

07/12/21
07/19/21

ORDINANCE NO. M- 4340

AN ORDINANCE of the City of Vancouver relating to Title 20, Land Use and Development, of the Vancouver Municipal Code (VMC), amending Chapter 20.915 titled “Impact Fees” to prospectively remove the vesting of impact fees, calculate impact fees at the time of building permit application, collect impact fees at the time of building permit issuance, and allow impact fee reduction requests to be reviewed at staff level based on specified criteria; provide for severability; and provide for an effective date.

WHEREAS, the Growth Management Act established impact fees as the funding tool provided to cities and counties to ensure adequate roads, schools, parks, open space, and fire protection services; and

WHEREAS, the City of Vancouver adopted VMC Chapter 20.915 to imposes impact fees on development pursuant to the authority of RCW Chapter 82.02 in order to meet the demands of future growth; and

WHEREAS, the current method of calculating and vesting impact fees is not conducive to accurately collecting the true cost of facility improvements at the time of building permit issuance; and

WHEREAS, the purpose of impact fees is to ensure that adequate facilities are available to serve new growth and development and to promote orderly growth and development by requiring that new development pay a proportionate share of the cost of new facilities needed to serve growth; and

WHEREAS, these texts amendments comply with the approval criteria for comprehensive plan or zoning code text amendments required for VMC Title 20 under VMC Section 20.285.070; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA) and WAC 197-11, the City of Vancouver as lead agency determined that the proposed amendments will not have a probable significant adverse impact on the environment and published notice of the Determination of Nonsignificance (DNS) in The Columbian with a 14-day public comment period that expired on April 21, 2021 with no comments received; and

WHEREAS, the Planning Commission reviewed the proposed text changes to the Impact Fee Code at a public workshop on February 23, 2021, and at public hearing on May 11, 2021, following which public hearing the Planning Commission voted unanimously to recommend adoption of these amendments to City Council; and

WHEREAS, these text amendments are consistent with the Vancouver Strategic Plan, the Vancouver Comprehensive Plan, other applicable laws, and the public interest; and

WHEREAS, City Council held a first reading of this Ordinance on July 12, 2021, and held a second reading and public hearing on July 19, 2021, following which the Council adopted the Planning Commission recommendations;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. Findings.

A. The current method of calculating and vesting impact fees is not conducive to accurately collecting the true cost of facility improvements at the time of building permit issuance.

B. The purpose of impact fees is to ensure that adequate facilities are available to serve new growth and development and to promote orderly growth and development by requiring that new development pay a proportionate share of the cost of new facilities needed to serve growth.

C. In accordance with the requirements of VMC Chapter 20.285 governing text amendments, the following text amendments are: (a) consistent with applicable policies of the Vancouver Strategic Plan and Comprehensive Plan; and (b) are necessary to further the public interest based on present needs and conditions.

Section 2. Section 20.915.020 of the Vancouver Municipal Code, originally adopted by Ordinance M-3643 and last amended by Ordinance M-4325, Section 3, is amended in its entirety to read as follows:

20.915.020 Applicability.

A. Uniform applicability. This Chapter shall be uniformly applicable to development that occurs within a designated service area or overlay service areas.

B. For pre-development permit issuance. No building permit shall be issued for a development in a designated service area or overlay service area as defined in this Chapter unless the impact fee is calculated and ~~imposed~~paid pursuant to this Chapter.

C. For new development requiring a building permit approval of a development ~~(i.e., written authorization from the City authorizing development activities)~~ the impact fee(s)

shall be calculated at time of building permit application. Impact fees shall be due and payable at the time the building permit is issued and due and payable at the time of building permit issuance or development approval, as applicable, except as provided in Section 20.915.075. For various types of development. For single family and duplex residential subdivisions and short subdivisions hereinafter approved, the per lot impact fee shall be calculated at the time of preliminary subdivision plat or short subdivision plat approval, noted on the face of the final plat, and imposed on a per lot basis at the time of building permit application. For new multi-family and nonresidential development hereafter approved, the impact fee shall be calculated at the time of site plan approval or building permit application if the proposed development is not sufficiently defined to permit such calculation. Notwithstanding the foregoing, the fee shall be re-calculated for building permit applications filed more than three years following the date of the applicable preliminary subdivision plat, preliminary short subdivision plat or site plan approval. Notwithstanding the foregoing, all impact fees shall be recalculated for building permit applications that have not been issued within one year.

