

CITY OF SEQUIM
ORDINANCE NO. 2010-008

AN ORDINANCE OF THE CITY OF SEQUIM ADDING A NEW TITLE 22 TO SEQUIM MUNICIPAL CODE AUTHORIZING THE COLLECTION OF IMPACT FEES FOR PARKS AND RECREATIONAL FACILITIES; PROVIDING FINDINGS AND AUTHORITY; PROVIDING DEFINITIONS; PROVIDING FOR THE ASSESSMENT OF IMPACT FEES; PROVIDING EXEMPTIONS AND CREDITS; PROVIDING FOR THE APPEALS OF FEES AND OTHER DETERMINATIONS; PROVIDING FOR THE ESTABLISHMENT OF AN IMPACT FEE ACCOUNT, REFUNDS, AND THE USE OF FUNDS; PROVIDING THE SCHEDULE FOR IMPACT FEE RATES AND AUTHORIZING INDEPENDENT FEE CALCULATIONS; PROVIDING FOR REVIEWS AND ANNUAL ADJUSTMENT OF FEE SCHEDULES; PROVIDING FOR INTERPRETATION AND IMPLEMENTATION; AND PROVIDING FOR CERTAIN OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, the City Council of the City of Sequim (the "Council") finds that development activity in the City of Sequim will create additional demand and need for parks and recreational facilities; and

WHEREAS, the City Council finds that adequate park facilities should be provided to serve the demand generated from new development in the City; and

WHEREAS, to ensure that adequate park facilities are available to accommodate expected growth when needed, the City Council recognizes the cost of new park facilities must be shared by the public and private sectors, and a proportionate share of the expense of adequate park facilities necessitated by the impacts of new development should be borne by development applicants through the imposition of park impact fees as authorized by the Growth Management Act and RCW 82.02.050 - 82.02.100; and,

WHEREAS, the City of Sequim and other local governments in Washington are authorized by Chapter 82.02 RCW to require new growth and development within the City of Sequim to pay a proportionate share of the cost of new facilities to serve such new growth and development through the assessment of impact fees; and

WHEREAS, impact fees assessed pursuant to Chapter 82.02 RCW must be based upon a showing that new development activity creates additional demand and need for parks and recreational facilities, that the impact fees do not exceed a proportionate share of the costs of such additional parks and recreational facilities, and that the fees are spent for facilities reasonably related to the new development; and

WHEREAS, impact fees may be collected and spent for parks and recreational facilities that are included within a capital facilities plan element of a comprehensive plan; and

WHEREAS, RCW 58.17.110 and RCW 58.17.060 require the Council and administrative personnel to make written findings that public facilities such as roads, streets, parks, recreation, open spaces, schools, and school grounds are adequate before approving proposed subdivisions, dedications, short plats, and short subdivisions; and

WHEREAS, the Council finds that it is in the public interest, and consistent with the intent and purposes of the Growth Management Act, RCW 36.70A et seq., and the City's comprehensive plan for the City of Sequim to adopt an impact fee ordinance for parks and recreational facilities; and

WHEREAS, impact fees imposed pursuant to RCW 82.02.050 through RCW 82.02.090 may only be imposed for system improvements that are reasonably related to the new development, shall not exceed proportionate share of the costs of system improvements that are reasonably related to the new development, shall only be used for system improvements that will reasonably benefit the new development, and may only be collected and spent for the public facilities defined at RCW 82.02.090 which are addressed by a capital facilities element of the City's comprehensive land use plan; and

WHEREAS, in developing the impact fees contained in this ordinance for parks and recreational facilities, the City of Sequim has provided adjustments for past and future taxes paid or to be paid by the new development which are earmarked or proratable to the same new parks and recreational facilities that will serve the new development; and

WHEREAS, the City of Sequim has conducted extensive research documenting the procedures for measuring the impact of new developments on parks and recreational facilities, and has prepared a technical report which serves as the basis for the actions taken by the Council; and

WHEREAS, the Council hereby incorporates as findings and conclusions, the following study into this ordinance by reference: "Parks and Recreational Facilities Impact Fee Rate Study for City of Sequim, Washington" dated January¹ 21, 2009; and

WHEREAS, the technical report, together with the credentials of the consultant preparing the report are hereby adopted by the council; and

WHEREAS, the council has provided for the report to be presented at numerous public forums, placed the report on the city web site, held a public study session and conducted a public hearing at which it received and considered public input as well as input from the planning commission which conducted a public meeting on such fees, and

WHEREAS, RCW 36.70A.130(2)(iii) provides that comprehensive plan amendments may be considered more frequently than once per year when the amendment is an amendment of the capital facilities element and it occurs concurrently with the adoption or amendment of a city budget; and

WHEREAS, RCW 82.02.050 through 82.02.100, authorize local jurisdictions subject to the Growth Management Act to adopt and enforce ordinances for the imposition and collection of impact fees as part of the financing of public facilities.

