

## Chapter 17.36

### PARK IMPACT FEES

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#### **17.36.010 Park impact fees authorized – Cross references.**

A. The city council of the city of North Bend, Washington, is hereby authorized to adopt, pursuant to the authority of Chapter 82.02 RCW, an ordinance creating and setting park impact fees. Any such ordinance shall provide for the method of calculating said fees and shall contain reasonable rules and procedures.

B. The city clerk is authorized to reference any park impact fee so established by ordinance in any future taxes, rates and fees schedule ordinance of the city.

#### **17.36.020 Findings and purpose.**

The city council of the city of North Bend finds and determines that growth and development activity in the city will create additional demand and need for park facilities in the city, and the council finds that growth and development activity should pay a proportionate share of the cost of such facilities needed to serve the growth and development activity. Therefore, pursuant to the Growth Management Act (Chapter 36.70A RCW), and RCW 82.02.050 through 82.02.100, which authorize cities to impose and collect impact fees to partially fund public facilities to accommodate new growth, the council adopts this chapter to impose park impact fees for park facilities as set forth in NBMC 17.36.080. The provisions of this chapter shall be liberally construed in order to carry out the purposes of the council in establishing park impact fees.

#### **17.36.030 Definitions.**

For the purposes of this chapter, the words set out in this chapter shall have the following meanings:

~~A. Affordable Housing. Housing is considered “affordable” to a family if it costs no more than 30 percent of the family’s income. The income groups that are the focus of affordable housing are low and moderate income families, as follows:~~

~~1. Low income: a family earning between zero percent and 50 percent of the King County median household income.~~

~~2. Moderate income: a family earning between 50 percent and 80 percent of the King County median household income. “Median income” means the median income for the Seattle metropolitan statistical area (King County), as most recently determined by the Secretary of Housing and Urban Development (HUD) under Section 8(f)(3) of the United States Housing Act of 1937, as amended, or if programs under said Section 8(f)(3) are terminated, median income determined under the method used by the Secretary prior to such termination.~~

A. “Affordable Housing” shall have the same meaning as in RCW 36.70A.030.

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- B. “Capital facilities element” means the capital facilities plan adopted by the city council as part of the city’s comprehensive plan, and its amendments.
- C. “Comprehensive plan” means the city of North Bend comprehensive plan adopted by ordinance, including any adopted amendments.
- D. “Conditions of approval,” as they apply to park impact fee evaluations, means those conditions necessary to ensure that the proposed development will not cause the parks level of service to fall below the standards adopted in the comprehensive plan. The conditions of approval shall be binding upon the approval of any permit application for which this chapter is applicable as described in NBMC 17.36.040.
- E. “Development” means construction of any new residential building, structure, or unit, or any hotel or motel, that requires review and approval of a development permit.
- F. “Development permit” includes, but is not limited to, any short plat, subdivision, binding site plan, site plan, building permit or other land use permit with a residential component, or any written authorization from the city that authorizes the commencement of development that includes new residential uses, excluding an accessory dwelling unit.
- G. “Director” means the director of the department of community and economic development or his/her designee.
- H. “Financial commitment” means any form of binding and enforceable financial obligation that is acceptable to the city, and provided to the city at the time of development approval.
- I. “Park facilities” includes all publicly owned parks, trails, open space and recreation areas within the city limits.
- J. “Park impact fee” means the payment of money imposed upon development as a condition of or concurrent with the approval of a building permit to pay for park facilities needed to serve new growth and development, and that is reasonably related to the additional demand and need for facilities created by the new development, that is a proportionate share of the costs of the facilities, and that is used for facilities that reasonably benefit the new development. “Park impact fee” does not include any other applicable permit or application fee.
- K. “Level of service (LOS)” means the relationship between park facilities and service provision within the city, as specified in the city’s comprehensive plan.
- L. “Project improvements” means site improvements and facilities that are planned and designed to provide service for a particular development or users of the project and are not system improvements. No improvement or facility included in a capital facilities plan adopted by the council shall be considered a project improvement.
- ~~M.~~ “Proportionate share” means that portion of the cost of public facility improvements and facilities that is reasonably related to the service demands and needs of new development. For any particular development, the proportionate share will depend on the type of the development within the city.
- ~~N.~~ Service Area. For the purposes of this chapter, the service area shall be the entire area within the city limits of North Bend.
- O. “Workforce Housing” means residential housing whose monthly costs, including utilities other than telephone, do not exceed 30 percent of the monthly income of a household whose income is:
1. For a rental: At or below eighty percent (80%) of the median household income adjusted for household size, for King County, as reported by the United States Department of Housing and Urban Development.
  2. For ownership: At or below one hundred percent (100%) of the median household income adjusted for household size, for King County, as reported by the United States Department of Housing and Urban Development.

**17.36.040 Fee imposed – Applicability.**

A. There is imposed, at the time of issuance of each and every building permit for construction of each and every new residential unit or hotel/motel, created subsequent to September 16, 2008, a park impact fee in an amount as set forth in the then-current North Bend taxes, rates and fees schedule.

