

ORDINANCE NO. 2006-<sup>02</sup>~~12~~-012

**AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON RELATING TO IMPACT FEES ON LAND USE DEVELOPMENT ADDING A NEW TITLE 19 AND NEW CHAPTER 19.04 TO THE BELLINGHAM MUNICIPAL CODE IMPOSING A PARK IMPACT FEE ON RESIDENTIAL DEVELOPMENT IN ORDER TO PROVIDE NEW PARKS AND RELATED FACILITIES NECESSITATED BY SUCH NEW DEVELOPMENT.**

**WHEREAS**, in order to meet development requirements, 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 Bellingham must expand its park system;

**WHEREAS**, the Washington State Legislature authorized local jurisdictions to adopt impact fees through the enactment of the Washington State Growth Management Act, and such fees are intended to be a means of implementing Goal 12 in Section 2 of the GMA (RCW 36.70A.020) that reads: "...Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.";

**WHEREAS**, the imposition of impact fees is one of the preferred methods of ensuring that new development bears a proportionate share of the cost of capital facilities necessary to accommodate new growth;

**WHEREAS**, each type of land development described in Section 19.04.050, 6) hereof will create demand for the acquisition or expansion of parks and the construction of recreational facilities and other park improvements; and

**WHEREAS**, the fees established in Section 19.04.050, 14) are derived from, based upon, and do not exceed the costs of providing additional park and park improvements necessitated by the new land developments for which the fees are levied.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BELLINGHAM DOES ORDAIN AS FOLLOWS:**

**Section 1. Park Impact Fees.** A new Title 19 and new chapter 19.04 are hereby added to the Bellingham Municipal Code to read as follows:

**TITLE 19 – IMPACT FEES**

**Chapter 19.04  
Park Impact Fees**

***Sections:***

- Section 19.04.010: Findings and authority
- Section 19.04.020: Short title, authority, and applicability
- Section 19.04.030: Intents and purposes

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- Section 19.04.040: Rules of construction
- Section 19.04.050: Definitions
- Section 19.04.060: Imposition of park impact fee
- Section 19.04.070: Computation of the amount of the fee
- Section 19.04.080: Payment of fee
- Section 19.04.090: Park impact fee districts
- Section 19.04.100: Park impact fee special revenue funds established
- Section 19.04.110: Use of funds
- Section 19.04.120: Refund of fees paid
- Section 19.04.130: Exemptions
- Section 19.04.140: Credits
- Section 19.04.150: Review
- Section 19.04.160: Penalty provision
- Section 19.04.170: Severability
- Section 19.04.180: Effective date

**19.04.010: Findings and Authority.**

The Bellingham City Council hereby finds and declares that:

- A. In order to meet development requirements, 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 Bellingham must expand its park and open space system.
- B. The imposition of impact fees is a preferred method of ensuring that (1) adequate parks and recreational 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.
- C. 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.
- D. The fees established in section 19.04.070 are derived from, based upon, and do not exceed the costs of providing additional park and park improvements necessitated by the new land developments for which the fees are levied.
- E. This chapter is adopted pursuant to the authority granted to the City under the Growth Management Act (RCW 36.70A) and RCW 82.02 as a means of mitigating residential development's impacts upon the parks and recreational facilities in the City.

**19.04.020: Applicability.**

- A. This ordinance shall apply to all new residential development applied for after the effective date of this ordinance.

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**19.04.030: Intent and Purpose.**

A. This ordinance is intended to assist in the implementation of the capital facilities plan element of the Bellingham Comprehensive Plan, and to help achieve the goals of the Bellingham Comprehensive Park, Recreation & Open Space Plan element therein.

B. The purpose of this ordinance is to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide parks, recreation, and open space improvements in Bellingham.

**19.04.040: Construction and Interpretation**

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

**19.04.050: Definitions**

**1) Capital improvement** – includes, without limitation, park planning, land acquisition, site improvements, buildings, and equipment but excludes maintenance, operation, repair, alteration, or replacement.

