

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON AMENDING CHAPTER 15.04 AND SECTION 15.08.030 OF THE OLYMPIA MUNICIPAL CODE RELATING TO IMPACT FEES

WHEREAS, the Washington State Growth Management Act, chapter 36.70A RCW, requires that cities plan for growth; and

WHEREAS, RCW 82.02.050 - .090 authorizes cities to impose impact fees to ensure that adequate facilities are available to serve new growth and development; and

WHEREAS, in Ordinance Nos. 5490 and 6164, the City of Olympia did adopt such impact fees, to include "Park Impact Fees," "School Impact Fees," and "Transportation Impact Fees," which the City uses as a funding mechanism to help build new transportation and parks infrastructure, as well as help the Olympia School District build infrastructure; and

WHEREAS, the North Thurston School District has a service area boundary that covers a portion of the City of Olympia; and

WHEREAS, that area is experiencing an increase in permit applications for residential development; and

WHEREAS, the North Thurston School District has requested the City of Olympia adopt School Impact Fees to ensure that school facilities of the North Thurston School District are available to serve new residential growth and development; and

WHEREAS, pursuant to State Law and this Ordinance, the City and the North Thurston School District will enter into an Interlocal Agreement, memorializing the manner in which the City and the District will work together to administer school impact fees for developments within the North Thurston School District Service area; that Interlocal Agreement will come before Council as a separate agenda item; and

WHEREAS, in addition to adding the North Thurston School District, certain technical amendments to the City's Impact Fee Ordinance are being made. These include changing the process by which an applicant requests an 80 percent exemption for school impact fees for low-income housing developments within the Olympia School District; this change is being made in consultation with the Olympia School District. Other technical amendments are made only for clarity, with no substantive change intended; and

WHEREAS, it is anticipated that in a separate action, to be considered in December 2022, Council will consider and pass an ordinance in which it will amend chapter 15.16 of the Olympia Municipal Code (OMC) to update all impact fees, including school impact fees; in that ordinance, the North Thurston School District will be added to OMC 15.16.030 ("Schedule C, School Impact Fees") and the school impact applicable to developments within the North Thurston School District service area will be specified; and

WHEREAS, this Ordinance is adopted pursuant to Article 11, Section 11, of the Washington Constitution;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC Chapter 15.04. Chapter 15.04 of the Olympia Municipal Code is hereby amended to read as follows:

Chapter 15.04 GENERAL PROVISIONS GOVERNING THE ASSESSMENT OF IMPACT FEES

15.04.000 Chapter Contents

Sections:

- 15.04.010 Findings and authority.
- 15.04.020 Definitions.
- 15.04.030 Findings of concurrency.
- 15.04.040 Assessment of impact fees.
- 15.04.050 Alternative and independent fee calculations.
- 15.04.060 Exemptions.
- 15.04.070 Credits.
- 15.04.080 Tax adjustments.
- 15.04.090 Appeals.
- 15.04.100 Establishment of impact fee accounts for parks and transportation.
- 15.04.110 Authorization for the school interlocal agreement and the establishment of the school impact account.
- 15.04.120 Refunds.
- 15.04.130 Use of funds.
- 15.04.140 Administrative guidelines.
- 15.04.150 Review.
- 15.04.160 Additional provisions pertaining to North Thurston School District.

15.04.010 Findings and authority

The City Council of the City of Olympia (~~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 Olympia ~~will create~~ creates additional demand and need for public facilities in the City of Olympia, 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 Olympia has conducted extensive studies documenting the procedures for measuring the impact of new developments on public facilities, has prepared the Parks Study and the Transportation Study and has reviewed the Olympia School District Schools Study prepared by the Olympia School District ~~No. 111 ("District No. 111")~~, and the North Thurston School District Capital Facilities Plan prepared by the North Thurston School District and hereby incorporates these studies into this title by reference. Therefore, pursuant to ~~Chapter~~ 82.02 RCW, the Council adopts this title to assess impact fees for parks, transportation facilities, and schools. The provisions of this title ~~shall~~ must be liberally construed in order to carry out the purposes of the Council in establishing the impact fee program.

15.04.020 Definitions

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

~~A.~~ "Act" means the Growth Management Act, as codified in RCW 36.70A, as now in existence or as hereafter amended.

~~BA.~~ "Accessory Dwelling Unit" means a dwelling unit that has been added onto, created within, or separated from a single-family detached dwelling for use as a complete independent living unit with provisions for cooking, eating, sanitation, and sleeping.

~~CB.~~ "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.

~~DC.~~ "Capital Facilities" means the facilities or improvements included in a capital budget or capital facilities plan.

~~ED.~~ "Capital Facilities Plan" means the capital facilities plan element of a comprehensive plan adopted by the City of Olympia pursuant to ~~Chapter~~ 36.70A RCW, and such plan as amended.

~~FE.~~ "City" means the City of Olympia.

~~GF.~~ "Council" means the City Council of the City of Olympia.

~~HG.~~ "Concurrent" or "Concurrency" means that the improvements are in place at the time the impacts of development occur, or that the necessary financial commitments are in place, which ~~shall~~ include the impact fees anticipated to be generated by the development, to complete the improvements necessary to meet the specified standards of service defined in the Parks Study, the Transportation Study, ~~and the Olympia School District Schools Study,~~ and the North Thurston School District Capital Facilities Plan within ~~ten~~ (10) years of the time the impacts of development occur.

~~I.~~ "County" means ~~Thurston County~~.

~~JH.~~ "Department" means the Department of Community Planning and Development.

~~KI.~~ "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.

~~LJ.~~ "Development Approval" means any written authorization from the City of Olympia which authorizes the commencement of a development activity.

~~MK.~~ "Director" means the Director of the Department of Community Planning and Development or the Director's designee.

~~N.~~ "District No. 111" means the Olympia School District No. 111, Thurston County, Washington.

~~OL.~~ "Downtown ~~Impact Fee Payment Area~~" means all properties located within the downtown area, which is currently bounded by: Budd Inlet on the north; Budd Inlet and Capitol Lake on the west; along 14th Avenue extending between Capitol Lake and Capitol Way, then east on 14th Avenue extending to Interstate 5 on the south; Eastside Street on the east; and along Olympia Avenue in a westerly direction reconnecting with the Budd Inlet on the north, including properties owned by the Port of Olympia, as shown in Figure 15-04-1.

PM. "Dwelling Unit" means a single unit providing complete and independent living facilities for one or more persons, including permanent facilities for living, sleeping, eating, cooking, and sanitation needs.

~~Q.~~ "Elderly" means a person aged 62 or older.

RN. "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.

SO. "Feepayer" is a person, collection of persons, 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.

TP. "Gross Floor Area" or "GFA" means the total square footage of any building, structure, or use, including accessory uses.

~~UQ.~~ "Gross Leasable Area" or "GLA" means the total square footage of leasable space in any building, structure, or use, including accessory uses. This does not include common spaces like lobbies, elevator shafts, stairwells, etc.

~~VR.~~ "Hearing Examiner" means the Examiner who acts on behalf of the Council in considering and applying land use regulatory codes as provided under ~~Chapter 18.82 of the Olympia Municipal Code~~ OMC. Where appropriate, "Hearing Examiner" also refers to the office of the hearing examiner.

WS. "High Density Corridor" or "HDC" ~~will only include~~ includes HDC-1, HDC-2, HDC-3 land use zoning areas and ~~shall have~~ has the same meaning as set forth in ~~Olympia Municipal Code Subsections 18.06.020.B.10, .11, and .12~~ OMC 18.06.020(B)(10), (11), and (12).

~~XT.~~ "Impact fee" means a payment of money imposed by the City of Olympia on development activity pursuant to this title 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 school impact fees, ~~or~~ the cost of reviewing independent fee calculations, or the fee for deferring payment of impact fees.

~~YU.~~ "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~~ are established pursuant to ~~Sections 15.04.100 and 15.04.110 of this title, OMC 15.04.100 and OMC 15.04.110 and~~ must comply with the requirements of RCW 82.02.070.

