

**ORDINANCE NO. 08-2017**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, RELATING TO FIRE IMPACT FEES, ADDING A NEW CHAPTER 19.50 TO TITLE 19 OF THE COVINGTON MUNICIPAL CODE TO ADOPT FIRE IMPACT FEES, AND MINOR AMENDMENTS TO SELECT SECTIONS OF CHAPTERS 18.20, 19.10 AND 19.20 OF THE COVINGTON MUNICIPAL CODE, TO IMPLEMENT CHAPTER 19.50 AND ESTABLISHING AN EFFECTIVE DATE FOR COLLECTING FIRE IMPACT FEES.**

WHEREAS, the Growth Management Act (GMA), specifically RCW 36.70A.130, mandates that the City of Covington take legislative action to review, and if needed, revise its Comprehensive Plan and development regulations to ensure continued compliance with GMA (also known as “periodic review”); and

WHEREAS, on January 12, 2016, the City Council approved Ordinance 02-2016 adopting the new 2015-2035 Covington Comprehensive Plan in compliance with GMA; and

WHEREAS, Ordinance 02-2016, identified that the City intended to adopt impact fees (Policy CF-29) on new development to ensure that development bears a proportionate share of the cost of public facilities necessary to accommodate such development; and

WHEREAS, cities planning under the GMA are authorized under RCW 82.02.050 - .100 to impose impact fees on development. The collection of impact fees is permitted for: Public streets and roads, publicly owned parks, open space, and recreation facilities, school facilities and fire protection facilities; and

WHEREAS, the City Council of the City of Covington finds that adequate fire protection facilities should be provided; and

WHEREAS, the City of Covington, in reviewing and revising these proposed amendments to the Covington Municipal Code conducted a public meeting before the Planning Commission on June 1, 2017, and a public hearing before the Planning Commission on July 6, 2017. The Planning Commission public hearing was noticed in the Covington Reporter, published on the city’s website, and posted at city hall; and

WHEREAS, on July 6, 2017, the Planning Commission voted to recommended the City Council approve adding a new Chapter 19.50 to Title 19 to the Covington Municipal Code to adopt fire impact fees as set forth in Exhibit A and minor related amendments to select sections of chapters 18.20, 19.10 and 19.20, as set forth in Exhibit B; and

WHEREAS, draft amendments to the Covington Municipal Code as adopted by this ordinance were transmitted to the Washington State Department of Commerce on May 25, 2017.

On June 12, 2017, Washington State Department of Commerce granted expedited review (10 business days). No comments were received from the Department of Commerce; and

WHEREAS, pursuant to the State Environmental Policy Act, a Determination of Nonsignificance was issued by the responsible official pursuant to WAC 197-11-340 on June 2, 2017; and

WHEREAS, the City Council of the City of Covington, upon review of the facts, findings, and recommendations of the Covington Planning Commission, and after reviewing information provided by City staff, find that all applicable and substantive requirements of the law have been met, that the adoption of this ordinance promotes the public health, safety, and general welfare of the community, and that the adoption of this ordinance serves the public interest;

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

**Section 1. Findings of Fact.** The “Whereas” provisions above shall constitute Findings of Fact and are incorporated by reference as if fully set forth herein.

**Section 2. New Chapter 19.50.** A new Chapter 19.50 of the Covington Municipal Code is hereby added to Title 19 of the Covington Municipal Code as set forth in Exhibit A.

**Section 3. Associated Amendments.** The following list of chapters of the Covington Municipal Code are amended as set forth in Exhibit B: CMC 18.20, 19.10, and 19.20 and are incorporated herein by reference.

**Section 4. Savings.** The enactment of this ordinance shall not affect any application, case, proceeding, appeal, or other matter currently pending administratively or judicially in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this ordinance.

**Section 5. Severability.** Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

**Section 6. Corrections.** Upon approval of the city attorney, the city clerk and/or code codifier is authorized to make necessary corrections to this ordinance, including, but not limited to, the correction of clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or section/subsection numbering.

**Section 7. Effective Date.** This ordinance shall be in full force and effect five (5) days after publication in the city's newspaper of record. A summary of this ordinance may be published in lieu of publishing the ordinance in its entirety.

**PASSED BY THE CITY COUNCIL OF THE CITY OF COVINGTON,  
WASHINGTON, at a regular meeting thereof on the 25<sup>th</sup> day of July, 2017, and signed in  
authentication of its passage.**



Mayor Jeff Wagner

PUBLISHED: July 28, 2017

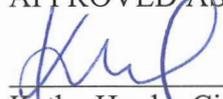
EFFECTIVE: August 2, 2017

ATTESTED:

  
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Sharon Scott, City Clerk

APPROVED AS TO FORM ONLY:

  
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Kathy Hardy, City Attorney

**ORDINANCE NO. 08-2017  
EXHIBIT A**

**New Chapter – 19.50 Adoption of Fire Impact Fee Program**

**Chapter 19.50  
FIRE IMPACT FEE**

Sections:

- |                  |                                                            |
|------------------|------------------------------------------------------------|
| <b>19.50.010</b> | <b>Purpose – Authority.</b>                                |
| <b>19.50.020</b> | <b>Interlocal agreement required.</b>                      |
| <b>19.50.030</b> | <b>Submission of RFA capital facilities plan and data.</b> |
| <b>19.50.040</b> | <b>Annual Council review.</b>                              |
| <b>19.50.050</b> | <b>Exclusions.</b>                                         |
| <b>19.50.060</b> | <b>Fee calculations.</b>                                   |
| <b>19.50.070</b> | <b>Assessment of fees.</b>                                 |
| <b>19.50.080</b> | <b>Use of funds.</b>                                       |
| <b>19.50.090</b> | <b>Impact fee accounts – Payment.</b>                      |

**19.50.010 Purpose – Authority.**

The City Council of the City of Covington hereby finds and determines that continuing growth and development in the City of Covington will create additional demands and need for fire protection facilities. The Council further finds that the Washington State Growth Management Act requires that new growth and development should pay a proportionate share of the cost of new facilities needed to serve the new growth and development.

Therefore, pursuant to Chapter 82.02 RCW, the Council adopts this chapter to assess fire impact fees. The provisions of this chapter shall be liberally construed in order to carry out the purposes of the Council in establishing the fire impact fee program.

**19.50.020 Interlocal agreement required.**

As a condition of the City's authorization and adoption of a fire impact fee ordinance, the City and RFA shall enter into an interlocal agreement governing the operation of the fire impact fee program, and describing the relationship and liabilities of the parties thereunder.

**19.50.030 Submission of RFA capital facilities and equipment plan and data.**

(1) On an annual basis, the RFA shall submit the following materials to the City Council:

- (a) The RFA's capital facilities and equipment plan as adopted by the RFA's governing board. The capital facilities and equipment plan shall contain a six-year financing component as set forth in RCW 82.02.
  
- (b) The RFA's growth projections over the next six years.

- (c) The RFA's standard of service.
- (d) The RFA's overall capacity to meet levels of service over the next six years.
- (e) The expected service improvements from fire protection facilities planned by the RFA but not yet built or implemented.
- (f) An inventory of the RFA's existing facilities.

**19.50.040 Annual Council review.**

The City Council shall review on an annual basis the materials received from the RFA and required under this chapter. The City Council may make adjustments to the fire impact fee schedule as necessitated by its review or applicable law, and, if the City Council deems appropriate, shall adopt the fire impact fee schedule by resolution. The review and fee schedule adoption decision may occur in conjunction with the annual update of the capital facilities plan element of the City's comprehensive plan.

**19.50.050 Exclusions.**

(1) In addition to the exclusions in CMC 19.20.060, the following development activities do not create an additional fire impact and are exempt from the requirements of this chapter:

- (a) Projects in which existing dwelling units are converted into condominium ownership and where no new dwelling units are created.
- (b) Any development activity for which fire impacts have been mitigated pursuant to a voluntary agreement entered into with the RFA to pay fees, dedicate land or construct or improve fire protection facilities; provided, that the agreement predates the effective date of this chapter.
- (c) Any development of 200 square feet or less that does not use or store hazardous materials that would create a life safety risk.
- (d) Two thirds of the normal residential impact fee is exempted for the construction of accessory dwelling units constructed on a property with an existing single-family dwelling unit.
- (e) Pursuant to RCW 82.02.100(2), where automatic fire sprinklers are installed in single family residential occupancies, a reduced fee equal to 70% of the impact or level of service fee shall serve to mitigate the costs of needed EMS and rescue resources.

(2) The Director shall be authorized to determine whether a particular development activity falls within an exclusion identified in this section or under other applicable law. Determinations of the Director shall be in writing and shall be subject to the appeals procedures set forth in Chapter 14.45 CMC.

**19.50.060 Fee calculations.**

(1) The fee shall be calculated based on a RFA-wide basis using the appropriate factors and data to be supplied by the RFA as indicated in Appendix A of the RFA's Mitigation and Level of Service Policy using the capacity analysis formula set out in Appendix B, as amended and incorporated herein by reference.

(2) Separate fees shall be calculated for single-family, multifamily, commercial/industrial, assisted care and hospital and medical facilities and others identified in Attachment A. For purposes of this chapter, manufactured homes shall be treated as single-family dwelling units and duplexes shall be treated as multifamily dwelling units.

(3) The capacity analysis formula in Appendix B provides for a credit where creditable mitigations are implemented or where voluntary agreements between the RFA and developer provide for fire protection facilities, fire protection facility sites or other related developer contributions that the RFA finds acceptable.

**19.50.070 Assessment of fees.**

The impact fee shall be based on the capital facilities and equipment plan developed by the RFA and approved by the RFA governing board, and adopted by reference by the City as part of the City's Capital Facilities Element of the Comprehensive Plan, as amended.

**19.50.080 Use of funds.**

Impact fees for the RFA's system improvements shall be expended by the RFA only in conformance with the RFA's adopted Capital Facilities and Equipment Plan Element of the Comprehensive Plan.

**19.50.090 Impact fee accounts – Payment.**

(1) The RFA shall establish a fire impact fee account. The account shall be an interest-bearing account, and the fire impact fees received shall be prudently invested in a manner consistent with the investment policies of the RFA.

(2) For administrative convenience while processing the fee payments, fire impact fees may be temporarily deposited in a City account. On a monthly basis, the City shall deposit the fire impact fees collected for the district in the district's fire impact fee account or pursuant to the accounting procedures established by the City's Finance Department.

# ORDINANCE NO. 08-2017

## EXHIBIT B

### Amendments to CMC 18.20- Associated with the adoption of Fire Impact Fees

#### CMC 18.20 TECHNICAL TERMS AND LAND USE DEFINITIONS

***New definition: 18.20.468 Fire Capital Facilities and Equipment Plan.***

“Fire Capital Facilities and Equipment Plan” means the Puget Sound Regional Fire Authority’s (RFA’s) capital improvement plan adopted by the RFA’s governing board consisting of:

- (1) An inventory of existing capital facilities and equipment owned by the RFA, their locations, and capacities.
- (2) An identification of demands expected to be placed on existing fire protection facilities and equipment by the impacts of projected new development over a 20-year period.
- (3) A forecast of future capital facilities and equipment necessary to meet the RFA’s adopted level of service with the increased service demand of future growth within the RFA.
- (4) The proposed locations of expanded or new capital facilities and equipment and the associated timeline for construction or expansion.
- (5) At least a six-year financing component, updated as necessary to maintain at least a six-year forecast period, for financing needed fire protection facilities within projected funding levels, and identifying sources of financing for such purposes, including bond issues.
- (6) Any other long range projects planned by the RFA.

***New definition: 18.20.469 Fire protection facilities.***

“Fire protection facilities” means fully equipped fire stations, administrative offices, training grounds and structures, maintenance facilities and other specialized facilities required for the RFA to locate, house or expedite the timely arrival of firefighting and emergency medical equipment necessary to deliver emergency response services within the RFA’s service area.

***Amendment: 18.20.621 Impact fee.***

“Impact fee” means a payment of money authorized by State law and this code to be imposed upon development as a condition of development approval to pay for public facilities needed to serve new growth and development. Impact fees include, but are not limited to, transportation impact fees, park mitigation payment fees (fee-in-lieu of), fire impact fees, and school impact fees. “Impact fees” do not include fees imposed to cover the costs of processing applications, inspecting and reviewing plans or other information required to be submitted for purpose of evaluation of an application, or inspecting or monitoring development activity.

***New definition:* CMC 18.20.621.1 Impact fee schedule.**

“Impact fee schedule” means the table of impact fees to be charged per unit of development, computed by the formulas adopted under Title 19, indicating the standard fee amount per dwelling unit or per commercial development that shall be paid as a condition of development within the City.

***Amendment:* 18.20.641 Interlocal agreement.**

“Interlocal agreement,” for purposes of Chapter 18.75 CMC, means any agreement between the City and the County or any municipal utility district, fire district, regional fire authority, -or school district or any other City or governmental agency.

***New definition:* 18.20.684 Level of service (LOS), fire.**

“Level of service (LOS), fire” means the standards adopted by the Regional Fire Authority for the delivery of fire and emergency medical response services, as set forth in the RFA’s adopted Standard of Cover and reflected in the capital facilities and equipment plan.

## **Amendments to Title 19 - Associated with the adoption of Fire Impact Fees**

### **Chapter 19.10 GENERAL PROVISIONS**

#### **19.10.030 Definitions.**

*New definition:*

(f) “RFA” means the Puget Sound Regional Fire Authority, a Washington State municipal corporation established and operating pursuant to Chapter 52.26 RCW.

### **Chapter 19.20 IMPOSITION OF IMPACT FEES**

#### **19.20.030 Service area.**

*New Section:* (2) Define Puget Sound Regional Fire Authority Service area. *Reorder following sections.*

(2) Fire Impact Fees. For purposes of the fire impact fees established in Chapter 19.50 CMC, all land within the boundaries of the Puget Sound Regional Fire Authority shall be considered a single service area and the City shall impose impact fees within that portion of the Puget Sound Regional Fire Authority lying within the City corporate limits.

#### **19.20.080 Low-income housing exemption.**

*New Section:* (3) Puget Sound Regional Fire Authority Service Low Income Exemption language.  
*Reorder following sections.*

(3) The low-income housing exemption shall not apply to Fire Impact Fees.

**19.20.090 Credits.**

*New Section:* (1) General statement about impact fee credits. *Reorder following sections:*

(1) Unless otherwise defined in the respective impact fee chapter or associated Interlocal Agreements, the provisions for requesting and receiving credits toward impact fees shall follow the provisions of this section.