B. For Accessory Dwelling Units, as defined in NBMC 18.06.030, that are created for sale separate from the primary dwelling under the Condominium Regulations in NBMC 17.24 or other applicable legal lot segregation process, there is imposed, at the time of condominium map approval or other lot segregation approval, a park impact fee in an amount as set forth in the then-current North Bend taxes, rates and fees schedule.

**17.36.050 Exemptions and Reductions.**

The following development is exempt from the requirements of this chapter, or provided reductions consistent with this section:

A. Affordable Housing and Workforce Housing. A development permit for units of affordable housing and/or workforce housing, which includes low and moderate income, as defined in NBMC 17.36.030, shall not be assessed a reduced park impact fee as follows:

1. The park impact fee for affordable housing units shall be reduced by eighty percent (80%) of the entire park impact fee without the reduction. The remaining 20% of the impact fee otherwise due may be reduced through a development agreement pursuant to NBMC Chapter 18.27, Development Agreements, provided that the City shall not fund the remaining 20% of the impact fee otherwise due from the park impact fee revenue account.

2. The park impact fee for workforce housing units shall be reduced by twenty percent (20%) of the entire park impact fee without the reduction.

3. As a condition of receiving an exemption reduction under this section, the owner shall execute and record in King County's real property title records a city-approved lien, covenant, or other contractual provision against the property that provides the following:

a. ~~that~~ The proposed housing unit or development will continue to be used for low ~~or moderate~~ income housing or workforce housing, as applicable, and remain affordable to those households for a period of not less than 30 years. The lien, covenant, or other contractual provision shall run with the land and apply to subsequent owners and assigns.

b. Should the housing unit(s) be converted to a use other than low-income housing or workforce housing as applicable, the owner shall pay the applicable impact fees in effect at the time of conversion.

4. Any claim or request for an exemption reduction under this section shall be made no later than the time of application for a building permit. If a building permit is not required for the development, then the claim shall be made when the first development permit is applied for. Any claim not made when required by this section shall be deemed waived.

B. Residential additions. Additions or expansions of individual residential dwelling units shall not be assessed a park impact fee.

C. Accessory Dwelling Units. A development permit for an accessory dwelling unit, as defined in NBMC 18.06.030, that is created under the same ownership as the primary dwelling shall not be assessed a park impact fee. Accessory Dwelling Units created for sale separate from the primary dwelling shall be assessed a park impact fee pursuant to section 17.36.040.

D. Change of Use. A development permit for a change of use that has less impact, as determined by the director, than the existing use shall not be assessed a park impact fee. Changes of use that have greater impact shall be provided a credit for the value of the existing use being replaced.

E. City Projects. A development permit for a city project shall not be assessed a park impact fee.

F. Emergency homeless or domestic violence shelters as defined in RCW 70.123.020, consistent with RCW 82.02.090(1) shall not be assessed a park impact fee.

~~GE.~~ Pending Development Permit. An application for a development permit shall not be assessed a park impact fee if one or both of the following has occurred: (1) the city and applicant have negotiated park mitigation for the subject of the development permit prior to September 29, 2008; or (2) the applicant has provided park mitigation for the subject of the development permit prior to September 29, 2008.

#### **17.36.055 Credits.**

A. An applicant may request that a credit or credits for impact fees be awarded to the applicant for the total value of dedicated land, improvements, or construction of park facilities provided by the applicant. Credits will be given only if the land, improvements, and/or the facilities:

1. constitute system improvements for park facilities; and
2. are located in areas and constructed at acceptable quality as determined by the city.

B. The director shall determine if requests for credits meet the criteria in subsection A of this section.

C. Credits shall be based on a certified statement of actual costs of the improvements incurred by the applicant. The statement shall include copies of invoices paid for such work.

D. For each request for a credit or credits that involves dedication of land, the director shall select an appraiser or the applicant may select an independent appraiser acceptable to the director. The appraiser must possess an MAI or other equivalent certification and shall not have a fiduciary or personal interest in the property being appraised. A description of the appraiser's certification shall be included with the appraisal, and the appraiser shall certify that he/she does not have a fiduciary or personal interest in the property being appraised. The appraiser shall be directed to determine the total value of the dedicated land, improvements, and/or construction provided by the applicant on a case-by-case basis. The applicant shall pay for the cost of the appraisal or may request that the cost of the appraisal be deducted from the credit in the event that a credit is awarded. If no credit is awarded, the applicant shall pay the cost of the appraisal.

E. After receiving the certified statement of actual costs and any appraisal, the director shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, the legal description of the site donated where applicable, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate, and return such signed document to the director before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within 60 calendar days shall nullify the credit.

#### **17.36.060 Park impact fee program elements.**

A. The city shall impose and collect park impact fees on every development permit within the city limits, except as provided in NBMC 17.36.050.

B. Any park impact fee imposed shall be reasonably related to the impact caused by the new development and shall not exceed a proportionate share of the cost of park facilities that are reasonably related to the new development.