ZV. "Independent Fee Calculation" means the park impact calculation, the school impact calculation, the transportation impact calculation, ~~and/or~~ economic documentation prepared by a feepayer, to support the assessment of an impact fee other than by the use of ~~Schedules A, C and D of Chapter 15.16, schedules in Chapter 15.16 OMC,~~ or the calculations prepared by the Director or the Olympia School District No. 111 or the North Thurston School District where none of the fee categories or fee amounts in the schedules in ~~Chapter 15.16 OMC~~ accurately describe or capture the impacts of the new development on public facilities.

AAW. "Interest" means the average interest rate earned by the City of Olympia, or the Olympia School District, No. 111 or the North Thurston School District with respect to school fees, in the last fiscal year, if not otherwise defined.

~~BBX.~~ "Interlocal Agreement" or "Agreement" means the school interlocal agreement by and between the City of Olympia and ~~District No. 111 as authorized in Section 15.04.110~~ the Olympia School District and the school interlocal agreement by and between the City of Olympia and the North Thurston School District, as authorized in OMC 15.04.110 herein.

Y. "Low-income housing" means housing with a monthly housing expense, that is no greater than thirty percent of eighty percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development.

Z. "North Thurston School District" means the North Thurston School District No. 3.

AA. "North Thurston School District Capital Facilities Plan" means the North Thurston School District No. 3's capital facilities plan, as the same may be amended or updated.

~~EE~~BB. "Occupancy Permit" means the permit issued by the City of Olympia where a development activity results in a change in use of a pre-existing structure.

CC. "Olympia School District" means the Olympia School District No. 111, Thurston County, Washington.

DD. "Open Space" means for the purposes of this title undeveloped public land that is permanently protected from development (except for the development of trails or other passive public access or use).

EE. "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~~ is considered the owner of the real property.

FF. "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, special use parks, trails, and open space.

GG. "Parks Study" means the City of Olympia Park Impact Fee Study dated October 2012, and as ~~may be~~ amended ~~in the future~~.

HH. "Planned Residential Development" or "PRD" ~~shall have~~ has the same meaning as set forth in ~~Chapter 18.56 of the Olympia Municipal Code~~ OMC.

II. "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~~ may be considered a project improvement.

JJ. "Public Facilities" means the following capital facilities owned or operated by the City of Olympia or other governmental entities: (1) publicly owned parks, open space, and recreational facilities; (2) public streets, and roads; and (3) public school facilities.

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

LL. "Olympia School District Schools Study" means the "Olympia School District - Rate Study for Impact Fees for School Facilities, 1994," and as ~~may be amended in the future.~~

MM. "Senior Housing Development" means a residential development of 10 units or more that is occupied exclusively by residents 55 years of age or older. In order to qualify for the "Senior Development" impact fee rate, a restrictive covenant is required to be placed on the deed limiting the development to residents 55 years of age or older.

NN. "Single Room Occupancy Dwelling" means a housing type consisting of one room, often with cooking facilities and with private or shared bathroom facilities.

OO. "Square Footage" means the square footage of the gross floor area of the development.

PP. "State" means the State of Washington.

QQ. "System Improvements" means ~~a public facilities facility that are is~~ included in the City of Olympia's capital facilities plan, the Olympia School Study, or the North Thurston School District Capital Facilities Plan and are designed to provide service to service areas within the community at large, in contrast to project improvements.

RR. "Transportation Study" means the City of Olympia Multimodal Transportation Impact Fee Rate Study dated October 2020, and as ~~may be amended in the future.~~

15.04.030 Findings of concurrency

A. Prior to approving proposed subdivisions, dedications, short plats, short subdivisions, planned residential developments, or binding site plans, the Council or administrative personnel shall make written findings that the public facilities which will be needed as a result of the new development, such as parks, recreation, open space, schools, and school grounds, will be provided concurrent with development. The concurrency requirement is satisfied if the improvements are in place at the time the impacts of development occur, or that the necessary financial commitments are in place, which ~~shall~~ include the impact fees anticipated to be generated by the development, to complete the improvements required to meet the specified standards of service defined in the Parks Study ~~and, the Olympia School District Schools Study, and the North Thurston School District Capital Facilities Plan~~ within ~~ten (10)~~ years of the time that the impacts of development occur. Any combination of the following ~~shall constitute~~ constitutes the "necessary financial commitments" for the purposes of this title:

1. The City ~~or, the Olympia School District No. 111, or the North Thurston School District~~ has received voter approval of ~~and/or~~ has bonding authority; (or both);
2. The City ~~or District No. 111, the Olympia School District, or the North Thurston School District~~ has received approval for federal, state, ~~or other funds;~~
3. The City ~~or, the Olympia School District No. 111, or the North Thurston School District~~ has received a secured commitment from a feepayer that the feepayer will construct the needed improvement(s) or facility and the City ~~or District No. 111, the Olympia School District, or the North Thurston School District~~ has found such improvement(s) or facility to be acceptable and consistent with its capital facilities plan; ~~and/or~~

4. ~~The City or, the Olympia School District No. 111, or the North Thurston School District~~ has other assured funding, including ~~but not limited to~~ impact fees which have been paid.

B. Compliance with this concurrency requirement ~~shall be~~ sufficient to satisfy the provisions of ~~RCW 58.17.110, RCW 58.17.060 and the Act chapter 36.70A RCW, the Growth Management Act, RCW 58.17.060, and RCW 58.17.110.~~ The finding of concurrency ~~shall~~must be made at the time of preliminary plat or PRD approval or at the time of binding site plan approval.

C. The City ~~shall~~may not approve applications for preliminary plats, PRDs, or binding site plans, unless the City is able to make a finding of concurrency; provided that, if the feepayer opts to dedicate land, to provide improvements, ~~and/or~~ construction consistent with the requirements of OMC 15.04.070 governing credits, where appropriate, the City can make a finding of concurrency.

D. A finding of concurrency provided to the applicant at the time of preliminary plat or PRD approval, or at the time of binding site plan approval, ~~shall be~~ valid for a period of three ~~(3)~~ years from the date of receipt. If pursuant to law, an applicant requests an extension of the three-year period between the date of preliminary and final plat or PRD approval, the applicant ~~shall be~~ subject to a new concurrency determination prior to the granting of a request for an extension.

E. If any party for any reason is able to exempt itself from the operation of this title, the City ~~reserves the right to~~may review its land use plan in conjunction with its capital facilities plan in order to ensure concurrency. In the event that the impact fees that might have been paid would have been an integral part of the financing to ensure concurrency, the City ~~reserves the right to~~may deny approval for the development on these grounds.

15.04.040- Assessment of impact fees

A. The City shall impose and collect impact fees, based on the schedules in ~~Chapter 15.16 OMC,~~ or an ~~independent alternate~~ fee calculation as provided for in ~~Section OMC 15.04.050, and the applicable interlocal agreements pursuant to OMC 15.04.110,~~ 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 or occupancy permit. ~~This shall include, but is not limited to,~~This includes the development of residential, commercial, retail, office, and industrial land, and includes the expansion of existing uses that creates a demand for additional public facilities, as well as a change in existing use that creates a demand for additional public facilities.

B. The Director shall determine whether a particular development activity is subject to impact fees under this chapter. The Director shall make such determination in writing and such determination is subject to appeal under the procedures set forth in chapter 18.75 OMC.

C. The following development activities are not subject to some or all impact fees:

1. Alteration of an existing nonresidential structure that does not expand the usable space or add any residential units is not subject to transportation, park, or school impact fees.

2. Miscellaneous improvement, including fences, walls, swimming pools, mining, dredging, filling, grading, paving, excavation or drilling operations, and signs is not subject to transportation, park, or school impact fees.

3. Demolition or moving of a structure is not subject to transportation, park, or school impact fees.

4. Expansion of an existing structure that results in the addition of 120 square feet or less of gross floor area is not subject to transportation, park, or school impact fees.

5. Replacement of a structure with a new structure of the same size and use at the same site or lot when such replacement occurs within 72 months of the demolition or destruction of the prior structure is not subject to transportation, park, or school impact fees. Replacement of a structure with a new structure of the same size must be interpreted to include any structure for which the gross square footage of the building will not be increased by more than 120 square feet. However, any additional residential unit that is created in the replacement is subject to park, transportation, and school impact fees, and any additional gross floor area greater than 120 square feet added in the replacement is subject to transportation impact fees.

