

Chapter 14.120

PARK IMPACT MITIGATION FEES

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14.120.010 Purpose.

The purpose of this chapter is to implement the capital facilities element of the Lake Stevens comprehensive plan and the Growth Management Act by:

- (a) Ensuring adequate park, recreation, open space and trail facilities are available to serve new development.
- (b) Maintaining the high quality of life in Lake Stevens by ensuring adequate facilities are available to serve growth and maintaining existing service levels for present businesses and residents.
- (c) Establishing standards and procedures whereby new development pays its proportionate share of the costs of park, recreation, open space and trail facilities, thereby reduc-

ing transaction costs for both the City and developers and ensuring new developments are not required to pay arbitrary or duplicative fees. (Ord. 794, Sec. 1 (Exh. A), 2009)

14.120.020 Authority.

This chapter is adopted under RCW 82.02.050(2), which authorizes cities planning under the Growth Management Act, Chapter 36.70A RCW, to assess, collect, and use impact fees to pay for park, recreation, open space and trail facilities needed to accommodate growth. The City of Lake Stevens is required to plan under the Growth Management Act and has adopted a comprehensive plan, which includes a capital facilities element which complies with RCW 36.70A.070(3) and 82.02.050(4), and all other applicable requirements. Consequently, the City of Lake Stevens is authorized to impose, collect, and use impact fees. (Ord. 794, Sec. 1 (Exh. A), 2009)

14.120.030 Applicability.

This chapter applies to all new residential development, except as may be exempted below. (Ord. 794, Sec. 1 (Exh. A), 2009)

14.120.040 Exemptions.

The following development activities shall be exempted from payment of impact fees:

- (a) Reconstruction, remodeling or construction of the following facilities:
 - (1) Shelters or dwelling units for temporary placement which provide housing to persons on a temporary basis for not more than four weeks.
 - (2) Construction or remodeling of transitional housing facilities or dwelling units that provide housing to persons on a temporary basis for not more than 24 months, in connection with job training, self-sufficiency training and human services counseling the purpose of which is to help persons make the transition from

homelessness to placement in permanent housing.

- (b) Rebuilding or replacement of legally established dwellings that have been destroyed or damaged; provided, that such rebuilding takes place within one year after destruction.
- (c) Alteration or expansion of an existing building where no additional dwellings are created.
- (d) Care homes for the elderly, except portions thereof which provide independent living dwellings. (Ord. 794, Sec. 1 (Exh. A), 2009)

14.120.050 Service Areas.

For the provision of parks, implementation of the capital facilities and parks and recreation elements of the comprehensive plan and administration of this chapter, a single parks service area encompassing the entire City is hereby established. (Ord. 794, Sec. 1 (Exh. A), 2009)

14.120.060 Mitigation of Park and Recreation Impacts Required.

Any person who applies for a building permit for any development activity shall mitigate the development's impacts on the City's park and recreation service levels either by payment of an amount calculated pursuant to Section 14.120.080 or 14.120.090, or by dedication of land pursuant to Section 14.120.100 or as otherwise provided in Section 14.120.070. (Ord. 794, Sec. 1 (Exh. A), 2009)

14.120.070 Relationship to the State Environmental Policy Act (SEPA).

This chapter establishes minimum impact fees which are to be applied to all residential developments. These fees are presumed to mitigate demand impacts of residential uses on parks. However, each development shall be reviewed and be subject to the substantive authority of SEPA for potential adverse impacts on parks not mitigated by this fee. (Ord. 794, Sec. 1 (Exh. A), 2009)

14.120.080 Calculation of Impact Fee.

Impact fees may be calculated based on the adopted capital facilities plan and computed either by using adopted impact fee schedules (subsection (a) of this section), calculation using a specified formula (subsection (b) of this section), or by independent fee calculation (Section 14.120.090).

(a) Impact Fee Schedules for Park Acquisition and Park Development. When a capital facilities plan for park facilities and acquisition has been adopted, the impact fee shall be calculated using the impact fee schedules.

