that qualifies as low- or moderate-cost meets appropriate standards regarding household income, rent levels or sale prices, location, number of units and development size;
- (d) Ensure that developers who obtain an exemption from or reduction of school impact fees will in fact build the proposed low- or moderate-cost housing and make it

available to low- or moderate-income households for a minimum of fifteen (15) years;
and

(e) Ensure that individual low- or moderate-income purchasers meet appropriate eligibility standards based on income and other financial means tests.

(65) As a condition of receiving an exemption under ~~subsection (2) or (3)~~ of this section, the owner must execute and record a City-drafted lien, covenant, and/or other contractual provision against the property for a period of ten (10) years for individual owners, and fifteen (15) years for private developers, guaranteeing that the proposed development will continue to be used for low- or moderate-income housing. In the event that the housing unit(s) is no longer used for pattern of development or the use of the development is no longer for low- or moderate-income housing during the term of the provision herein, then the owner shall promptly pay to the school district the school impact fee owed according to the current fee resolution. pay the impact fee amount from which the owner or any prior owner was exempt. The lien, covenant, or other contractual provision shall run with the land and apply to subsequent owners and assigns.