



In order to adequately review development proposals, city staff requests that developers provide a traffic analysis to allow the staff to determine the need for street, highway, non-motorized and transit improvements to serve the proposed use and address the traffic impacts on the public transportation system. The following guidelines have been established to assist a professional engineer in providing the information needed for the staff to adequately analyze the development proposal.

The written report should address the following areas utilizing appropriate charts and graphics:

A description and location of the development site, proposed land uses and intensities, and the area of influence of site traffic. An access plan for the development, including the proposed internal circulation and available sight distances at major entry points. Include both a vicinity map and site plan.

Existing conditions and analysis:

Description of the existing conditions of streets, intersections, non-motorized facilities and transit improvements in the area that will potentially be impacted. Information on existing street widths, number of lanes, intersection geometrics, locations of traffic signals and other types of traffic control, parking restrictions, sidewalks, bicycle paths, transit stops, transit amenities (e.g., shelters) and transit routes should also be included.

Twenty Four hour traffic counts on the affected streets and turning movement counts, during morning and evening peak periods at the impacted intersections.

Capacity and level of service analysis for the existing conditions of the affected streets and impacted intersections. Refer to KMC 12.80.025 for the City's level of service standards.

Traffic accident data for the influence area both for mid-block locations and intersections for the last three years.

Calculation, analysis, and representation of the following future conditions:

Trip generation during the 24-hour and morning and evening peak periods, and peak hour of the generator for each land use category in the project should be calculated and shown. A trip table includes type of land use intensity, trip generation rates and trips generated should be prepared.

The distribution of generated traffic and assignment of that traffic to the street system during morning and evening peak periods and peak hour of the generator along with reasons for the assumed distribution.

Future 24-hour and peak period traffic volumes and assignments upon completion of the development (by phases if applicable).

Capacity analysis and levels of service for morning and evening peak periods and for the peak periods of the generator, if necessary. Refer to KMC 12.80.025 for the City's level of service standards.

Street access and transit improvement plan with recommendations by development phases identifying all needed improvements and the improvements that are the responsibility of the developer. These recommendations should be based on both the morning and evening peak hour projected volumes with an emphasis on the safety aspects of the design.

Proposed driveway locations, geometrics, sight distances and turn restrictions taking into consideration the proximity of nearby intersections and anticipated queues based on arrival rates, should be shown. Sight distance data at driveways using city standards (refer to 2007 King County Road Standards for sight distance guidelines) where horizontal and vertical alignments are critical should be included.

Impact of the development on the street network, signal warrants, and mitigation techniques should be included wherever appropriate.

Concise summary of findings and recommendations for the approval of the City Staff before the development plan is presented to the City's Hearings Examiner for approval.

Additional information that may be requested:

Estimates of the cost of the recommended improvements and/or information on proposed street improvements in the area by the City, County or WSDOT.

A more intense analysis using network operational and simulation software for special projects.

LEVELS OF ANALYSIS

The following guidelines are provided to assist developers and their consultants determine the size of the area to study for a traffic impact analysis and the detail of the analysis that the City Staff will require. There are three levels of analysis. Each one has a different emphasis on the level of detail. Each development may have different or unique traffic issues and concerns that may require further study. City staff may require a higher level of analysis or the submittal of additional information due to specific project location.

Level One on Site Analysis:

Description: Placement and design of internal (on site) features such as parking layout, access to public streets, site circulation, intersection sight distance, pedestrian circulation, delivery and loading areas and internal public street layout.

Threshold: Small commercial or residential development, or an addition to an existing development creating less than 10 peak hour trips.

Level Two Project Area Analysis:

Description: On site analysis (Level One) plus the impact of the development and its traffic on adjacent and affected area streets, impacted intersections, adjoining developments, pedestrians and public transit facilities. The project analysis will include those facilities as designated by City Staff.

Threshold: Small to medium sized residential and commercial developments creating between 10 and 75 more peak hour trips.

Level Three Corridor Analysis:

Description: On site analysis (Level One) plus project area analysis (Level Two) plus the impact of the proposed development on a larger study area and the street and highway system that is being impacted by the addition or improvement of arterial streets and by other large developments in the study area.

Threshold: Large commercial and residential developments creating 75 or more peak hour trips creating 75 or more peak hour trips.

Pipeline Projections: Prior to beginning the traffic analysis the developer's consultant shall meet with city staff to determine which "pipeline" projects must be included in the analysis. Pipeline projects are defined as projects that have received some level of approval but full development has not been completed. **All traffic analysis shall include the effect of those pipeline projects designated by City Staff.**

Kenmore Municipal Code - Attachments

Chapter 12.75 INTEGRATED TRANSPORTATION PROGRAM

Sections:

- [12.75.010](#) Components of the integrated transportation program.
- [12.75.020](#) Procedures for impact fees and intersection standards.
- [12.75.030](#) Administrative rules – Impact fees, intersection standards.
- [12.75.040](#) Filing appeals – Impact fees, intersection standards.
- [12.75.050](#) Grounds for appeal – Impact fees, intersection standards.