6. The creation of an accessory dwelling unit is not subject to school impact fees.

7. A single room occupancy dwelling is not subject to school impact fees.

8. A change in use where the increase in trip generation is less than the threshold stated in OMC 15.04.040(E) is not subject to transportation impact fees.

9. Expansion of an existing residential structure that does not increase the number of residential units is not subject to school impact fees.

~~B.D.~~ Applicants seeking development approval from the City for residential developments where the property is located outside the boundaries of ~~the Olympia School District No. 111~~ shall ~~are~~ not be required to pay the school impact fee set forth in ~~Schedule C (Section 15.16.030) of Appendix A (Chapter 15.16)~~ OMC 15.16.030. Applicants seeking development approval from the City for residential developments where the property is located outside the boundaries of the North Thurston School District are not required to pay the school impact fee set forth in OMC 15.16.030.

~~C.E.~~ Where a change in use triggers review under the State Environmental Policy Act or increases the trip generation by more than ~~5%~~five percent or ~~ten~~10 peak hour person trips, whichever is less, the Director shall calculate a transportation impact fee based on the increases in the trip generation rate.

~~D.F.~~ The Director shall assess ~~Impact~~ impact fees ~~shall be assessed~~ at the time the complete building permit application is submitted for each unit in the development, using either the impact fee schedules then in effect or an independent fee calculation, at the election of the applicant and pursuant to the requirements set forth in ~~Section OMC 15.04.050. The City shall not accept an application for a building permit if final plat, PRD, or binding site plan approval is needed and has not yet been granted by the City. Furthermore, the City shall not accept an application for a building permit unless prior to submittal or concurrent with submittal, the fee payer submits complete applications for all other discretionary reviews needed, including, but not limited to, design review, the environmental determination, and the accompanying checklist.~~

~~E.G.~~ ~~Applicants~~ An applicant that ~~have~~has been awarded credits prior to the submittal of the complete building permit application pursuant to ~~Section OMC 15.04.070~~, shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the Director pursuant to ~~Section OMC 15.04.070~~ setting forth the dollar amount of the credit awarded. Impact fees, as determined after the

application of appropriate credits, ~~shall be~~ collected from the feepayer at the time the building permit is issued or prior to final building inspection as set forth in ~~Subsection (H) below~~ of this section.

~~FH.~~ Where the impact fees imposed are determined by the square footage of the development, the impact fee ~~shall be~~ based on the size and type of structure proposed to be constructed on the property. If the final square footage of the development is in excess of the initial square footage set forth in the building permit, any difference will be adjusted at the time that a certificate of occupancy is issued or the time that the building is occupied, using the rate schedule in effect at ~~that the~~ time of permit application.

~~GI.~~ Except as provided in subsection ~~(HJ) below~~ of this section, the Department shall not issue a building permit unless and until the impact fees required by this ~~C~~chapter, less any permitted exemptions, credits, or deductions, have been paid.

~~HJ.~~ Impact fee payments may be deferred until prior to the City conducting a final building inspection. ~~All applicants and~~ An applicant or legal owners of the property upon which the development activity allowed by the building permit is to occur must sign an Impact Fee Deferral Agreement in a form acceptable ~~by~~ to the ~~City Attorney-city attorney~~. The applicant ~~will~~ shall pay a \$50 administrative fee, along with fees necessary for recording the agreement in the office of the Thurston County Auditor.

~~K.~~ In the event that the fees are not paid within the time provided in this section, the City ~~shall~~ may institute foreclosure proceedings under the process set forth in ~~C~~chapter 61.12 RCW, except as revised herein. The then-present owner shall also pay the City's reasonable attorney fees and costs incurred in the foreclosure process. Notwithstanding the foregoing, the City ~~shall~~ may not commence foreclosure proceedings less than ~~thirty (30)~~ calendar days prior to providing written notification to the then-present owner of the property via certified mail with return receipt requested advising of its intent to commence foreclosure proceedings. If the then-present owner cures the default within the ~~thirty~~ 30-day cure period, no attorney fees ~~and/or~~ costs will be owed. In addition, the City retains its full authority to withhold inspections and to suspend, revoke, or refuse to issue occupancy and other building permits and to commence enforcement actions due to non-payment of impact fees.

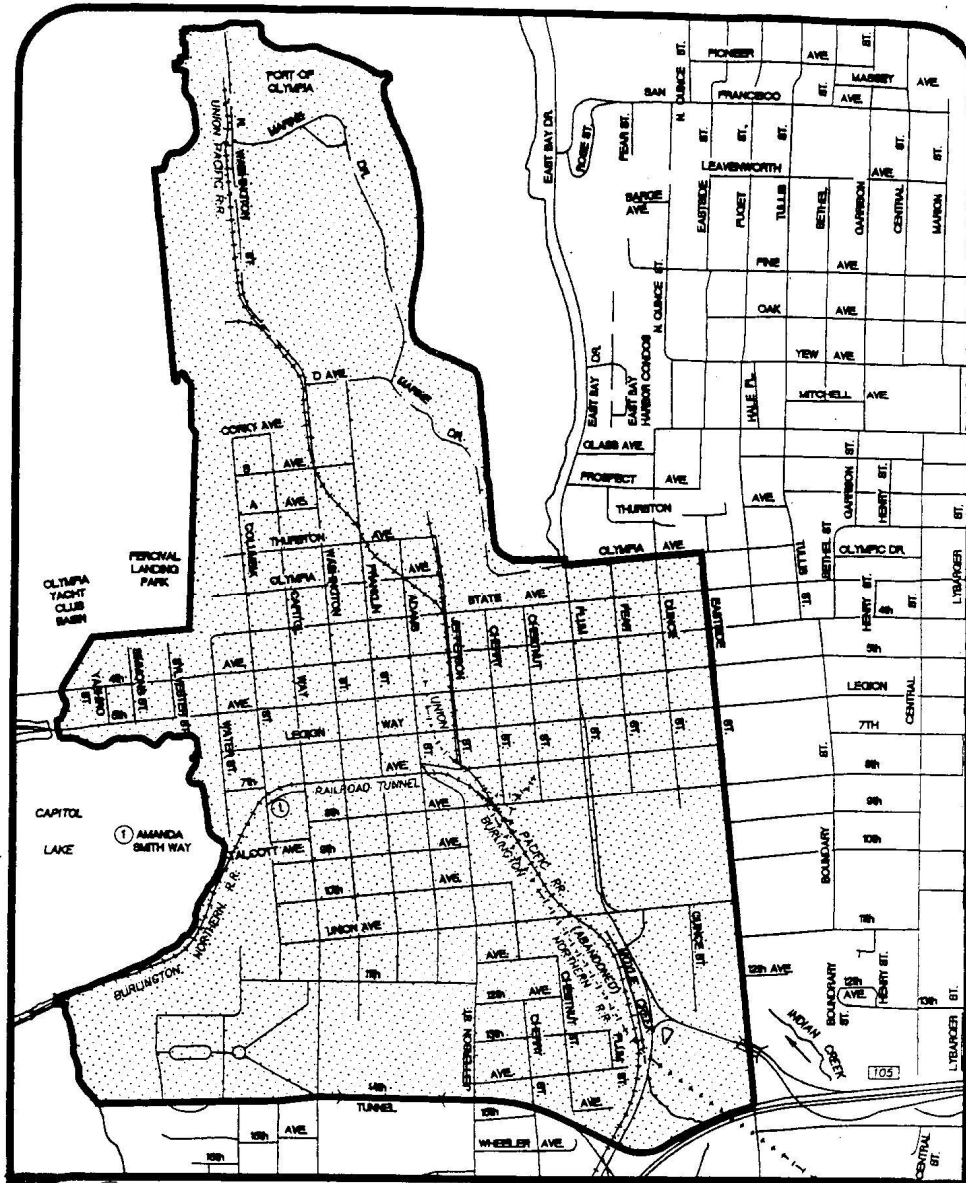


FIGURE 15-04-1
Downtown Deferred Impact Fee Payment Option Area
(Grey Shaded Area Only)

Note: This map is for illustrative purposes only.
For exact description of area, see Section [15.04.020](#) Definitions.