- (1) When using the impact fee schedules in subsection (a)(6) of this section, the impact fees shall be calculated by using the following formula:

Number of units of each type of residential use	x	Impact fee amount for a facility type	=	Amount of impact fee that shall be paid for that facility type for that use
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- (2) The number of units of each type of residential use shall be determined by the number and type of housing units for which a building permit application has been made; and
- (3) Using the formula in subsection (a)(1) of this section, impact fees shall be calculated separately for each residential use and each facility type. The impact fees that shall be paid are the sum of these calculations.
- (4) If the type of use or development activity is not specified on the impact fee schedules in this section, the Planning Director shall use the impact fee applicable to the most comparable type of residential use on the fee schedules. The Planning Director shall be guided in the selection of a comparable type by the most recent Standard Industrial Code Manual and the

Lake Stevens development code. If the Planning Director determines that there is no comparable type of land use on the above fee schedule, the Planning Director shall determine the proper fee by considering demographic or other documentation which is available from state, local, and regional authorities.

- (5) In the case of a change in use, development activity, redevelopment, or expansion or modification of an existing use, the impact fee shall be based upon the net positive increase in the impact fee based on either the number of dwelling units or square feet of commercial or industrial area for the new development activity as compared to the previous development activity. The Planning Director shall be guided in this determination by the sources and agencies listed above.
- (6) Facility-Type Impact Fee Schedule.

<u>Residential Use</u>	<u>Units</u>	<u>Impact Fee per Unit</u>
Single-family residences (including mobile/manufactured homes, duplexes and attached single-family homes)	1 housing unit	Established in capital facilities plan using formula below
Multifamily residences	1 housing unit	Established in capital facilities plan using formula below

Formula for Determining per Unit Amount of Park Impact Fee. For assessing impacts of residential properties, the capital facility plan is used as the basis for the fee calculation.

- IF:
- A = Parks, recreation, open space or trails capital facility program
 - B = City of Lake Stevens contribution

- C = Percent of total park use demanded by land use category
- D = Projected growth by number of units per land use category
- F = Developer fee obligation

THEN:
 $F = [(A - B) \times C] / D$

- (b) Impact Fee Formula for Park Acquisition. The formula below shall be used to develop mitigation fees for public park and recreation facilities when a capital facilities plan for park property acquisition, but not for park facilities, has been adopted.
 - (1) The formula shall be reviewed with the annual comprehensive plan amendment and modified to reflect changes in acquisition baseline costs.
 - (2) Park Land Acquisition Costs. The average costs of developable land suitable for public park purposes within the general vicinity of the City of Lake Stevens has been determined to be at least \$150,000 an acre.
 - (3) Level of Service. The level of service standard for parks established in the capital facilities element of the comprehensive plan is 7.5 acres of parkland per 1,000 residents.
 - (4) Household Size. In determining the average household size various sources have been consulted including the City of Lake Stevens Comprehensive Plan, City of Lake Stevens Land Use Code, and the Office of Financial Management. As a result, for the purpose of implementing this section, the average household sizes are as follows:
 - (i) Single-Family Residential – 3.0 persons.
 - (ii) Duplex – 2.2 persons.
 - (iii) Zero to One Bedroom Apartment – 1.4 persons.
 - (iv) Two Bedroom Apartment – 2.2 persons.

- (v) Three Plus Bedroom Apartment – 3.0 persons.
- (5) Adjustment Rate. In accordance with RCW 82.02.050 and 82.02.060, the City shall provide a balance between impact fees and other sources of public funds to meet its capital projects needs. Revenues from property taxes, user fees (if imposed), sales taxes, real estate excise taxes, grants, and other revenue sources need to be used to pay the proportionate share of the growth-generated capital facilities costs.
- (6) For the purpose of calculating park impact fees, 70 percent of the cost of park development is anticipated to be generated locally. The remaining 30 percent is expected to originate from City, county or state sources. Thus the mitigation assessment reflects a 30 percent discount from the actual acquisition costs.
- (7) The formula is thus:
 - (i) $X \text{ acres per person} \times \text{capital cost per acre} = \text{park capital cost per person} = 0.0075 \times \$150,000 = \$1,125 \text{ per person.}$
 - (ii) Capital cost per person \times persons per household = capital cost per household =
 - a. Single-Family Residential = $\$1,125 \times 3.0 = \$3,375.$
 - b. Duplex = $\$1,125 \times 2.2 = \$2,475.$
 - c. Apartment 0 – 1 bedrooms = $\$1,125 \times 1.4 = \$1,575.$
 - d. Apartments 2 bedrooms = $\$1,125 \times 2.2 = \$2,475.$
 - e. Apartments 3+ bedrooms = $\$1,125 \times 3.0 = \$3,375.$
 - (iii) Capital Cost per Household \times Adjustment Rate per Household = Impact Fee per Household =
 - a. Single Family = $\$3,375 \times 0.70 = \$2,363.$