C. The park impact fee imposed may include costs for park facility improvements previously incurred by the city to the extent that new development will be served by the previously constructed improvements; provided, that such fee shall not be imposed to correct any system improvement deficiencies.

D. The park impact fee imposed for any development shall be calculated and determined by the procedures established by this chapter.

E. Park impact fees shall be used for park facilities that will reasonably benefit the new development, and only for those park facilities addressed by the city's capital facilities element of the comprehensive plan.

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**17.36.070 Fee calculation methods.**

A. Each development application shall mitigate its impacts on the city's park facilities by payment of the park impact fee.

B. All data and other information necessary to determine park impact fee amounts will be made available to the public. Forms and procedures will be established administratively.

**17.36.080 Fee collection.**

A. At the time of application for a development permit, the park impact fee shall be:

New residential units and ADUs that are not exempt under 17.36.050.	\$3.42 per square foot
Single-family residential and cottage housing with more than 1,200 square feet in size	\$7038.55
Cottage housing no greater than 1,200 square feet in size and carriage units developed under Chapter 18.11-NBMC; multifamily residential; condominium; mobile/manufactured home (per housing unit)	\$5951.89
Hotel/motel (per guest room)	\$2,716.63

The impact fees are based upon a rate study. No development permit shall be issued until the park impact fee has been paid in full by the applicant; provided, that the payment of fees may be proportionately phased if the development permit for the development is also phased. The park impact fee shall be collected by the city, and maintained in a separate account, as required by NBMC 17.36.090.

B. An inflationary adjustment shall be made in the fee rates at the beginning of each calendar year. This annual inflationary adjustment shall be the same percentage amount as the change in the Engineering News-Record Construction Cost Index for the Seattle area from the date of the previous year's adjustment.

**17.36.090 Park impact fee accounts and refunds.**

A. Park impact fee receipts shall be earmarked specifically and retained in a special interest bearing account established by the city solely for park impact fees. All interest shall be retained in the account and expended for the purpose or purposes for which said fees were imposed. Annually, the city shall prepare a report on the source and amount of all park impact fees collected, interest earned, and the park facilities that were financed in whole or in part by said fees.

B. Park impact fees shall be expended by the city only in conformance with the capital facilities element of the comprehensive plan.

C. Park impact fees shall be expended or encumbered by the city for a permissible use within 10 years of receipt by the city, unless there exists an extraordinary or compelling reason for said fees to be held longer than 10 years. Such extraordinary or compelling reasons shall be identified in written findings by the city.

D. The city shall refund to the payer park impact fees if the city fails to expend or encumber the fees on park facilities within the service area within 10 years, or any extended period pursuant to subsection C of this section, of receipt of the fees by the city. In determining whether park impact fees have been encumbered, such fees shall be considered encumbered on a first in, first out basis.

E. An owner's or other payer's request for a refund must be submitted to the city in writing within one year of the date the right to claim the refund arises or the date that notice is given, whichever date is later. Any park impact fees that are not expended or encumbered by the city in conformance with the capital facilities element within these time limitations, and for which no application for a refund has been made within this one-year period, shall be retained and expended consistent with the provisions of this section. Refunds of park impact fees shall include the interest actually earned by the city on such fees.

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F. Should the city repeal any or all park impact fee requirements, all unexpended or unencumbered funds, including interest earned, shall be refunded pursuant to this section. Upon the repeal of any or all park impact fee requirements, the city shall place notice of such repeal and the availability of refunds in a newspaper of general circulation at least two times and shall notify all payers by first-class mail to the last known address of such payers. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the city, and must be expended by the city consistent with the provisions of this chapter. The notice requirements set forth above shall not apply if there are no unexpended or unencumbered balances within the account being terminated.

G. An applicant may request and shall receive a refund, including interest actually earned by the city on the park impact fees, when:

1. The applicant does not proceed to finalize the development; and
2. No impact on the city has resulted. "Impact" shall be deemed to include cases where the city has expended or encumbered the park impact fees in good faith prior to the application for refund. In the event that the city has expended or encumbered the park impact fees in good faith, no refund shall be made; provided, however, within a period of three years, if the same or subsequent owner of the property proceeds with the same or substantially similar development activity, the owner or other payer shall be eligible for a credit. The owner or other payer must petition the city and provide receipts of park impact fees paid by the owner for a development of the same or substantially similar nature on the same property or some portion thereof. The city shall determine whether to grant a credit, and such determinations may be appealed by following the procedures set forth in NBMC 17.36.120.

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

**17.36.100 Processing.**

The city shall determine any applicable park impact fees as a normal part of processing a development permit.

**17.36.110 Other authority.**

Nothing in this chapter is intended to limit the city's authority under the State Environmental Policy Act or any other source.

**17.36.120 Appeals.**

A park impact fee may be appealed under the appeal process for the underlying development permit set forth in the North Bend Municipal Code. Where no other administrative appeal process is available, an appeal may be taken to the hearing examiner using the appeal procedures for variances.