12.75.010 Components of the integrated transportation program.

There are two components of the integrated transportation program. These components are as follows:

- A. Impact fees (Chapter 18.100 KMC), by which the city of Kenmore applies transportation impact fees to new development for collecting a fair and equitable share of transportation improvement costs that are needed in accordance with Chapter [82.02](#) RCW, the city of Kenmore comprehensive plan and Chapter 18.100 KMC.
- B. Intersection standards (IS), by which the city of Kenmore evaluates intersections affected by new development to assure safe and efficient operation and that improvements to mitigate the adverse impacts of such developments are completed, in accordance with the State Environmental Policy Act (SEPA), KMC [19.35.090](#), and the city of Kenmore comprehensive plan and Chapter [12.80](#) KMC. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.65.010).]

12.75.020 Procedures for impact fees and intersection standards.

- A. Following the submission of a development application, the department of public works shall determine the transportation impact fee to be paid under Chapter [18.100](#) KMC and shall determine the traffic impacts of the proposed development on streetway intersections that will be adversely impacted and which must be mitigated using Chapter [12.80](#) KMC.
- B.
 - 1. The vehicular trips expected to be generated by a proposed development shall be calculated as of the time of application, using standard generation rates published by the Institute of Transportation Engineers, other standard references or from other documented information and surveys approved by the department of public works.
 - 2. The department of public works may approve a reduction in generated vehicle trips calculated under subsection (B)(1) of this section based on the types of land uses that are to be developed, on the expected amount of travel internal to the development, on the expected pass-by trips from existing traffic or on the expected reduction of vehicle traffic volumes. Such a reduction shall be used when calculating impact fees and IS, including any impact and mitigation fees and costs for which the development shall be liable.
 - 3. The calculation of vehicular trip reductions as described in this section shall be based in all cases upon sound and recognized technical information and analytical processes that represent current engineering practice. In all cases, the department of public works shall have final approval of all such data, information and technical procedures used to calculate trip reductions.
- C. Intersection level of service shall be calculated according to the most recent highway capacity manual or an alternative method approved by the department of public works.
- D. The intersection standard for all intersections shall be consistent with requirements in Chapter [12.80](#) KMC and calculated according to the most recent highway capacity manual or approved alternative method.
- E. As well as other criteria for bicycle, pedestrian, traffic congestion, safety and street design, the standards in subsection (D) of this section shall be used in the integrated transportation program for the determination of traffic impacts for the SEPA evaluation of a proposed development.
- F. Impact fees and fees for IS shall be as follows:
 - 1. All developments subject to the impact fees shall pay an administrative fee as established by Chapter [18.100](#) KMC at the time of application for an impact fee determination. Payment for impact mitigation fees shall

be paid at the time a development permit is issued, but residential developments may defer payment until building permits are issued; and

2. Administrative fees shall not be charged for IS review, but the owner of a proposed development is responsible for the costs of any traffic study needed to determine traffic impacts and mitigation measures at intersections, as determined by the director.

G. The need for the environmental assessment of a proposed development must be determined by the department of community development, following the filing of a completed permit application. Impacts on the street system will be mitigated through impact fees. Impacts on intersections will be mitigated through Chapter [12.80](#) KMC.

H. Nothing in this chapter shall cause a developer to pay mitigation and impact fees more than once for the same impact. Improvements and mitigation measures shall be coordinated by the director with other such improvements and measures attributable to other proposed developments, and with the city street improvement program so that the city street system is improved efficiently and effectively, with minimum costs to be incurred by public and private entities. This title does not supersede or replace the city SEPA authority as enacted in Chapter [19.35](#) KMC. [Ord. 08-0292 § 3; Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.65.020).]

12.75.030 Administrative rules – Impact fees, intersection standards.

For impact fees and IS, the director may adopt such administrative rules and procedures as are necessary to implement this chapter. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.65.025).]

12.75.040 Filing appeals – Impact fees, intersection standards.

A. Appeals of the department's final decisions relative to impact fees and IS shall be filed with the director or the director's designee.

B. The appeals shall be in written form, stating the grounds for the appeal, and shall be filed within 10 calendar days of the receipt of notification of the department's final appealable decision in the matter being appealed. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.65.030).]

12.75.050 Grounds for appeal – Impact fees, intersection standards.

A. For appeals of impact fees, the appellant must show that the department:

1. Committed an error in:
 - a. Calculating the development's proportionate share, as determined by an individual fee calculation or, if relevant, as in the fee schedule; or
 - b. Granting credit for benefit factors;
2. Based on the final decision upon incorrect data; or
3. Gave inadequate consideration to alternative data or mitigation submitted to the department.

B. For appeals of IS improvements, the appellant must show that:

1. The department committed a technical error;
2. Alternative data or a traffic mitigation plan submitted to the department was inadequately considered; or
3. Conditions required by the department are not related to improvements needed to serve the proposed development. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.65.040).]

Chapter 12.80 INTERSECTION STANDARDS

Sections:

- [12.80.010](#) Authority and purpose.
- [12.80.020](#) Definitions.
- [12.80.025](#) Level of service standard.
- [12.80.030](#) Significant adverse impacts.
- [12.80.040](#) Mitigation and payment of costs.
- [12.80.050](#) Interjurisdictional agreements.
- [12.80.060](#) Relation to other permit authority.
- [12.80.070](#) Exceptions.
- [12.80.080](#) Severability.

12.80.010 Authority and purpose.

A. This chapter is enacted pursuant to the State Environmental Policy Act, Chapter 19.35 KMC, and Chapter [58.17](#) RCW and the King County Charter as a home rule county, Article 11, § 11 of the Washington State Constitution.

B. The purpose of this chapter is to:

1. Assure adequate levels of service, safety, and operating efficiency on the city street system, at intersections serving and directly impacted by proposed new development;
2. Establish standards for intersection operation and define the relationship between new developments on street intersection function;
3. Identify development conditions to assure intersection capacity, safety and operational efficiency; and
4. Require that owners of new developments pay the proportionate costs of required intersection improvements. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.80.010).]

12.80.020 Definitions.

A. "Highway Capacity Manual" means Special Report 209 of the Transportation Research Board of the National Research Council, as currently amended.

B. "Street standards" means the city of Kenmore street standards, Chapter [12.50](#) KMC. Terms used in the street standards shall have the same meaning when used in this chapter. References and authorities cited in the street standards shall also apply to this chapter. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.80.020).]

12.80.025 Level of service standard.

A. Functional Classification. The functional classification of Kenmore roadways is depicted in the adopted Kenmore comprehensive plan on file with the Kenmore city clerk.

B. Level of Service Standards.

1. Level of service standards for intersections shall be determined by the functional classification of the roadway as follows:
 - a. Primary arterials shall be LOS "E" or better;
 - b. Minor arterials shall be LOS "D" or better; and
 - c. Collectors shall be LOS "C" or better.
2. When a lower order roadway intersects with one of higher order, for example a collector connects with a

minor arterial, the LOS for the higher order roadway would apply.

3. Provided, however, that LOS shall be calculated by the worst approach "leg" to an intersection, and if any approach leg that carries at least 10 percent of the PM peak hour volume fails, the intersection fails to meet LOS. If a single approach leg fails but does not carry at least 10 percent of the PM peak hour volume, then at least two approach legs must fail to meet the LOS standard for the intersection to fail.

4. As a highway of statewide significance, SR-522 is exempt from city level of service standards. The city will require that applicants prepare level of service results to evaluate the effects of land use upon the state facility, and differences between the state LOS standard for urban facilities (D- mitigated). The city will require mitigation to the design standards identified in the SR-522 Phase I and Phase II Pre-Design Reports as a minimum. [Ord. 08-0292 § 3.]

12.80.030 Significant adverse impacts.

For the purposes of SEPA and this chapter, a "significant adverse impact" is defined as any traffic condition directly caused by proposed development that would reasonably result in one or more of the following conditions at the time any part of the development is completed and able to generate traffic:

- A. A streetway intersection that provides access to a proposed development, and that will function at a level of service worse than specified in KMC [12.80.025](#); or
- B. A streetway intersection or approach lane where the director determines that a hazard to safety could reasonably result. [Ord. 08-0292 § 3; Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.80.030).]

12.80.040 Mitigation and payment of costs.

- A. Based on the identification of IS being exceeded using analytical techniques and information acceptable to the director, the owner of a proposed development shall be required to provide improvements which bring the intersection into compliance with IS, or that return it to its preproject condition, as may be required by the director. Approval to construct the proposed development shall not be granted until the owner has agreed to build or pay fair and equitable costs to build the improvements required by the director within the time schedule set by the director.
- B. At the discretion of the director, and based on technical information regarding traffic conditions and expected traffic impacts, the city may require that the owner of a proposed development pay the full costs of required IS improvements required under this title. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.80.040).]

12.80.050 Interjurisdictional agreements.

- A. Nothing in this section shall prevent the city from entering into agreements with the WSDOT or other local jurisdictions for the collection of fees and the mitigation of traffic on state highways or city arterials that may be caused by developments proposed in the city of Kenmore. The level of service standards used in such agreements shall be those of the city, the WSDOT, the local jurisdiction, or some combination of them, as provided in the agreement.
- B. Nothing in this section shall prevent the continuation, modification, or fulfillment of existing city agreements with the WSDOT and local jurisdictions that were in force at the effective date of this chapter. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.80.050).]

12.80.060 Relation to other permit authority.

The procedures set forth in this chapter do not limit the authority of the city of Kenmore to deny or to approve with conditions the following:

- A. Any zone reclassification request, based on its expected traffic impacts;
- B. Any proposed development or zone reclassification if the city of Kenmore determines that a hazard to safety would result from its direct traffic impacts without streetway or intersection improvements, regardless of level of service standards; or
- C. Any proposed development reviewed under the authority of the Washington State Environmental Policy Act. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.80.060).]

12.80.070 Exceptions.

The city manager or his or her designee may grant an exception to the intersection standards contained in this chapter as now or hereinafter amended. Any exception shall be in writing based on a finding that extraordinary conditions exist which make full compliance infeasible or would constitute an unreasonable hardship. [Ord. 99-0063 § 2.]

12.80.080 Severability.

Should any section, subsection, paragraph, sentence, clause or phrase of this chapter be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portion of this chapter. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.80.200).]

Chapter 20.47 (Previously KMC 18.100)

ROAD AND PARK IMPACT FEES

Sections:

Article I. General

20.47.010 Findings and authority.

20.47.020 Definitions.

20.47.030 Assessment of impact fees.

20.47.040 Exemptions.

20.47.050 Credits.

20.47.060 Tax adjustments.

20.47.070 Appeals.

20.47.080 Establishment of impact fee accounts.

20.47.090 Refunds.

20.47.100 Use of funds.

20.47.110 Review.

Article II. Rates

20.47.120 Road impact fee.

20.47.130 Park impact fee.

20.47.140 Independent fee calculations.

Article III. Miscellaneous Provisions

20.47.150 Existing authority unimpaired.

20.47.155 Park space in lieu of impact fee.

Article I. General

20.47.010 Findings and authority.

The city council of the city of Kenmore (the "council") hereby finds and determines that new growth and development, including but not limited to new residential, commercial, retail, office, and industrial development, in the city of Kenmore will create additional demand and need for public facilities in the city of Kenmore, and the council finds that new growth and development should pay a proportionate share of the cost of new facilities needed to serve the new growth and development. The city of Kenmore has conducted extensive studies documenting the procedures for measuring the impact of new developments on public facilities, has prepared the Roads Study and Parks Study, and hereby incorporates these studies into this chapter by reference. Therefore, pursuant to Chapter 82.02 RCW, the council adopts this chapter to assess impact fees for roads and parks. The provisions of this chapter shall be liberally construed in order to carry out the purposes of the council in establishing the impact fee program. [Ord. 01-0109 Ch. 1, § 1.]

20.47.020 Definitions.

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

- A. "Accessory dwelling unit" means a dwelling unit that has been added onto, created within, or separated from a single-family detached dwelling for use as a complete independent living unit with provisions for cooking, eating, sanitation, and sleeping.
- B. "Building permit" means an official document or certification which is issued by the building official and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.
- C. "Capital facilities plan" means the capital facilities plan element of a comprehensive plan adopted by the city of Kenmore pursuant to Chapter 36.70A RCW, and such plan as amended.
- D. "City" means the city of Kenmore.
- E. "Council" means the city council of the city of Kenmore.
- F. "Department" means the department of community development.
- G. "Development activity" means any construction, expansion, or change in the use of a building or structure that creates additional demand and need for public facilities.
- H. "Development approval" means any written authorization from the city of Kenmore which authorizes the commencement of a development activity.
- I. "Director" means the director of the department of community development or the director's designee.
- J. "Dwelling unit" means a single unit providing complete and independent living facilities for one or more persons, including permanent facilities for living, sleeping, eating, cooking, and sanitation needs.
- K. "Encumbered" means to reserve, set aside, or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for public facilities.
- L. "Feepayer" is a person, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation commencing a land development activity which creates the demand for additional capital facilities, and which requires the issuance of a building permit. "Feepayer" includes an applicant for an impact fee credit.
- M. "Gross floor area" means the total square footage of any building, structure, or use, including accessory uses.
- N. "Hearing examiner" means the examiner who acts on behalf of the city in considering and applying land use regulatory codes as provided under this code. Where appropriate, "hearing examiner" also refers to the office of the hearing examiner.
- O. "Impact fee" means a payment of money imposed by the city of Kenmore on development activity pursuant to this title as a condition of granting development approval in order to pay for the public facilities needed to serve new growth and development. "Impact fee" does not include a reasonable permit fee, an application fee, the administrative fee for collecting and handling school impact fees, or the cost of reviewing independent fee calculations.
- P. "Impact fee account" or "account" means the account(s) established for each type of public facility for which impact fees are collected. The accounts shall be established pursuant to KMC 20.47.080 and 20.47.090, and comply with the requirements of RCW 82.02.070.
- Q. "Independent fee calculation" means the road impact calculation, park impact calculation,

and/or economic documentation prepared by a feepayer, to support the assessment of an impact fee other than by the use of the rates listed in Article II of this chapter, or the calculations prepared by the director where none of the fee categories or fee amounts in Article II of this chapter accurately describe or capture the impacts of the new development on public facilities.

