

CITY OF MAPLE VALLEY, WASHINGTON

ORDINANCE O-12-508

AN ORDINANCE OF THE CITY OF MAPLE VALLEY, WASHINGTON, ADOPTING A NEW CHAPTER 16.70, FIRE IMPACT FEES, WITHIN THE MAPLE VALLEY MUNICIPAL CODE, PROVIDING FOR SEVERABILITY, ESTABLISHING AN EFFECTIVE DATE, AND PROVIDING FOR CORRECTIONS.

WHEREAS, the City Council has amended the City's Comprehensive Plan, Capital Facilities Element, to address Fire and Emergency Medical Services provided by Maple Valley Fire and Life Safety District No. 43 (MVFLS); and

WHEREAS, the Washington Legislature amended state law in 2011, to allow for the imposition of fire impact fees; and

WHEREAS, MVFLS has undertaken a series of comprehensive studies to analyze the impact of growth and development on its ability to provide services and replace equipment; and

WHEREAS, the impact of growth and development on MVFLS is similar in nature to the impact of growth and development on schools, city park facilities, and city transportation facilities; and

WHEREAS, MVFLS has requested that the City Council of Maple Valley consider adopting a fire impact fee program that will address the growth-related impacts on MVFLS similar to the way the City Council addressed the growth-related impacts on the Tahoma School District; and

WHEREAS, a properly noticed public hearing was advertised on the proposed ordinance to adopt fire impact fees, for July 9, 2012; and

WHEREAS, the City Council held a public hearing on July 9, 2012; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MAPLE VALLEY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. New Chapter Adopted. A new Chapter 16.70, Fire Impact Fees, within Title 16 of the Maple Valley Municipal Code is hereby adopted as follows:

Sections:

16.70.010 Findings and authority.

16.70.020 Definitions.

16.70.030 Impact fee – Applicability.

- 16.70.040 Exemptions.
- 16.70.050 Interlocal agreement between the City and district.
- 16.70.060 Submission of district capital facilities and equipment plan and data.
- 16.70.070 Annual Council review.
- 16.70.080 Impact fee program elements.
- 16.70.090 Fee calculations.
- 16.70.100 Assessment of impact fees.
- 16.70.110 Collection of impact fees.
- 16.70.120 Determination of the fee; adjustments; exception; appeals.
- 16.70.130 Impact fee accounts and refunds.

16.70.010 Findings and authority.

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

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

16.70.020 Definitions.

The following words and terms shall have the following meanings for the purpose of this chapter:

A. "Capital facilities & equipment plan" means the district's capital improvement plan adopted by the fire board consisting of:

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

B. "City" means the City of Maple Valley.

C. "District" means Maple Valley Fire & Life Safety, established as King County Fire Protection District No. 43.

D. "Developer" means the person or entity that owns or holds purchase options or other development control over property for which development activity is proposed.

E. "Development activity" means any residential or commercial construction or expansion of a building, structure or use, any change in use of a building or structure, or any change in the use of land that creates additional demand for fire facilities.

F. "Encumbered" means impact fees identified by the district as being committed as part of the funding for a fire facility for which the publicly funded share has been assured or building permits sought or construction contracts let.

G. "Fire protection facilities" means fully equipped fire stations, administrative offices, training grounds and structures, maintenance facilities and other specialized facilities required for the district to locate and house firefighting and emergency medical equipment, fire suppression equipment, and the staff necessary to delivery emergency response services within the district's service area.

H. "Interlocal agreement" means the agreement between the district and the City, governing the operation of the fire impact fee program and describing the relationship, duties and liabilities of the parties.

I. "Impact fee" means a payment of money imposed upon development as a condition of development approval to pay for fire facilities needed to serve new growth and development that is reasonably related to the new development that creates additional demand and need for fire facilities, that is a proportionate share of the cost of the fire facilities, and that is used for facilities that reasonably benefit the new development. "Impact fee" does not include a reasonable permit or application fee.

J. "Impact fee schedule" means the table of impact fees to be charged per unit of development, computed by the formula adopted under this chapter, indicating the standard fee amount per dwelling unit or per commercial development that shall be paid as a condition of development within the City.

K. "King County Code" or "KCC" means the King County Code, wherever the same has been adopted by reference by the City of Maple Valley.

L. "Level(s) of service" means the standards adopted by the district for the delivery of fire and emergency medical response services, as set forth in the district's adopted capital facilities and equipment plan.

16.70.030 Impact fee – Applicability.

Impact fees, based on the district's capital facilities and equipment plan adopted by the City Council, shall be required for all development activity requiring City review and approval where such requires the issuance of a residential or commercial building permit.

The impact fees shall be assumed for each type of construction at the time of permit application, and shall be collected when the permit is issued as provided for in this chapter.