15.04.050 Alternative and Independent fee calculations

A.—If in the judgment of the Director, none of the fee categories or fee amounts set forth in Schedule A or D (Sections or) accurately describe or capture the impacts of a new development on parks or transportation facilities, the Department may prepare independent fee calculations and the Director 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 fee payer. For example, with respect to group homes, the fees imposed shall take into account the size and number of residents proposed to be housed in such group homes,

and the Director shall determine the fees to be imposed based on the Director's judgment of the approximate equivalent number of residents that would be generated compared to single family dwelling units.

B.—If District No. 111 believes in good faith that none of the fee categories or fee amounts set forth in Schedule C (Section) accurately describe or capture the impacts of a new development on schools, District No. 111 may conduct independent fee calculations and submit such calculations to the Director. The Director may impose alternative fees on a specific development based on the calculations of District No. 111, or may impose alternative fees based on the calculations of the Department. The alternative fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.

C.—An applicant may elect to have impact fees determined according to Schedule A or D (Sections and , respectively). If the applicant does so, the applicant shall execute an agreement in a form satisfactory to the City Attorney waiving the applicant's right to an independent fee calculation provided for in this Section. In the alternative, if an applicant opts not to have the impact fees determined according to Schedule A or D (Sections or), the applicant may elect an independent fee calculation for the development activity for which a building permit is sought. In that event, the applicant may prepare and submit the applicant's own independent fee calculation. The applicant must make the election between fees calculated under Schedules A or D and an independent fee calculation prior to issuance of the building permit for the development. If the applicant elects to prepare the applicant's own independent fee calculation, the applicant must submit documentation showing the basis upon which the independent fee calculation was made.

D.—An applicant may elect to have impact fees determined according to Schedule C (Section). If the applicant does so, the applicant shall execute an agreement in a form satisfactory to the City Attorney waiving the applicant's right to an independent fee calculation provided for in this Section. In the alternative, if an applicant opts not to have the impact fees determined according to Schedule C (Section), the applicant may elect an independent fee calculation for the development activity for which a building permit is sought. In that event, the applicant may prepare and submit the applicant's own independent fee calculation. The applicant must make the election between fees calculated under Schedule C and an independent fee calculation prior to issuance of the building permit for the development. If the applicant elects to prepare its own independent fee calculation, the applicant must submit documentation showing the basis upon which the independent fee calculation was made. The Director shall provide District No. 111 an opportunity to review the independent fee calculation and provide an analysis to the Director concerning whether the independent fee calculation should be accepted, rejected, or accepted in part. The Director may adopt, reject, or adopt in part the independent fee calculation based on the analysis prepared by District No. 111, or may impose alternative fees based on the calculations of the Department, the feepayer's 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, and with respect to school impact fees, to the Superintendent or the Superintendent's designee of District No. 111.

E.—Any applicant electing an independent fee calculation shall be required to pay the City of Olympia a fee to cover the cost of reviewing the independent fee calculation, as follows: If the applicant elects to submit the applicant's own independent fee calculation, the applicant shall pay to the City at the time of the independent fee calculation election a fee of five hundred dollars (\$500.00) plus a deposit of five hundred dollars (\$500.00) towards the City's actual costs incurred in reviewing the independent fee calculation. The applicant shall remit all remaining actual costs of the City's review of the independent fee calculation prior to and as a precondition of the City's issuance of the building permit. If the City's actual costs are lower than the deposit amount, the difference shall be remitted to the applicant.

~~F. While there is a presumption that the calculations set forth in the Parks Study, the Schools Study, and the Transportation Study are valid, the Director shall consider the documentation submitted by the feepayer and the analysis prepared by District No. 111, but is not required to accept such documentation or analysis which the Director reasonably deems to be inaccurate or not reliable, and may modify or deny the request, or, in the alternative, require the feepayer or District No. 111 to submit additional or different documentation for consideration. The Director 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 Director's decision shall be set forth in writing and shall be mailed to the feepayer, and with respect to school impact fees, to the Superintendent or the Superintendent's designee of District No. 111.~~

~~G. Determinations made by the Director pursuant to this Section may be appealed to the office of the hearing examiner subject to the procedures set forth in OMC Chapter .~~

A. If in the judgment of the Director, none of the fee categories or fee amounts set forth in OMC 15.16.010 or OMC 15.16.040 accurately describe or capture the impacts of a new development on parks or transportation facilities, the Department may prepare an alternative fee calculation and the Director may impose alternative fees on a specific development based on those calculations. The alternative fees and the calculations must be set forth in writing and must be mailed to the feepayer. For example, with respect to group homes, the alternate fees imposed must take into account the size and number of residents proposed to be housed in such group homes, and the Director shall determine the alternative fees to be imposed based on the Director's judgment of the approximate equivalent number of residents that would be generated compared to single family dwelling units.

B. An applicant may elect to have impact fees determined according to OMC 15.16.010 and OMC 15.16.040. In the alternative, an applicant may opt not to have the impact fees determined according to Sections OMC 15.16.010 or OMC 15.16.040, and may elect an independent fee calculation for the development activity for which a building permit is sought. In that event, the applicant may prepare and submit the applicant's own independent fee calculation. The applicant must make the election between fees calculated under OMC 15.16.010 and OMC 15.16.040 and an independent fee calculation prior to issuance of the building permit for the development. If the applicant elects to prepare the applicant's own independent fee calculation, the applicant must submit documentation showing the basis upon which the independent fee calculation was made.

C. School Impact Fees for developments within the Olympia School District service area are determined according to one of the following methods:

1. If the Olympia School District believes in good faith that none of the fee categories or fee amounts set forth in OMC 15.16.030 accurately describe or capture the impacts of a new development on schools within the Olympia School District's service area, the Olympia School District may conduct independent fee calculations and submit such calculations to the Director. The Director may impose alternative fees on a specific development based on the calculations of the Olympia School District or may impose alternative fees based on the calculations of the Department. The alternative fees and the calculations must be set forth in writing and must be mailed to the feepayer.

2. An applicant for a development within the Olympia School District service area may elect to have impact fees determined according to OMC 15.16.030. In the alternative, if an applicant opts not to have the impact fees determined according to OMC 15.16.030, the applicant may elect an independent fee calculation for the development activity for which a building permit is sought. In that event, the applicant may prepare and submit the applicant's own independent fee calculation. The applicant shall

make the election between fees calculated under OMC 15.16.030 and an independent fee calculation prior to issuance of the building permit for the development. If the applicant elects to prepare the applicant's own independent fee calculation, the applicant shall submit documentation showing the basis upon which the independent fee calculation was made. An independent fee calculation must use the same methodology used to establish the Olympia School District's fee schedule for the school district. The Director shall provide the Olympia School District an opportunity to review the applicant's independent fee calculation and provide an analysis to the Director concerning whether the independent fee calculation should be adopted, rejected, or adopted in part. The Director may adopt, reject, or adopt in part the independent fee calculation based on the analysis prepared by the Olympia School District, or may impose alternative fees based on one more of the calculations of the Department, the feepayer's independent fee calculation, the specific characteristics of the development, or principles of fairness. The fees or alternative fees and the calculations must be set forth in writing and must be mailed to the feepayer and to the Superintendent of the Olympia School District or the Superintendent's designee.

D. School Impact Fees for developments within the North Thurston School District service area are determined according to one of the following methods:

1. If the North Thurston School District believes in good faith that none of the fee categories or fee amounts in OMC 15.16.030 accurately describe or capture the impacts of a new development on schools within North Thurston School District's service area, the North Thurston School District may conduct independent fee calculations and submit such calculations to the Director. The Director may impose alternative fees on a specific development based on the calculations of the North Thurston School District or may impose alternative fees based on the calculations of the Department. The alternative fees and the calculations must be set forth in writing and must be mailed to the feepayer.

