

Ordinance 600 -2021

Amending Kitsap County Code Provisions Concerning Road Impact Fees

WHEREAS, the Washington State Growth Management Act, RCW 82.02.050 *et seq.*, authorizes the imposition and collection of certain impact fees for schools, parks and roads by local governments; and

WHEREAS, in 1992, Kitsap County adopted a comprehensive impact fee ordinance that imposes impact fees on development for schools, parks and roads, which is codified in Kitsap County Code (KCC) Chapter 4.110; and

WHEREAS, in 2003, Kitsap County conducted multiple studies regarding its impact fees, including a study specific to road impact fees, and based on this study, repealed and replaced the 1992 impact fee program. Multiple revisions were made to the trip generation calculations and the impact fee rates later in 2003 and 2004; and

WHEREAS, a recent study revealing our current impact fee has determined that 21,582 new PM peak hour trips will be added to our road system by 2036 requiring \$300 million in new improvement projects to sustain our current level of service; and

WHEREAS, the proportionate share of the cost of these new improvement projects needed to serve new growth and development is approximately 33% of the total cost, or approximately \$100 million. When broken down into PM peak hour trips, the cost is \$4,304.00 per PM peak hour trip; and

WHEREAS, the Board of County Commissioners finds that it is in the public interest to increase the county impact fee to provide for future infrastructure needs and requirements in compliance with the Growth Management Act.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. Kitsap County Section 4.110.010, last amended by Ordinance 561-2018, is further amended as follows:

4.110.010 Definitions

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

A. "Building permit" means an official document or certification which is issued by the county and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.

B. "Capital facilities plan" means the capital facilities plan element of a comprehensive plan adopted by the county pursuant to Chapter 36.70A RCW and such plan as amended.

C. "Department" means the department of community development.

D. "Development" or "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 and requires a site development activity permit or certificate of occupancy.

E. "Director" means the director of the department of community development or the director's designee.

F. "District No. 100-C" means the Bremerton School District No. 100-C, Kitsap County, Washington.

G. "District No. 401" means the Central Kitsap School District No. 401, Kitsap County, Washington.

H. "District No. 400" means the North Kitsap School District No. 400, Kitsap County, Washington.

I. "District No. 402" means the South Kitsap School District No. 402, Kitsap County, Washington.

J. "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.

K. "Encumber" 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.

L. "Feepayer" is a person, corporation, partnership, incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation which begins a development activity that creates the demand for additional system improvements and requires the issuance of a site development activity permit or certificate of occupancy. "Feepayer" includes an applicant for an impact fee credit.

M. "Gross floor area" means the total square footage of livable area of any dwelling unit and the gross leasable area square footage of any nonresidential building, structure, or use, including accessory uses.

N. "Hearing examiner" means the examiner who acts on behalf of the board in considering and applying land use regulatory codes as provided under Chapter 2.10. Where appropriate, "hearing examiner" also refers to the office of the hearing examiner.

O. "Impact fee" means a payment of money imposed by Kitsap County on development activity pursuant to this chapter 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.

P. "Impact fee account" or "account" means the account(s) established for each service area for each type of public facility for which impact fees are collected. The accounts shall be established pursuant to Sections 4.110.070 and 4.110.080 and comply with the requirements of RCW 82.02.070.

Q. "Independent fee calculation" means the road impact calculation, park impact calculation, school impact calculation, and/or economic documentation prepared by a feepayer, to support the imposition of an impact fee other than by the use of the rates listed in Part 2 of this chapter, or the calculations prepared by the director or the school district where none of the fee categories or fee amounts in Part 2 of this chapter accurately describe or capture the impacts of the new development on public facilities.

R. "Interest" means the money earned from investing unexpended impact fees at the average interest rate earned in an impact fee account in the last fiscal year.

S. "Interlocal agreement" or "agreement" means an executed legal instrument that structures a binding relationship between Kitsap County and other public agencies as defined in and authorized by Chapter 39.34 RCW.

T. "ITE land use code" means the classification code number assigned to a type of land use by the Institute of Transportation Engineers in the most recent edition of the Institute of Transportation Engineers, Trip Generation Manual.

U. "Low-income housing" means:

(1) An owner-occupied housing unit affordable to households whose household income is less than eighty percent of the Kitsap County median income, adjusted for household size, as determined by the United States Department of Housing and Urban Development (HUD); or

(2) A renter-occupied housing unit affordable to households whose income is less than sixty percent of the Kitsap County median income, adjusted for household size, as determined by HUD.

In the event that HUD no longer publishes median income figures for Kitsap County, the county may use or determine such other method as it may choose to determine the Kitsap County median income, adjusted for household size. The director will make a determination of sales prices or rents that meet the affordability requirements of this section. An applicant for a low-income housing

exemption may be a public housing agency, a private nonprofit housing developer, or a private developer.

V. "Certificate of occupancy" means the certificate issued by Kitsap County where a development activity results in a change in use of the preexisting structure, or the creation of a new use where none previously existed.

