CITY OF SAMMAMISH
WASHINGTON

ORDINANCE NO. O2009-263

AN ORDINANCE OF THE CITY OF SAMMAMISH AMENDING TITLE 14A OF THE SAMMAMISH MUNICIPAL CODE

WHEREAS, pursuant to the provisions of state law, Chapter 35A.63 of the Revised Code of Washington (RCW) and chapter 36.70A RCW, the Sammamish City Council has adopted the Sammamish Municipal Code (SMC), including Title 14A, which regulates impact fees ; and

WHEREAS, as a result of the current downturn in the local economy, a diminishing number of new residential units are being built, which adversely impacts the City's housing stock, local economy and revenue for governmental services, and

WHEREAS, unless the City acts, the housing market may continue to languish and adverse consequences of decreased revenues, abandoned projects, and underutilized land will occur; and

WHEREAS, a need exists to amend Title 14A to afford more flexibility to applicants on the timing of Street impact fee and Parks and Recreational Facilities impact fee payments; and

WHEREAS. the ordinance amendments are procedural in nature, and therefore exempt from State Environmental Policy Act (SEPA) review;

WHEREAS, the City Council finds the proposed amendments to the Sammamish Municipal Code to be consistent with and to implement the intent of the Comprehensive Plan; and

WHEREAS, the City Council has concluded that it is in the interest of the public health, safety and welfare to adopt this ordinance;

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

Section 1. The proposed amendments subject to this ordinance are set forth in Attachment "A" hereto.

Section 2. Applicability.

(1) This ordinance shall apply to all complete building permit applications and requests for approval received between the effective date of this ordinance and December 30, 2010.

(2) Public notice given prior to the effective date of this ordinance for any pending development permit application shall remain valid for such permit application.

(3) This ordinance shall not otherwise affect the vesting date for any application as provided for under state law and SMC 20.05.070.

Section 3. Severability.
The above "Whereas" clauses of this ordinance constitute specific findings by the Council in support of passage of this ordinance. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

Section 4. Effective Date.
This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force on August 13, 2009 after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 21st DAY OF JULY, 2009.

CITY OF SAMMAMISH

Mayor Donald J. Gerend

ATTEST/AUTHENTICATED:

Stacy Herman, Deputy City Clerk

Approved as to form:

Bruce L. Disend, City Attorney

Filed with the City Clerk:	July 1, 2009
Public Hearing:	July 7, 2009
First Reading:	July 7, 2009
Passed by City Council:	July 21, 2009
Date of Publication:	July 24, 2009
Effective Date:	August 13, 2009

Attachment A

14A.15.020 Assessment of impact fees

(1) The City shall collect impact fees, based on the rates in SMC 14A.15.110, from any applicant seeking development approval from the City for any development within the City, where such development requires the issuance of a building permit. This shall include, but is not limited to, the development of residential, commercial, retail, and office uses, and includes the expansion of existing uses that creates a demand for additional public facilities, as well as a change in existing use that creates a demand for additional public facilities.

(2) An impact fee shall not be assessed for the following types of development activity because the activity either does not create additional demand as provided in RCW 82.02.050 and/or is a project improvement (as opposed to a system improvement) under RCW 82.02.090:

(a) Miscellaneous non-traffic generating improvements, including, but not limited to, fences, walls, swimming pools, sheds, and signs;

(b) Demolition or moving of a structure;

(c) Expansion of an existing nonresidential structure that results in the addition of 100 square feet or less of gross floor area;

(d) Expansion of a residential structure provided the expansion does not result in the creation of any additional dwelling units as defined in SMC 21A.15.345 through 21A.15.370;

(e) Replacement of a residential structure with a new residential structure at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure. For the terms of this requirement "replacement" is satisfied by submitting a complete building permit application;

(f) Replacement of a nonresidential structure with a new nonresidential structure of the same size and use at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure. Replacement of a nonresidential structure with a new non-residential structure of the same size shall be interpreted to include any structure for which the gross square footage of the building will not be increased by more than 100 square feet. For the terms of this requirement "replacement" is satisfied by submitting a complete building permit application.

