ORDINANCE NO. 16-0475

AN ORDINANCE OF THE CITY OF EDGEWOOD, WASHINGTON, AMENDING TITLE 4 EMC IMPACT FEES; ESTABLISHING A DEFERRED COLLECTION OPTION FOR THE CITY’S SCHOOL, PARK AND TRAFFIC IMPACT FEE PROGRAMS IN ACCORDANCE WITH ENGROSSED SENATE BILL 5923; ADOPTING A NEW CHAPTER 4.05 EMC DEFERRAL OF IMPACT FEES CONTAINING STANDARDS AND PROCEDURES FOR IMPACT FEE DEFERRALS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, pursuant to Chapter 82.02 RCW, the City of Edgewood imposes and collects school, parks and traffic impact fees for the purpose of funding system improvements needed to accommodate and serve new development within the City; and

WHEREAS, in 2015 the Washington Legislature passed Engrossed Senate Bill (ESB) 5923, requiring local governments to establish a deferral system for the collection of impact fees imposed upon new single family residential construction; and

WHEREAS, ESB 5923 requires local governments to establish such deferral systems no later than September 1, 2016;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings; Intent. The above recitals, together with the content of Agenda Bill No. 16-0475, are hereby adopted as legislative findings in support of this ordinance.

Section 2. Amendment of Title 4 EMC. Title 4 of the Edgewood Municipal Code is hereby amended by the addition of a new Chapter 4.05 Deferral of Impact Fees to provide in its entirety as contained in Exhibit A, attached hereto and incorporated herein by this reference as if set forth in full.

Section 3. Amendment of EMC 4.10.110. Subsections 4.10.110(B) and (C) of the Edgewood Municipal Code are hereby amended to provide in their respective entirety as follows:

4.10.110 Imposition of impact fees.

. . . .

B. At the time of application for development activity, an applicant will be notified of the requirement to pay school impact fees to each district based on the fee schedule adopted by the city as a part of the impact fee program. Upon receipt of the impact fee payments or a copy of a recorded impact lien in accordance with Chapter 4.05 EMC, each district shall issue a certificate or identifying receipt to the applicant indicating that the school impact fee has been paid or payment has been properly deferred. Prior to approving or permitting any development activities subject to the impact fees
adopted pursuant to this chapter, the city shall require that the applicant provide to the city the original of the certificate or receipt issued by the school district or a copy of the impact fee lien recorded pursuant to Chapter 4.05 EMC. Each school district shall develop standardized forms for this purpose, showing that impact fees have been paid to the district or payment has been properly deferred in accordance with Chapter 4.05 EMC, and that the city may proceed to issue the permit or grant the necessary approval. Impact fees may be paid to the districts under protest pursuant to the procedures set forth in EMC 4.10.120(I).

C. The city shall not issue a required building permit for any development subject to the imposition of impact fees under this chapter until the impact fees set forth in the impact fee schedule have been paid or payment has been properly deferred in accordance with Chapter 4.05 EMC.

Section 4. Amendment of EMC 4.20.070. Section 4.20.070 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

4.20.070 Fee collection.
At the time of application for a building permit, the park impact fee shall be calculated based on the park impact fee schedule and as set forth in EMC 4.20.030. No building permit shall be issued until the impact fee has been paid in full by the applicant or payment has been properly deferred in accordance with Chapter 4.05 EMC; provided, that payment of fees may be phased if the building permits for the development are also phased. The park impact fee shall be collected by the city, and maintained in a separate account, as required by EMC 4.20.090. Park impact fees may be paid under protest in order to obtain a building permit.

Section 5. Amendment of EMC 4.30.080. Section 4.30.080 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

4.30.080 Impact fee determination and collection.

...  

B. Impact fee collection shall also occur at the time of building permit issuance unless payment has been properly deferred in accordance with Chapter 4.05 EMC.

...  

Section 6. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionalitiy
shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 7. Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

PRESENTED TO COUNCIL FOR FIRST READING AND ADOPTION ON JULY 26, 2016
ADOPTED BY THE CITY COUNCIL ON AUGUST 9, 2016.

Mayor Daryl Eidinger

ATTEST/AUTHENTICATED:

City Clerk Rachel Pitzel

APPROVED AS TO FORM:

City Attorney Zach Lell

Date of Publication: August 11, 2016
Effective Date: August 16, 2016
LEGAL NOTICE

NOTICE OF ORDINANCE ADOPTED BY EDGEWOOD CITY COUNCIL

The following is a summary of an Ordinance adopted by the City of Edgewood City Council on the 9th day of August 2016, and shall take effect and be in full force on August 16, 2016.

