

POULSBO DISTRIBUTION SCHEDULE

ORDINANCE NO. 2011-15

SUBJECT: Park Impact Fees

CONFORM AS TO DATES & SIGNATURES

- (X) Filed with the City Clerk: 10/05/2011
- (X) Passed by the City Council: 10/12/2011
- (X) Signature of Mayor
- (X) Signature of City Clerk
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Jill A. Boltz
City Clerk

October 25, 2011
Date

ORDINANCE NO. 2011-15

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, ADDING A NEW CHAPTER 3.84 TO THE POULSBO MUNICIPAL CODE IMPOSING PARK IMPACT FEES ON NEW DEVELOPMENT; DESCRIBING THE METHOD FOR CALCULATION OF THE IMPACT FEES, CREDITS AGAINST THE FEES, AND REFUNDS; REPEALING SECTION 16.04.240(C) OF THE POULSBO MUNICIPAL CODE AND SEPA REGULATIONS IN ORDER TO MAKE THE SAME CONSISTENT WITH THE IMPOSITION OF PARK IMPACT FEES; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Poulsbo intends that adequate parks and recreation facilities be provided to serve new growth and development, and

WHEREAS, pursuant to the Growth Management Act of the State of Washington and RCW 36.70A, the City of Poulsbo has an adopted Comprehensive Plan, which includes provisions for park facilities as part of its Capital Facilities Plan; and

WHEREAS, RCW 82.02.050 authorizes cities to impose impact fees on development activity as part of the financing for public facilities, including park facilities; and

WHEREAS, in order that new parks and recreation facilities are available when needed, the Council has determined that the cost of the parks and recreation facilities must be shared by the public and the private sectors, and that a proportionate share of the expense of new parks and recreation facilities necessitated by new development should be borne by developers through the City's imposition of park impact fees, and

WHEREAS, such park impact fees shall be calculated, imposed and collected by the City pursuant to procedures and criteria set forth in this ordinance, and

WHEREAS, the City's SEPA policies on park mitigation should be amended to be consistent with the impact fee procedures adopted by this ordinance, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF POULSBO, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. Park Impact Fees. A new Chapter 3.84 entitled, "Park Impact Fees," is hereby added to the Poulsbo Municipal Code to read as follows:

3.84.010 Short Title.

This chapter shall be known and may be cited as the "Poulsbo Park Impact Fee Ordinance."

3.84.010 Findings and Authority.

The Poulsbo City Council hereby finds and declares that:

A. In order to maintain park standards and continue to promote and protect the public health, safety and welfare in the face of a growing population, the City of Poulsbo must expand its park and recreation system.

B. The demand for parks and recreation facilities is proportionate to the size of a user population.

C. The imposition of impact fees is the preferred method of ensuring that (1) adequate parks and recreation facilities are available to serve new growth and development, and (2) such new growth and development should be required to pay a proportionate share of the costs of new facilities necessary to serve such increased growth.

D. Each type of land development described in this chapter will create demand for the acquisition or expansion of parks and the construction of recreational facilities and other park improvements.

E. The fees established in Section 3.84.090 are derived from, based upon, and do not exceed the costs of providing additional park land and park improvements necessitated by the new land developments for which the fees are levied.

F. This chapter is enacted under the authority of the Washington State Growth Management Act, codified at chapter 36.70A. RCW and at RCW 82.02.050 through 82.02.100.

G. Pursuant to the requirements of RCW 82.02.060, the City has reasonably adjusted the park impact fee amount for taxes and other revenue sources that are anticipated to be available to fund the park land and facility improvements, as identified in the City's Capital Facilities Plan, and as outlined in the Park Impact Fee Technical Document.

3.84.030 Purpose.

A. The purpose of the chapter is to implement the capital facilities element of the Poulsbo Comprehensive Plan and the GMA by:

1. Ensuring that adequate park, open space and recreation facilities are available to serve new development;
2. Maintaining the high quality of life in Poulsbo by ensuring that growth pays for growth and that existing service levels for existing residents and businesses are not adversely impacted by growth and new development activity; and
3. Establishing standards and procedures whereby new development pays its proportionate share of the cost of park, open space and recreation facilities that are reasonably related to the new development, and whereby park, open space and recreation facilities are jointly financed by public and private interests.

B. The provisions of this chapter shall be liberally construed to effectively carry out its purpose in the interest of the public health, safety and welfare.

3.84.040 Definitions.

As used in this chapter, the following terms have the meanings set forth below:

"Building permit" means a permit issued by the Poulsbo Building Official and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure. As the term relates to park impact fees, "building permit" includes a permit issued for the siting or location of a mobile home.

"Capital facilities plan (CFP)" means the capital facilities plan element of the Poulsbo Comprehensive Plan, as the same now exists or may be hereafter amended.

"Developer" means an individual, group of individuals, partnership, corporation, association, municipal corporation, state agency, or other person undertaking development activity within the City.

"Development activity" as the term relates to park impact fees, means any 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 and need for public park, open space or recreation facilities.

"Development approval" means any written authorization from the City that authorizes commencement of a development activity, including but not limited to final plat approval, short plat approval, binding site plan approval, planned residential development approval, planned mixed use development approval, site plan approval, conditional use permit approval, and building permit approval. As the term relates to park impact fees, "development approval" includes a permit issued for the siting or location of a mobile home.

"Encumbered," as the term relates to park impact fees, means to reserve, set aside, or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for park, open space

or recreation capital facilities. Impact fees shall be considered encumbered on a first in, first out basis.

"Existing development," as the term relates to park impact fees, means that development which physically exists or for which the Developer holds a valid building permit as of the effective date of the first ordinance establishing this chapter.

"Fair market value" means the amount in cash which a well-informed buyer, willing but not obligated to buy the property would pay, and which a well-informed seller, willing but not obligated to sell it, would accept, taking into consideration all uses to which the property is adapted and might in reason be applied.

"New development" means any and all residential development for which a development approval is issued after the effective date of the first ordinance establishing this chapter.

"Level of Service (LOS)" means the ratio of park and recreation land (acres) to the number of persons in the population (expressed in units per 1,000 persons).

"Park capital facilities" means those park, open space and recreation facilities or improvements addressed in the capital facilities element of the Poulsbo Comprehensive Plan, as the same now exists or may be hereafter amended.

"Park impact fee" means a payment of money imposed upon new growth or development as a condition of development approval in order to pay for park, open space or recreation facilities needed to serve such new growth or development. "Impact fee" does not include any permit or application fee.

"Poulsbo Park, Recreation and Open Space Plan" means the planning document prepared on a 6-year cycle, that includes park and recreation inventory, facility demand, policy and guidance on development city-wide park and recreation facilities.

"New development," as the term relates to park impact fees, means any and all development for which a development approval permit is issued after the effective date of the first ordinance establishing this chapter.

"Owner" means the owner of record of real property, provided, that when real property is being purchased under a real estate contract, the purchaser shall be considered to be the owner of the real property if the contract is recorded.

"Project improvements," as the term relates to park impact fees, means site improvements and facilities that are designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project and are not system improvements. No park, open space or recreation improvement or facility included in the capital facilities plan shall be considered a project improvement.

"Proportionate share," as the term relates to park impact fees, means that portion of the cost of park, open space and recreation improvements that are reasonably related to the service demands and needs of new development.

"Park service area" means a geographic area defined by the City or, in the case of facilities providing service to areas outside the City, by interlocal agreement, as being that area in which a defined set of park, open space and recreation facilities provide service to development within the area.

"Park system improvements" means park, open space and recreation facilities that are included in the capital facilities plan and are designed to provide service to service areas within the community at large, in contrast to project improvements.

3.84.050 Applicability.

The requirements of this chapter apply to all new development, as defined in PMC 3.84.040.

3.84.060 Geographic Scope.

The boundaries within which impact fees shall be charged and collected by the City are coextensive with the corporate City limits, and shall include all unincorporated areas annexed to the City on and after the effective date of the first ordinance establishing this chapter.

3.84.070 Service Area and Level of Service.

A. The park service area for the existing and proposed park, open space and recreation facilities of the City of Poulsbo is hereby defined as that area which is coextensive with the corporate boundaries of the City, as they now exist or as they may be amended through annexation or other means from time to time.

B. As provided in the Comprehensive Plan's Capital Facilities Plan, the City's overall park system level of service standard is 13.73 acres of park, open space and recreation land per 1,000 residents.

C. The level of service standards set forth in subsection B above is met for existing development and increased demand and need associated with growth and new development will require acquisition and development of additional park, open space and recreation land and facilities to maintain this level of service.

3.84.080 Imposition of Park Impact Fees.

A. Park impact fees shall be required as a condition of development approval for all new residential development within the City to which this chapter applies.

B. The park impact fee to be paid shall be that which is in effect at the time the park impact fee becomes due. The Planning Director and Building Official are authorized to impose park impact fees on any and all new development and to condition, withhold or revoke approval of any such development unless the park impact fees are paid when due.

C. Park impact fees shall become due and payable to the City at the time of building permit issuance. If a building permit is not required, then at the time of development approval.

D. For a change in use of existing building or dwelling unit, the impact fee shall be the applicable impact fee, less any impact fee previously paid for the prior use.

E. The Building Official shall not issue any building permit, or certificate of occupancy if no building permit is required, unless and until the impact fee has been paid.

3.84.090 Calculation of Park Impact Fee Amount.

A. The park impact fee to be paid by new development shall be \$1195 per new residential lot or residential unit for which a building permit application has been made. The methodology by which the park impact fee was derived is set forth in the Park Impact Fee Technical Document, dated August 2011, a copy of which is on file with the City Clerk and which is incorporated herein by this reference as if set forth in full.

B. No park impact fee shall be collected if the park improvements are incapable of being reasonably accomplished because of lack of public funds.

C. The impact fees imposed by this section should be reviewed whenever the capital facilities plan has been amended as to Park Level of Service standard, whenever the City's projected new population assumption is updated, or whenever the Poulsbo Park, Recreation and Open Space plan is update. The City shall review the park impact fee rates every two years to determine whether or not an updated impact fee technical document should be prepared. The first review shall occur November 2013, and every two years thereafter. If this review determines that a new technical document is not necessary, the City shall continue to collect impact fees at the rate in effect.

D. Failure of the City to review or amend the fee schedule shall not be a prerequisite to the continued imposition of fees under this chapter.

3.84.100 Exemptions

The following are exempt from the payment of impact fees under this chapter:

A. New non-residential development. For mixed use developments, only the residential units associated will be subject to the park impact fee.

B. Development for which land has been dedicated, improvements constructed, or impact fees paid under SEPA and which land, improvements, or fees the City has previously determined to be sufficient to mitigate the transportation impacts of the development.

C. Development for which an impact fee has already been paid under this chapter.

D. Development for which a voluntary agreement (developer's agreement) has been entered into pursuant to RCW 82.02.020 and which agreement calls for the dedication of land, construction of improvements, or payment of transportation impact fees in a specified amount at a date subsequent to execution of the agreement.

E. Alteration, expansion, remodeling, reconstruction, or replacement of existing single family or multifamily dwelling units that does not result in the creation of additional dwelling units.

F. Construction of accessory residential structures that are secondary and associated with a primary single-family or multi-family structure, such as sheds, greenhouses or similar structures.

G. Any building permit for a new legal accessory dwelling unit approved under Title 18 of this code (Zoning Code); it is considered an accessory use of the single-family residence, and therefore its impacts are within the realm of the primary single-family residential use.

H. Demolition of or moving an existing structure within the City from one site to another.

3.84.110 Credits.

A. Pursuant to RCW 82.02.060(3), a reasonable credit shall be allowed for the any dedication of land for, improvements to, or new construction of any park system improvements provided by a developer, to park, open space or recreation facilities identified in the Capital Facilities Plan of the Comprehensive Plan

and that are the subject of impact fees to be paid by the developer under this chapter. Any request for a credit against impact fees shall be made no later than the time of the application triggering the imposition of impact fees.

B. All land proposed to be conveyed to the City in exchange for a credit against impact fees shall meet all of the following requirements:

1. The land must have a minimum site area of two acres.
2. The land must be conveyed free and clear of all liens and encumbrances.
3. The land must be readily accessible to the general public.
4. The land must have a site, size, and location consistent with a park system improvement generally described in the Comprehensive Plan's Parks Chapter and Capital Facility Plan.
5. The land must be improved with and contain three or more facilities recommended in the Comprehensive Plan or Poulsbo Park, Recreation and Open Space Plan for the appropriate population density the land and improvements are intended to serve.
6. The land must be suitable for the proposed park uses and for inclusion in the City's park system, as determined by the Parks and Recreation Director.
7. The City may decide to accept land which does not meet all of these standards in unusual circumstances where the land to be conveyed provides a unique benefit, such as where the land has waterfront access, or provides significant open space or trail corridor.

C. The amount of the credit shall be the value of the land and improvements conveyed to the City, provided, that in no case shall the amount of the credit exceed the amount of the impact fee imposed on the development activity. If the value of the land and improvements exceed the total park impact fees to be

paid by the development, no impact fees shall be due. If the value of the land and improvements is less than the impact fees due, the developer will be required to pay the difference.

D. The value of the land and improvements for which a credit is sought shall be measured as follows:

1. The value of the land will be based upon the assessed value of the land to be conveyed, as shown in the most recent records of the county assessor, unless the Developer provides an appraisal of the fair market value of the land completed by a qualified real estate appraiser, in which case the value of the land will be based upon the said fair market value if the Planning Director and Parks and Recreation Director determine that the appraisal is satisfactory.

2. The value of the improvements will be based upon construction cost estimates for the proposed park and recreation improvements, including any directly related site work, as approved by the Planning Director and Parks and Recreation Director.

E. Credits shall not be transferable from one property, project, or development activity to another.

3.84.120 Adjustments.

The Planning Director and Parks and Recreation Director are authorized to adjust the impact fees to be calculated under this chapter where the Developer demonstrates that unusual circumstances make the standard impact fee applied to such development unfair or unjust. The circumstances that form the basis for the adjustment shall not be circumstances that are generally applicable to similar land uses or to all development activity in the vicinity. Unusual circumstances may include that the development activity will have substantially less impact on the system improvements than other development activities in the same land use category. Any request for an adjustment shall be made no later than the time of the application triggering imposition of impact fees. Adjustments granted under this section shall not be transferable from one property, project or development activity to another.

3.84.130 Calculation of Impact Fees Based Upon Independent Study.

Fees shall be calculated in accordance with Section 3.84.090 unless:

A. A Developer submits to the Planning Director and Parks and Recreation Director studies and data in accordance with RCW 82.02.060(5) that support a claim for adjustment in the amount of the fee. The studies and data submitted shall clearly show the basis upon which the independent fee calculation was made.

1. The study shall follow accepted impact fee assessment practices and methodologies.

2. The study shall use acceptable data sources and the land uses from which the data was compiled, and shall be comparable to the uses and intensities of the proposed development activity. Unusual circumstances that clearly demonstrate that the proposed development will have substantially less impact on the park system than other development activities may be presented in the study.

3. The study shall comply with applicable state laws governing imposition of impact fees.

4. The study, including any data collection and analysis, shall be prepared and documented by professionals qualified in the park and planning fields.

5. The study shall clearly show the basis upon which the independent fee calculation was made.

B. The Planning Director and Parks and Recreation Director shall consider the study and any other documentation submitted by the Developer, but are not required to accept the study if they decide that the study is not accurate or reliable. The Planning Director and Parks and Recreation Director may, in the alternative, require that the Developer submit additional or different studies, documents, or information for consideration. If the Planning Director and Parks and Recreation Director determine that outside expertise is needed to review the study, the City may

obtain the services of outside experts and the Developer will be required to pay the costs of such services.

C. If the study is not acceptable, the Developer shall be required to pay the impact fees based upon PMC 3.84.090. If the study is acceptable, the Planning Director and Parks and Recreation Director may adjust the fee to that amount which is appropriate to the particular development activity.

D. The City Council may establish a fee for staff review of the independent studies authorized by this section. If such a fee is established, the fee shall be paid at the time the study is submitted.

3.84.140 Payments Under Protest.

Impact fees may be paid under protest in order to obtain a final plat recording_or building permit.

3.84.150 Appeals.

Any decision made by the Planning Director and Parks and Recreation Director under this chapter may be appealed in accord with the procedures for appealing the underlying permit or development approval and shall not be subject to a separate appeal process. All appeals shall follow the procedures set forth in PMC 19.01. The impact fee may be modified upon a determination that it is proper to do so based on principles of fairness.

3.84.160 Impact Fee Accounts and Expenditures.

A. A park impact fee account is hereby established for the purpose of depositing and maintaining the funds received under this chapter and any previously collected park impact fees paid pursuant to SEPA or other authority. The City Finance Department shall earmark all funds collected under this chapter and under such previous collections as to the person paying, the date paid, and the development or property for which paid. The account shall be separate from all other accounts of the City and shall be interest-bearing. All interest shall be retained in the account and expended for the purposes for which the impact fee was imposed.

B. Impact fees shall only be expended for park, open space and recreation facilities described in and in conformance with the Capital Facilities Plan. Impact fees may be expended for facility planning, land acquisition, site improvements, application fees, necessary off-site improvements, required mitigation, construction, engineering, architectural, permitting, financing, and administrative expenses, relocatable facilities, capital equipment, repayment of system improvement costs previously incurred to the extent that new growth and development will be served by such system improvements, and any other expenses which could be capitalized and which 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 the facilities are consistent with the requirements of this section.

D. Impact fees imposed under this chapter shall be expended or encumbered for a permissible use within ten years of the date they are received by the City, unless the City Council finds that there exists an extraordinary and compelling reason for the fees to be held longer than ten years. Such a finding shall be made in writing.

E. Impact fees collected under the authority of SEPA and the voluntary agreement provisions of RCW 82.02.020 shall be expended or encumbered for a permissible use within five years of the date they are received by the City.

