ORDINANCE NO. 2018-05

AN ORDINANCE AMENDING BATTLE GROUND MUNICIPAL CODE TITLE 3 REVENUE AND FINANCE CHAPTER 3.60 IMPACT FEE ON NEW RESIDENTIAL AND NONRESIDENTIAL CONSTRUCTION

WHEREAS, the City of Battle Ground Municipal Code is a document containing 20 Titles and multiple Chapters and is codified by the adoption of ordinances and published in a code book by Book Publishing Company; and

WHEREAS, annually the City Staff reviews the City of Battle Ground Municipal Code for items needing to be updated or improved for presentation to the City Council; and

WHEREAS, the City of Battle Ground, Washington applies impact fees to ensure that adequate public facilities are available to serve new growth and development; and

WHEREAS, the City Council of the City of Battle Ground held a public hearing on the 21st day of May 2018 for the purpose for allowing citizens of the City of Battle Ground to comment on changes; and

WHEREAS, the City of Battle Ground applied for expedited review from Washington State Department of Commerce and was granted expedited review on April 23, 2018; and

WHEREAS, the City Council of City of Battle Ground has reviewed the proposed changes;

NOW THEREFORE BE IT ordained by the City Council of the City of Battle Ground, Washington as follows:

SECTION 1. TITLE 3 REVENUE AND FINANCE CHAPTER 3.60 IMPACT FEE ON NEW RESIDENTIAL AND NONRESIDENTIAL CONSTRUCTION

3.60.010 Statutory authority.

A. The ordinance codified in this chapter is enacted pursuant to Chapter 17, the Laws of 1990, First Extraordinary Session, or any successor state statute, also known as Chapter 36.70A RCW.

B. It is the purpose of this chapter to:

1. Ensure that adequate public facilities are available to serve new growth and development;

2. Promote orderly growth and development by requiring that new development pay a proportionate share of the costs of new facilities needed to serve growth; and

3. Ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicate fees for the same impact. (Ord. 05-007 § 2 (part), 2005: Ord. 98-009 § 1, 1998)
3.60.020 Findings.

The city council of the city of Battle Ground finds and declares that:

A. New residential and nonresidential development causes increased demands on public facilities including but not limited to streets and roads, parks, fire facilities, and schools;

B. Projections indicate that such development will continue and place ever-increasing demands on the city to provide necessary transportation facilities;

C. To the extent that all new development within the city limits places demands on the public facility infrastructure, those demands should be partially satisfied by shifting a proportionate share of responsibility for financing of such new facilities from the public at large to the developments actually creating the demands; and

D. Imposition of impact fees upon residential and nonresidential development in order to finance specified public facilities in designated development areas the demand for which is created by such development is in the best interest and general welfare of the city and its residents, is equitable, does not impose an unfair burden on such development by requiring new development to pay more than its fair and proportionate share of the costs, and is reasonably necessary in order to provide the necessary public facility infrastructure to serve new developments planned for in the Battle Ground comprehensive plan. (Ord. 16-07 § 1 (part), 2016: Ord. 05-007 § 2 (part), 2005: Ord. 98-009 § 2, 1998)

3.60.030 Definitions.

“Building permit” means the permit required for new construction and additions pursuant to Chapter 15.104 BGMC. The term “building permit,” as used in this chapter, shall not be deemed to include:

1. Permits required for the remodeling, rehabilitation, or other improvements to an existing structure; provided, that there is no increase in the applicable unit of measure or number of dwelling units (for residential construction) resulting therefrom;

2. Permits required for temporary dwellings; and

3. Permits required for placement of a mobile home within an approved mobile home park.

“Capital facilities plan” means the plan adopted by the city for capital or public facilities including, but not limited to, roads, sewer, water, drainage, schools, parks, fire, and utilities. This plan is included in the Battle Ground comprehensive plan.
urban area comprehensive plan, and may be amended on a yearly basis and updated when the comprehensive plan is updated.

“Cost” means the estimated actual costs of the public facilities related to new growth and development as estimated by the city engineer.

“Council” means the city council of the city of Battle Ground.

“Development” means any subdivision or short platting of the land, the construction or reconstruction of residential, mobile home parks, site plan review of multifamily, commercial or industrial uses or the change or expansion in the use of a building or land if approval therefor is required pursuant to Chapter 15.104 BGMC (Building Code), BGMC Title 16 (Subdivisions), or BGMC Title 17 (Zoning) and such land division, construction, expansion or change in use would result in an increase in impacts to the city’s capital facilities.

“Development approval authority” means the city official having statutory or code authority to approve a development.

“Impact fee” means the fee levied pursuant to this chapter as a condition of issuance of a building permit or development approval.

“Project improvement” means site improvement 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 the capital facilities plan shall be considered a project improvement.

“Service area” means a geographic area described in the city capital facilities plan in which a defined set of public facilities provides service to development within the urban growth area. Service may be separately described for each type of public facility.

“System improvements” means public facilities that are included in the capital facilities plan and are designed to provide service to areas within the community at large, in contrast to project improvements.

“Transportation facilities” means all capital facilities consisting of public streets and roads and related facilities owned or operated by government entities. (Ord. 05-007 § 2 (part), 2005: Ord. 98-009 § 3, 1998)
3.60.040 Applicability of impact fees.

This chapter shall be uniformly applicable to residential and nonresidential development that occurs within the city limits of the city of Battle Ground. (Ord. 05-007 § 2 (part), 2005: Ord. 98-009 § 4, 1998)

3.60.050 Imposition and collection of impact fees.

A. No building and/or development permit shall be issued for residential or nonresidential development in the city limits for the city of Battle Ground unless the impact fee is calculated and imposed pursuant to this chapter.

B. For development requiring a building permit, the impact fee shall be calculated, due and payable at the time of building permit issuance. Single-family residential construction may qualify for impact fee deferral as set forth in BGMC 3.60.055.

C. For development not necessitating a building permit, the impact fee shall be calculated and imposed at the time of other permitting requirements such as but not limited to site plan approval, utility permits, curb cut permits, street cut permits, and occupancy permits.

D. For mobile home parks the impact fee shall be calculated and imposed at the time of site plan approval.

(Ord. 16-07 § 1 (part), 2016: Ord. 05-007 § 2 (part), 2005: Ord. 98-009 § 5, 1998)

3.60.055 Deferral of impact fees.

In accordance with Chapter 82.02 RCW, impact fees assessed for new single-family detached or attached residential construction may be deferred at the request of an applicant. The request defers the full impact fee payment until final building inspection or eighteen months from the date of original building permit issuance, whichever occurs first. Deferral of impact fees is considered under the following conditions:

A. A request for impact fee deferral must be made at the time of building permit submittal; any requests received after submittal will be denied. An administrative fee, set forth in the city of Battle Ground fee schedule, will be due at the time of submittal.

B. A separate application must be submitted for each single-family residence being constructed. Only the first twenty applications per calendar year by each applicant are eligible for impact fee deferral under this chapter.

C. The applicant for impact fee deferral must grant and record in favor of the city of Battle Ground an impact fee lien in the amount of the deferred impact fee. The lien must be on a form approved by the city attorney, signed by all owners of the property and persons or entities holding any interest in the property, with all signatures acknowledged as required for a deed, and recorded among the appropriate land records of Clark
County. Proof of such recording shall be submitted to the city before a building permit will be issued. A lien shall become due at the expiration of the deferral date. A lien not paid when due shall bear interest at the statutory rate in effect on the due date.

D. 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 shall be responsible for recording the lien release at his or her expense.

E. 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 Chapters 60 and 61 RCW.

F. 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. (Ord. 16-07 § 1 (part), 2016)

3.60.060 Traffic impact fee formula.

The impact fee component for streets and roads shall be calculated using the following formula:

\[ TIF = F \times T \times A \]

A. “TIF” means the traffic impact component of the total development impact fee.

B. “F” means the traffic impact fee rate per trip in dollar amounts. Such rate is established by determining the cost of anticipated growth-related roadway projects as addressed in the capital facilities plan divided by the projected number of growth-related trips.

C. “T” means the trips generated by a proposed development and calculated according to Schedule A, attached to the ordinance codified in this chapter and incorporated herein by this reference. The number of trips generated by a proposed development shall be based upon an approved traffic study, if available. If a study is not available, the number of trips will be determined by selecting the appropriate land use code from Schedule A and applying the applicable trip equation for the selected land use code. In the absence of a land use code precisely fitting the development proposal, the director of public works or designee shall select the most similar code and may make appropriate adjustments to the trip equation applicable thereto. In selecting the appropriate land use code and in making adjustments thereto, the director shall be guided by the Trip Generation Manual, Institute of Transportation Engineers, 6th Edition.
D. “A” means an adjustment for the portion of anticipated additional dedicated public revenues which are proratable to system improvements contained in the capital facilities plan. (Ord. 05-007 § 2 (part), 2005: Ord. 98-009 § 6, 1998)

3.60.062 Fire impact fee formula.

The impact fee component for fire protection facilities shall be calculated using the following formula:

\[ FIF = \frac{A \times B}{C} \]

A. “FIF” means the fire impact component of the total development impact fee.

B. “A” means the total estimated twenty-year expenditure attributable to new growth.

C. “B” means the percentage of annual calls by land use category, either residential or nonresidential.

D. “C” means the projected growth by number of units per land use category. (Ord. 05-007 § 2 (part), 2005)

3.60.064 School impact fee formula.

The impact fee component for schools shall be calculated by using the following formula:

\[ SIF = \left[ CS \times SF - SM - TC \right] \times A - FC \]

A. “SIF” means the school impact component of the total development impact fee.

B. “CS” means the cost of each type of facility listed in the school district’s capital facilities plan that is attributable to new growth divided by the number of students representing a six-year increase in students for each type of school facility. “Each type of school facility” means elementary school, middle school, and high school.

C. “SF” means the student factor. The student factor is the number of students typically generated from one residential unit for each type of school facility. This is determined by dividing the total number of residential units in a school district into the current enrollment numbers for each type of school facility. The student factor for each school district shall be calculated annually. Separate student factors shall be calculated for single-family and multifamily dwellings.

D. “SM” means the amount received from the state toward school construction costs. The state match component of the formula is that amount representing the per student amount of state matching funds. This is
calculated for each type of facility as student factor x Boeck index (average annual construction cost of a school facility per square foot) x square foot standard per student established by the Superintendent of Public Instruction x state match percentage (that percentage of the total cost of a school facility funded by state funds). The state match shall be calculated annually.

E. “TC” means the tax credit. This is calculated as:

\[
\frac{(1 + i)^{10} - 1}{i(1 + i)^{10}} \times \text{Average assessed value for the dwelling unit within a school district} \times \text{Current school district capital property tax levy rate}
\]

Where \( i \) = the average annual interest rate as stated in the “Bond Buyer, 20-Bond Obligation Bond List.”

F. “A” means an adjustment for the portion of anticipated increase in the public share resulting from exempt residential development proratable to new residential development. This adjustment is eighty-five percent.

G. “FC” means facilities credit. This is the value of any improvements listed in the school district’s capital facilities plan provided by the developer. (Ord. 05-007 § 2 (part), 2005)

3.60.066 Parks impact fee formula.

The impact fee for parks shall be calculated by using the following formula:

\[
\text{PIF} = \text{AIF} + \text{DIF} - \text{CAF}
\]

where:

A. “PIF” means the parks impact component of the total development impact fee.

B. “AIF” means the acquisition component of the total park impact fee and is determined through the following formula: \( \text{AIF} = \frac{(C \times S)}{P \times U} \) where:

1. “C” means the cost per acre for land acquisition.

2. “S” means the parks standard in acres per thousand in population.
3. “P” means one thousand.

4. “U” means the average persons per household.

C. “DIF” means the development component of the total park impact fee which shall be calculated using the following formula: C/P x U where:

1. “C” means cost of the improvements attributable to new growth.

2. “P” means the total new population growth or thirteen thousand two hundred three persons.

3. “U” means the average persons per household.

D. “CAF” means the cost adjustment based on past or future payments made or reasonably anticipated to be made by new development to pay for particular system improvements in the form of user fees, debt service payments, taxes, or other payments earmarked for or proratable to the particular system improvement. (Ord. 05-007 § 2 (part), 2005)

3.60.070 Impact fee adjustment.

A. Impact fee rates shall be adjusted periodically but not more often than annually to reflect changes in costs of public facilities reasonably related to new growth and development and other related charges.

B. The planning director may adjust the standard impact fee at the time the fee is imposed when taking into consideration unusual circumstances and specific cases to ensure that impact fees are imposed fairly.

C. The fee imposed for each specific case may be adjusted after calculating the amount of the fee to be imposed on a particular development after consideration of studies and data submitted by the developer to adjust the amount of the fee.

D. For public school facilities owned and operated by the Battle Ground School District, the standard impact fee shall be adjusted based upon the overall impact of any new school development considering any school capacity removed from any other school district facility located in the city. (Ord. 05-007 § 2 (part), 2005: Ord. 98-009 § 7, 1998)

3.60.080 Impact fee schedule.

The director of finance shall maintain a schedule of the current impact fee rates. (Ord. 05-007 § 2 (part), 2005: Ord. 98-030 § 1, 1998; Ord. 98-009 § 8, 1998)
3.60.100 Service areas.
The impact fee imposed under this chapter shall be calculated and imposed for the service area consisting of all land within the city of Battle Ground. (Ord. 05-007 § 2 (part), 2005: Ord. 98-009 § 10, 1998)

3.60.110 Impact fee exemptions.
A. The following developments shall be exempt from the requirement for payment of impact fees:

1. Attached and detached accessory units.

2. Any form of housing intended for and solely occupied by persons sixty-two years or older, including nursing homes and retirement centers, shall be exempt from the payment of school impact fees so long as those uses are maintained and the necessary covenants or declaration of restrictions, in a form approved by the Battle Ground School District and the city, required to maintain such uses, are recorded on the property.

3. K-8 public schools shall be exempt from traffic impact fees imposed for students living in the city of Battle Ground. The number of students shall be based on detailed enrollment projections or actual enrollment figures provided by the schools at the time of construction.

4. Replacement of a residential structure with a new structure with the same use, same general size, at the same site or lot, when such replacement is within thirty months of demolition or destruction of the prior residential structure.

5. Replacement of a nonresidential structure with a new structure with the same use, same square footage, at the same site or lot, when such replacement is within eighteen months of demolition or destruction of the prior nonresidential structure.

B. For replacement of a structure where destruction of the structure was outside of the applicant’s control, such as, but not limited to, destruction by fire, tornado, earthquake, etc., replacement must occur within six months of final insurance settlement or the respective threshold in subsections (A)(4) and (5) of this section, whichever is greater, to be exempt from impact fees.

C. If the development would be exempt from impact fees per subsections (A)(4) and (5) of this section and subsection B of this section based on timing, but the applicant wants to expand or change the use when rebuilding, the applicant is only responsible for the impact fees related to any increase from the previous use.
D. The impact fee for exempt development shall be calculated as provided in this chapter and paid for by public funds by increasing the public share of the funded improvements by an amount equal to the fee. (Ord. 16-07 § 1 (part), 2016: Ord. 05-007 § 2 (part), 2005: Ord. 98-009 § 11, 1998)

3.60.120 – Impact Fee Credits

A. The developers shall be entitled to a credit against the applicable impact fee for the present fair market value of any dedication of land for and reasonable documented construction costs acceptable to the city engineer associated with the improvement to or new construction of any system improvements provided by the developer (or the developer’s predecessor interest) to facilities that are identified in the capital facilities plan for which impact fees are assessed and are required by the city as a condition of approval for the immediate development proposal.

B. The applicability and maximum amount of the potential credits shall be identified by the development approval authority during the applicable permitting process.

C. Credits recognized by the city may be utilized in lieu of cash payment of impact fees for the subject element and/or another development within the same service area; provided, that the credit shall be first applied to offset impact fees for the subject development.

D. The amount of credit given shall not exceed the impact fee funded portion of the costs identified in the capital facilities plan.

E. Any credits recognized by the city and not utilized within a period of ten years from the date of issuance shall be deemed to have expired and be of no further utilization in lieu of cash payment of impact fees. (Ord. 11-02 § 1, 2011: Ord. 05-007 § 2 (part), 2005: Ord. 98-009 § 12, 1998)
D.—The amount of credit given shall not exceed the impact fee funded portion of the costs identified in the capital facilities plan.

E.—Any credits recognized by the city and not utilized within a period of six years from the date of issuance shall be deemed to have expired and be of no further utilization in lieu of cash payment of impact fees. (Ord. 11-02 § 1, 2011: Ord. 05-007 § 2 (part), 2005: Ord. 98-009 § 12, 1998)

3.60.130 Appeals.

The determination of the development approval authority as to the applicable amount of and credit against an impact fee shall be appealable pursuant to BGMC 17.200.140 along with and by the same procedure as the underlying development action. (Ord. 05-007 § 2 (part), 2005: Ord. 02-009 § 44, 2002: Ord. 98-009 § 13, 1998)

3.60.140 Impact fee fund.

There are created and established special purpose, non-lapse, impact fee funds for each of the impact fee categories. Separate accounts and records shall be maintained for each such account whereby impact fees collected can be segregated by type of fee. All interest shall be retained in the appropriate account and expended for the purposes for which the impact fee is imposed. (Ord. 05-007 § 2 (part), 2005: Ord. 02-009 § 46, 2002: Ord. 98-009 § 14, 1998)

3.60.150 Independent local agreement.

The city of Battle Ground may enter into an independent local agreement with Clark County to provide for a coordinated, integrated joint program of impact fees for public streets, roads and related traffic facilities consistent with the provisions of this chapter and state law. (Ord. 05-007 § 2 (part), 2005: Ord. 98-009 § 15, 1998)

3.60.160 Expenditures.

Impact fees collected shall be expended only in conformance with the applicable capital facilities plan. Impact fees shall be expended or encumbered for permissible use within ten years of receipt or as otherwise amended through RCW 82.02.070, unless there exists an extraordinary and compelling reason for fees to be held longer than ten years, or as otherwise amended through RCW 82.02.070. Such extraordinary or compelling reasons shall be identified in written findings by the city council. (Ord. 13-10 § 1, 2013: Ord. 05-007 § 2 (part), 2005: Ord. 98-009 § 16, 1998)

3.60.170 — Refunds
A. The current owner of property on which an impact fee has been paid may receive a refund of such fee if the city fails to expand or encumber the impact fees within ten years of when the fees were paid or such other period of time established by the city council on public facilities intended to benefit the development activities for which the impact fees were paid. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first-in, first-out basis. The current owner likewise may receive a proportionate refund when the public funding of applicable service area projects by the end of such six-year period has been insufficient to satisfy the ratio of public-to-private funding for such service area as established in the capital facilities plan. The city shall notify potential claimants by first class mail deposited in the United States Postal Service at the last known address of claimants.

B. The request for refund money must be submitted to the city within one year of the date the right to claim the refund arises or the date notice was given, whichever is later. Any impact fees that are expended within these time limitations and for which no application for refund has been made within this one-year period shall be retained and expended on the indicated capital facilities. Refunds of impact fees under this subsection shall include interest earned on impact fees.

C. A developer may request and shall receive a refund including interest earned on impact fees on the building permit for which the impact fee has been paid has lapsed for no commencement of construction. A partial refund shall be provided where the project for which the building permit has been issued or has been altered resulting in a decrease of the amount of impact fee due. (Ord. 05-007 § 2 (part), 2005: Ord. 98-009 § 17, 1998)

3.60.170 Refunds.

A. The current owner of property on which an impact fee has been paid may receive a refund of such fee if the city fails to expand or encumber the impact fees within six years of when the fees were paid or such other period of time established by the city council on public facilities intended to benefit the development activities for which the impact fees were paid. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first-in, first-out basis. The current owner likewise may receive a proportionate refund when the public funding of applicable service area projects by the end of such six-year period has been insufficient to satisfy the ratio of public-to-private funding for such service area as established in the capital facilities plan. The city shall notify potential claimants by first class mail deposited in the United States Postal Service at the last known address of claimants.

B. The request for refund money must be submitted to the city within one year of the date the right to claim the refund arises or the date notice was given, whichever is later. Any impact fees that are expended within these time limitations and for which no application for refund has been made within this one-year period shall be retained and expended on the indicated capital facilities. Refunds of impact fees under this subsection shall include interest earned on impact fees.
C. A developer may request and shall receive a refund including interest earned on impact fees on the building permit for which the impact fee has been paid has lapsed for noncommencement of construction. A partial refund shall be provided where the project for which the building permit has been issued or has been altered resulting in a decrease of the amount of impact fee due. (Ord. 05-007 § 2 (part), 2005: Ord. 98-009 § 17, 1998)

3.60.180 Impact fee is an additional and supplemental requirement. Impact fees are additional and supplemental to and not in substitution of any other requirements imposed by the city on the development of land or the issuance of building permits; provided, that any such city development regulation which would require the developer to undertake dedication or construction of a facility contained within the city capital facilities plan shall be imposed only if the developer is eligible for credit toward impact fees as provided for in BGMC 3.60.120. (Ord. 05-007 § 2 (part), 2005: Ord. 98-009 § 18, 1998)

SECTION 2. SEVERABILITY If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

SECTION 3. REGULATORY CONFLICTS All other Ordinances and parts of other Ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of the inconsistency or conflict.

SECTION 4. CORRECTIONS. The City Clerk and the codifiers of this ordinance are authorized to make necessary clerical corrections to this ordinance including, but not limited to, the correction of scrivener’s/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

SECTION 5. EFFECTIVE DATE. This ordinance shall be in full force and effective thirty (30) days from the passage and published in accordance with law.


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Mike Dalesandro, Mayor
Attested to by: Kay Kammer, City Clerk

Approved as to form: Chris Horne, Interim City Attorney