**2) Capital Facilities Plan ("CFP")** – a six year plan that is annually updated and approved by the Council to finance the development of capital facilities necessary to support the population projected within Bellingham over the six year projection period. As defined in the GMA, the CFP will include:

- a) forecast of future needs for park facilities and open space;
- b) identification of additional demands placed on existing public facilities by new development;
- c) long-range construction and capital improvement projects of the City;
- d) parks under construction or expansion;
- e) proposed locations and capacities of expanded or new park facilities;
- f) inventory of existing park facilities;
- g) at least a six year financing component, updated as necessary to maintain at least a six-year forecast period, for financing needed for park facilities within projected funding levels, and identifying sources of financing for such purposes, including bond issues authorized by the voters; and
- h) identification of deficiencies in park facilities and the means by which existing deficiencies will be eliminated within a reasonable period of time.

**3) City** - the City of Bellingham, Washington.

**4) Bellingham Comprehensive Park, Recreation & Open Space Plan** - the planning document that includes a park and recreation inventory, facility demand, policy and guidance on developing citywide and local park and recreation facilities.

**5) Developer** - any person or entity who owns or holds purchase options or other development control over real property for which development activity is proposed.

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**6) Development activity** - any construction or expansion of a residential 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 park and recreational facilities (GMA, Section 48, RCW 82.02.090).

**7) Development approval** - any written authorization from a county, city or other municipal jurisdiction that authorizes the commencement of development activity.

**8) Encumbered** - impact fees identified by the City as being committed as part of the funding for a park facility for which the publicly funded share has been assured or building permits sought or construction contracts executed.

**9) Environments and facilities - citywide** - should:

- a) have significant physical qualities,
- b) have historical, cultural or social values,
- c) not be duplicated elsewhere in the city,
- d) be of citywide interest,
- e) protect environmentally sensitive areas, and
- f) be accessible to residents of the city by trails, park features or local roads.

Citywide facilities may:

- a) have high population participation rates,
- b) have high user volumes,
- c) benefit residents of a number of neighborhoods including adjacent jurisdictions,
- d) involve joint ventures,
- e) represent the ultimate competition level play facility,
- f) have no or low user fee recapture opportunities,
- g) have unique location requirements that require citywide coordination, and
- h) be activities for which there are no other logical or available sponsors.

**10) Environments and facilities - local:**

- a) should have significant character,
- b) should have local historical or social values, but
- c) may be duplicated elsewhere within the city, though not elsewhere within the local area, and
- d) should be of local rather than citywide interest.

Local facilities:

- a) have significant but not high user participations,
- b) are oriented to local user preferences,
- c) are limited in appeal,
- d) are developed to minimum levels of playing skill or competition,
- e) have no or low fee recapture potentials,
- f) are not subject to special siting considerations, and
- g) may have a number of other public and private sponsors.

**11) Growth impact requirement** - caused by population increases created by new developments determined by:

City of Bellingham  
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- a) **calculating** - the inventory of existing park and recreational lands and facilities [optionally including funded projects listed within the current capital facilities plan (CFP)],
- b) **dividing** - by the existing population in order to determine the existing level-of-service (ELOS),
- c) **multiplying** - by the population estimated to be created by the development project (per person or housing unit),
- d) **multiplying** - by the estimated land and facility acquisition and development cost or value for each kind of land and facility unit, in order
- e) **to determine** - the composite level-of-service (LOS) value or cost required per person (or housing unit) by the composite development project in order to sustain the existing level-of-service (ELOS).

The growth impact requirement will differentiate the proportional impact (cost or value) required to sustain citywide facilities and local facilities.

**12) Growth impact fee assessment** - a payment of money imposed upon development as a condition of development approval to pay for public facilities needed to serve new growth and development:

- a) where such public facilities are reasonably related to the new development that creates additional demand for public facilities,
- b) where such fees are a proportionate share of the cost of the public facilities, and
- c) where such fees are used for facilities that reasonably benefit the new development.

Park impact fees will be a proportionate amount (less than 100 percent) of the land acquisition and facility development value or cost required to sustain the existing level-of-service (ELOS) as a result of new development.