F. As part of the City's annual budget cycle, the Parks and Recreation Director shall present a proposed Capital Improvement Program (CIP) for parks, assigning funds to specific park acquisition or improvement projects and related expenses. Monies not assigned in any fiscal period shall be retained in the park impact fee special revenue fund until the next fiscal period, except as provided by the refund provisions of this ordinance.

G. Funds may be used to provide refunds as described in section 3.84.170.

H. The City may establish a fee for staff administration of impact fees authorized by this Chapter. If such a fee is established, the fee shall be identified in the City's fee schedule.

3.84.170 Impact Fee Refunds.

A. The current owner of property on which impact fees have been paid may receive a refund of such fees, or any portion thereof if the City has failed to expend or encumber the impact fees, or any applicable portion, within the time periods specified in PMC 3.84.160.

B. The City shall notify potential claimants for impact fee refunds by first class mail deposited with the United States postal service at the last known address of the said claimants.

C. A request for a refund must be submitted to the City Council in writing within one year of the date that the right to claim the refund arises or the date that the notice is given, whichever is later. Any impact fees that are not expended or encumbered and for which no application for refund has been made within the one-year period shall be retained and expended on the indicated capital facilities. Refunds under this subsection shall include interest earned on the impact fees, provided, that if the City's failure to expend or encumber the fee within the time periods set forth in PMC 3.80.160 is due to delay attributable to the Developer of the project for which the fee was collected, the refund shall be without interest.

D. If the City should terminate the impact fee requirements of this chapter, all unexpended or unencumbered funds, including interest earned, shall be refunded pursuant to this section. Upon a determination to terminate such impact fee requirements, the City shall publish a notice of such termination and the availability of refunds in the City's official newspaper at least two times and shall notify all potential claimants by first class mail at the last known address of claimants. A request for a refund must be submitted to the City Council in writing within one year of the date that the notice is given. Any impact fees for which no application for refund has been made within the one-year period shall be retained and expended on the indicated capital facilities. No notice shall be required if there are no unexpended or unencumbered balances within the account at the time of termination.

E. A Developer may request and shall receive a refund, including interest earned on the impact fees, when the Developer does not proceed with the development activity and no impact has resulted.

F. When providing a refund, the City shall include the interest earned by the City on the impact fee while it was deposited into the required special interest bearing account.

3.84.180 Annual Impact Fee Report.

The City Finance Department, in conjunction with the Planning Director and Parks and Recreation Director, shall prepare an annual report to the City Council showing the source and amount of all monies collected, earned, or received and the park, open space and recreation system improvements that were financed in whole or in part by impact fees imposed under this chapter. The report may be part of an existing annual report or may be a separate report.

Section 2. SEPA Policy on Park Mitigation.

Poulsbo Municipal Code Subsection 16.04.240(C) is hereby repealed.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

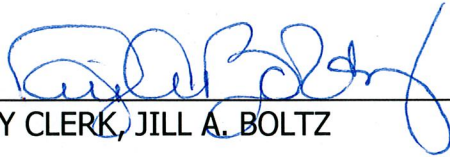
Section 4. Effective Date. This ordinance shall take effect five (5) days after publication of the attached summary, which is hereby approved.

APPROVED:

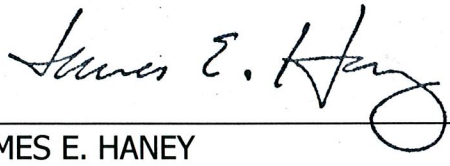


MAYOR REBECCA ERICKSON

ATTEST/AUTHENTICATED:


CITY CLERK, JILL A. BOLTZ

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 
JAMES E. HANEY

FILED WITH THE CITY CLERK: 10/05/2011
PASSED BY THE CITY COUNCIL: 10/12/2011
PUBLISHED: 10/28/2011
EFFECTIVE DATE: 11/02/2011
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SUMMARY OF ORDINANCE NO. 2011-15

of the City of Poulsbo, Washington

On the 12th day of October, 2011, the City Council of the City of Poulsbo, passed Ordinance No. 2011-15. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, ADDING A NEW CHAPTER 3.84 TO THE POULSBO MUNICIPAL CODE IMPOSING PARK IMPACT FEES ON NEW DEVELOPMENT; DESCRIBING THE METHOD FOR CALCULATION OF THE IMPACT FEES, CREDITS AGAINST THE FEES, AND REFUNDS; REPEALING SECTION 16.04.240(C) OF THE POULSBO MUNICIPAL CODE AND SEPA REGULATIONS IN ORDER TO MAKE THE SAME CONSISTENT WITH THE IMPOSITION OF PARK IMPACT FEES; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

DATED this 20th day of October, 2011.



CITY CLERK, JILL A. BOLTZ