ORDINANCE NO. 16-0475

AN ORDINANCE OF THE CITY OF EDGEWOOD, WASHINGTON, AMENDING TITLE 4 EMC IMPACT FEES; ESTABLISHING A DEFERRED COLLECTION OPTION FOR THE CITY’S SCHOOL, PARK AND TRAFFIC IMPACT FEE PROGRAMS IN ACCORDANCE WITH ENGROSSED SENATE BILL 5923; ADOPTING A NEW CHAPTER 4.05 EMC DEFERRAL OF IMPACT FEES CONTAINING STANDARDS AND PROCEDURES FOR IMPACT FEE DEFERRALS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

The full text of the Ordinance is available at Edgewood City Hall, 2224 104th Avenue East, Edgewood, WA 98372-1513 (253) 952-3299.

Rachel Pitzel, City Clerk

Published in the Tacoma News Tribune on: August 11, 2016
Chapter 4.05
DEFERRAL OF IMPACT FEES

Sections:
4.05.010 Authority.
4.05.015 Impact Fee Payment Deferral.
4.05.020 Definitions.
4.05.030 Administrative Fees.
4.05.040 Limitation.
4.05.050 Impact Fee Payment Deferral Request.
4.05.060 Deferral Period.
4.05.070 Lien.
4.05.080 Final Inspection Withheld.
4.05.090 Release of Lien.

4.05.010 Authority.

This chapter is adopted in accordance with Engrossed Senate Bill (ESB) 5923 and shall be reasonable construed in a manner consistent therewith.

4.05.015 Impact Fee Payment Deferral.

Payment of impact fees for new single family detached or attached residential construction assessed under any chapter of Title 4 EMC may, at the election of an Applicant for Impact Fee Deferral, be deferred in accordance with the provisions of this chapter.

4.05.020 Definitions.

For purposes of this chapter, the following terms shall have the indicated meanings below:

A. “Applicant for Impact Fee Deferral” means an applicant for a building permit who also seeks deferral of impact fee payment pursuant to this chapter. An Applicant for Impact Fee Deferral includes without limitation an entity that controls the applicant, is controlled by the applicant, or is under the common control with the applicant.

B. “Final inspection” means the city’s signed approval of the final inspection under Chapter 15.05 EMC authorizing the use and/or occupancy of a single family detached or attached residence.

4.05.030 Administrative Fees.

For each new single family residence for which an impact fee payment deferral is sought, the Applicant for Impact Fee Deferral shall simultaneously remit an administrative fee to the City to help defray the city’s expenses in processing and monitoring such application. The amount of the administrative fee shall be established by city council resolution.
4.05.040 Limitation.

Each Applicant for Impact Fee Deferral is entitled annually (per calendar year) to obtain deferral for only the first twenty (20) single-family residential construction building permits applied for by that applicant.

4.05.050 Impact Fee Deferral Request.

An impact fee payment deferral request pursuant to this chapter shall be submitted to the Community Development Director prior to building permit issuance on an application form prescribed by the city. A separate application form shall be required for each building permit for which impact fee payment deferral is requested.

4.05.060 Deferral Period.

Impact fee payments may be deferred to the date of final inspection or up to 18 months from the date of building permit issuance, whichever occurs first.

4.05.070 Lien.

A. An Applicant for Impact Fee Deferral shall grant and record in favor of the city a lien in a form approved by the city attorney in the amount of the deferred impact fee. The content, form, enforcement and procedure of the lien shall be in accordance with RCW 82.02.050. Proof of that such lien has been recorded against the title of the subject property shall be submitted to the city before building permit issuance.

B. Recording of the lien shall be at the sole expense of the Applicant for Impact Fee Deferral.

4.05.080 Final Inspection Withheld.

The city shall withhold final inspection of the single family residence until the deferred impact fees are paid and collected.

4.05.090 Release of Lien.

Upon written request following full payment of impact fees that have been deferred pursuant to this chapter, the city shall execute a written release of the lien recorded pursuant to this chapter. The release shall be in a form approved by the city attorney and shall be recorded against the title of the subject property by and at the expense of the current landowner.