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

A new title is hereby added to the Sequim Municipal Code for the collection of impact fees for parks and recreational facilities, and providing for certain other matters in connection therein:

¹ Incorrect date changed to January 21, 2009

Chapter 1. GENERAL PROVISIONS GOVERNING THE ASSESSMENT OF IMPACT FEES

Section 1. Findings and authority. The City Council of the City of Sequim (the "Council") hereby finds and determines that new residential growth and development in the City of Sequim will create additional demand and need for parks and recreational facilities in the City of Sequim, and the Council finds that new growth and development should pay a proportionate share of the cost of new parks and recreational facilities needed to serve the new growth and development. The City of Sequim has conducted extensive research documenting the procedures for measuring the impact of new developments on parks and recreational facilities, has prepared the Parks Study, and hereby incorporates that study into this title by reference. Therefore, pursuant to Chapter 82.02 RCW, the Council adopts this title to assess impact fees for parks and recreational facilities. The provisions of this title shall be liberally construed in order to carry out the purposes of the Council in establishing the impact fee program.

Section 2. Definitions. The following words and terms shall have the following meanings for the purposes of this title, unless the context clearly requires otherwise. Terms otherwise not defined herein shall be defined pursuant to RCW 82.02.090, or given their usual and customary meaning.

A. "Building Permit" means an official document or certification which is issued by the Building Official and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.

B. "Capital Facilities Plan" means the capital facilities plan element of a comprehensive plan adopted by the City of Sequim pursuant to Chapter 36.70A RCW, and such plan as amended.

C. "City" means the City of Sequim.

D. "Council" means the City Council of the City of Sequim.

E. "Development Activity" means any construction, expansion, or change in the use of a building or structure that creates additional demand and need for parks and recreational facilities.

F. "Development Approval" means any written authorization from the City of Sequim that authorizes the commencement of a development activity.

G. "Dwelling Unit" means a single family unit providing complete and independent living facilities for one or more persons, including permanent facilities for living, sleeping, eating, cooking, and sanitation needs. A Multi-family unit means two or more dwelling units which are connected.

H. "Encumbered" means to reserve, set aside, or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for parks and recreational facilities.

I. "Feepayer" is a person, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation commencing a development activity which creates the demand for additional parks and recreational facilities, and which requires the issuance of a building permit. "Feepayer" includes an applicant for an impact fee credit.

J. "Hearing Examiner" means the Examiner who acts on behalf of the City in considering and applying land use regulatory codes as provided under the Sequim Municipal Code. Where appropriate, "Hearing Examiner" also refers to the office of the hearing examiner. If the city has not implemented a Hearing Examiner office or if there is no person appointed as a Hearing Examiner, the City Council shall act as a Hearing Body in place of the Hearing Examiner. Any appeal from the City Council shall be to the appropriate court or state hearing body as may be required by law.

K. "Impact fee" means a payment of money imposed by the City of Sequim on development activity pursuant to this title as a condition of granting development approval in order to pay for the parks and recreational facilities needed to serve new growth and development. "Impact fee" does not include a reasonable permit fee, an application fee, the

administrative fee for collecting and handling school impact fees, or the cost of reviewing independent fee calculations.

L. "Impact Fee Account" or "Account" means the account established for parks and recreational facility impact fees.

M. "Independent Fee Calculation" means the park impact calculation, and/or economic documentation prepared by a feepayer, to support the assessment of an impact fee other than by the use of the rates listed in Section 11, or the calculations prepared by the City Manager or his designee where none of the fee categories or fee amounts in Section 12 accurately describe or capture the impacts of the new development on parks and recreational facilities.

N. "Interest" means the average interest rate earned in the last fiscal year by the City of Sequim.

O. Reserved.

P. "Occupancy Permit" means the permit issued by the City of Sequim where a development activity results in a change in use of the pre-existing structure, or the creation of a new use where none previously existed.