2. An applicant for a development within the North Thurston School District service area may elect to have impact fees determined according to OMC 15.16.030. In the alternative, if an applicant opts not to have the impact fees determined according to OMC 15.16.030 an applicant may elect to prepare and submit an independent fee calculation for the development activity for which a building permit is sought. The applicant shall make the election between fees calculated under Schedule C and an independent fee calculation prior to issuance of the building permit for the development. If the applicant elects to prepare the applicant's own independent fee calculation, the applicant shall submit documentation showing the basis upon which the independent calculation was made. An independent fee calculation must use the same methodology used to establish North Thurston School District's fee schedule for the school district. The Director shall provide the North Thurston School District an opportunity to review the applicant's independent fee calculation and provide an analysis to the Director concerning whether the independent fee calculation should be adopted, rejected, or adopted in part. The Director may adopt, reject, or adopt in part the independent fee calculation based on the analysis prepared by the North Thurston School District, or may impose alternative fees based on one or more of the calculations of the Department, the feepayer's independent fee calculation, the specific characteristics of the development, or principles of fairness. The fees or alternative fees and the calculations must be set forth in writing and must be mailed to the feepayer and to the Superintendent of the North Thurston School District or the Superintendent's designee.

E. Any applicant electing an independent fee calculation shall pay the City of Olympia a fee to cover the cost of reviewing the independent fee calculation, as follows: If the applicant elects to submit the applicant's own independent fee calculation, the applicant shall pay to the City at the time of the independent fee calculation election a fee of \$500.00 plus a deposit of \$500.00 towards the City's actual costs incurred in reviewing the

independent fee calculation. The applicant shall remit all remaining actual costs of the City's review of the independent fee calculation prior to and as a precondition of the City's issuance of the building permit. If the City's actual costs are lower than the deposit amount, the City shall remit the difference to the applicant.

F. While there is a presumption that the calculations set forth in the Parks Study, the Olympia School District Schools Study, the North Thurston School District Capital Facilities Plan, and the Transportation Study are valid, the Director shall consider the documentation submitted by the feepayer, and the analysis prepared by the Olympia School District or the North Thurston School District for development within their respective service areas, but is not required to accept such documentation or analysis which the Director reasonably deems to be inaccurate or not reliable, and may modify or deny the request, or, in the alternative, require the feepayer or the Olympia School District or the North Thurston School District to submit additional or different documentation for consideration. The Director is authorized to adjust the impact fees on a case-by-case basis based on one or more of the independent fee calculations, the specific characteristics of the development, or principles of fairness. The Director shall set forth the Director's decision in writing and shall mail the decision to the feepayer, and with respect to school impact fees, to the Superintendent of the Olympia School District or the Superintendent's designee, or the Superintendent of the North Thurston School District, or the Superintendent's designee, as applicable.

G. Determinations made by the Director pursuant to this section are subject to appeal under the procedures set forth in chapter 18.75 OMC.

15.04.060 Exemptions

A.—The following shall be exempted from the payment of impact fees as follows:

- 1.— ~~Alteration of an existing nonresidential structure that does not expand the usable space or add any residential units shall be exempt from paying all impact fees;~~
- 2.— ~~Miscellaneous improvements, including, but not limited to, fences, walls, swimming pools, and signs shall be exempt from paying all impact fees;~~
- 3.— ~~Demolition or moving of a structure shall be exempt from paying all impact fees;~~
- 4.— ~~Expansion of an existing structure that results in the addition of 120 square feet or less of gross floor area shall be exempt from paying all impact fees;~~
- 5.— ~~Replacement of a structure with a new structure of the same size and use at the same site or lot when such replacement occurs within 72 months of the demolition or destruction of the prior structure shall be exempt from paying all impact fees. 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 120 square feet. Such replacements shall be exempt from the payment of park, transportation impact fees, and school impact fees; provided that, park, transportation, and school impact fees will be charged for any additional residential units that are created in the replacement and, transportation impact fees shall be charged for any additional gross floor area greater than 120 square feet added in the replacement;~~
- 6.— ~~Any form of housing intended for and solely occupied by persons 62 years or older, including nursing homes and retirement centers, shall be exempt from the payment of school impact fees so long~~

as those uses are maintained, and the necessary covenants or declaration of restrictions, in a form approved by the City Attorney and the School District attorney, required to ensure the maintenance of such uses, are recorded on the property;

7.—The creation of an accessory dwelling unit shall be exempt from the payment of school impact fees and the creation of an accessory dwelling unit within an existing single family structure shall be exempt from the payment of park impact fees;

8.—A single room occupancy dwelling shall be exempt from the payment of school impact fees;

9.—A change in use where the increase in trip generation is less than the threshold stated in OMC (C), Assessment of Impact Fees shall be exempt from paying transportation impact fees; or

10.—Any form of low income housing occupied by households whose income when adjusted for size, is at or below 80 percent of the area median income, as annually adjusted by the U.S. Department of Housing and Urban Development shall be exempt from paying school impact fees provided that a covenant approved by the school district to assure continued use for low income housing is executed, and that the covenant is an obligation that runs with the land upon which the housing is located and is recorded against the title of the property.

11.—Developments limited to residents who routinely receive assistance with activities of daily living such as, but not limited to, bathing, dressing, eating, personal hygiene, transferring, toileting, and mobility shall be exempt from paying park and school impact fees.

12.—Any early learning facility, as defined in RCW , for the purposes of impact fee assessments, will not be subject to an impact fee that is greater than that imposed on commercial retail or office development activities that generate a similar number, volume, type, and duration of vehicle trips. Further, the early learning facility may receive:

a.—An 80 percent reduction in impact fees; or

b.—A full waiver from impact fees when the developer records a covenant with the Thurston County Auditor's Office that is compliant with RCW and:

i.—Requires that at least 25 percent of the children and families using the early learning facility qualify for state subsidized childcare, including early childhood education and assistance under chapter RCW;

ii.—Provides that if the property is converted to a use other than for an early learning facility, the property owner must pay the applicable impact fees in effect at the time of conversion; and

iii.—Provides that if at no point during a calendar year does the early learning facility achieve the required percentage of children and families qualified for state subsidized child care using the early learning facility, the property owner must pay 20 percent of the impact fee that would have been imposed on the development had there not been an exemption within 90 days of the local government notifying the property owner of the breach, and any balance remaining thereafter shall be a lien on the property.

~~B.—With respect to impact fees for parks and transportation, the Director shall be authorized to determine whether a particular development activity falls within an exemption identified in this Section, in any other 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 OMC Chapter.~~

~~C.—With respect to school impact fees, requests for an exemption shall be directed to District No. 111. District No. 111 shall determine whether a particular development activity falls within an exemption identified in this Section, in any other Section, or under other applicable law. District No. 111 shall forward its determination to the Director in writing, and the Director may adopt the determination of District No. 111 and may exempt or decline to exempt a particular development activity, or the Director may make an alternative determination and set forth the rationale for the alternative determination. Determinations of the Director shall be in writing and shall be subject to the appeals procedures set forth in OMC Chapter.~~

~~D.—Upon application by the owner, a partial exemption of not more than eighty percent (80%) of park, transportation and school impact fees, with no explicit requirement to pay the exempted portion of the fee from public funds, may be granted to a low income housing development, as defined below:~~

~~1.—The Director, after consultation with the Directors of Parks and Public Works Transportation, may grant an exemption to a low income housing project listed in an annual consolidated action plan approved by the City Council.~~

~~2.—The City Council may grant an exemption to a low income housing project not included in an annual consolidated action plan.~~

~~3.—The decision to grant, partially grant or deny an exemption shall be based on the public benefit of the specific project, the extent to which the applicant has sought other funding sources, the financial hardship to the project of paying the impact fees, the impacts of the project on public facilities and services, and the consistency of the project with adopted City plans and policies relating to low income housing.~~

~~4.—An exemption granted under this subsection must be conditioned upon requiring the developer to record a covenant approved by the Director that prohibits using the property for any purpose other than for low income housing as described in OMC Subsection 15.04.060.A.10. At a minimum, the covenant must address price restrictions and household income limits for the low income housing, and require that, if the property is converted to a use other than for low income housing as defined in the covenant, the property owner must pay the applicable impact fees in effect at the time of any conversion. Covenants required by this subsection must be recorded with the Thurston County Auditor.~~

~~5.—"Low income housing" means housing with a monthly housing expense that is no greater than thirty percent (30%) of eighty percent (80%) of the median family income adjusted for family size for Olympia, as reported by the United States Department of Housing and Urban Development.~~

The following are exempt from the payment of all or a portion of impact fees:

A. The development of any form of housing intended for and solely occupied by persons 55 years or older, including nursing homes and retirement centers, is exempt from the payment of school impact fees. A feepayer seeking an exemption from school impact fees as provided in this subsection shall direct the request for an exemption to the Director. The Director may grant, partially grant, or deny an exemption. The Director

shall make such determination in writing and such determination is subject to appeal under the procedures set forth in chapter 18.75 OMC.

