

ORDINANCE NO. 2024-02-001

AN ORDINANCE AMENDING BELLINGHAM MUNICIPAL CODE (BMC) 19.04.130 TO CLARIFY THE EXEMPTION FROM THE PAYMENT OF PARK IMPACT FEES WHEN RECONSTRUCTING OR REBUILDING AN EXISTING DWELLING UNIT THAT HAS BEEN DAMAGED OR DESTROYED.

WHEREAS, Title 19 – Impact Fees of the BMC was adopted to fully implement the City’s authority and procedures for implementing impacts fees in the City of Bellingham; and

WHEREAS, the proposed code amendment to BMC 19.04.130 is intended to provide clarity regarding the exemption from the payment of Park Impact Fees when rebuilding or replacing an existing dwelling unit that has been destroyed or damaged; and

WHEREAS, the proposed amendment exempts the reconstruction or replacement of an existing dwelling unit that has been destroyed or damaged from the payment of a Park Impact Fee so long as the building permit is issued within 12 months of the date the dwelling unit was destroyed; and

WHEREAS, the proposed amendment will improve staff’s administration of the exemption; and

WHEREAS, the proposed amendment complies with and implements the goals and policies of the Comprehensive Plan; and

WHEREAS, on November 3, 2023, notice of the City’s intent to adopt this proposed amendment was sent to the State of Washington Department of Commerce pursuant to RCW 36.70A.106; and

WHEREAS, on November 2, 2023, the responsible official reviewed the proposed amendment under the procedures of the State Environmental Policy Act and issued a Determination of Non-Significance (SEP2023-0031); and

WHEREAS, the Planning Commission held a properly noticed public hearing on November 16, 2023, to consider the proposed amendment; and

WHEREAS, the Planning Commission considered the record, including public comment, and thereafter made Findings of Fact, Conclusions and Recommendations for approval of the proposed amendments by a 6-0 vote; and

WHEREAS, the City Council held a properly noticed public hearing on January 29, 2024 on the proposed amendment; and

WHEREAS, the City Council has considered the recommendation of the Planning Commission, the record including public comments, and hereby adopts the Findings of Fact, Conclusions and Recommendations of the Planning Commission;

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. BMC 19.04.130 regarding Exemptions is hereby amended as follows:

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

1. [No Change].
2. Rebuilding or replacement of a legally established dwelling unit(s) destroyed or damaged by ~~any cause~~ fire, flood, explosion, act of God or other accident or catastrophe, or any other cause; provided, that ~~such rebuilding takes place~~ the building permit is issued within a period of one calendar year after destruction for ~~with~~ a new building or structure of the same size and use.
- 3-7. [No Change].

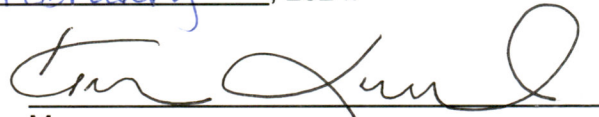
Section 2. The Council agrees with, and hereby adopts the Findings of Fact, Conclusions and Recommendations of the Planning Commission, attached as **Exhibit A**.

PASSED by the Council this 12th day of February, 2024.



Council President

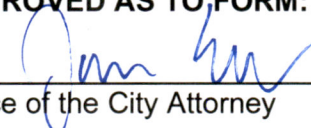
APPROVED by me this 16th day of February, 2024.



Mayor

ATTEST: 

Finance Director

APPROVED AS TO FORM:


Office of the City Attorney

Published:
February 16, 2024

BELLINGHAM PLANNING COMMISSION FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS

NOVEMBER 16, 2023

SUMMARY

Following the public hearing and deliberation on the proposed amendments to BMC 19.04.130, the Bellingham Planning Commission has determined the proposed change provides the clarity needed to determine when the rebuilding or replacement of a damaged or destroyed existing dwelling unit is exempt from the payment of park impact fees.

I. FINDINGS OF FACT

1. Proposal Description:

A single revision is proposed to provide clarity concerning when the replacement of existing dwelling units that have been damaged or destroyed are exempt from the payment of park impact fees .

The existing code is clear that rebuilding dwelling units that were destroyed by an action other than the owner's is exempt from the payment of park impact fees but lacks clarity about whether the redevelopment is exempt when the property owner intentionally destroys or demolishes an existing dwelling unit. The City Attorney's Office provided an opinion in 2012 that the exemption should also apply to deliberate and intentional actions.

The proposed amendment would codify the interpretation from the City Attorney's Office that existing dwelling units that are intentionally demolished should also have a one-year time limit to redevelop without being subject to the payment of park impact fees. The City has relied on this policy since its creation and feels it is appropriate to implement the provisions of this policy into code.

2. Background Information/Procedural History:

2012: The City Attorney's Office issued an interpretation stating voluntary actions should have the same exemptions for the same time limitations as that for accidental actions resulting in the loss/rebuild of dwelling units.

October 11, 2023: Staff issued a notice of the Planning Commission public hearing.

November 2, 2023: The responsible official issued a non-project SEPA Determination of Nonsignificance.

November 3, 2023: Staff mailed a notice of Intent to Adopt to the Washington State Department of Commerce.

November 16, 2023: The Planning Commission held a public hearing.

3. Public Comment:

Staff mailed notice of the Planning Commission public hearing to neighborhood representatives, neighborhood associations, and other parties with an interest in this topic. Notice was also published in the Bellingham Herald 30 days prior to the hearing.

4. State Environmental Policy Act (SEPA) Determination:

The responsible official issued a non-project SEPA Determination of Non-Significance (DNS) on November 2, 2023. Staff mailed notice to the appropriate agencies and parties of record and published the notice in the Bellingham Herald and on the City's website. The City did not receive public comments in response to the publication of this DNS.

5. Consistency with the Bellingham Comprehensive Plan:

Zoning and development regulations should be reviewed and amended periodically to address changing circumstances and to implement the goals and policies of the comprehensive plan. The time limitation provides a payment method consistent with the Parks and Recreation Open Space chapter of the Comprehensive Plan to appropriately assess the impact and mitigation through the payment of impact fees under the growth impact fee provision and the Growth Management Act.

II. CONCLUSIONS

The Planning Commission finds that proposed amendments will:

1. Provide clarity that buildings intentionally demolished should have a one-year time limitation to redevelop without being subject to the payment of park impact fees.
2. Further implementation of the goals and policies of the Bellingham Comprehensive Plan.

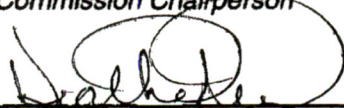
III. RECOMMENDATIONS

After careful consideration of all public comments, the staff report, other meeting materials, and the Findings and Conclusions, the Planning Commission recommends, with a 6-0 vote, that the City Council approve the proposed amendments to the Bellingham Municipal Code as shown in the draft ordinance.


ADOPTED this 16th day of November, 2023.



Planning Commission Chairperson

ATTEST: 

Recording Secretary

APPROVED AS TO FORM: 

City Attorney