W. "Open space" means for the purposes of this title public land that:

- (1) Conserves or enhances natural, cultural or scenic resources;
- (2) Protects streams, stream corridors, wetlands, natural shorelines and aquifers;
- (3) Protects soil resources and unique or critical wildlife and native plant habitat;
- (4) Promotes conservation principles by example or by offering educational opportunities;
- (5) Enhances the value of parks, forests, wildlife preserves, nature reservations and other open spaces; or
- (6) Preserves historic and/or archaeological sites.

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

Y. "Parks" means public 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, trails, passive public access, water access, and environmental education facilities.

Z. "Parks study" means the "Rate Study for Impact Fees for Parks and Recreation Facilities," Kitsap County, dated May 16, 2003.

AA. "Project improvements" mean 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 board shall be considered a project improvement.

AB. "Public facilities" means the following capital facilities owned or operated by Kitsap County or other governmental entities: (1) public streets and roads; (2) publicly owned parks, open space, and recreation facilities; and (3) public school facilities.

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

AD. "Road" means a public street or road or similar right-of-way including avenue, place, way, drive, lane, boulevard, highway, bridge and other thoroughfare, except an alley, which enables motor vehicles, transit vehicles, bicycles and pedestrians to travel between destinations, and affords the principal means of access to abutting property. A road includes the right-of-way, road base, paved surface, and associated appurtenances such as traffic signals, street and road lights, curb, gutter and sidewalk, and storm drains.

AE. "Road study" means the Kitsap County Transportation Impact Fee Rate Study 2021 Update, dated May 2021.

AF. "School district" means one of the following districts in Kitsap County, Washington or reference to any of these districts: Bremerton School District No. 100-C, the Central Kitsap School District No. 401, the North Kitsap School District No. 400, or the South Kitsap School District No. 402, Kitsap County, Washington.

AG. "School study" or "schools studies" means the "Rate Study for Impact Fees for Bremerton Schools," Kitsap County, dated May 16, 2003, the "Rate Study for Impact Fees for Central Kitsap Schools," Kitsap County, dated May 16, 2003, the "Rate Study for Impact Fees for North Kitsap Schools," Kitsap County, dated May 16, 2003, and/or the "Rate Study for Impact Fees for South Kitsap Schools," Kitsap County, dated May 16, 2003.

AH. "Service area" means a geographic area identified in the park study, road study, or school study in which a defined set of public facilities provides service to development within the area.

AI. "Site development activity permit" means all documents submitted as part of a site development permit application, including, but not limited to, drainage plans, grading plans, erosion and sedimentation control plans, hydrological analyses, geotechnical reports, soils investigation reports, and design analyses related to a land development project.

AJ. "State" means the state of Washington.

AK. "System improvements" means public facilities that are included in Kitsap County's capital facilities plan and are designed to provide service to service areas within the community at large, in contrast to project improvements.

Section 2. Kitsap County Code Section 4.110.040, last amended by Ordinance 302-2003, shall be further amended as follows:

4.110.040 Credits

A. A feepayer can request that a credit or credits for impact fees be awarded to him/her for the value of dedicated land, improvements, or construction provided by the

feepayer. Credits will be given only if the land, improvements, and/or the facility constructed are:

1. Included within the capital facilities plan and identified as system improvements that are to be funded, in whole or part, by impact fees;
2. At suitable sites and/or constructed at acceptable quality as determined by the county for roads and parks or the school district for schools; and
3. Are completed, dedicated, or otherwise transferred to the county for roads and parks or the school district for schools prior to the determination and award of a credit as set forth in this section.

B. No credit shall be given for project improvements.

C. The director shall determine if requests for credits for road and park impact fees meet the criteria in subsections A or B, above. The school district shall determine if requests for credits for school impact fees meet the criteria in subsections A or B, above. The school district shall forward its determination to the director.

D. The value of a credit for structures, facilities or other improvements that meet the criteria in subsection A shall be established by original receipts provided by the feepayer for one or more of the same system improvements for which the impact fee is being charged.

E. The value of a credit for land, including right of way, that meet the criteria in subsection A shall be established on a case-by-case basis by an appraiser selected by, or acceptable to the director for roads or parks impact fees, or the school district for school impact fees. The appraiser must be MAI or must possess other equivalent certification and shall not have a fiduciary or personal interest in the property being appraised. A description of the appraiser's certification shall be included with the appraisal, and the appraiser shall certify that he/she does not have a fiduciary or personal interest in the property being appraised. The feepayer shall pay for the cost of the appraisal.

F. A feepayer can request that a credit or credits for impact fees be awarded to him/her for payments of user fees, debt service payments, taxes or other payments which were paid prior to the date the impact fee is imposed and were earmarked or proratable to the same system improvements for which the impact fee is imposed. For each request for a credit or credits for past tax payments for road or park impact fees, the feepayer shall submit to the director receipts and a calculation of past tax payments earmarked for or proratable to the particular system improvement for which the impact fee is imposed. For each request for a credit or credits for past tax payments for school impact fees, the feepayer shall submit to the school district receipts and a calculation of past tax payments earmarked for or proratable to the particular system improvement for which the impact fee is imposed.