B. The development of any form of housing meeting the definition of "Dwelling, Assisted Living" in OMC 18.02.180(D) is exempt from park impact fees and school impact fees. A feepayer seeking an exemption from park or school impact fees (or both) as provided in this subsection shall direct the request for an exemption to the Director. The Director may grant, partially grant, or deny an exemption. The Director shall make such determination in writing and such determination is subject to appeal under the procedures set forth in chapter 18.75 OMC.

C. The development of any form of low-income housing, as follows:

1. The development of any form of low-income housing within the Olympia School District or the North Thurston School District service areas may be exempt from not more than 80 percent of school impact fees. A feepayer seeking an exemption from school impact fees as provided in this subsection shall direct the request for an exemption to the Director. The Director may grant, partially grant, or deny an exemption. The Director shall make such determination in writing and such determination is subject to appeal, including by the feepayer or by the Olympia School District or the North Thurston School District, under the procedures set forth in chapter 18.75 OMC.

2. The development of any form of low-income housing may be exempt from not more than 80 percent of park and transportation impact fees. A feepayer seeking an exemption from park or transportation impact fees (or both) as provided in this subsection shall direct the request for an exemption to the Director. The Director may grant, partially grant, or deny an exemption under this subsection after consultation with the Directors of Parks, Arts and Recreation and Public Works Transportation. The Director shall make such determination in writing and such determination is subject to appeal under the procedures set forth in chapter 18.75 OMC.

D. The development of any early learning facilities, as follows:

1. For the purposes of impact fee assessments, the development of an early learning facility, as defined in RCW 43.31.565, is not subject to an impact fee that is greater than that imposed on commercial retail or office development activities that generate a similar number, volume, type, and duration of vehicle trips.

2. The Development of an early learning facility may receive:

a. An exemption for 80 percent of impact fees; or

b. An exemption for 100 percent of impact fees if the feepayer records a covenant with the Thurston County Auditor's Office that is compliant with RCW 82.02.060 and:

i. Requires that at least 25 percent of the children and families using the early learning facility qualify for state subsidized childcare, including early childhood education and assistance under chapter 43.216 RCW;

ii. Provides that if the property is converted to a use other than for an early learning facility, the property owner must pay the applicable impact fees in effect at the time of conversion; and

iii. Provides that if at no point during a calendar year does the early learning facility achieve the required percentage of children and families qualified for state subsidized child care using the early learning facility, the property owner must pay 20 percent of the impact fee that would have been imposed on the development had there not been an exemption within 90 days of the local government notifying the property owner of the breach, and any balance remaining thereafter shall be a lien on the property.

E. The decision to grant, partially grant, or deny a request for an exemption under this section must be based on the public benefit of the specific project, the extent to which the applicant has sought other funding sources, the financial hardship to the project of paying the impact fees, the impacts of the project on public facilities and services, and the consistency of the project with adopted City plans and policies, including those relating to low-income housing.

F. An exemption granted under this subsection must be conditioned upon the developer recording a covenant approved by the Director, in a form acceptable to the city attorney, and, for school impact fee exemptions, the school district, that prohibits using the property for any purpose other than that identified in the request for exemption. For low-income housing developments, at a minimum, the covenant must address price restrictions and household income limits for the low-income housing, and require that, if the property is converted to a use other than for low-income housing as defined in the covenant, the property owner must pay the applicable impact fees in effect at the time of any conversion. The feepayer shall record a covenant required by this subsection with the Thurston County Auditor, at the feepayer's expense.

15.04.070 Credits

~~A.—A feepayer can request that a credit or credits for park and/or transportation impact fees be granted for the total value of dedicated land, improvements, and/or construction provided by the feepayer if the land, improvements, and/or construction facility are identified in the capital facilities plan as projects providing capacity to serve new growth. The Director may make a finding that such land, improvements, and/or facility would serve the goals and objectives of the capital facilities plan. For park and transportation impact fees, the feepayer can also request a credit or credits for significant past tax payments. For each request for a credit or credits for significant past tax payments for park and transportation impact fees, the feepayer shall submit receipts and a calculation of past tax payments earmarked for or proratable to the projects that provide capacity to serve new growth in the capital facilities plan.~~

~~B.—Where the dedicated land, improvements, and/or construction is for the benefit of District No. 111, the feepayer shall direct the request for a credit or credits to District No. 111. District No. 111 shall first determine the general suitability of the land, improvements, and/or construction for District purposes. Second, District No. 111 shall determine whether the land, improvements, and/or the facility constructed are included within the District's adopted capital facilities plan or the Board of Directors for District No. 111 may make the finding that such land, improvements, and/or facilities would serve the goals and objectives of the capital facilities plan of District No. 111. District No. 111 shall forward its determination to the Director, including cases where District No. 111 determines that the dedicated land, improvements, and/or construction are not suitable for District purposes. The Director may adopt the determination of District No. 111 and may award or decline to award a~~

credit, or the Director may make an alternative determination and set forth in writing the rationale for the alternative determination.

C.—For each request for a credit or credits, if appropriate, the Director shall select an appraiser or the feepayer may select an independent appraiser acceptable to the Director. The appraiser must be a Washington State Certified Appraiser or must possesses 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 the appraiser does not have a fiduciary or personal interest in the property being appraised.

D.—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.

E.—Where the dedicated land, improvements, and/or construction is for the benefit of District No. 111 and District No. 111 has determined that the land, improvements, and/or construction would be suitable for District purposes, District No. 111 shall select an appraiser or the feepayer may select an independent appraiser acceptable to District No. 111. Such appraiser must meet and comply with the requirements set forth in subsection C above. The appraiser shall be directed to determine the value of the dedicated land, improvements, 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 Director may be providing to the feepayer, in the event that a credit is awarded.

G.—After receiving the appraisal, or the determination of District No. 111, and where consistent with the requirements of this Section, the Director shall provide the applicant 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 applicant must sign and date a duplicate copy of such letter or certificate indicating the applicant's agreement to the terms of the letter or certificate, and return such signed document to the Director before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within sixty (60) calendar days shall nullify the credit. The credit must be used within seventy-two (72) months of the award of the credit.

H.—Any claim for credit must be made no later than twenty (20) calendar days after the submission of an application for a building permit.

I.—In no event shall the credit exceed the amount of the impact fees that would have been due for the proposed development activity.

J.—No credit shall be given for project improvements.

K.—Determinations made by the Director pursuant to this Section shall be subject to the appeals procedures set forth in OMC Chapter 18.75.

A. Park or transportation impact fee credit: A feepayer may be entitled to a credit or credits against park or transportation impact fees (or both) for the total value of any dedication of land for, improvement to, or new construction of any system improvement provided by the feepayer. A feepayer may request that a credit against park or transportation impact fees, or both, be granted for the total value of a system improvement provided by the feepayer if the system improvement is identified in the applicable capital facilities plan as projects providing capacity to serve new growth. The Director may make a finding that such system

improvement would serve the goals and objectives of the capital facilities plan. For park and transportation impact fees, the feepayer may also request a credit or credits for significant past tax payments. For each request for a credit or credits for significant past tax payments for park or transportation impact fees, the feepayer shall submit receipts and a calculation of past tax payments earmarked for or proratable to the project or projects that provide capacity to serve new growth in the capital facilities plan.

