

CHAPTER 16.26
FIRE IMPACT FEES

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16.26.010 Authority and Purpose

A. **Authority.** The City of Tukwila's impact fee financing program has been developed pursuant to the City of Tukwila's policy powers, the Growth Management Act as codified in Chapter 36.70A of the Revised Code of Washington (RCW).

B. **Purpose.** The purpose of the financing plan is to:

1. Develop a program consistent with Tukwila's Fire Department Capital Facilities Plan and the Capital Improvement Program for joint public and private financing of fire protection services necessitated in whole or in part by development within the City of Tukwila;
2. Ensure adequate levels of public fire protection and service are consistent with the current level of service standards;
3. Create a mechanism to charge and collect fees to ensure that development bears its proportionate share of the capital costs of public fire protection facilities necessitated by development; and
4. Ensure fair collection and administration of such fire impact fees.

(Ord. 2571 §4, 2018)

16.26.020 Findings

The City Council finds and determines that growth and development in the City create additional demand and need for public fire protection facilities in the City, and the City Council finds that growth and development should pay its proportionate share of the costs of the facilities needed to serve the growth and development in the City. Therefore, pursuant to RCW 36.70A and RCW 82.02.050 through 82.02.100, which authorize the City to impose and collect impact fees to fund public facilities that serve growth, the City Council adopts this ordinance to impose fire protection impact fees for fire protection services. It is the Council's intent that the provisions of this ordinance be liberally construed in establishing the fire impact fee program.

(Ord. 2571 §5, 2018)

16.26.030 Definitions

Terms or words not defined herein shall be defined pursuant to RCW 82.02.090 when given their usual and customary meaning. For the purposes of this ordinance, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the following meanings:

1. **"Accessory residential structure"** means a structure that is incidental and subordinate to the principal residence on the property and is physically detached to the principal residence, but does not include accessory dwelling units. For example, a detached garage or storage shed for garden tools are considered accessory residential structures.

2. **"Accessory dwelling unit (ADU)"** means a dwelling unit that is within or attached to a single-family dwelling or in a detached building on the same lot as the primary single-family dwelling. An ADU is distinguishable from a duplex by being clearly subordinate to the primary dwelling unit, both in use and appearance.

3. **"Building permit"** means an official document or certification of the City of Tukwila issued by the City's building official which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, placement, demolition, moving, or repair of a building or structure.

4. **"City"** means the City of Tukwila, Washington, County of King.

5. **"Development activity"** means any construction, reconstruction, or expansion of a building, structure, or use, or any changes in use of a building or structure, or any changes in the use of land, requiring development approval.

6. **"Development approval"** means any written authorization from the City, which authorizes the commencement of the "development activity."

7. **"Encumber"** means to reserve, set aside, or earmark the fire impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for the provision of fire protective services.

8. "Fee payer" is a person, corporation, partnership, an incorporated association or governmental agency, municipality, or similar entity commencing a land development activity that requires a building permit and creates a demand for additional fire capital facilities.

9. "Fire protection facilities" means all publicly owned apparatus and buildings within the City that are used for fire protection and/or emergency response and aid.

10. "Impact fee" means the payment of money imposed by the City on development activity pursuant to this ordinance as a condition of granting development approval in order to pay for the fire facilities needed to serve growth and development that is a proportionate share of the cost of fire capital facilities used for facilities that reasonably benefit development. Impact fees do not include reasonable permit fees, application fees, administrative fees for collecting and handling fire impact fees, or the cost of reviewing independent fee calculations.

11. "Low-income housing" means housing where monthly costs, including utilities other than telephone, are no greater than 30% of the resident's household monthly income and where household monthly income is 80% or less of the King County Median family income adjusted for family size as reported by the U.S. Department of Housing and Urban Development.

12. "Owner" means the owner of record of real property, as found in the records of King County, Washington, 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 property.

13. "Proportionate share" means that portion of the cost for fire facility improvements that are reasonably related to the service demands and needs of development.

(Ord. 2571 §6, 2018)

16.26.040 Fire Impact Fee Assessment

A. The City shall collect fire impact fees from applicants seeking development approvals from the City for any development activity in the City for which building permits are required effective January 1, 2009, consistent with the provisions of this ordinance.

B. Fire impact fees shall be assessed at the time of a technically-complete building permit application that complies with the City's zoning ordinances and building and development codes. Fire impact fees shall be collected from the fee payer at the time the building permit is issued.

C. Except if otherwise exempt, the City shall not issue the required building permit unless or until the fire impact fees are paid.

(Ord. 2571 §7, 2018)

16.26.050 Use of Fire Impact Fees

A. Pursuant to this ordinance, fire impact fees shall be used for fire facilities that will reasonably benefit growth and development, and only for fire protection facilities addressed by the City's Capital Facilities Element of the Comprehensive Plan.

B. Fees shall not be used to make up deficiencies in City facilities serving an existing development.

C. Fees shall not be used for maintenance and operations, including personnel.

D. Fire impact fees shall be used for, but not limited to, land acquisition, site improvements, engineering and architectural services, permitting, financing, administrative expenses and applicable mitigation costs, and capital equipment pertaining to fire protection facilities.

E. Fire impact fees may also be used to recoup public improvement costs incurred by the City to the extent that growth and development will be served by the previously constructed improvement.

F. In the event bonds or similar debt instruments are or have been issued for fire facility improvements, impact fees may be used to pay the principal and interest on such bonds.

(Ord. 2571 §8, 2018)

16.26.060 Fire Impact Fee Capital Facilities Plan

In order to collect fire impact fees, the City must first adopt a Fire Capital Facilities Plan as an element of the City's Comprehensive Plan. The City's Capital Facilities Plan for fire protection services shall consist of the following elements:

1. The City's capacity over the next six years, based on an inventory of the City's fire facilities both existing and under construction;

2. The forecast of future needs for fire facilities based upon the City's population projections;

3. A six-year financial plan component, updated as necessary, to maintain at least a six-year forecast for financing needed within projected funding levels;

4. Application of the formula set forth in this ordinance based upon the information in the Capital Facilities Plan; and

5. City Council Action. No new or revised impact fee shall be effective until adopted by the City Council following a duly advertised public hearing to consider the City's Capital Facilities Plan or plan update, except for fees adjusted through the annual update process outlined in TMC Section 16.26.080.

(Ord. 2571 §9, 2018)

16.26.070 Fire Impact Fee Formula

A. The impact fee formula is based on the assumptions found in “Tukwila Fire and Parks Impact Fee Rate Study, 2018,” Exhibit A attached to the ordinance and by this reference fully incorporated herein. A fee schedule is codified as Figure 16-1, Fee Schedule, attached hereto¹ as [Exhibit B](#).

B. Each development shall mitigate its impacts on the City's fire protection facilities by payment of a fee that is based on the type of land use of the development, and proportionate to the cost of the fire protection facility improvements necessary to serve the needs of growth. For residential development, fee amount is based on number of units; for commercial development, fee amount is based on square footage of the development.

C. Applications for a change of use shall receive credit based on the existing use. This credit is calculated by deducting the fee amount of the existing use from the fee of the proposed use.

(Ord. 2571 §10, 2018)

16.26.080 Annual Fire Impact Fee Updates

Fire impact fee rates shall be updated annually using the following procedures:

1. The Fire Chief shall use the Construction Cost Index for Seattle (June-June) published by the Engineering News Record to calculate annual inflation adjustments in the impact fee rates. The fire impact fees shall not be adjusted for inflation should the index remain unchanged.

2. The impact fee rates, as updated annually per TMC Section 16.26.080(1), shall be effective January 1, 2019, and on January 1 of each year thereafter, and a copy shall be provided to the City Council.

(Ord. 2571 §11, 2018)

16.26.090 Individual Project Fire Impact Fee Adjustments

A. The City may adjust a fire impact fee at the time the fee is imposed in order to consider unusual circumstances in specific cases to ensure that impact fees are imposed fairly.

B. In calculating the fee imposed on a particular development, the City shall permit consideration of studies and data submitted by a developer in order to adjust the amount of the fee. The developer shall submit an independent fee calculation study to the Fire Chief who shall review the study to determine that the study:

1. Is based on accepted impact fee assessment practices and methodologies;

2. Uses acceptable data sources and the data used is comparable with the uses and intensities planned for the proposed development activity;

3. Complies with the applicable state laws governing impact fees;

4. Is prepared and documented by professionals who are mutually agreeable to the City and the developer and who are qualified in their respective fields; and

5. Shows the basis upon which the independent fee calculation was made.

C. In reviewing the study, the Fire Chief may require the developer to submit additional or different documentation. If an acceptable study is presented, the Fire Chief may adjust the fee for the particular development activity. The Fire Chief shall consider the documentation submitted by the applicant, but is not required to accept such documentation that the Chief reasonably deems to be inaccurate or unreliable.

D. A developer requesting an adjustment or independent fee calculation may pay the impact fees imposed by this ordinance in order to obtain a building permit while the City determines whether to partially reimburse the developer by making an adjustment or by accepting the independent fee calculation.

(Ord. 2571 §12, 2018)

16.26.100 Credits

In computing the fee applicable to a given development, credit shall be given for the fair market value measured at the time of dedication, for any dedication of land for improvements to, or new construction of, any fire protection facilities that are identified in the Capital Facilities Element and that are required by the City as a condition of approving the development activity.

(Ord. 2571 §13, 2018)

16.26.110 Appeals

A. Any fee payer may pay the impact fees imposed by this ordinance under protest in order to obtain a building permit.

B. Appeals regarding fire impact fees imposed on any development activity may only be submitted by the fee payer of the property where such development activity will occur. No appeal shall be permitted unless and until the impact fee at issue has been paid.

C. Determinations by the City staff with respect to the applicability of fire impact fees to a given development activity, or the availability of a credit, can be appealed to the City's Hearing Examiner pursuant to this section.

D. An appeal shall be filed within 10 working days of payment of the impact fees under protest or within 10 working days of the City's issuance of a written determination of a credit or exemption decision by filing with the City Clerk a notice of appeal giving the reasons for the appeal and paying the accompanying appeal fee as set forth in the existing fee schedule for land use decisions.

(Ord. 2570 §14, 2018)

¹ City Clerk's Note: Attachments are not included in the Tukwila Municipal Code. Exhibit B can be found in the Digital Records Center under [Ord. 2571](#).

16.26.120 Exemptions

A. The fire impact fees are generated from the formula for calculating the fees as set forth in this chapter. The amount of the impact fees is determined by the information contained in the adopted fire department master plan and related documents, as appended to the City's Comprehensive Plan. All development activity located within the City shall be charged a fire impact fee; provided, that the following exemptions shall apply.

B. The following shall be exempt from fire impact fees:

1. Replacement of a structure with a new structure having the same use, at the same site, and with the same gross floor area, when such replacement is within 12 months of demolition or destruction of the previous structure.

2. Alteration, expansion, or remodeling of an existing dwelling or structure where no new units are created and the use is not changed.

3. Construction of an accessory residential structure.

4. Miscellaneous improvements including, but not limited to, fences, walls, swimming pools, and signs that do not create an increase in demand for fire services.

5. Demolition of or moving an existing structure within the City from one site to another.

6. Fire impact fees for the construction of low-income housing may be reduced when requested by the property owner in writing prior to permit submittal and subject to the following:

a. The property owner must submit a fiscal impact analysis of how a reduction in impact fees for the project would contribute to the creation of low-income housing; and

b. The property owner must record a covenant per RCW 82.02.060(3) that prohibits using the property for any purpose other than for low-income housing at the original income limits for a period of at least 10 years. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing, and that if the property is converted to a use other than low income housing within 10 years, the property owner must pay the City the applicable impact fees in effect at the time of conversion.

c. Should the property owner satisfy the criteria in TMC Section 16.26.120.B.6., a and b, the fees will be reduced, based on the following table:

| Unit Size | Affordability Target ¹ | Fee Reduction |
|--------------------|-----------------------------------|---------------|
| 2 or more bedrooms | 80% ² | 40% |
| 2 or more bedrooms | 60% ² | 60% |
| Any size | 50% ² | 80% |

¹ – Units to be sold or rented to a person or household whose monthly housing costs, including utilities other than telephone, do not exceed 30% of the household's monthly income.

² – Percentage of King County Median family income adjusted for family size as reported by the U.S. Department of Housing and Urban Development.

7. *Change of Use.* A development permit for a change of use that has less impact than the existing use shall not be assessed a fire impact fee.

8. A fee payer required to pay for system improvements pursuant to RCW 43.21C.060 shall not be required to pay an impact fee for the same improvements under this ordinance.

9. A fee payer installing a residential fire sprinkler system in a single-family home shall not be required to pay the fire operations portion of the impact fee. The exempted fire operations impact fee shall not include the proportionate share related to the delivery of emergency medical services.

(Ord. 2571 §15, 2018)

16.26.125 Residential Impact Fee Deferral

A. Applicability.

1. The provisions of this section shall apply to all impact fees established and adopted by the City pursuant to Chapter 82.02 RCW, including impact fees for fire facilities assessed under Tukwila Municipal Code Chapter 16.26.

2. Subject to the limitations imposed in the Tukwila Municipal Code, the provisions of this section shall apply to all building permit applications for single-family detached and single-family attached residential construction. For the purposes of this section, an "applicant" includes an entity that controls the named applicant, is controlled by the named applicant, or is under common control with the named applicant.

B. Impact Fee Deferral.

1. *Deferral Request.* Applicants for single-family attached or single-family detached residential building permits may request to defer payment of required impact fees until the sooner of:

a. final inspection; or

b. the closing of the first sale of the property occurring after the issuance of the applicable building permit; which request shall be granted so long as the requirements of this section are satisfied.

2. *Method of Request.* A request for impact fee deferral shall be submitted at the time of preliminary plat application (for platted development) or building permit application (for non-platted development) in writing on a form or forms provided by the City, along with payment of the applicable application or permit fees.

3. *Calculation of Impact Fees.* The amount of impact fees to be deferred under this section shall be determined as of the date the request for deferral is submitted.

C. **Deferral Term.** The term of an impact fee deferral granted under this section may not exceed 18 months from the date the building permit is issued ("Deferral Term"). If the condition triggering payment of the deferred impact fees does not occur prior to the expiration of the Deferral Term, then full payment of the impact fees shall be due on the last date of the Deferral Term.

D. Deferred Impact Fee Lien.

1. *Applicant's Duty to Record Lien.* An applicant requesting a deferral under this section must grant and record a deferred impact fee lien, in an amount equal to the deferred impact fees, against the property in favor of the City in accordance with the requirements of RCW 82.02.050(3)(c).

2. *Satisfaction of Lien.* Upon receipt of final payment of all deferred impact fees for the property, the City shall execute a release of deferred impact fee lien for the property. The property owner at the time of the release is responsible, at his or her own expense, for recording the lien release.

E. Limitation on Deferrals. Each applicant for a single-family residential construction permit, in accordance with his or her contractor registration number or other unique identification number, is entitled to annually receive deferrals for the first 20 single-family residential construction building permits.

(Ord. 2571 §16, 2018)

16.26.130 Refunds

A. If the City fails to expend or encumber the impact fees within 10 years from the date the fees were paid, unless extraordinary, compelling reasons exist for fees to be held longer than 10 years, the current owner of the property on which the impact fees were paid may receive a refund of such fees. Such extraordinary or compelling reasons shall be identified in written findings by the City Council.

B. The City shall notify potential claimants by first class mail that they are entitled to a refund. 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.

C. Owners seeking a refund must submit a written request for a refund of the fees to the City within one year of the date the right to claim a refund arises or notice is given, whichever comes later.

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

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

(Ord. 2571 §17, 2018)

16.26.140 Authority Unimpaired

Nothing in this ordinance shall preclude the City from requiring the fee payer to mitigate adverse environmental effects of a specific development pursuant to the State Environmental Policy Act, Chapters 43.21C RCW and/or Chapter 58.17 RCW, governing plats and subdivisions, provided that the exercise of this authority is consistent with Chapters 43.21C and 82.02 RCW.

(Ord. 2571 §18, 2018)