~~D. For preliminary plats. For development not necessitating or having been previously granted preliminary subdivision plat, preliminary short subdivision plat or site plan approval, the impact fee shall be calculated and imposed at the time of building permit application.~~

~~D. E. For development not requiring a building permit. For development not requiring a building permit, the impact fee shall be calculated and imposed at the time of site plan approval.~~For development not requiring a building permit. For development not requiring a building permit (e.g., approval of a change in use of a building or land), the impact fee shall be calculated and imposed at the time of the associated development approval.

FE. For manufactured home parks. For manufactured home parks, the impact fee shall be calculated and imposed at the time of site plan approval.

F. All impact fees shall be calculated using the impact fee rates in effect at the time of calculation.

Section 3. Section 20.915.070 of the Vancouver Municipal Code, originally adopted by Ordinanca M-3643 and last amended by Ordinance M-4172, Section 1, is amended in its entirety to read as follows:

A. For residential and nonresidential development. The impact fee for a nonresidential development shall be computed by applying the traffic impact fee formula set out in Section [20.915.040](#) VMC. The impact fee for a residential development shall be computed by applying the traffic impact fee, park impact fee and school impact fee formulae set out in Sections [20.915.050](#) VMC and [20.915.060](#) VMC, combining the results, provided that the school impact fee component shall not apply to housing which by restrictive covenant is exclusively for persons sixty-two years of age or older.

B. For mixed uses. If the development for which approval is sought contains a mix of uses, the impact fee must be separately calculated for each type of use.

C. Criteria to reduce or eliminate impact fees. ~~The development approval authority setting the impact fee, upon application by the developer supported by studies and data, may reduce or eliminate such fee if it is shown that:~~ An administrative appeal may be considered by the Director of Community and Economic Development to reduce or eliminate impact fees by submittal of an application prior to the payment of fees. Appeals shall be reserved for unusual circumstances which make the standard impact fee as applied to the development unreasonable.

Upon receipt of an application for any such appeal, the City shall distribute a written notice of appeal and a copy of the supporting studies and data required below to the office, department, or school district responsible for the applicable capital facilities for which the impact fee is imposed. The appeal must be supported by reasonable studies and data provided by the applicant showing that:

1. The formulae or method contained in Sections [20.915.040](#), [20.915.050](#) or [20.915.060](#) VMC to calculate the fees do not accurately reflect ~~traffic, park, or school impacts~~the cost of system improvements that are reasonably related to the service demands and needs of, respectively a particular development; or

2. ~~Due to unusual circumstances:~~

a. ~~Facility improvements identified for the applicable service area are not reasonably related to the proposed development;~~ or

b. ~~Such facility improvements will not reasonably benefit the proposed development.~~

3. The current development proposal implements a concomitant rezone agreement, development agreement or other development approval pursuant to which public facilities identified in the capital facilities plan were dedicated or constructed, and which are of benefit to the community at large and which fall within the definition of system improvements. The appellant shall have the burden of producing and presenting studies and data that clearly shows the basis and substantiation of the appeal upon submittal. Appeals shall be reviewed by means of a Type I procedure, pursuant to VMC 20.210.020. Impact fees may be paid under protest in order to obtain a permit or approval of development activity.