The assessment fee proportion of the actual impact (as set forth in item 6 above) will be determined on an annual basis by the Council. The Council will review and consider projected park and recreation facility requirements, funding capabilities and trends, citizen preferences concerning park improvement financing, and other issues when determining the proportionate amount to be charged new developments.

The growth impact fee assessment will include a proportionate amount:

- a) for citywide facilities** - that may be distributed for the creation of a citywide system of park and recreation facilities on a citywide basis; and
- b) local facilities** - that may be used or invested by Bellingham for the creation of local facilities servicing the residents of Bellingham neighborhoods.

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 Bellingham, Washington 98225  
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Park growth impact fees do not include reasonable permit or application fees or charges.

**13) Growth impact fee - schedule** - the table of impact fees to be charged per unit of development as computed by the formula adopted under this ordinance, and indicating the standard fee amount per dwelling unit type to be paid as a condition of development within the city as attached hereto as Attachment A.

**14) Improvements - project** - site improvements and facilities planned and designed to provide service for a particular development project. Project improvements are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. Project improvement examples include, without limitation, the construction of water and sewer lines or interior roads that serve only the structures and occupants located within the development.

No improvement or facility in a capital facilities plan (CFP) approved by the City Council shall be considered a project improvement. The developer normally pays project improvements as a condition of development approval. Project improvements are not financed with public funds nor included within the City's capital facilities plan and development impact fees.

**15) Improvements - system** - public facilities designed to serve areas within the community at large, in contrast to project improvements designed to service occupants of a particular development project or site. System improvement examples include, without limitation, collector or arterial roads, schools, and parks.

Systems improvements are financed with public funds in accordance with the City's capital facilities plan (CFP). An impact fee may be imposed for a system improvement only if the improvement is included within Bellingham's capital facilities plan (CFP).

**16) Level-of-service - existing/proposed (ELOS/PLOS)** - the ratio of park and recreation land and facility units (acres, fields, square feet, etc.) to the number of persons in the population (expressed in units per 1,000 persons).

The existing level-of-service (ELOS) includes all park and recreation land and facility units that have been improved to the present time and funded for improvement within the current (existing) time period specified in the capital facilities program (CFP).

The proposed level-of-service (PLOS) includes park and recreational land and facility units that are intended to be added to the current inventory over Bellingham's Comprehensive Park, Recreation & Open Space Plan's time period (20 years) to improve upon existing standards.

Growth impact fees are to be imposed on new developments in order to finance the development of additional facilities necessary to maintain the existing level-of-service (ELOS) as a result of the additional population requirements created by new development.

Existing and proposed level-of-service (ELOS/PLOS) requirements will be estimated:

**a) for citywide facilities** - for the creation of a citywide system of park and recreation facilities on a citywide basis, and

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**b) local facilities** - for the creation of local facilities servicing the residents of Bellingham neighborhoods.

**17) Owner** - the owner of record of real property, although when real property is being purchased under a real estate contract, the purchaser shall be considered the owner of the real property if the contract is recorded.

**18) Previously incurred system improvements** - system projects that were accomplished that will serve new growth and development. Impact fees can be imposed on an adjacent development to recover a proportionate share of the money Bellingham spent or previously incurred to provide for the future demand that the adjacent development now requires.

**19) Prior system deficiencies** - improvements that are necessary to expand the existing system to meet current level-of-service (LOS) requirements. Impact fees may not be used for prior system deficiencies or for improvements that do not benefit or serve new growth.

**20) Private recreational facility** - any recreational facility that is not owned by or dedicated to any public or governmental entity.

**21) Proportionate share** - that portion of the cost of public facility improvements that are reasonably related to the service demands and needs of new development.

**22) Public facility** - the following capital facilities owned or operated by government entities:

- a) public streets and roads,
- b) publicly owned parks, open space, and recreation facilities,
- c) school facilities, and
- d) fire protection facilities in jurisdictions that are not part of a fire district.

**23) Service areas - citywide/local park and recreational** - a geographic area in which a defined set of public facilities provide service to the population within the area. Park and recreational lands, facilities, and services will be provided under a tiered approach that includes:

- a) a citywide system that will be organized on a citywide basis; and
- b) a local system that may be organized on a neighborhood basis.

**19.04.060: Imposition of Park Impact Fee**

A. Any person or entity who, after the effective date of this ordinance seeks to develop land within Bellingham by applying for a building permit for a residential building or permit for residential mobile home installation is hereby required to pay a park impact fee in the manner and amount set forth in this ordinance.

B. No new residential building permit or new permit for residential mobile home installation for any activity requiring payment of an impact fee pursuant to section 19.04.070 of this

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ordinance shall be issued unless and until the park impact fee hereby required has been paid.

C. No extension of a residential building permit or permit for residential mobile home installation issued prior to the effective date of this ordinance for any activity requiring payment of an impact fee pursuant to section 19.04.070 of this ordinance shall be granted unless and until the park impact fee hereby required has been paid.

**19.04.070: Computation of the Park Impact Fee Amount**

**A. Schedule** - the citywide and local park impact fee value per person shall be determined in accordance with section 19.04.050: Definition items 5, 6 and 7 as set forth therein and documented in Attachment A to this ordinance.

1) If a building permit is requested for mixed uses, then the fee shall be determined using the above referenced schedule by apportioning the number of units committed to uses specified on the schedule.

2) If the type of development activity that a residential building permit is applied for is not specified on the above fee schedule, the Planning Director (or designee) shall use the fee applicable to the most comparable type of land use on the above fee schedule. The Planning Director shall be guided in the selection of a comparable type by the Bellingham Comprehensive Plan, supporting documents of the Bellingham Comprehensive Park, Recreation & Open Space Plan, and Title 20 (Land Use Development) of the Bellingham Municipal Code. If the Planning Director determines that there is not a comparable type of land use on the above fee schedule then the Planning Director shall determine the appropriately discounted fee by considering demographic or other documentation that is available from state, local, and regional authorities.

3) In the case of change of use, redevelopment, or expansion or modification of an existing use that requires the issuance of a building permit or permit for mobile home installation, the impact fee shall be based upon the net positive increase in the impact fee for the new use as compared to the previous use. The Planning Director shall be guided in this determination by the source and agencies listed above.

**B. Calculation** – Fees shall be calculated in accordance with the Attachment A Schedule unless:

1) The developer submits to the Planning Director and Director of Parks and Recreation (the "Parks 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.

2) The Parks Director shall consider the documentation submitted by the developer but is not required to accept such documentation as he/she shall reasonably deem to be inaccurate or not reliable and may, in the alternative, require the developer to submit additional or different documentation for consideration

3) If the Parks Director accepts the studies and data and deems an adjustment in the amount of the fee to be warranted, the Parks Director may adjust the fee to that appropriate to the particular development. The adjustment may include a credit against the fee otherwise payable for public recreational facilities constructed or deed restricted or otherwise set aside for recreational purposes by the developer that serve the same purposes and functions

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Bellingham, Washington 98225  
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specific designations set forth for public parks in the Bellingham Comprehensive Park, Recreation & Open Space Plan Element.

4) In cases where the developer requests an adjustment in the amount of the fee to be imposed, the costs of such calculation shall be borne by the developer.

### **C. Appeals**

1) Determinations made by the Planning Director or Parks Director pursuant to this section may be appealed to the Hearings Examiner under the provisions of Chapter BMC 2.56 by filing a written request for a hearing with the Parks Director within ten (10) days of the given official's determination.

2) At the hearing, the appellant shall have the burden of proof, which shall be met by a preponderance of the evidence. The impact fee may be modified upon a determination that it is proper to do so based on the application of the criteria contained in BMC §§19.04.070, 130 and 140. Appeals shall be limited to application of the impact fee provisions to the specific development activity and the provisions of this ordinance shall be presumed valid.

3) Impact fees may be paid under protest in order to obtain a permit or other approval of development activity.

### **19.04.080: Payment of Fee**

A. Impact fees shall be imposed upon development activity in the City, based upon the schedule set forth in this ordinance, and shall be collected by the City from any applicant where such development activity requires issuance of a residential building permit or a mobile home permit and the fee for the lot or unit has not been previously paid.

B. Arrangement may be made for later payment of the impact fee with the approval of the City only if the City determines that it will be unable to use or will not need the payment until a later time, provided that sufficient security, as defined by the City, is provided to assure payment. Security shall be made to and held by the City, which will be responsible for tracking and documenting the security interest.

### **19.04.090: Park Impact Fee Service Areas**

**A. Citywide service area** - a single park impact fee service area will be created for citywide park and recreational facilities to include the entire city.

**B. Local service areas** - local park and recreation facilities will be located in neighborhood service areas which may be oriented around neighborhood parks, elementary and middle schools, and similar sites.

### **19.04.100: Park Impact Fee Special Revenue Fund Established**

A. All funds collected shall be promptly transferred for deposit in a park impact fee interest-bearing special revenue fund to be held in separate account as determined by this section of this ordinance and used solely for the purposes specified herein.

City of Bellingham  
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B. Funds withdrawn from this account must be used in accordance with the provisions of section 19.04.110 of this ordinance.

**19.04.110: Use of funds**

A. Funds collected from park impact fees shall be used solely for the purpose of acquiring and/or making capital improvements to citywide or local parks under the jurisdiction of Bellingham, and shall not be used for maintenance or operations.

B. Funds shall be used exclusively for acquisitions, expansions, or capital improvements within the citywide or local park impact fee service areas. Funds shall be expended in the order in which they were collected.

C. In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which park impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in Paragraphs A or B above.

D. Impact fees for system improvements shall be expended by the City only in conformance with the Capital Facilities Plan (CFP).

E. Impact fees shall be expended or encumbered by the City for a permissible use within six (6) years of receipt by the City, unless there exists an extraordinary or compelling reason for fees to be held longer than six (6) years. The City Council shall identify the City's extraordinary and compelling reasons for the fees to be held longer than six (6) years in the Council's own written findings.

F. At least once each fiscal period the Parks Director shall present to the Council a proposed capital facility plan (CFP) for parks, assigning funds, including any accrued interest from the park impact fee special revenue fund to specific park improvement projects and related expenses. Monies, including any accrued interest 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 19.04.120.

H. Bellingham shall be entitled to retain not more than 2 percent of the funds collected as compensation for the expense of collecting the fee and administering this ordinance.

**19.04.120: Refunds of Fees Paid**

A. If a residential building permit or permit for residential mobile home installation expires without commencement of construction, then the developer shall be entitled to a refund, with interest, of the impact fee paid as a condition for its issuance except that the City shall retain a percentage of the fee (as set forth in section 19.04.110 H, above) to offset a portion of the costs of collection and refund. The developer must submit an application for such a refund to the Planning Director within thirty (30) days of the expiration of the permit.

City of Bellingham  
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Bellingham, Washington 98225  
360-676-6903

B. Any funds not expended or encumbered by the end of the calendar quarter immediately following six (6) years from the date the park impact fee was paid shall, upon application by the current landowner, be returned to such landowner with interest at the interest rate accrued in the special revenue fund account, provided that the landowner submits an application for a refund to the City of Bellingham within one (1) year of the expiration of the six (6) year period.

C. Any impact fees that are not expended or encumbered by the City in conformance with the Capital Facilities Plan (CFP) within these time limitations, and for which no application for a refund has been made within this one (1) year period, shall be retained and expended consistent with the provisions of this section.

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

**19.04.130: Exemptions**

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

**1. Reconstruction, remodeling or construction** - of the following facilities, subject to the recording of a covenant or recorded declaration of restrictions precluding use of the property for other than the exempt purpose; provided, that if the property is used for a nonexempt purpose, then the park impact fees then in effect shall be paid:

a) Shelters or dwelling units for temporary placement which provide housing to persons on a temporary basis of not more than four (4) weeks.

b) Construction or remodeling of transitional housing facilities or dwelling units that provide housing to persons on a temporary basis of not more than twenty-four (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.