B. School impact fee credit: A feepayer may be entitled to a credit or credits against school impact fees for the total value of any dedication of land for, improvement to, or new construction of any system improvement provided by the feepayer, as follows:

1. North Thurston School District: Where the system improvement is for the benefit of the North Thurston School District, a feepayer may request that a credit for school impact fees be awarded to the feepayer for the total value of any system improvement provided by the feepayer. The feepayer shall direct the request for a credit to the Director and shall include documentation, such as receipts, to establish the amount of credit requested. The Director shall transmit the feepayer's request for a credit to the North Thurston School District, which shall determine the general suitability of system improvements for school district purposes. The North Thurston School District shall determine whether the system improvements are included within the district's adopted capital facilities plan or the board of directors of the North Thurston School district may determine that such system improvements would serve the goals and objectives of the capital facilities plan. The North Thurston School District shall forward its determination to the Director, including cases where the district determines that the system improvements are not suitable for district purposes or do not serve the goals and objects of the capital facilities plan. The Director may adopt the determination of the district and may award or decline to award a credit, or the Director may make an alternative determination and set forth in writing the rationale for the alternative determination.

2. Olympia School District: Where the system improvement is for the benefit of the Olympia School District, the feepayer shall direct the request for a credit to the Olympia School District, which shall determine the general suitability of the system improvement for District purposes. The Olympia School District shall determine whether the system improvement is included within the District's adopted capital facilities plan or the board of directors of the Olympia School District may determine that such system improvement would serve the goals and objectives of the capital facilities plan of the Olympia School District. The Olympia School District shall forward its determination to the Director, including cases where the Olympia School District determines that the system improvements are not suitable for District purposes or do not serve the goals and objects of the capital facilities plan. The Director may adopt the determination of the Olympia School District and may award or decline to award a credit, or the Director may make an alternative determination and set forth in writing the rationale for the alternative determination.

C. Appraisal of value of system improvements:

1. Except as provided in subsection 2 of this section, for each request for a credit determined by the Director to meet the requirements of this section, the Director shall determine the total value of the system improvements by using available documentation, or the Director may select an appraiser to make such determination. Alternatively, the feepayer may select an independent appraiser acceptable to the Director to make such determination.

2. For a system improvement benefiting the Olympia School District, for each request for a credit determined by the Director to meet the requirements of this section, the Olympia School District shall select an appraiser to determine the total value of the system improvements. Alternatively, the feepayer may select an independent appraiser acceptable to the Director, to make such determination.

3. An appraisal under this section must be performed by a Washington State Certified Appraiser or a person who possesses other equivalent certification. The person performing the appraisal may not have a fiduciary or personal interest in the project improvement being appraised. The person performing the appraisal shall include a description of the appraiser's qualifications with the appraisal and shall certify that the appraiser does not have a fiduciary or personal interest in the project improvement being appraised. The person performing the appraisal shall determine the total value of the system improvement provided by the feepayer on a case-by-case basis.

4. The feepayer shall pay for the cost of any appraisal under this section, or request that the cost of the appraisal be deducted from the credit which the Director may be providing to the feepayer, in the event that a credit is awarded.

D. For each request for a credit determined by the Director to meet the requirements of this section, and after the value of the system improvement has been determined as provided in Subsection C, above, the Director 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 the applicant's agreement to the terms of the letter or certificate and return such signed document to the Director before the impact fee credit will be awarded. The failure of the feepayer to sign, date, and return such document within 60 calendar days nullifies the credit. The feepayer must the credit within 72 months of the award of the credit.

E. A feepayer shall make any request for a credit for a system improvement no later than the time of application for a building permit.

F. In no event may the credit exceed the amount of the impact fees that would have been due for the proposed development activity.

G. A feepayer is not entitled to any impact fee credit or credits for project improvements.

H. Determinations made by the Director pursuant to this Section are subject to the appeals procedures set forth in chapter 18.75 OMC.

15.04.080- Tax adjustments

Pursuant to and consistent with the requirements of RCW 82.02.060, the Parks Study, the Transportation Study, ~~and the Olympia School District Schools Study and the North Thurston School District Capital Facilities Plan~~ 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 schedules in ~~Appendix A (Chapter 15.16) OMC~~ have reasonably adjusted for taxes and other revenue sources which are anticipated to be available to fund these public improvements.

15.04.090- Appeals

A. Any feepayer may ~~pay~~any the impact ~~fees~~fee imposed by this title under protest in order to obtain a building permit or occupancy permit. No appeal ~~shall be~~ permitted until ~~the~~any impact ~~fees~~fee at issue ~~have~~has been paid.

B. Appeals regarding the impact ~~fees~~fee imposed on any development activity ~~shall~~may only be filed by the feepayer of the property where such development activity will occur, except as otherwise provided herein (See Subsection E of this section).

C. ~~The~~ Prior to filing an appeal, ~~The~~the feepayer ~~must~~shall first file a request for review regarding impact fees with the Director, as provided herein:

1. The request ~~shall~~must be in writing on the form provided by the City;
2. The request for review by the Director ~~shall~~must be filed no later than ~~fourteen (14)~~ calendar days after the feepayer pays the impact ~~fees~~fee at issue;
3. No administrative fee ~~will be~~ imposed for the request for review by the Director; and
4. The Director shall issue a determination in writing.

D. Determinations of the Director with respect to the applicability of the impact ~~fees~~fee to a given development activity, the availability or value of a credit, or the Director's decision concerning the independent fee calculation, or exemptions, or any other determination which the Director is authorized to make pursuant to this title, ~~can~~may be appealed to the hearing examiner subject to the procedures set forth in ~~OMC~~ Chapter 18.75 OMC.

E. If the Director makes a determination on an adjustment, credit, or independent fee calculation contrary to or inconsistent with the determination or analysis prepared by ~~District No. 111, District No. 111~~the Olympia School District or the North Thurston School District, with respect to a system improvement benefiting such district, the district may appeal the Director's determination to the hearing examiner subject to the procedures set forth in ~~OMC~~ Chapter 18.75 OMC.

15.04.100- Establishment of impact fee accounts for parks and transportation

A. Impact fee receipts ~~shall~~must be earmarked specifically and deposited in special interest-bearing accounts. The City shall invest the fees received ~~shall be invested~~ in a manner consistent with the investment policies of the City.

B. There are hereby established two separate impact fee accounts for the fees collected pursuant to this title: the Parks Impact Account and the Transportation Impact Account. ~~Funds~~The City shall use funds withdrawn from these accounts ~~must be used~~ in accordance with the provisions of Section OMC 15.04.130 of this title. Interest earned on the fees ~~shall~~must 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 Financial Director shall provide a report to the Council on each of the two impact fee accounts showing the source and amount of all moneys collected, earned, or received, and the public improvements that were financed in whole or in part by impact fees.

D. Impact fees ~~shall~~must be expended or encumbered within ~~ten (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 ~~ten (10)-year~~10-year period. Under such circumstances, the Council shall establish the period of time within which the impact fees ~~shall be~~are expended or encumbered.

15.04.110 Authorization for the school interlocal agreement and the establishment of the school impact account

A. The City Manager is authorized to execute, on behalf of the City, an interlocal agreement for the collection, expenditure, and reporting of school impact fees; provided that, such interlocal agreement complies with the provisions of this Section.

B. As a condition of the interlocal agreement, ~~District No. 111~~the Olympia School District shall establish a School Impact Account with the Office of the Thurston County Treasurer, who serves as the Treasurer for District No. 111. The account ~~shall~~must be an interest-bearing account, and the school impact fees received ~~shall~~must be invested in a manner consistent with the investment policies of ~~District No. 111~~the Olympia School District.

C. As a condition of the applicable interlocal agreement, the North Thurston School District shall establish a School Impact Account with the Office of the Thurston County Treasurer, who serves as the Treasurer for the North Thurston School District. The account must be an interest-bearing account, and the school impact fees received must be invested in a manner consistent with the investment policies of the North Thurston School District.

~~E.D.~~ For administrative convenience while processing the fee payments, school impact fees may be temporarily deposited in a City account, with interest earned retained by the City. As soon as practicable, the City shall transmit the school impact fees collected for the Olympia School District No. 111 to the Olympia School District No. 111, and the Olympia School District No. 111 shall deposit the fees in the School Impact Account established by the Olympia School District. Likewise, as soon as practicable, the City shall transmit the school impact fees collected for the North Thurston School District to the North Thurston School District, and the North Thurston School District shall deposit the fees in the School Impact Account established by the North Thurston School District.