Q. "Open Space" means for the purposes of this title undeveloped public land that is permanently protected from development (except for the development of trails or other passive public access or use).

R. "Owner" means the owner of record of real property, or a person with an unrestricted written option to purchase property; provided that, if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the real property.

S. "Park" means land or open space designated by the City as neighborhood parks, community parks, natural resource areas, urban pathways and bikeways or comparable designations of land.

T. "Parks Study" means the "Parks and Recreational Facilities Impact Fee Rate Study for City of Sequim, Washington" dated December 21, 2009 as amended and supplemented before adoption of this Ordinance.

U. "Project Improvements" mean 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.

V. "Public Facilities" means the publicly owned parks, open space, and recreational facilities owned or operated by the City of Sequim.

W. "Recreational facility" includes, but is not limited to ball fields, athletic fields, soccer fields, swimming pools, tennis courts, and volleyball courts.

X. "Residential" or "Residential Development" means all types of construction intended for human habitation. This shall include, but is not limited to, single-family, duplex, triplex, and other multifamily residential development.

Y. "Significant Past Tax Payment" means taxes exceeding five percent of the amount of the impact fee, and which were paid prior to the date the impact fee is assessed and were earmarked or proratable to the same system improvements for which the impact fee is assessed.

Z. "State" means the State of Washington.

AA. "System Improvements" means parks and recreational facilities that are included in the City of Sequim's capital facilities plan and are designed to provide service to service areas within the community at large, in contrast to project improvements.

Section 3. Assessment of impact fees.

A. The City shall collect impact fees, based on the rates in Section 11, from any applicant seeking development approval from the City for any residential development activity within the City, where such development activity requires the issuance of a building permit or occupancy permit, including the expansion or change in use of existing uses that creates one or more additional dwelling units.

B. For a change in use of an existing building or dwelling unit, including any alteration, expansion, replacement or new accessory building, the impact fee shall be the applicable impact

fee for the land use category of the new use, less any impact fee previously paid for the land use category of the prior use. If no impact fee was paid for the prior use, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the prior use.

C. For mixed-use developments, impact fees shall be imposed for the proportionate share of each land use based on the applicable measurement in the impact fee rates set forth in Section 11.

D. Impact fees shall be assessed at the time the complete application for a building permit or occupancy permit is submitted and vests, for each unit in the development, using the impact fee rates then in effect. Impact fees shall be paid at the time the building permit is issued by the City.

E. Applicants that have been awarded credits pursuant to Section 5 prior to the submittal of the complete building permit application, shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the City Manager or his designee pursuant to Section 5 setting forth the dollar amount of the credit awarded. Impact fees, as determined after the application of appropriate credits, shall be collected from the feepayer at the time the building permit is issued for each unit in the development.

F. The City Manager or his designee shall not issue the required building permit or occupancy permit unless and until the impact fees set forth in Section 11 have been paid in the amount that they exceed exemptions or credits provided pursuant to Sections 4 or 5.

G. The service area for impact fees for parks and recreational facilities shall be a single citywide service area.

Section 4. Exemptions.

A. The following shall be exempted from the payment of all impact fees:

1. Alteration or change in use of an existing nonresidential structure that does not add any dwelling units;

2. Miscellaneous improvements, including, but not limited to, fences, walls, swimming pools, and signs;

3. Demolition or moving of a structure;

4. Replacement of a structure with a new structure of the same size and use at the same site or lot when such replacement occurs within twelve (12) months of the demolition or destruction of the prior structure.

5. Any vested building permit application that has been submitted to the City before 5:00 p.m. the business day before the effective date of this Chapter and subsequently determined to be a complete application, based on the information on file as of the effective date of this Chapter.

Section 5. Credits.

A. A feepayer can request that credit to be used to reduce impact fees be awarded to him/her for the total value of dedicated land, improvements, or construction provided by the feepayer. Credits will be given only if the land, improvements, and/or the facility constructed are:

1. Included within the capital facilities plan or would serve the goals and objectives of the capital facilities plan, including public availability of such facilities; and

2. At suitable sites and constructed at acceptable quality as determined by the City.

B. The City Manager or his designee shall determine if requests for credits meet the criteria in subsection A.

C. The value of a credit for structures, facilities or other improvements shall be established by original receipts provided by the applicant for one or more of the same system improvements for which the impact fee is being charged.

