

**CITY OF MONROE
ORDINANCE NO. 007/2014**

AN INTERIM ORDINANCE OF THE CITY OF MONROE,
WASHINGTON, AMENDING CHAPTER 20.07 MMC
SCHOOL IMPACT FEE MITIGATION PROGRAM,
CHAPTER 20.10 MMC PARK IMPACT FEES, AND
CHAPTER 20.12 MMC TRANSPORTATION IMPACT FEES;
TEMPORARILY ELIMINATING CERTAIN PUBLIC
INTEREST EXEMPTIONS TO THE CITY'S IMPACT FEE
REGULATIONS; PROVIDING FOR SEVERABILITY;
ESTABLISHING AN AUTOMATIC SIX MONTH SUNSET
DATE; DECLARING AN EMERGENCY; AND
ESTABLISHING AN IMMEDIATE EFFECTIVE DATE

WHEREAS, in accordance with Chapter 82.02 RCW, the City has adopted local impact fee programs for school facilities, park facilities and transportation facilities, and has codified said regulations at Chapter 20.07 MMC, Chapter 20.10 MMC, and Chapter 20.12 MMC, respectively; and

WHEREAS, the City's impact fee programs contain exemptions for homeless transitional shelters, low-income housing and other categories of development activity deemed to be in the public interest; and

WHEREAS, pursuant to RCW 82.02.060(2), the City must use other public funds to pay the impact fees that would otherwise be collected from any exempt development activity; and

WHEREAS, as result of recent development activity meeting the standards for the above-referenced exemptions, the City has unexpectedly been required to pay over \$450,000 out of the City's General Fund, which in turn has created budget concerns that potentially threaten other funding priorities, including the City's ability to adequately protect the public health, safety and welfare to the degree expected by Monroe citizens; and

WHEREAS, the City desires to temporarily discontinue the public interest exemptions set forth in Chapters 20.07 MMC, 20.10 MMC, and 20.12 MMC while it evaluates the anticipated future level of exempt development activity within the Monroe community, its implications for the City's fiscal resources, and its interrelationship with the City's budget priorities.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONROE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment of MMC 20.07.105. Section 20.07.105 of the Monroe Municipal Code is hereby amended to provide in its entirety as follows:

20.07.105 Impact fee exemptions.

The following shall be exempt from the payment of school impact fees under this chapter:

A. **Reserved.**~~[The city council may, on a case-by-case basis, grant exemptions to the application of the fee schedule for low-income housing activities in accordance with RCW 82.02.060(2). "Low-income housing" is defined as follows: (1) low-income housing projects that are constructed by public housing agencies or private nonprofit housing developments; or (2) low-income residential units, rented or purchased, that are dedicated and constructed by private developers. To qualify for such exemption, the developer of such housing shall submit a petition to the director for consideration by the council prior to application for building permit. Conditions for such approvals shall be established by the council at the time of approval that, at a minimum, meet the requirements of RCW 82.02.060(2) and which shall also include a requirement for a covenant acceptable to the affected school district to assure the project's continued use for low-income housing. The covenant entered into by and between the developer and the affected school district shall be an obligation that runs with the land, and shall be recorded against the title of the real property upon which such housing is located in the real property records of Snohomish County.]~~

B. **Reserved.**~~[To the extent required by state law, any impact fees exempted pursuant to this subsection shall be paid into the school impact fee fund from public sources other than impact fees or interest thereupon.]~~

C. **Reserved.**~~[Reconstruction, remodeling or construction of the following activities, 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, the school impact fees then in effect shall be paid:~~

~~1. Construction or remodeling of transitional housing facilities or dwelling units that provide housing to persons on a temporary basis for not more than twenty-four 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. Construction or remodeling of housing facilities or dwelling units that provide housing for retirement, assisted living, nursing home or convalescent home living.]~~

D. Rebuilding or replacement of the following activities:

1. An existing legally established dwelling unit(s) where no additional dwelling unit(s) is created.

2. An existing legally established dwelling unit(s) where such replacement occurs within five years of the demolition or destruction of the existing structure.

3. An existing legally established dwelling unit(s) where a school impact fee for such unit has been previously paid pursuant to this chapter.

E. Alteration or expansion:

1. Of an existing building where no additional residential units are created and where the use is not changed; and/or

2. The construction of any accessory building or structures.

F. The construction or installation of any nonresidential manufactured building or structure. Any claim or exemption must be made no later than the time of application for a building permit or permit for manufactured home installation. Any claim not so made shall be deemed waived.

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

H. Previous mitigation, where:

1. 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).

2. The impacts of the development activity have been mitigated pursuant to a condition of plan or PRD approval to pay fees, dedicate land or construct or improve school facilities, unless the condition of the plat or PRD approval provides otherwise; provided, that the condition of the plat or PRD approval predates the effective date of fee imposition as provided herein.