~~E.E.~~ Funds withdrawn from the School Impact AccountAccounts for the Olympia School District No. 111 and the North Thurston School District must be used in accordance with the provisions of Section-OMC 15.04.130 of this title. The interest earned shall~~must~~be retained in this accountthese accounts and expended for the purposes for which the school impact fees were collected.

~~E.F.~~ On an annual basis, pursuant to the interlocal agreement,agreements, the Olympia School District No. 111and the North Thurston School District shall each provide a report to the Council on thetheir respective School Impact Account, 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.

F.G. ~~___~~ School impact fees ~~shall~~must be expended or encumbered within ~~ten-(10)~~ years of receipt, unless the Council identifies in written findings extraordinary and compelling reason or reasons for the Olympia School District No. 111 or the North Thurston School District to hold the fees beyond the ~~ten-(10)~~-year period. Under such circumstances, the Council shall establish the period of time within which the impact fees ~~shall~~must be expended or encumbered, after consultation with ~~District No. 111~~the Olympia School District or the North Thurston School District, as applicable.

15.04.120- Refunds

A. If the City ~~or, the Olympia School District No. 111, or the North Thurston School District~~ fails to expend or encumber the impact fees within ~~ten-(10)~~ years of when the fees were paid, or where extraordinary or compelling reasons exist, such other time periods as established pursuant to ~~Sections OMC 15.04.100 or OMC 15.04.110~~, the current owner of the property on which impact fees have been paid may receive a refund of such fees. In determining whether impact fees have been expended or encumbered, impact fees ~~shall be~~are considered expended or encumbered on a first in, first out basis.

B. The City shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of such claimants. The potential claimant must be the owner of the property for which the impact fee was paid.

C. ~~Current~~A current owner(s) seeking a refund of impact fees ~~must~~shall submit a written request for a refund of the fees to the Director ~~and/or the Olympia School District No. 111~~(for school impact fees in its service area) or the North Thurston School District (for school impact fees in its service area) within one ~~(1)~~ year of the date the right to claim the refund arises or the date that notice is given, whichever is later.

D. ~~Any~~The City, the Olympia School District, or the North Thurston School District, as applicable, shall retain any impact fees for which no application for a refund has been made by the claimant within this one-year period ~~shall be retained by the City or District No. 111~~ and such retained fees must be expended on the appropriate public facilities. ~~Claimants shall have~~A claimant has no rightright to a refund if not timely requested pursuant to ~~Subsection OMC 15.04.120(C)~~.

E. Refunds of impact fees under this ~~Section~~shallmust include any interest earned on the impact fees by the City ~~or, the Olympia School District No. 111, or the North Thurston School District~~.

F. When the City seeks to terminate any or all components of the impact fee program, it shall refund, pursuant to this section, all unexpended or unencumbered funds from any terminated component or components, including interest earned, ~~shall be refunded pursuant to this Section~~. Upon the finding that any or all fee requirements are to be terminated, the City shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two ~~(2)~~-times and shall notify all potential claimants by first class mail at the last known address of the claimants. All funds available for refund ~~shall~~must be retained for a period of one ~~(1)~~-year. At the end of one ~~(1)~~-year, any remaining funds ~~shall~~must be retained by the City, but must be expended for the appropriate public facilities. This notice requirement ~~shall~~does not apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

G. The City, or the Olympia School District, or the North Thurston School District shall also refund to the current owner of property for which impact fees have been paid all impact fees paid, including interest earned on the impact fees, if the development activity for which the impact fees were imposed did not occur; provided that, if the City ~~or District No. 111, the Olympia School District, or the North Thurston School District~~ has

expended or encumbered the impact fees in good faith prior to the application for a refund, the Director ~~or, the Olympia School District No. 111 can, or the North Thurston School District may~~ decline to provide the refund. If within a period of three ~~(3)~~ years, the same or subsequent owner of the property proceeds with the same or substantially similar development activity, the owner can petition the Director, or the Olympia School District No. 111, or the North Thurston School District for an offset against the actual impact fee amounts paid. The petitioner ~~must~~shall provide receipts of impact fees previously paid for a development of the same or substantially similar nature on the same property or some portion thereof. In the case of park or transportation impact fees, the Director shall determine whether to grant an offset, and the determinations of the Director may be appealed pursuant to the procedures in ~~OMC Chapter 18.75 OMC~~. In the case of school impact fees, the Olympia School District No. 111 or the North Thurston School District, as applicable, shall determine whether to grant an offset. The Olympia School District No. 111 or the North Thurston School District shall forward its determination to the Director, and the Director may adopt the determination of ~~District No. 111 the district~~ and may grant or decline to grant an offset, or the Director may make an alternative determination and set forth the rationale for the alternative determination. ~~Determinations of the~~ The Director shall make such a determination in writing and ~~shall be the Director's determination is~~ subject to the appeals procedures set forth in ~~OMC Chapter 18.75 OMC~~.

15.04.130-Use of funds

A. Pursuant to this title, impact fees:

1. ~~shall~~Must be used for public improvements that will reasonably benefit the new development; and
2. ~~shall~~May not be imposed to make up for deficiencies in public facilities serving existing developments; and
3. ~~shall~~May not be used for maintenance or operation.

B. With respect to parks facilities, 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.

C. 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 pertaining to transportation improvements.

D. With respect to schools, impact fees may be spent for public improvements, including, ~~but not limited to,~~ school planning, land acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable impact fees or mitigation costs, capital equipment pertaining to educational facilities, and any other expenses which can be capitalized.

E. Impact fees may also be used to recoup public improvement costs previously incurred by the City, ~~or the Olympia School District No. 111, or the North Thurston School District~~ to the extent that new growth and development will be served by the previously constructed improvements or incurred costs.

F. 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.

15.04.140-Administrative guidelines

The Director ~~shall be~~ is authorized to adopt forms, applications, brochures, and guidelines for the implementation of this title, which may include the adoption of a procedures guide for impact fees.

15.04.150 Review

The Council shall review the fee schedules set forth in Chapter 15.16~~OMC shall be reviewed by the Council~~ as it may deem necessary and appropriate in conjunction with the annual update of the capital facilities plan element of the City's comprehensive plan.

15.04.160 Additional provisions pertaining to North Thurston School District

Service Area. The service area for the North Thurston School District school impact fees is the portions of the boundary of the North Thurston School District within the incorporated city limits of Olympia. The service area for the North Thurston School District Capital Facilities Plan, as amended, is hereby found to be reasonable and established on the basis of sound planning and engineering principles and are consistent with chapter 82.02 RCW.

Section 2. Amendment of OMC 15.08.030. Section 15.08.030 of the Olympia Municipal Code is hereby amended to read as follows:

15.08.030 School impact fees

A. The school impact fees applicable to developments within the Olympia School District service area set forth in Schedule C (Section OMC 15.16.030), attached to this title, are generated from the formula for calculating impact fees set forth in the School Study and the Olympia School District No. 111 Capital Facilities Plan, as the same may be amended from year to year. The School Study and the District's Capital Facilities Plan, as amended, are incorporated herein by reference. Except as otherwise provided in Sections OMC 15.04.050, OMC 15.04.060, or OMC 15.04.070 of Chapter 15.04, all new residential developments in the City within the Olympia School District service area will be charged the school impact fee in Schedule C (Section OMC 15.16.030).

B. The school impact fees applicable to developments within the North Thurston School District service area set forth OMC 15.16.030, attached to this title, are generated from the formula for calculating impact fees set forth in the North Thurston School District Capital Facilities Plan, as the same may be amended from year to year. The North Thurston School District Capital Facilities Plan, as amended, is incorporated herein by reference. Except as otherwise provided in OMC 15.04.050, OMC 15.04.060, or OMC 15.04.070, all new residential developments in the City within the North Thurston School District service area will be charged the school impact fee in OMC 15.16.030.

Section 3. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 4. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 5. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 6. Effective Date. This Ordinance shall take effect thirty (30) days after passage and publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Michael M. Young

DEPUTY CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED: