

**ORDINANCE NO. 791**

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON  
ADDING A NEW CHAPTER TO TITLE 3 REVENUE AND FINANCE,  
CHAPTER 3.75 IMPACT FEES FOR FIRE PROTECTION FACILITIES,  
AND ADDING A NEW SECTION 3.01.017 FIRE IMPACT FEES TO  
CHAPTER 3.01 FEE SCHEDULES OF THE SHORELINE MUNICIPAL  
CODE.**

WHEREAS, the City of Shoreline is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington, and planning pursuant to the Growth Management Act, Chapter 36.70A RCW; and

WHEREAS, fire protection services within the City of Shoreline are provided by the Shoreline Fire Department, a fire protection district organized under RCW Title 52; and

WHEREAS, pursuant to RCW 82.02.050, a proportionate share of the cost of system improvements for fire protection facilities may be assessed on new growth and development through an impact fees for such system improvements; and

WHEREAS, with the adoption of Ordinance No. 802, the City has amended the Capital Facilities Element of the Comprehensive Plan to incorporate by reference the Shoreline Fire District's *Capital Facilities and Equipment Plan 2018-2037* so as to support the imposition of fire impact fees as authorized by RCW 82.02; and.

WHEREAS, the Shoreline Fire Department has prepared the *Mitigation and Level of Service Policy for Fire Service Concurrency 2018* which utilizes methodologies for calculating the maximum allowable impact fees that are consistent with the requirements of RCW 82.02.060(1); and

WHEREAS, the Shoreline Fire Department has requested that the Shoreline City Councils adopt a fire impact fee program to address the additional demand and need created by new residential and commercial growth and development in the City of Shoreline on fire protection facilities; and

WHEREAS, the City Council finds that building permits issued by the City are the specific development approval of a development activity in the City that can create additional demand and need fire protection facilities; and

WHEREAS, the City Council finds that new residential and commercial growth and development should pay a proportionate share of the cost of the system improvements for fire protection facilities needed to serve such new growth and development and, therefore, desires to provide funding for fire protection facilities through the imposition of fire impact fees; and

WHEREAS, the City Council finds that it is in the public interest and consistent with the intent and purposes of the Growth Management Act, chapter 36.70A RCW, and the relevant provisions of chapter 82.02 RCW, for the City to adopt fire impact fees which are uniform to the greatest extent practicable; and

WHEREAS, the purpose and intent of this new section is to authorize the collection of impact fees for fire protection facilities; and

WHEREAS, the City Council has considered the entire public record, public comments, written and oral, and considered the proposed amendments at its regularly scheduled meetings on October 30, 2017 and November 20, 2017;

**THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:**

**Section 1. Amendment to Title 3 Revenue and Finance.** A new chapter, Chapter 3.75 *Impact Fees for Fire*, is added to Title 3 as set forth in Exhibit 1 to this Ordinance.

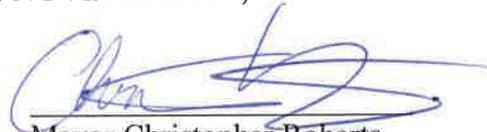
**Section 2. Amendment to Title 3 Fee Schedules.** A new section, SMC 3.01.017 *Fire Impact Fees*, is added to chapter SMC 3.01 Fee Schedules as set forth in Exhibit 2 to this Ordinance.

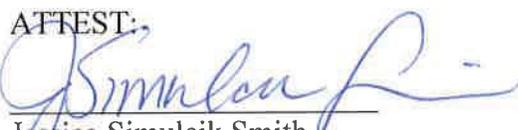
**Section 3. Corrections by City Clerk or Code Reviser.** Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

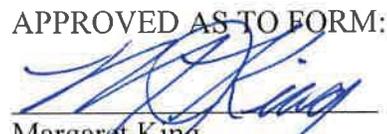
**Section 4. Severability.** Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any person or situation.

**Section 5. Publication and Effective Date.** A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect on January 1, 2018.

**PASSED BY THE CITY COUNCIL ON NOVEMBER 20, 2017**

  
Mayor Christopher Roberts

ATTEST:  
  
Jessica Simulcik Smith  
City Clerk

APPROVED AS TO FORM:  
  
Margaret King  
City Attorney

Date of Publication: November 24, 2017  
Effective Date: January 1, 2018

## Chapter 3.75

### IMPACT FEES FOR FIRE PROTECTION FACILITIES

Sections:

- 3.75.010 Purpose and Authority.
- 3.75.020 Interlocal Agreement.
- 3.75.030 Capital Improvement Plan and Annual Report.
- 3.75.040 Definitions.
- 3.75.050 Establishment of service area.
- 3.75.060 Collection of impact fees.
- 3.75.070 Independent fee calculations.
- 3.75.080 Exemptions.
- 3.75.090 Credits.
- 3.75.100 Impact fee accounts – Administration.
- 3.75.110 Use of impact fees.
- 3.75.120 Appeals.
- 3.75.130 Existing authority unimpaired.

#### **3.75.010 Purpose and Authority.**

The purpose of this chapter is to ensure that adequate fire protection facilities are available to serve new growth and development within the city; that such growth and development pay a proportionate share of the costs for those facilities; and that this chapter is administered consistently and fairly. This chapter is authorized pursuant to chapter 36.70A RCW and chapter 82.02 RCW, as those chapters now exist or are amended.

#### **3.75.020 Interlocal Agreement.**

As a condition of the city's authority to adopt fire impact fees pursuant to chapter 36.70A RCW and chapter 82.02 RCW, the city and the Shoreline Fire Department shall enter into an interlocal agreement governing the administration of the fire impact fee program. The interlocal agreement shall describe the relationship and liabilities of the parties and shall speak to the process for the collection, distribution, expenditure, and reporting of fire impact fees. No impact fee shall be collected by the city until an interlocal agreement has been approved and fully executed by the city and the Fire Department.

#### **3.75.030 Capital Improvement Plan, Rate Schedule, and Annual Report.**

A. Capital Improvement Plan. No later than March 31 of each year, the Fire Department shall submit to the city's Planning and Community Development Department an updated capital facilities and equipment plan satisfying the requirements of RCW 36.70A.070(3) and containing a six-year financing plan for needed fire protection facilities. The city shall review the plan for possible adoption in conjunction with the city's comprehensive plan docket for that year or amendment of the city's budget.

B. Rate Schedule. No later than September 1 of each year, the Fire Department shall submit to the city's Administrative Services Department any modification to the impact fee rate from the

prior year. The city shall review the proposed rates for possible adoption in conjunction with the city's budget.

C. Annual Report. No later than January 31 of each year, the Fire Department shall submit to the City Council a report on fire impact fees for the previous year. The report shall detail, at a minimum, the amount of impact fees collected, the source of those impacts fees, the capital improvements which were financed, in whole or in part, by the impact fees, credits awarded, and any refunds issued.

**3.75.040 Definitions.**

For purposes of this chapter, if not defined below, the definitions of words and phrases set forth in SMC 1.05.050, Chapter 20.20 SMC, and RCW 82.02.090 shall apply to this chapter or they shall be given their usual and customary meaning.

“Applicant” is any person, collection of persons, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation obtaining a building permit. “Applicant” includes an applicant for an impact fee credit.

“Building permit” means written permission issued by the city empowering the holder thereof to construct, erect, alter, enlarge, convert, reconstruct, remodel, rehabilitate, repair, or change the use of all or portions of a structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

“Capital facilities and equipment plan” means the most current Shoreline Fire Department’s capital improvement plan adopted by the Board of Fire Commissioners that contains all of the elements required by RCW 36.70A.070(3) and incorporated by reference in the city’s comprehensive plan.

“Capital facilities plan” means the capital facilities element of the city’s comprehensive plan adopted pursuant to Chapter 36.70A RCW, and such plan as amended.

“Encumbered” means impact fees identified by the Shoreline Fire Department as being committed as part of the funding for a fire protection facility for which the publicly funded share has been assured or building permits sought or constructions contracts let.

“Fire Chief” means the Shoreline Fire Department’s duly authorized by Department’s Board of Fire Commissioners as the administrative head of the Fire Department.

“Fire protection facilities” means fully equipped fire stations, administrative offices, training facilities, maintenance facilities, and other specialized facilities necessary for the timely arrival of fire and emergency medical services, fire suppression equipment, and the staff necessary to delivery emergency response services within the city.

“Impact fee” means a payment of money imposed upon development as a condition of development approval to pay for fire protection facilities needed to serve new growth and development, and that is reasonably related to the new development that creates additional demand and need for fire protection facilities, that is a proportionate share of the cost of such facilities, and that is used for such facilities that reasonably benefit the new development. An impact fee does

not include a reasonable permit fee or application fee. An impact fee does not include the administrative fee for collecting and handling impact fees, for impact fee estimates, for reviewing independent fee calculations, or for impact fee deferrals.

“Impact fee account” means a separate accounting structure within the City’s or the Fire Department’s established accounts which identify separately earmarked funds and which shall be established solely for the fire impact fees that are collected. The accounts shall be established pursuant to SMC 3.75.100, and shall comply with the requirements of RCW 82.02.070, as it now exists or as amended.

“Independent fee calculation” means the impact fee calculation, studies and data submitted by an applicant to support the assessment of a fire impact fee other than by the use of the rates published in SMC 3.01.017(A), or the calculations prepared by the Fire Chief where none of the fee categories or fee amounts in SMC 3.01.017(A) accurately describe or capture the impacts on fire protection facilities of the development authorized by the building permit.

“Interlocal Agreement” means the agreement between the City and the Shoreline Fire Department governing the operation of the fire impact fee program and describing the relationship, duties, and liabilities of the parties.

“Level of Service” means the qualitative measure adopted by the Shoreline Fire Department’s Board of Fire Commissioners to analyze the delivery for fire protections services based on acceptable performance measures and standards as set forth in the Fire Department’s Mitigation and Level of Service Policy.

“Mitigation and Level of Service Policy” means the policy adopted by the Shoreline Fire Department Board of Fire Commissioner’s establishing guidelines for the implementation of mitigations appropriate to maintaining fire service concurrency within the Fire Department’s service area.

“Owner” means the owner of record of real property, although when real property is being purchased under a real estate contract, the purchaser shall be considered the owner of the real property if the contract is recorded.

“Project improvements” means site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. No improvement or facility included in a capital facilities plan adopted by the Fire Department’s Board of Fire Commissioners shall be considered a project improvement.

“Shoreline Fire Department” means the Shoreline Fire Department, a fire protection district organized and operating pursuant to RCW Title 52 and providing fire protection to the City of Shoreline.

“System improvements” means fire protection facilities that are included in the Shoreline Fire Department’s *Capital Facilities and Equipment Plan* and are designed to provide service to the community at large, in contrast to project improvements.

**3.75.050 Establishment of service area.**

The city hereby establishes, as the service area for fire impact fees, the city of Shoreline, including all property located within the corporate city limits. The service area is hereby found to be reasonable and established on the basis of sound planning for fire protection facilities and consistent with RCW 82.02.060.

**3.75.060 Collection of impact fees.**

A. The city shall collect impact fees for fire protection facilities, based on the rates provided by the Fire Department and adopted in SMC 3.01.017, from any applicant seeking a building permit unless specifically exempted in SMC 3.75.070. The city shall also collect an administrative fee from the applicant as provided in SMC 3.01.017(B).

B. When an impact fee applies to a building permit for a change of use of an existing building, the impact fee shall be the applicable impact fee for the land use category of the new use, less any impact fee paid for the immediately preceding use. The preceding use shall be determined by the most recent legally established use based on a locally owned business license and development permit documents.

1. For purposes of this provision, a change of use should be reviewed based on the land use category that best captures the broader use or development activity of the property under development or being changed. Changes of use and minor changes in tenancies that are consistent with the general character of the building or building aggregations (i.e., “industrial park,” or “specialty retail”), or the previous use, shall not be considered a change of use that is subject to an impact fee.

2. If no impact fee was paid for the immediately preceding use, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the immediately preceding use.

3. If the calculated impact fee is a negative amount, the applicant will not be required to pay impact fees nor will the applicant be compensated by the city for a negative impact fee.

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 in SMC 3.01.017(A).

D. Impact fees shall be estimated at the time the complete application for a building permit is submitted using the impact fee rates then in effect. Except as provided in Section 3.75.050(F), impact fees shall be due and payable before the building permit is issued by the city.

E. Applicants allowed credits pursuant to SMC 3.75.080 shall submit documentation from the Fire Department setting forth the credits allowed prior to building permit issuance. Credits shall be applied at the time of impact fee collection unless otherwise authorized by the Fire Department.

F. Single-Family Residential Deferral Program. An applicant for a building permit for a single-family detached or attached residence may request a deferral of the full impact fee payment until final inspection or 18 months from the date of original building permit issuance, whichever occurs first. Deferral of impact fees are considered under the following conditions:

1. An applicant for deferral must request the deferral no later than the time of application for a building permit. Any request not so made shall be deemed waived.
2. For the purposes of this deferral program, the following definitions apply:
  - a. “Applicant” includes an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant.
  - b. “Single-family residence” means a permit for a single-family dwelling unit, attached or detached, as defined in SMC 20.20.016.
3. To receive a deferral, an applicant must:
  - a. Submit a deferred impact fee application and acknowledgment form for each single-family attached or detached residence for which the applicant wishes to defer payment of the impact fees;
  - b. Pay the applicable administrative fee;
  - c. Grant and record at the applicant’s expense a deferred impact fee lien in a form approved by the city against the property in favor of the city in the amount of the deferred impact fee that:
    - i. Includes the legal description, tax account number, and address of the property;
    - ii. Requires payment of the impact fees to the city prior to final inspection or 18 months from the date of original building permit issuance, whichever occurs first;
    - iii. Is signed by all owners of the property, with all signatures acknowledged as required for a deed and recorded in King County;
    - iv. Binds all successors in title after the recordation; and
    - v. Is junior and subordinate to one mortgage for the purpose of construction upon the same real property granted by the person who applied for the deferral of impact fees.
4. The amount of impact fees deferred shall be determined by the fees in effect at the time the applicant applies for a deferral.
5. Prior to final inspection or 18 months from the date of original building permit issuance, the applicant may pay the deferred amount in installments, with no penalty for early payment.
6. The city shall withhold final inspection until the impact fees have been paid in full. Upon receipt of final payment of impact fees deferred under this subsection, the city shall execute a release of deferred impact fee lien for each single-family attached or detached residence for which the impact fees have been received. The applicant, or property owner at the time of release, shall be responsible for recording the lien release at his or her expense.
7. The extinguishment of a deferred impact fee lien by the foreclosure of a lien having priority does not affect the obligation to pay the impact fees as a condition of final inspection.

8. If impact fees are not paid in accordance with the deferral and in accordance with the term provisions established herein, the city may institute foreclosure proceedings in accordance with Chapter 61.12 RCW.

9. Each applicant for a single-family attached or detached residential building permit, in accordance with his or her contractor registration number or other unique identification number, is entitled to annually receive deferrals under this section for the first 21 single-family residential construction building permits.

10. The city shall collect an administrative fee from the applicant seeking to defer the payment of impact fees under this section as provided in SMC 3.01.017(B).

**3.75.060 Independent fee calculations.**

A. If, in the judgment of the Fire Chief, none of the fee categories set forth in SMC 3.01.017(A) accurately describes or captures the impacts of a new development on fire protection facilities, the Fire Chief may conduct an independent fee calculation and the Fire Chief may impose alternative fees on a specific development based on those calculations. The alternative fees and the calculations shall be set forth in writing and shall be provided to the applicant and to the City prior to building permit issuance.

B. An applicant may opt not to have the impact fees determined according to the fee structure in SMC 3.01.017, in which case the applicant shall prepare and submit to the Fire Chief an independent fee calculation for the development for which a building permit is being sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. An independent fee calculation shall use the same methodology used to establish impact fees adopted pursuant to SMC 3.01.017.

The Fire Chief shall consider the documentation and any other additional documentation requested in order to analyze the independent fee calculation. The Fire Chief 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. The fees or alternative fees and the calculations therefor shall be set forth in writing and shall be provided to the applicant and to the City prior to building permit issuance. The city shall collect an administrative fee from the applicant seeking to an independent fee calculation under this section as provided in SMC 3.01.017(B).

**3.75.070 Exemptions.**

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

1. Alteration or replacement of an existing residential structure that does not create an additional dwelling unit or change the type of dwelling unit.
2. Miscellaneous improvements which do not generate increased need for fire protection facilities, including, but not limited to, fences, walls, residential swimming pools, and signs.
3. Demolition or moving of a structure.

4. Properties that have undergone prior State Environmental Policy Act (SEPA), chapter 43.21C RCW, review and received a final decision that includes mitigation requirements on the condition that the SEPA mitigation obligation has or will be fulfilled by the time the impact fees, if applicable, would be due.
5. Any development that creates insignificant and/or temporary additional impacts on any fire protection facility.
6. Any city capital improvement projects.

**3.75.080 Credits.**

A. Upon determination of a complete building permit application, the city shall forward the application to the Fire Department which will assess any credits that are to be given as provided in this section, or any other section or applicable law. The Fire Chief shall forward his/her written determination to the City prior to building permit issuance.

1. An Applicant installing a residential fire sprinkler system in a single-family residence shall be entitled to a thirty percent (30%) credit for impact fees as provided in RCW 82.02.100(2).

2. An Applicant may be entitled to a credit or credits based on service capacity criteria developed by the Fire Department as set forth in the Mitigation and LOS Policy. If the calculated credit results in the impact fee being a negative amount, the Applicant will not be required to pay impact fee nor will the Applicant be compensated by the city of the Fire Department for a negative impact fee. Total credits are based on an individual building permit application and may not be transferred to another application.

B. An Applicant may request that a credit or credits for impact fees be awarded to that Applicant for the total value of system improvements, including dedications of land and improvements, past payments for system improvements, and/or construction provided by the applicant. The application for credits shall be presented by the Applicant on forms to be provided by the City and shall include the content designated in such forms. The Fire Chief shall review the request and notify the Applicant and the City in writing prior to building permit issued if any impact fee credit will be awarded.

C. Any claim for a credit under this provision must be received by the City prior to issuance of the building permit. The failure to timely file such a claim shall constitute an absolute bar to later request any such credit.

**3.75.100 Impact fee accounts – Administration.**

A. The city shall establish a separate impact fee account for the fire impact fees collected on behalf of the Fire Department pursuant to this chapter. Funds along with any interest earned shall be distributed to the Fire Department from this account in accordance with the Interlocal Agreement.

B. The Fire Department shall establish a separate impact fee account for the fire impact fees collected on its behalf and distributed to it by the City. The Fire Department shall be solely responsible for expending or encumbering distributed fire impact fees in accordance with the applicable provisions of chapter 82.02 RCW, as it now exists or is amended, and in refunding impact fees that have not been expended or encumbered and any interest earned. The Fire

Department shall establish procedures for refunds consistent with RCW 82.02.080, as it now exists or is amended.

**3.75.110 Use of impact fees.**

A. Impact fees collected by the city on behalf of the Fire Department:

1. Shall be used for fire protection facilities system improvements that will reasonably benefit the new development authorized by the building permit;
2. Shall not be imposed to make up for deficiencies in fire protection facilities; and
3. Shall not be used for maintenance, asset preservation, or operation.

B. The Fire Department shall be solely responsible for ensuring that the fire impact fees collected by the City on its behalf are administered pursuant to the applicable provisions of chapter RCW 82.02 RCW, as it now exists or is amended.

**3.75.120 Appeals.**

Unless the Fire Department establishes an appeal process, determinations and decisions by the Fire Department and/or Fire Chief made in regards to this chapter may be appealed by an applicant pursuant to the procedures for a Type B administrative decision as set forth in Chapter 20.30 SMC, Subchapter 4. The Fire Department shall be solely responsible for defending an appeal and all costs related to such an appeal.

**3.75.130 Existing authority unimpaired.**

Nothing in this chapter shall preclude the city, on behalf of the Fire Department, from requiring the applicant or the proponent of a development authorized by a building permit to mitigate adverse environmental impacts of a specific development pursuant to the SEPA, Chapter 43.21C RCW, based on the environmental documents accompanying the building permit process, and/or Chapter 58.17 RCW, governing plats and subdivisions. Such mitigation shall not duplicate the impact fees charged under this chapter.

**ADDING A NEW SECTION 3.01.017  
FIRE IMPACT FEES TO SMC CHAPTER 3.01 FEE SCHEDULES**

**SMC 3.01.017 Fire Impact Fees**

<b>A. Rate Table</b>	
<b>Use Category</b>	<b>Impact Fee</b>
<b>Residential</b>	
Single-Family Residential	\$2,187.00 per dwelling unit
Multi-Family Residential	\$1,895.00 per dwelling unit
<b>Commercial</b>	
Commercial 1	\$2.69 per square foot
Commercial 2	\$1.73 per square foot
Commercial 3	\$5.42 per square foot

<b>B. Administrative Fees – See SMC 3.01.014</b>
--