D. The value of a credit for land, including right of way and easements, shall be established on a case-by-case basis by an appraiser selected by, or acceptable to the City Manager or his designee. The appraiser must be licensed in good standing by the State of Washington for the category of the property appraised. 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 appraisal shall be in accord with the most recent version of the Uniform Standards of Professional Appraisal Practice and shall be subject to review and acceptance by the City Manager or his designee.

E. The feepayer shall pay for the cost of the appraisal or request that the cost of the appraisal be deducted from the credit which the City Manager or his designee may be providing to the feepayer, in the event that a credit is awarded.

F. After receiving the appraisal the City Manager or his designee 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 City Manager or his designee before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within sixty (60) calendar days shall nullify the credit.

G. No credit shall be given for project improvements.

H. A feepayer can request that a credit for impact fees be awarded to him/her for significant past tax payments. For each request for a credit for significant past tax payments for park impact fees, the feepayer shall submit receipts and a calculation of past tax payments earmarked for or proratable to the particular system improvement for which a credit is requested.

The City Manager or his designee shall determine the amount of credits, if any, for significant past tax payments for parks and recreational facilities.

I. Any claim for credit must be made no later than twenty (20) calendar days after the submission of an application for a building permit. The failure to timely file such a claim shall constitute a final bar to later request any such credit.

J. Determinations made by the City Manager or his designee pursuant to this Section shall be subject to the appeals procedures set forth in Section 7.

Section 6. Tax adjustments. Pursuant to and consistent with the requirements of RCW 82.02.060, the Parks Study has provided adjustments for future taxes to be paid by the new development which are earmarked or proratable to the same new parks and recreational facilities which will serve the new development. The impact fee rates in Section 11 have been reasonably adjusted for taxes and other revenue sources which are anticipated to be available to fund parks and recreational improvements.

Section 7. Appeals.

A. Any feepayer may pay the impact fees imposed by this title under protest in order to obtain a building permit. No appeal shall be permitted until the impact fees at issue have been paid.

B. Appeals regarding the impact fees imposed on any development activity may only be filed by the feepayer of the property where such development activity will occur.

C. The feepayer must first file a request for review regarding impact fees with the City Manager or his designee, as provided herein:

1. The request shall be in writing on the form provided by the City and shall include a statement demonstrating standing to appeal, a clear description of what is being appealed, and specific data and technical information supporting the appeal;

2. The request for review by the City Manager or his designee shall be filed within fourteen (14) calendar days of the feepayer's payment of the impact fees at issue. The failure to timely file such a request shall constitute a final bar to later seek such review;

3. The fee for filing an appeal or request for review by the City Manager or his designee shall be two hundred dollars (\$200.00); and

4. The City Manager or his designee shall issue his/her determination in writing.

D. Determinations of the City Manager or his designee with respect to the applicability of the impact fees to a given development activity, the availability or value of a credit, or the City Manager or his designee's decision concerning the independent fee calculation which is authorized in Section 12, or the fees imposed by the City Manager or his designee pursuant to Section 12, or any other determination which the City Manager or his designee is authorized to make pursuant to this title, can be appealed to the hearing examiner.

E. Appeals shall be taken within fourteen (14) calendar days of the City Manager or his designee's issuance of a written determination by filing with the City Manager or his designee a notice of appeal specifying the grounds thereof, and depositing the necessary fee, which is set forth in the existing fee schedules for appeals of such decisions. The City Manager or his designee shall transmit to the office of the hearing examiner all papers constituting the record for the determination, including where appropriate, the independent fee calculation.

F. The hearing examiner shall fix a time for the hearing of the appeal, give notice to the parties in interest, and decide the same as provided in the Sequim Municipal Code. At the hearing, any party may appear in person or by agent or attorney.

G. The hearing examiner is authorized to make findings of fact regarding the applicability of the impact fees to a given development activity, the availability or amount of the credit, or the accuracy or applicability of an independent fee calculation. The decision of the hearing examiner shall be final, except as provided in this Section.

H. The hearing examiner may, so long as such action is in conformance with the provisions of this title, reverse or affirm, in whole or in part, or may modify the determinations

of the City Manager or his designee with respect to the amount of the impact fees imposed or the credit awarded.

I. Unless the city council has acted in place of a hearing examiner, a decision of the examiner may be appealed to the city council within 14 days of the of the date of the hearing examiner's written decision.

Section 8. Establishment of impact fee account.

A. Impact fee receipts shall be earmarked specifically and deposited in a separate interest-bearing account.

B. There is hereby established a separate impact fee account for the fees collected pursuant to this title: the Parks Impact Fee Account. Funds withdrawn or expended from this account must be used in accordance with the provisions of Section 10 of this title and applicable state law. Interest earned on the fees shall be retained in the account and expended for the purposes for which the impact fees were collected.

C. On an annual basis, the Finance Director shall provide a report to the Council on the impact fee account showing the source and amount of all moneys collected, earned, or received, and the parks and recreational improvements that were financed in whole or in part by impact fees.

D. Impact fees shall be expended or encumbered within six (6) years of receipt, unless the Council identifies in written findings extraordinary and compelling reason or reasons for the City to hold the fees beyond the six (6) year period. Under such circumstances, the Council shall establish the period of time within which the impact fees shall be expended or encumbered.

Section 9. Refunds.

A. If the City fails to expend or encumber the impact fees within six (6) years of when the fees were paid, or where extraordinary or compelling reasons exist, such other time periods as established pursuant to Section 8, the current record owner of the property, at the expiration of

any such period, on which impact fees have been paid may receive a refund of such fees. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first in, first out basis.

B. The City shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of such claimants. A claimant must be the owner of the property.

C. An owner seeking a refund of impact fees must submit a written request for a refund of the fees to the City Manager or his designee within one (1) year of the date the right to claim the refund arises or the date that notice is given, whichever is later.

D. Any impact fees for which no application for a refund has been made within this one-year period shall be retained by the City and expended on the appropriate parks and recreational facilities.

E. Refunds of impact fees under this Section shall include any interest earned on the impact fees by the City.

F. When the City seeks to terminate any or all components of the impact fee program, all unexpended or unencumbered funds from any terminated component or components, including interest earned, shall be refunded pursuant to this Section. Upon the finding that any or all fee requirements are to be terminated, the City shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two (2) times and shall notify all potential claimants by first class mail at the last known address of the claimants. All funds available for refund shall be retained for a period of one (1) year. At the end of one (1) year, any remaining funds shall be retained by the City, but must be expended for the appropriate parks and recreational facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

G. The City shall also refund to the current owner of property for which impact fees have been paid all impact fees paid, as provided for herein, including interest earned on the impact fees, when the developer does not proceed with the development activity for which the impact

fees were imposed and when no impact on the City has resulted; provided that, if the City has expended or encumbered the impact fees in good faith prior to the application for a refund, the City Manager or his designee can decline to provide the refund. Any refund provided for in this sub section shall not occur during the time when the development activity has a valid development approval and is legally authorized to proceed. If, after expiration of development approval and within a period of three (3) years, the same or subsequent owner of the property receives a new development approval with the same or substantially similar development activity, the owner can petition the City Manager or his designee for an offset of any un-refunded impact fees provided for herein. The petitioner must provide valid proof of ownership, clear title and receipts of impact fees previously paid for a development of the same or substantially similar nature on the same property or some portion thereof. The City Manager or his designee shall determine whether to grant an offset. Determinations of the City Manager or his designee shall be in writing and shall be subject to the appeals procedures set forth in Section 7.

Section 10. Use of funds.

A. Pursuant to this title, impact fees:

1. Shall be used for parks and recreational facility improvements that will reasonably benefit the new development; and
2. Shall not be imposed to make up for deficiencies in parks and recreational facilities serving existing developments; and
3. Shall not be used for maintenance or operation.

C. Park impact fees may be spent for parks and recreational facility improvements, including, but not limited to, planning, land acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable impact fees or mitigation costs, capital equipment pertaining to park and recreational facilities, and any other expenses that can be capitalized provided the expenses relate to the parks and recreational facility improvements.

D. Impact fees may also be used to recoup parks and recreational facility improvement costs previously incurred by the City to the extent that new growth and development will be served by the previously constructed improvements or incurred costs.

E. In the event that bonds or similar debt instruments are or have been issued for the advanced provision of parks and recreational facility improvements for which 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 or improvements provided are consistent with the requirements of this Section and are used to serve the new development.