3. Any development activity for which school impacts have been mitigated pursuant to a voluntary agreement entered into with the affected school district and the city to pay fees, dedicate land or construct or improve school facilities, unless the terms of the voluntary agreement provide otherwise; provided, that the agreement predates the effective date of fee imposition as provided herein.

Section 2. Amendment of MMC 20.10.160. Section 20.10.160 of the Monroe Municipal Code is hereby amended to provide in its entirety as follows:

20.10.160 Exemptions.

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

A. ~~**Reserved.** [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:~~

~~1. Shelters or dwelling units for temporary placement which provide housing to persons on a temporary basis for not more than four weeks.~~

~~2. Construction or remodeling of transitional housing facilities or dwelling units that provide housing to persons on a temporary basis for not more than twenty four 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.]~~

B. Rebuilding or replacement of an existing legally established dwelling unit(s) where no additional dwelling unit(s) is created.

C. Alteration or expansion:

1. Of an existing building where no additional residential units are created and where the use is not changed, and/or

2. The construction of accessory buildings or structures.

D. Mobile homes where:

1. 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 chapter or where a mobile home legally existed on such site on or prior to the effective date of the ordinance codified in this chapter.

2. 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.

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

F. Previous mitigation where:

1. 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).

2. The development activity's park impacts have been mitigated pursuant to a condition of plat or PRD approval to pay fees, dedicate land or construct or improve park facilities, unless the condition of the plat or PRD approval provides otherwise; provided, that the condition of the plat or PRD approval predates the effective date of fee imposition as provided herein.

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

Section 3. Amendment of MMC 20.12.050. Section 20.12.050 of the Monroe Municipal Code is hereby amended to provide in its entirety as follows:

20.12.050 Exemptions.

A. Except as provided below, the following shall be exempt from the payment of impact fees under this chapter:

1. Replacement of an existing single-family residential structure with a new single-family residential structure upon the same site or lot when such replacement occurs within five years of the demolition or destruction of the existing structure; **and**

2. Replacement of an existing non-single-family residential structure with a new non-single-family residential structure of the same size or less and use at the same site or lot when (a) such replacement occurs within five years of the demolition or destruction of the existing structure and (b) the new non-single-family residential structure creates no obligation to pay impact fees as calculated under the change in use provision of MMC 20.12.130(I) as now or hereafter amended. [~~;-and]~~

3. **Reserved.** [~~Construction or use of temporary dwellings; and]~~

4. ~~Reserved.~~ ~~[Very low income housing; provided, that any requested exemption for very low income housing shall be subject to the provisions of this subsection.~~

~~a. Prior to qualifying for the exemption authorized in this subsection, the owner shall execute a lien, covenant or other contractual provision against the underlying property in a form satisfactory to the city attorney. The lien, covenant, or other contractual provision shall expressly provide that the dwelling unit(s) at issue will be used exclusively for very low income housing for a period no less than fifteen years. The lien, covenant, or other contractual provision shall be recorded against the title of the underlying property with Snohomish County at the owner's expense. The lien, covenant, or other contractual provision shall run with the land and shall apply fully to subsequent owners and assigns of the underlying property.~~

~~b. If, during the effective period of the lien, covenant or other contractual period, the dwelling unit(s) at issue are ultimately used for a purpose other than very low income housing, the amount of impact fees originally exempted shall become immediately due and payable to the city, together with interest at the rate of twelve percent per annum calculated from the date of building permit issuance.~~

~~c. Any impact fees exempted pursuant to this subsection shall be paid into the transportation impact fee fund from public sources other than impact fees or interest thereupon.]~~

B. The city engineer is authorized to determine the applicability of any exemption to a particular development activity. All such determinations by the city engineer shall be in writing and shall be subject to appeal pursuant to MMC 20.12.080.

Section 4. 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 5. Emergency Declared. Based upon the above recitals, which are hereby adopted as legislative findings in support of this ordinance, the City Council declares that a public emergency exists requiring this ordinance to take effect immediately upon adoption.

Section 6. Effective Date; Sunset. This ordinance, having been passed by a majority plus one of the entire City Council, shall take effect immediately upon adoption and shall sunset automatically six months after its effective date unless terminated earlier or subsequently extended by the City Council. It is the express intent of the City

Council that upon expiration of this ordinance, the Monroe Municipal Code provisions amended herein shall revert to their pre-amendment form and content as they existed immediately prior to the adoption hereof.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 24th day of June, 2014.

1st/Final Reading: June 24, 2014
2nd Reading: Waived
Published: July 1, 2014
Effective: June 24, 2014

(SEAL)

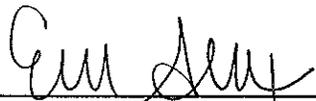
CITY OF MONROE, WASHINGTON:



Geoffrey Thomas, Mayor

ATTEST:

APPROVED AS TO FORM:



Elizabeth M. Smoot, CMC, City Clerk



J. Zachary Lell, City Attorney