**2. Rebuilding or replacement** - of a legally established dwelling unit(s) destroyed or damaged by fire, flood, explosion, act of God or other accident or catastrophe provided that such rebuilding takes place within a period of one (1) year after destruction with a new building or structure of the same size and use.

**3. Alteration or expansion:**

a) of an existing building where no additional residential units are created and where the use is not changed, and/or

b) the construction of accessory buildings or structures.

**4. Mobile home where:**

a) The installation of a replacement mobile home on a lot or other such site when a park impact fee for such mobile home site has previously been paid pursuant to this ordinance or where a mobile home legally existed on such site on or prior to the effective date of this ordinance.

City of Bellingham  
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210 Lottie Street  
Bellingham, Washington 98225  
360-676-6903

b) The construction of any nonresidential building or structure or the installation of a nonresidential mobile home.

Any claim or exemption must be made no later than the time of application for a building permit or permit for mobile home installation. Any claim not so made shall be deemed waived.

**5. Condominium projects** - in which existing dwelling units are converted into condominium ownership where no new dwelling units are created.

**6. Previous mitigation where:**

a) The development activity is exempt from the payment of an impact fee pursuant to RCW 82.02.100, due to mitigation of the same system improvement under the State Environmental Policy Act (SEPA) and such improvement is included within the capital facilities plan (CFP).

b) Any development activity for which park impacts have been mitigated pursuant to an agreement entered into with the City to pay fees, dedicate land or construct or improve park facilities, unless the terms of the agreement provide otherwise; provided that the agreement predates the effective date of fee imposition as provided herein.

**B.** The following development activities may be exempted from payment of impact fees:

**Low income housing projects** – Upon application by the owner, the City Council may exempt a low income housing development, as defined by the current City of Bellingham Consolidated Plan (or successor thereto), from all or part of the required fees upon such conditions as the City Council deems appropriate. The determination to grant or deny an exemption shall be in the sole discretion of the City Council after consideration of the public benefit of the development, the hardship to the development of the fees, the impacts of the development, the availability of public funding to pay the development's fees and any other factors deemed relevant by the City Council. If an exemption is granted, the fees attributable to the development shall be paid from public funds other than Park Impact Fee accounts.

**19.04.140: Credits** - Park land and/or park capital improvements may be offered by the developer as total or partial payment of the required impact fee. Development activity for which park impacts were intended to be mitigated pursuant to a condition of plat or PUD approval, dedications of land or construction of, or improvement to park facilities that pre-date this ordinance, unless the condition of the plat or PUD approval provides otherwise, may also be considered for credit hereunder; provided that any such mitigation measure was made pursuant to the capital facilities plan (CFP). Any new offer must specifically request or provide for a park impact fee credit. If the Parks Director accepts such an offer, whether the acceptance is before or after the effective date of this ordinance, the credit shall be determined and provided in the following manner:

City of Bellingham  
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Bellingham, Washington 98225  
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A. Credit for the dedication of land shall be valued at fair market value established by private appraisers acceptable to the City. Credit for the dedication of park land shall be provided when the property has been conveyed at no charge to, and accepted by the City.

B. Applicants for credit for construction of park improvements shall submit acceptable engineering drawings and specifications, and construction cost estimates to the Parks Director. The Parks Director shall determine credit for construction based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the Parks Director determines that such estimates submitted by applicants are either unreliable or inaccurate. The Parks Director shall provide applicants with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, and the legal description of the project or development to which the credit may be applied. Applicants must sign and date a duplicate copy of such letter or certificate indicating their agreement to the terms of the letter or certificate and return such signed document to the Parks Director before credit will be given. The failure of an applicant to sign, date, and return such document within sixty (60) days shall nullify the credit.

C. Except as provided in subsection D. below, credit against impact fees otherwise due will not be provided until:

- 1) The construction is completed and accepted by the Parks Director; and
- 2) A suitable maintenance and warranty bond is received and approved by the Parks Director, when applicable.