R. "Interest" means the average interest rate earned in the last fiscal year by the city of Kenmore.

S. "ITE Land Use Code" means the classification code number assigned to a type of land use by the Institute of Transportation Engineers in the Sixth Edition of "Trip Generation".

T. "Low-income housing" means (1) an owner-occupied housing unit affordable to households whose household income is less than 80 percent of the King County median income, adjusted for household size, as determined by the United States Department of Housing and Urban Development (HUD), and no more than 30 percent of the household income is paid for housing expenses; or (2) a renter-occupied housing unit affordable to households whose income is less than 50 percent of the King County median income, adjusted for household size, as determined by HUD, and no more than 30 percent of the household income is paid for housing expenses (rent and an appropriate utility allowance). In the event that HUD no longer publishes median income figures for King County, the county may use or determine such other method as it may choose to determine the King County median income, adjusted for household size. The director will make a determination of sales prices or rents that meet the affordability requirements of this section. An applicant for a low-income housing exemption may be a public housing agency, a private nonprofit housing developer, or a private developer.

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

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

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

X. "Parks" means parks, open space, and recreational facilities, including but not limited to ball fields, golf courses, athletic fields, soccer fields, swimming pools, tennis courts, volleyball courts, neighborhood parks, community parks, and open space.

Y. "Parks study" means the "Rate Study for Impact Fees for Parks," city of Kenmore, dated May 15, 2001.

Z. "Planned unit development" or "PUD" shall have the same meaning as set forth in this code.

AA. "Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development or users of the project, and are not system improvements. No improvement or facility included in a capital facilities plan adopted by the council shall be considered a project improvement.

BB. "Public facilities" means the following capital facilities owned or operated by the city of Kenmore or other governmental entities: (1) public streets and roads; and (2) publicly owned parks, open space, and recreation facilities.

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

DD. "Road" means a right-of-way which enables motor vehicles, transit vehicles, bicycles and pedestrians to travel between destinations, and affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, street, and other thoroughfare, except an alley.

EE. "Roads study" means the "Rate Study for Impact Fees for Roads," prepared for the city of Kenmore by Henderson, Young & Company, dated December 2, 2008.

FF. "Significant past tax payment" means taxes exceeding five percent of the amount of the impact fee, and which were paid prior to the date the impact fee is assessed and were earmarked or prorable to the same system improvements for which the impact fee is assessed.

GG. "Square footage" means the square footage of the gross floor area of the development.

HH. "State" means the state of Washington.

II. "System improvements" means public facilities that are included in the city of Kenmore's capital facilities plan and are designed to provide service to service areas within the community at large, in contrast to project improvements. [Ord. 08-0292 § 3; Ord. 03-0184 § 3; Ord. 01-0109 Ch. 1, § 2.]

20.47.030 Assessment of impact fees.

A. The city shall collect impact fees, based on the rates in Article II of this chapter, from any applicant seeking development approval from the city for any development activity within the city, where such development activity requires the issuance of a building permit. This shall include, but is not limited to, the development of residential, commercial, retail, office, and industrial land, 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.

B. For a change in use of an existing building or dwelling unit, including any alteration, expansion, replacement or new accessory building, the impact fee shall be the applicable impact fee for the land use category of the new use, less any impact fee previously paid for the land use category of the prior use. If no impact fee was paid for the prior use, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the prior use.

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

D. Applicants seeking an occupancy permit for a change in use shall be required to pay a road impact fee if the change in use triggers review under the State Environmental Policy Act, this code, or increases the trip generation by more than five percent or 10 peak hour trips.

E. Impact fees shall be assessed at the time the complete application for a building permit or occupancy permit is submitted for each unit in the development, using the impact fee rates then in effect. Except as provided in subsection (I) of this section, impact fees shall be paid at the time the building permit is issued by the city. The city shall not accept an application for a building permit if final plat, PUD, or binding site plan approval is needed and has not yet been granted by the city. Furthermore, the city shall not accept an application for a building permit unless prior to submittal or concurrent with submittal, the feepayer submits complete applications for all other discretionary reviews needed, including, but not limited to, design review, the environmental determination, and the accompanying checklist.