16.70.040 Exemptions.

A. The following development activities are exempt from the requirements of this chapter:

1. Shelters or dwelling units for temporary placement, which provide housing to persons on a temporary basis.

2. Rebuilding of a legally established structure(s) destroyed or damaged by fire, flood, explosion, act of nature or other accident or catastrophe, or remodeling of existing legally established structure(s); provided, that such rebuilding or remodeling takes place within a period of one year after such damage or destruction. The exemption shall not apply to any additional structure that is proposed to be built on the same tax parcel on which the structure that was damaged or destroyed is being rebuilt or remodeled.

5. Projects in which existing dwelling units are converted into condominium ownership and where no new dwelling units are created.

6. Any development activity that is exempt from the payment of an impact fee pursuant to RCW 82.02.100(1), as written or hereafter amended.

7. Any development activity for which fire impacts have been mitigated pursuant to a previously determined land use approval; provided that the condition of approval predates the effective date of fee imposition.

8. Any development activity for which fire impacts have been mitigated pursuant to a voluntary agreement entered into with the district to pay fees, dedicate land or construct or improve fire facilities; provided, that the agreement predates the effective date of fee imposition.

9. Any development of 200 square feet or less that does not use or store hazardous materials that would create a life safety risk.

B. The Director shall review requests for exemptions from impact fees under subsection (A) of this section, and shall advise the developer in writing of the grant or denial of the request. In addition, the Director shall notify the fire district of all applications for exemption and shall notify the Fire district when such requests are granted or denied.

16.70.050 Interlocal agreement between the City and the district.

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

16.70.060 Submission of district capital facilities and equipment plan and data.

A. On an annual basis, the district shall submit the following materials to the City Council:

1. The district's capital facilities and equipment plan (as defined in MVMC 16.70.020.A) as adopted by the District's Board of Commissioners. The capital facilities and equipment plan shall contain a six-year financing component as set forth in MVMC 16.70.020.A;

2. The district's growth projections over the next six years;
3. The district's levels of service and performance history to those levels of service;
4. The district's overall capacity to meet levels of service over the next six years, the expected service improvements from fire facilities planned by the district but not yet built; and

B. To the extent that the district's levels of service identifies a deficiency in its existing facilities, the district's capital facilities and equipment plan must identify the sources of funding other than impact fees, for building or acquiring the necessary facilities to serve the existing population in order to eliminate the deficiencies within a reasonable period of time.

C. Facilities to meet future demand shall be designed to meet the district's adopted levels of service. If sufficient funding is not projected to be available to fully fund facilities which meet the adopted levels of service, the district's capital facilities and equipment plan should document the reason for the funding gap, and identify all sources of funding and mitigation that the district plans to use to meet the adopted levels of service.

D. The district shall also submit an annual report to the City Council showing the capital improvements which were serviced in whole or in part by the impact fees.

16.70.070 Annual Council review.

On an annual basis, the City Council shall review the information submitted by the district pursuant to MVMC 16.70.060.A.1 and consider whether to adopt the same. The City Council's review and possible adoption shall occur in conjunction with any update of the Capital facilities element of the City's Comprehensive Plan that occurs concurrently with the adoption or amendment of the City's budget.

16.70.080 Impact fee program elements.

A. Impact fees will be assessed on every new structure in the district for which a fee schedule has been established provided that the City has adopted the district's capital facilities and equipment plan pursuant to MVMC 16.70.070.

B. Consistent with RCW 82.02.050 through 82.02.110 et seq., any impact fee imposed shall be reasonably related to the impact caused by the development and shall not exceed a proportionate share of the cost of the system improvements that are reasonably related to the development.

C. The impact fee shall be based on the capital facilities and equipment plan developed by the district and approved by the fire board, and adopted by reference by the City as part of the City's adoption of a capital improvements plan or the Capital Facilities Element of the Comprehensive Plan for the purpose of establishing the fee program.

16.70.090 Fee calculations.*

A. The fee shall be calculated based on the formula set out in Attachment A.

B. Separate fees shall be calculated for single-family, multifamily, commercial/industrial, assisted care and hospital and medical facilities. For the purpose of this chapter, mobile homes and manufactured homes shall be treated as single-family dwellings and duplexes shall be treated as multifamily dwellings.

C. The fee shall be calculated on a district-wide basis using the appropriate factors and data to be supplied by the district, as indicated in Attachment A.

D. The formula in Attachment A provides for a credit where creditable mitigations are implemented or where voluntary agreements between the district and developer provide for fire facilities, fire facility sites or other related developer contributions which the district finds acceptable.

F. The City may also impose an application fee to cover the reasonable costs of administration of the impact fee program.

* Attachment A is part of Ordinance O-12-508, available in the office of the City Clerk.

16.70.100 Assessment of impact fees.

At the time of application for a building permit with the City, including an application for a manufactured home, the fire impact fee shall be assessed based on the impact fee schedule then in effect as calculated in Attachment A, using the capital facilities and equipment plan of the district adopted by the City Council. The impact fee and the application fee, if any, shall be collected by the City, and maintained in separate accounts. All fire impact fees shall be paid to the district from the fire impact fee account monthly. If the City imposes an application fee, the City shall retain the application fees associated with the City's administration of the impact fee program.