Section 11. Park impact fee. The park impact fee rates in this section are generated from the formula for calculating impact fees set forth in the Parks Study, which is incorporated herein by reference. Except as otherwise provided for independent fee calculations in Section 12, exemptions in Section 4, and credits in Section 5, all new residential developments in the City will be charged the park impact fee applicable to the type of dwelling unit:

- A. Single family dwelling unit: \$1,975 per dwelling unit
- B. Multi family dwelling unit: \$2,129 per dwelling unit

Section 12. Independent fee calculations.

A. If in the judgment of the City Manager or his designee, none of the fee categories or fee amounts set forth in Section 11 accurately describe or capture the impacts of a new development on parks the City Manager or his designee may conduct independent fee calculations and the City Manager or his designee may impose alternative fees on a specific development based on those calculations. If the alternative fees are less than 90% of the amount set forth in Section 11, then they shall be subject to the approval of the City Council. The approved alternative fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.

B. If a feepayer opts not to have the impact fees determined according to Sections 11, then the feepayer shall prepare and submit to the City Manager or his designee an independent fee calculation for the development activity for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made.

C. Any feepayer submitting an independent fee calculation will be required to pay the City of Sequim a fee to cover the cost of reviewing the independent fee calculation. The fee required by the City for conducting the review of the independent fee calculation shall be two hundred dollars (\$200.00), unless otherwise established by the City Manager or his designee, and shall be paid by the feepayer prior to initiation of review.

D. While there is a presumption that the calculations set forth in the Parks Study are valid, the City Manager or his designee shall consider the documentation submitted by the feepayer, but is not required to accept such documentation or analysis which the City Manager or his designee reasonably deems to be inaccurate or not reliable, and may, in the alternative, require the feepayer to submit additional or different documentation for consideration. The City Manager or his designee is authorized to adjust the impact fees on a case-by-case basis based on the independent fee calculation, the specific characteristics of the development, and/or principles of fairness, subject to approval of city council. The approved fees or alternative fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.

E. Determinations made by the City Manager or his designee pursuant to this Section may be appealed to the office of the hearing examiner as set forth in Section 7.

Section 13. Review. The fee rates set forth in Section 11 may be reviewed and adjusted by the Council as it deems necessary and appropriate in conjunction with the annual update of the capital facilities plan element of the City's comprehensive plan. The fee rates shall be adjusted 12 months after the effective date of this Chapter, or 12 months after the most recent review by the Council. The Council may determine the amount of the adjustment taking into

consideration changes in costs of real property, materials and labor. The Council may revise the fee rates set forth in Section 11. If the Council does not determine the amount of the adjustment, the adjustment shall be by the same amount that the Engineering News Record Construction Price Index changed for the most recent 12-month period prior to the date of the adjustment.

Section 14. Interpretation and implementation. The City Council authorizes the City Manager or his designee to administratively interpret the provisions of this title as necessary to implement the intent of the City Council. The City Manager or his designee shall be authorized to adopt guidelines for the implementation of this title that may include a procedures guide for impact fees.

Chapter II. MISCELLANEOUS PROVISIONS

Section 1. Existing authority unimpaired. Nothing in this title shall preclude the City from requiring the feepayer or the proponent of a development activity to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, based on the environmental documents accompanying the underlying development approval process, and/or Chapter 58.17 RCW, governing plats and subdivisions; provided, that, the exercise of this authority is consistent with the provisions of Chapter 43.21C RCW and Chapter 82.02 RCW.

Section 2. Captions. The Chapter and Section captions used in this title are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this title.

Section 3. Severability. If any portion of this title is found to be invalid or unenforceable for any reason, or is pre-empted by state or federal law or regulation, such finding or pre-emption

shall not affect the validity or enforceability of any other Chapter or any other Section of this title.

Section 4. Short title. This title shall be known and may be cited as "the City of Sequim Park Impact Fee Ordinance."

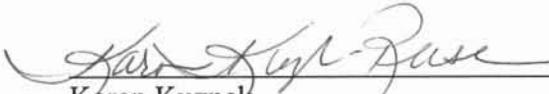
Section 5. Effective date. This ordinance shall become effective on June 1, , 2010.

Passed at a regular meeting of the City of Sequim City Council held March 22,, 2010.



Ken Hays, Mayor

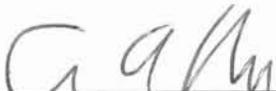
ATTEST:



Karen Kuznek

-Reese, MMC, City Clerk

APPROVED AS TO FORM:



Craig Ritchie, City Attorney

Approved: March 22, 2010

Published: March 29, 2010

Effective: June 1, 2010