D. Credit may be provided before completion of specified park improvements if adequate assurances are given by the applicant that the standards set out in subsection C. above will be met and if the developer posts security as provided below for the costs of such construction. Security in the form of a performance bond, irrevocable letter of credit, or escrow agreement shall be posted with and approved by the Parks Director in an amount determined by the Parks Director. If the park construction project will not be constructed within one (1) year of the acceptance of the offer by the Parks Director, the amount of the security shall be increased by ten percent (10%) compounded for each year of the life of the security. The security shall be reviewed and approved by the Parks Director prior to acceptance of the security. If the park construction project is not to be completed within five (5) years of the date of the developer's offer, the City Council must approve the park construction project and its scheduled completion date prior to the acceptance of the offer by the Parks Director.

E. Any claim for credit must be made no later than the time of application for a building permit or permit for mobile home installation. Any claim not so made shall be deemed waived.

F. Credits shall not be transferable from one project or development to another without the approval of the City Council and may only be transferred to a different development upon a finding by the Council that the dedication for which the credit was given benefits the different impact fee service area.

G. Determinations made by the Parks Director pursuant to this section may be appealed to the Hearing Examiner by filing a written request with the Parks Director within ten (10) days

City of Bellingham  
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of the Parks Director's determination. Hearing proceedings shall conform with section 19.04.070, C., 2).

**19.04.150: Review**

The fee schedule referenced in 19.04.070, A. shall be reviewed by City Council at least once each fiscal year. The review shall occur in conjunction with any update of the capital facilities plan (CFP) element of the City's Comprehensive Plan; provided that failure to conduct this review shall not invalidate the fee schedule previously adopted. Any revisions to the fee schedule may be made by resolution passed by a majority of the City Council.

**19.04.160: Penalty provision**

A violation of this ordinance shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction the violator shall be punishable in accordance with BMC 1.28.010; however, in addition to or in lieu of any criminal prosecution the City shall have the power to sue in civil court to enforce the provisions of this ordinance.

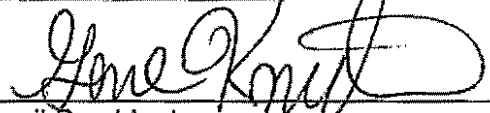
**19.04.170: Severability**

If any section, phrase, sentence, clause or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**19.04.180: Effective date**

This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, shall be effective fifteen (15) days after passage and publication of the ordinance or a summary thereof consisting of the title.

PASSED by the Council this 27<sup>th</sup> day of February, 2006.

  
\_\_\_\_\_  
Council President

APPROVED by me this 2<sup>nd</sup> day of March, 2006.

City of Bellingham  
City Attorney  
210 Lottie Street  
Bellingham, Washington 98225  
360-676-6903

Mark Acquist  
Mayor

ATTEST: Therese Hoh  
Finance Director

APPROVED AS TO FORM:  
Joan Boisington  
Office of the City Attorney

Published: March 3, 2006

City of Bellingham  
City Attorney  
210 Lottie Street  
Bellingham, Washington 98225  
360-676-6903

**Housing products**

**Single family**

**Multi family**

**Calculation of park impact fee/unit**

Value of ELOS parks/person	\$4,501.46	\$4,501.46
Average number persons/type of housing unit*	2.47	1.81
Value of ELOS parks/type of housing unit	\$11,118.61	\$8,147.64
Percent of value to be charged for impact fee	35%	35%
<b>Total impact fee/unit</b>	<b>\$3,891.51</b>	<b>\$2,851.67</b>

**Amount of fee allocated to neighborhood/citywide facilities**

Percent allocated to neighborhood facilities	20%	20%
<b>Local facilities allocation/unit</b>	<b>\$778.30</b>	<b>\$570.33</b>
Percent allocated to citywide facilities	80%	80%
<b>City-wide facilities allocation/unit</b>	<b>\$3,113.21</b>	<b>\$2,281.34</b>

**Sources:**

ELSO Value - Bellingham Comprehensive Park, Recreation, & Open Space Plan, 2005

Persons/type housing unit - 2000 Census, Summary File 3 Housing Profile, Bellingham City

Single family includes single family attached, duplex, and mobile home

Multi family includes tri-plex and greater