~~D. Request for impact fee determination. Prior to making an application for a building permit, an applicant upon payment of the applicable fee may request an impact fee determination from either the Parks or Public Works department, which determination shall be based upon information supplied by the applicant sufficient to permit calculation of the impact fee. The impact fee determination shall be binding upon the city for a period of one (1) year unless there is a material change in the development proposal, the capital facilities plan or this chapter.~~

~~E. Impact fee collection. Except as provided for in Section , the impact fee imposed under this chapter shall be due and payable at the time of issuance of a building permit, or final site plan approval when no building permit is required for the development.~~

Section 4. Section 20.915.080 of the Vancouver Municipal Code, originally adopted by Ordinance M-3643 and last amended by Ordinance M-4154, Section 3, is amended in its entirety to read as follows:

20.915.080 Impact Fee Exemptions, Reductions, and Waivers.

A. Exemptions from impact fees. The following developments shall be exempt from the requirement for payment of impact fees: publicly operated elementary, middle, junior high and senior high schools, and administrative, maintenance and other facilities of a school district and facilities of an Educational Service District.

B. Exemption or waiver from impact fees for low income housing pursuant to RCW 82.02.060(2). Pursuant to RCW 82.02.060(2), the Review Authority may grant a total or partial exemption or waiver from impact fees for housing developments containing up to three dwelling units and qualifying as low-income housing as defined in this Chapter, to be owned and

occupied by, or leased to, low-income persons. Requests for exemption and/or waiver for four or more dwelling units must be approved by the City Council. No such impact fee exemption and/or waiver shall be granted for any low-income housing that has been granted a property tax exemption pursuant to VMC 3.22, Multi-family Tax Abatement. Any such exemption or waiver shall be subject to:

1. Provision being made for payment of the impact fee from public funds other than impact fee accounts; and

2. Adequate documentation that the housing meets appropriate standards regarding household income, rent levels, sales price, location, and number of units;

C. Alternative exemption from impact fees for low-income housing pursuant to RCW 82.02.060(3). Pursuant to RCW 82.02.060(3), the City Council may grant an alternative exemption for low-income housing under this Subsection C. No such impact fee exemption and/or waiver shall be granted for any low-income housing that has been granted a property tax exemption pursuant to VMC 3.22, Multi-Family Tax Abatement.

1. The City Council may either:

- a. Grant a partial exemption of not more than eighty percent of impact fees, in which case there is no requirement to pay the exempted portion of the fee from public funds other than impact fee accounts; or

- b. Provide a full waiver, in which case the remaining percentage of the exempted fee must be paid from public funds other than impact fee accounts; and

2. Compliance with all of the requirements of Subsection D of VMC 20.915.080 is required.

D. An exemption for low-income housing granted under Subsection B or C of this section must comply with all of the following conditions:

1. The developer shall record a covenant with the Clark County Auditor.

The covenant must:

a. Prohibit using the property for any purpose other than for low-income housing.

b. Require that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion.

c. Define low-income housing as housing for which the monthly housing expense is no greater than thirty percent of eighty percent of the median family income adjusted for family size for Clark County, Washington, as reported by the United States Department of Housing and Urban Development.

2. When the City grants an exemption for low-income housing granted under Subsection B or C of this section, it may not collect revenue lost through the granting of the exemption by increasing impact fees unrelated to the exemption.

3. A school district that receives school impact fees collected by the City must consent in writing prior to City approval of any exemption from school impact fees granted under Subsection B or C of this section. Failure of a school district to provide consent in writing to the City within 30 days of the school district's receipt of written request for approval ~~by~~from the City shall constitute disapproval of the requested exemption.