F. Applicants that have been awarded credits prior to the submittal of the complete building permit application pursuant to KMC 20.47.050, shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the director pursuant to KMC 20.47.050 setting forth the dollar amount of the credit awarded. Except as provided in subsection (I) of this section, impact fees, as determined after the application of appropriate credits, shall be collected from the feepayer at the time the building permit is issued for each unit in the development.

G. Where the impact fees imposed are determined by the square footage of the development, a deposit shall be due from the feepayer at the same time that a complete application for a building permit is submitted. The deposit shall be based on an estimate, submitted by the feepayer, of the size and type of structure which will 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 will be due prior to the issuance of a certificate of occupancy or an occupancy permit, using the rate in effect at that time. The feepayer shall pay any such difference plus interest, calculated at the interest rate which the city of Kenmore then earns. If the final square footage is less than the initial estimate, the department shall give a credit for the difference, plus interest at the interest rate which the city of Kenmore then earns.

H. Except as provided in subsection (I) of this section, the department shall not issue the required building permit or occupancy permit unless and until the impact fees set forth in Article II of this chapter have been paid in the amount that they exceed exemptions or credits provided pursuant to KMC 20.47.040 or 20.47.050.3

I. For the parcels located northwest of the intersection of Northeast 181st Street and 68th Avenue Northeast, as shown on the map attached to the ordinance codified in this subsection (Ord. 07-0273):

1. The road impact fees of subsections (E) and (F) of this section shall be paid in two installments, 25 percent at issuance of building permit and 75 percent at issuance of certificate of occupancy; and
2. The deposit of subsection (G) of this section for road impact fees shall be 25 percent of the estimate. [Ord. 07-0273 § 1; Ord. 01-0109 Ch. 1, § 3.]

20.47.040 Exemptions.

A. Except as provided for below, the following shall be exempted from the payment of all impact fees:

1. Alteration of an existing nonresidential structure that does not expand the usable space or add any residential units;
2. Miscellaneous improvements, including, but not limited to, fences, walls, swimming pools, and signs;
3. Demolition or moving of a structure;
4. Expansion of an existing structure that results in the addition of 100 square feet or less of gross floor area;
5. Replacement of a structure with a new structure of the same size and use at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure. Replacement of a structure with a new 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;
6. A change in use where the increase in trip generation is less than five percent or 10 peak hour trips;
7. Any building permit application that has been submitted to the city before 5:00 p.m. the business day before the effective date of this article and subsequently determined to be a complete application, based on the information on file as of the effective date of this article;
8. Permit applications for no more than 25 percent of the total low-income housing singlefamily dwelling units in any one project and regardless of whether such project is built in phases, to a maximum of 50 low-income housing single-family dwelling units in any one project and regardless of whether such project is built in phases, whether occupied by owners or renters; provided, that the owner of such low-income housing executes and records a covenant against the property for a period of 30 years guaranteeing that such dwelling units will continue to be used for low-income housing. In the event that the development is no longer used for lowincome rental housing, the owner shall pay the city the impact fee from which the owner or any prior owner was exempt, plus interest at an annual rate of 10 percent. The lien shall run with the land and apply to subsequent owners for a period of 20 additional years; provided, however, that

the city manager or designee shall retain the authority to increase the 25 percent threshold or the 50-unit maximum threshold provisions of this section if written findings are entered that the city can reasonably afford to pay the impact fees otherwise exempted and the proposed low-income housing units satisfy a particularly critical need. Any claim for an exemption for low-income owner-occupied housing must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

B. *Repealed by Ord. 03-0184.*

C. Any impact fees not collected from low-income housing pursuant to the exemption above shall be paid from public funds other than impact fee accounts.

D. The director shall be authorized to determine whether a particular development activity falls within an exemption identified in this section, in any other section, or under other applicable law. Determinations of the director shall be in writing and shall be subject to the appeals procedures set forth in KMC 20.47.070. [Ord. 03-0184 §§ 1, 2; Ord. 01-0109 Ch. 1, § 4.]

20.47.050 Credits.

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

1. Included within the capital facilities plan or would serve the goals and objectives of the capital facilities plan; and
2. At suitable sites and constructed at acceptable quality as determined by the city.

B. The director shall determine if requests for credits meet the criteria in subsection (A) of this section.

C. For each request for a credit or credits the director shall select an appraiser or the feepayer may select an independent appraiser acceptable to the director.

D. The appraiser must possess an MAI or other equivalent certification and shall not have a fiduciary or personal interest in the property being appraised. A description of the appraiser's certification shall be included with the appraisal, and the appraiser shall certify that he or she does not have a fiduciary or personal interest in the property being appraised.

E. The appraiser shall be directed to determine the total value of the dedicated land, improvements, and/or construction provided by the feepayer on a case-by-case basis.

