RESOLUTION NO. 18-0425

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, ESTABLISHING A PROCEDURE FOR PAYMENT OF TAXES AND/OR FEES UNDER PROTEST.

WHEREAS, the City imposes various taxes and fees on property owners and developers; and

WHEREAS, these taxes and fees may be challenged administratively and/or judicially, either through procedures established in the Edgewood Municipal Code or the courts; and

WHEREAS, the City acknowledges that taxpayers or fee-payers must preserve their right to seek a refund through the administrative and/or judicial process by making payment under protest, otherwise the tax or fee is considered to be voluntarily paid; and

WHEREAS, the City Council desires to establish a procedure for the payment of taxes/fees under protest;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Requirements for Payment Under Protest.

A. Introduction. This Resolution explains the procedures to be followed by taxpayers and fee-payers seeking to bring an action in court for a tax refund, or an administrative appeal before the City, in order to obtain a determination on the imposition or amount of a tax or fee (i.e., an impact fee). The intent of this Resolution is to clarify the rights and responsibilities of taxpayer and fee-payers with respect to the payment of taxes and fees under protest. This Resolution does not explain the manner in which such court actions or administrative appeals may be filed, nor is it intended to provide legal advice.

B. What Constitutes a Valid Protest. In order to preserve a right to bring an action in court for refund of any tax paid, or to preserve a right to file an administrative appeal based on the amount of an impact fee, a taxpayer or fee-payer must, at the time of payment of the tax/fee, submit to the City Clerk a written protest, setting forth all of the grounds upon which the tax/fee, or any portion of the tax/fee is claimed to be unlawful or excessive. All of the reasons for the taxpayer’s or fee-payer’s belief that the tax paid is unlawful or excessive must be identified in the written protest. If the tax/fee is paid in two or more installments, each payment must be accompanied by a written protest or the first written protest must indicate that it is a continuing protest with respect to the tax payable for the entire year. A statement on a check or money order that the tax/fee is paid under protest is not sufficient to preserve the right to seek a refund of the tax/fee paid to the City. Any tax paid without a separate written protest, as provided in this Section B, is considered to be voluntarily paid and nonrefundable.
C. What Taxes or Fees May Be Included. No protest accompanying a tax/fee payment shall be deemed to include a payment under protest of taxes/fees due for any time periods other than as described in the written protest, or for previously issued permits.

D. Sufficiency of Protest. The written protest is intended to provide notice of the dispute and also the grounds upon which the taxpayer/fee-payer bases the protest. However, it is not a substitute for an appeal (administrative or judicial) of the tax or fee. The taxpayer/fee-payer should obtain legal advice regarding such appeals.

E. Interest. Interest shall accrue on taxes or fees paid under protest to the City at the Local Government Investment Pool (LGIP) interest rate for the period covered.

F. Refunds. At the termination of the appeal process before a body/court with jurisdiction, the City Attorney shall review the decision to determine whether the tax/fee paid under protest must be refunded or retained by the City, together with any interest.

Section 2. Effective Date. This resolution will take effect immediately upon passage by the City Council.

PASSED THIS 14TH DAY OF AUGUST, 2018

Daryl Eldinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

Carol A. Morris, City Attorney