- b. Duplex = $\$2,475 \times 0.70 = \$1,733.$
- c. Apartment 0 – 1 bedrooms = $\$1,575 \times 0.70 = \$1,103.$
- d. Apartments 2 bedrooms = $\$2,475 \times 0.70 = \$1,733.$
- e. Apartments 3+ bedrooms = $\$3,375 \times 0.70 = \$2,363.$ (Ord. 794, Sec. 1 (Exh. A), 2009)

14.120.090 Independent Fee Calculations.

If a developer elects not to have the impact fee determined according to Section 14.120.080, then:

- (a) The developer shall prepare and submit to the City an independent fee calculation study for determining the development’s mitigation obligation. The documentation submitted shall show the basis upon which the independent fee calculation was made.
- (b) The Planning Director shall consider the documentation submitted by the developer but is not required to accept such documentation if it is found to be inaccurate or not reliable. If such findings are made, the director shall require the developer to submit additional documentation for consideration.
- (c) If an acceptable independent fee calculation study is presented, the director may adjust the fee as may be appropriate to the particular development, in consideration of the specific characteristics of the development, and/or principles of fairness.
- (d) When a developer requests an independent fee calculation, all costs of such calculation shall be borne by the developer.
- (e) Following approval of a fee pursuant to this section, the Planning Director shall report the facts and decision to the Planning Commission and City Council, who in turn, may provide feedback as to the future administration and implementation of this section. (Ord. 794, Sec. 1 (Exh. A), 2009)

14.120.100 Credits.

(a) Credits.

- (1) The required park impact fees shall be reduced by the amount of any payment for park, recreation, open space or trail facilities system improvements previously made for the lot on which the development activity will take place either as a condition of approval or under voluntary agreements with the City entered into after the effective date of the ordinance codified in this chapter.
- (2) Whenever a development is granted approval subject to a condition that the developer actually provide sites, facilities, or improvements for parks, recreation, open space, or trails acceptable to the City, or whenever the developer has agreed, pursuant to the terms of a voluntary agreement with the City, to provide land, park capital facilities, or to improve existing facilities, the developer shall be entitled to a credit for up to the value of land or up to the actual cost of construction against the impact fee that would be chargeable under Section 14.120.060.
 - (i) The land value or cost of construction shall be estimated at the time of approval and shall be based on acceptable evidence and documentation. The evidence and documentation shall be reviewed and, if acceptable, approved by the Planning Director. When land is proposed for dedication, the person required to pay impact fees shall present either an MAI appraisal or evidence of the assessed value as determined by the county assessor's office. If construction costs are estimated, the documentation shall be confirmed after the construction is completed to assure that an accurate credit amount is provided. If the

land value or construction cost is less than the calculated fee amount, the difference remaining shall be chargeable as an impact fee for the facility for which the land, system facilities, or improved system facilities were provided.

- (ii) In certain cases a park, recreation, open space or trail system improvement may function as a project improvement. Where a system improvement functions as a project improvement, the person who is required to pay impact fees shall only receive a credit for the amount of the improvement that functions as a park improvement.
- (3) The amount of the credit for a development activity shall not exceed the amount of the impact fee the development activity is required to pay.
- (4) If a development activity includes construction of park, recreation, open space or trail facilities, which meet the requirements of this subsection, then the applicant shall be entitled to a credit for that portion of the park impact fee to be used for that park, recreation, open space or trail facility-type to the extent that the park, recreation, open space or trail system satisfies the needs of the occupants of the development activity and the public.
 - (i) The credit shall equal either:
 - a. The reduction in demand by occupants of the development on the City's park system that is met by the facility; or
 - b. The reduction in demand by the general public on the City's park system that is met by the facility, if the facility is open to the general public and signs at the facility notify the public that

they can use the facility. To be eligible for the credit in this subsection, the facility shall be located in an area which, based upon adopted level of service standards, is lacking in needed park, recreation, open space or trail facilities. Credit under this subsection shall not be given for the portion of any facility which provides a higher level of service than that set by the level of service standard for that facility.