(3) For a change in use of an existing building or dwelling unit, including any alteration, expansion, replacement or new accessory building, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the prior use; provided, that the applicant has previously paid the required impact fee for the original use.

(4) 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 SMC 14A.15.110.

(5) Applicants seeking a building permit for a change in use shall be required to pay an impact fee if the change in use increases the existing trip generation by the lesser of five percent or 10 peak hour trips.

(6) Impact fees shall be assessed according to the following schedule in an amount equal to the percentages listed below of the amount of impact fees, using the impact fee rates in effect at the time the deposit is made. However, the total amount of impact fees paid shall be subject to the following:

(a) Upon issuance of a certificate of concurrency, a deposit of 10 percent of impact fees shall be made. At the time of preliminary plat or short plat approval the deposit amount shall equal 20 percent of the impact fee rates in effect at that time.

(b) The balance of the impact fee shall be paid in accordance with the following schedule:

(i) At the time a final plat or short plat, site development permit, conditional use permit, or building permit is approved, a final payment shall be made equal to 100 percent of the impact fee rates in effect at that time, less a credit for the deposit paid pursuant to subsection (6)(a) of this section.

(ii) Alternatively, a deposit amount equal to 30 percent of the impact fee rates in effect at that time of final plat or short plat approval shall be made, and at building permit issuance a final payment shall be made equal to 100 percent of the impact fee rates in effect at the time of final plat approval, short plat approval, site development permit, or conditional use permit, less a credit for any deposits paid for all those building permits issued within two years of such approval. If all building permits are not issued within two years or 100 percent payment is not otherwise made, all remaining building permits shall be assessed impact fees based on the current rate in effect at the time of building permit issuance less a credit for any deposits paid.

The City council may waive payment of deposits for planned actions and require instead that the planned action shall pay the impact fees that are in effect at the time each building permit is issued.

(7) Applicants that have been awarded credits prior to the submittal of the complete building permit application pursuant to SMC 14A.15.040 shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the director pursuant to SMC 14A.15.040 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 by the City for each unit in the development.

(8) Where the impact fees imposed are determined by the square footage of the development, a deposit shall be due from the feepayer pursuant to subsection (6) of this section. The deposit shall be based on an estimate, submitted by the feepayer, of the size and type of structure proposed to be constructed on the property. In the absence of an estimate provided by the feepayer, the department shall calculate a deposit amount based on the maximum allowable density/intensity permissible on the property. If the final square footage of the development is in excess of the initial estimate, any difference in the amount of the impact fee will be due prior to the issuance of a building permit, using the impact fee rate in effect at that time. The feepayer shall pay any such difference plus interest, calculated at the statutory rate. If the final square footage is less than the initial

estimate, the department shall give a credit for the difference, plus interest at the statutory rate.
(9) The department shall not issue the required building permit unless and until the impact fees required by this chapter, less any permitted exemptions or credits provided pursuant to SMC 14A.15.030 or 14A.15.040, have been paid.
(10) The service area for impact fees shall be a single Citywide service area.
(11) In accordance with RCW 82.02.050, the City shall collect and spend impact fees only for the public facilities defined in this title and RCW 82.02.090 which are addressed by the capital facilities plan element of the City's comprehensive plan. The City shall base continued authorization to collect and expend impact fees on revising its comprehensive plan in compliance with RCW 36.70A.070, and on the capital facilities plan identifying: (a) deficiencies in public facilities serving existing development and the means by which existing deficiencies will be eliminated within a reasonable period of time; (b) additional demands placed on existing public facilities by new development; and (c) additional public facility improvements required to serve new development.
(12) In accordance with RCW 82.02.050, if the City's capital facilities plan is complete other than for the inclusion of those elements which are the responsibility of a special district, the City may impose impact fees to address those public facility needs for which the City is responsible.
(13) For complete building permit applications received on or prior to December 30, 2010, at the time of issuance of any single family residential building permit for a dwelling unit that is being constructed for resale, the applicant may elect to record a covenant against title to the property that requires payment of the impact fees due and owing in accordance with (6)(b)(ii) above, less any credits awarded, by providing for automatic payment through escrow of the impact fee due and owing to be paid at the time of closing of sale of the lot or unit. The awarding of credits shall not alter the applicability of this section. (Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.20.020 Assessment of impact fees