16.70.110 Collection of impact fees.*

A. The City shall collect impact fees based upon the schedule set forth in Attachment A. The impact fee shall be collected by the City from any applicant where such development activity requires issuance of a building permit or a manufactured home permit not exempted by MVMC 16.70.040.

B. For application for building permits and manufactured home permits, the total amount of the impact fees shall be collected from the applicant when the building permit is issued, using the impact fee schedules in effect at the time of application.

C. The City shall not issue the required building permit or manufactured home permit unless and until the impact fees set forth in the impact fee schedule have been paid.

* Attachment A is part of Ordinance O-12-508, available in the office of the City Clerk.

16.70.120 Determination of the fee; adjustments; exception; appeals.

A. The City shall determine the fire impact fee, based upon the City's action pursuant to MVMC 16.70.090.

B. The City shall provide a credit for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the capital facilities plan that are required by the City as a condition of approving the development.

C. The standard impact fees may be adjusted, if one of the following circumstances exists:

1. The developer demonstrates that an impact fee assessment was improperly calculated; or

2. Unusual circumstances identified by the developer demonstrate that if the standard impact fee amount was applied to the development, it would be unfair.

D. In cases where a developer requests an independent fee calculation, adjustment exception or a credit pursuant to RCW 82.02.060(3), the City shall consult with the district and the district shall advise the City prior to the City making the final impact fee determination.

E. A developer may provide studies and data to demonstrate that any particular factor used by the district may not be appropriately applied to the development proposal.

F. Any appeal of the decision of the City with regard to fee amounts shall follow the process for the appeal of the underlying development application.

G. Impact fees may be paid under protest in order to obtain a building permit or a manufactured home permit.

16.70.130 Impact fee accounts and refunds.

A. Impact fee receipts shall be earmarked specifically and retained in a special interest-bearing account established by the district solely for the district's fire impact fees. All interest shall be retained in the account and expended for the purpose or purposes for which impact fees were imposed. Annually, the district, based in part on its report prepared pursuant to MVMC 16.70.060, shall prepare a report on the impact fee account showing the source and amount of all moneys collected, earned or received, and capital or system improvements that were financed in whole or in part by impact fees. The district shall submit a copy of this report to the City Council annually. The City shall maintain a separate fire impact fee account and, if applicable, an administration fee account pursuant to MVMC 16.70.100, and shall prepare a report on the source and amount of all fire impact fees collected and transferred to the district.

B. Impact fees for the district's system improvements shall be expended by the district only in conformance with the district's adopted Capital facilities and equipment plan Element of the Comprehensive Plan.

C. Impact fees shall be expended or encumbered by the district for a permissible use within ten years of receipt by the district, unless there exists an extraordinary or compelling reason for fees to be held longer than ten years. Such extraordinary or compelling reasons shall be identified to the City by the district in a written report. The City Council shall identify the district's extraordinary and compelling reasons for the fees to be held longer than ten years in the Council's own written findings.

D. The current owner of property on which an impact fee has been paid may receive a refund of such fees if the impact fees have not been expended or encumbered within ten years of receipt of the funds by the district on fire facilities intended to benefit the development activity for which the impact fees were paid. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first in, first out basis. The district shall notify potential claimants by first class mail deposited with the United States Postal Service addressed to the owner of the property as shown in the County tax records.

E. An owner's request for a refund must be submitted to the district in writing within one year of the date the right to claim the refund arises or the date that notice is given, whichever date is later. Any impact fees that are not expended or encumbered by the district in conformance with the capital facilities and equipment plan within these time limitations, and for which no application for a refund has been made within this one-year

period, shall be retained and expended consistent with the provisions of this section. Refunds of impact fees shall include any interest earned on the impact fees.

F. Should the City seek to terminate any or all fire impact fee requirements, all unexpended or unencumbered funds, including interest earned, shall be refunded to the current owner of the property for which a fire impact fee was paid. 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 the refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first-class mail addressed to the owner of the property as shown in the County tax records. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the district, but must be expended by the district, consistent with the provisions of this section. The notice requirement set forth above shall not apply if there are no unexpended or unencumbered balances with the account or accounts being terminated.

G. A developer may request and shall receive a refund, including interest earned on the impact fees paid, when:

1. The developer does not proceed to finalize the development activity as required by statute or City code including the Uniform Building Code; and
2. No impact on the district has resulted.

H. Interest due upon the refund of impact fees required by this section shall be calculated according to the average amount received by the district on invested funds throughout the period during which the fees were retained.

Section 2. Severability. If any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3. Effective Date. A summary of this ordinance shall be published in the official newspaper of the City, and this ordinance shall take effect and be in full force five days after adoption and publication pursuant to RCW 35A.13.190.

Section 4. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MAPLE VALLEY,
WASHINGTON ON THIS 23rd DAY OF JULY, 2012.

William T. Allison, Mayor

ATTEST:

Shaunna Lee-Rice, City Clerk

APPROVED AS TO FORM:

Christy A. Todd, City Attorney

Date of Publication: July 31, 2012
Effective Date: August 5, 2012