E. Reduction in traffic impact fees for qualifying businesses. To promote business development, the Review Authority may grant a reduction of traffic impact fees as specified in Table 20.915.080-1 below for businesses which meet all of the following requirements:

1. The business owner shall commit, through a Development Agreement approved by City Council, to locate a number of new employees that coincides with the TIF incentive in Table 20.915.080-1. Such new employees shall locate to the City within the first year of the business obtaining an occupancy permit; and

2. The median salary of all company employees to be located shall, at a minimum, coincide with the specified percent of median individual income in Table 20.915.080-1. Median individual income shall be based on the most recent available information from US Department of Housing and Urban Development for the Portland-Vancouver MSA at the time of the Development Agreement approval; and

3. If the owner or developer of the property or building is not the business locating within the eCity, documentation shall be submitted to the City that satisfactorily demonstrates that the business received the benefit of the fee reduction rather than the owner or developer; and

4. The business shall provide the eCity with such documentation and access to records as needed to verify satisfaction of the foregoing requirements. In the event that the business fails to satisfy any of the requirements criteria, the business shall pay to the eCity the amount of the fee reduction together with interest at the statutory rate provided for at RCW 19.52.010 upon demand.

The eCity shall make provision for payment of the impact fee reduction to the transportation impact fee account from public funds other than impact fee accounts.

Table 20.915.080-1 Business Development TIF Incentive			
Median Salary of All Business Employees		Minimum Employees	TIF Benefit
1.	200% of Median Individual Income	200	25% TIF reduction, up to \$100,000
2.	150% of Median Individual Income	250	25% TIF reduction, up to \$100,000
3.	125% of Median Individual Income	300	25% TIF reduction, up to \$100,000
4.	200% of Median Individual Income	400	50% TIF reduction, up to \$200,000
5.	150% of Median Individual Income	500	50% TIF reduction, up to \$200,000
6.	125% of Median Individual Income	600	50% TIF reduction, up to \$200,000

This provision shall be operative until December 31, 2020 unless renewed by City Council.

F. Criteria for calculating impact fees. The impact fee for an exempt or waived development shall be calculated as provided for in this Chapter and paid with public funds;

except that there is no requirement to pay the exempted portion of the fee from public funds other than impact fee account for a partial exemption of not more than eighty percent of impact fees that has been approved under Subsection C of VMC 20.915.080. Such payment may be made by including such amount(s) in the public share of system improvements undertaken within the applicable service area. If an impact fee(s) is waived, the Review Authority, pursuant to Section 20.915.070 VMC, or state law may determine whether a public share-contribution or a reduced public-share contribution is required.

Section 5. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid by a court of competent jurisdiction for any reason, such declaration shall not affect the validity or constitutionality of the remaining parts of this ordinance.

Section 6. Effective Date and Notice. This ordinance shall become effective thirty (30) days after passage by the City Council. The City Clerk is directed to publish a summary hereof including the title at the earliest possible publication date.

Read first time: July 12, 2021

Ayes: Councilmembers Fox, Paulsen, Lebowsky, Glover, Stober, Hansen, Mayor McEnerny-Ogle

Nays: None

Absent: None

Read second time: July 19, 2021

PASSED by the following vote: 7-0

Ayes: Councilmembers Fox, Paulsen, Lebowsky, Glover, Stober, Hansen, Mayor McEnerny-Ogle

Nays: None

Absent: None

SIGNED this 19th day of July, 2021.

DocuSigned by:

58CB15C0632F403...
Anne McEnerny-Ogle, Mayor

Attest:

DocuSigned by:

BCF6734E40E94AE...
Natasha Ramras, City Clerk

Approved as to form:

DocuSigned by:

9A7DC2E31F694A2...
Jonathan Young, City Attorney

SUMMARY

ORDINANCE NO. M-4340

AN ORDINANCE amending Chapter 20.915 of the Vancouver Municipal Code, titled “Impact Fees” applicable to school, transportation, and park impact fees that prospectively removes the vesting of impact fees, calculates impact fees at the time of building permit application, collects impact fees at the time of building permit issuance, and allows impact fee reduction requests to be reviewed at staff level based on specified criteria. This Ordinance amends VMC Section 20.915.020 and VMC Section 20.915.070 to change the substantive text, and amends VMC Section 20.915.080 to provide clarity and consistency in the Code.

This summary provides a brief description of the main points of the ordinance. The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at (360) 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).