G. After receiving the receipts for improvements, the appraisal of land value, the receipts and calculations of prior payments earmarked or proratable to the same system

improvements for which the impact fee is imposed, and/or the credit determination from a school district pursuant to subsections C, E, and F, 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 his/her 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.

H. If the amount of the credit is less than the calculated fee amount, the difference remaining shall be chargeable as an impact fee and paid at the time the site development activity permit or certificate of occupancy is issued. In the event the amount of the credit is calculated to be greater than the amount of the impact fee due, the applicant may apply such excess credit toward impact fees imposed on other developments of the applicant's within the same service area, or the applicant may transfer the excess credit to other property within the same service area if such transfer is acceptable to the county, provided that such acceptance shall not be unreasonably withheld.

I. A claim for credit will be processed by the director using whichever of the following options is selected by the feepayer:

(1) Claims for credits that are submitted prior to, or with an application for a site development activity permit or certificate of occupancy for which an impact fee will be due will be processed by the director before payment of the impact fee is due in order to allow any credit authorized by the director to reduce the amount of the impact fee; or

(2) Claims for credits that are submitted no later than one year after an application for a site development activity permit or certificate of occupancy for which an impact fee is due shall be processed by the director after the impact fee is paid in full, and any credit authorized by the director will be refunded to the owner within one hundred eighty (180) days of receipt of the claim for credits.

J. Claims for credits that are submitted more than one year after an application for a site development activity permit or certificate of occupancy for which an impact fee is due shall be deemed waived.

K. In the event that the county adopts impact fees that are less than the amount determined in the road study, parks study or school studies, and provided that the amount of the reduction is achieved by a discount or similar policy determination to reduce the fee without revising the underlying studies, data, or assumptions, then credits issued pursuant to subsections A through J shall be given only in an amount by which the value of the credit exceeds the full fee amount set forth in the road study, parks study or school studies.

L. Determinations made by the director pursuant to this section shall be subject to the appeals procedures set forth in Section 4.110.060 below.

Section 3. Kitsap County Code Section 4.110.070, last amended by Ordinance 302-2003, shall be further amended as follows:

4.110.070 Impact fee accounts for roads and parks.

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

B. There are hereby established a separate impact fee account for the fees collected pursuant to this title for each service area for roads and for parks. Funds withdrawn from these accounts must be used in accordance with the provisions of Section 4.110.100. Interest earned on the fees shall be retained in each of the accounts and expended for the purposes for which the impact fees were collected.

C. On an annual basis, the director of administrative services shall provide a report to the board on each of the impact fee accounts showing the source and amount of all moneys collected, earned, or received, and the system improvements that were financed in whole or in part by impact fees.

D. Impact fees shall be expended or encumbered in accordance with Section 4.110.090, unless the board identifies in written findings extraordinary and compelling reason or reasons for the county to hold the fees beyond the provisions of Section 4.110.090. Under such circumstances, the board shall establish the period of time within which the impact fees shall be expended or encumbered.

Section 3. Kitsap County Code Section 4.110.200, last amended by Ordinance 561-2018, shall be further amended as follows:

4.110.200 Road impact fees

A. Commencing on the effective date of this Ordinance road impact fees shall be \$4,304 per PM peak hour trip for all road service areas in unincorporated Kitsap County, as adjusted to the current date pursuant to Section 4.110.120. The impact fee rate shall be applied to the proposed land use as set forth in the current version of the Institute of Transportation Engineers, Trip Generation Manual, on file with the department of public works.

Except as otherwise provided for independent fee calculations in Section 4.110.230, exemptions in Section 4.110.030 and credits in Section 4.110.040, all new development will be charged the road impact fee applicable to the type of development in the road service area in which the development is located.

Section 4. Effective Date: This Ordinance shall take effect on February 1, 2022.

Section 5. Severability: If any sentence, section, provision, or clause of this ordinance or its application to any person, entity or circumstance is for any reason held invalid or unconstitutional, the remainder of the ordinance, or the application of the provision to other persons, entities, or circumstances is not affected.

Section 6. Scrivener's Error: Should any amendment to Kitsap County Code that was passed by the Board during its deliberations be inadvertently left out upon publication, the explicit action of the Board as discussed and passed shall prevail upon subsequent review and verification by the Board.

DATED this 23rd day of August, 2021.

ATTEST:



Dana Daniels

Dana Daniels, Clerk of the Board

BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON

Robert Gelder

ROBERT GELDER, Chair

E. E. Wolfe

EDWARD E. WOLFE, Commissioner

Charlotte Garrido

CHARLOTTE GARRIDO, Commissioner

Approved as to form:

Scott Neikel

Deputy Prosecuting Attorney