- (ii) To be eligible for a credit, the park, recreation, open space or trail facilities shall function as a park, recreation, open space or trail system improvement and not as a project improvement as defined by this chapter.
- (b) Any claim for credit should be made at least 30 days prior to application for a building permit so as to eliminate or minimize any delays in issuance of a permit. (Ord. 794, Sec. 1 (Exh. A), 2009)

14.120.110 Reserved.

Reserved. (Ord. 794, Sec. 1 (Exh. A), 2009)

14.120.120 Collection of Impact Fees.

Impact fees for each lot shall be assessed and collected at the time of issuance of a building permit. (Ord. 794, Sec. 1 (Exh. A), 2009)

14.120.130 Uses of Impact Fee Revenues.

- (a) Park impact fee revenue can be used for the capital cost of public facilities, not operating or maintenance expenses.
- (b) Park impact fees shall be used for park planning, architectural and/or engineering design studies, land surveys, land acquisition, engineering, permitting, financing, administrative expenses, construction, site improvements,

necessary off-site improvements, applicable application or impact fees, required mitigation costs, and capital equipment pertaining to recreation facilities, relocatable improvement costs previously incurred by the City to the extent that new growth and development will be served by the system improvements, and any other expenses which could be capitalized and are consistent with the capital facilities element.

- (c) In the event that bonds or similar debt instruments are issued for the advanced provision of system improvements for which impact fees may be expended and where consistent with provisions of the bond covenants, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that facilities or improvements provided are consistent with the requirements of this section.
- (d) Park facilities that can be paid for by impact fees are system improvements, which are typically located outside the development, and designed to provide service to the community at large as provided in RCW 82.02.090(9), as opposed to project improvements, which are typically provided by the developer on-site within the development or adjacent to the development, and designed to provide service for a development project, and that are necessary for the use and convenience of the occupants or users of the project as provided in RCW 82.02.090(6). (Ord. 794, Sec. 1 (Exh. A), 2009)

14.120.131 Expenditure Requirements for Impact Fees.

- (a) Park impact fees must be spent on capital projects either contained in an adopted capital facilities plan or shown in impact fee calculation in Section 14.120.080. They may also be used to reimburse the City for the unused capacity of existing facilities.
- (b) Park impact fee payments not expended within six years must be refunded, pursuant to Sec-

tion 14.120.140; unless the City Council makes written findings that there exists an extraordinary and compelling reason for fees to be held longer than six years. In order to verify these two requirements, impact fee revenues must be deposited into separate accounts of the City, and annual reports must describe revenue and expenditures. (Ord. 794, Sec. 1 (Exh. A), 2009)

14.120.140 Refund of Fees Paid.

- (a) Park impact fees collected pursuant to this chapter shall be deposited into an interest bearing account established for the City.
- (b) If a development approval expires without commencement of construction, then the developer shall be entitled to a refund of impact fees paid, with interest, of the impact fee paid for that development. The developer must submit an application for such a refund to the Finance Director within 30 days prior to the expiration of the permit. By resolution, the City Council may adopt fees to offset administrative costs of collecting and refunding mitigation fees.
- (c) Any funds not expended or encumbered by the end of six years from the date the fee was paid shall be returned to such landowner with interest; provided, that the landowner submits a request for a refund to the City of Lake Stevens within one year of the expiration of the six-year period.
- (d) Impact fees that are not expended or encumbered within these time limitations, and for which no application of a refund has been made in accordance with this section, shall be retained and expended on parks facilities.
- (e) Interest due upon the refund of impact fees shall be calculated according to the average rate received by the City on invested funds throughout the period during which the fees were retained. (Ord. 794, Sec. 1 (Exh. A), 2009)

14.120.150 Appeals.

Appeals of mitigation requirements imposed pursuant to this chapter shall be governed by the appeal provisions of Section 14.16A.265. (Ord. 811, Sec. 90, 2010; Ord. 794, Sec. 1 (Exh. A), 2009; Ord. 797, Sec. 8, 2009; Ord. 644, Sec. 1, 2001)