(1) The City shall collect impact fees, based on the rates in SMC 14A.20.110, from any applicant seeking development approval from the City for any residential development within the City, where such development requires the issuance of a building permit. This shall include, but is not limited to, the expansion or change of use of existing uses that creates a demand for additional public facilities.
(2) An impact fee shall not be assessed for the following types of development activity because the activity either does not create additional demand as provided in RCW 82.02.050 and/or is a project improvement (as opposed to a system improvement) under RCW 82.02.090.
(a) Miscellaneous improvements to residential dwelling units that will not create additional park use demand, including, but not limited to, fences, signs, walls, swimming pools, sheds, and residential accessory uses as defined in SMC 21A.15.020;
(b) Demolition or moving of a residential structure;

(c) Expansion or alteration of a residential structure provided the expansion or alteration does not result in the creation of any additional dwelling units as defined in SMC 21A.15.345 through 21A.15.370;
(d)Replacement of a residential structure with a new residential structure at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure.
(3) For a change in use of an existing structure or dwelling unit, including any alteration, expansion, replacement or new accessory building, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the prior use; provided, that the applicant has previously paid the required impact fee for the original use.
(4) For mixed use developments, impact fees shall be imposed for the proportionate share of each residential land use based on the applicable measurement in the impact fee rates set forth in SMC 14A.20.110.
(5) Applicants seeking development approval for a change in use shall be required to pay an impact fee if the change in use increases the number of dwelling units.
(6) Impact fees shall be assessed and collected at the time the complete application for a building permit is submitted for each unit in the development, or at the issuance of permit, using the impact fee rates then in effect.
(7) Applicants that have been awarded credits prior to the submittal of the complete building permit application pursuant to SMC 14A.20.040 shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the director pursuant to SMC 14A.20.040 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 by the City for each residential dwelling unit in the development.
(8) The department shall not issue the required building permit unless and until the impact fees required by this chapter, less any permitted exemptions or credits provided pursuant to SMC 14A.20.030 or 14A.20.040, have been paid.
(9) The service area for impact fees shall be a single Citywide service area.
(10) In accordance with RCW 82.02.050, the City shall collect and spend impact fees only for the public facilities defined in this title and RCW 82.02.090 which are addressed by the capital facilities plan element of the City's comprehensive plan. The City shall base continued authorization to collect and expend impact fees on revising its comprehensive plan in compliance with RCW 36.70A.070, and on the capital facilities plan identifying: (a) deficiencies in public facilities serving existing development and the means by which existing deficiencies will be eliminated within a reasonable period of time; (b) additional demands placed on existing public facilities by new development; and (c) additional public facility improvements required to serve new development.
(11) In accordance with RCW 82.02.050, if the City's capital facilities plan is complete other than for the inclusion of those elements which are the responsibility of a special district, the City may impose impact fees to address those public facility needs for which the City is responsible.
(12) For complete building permit applications received on or prior to December 30, 2010, at the time of issuance of any single family residential building permit for a dwelling unit that is being constructed for resale, the applicant may elect to record a covenant against title to the property that requires payment of the impact fees due and

owing, less any credits awarded, by automatic payment through escrow of the impact fee due and owing to be paid at the time of closing of sale of the lot or unit. The awarding of credits shall not alter the applicability of this section (Ord. O2006-207 § 1)