F. The feepayer shall pay for the cost of the appraisal or request that the cost of the appraisal be deducted from the credit which the director may be providing to the feepayer, in the event that a credit is awarded.

G. After receiving the appraisal the director shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, the legal description of the site donated where applicable, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his or her agreement to the terms of the letter or certificate, and return such signed document to the director before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within 60 calendar days shall nullify the credit.

H. No credit shall be given for project improvements.

I. A feepayer can request that a credit or credits for impact fees be awarded to him/her for significant past tax payments. For each request for a credit or credits for significant past tax payments for park and road impact fees, the feepayer shall submit receipts and a calculation of past tax payments earmarked for or proratable to the particular system improvement. The director shall determine the amount of credits, if any, for significant past tax payments for park and road public facilities.

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

K. Determinations made by the director pursuant to this section shall be subject to the appeals procedures set forth in KMC 18.100.070. [Ord. 01-0109 Ch. 1, § 5.]

20.47.060 Tax adjustments.

Pursuant to and consistent with the requirements of RCW 82.02.060, the Roads Study and Parks Study have provided adjustments for future taxes to be paid by the new development which are earmarked or proratable to the same new public facilities which will serve the new development. The impact fee rates in Article II of this chapter have been reasonably adjusted for taxes and other revenue sources which are anticipated to be available to fund public improvements. [Ord. 01-0109 Ch. 1, § 6.]

20.47.070 Appeals.

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

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

C. The feepayer must first file a request for review regarding impact fees with the director, as provided herein:

1. The request shall be in writing on the form provided by the city;
2. The request for review by the director shall be filed within 14 calendar days of the feepayer's payment of the impact fees at issue. The failure to timely file such a request shall constitute a final bar to later seek such review;
3. No administrative fee will be imposed for the request for review by the director; and
4. The director shall issue his or her determination in writing.

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

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

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

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

H. The hearing examiner may, so long as such action is in conformance with the provisions of this chapter, reverse or affirm, in whole or in part, or may modify the determinations of the director with respect to the amount of the impact fees imposed or the credit awarded. [Ord. 01-

20.47.080 Establishment of impact fee accounts.

A. Impact fee receipts shall be earmarked specifically and deposited in special interest-bearing accounts.

B. There are hereby established two separate impact fee accounts for the fees collected pursuant to this title: the roads impact account and the parks impact account. Funds withdrawn from these accounts must be used in accordance with the provisions of KMC 20.47.100 and applicable state law. Interest earned on the fees shall be retained in each of the accounts and expended for the purposes for which the impact fees were collected.

C. On an annual basis, the finance director shall provide a report to the council on each of the two impact fee accounts showing the source and amount of all monies collected, earned, or received, and the public improvements that were financed in whole or in part by impact fees.

D. Impact fees shall be expended or encumbered within six years of receipt, unless the council identifies in written findings extraordinary and compelling reason or reasons for the city to hold the fees beyond the six-year period. Under such circumstances, the council shall establish the period of time within which the impact fees shall be expended or encumbered. [Ord. 01-0109 Ch. 1, § 8.]

20.47.090 Refunds.

A. If the city fails to expend or encumber the impact fees within six years of when the fees were paid, or where extraordinary or compelling reasons exist, such other time periods as established pursuant to KMC 20.47.080, the current owner of the property on which impact fees have been paid may receive a refund of such fees. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first-in, first-out basis.

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

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

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

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

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

G. The city shall also refund to the current owner of property for which impact fees have been paid all impact fees paid, including interest earned on the impact fees, if the development activity for which the impact fees were imposed did not occur; provided, that if the city has expended or encumbered the impact fees in good faith prior to the application for a refund, the director can decline to provide the refund. If within a period of three years, the same or subsequent owner of the property proceeds with the same or substantially similar development activity, the owner can

petition the director for an offset. The petitioner must provide receipts of impact fees previously paid for a development of the same or substantially similar nature on the same property or some portion thereof. In the case of park or fire impact fees, the director shall determine whether to grant an offset, and the determinations of the director may be appealed pursuant to the procedures in KMC 20.47.070. Determinations of the director shall be in writing and shall be subject to the appeals procedures set forth in KMC 20.47.070. [Ord. 01-0109 Ch. 1, § 9.]

20.47.100 Use of funds.

A. Pursuant to this title, impact fees shall:

1. Be used for public improvements that will reasonably benefit the new development; and
2. Not be imposed to make up for deficiencies in public facilities serving existing developments; and
3. Not be used for maintenance or operation.

B. Road impact fees may be spent for public improvements, including, but not limited to, planning, land acquisition, right-of-way acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable impact fees or mitigation costs, and any other expenses which can be capitalized.

C. Park impact fees may be spent for public improvements, including, but not limited to, planning for parks that will reasonably benefit the new development, land acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable impact fees or mitigation costs, and capital equipment pertaining to park facilities.

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

E. In the event that bonds or similar debt instruments are or have been issued for the advanced provision of public improvements for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the new development. [Ord. 01-0109 Ch. 1, § 10.]

20.47.110 Review.

The fee rates set forth in Article II of this chapter may be reviewed and adjusted by the council as it deems necessary and appropriate in conjunction with the annual update of the capital facilities plan element of the city's comprehensive plan. The fee rates shall be adjusted 12 months after the effective date of this article, or 12 months after the most recent review by the council. The council may determine the amount of the adjustment and revise the fee rates set forth in Article II of this chapter. Absent such affirmative council adjustment, the adjustment shall be 100 percent of the Consumer Price Index-W for the Seattle area, for the most recent 12-month period prior to the date of the adjustment. Subsequent fee rate changes shall be as established in the city council's annual fee resolution. [Ord. 02-0147 § 1; Ord. 01-0109 Ch. 1, § 11.]

Article II. Rates

20.47.120 Road impact fee.

The road impact fee rates in this section are generated the formula for calculating impact fees set forth in the Roads Study, which is incorporated herein by reference. Except as otherwise provided for independent fee calculations in KMC 20.47.140, exemptions in KMC 20.47.040, and credits in KMC 20.47.050, all new developments in the city will be charged the road impact fee applicable to the type of development, in an amount imposed by the city council by resolution. [Ord. 02-0139 § 1; Ord. 01-0109 Ch. 2, § 1.]

20.47.130 Park impact fee.

The park impact fee rates in this section are generated from the formula for calculating impact fees set forth in the Parks Study and the Parks and Recreation Master Plan, which are incorporated herein by reference. Except as otherwise provided for in KMC 20.47.140, Independent fee calculations; KMC 20.47.040, Exemptions; and KMC 20.47.050, Credits, all new residential developments in the city will be charged the park impact fee applicable to the type of dwelling unit, in an amount imposed by the city council by resolution. [Ord. 03-0173 § 1; Ord. 02-0139 § 1; Ord. 01-0109 Ch. 2, § 2.]

20.47.140 Independent fee calculations.

A. If in the judgment of the director, none of the fee categories or fee amounts set forth in KMC 20.47.120 or 20.47.130 accurately describe or capture the impacts of a new development on roads, parks or fire protection facilities, the department may conduct independent fee calculations and the director 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 mailed to the feepayer.

B. If a feepayer opts not to have the impact fees determined according to KMC 20.47.120 or 20.47.130, then the feepayer shall prepare and submit to the director an independent fee calculation for the development activity for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made.

C. Any feepayer submitting an independent fee calculation will be required to pay the city of Kenmore a fee to cover the cost of reviewing the independent fee calculation. The fee required by the city for conducting the review of the independent fee calculation shall be imposed by the city council by resolution, unless otherwise established by the director, and shall be paid by the feepayer prior to initiation of review.

D. While there is a presumption that the calculations set forth in the Roads Study and Parks Study are valid, the director shall consider the documentation submitted by the feepayer, but is not required to accept such documentation or analysis which the director reasonably deems to be inaccurate or not reliable, and may, in the alternative, require the feepayer to submit additional or different documentation for consideration. The director 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 shall be set forth in writing and shall be mailed to the feepayer.

E. Determinations made by the director pursuant to this section may be appealed to the office of the hearing examiner as set forth in KMC 20.47.070. [Ord. 02-0139 § 1; Ord. 01-0109 Ch. 2, § 3.]

Article III. Miscellaneous Provisions

20.47.150 Existing authority unimpaired.

Nothing in this chapter shall preclude the city from requiring the feepayer or the proponent of a development activity to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, based on the environmental documents accompanying the underlying development approval process, and/or Chapter 58.17 RCW, governing plats and subdivisions; provided, that the exercise of this authority is consistent with the provisions of Chapters 43.21C and 82.02 RCW. [Ord. 01-0109 Ch. 2, § 3.]

20.47.155 Park space in lieu of impact fee.

A. The payment of a parks impact fee, consistent with this chapter shall be the preferred method of meeting park space requirements for all new development, except as follows:

B. At the discretion of the city, the fee payer may be able to receive credit towards their

impact fee for land dedicated, improvements made or other construction completed for park purposes.

1. Such land improvements or construction completed shall be adjacent to other publicly owned land; or
2. Be within an area of the city designated within the city comprehensive plan as in need of park space; or
3. Would in some other way further the goals and objectives of the capital facilities plan or other city plans;
4. All such improvements shall be constructed at an acceptable quality as determined by the city. [Ord. 01-0109 Ch. III, § 4(A); Ord. 00-0097 § 1(A); Ord. 98-0026 §§ 1, 2 (KCC21A.14.180).]