

CITY OF STANWOOD
Stanwood, Washington

ORDINANCE NO. 1329

AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON, AMENDING STANWOOD MUNICIPAL CODE (SMC) ZONING; SECTION 17.153.030 REGARDING SCHOOL ADEQUACY STANDARDS AND APPLICABILITY, SECTION 17.153.100 REGARDING IMPACT FEE ACCOUNTS AND EXPENDITURE OF FUNDS, SECTION 17.153.110, REGARDING REFUNDS, ESTABLISHING AN EFFECTIVE DATE AND PROVIDING FOR SEVERABILITY

WHEREAS, the City of Stanwood adopted School Impact Fees per Ordinance 891 in 1993 as amended by Ordinance 1176 in 2005, and

WHEREAS, School Impact Fees are codified as Chapter 17.153 of the Stanwood Municipal Code; and

WHEREAS, the Stanwood Municipal Code, Section 17.153.030 **School adequacy standards and applicability**, requires capacity standards to be established; and

WHEREAS, Stanwood Municipal Code Section 17.153.030 further requires payment of a school impact fee if it is determined that school facilities available to serve development are inadequate; and

WHEREAS, Stanwood Municipal Code Section 17.153.030 further requires capacity standards and student factors to be documented by a Capital Facilities Plan developed by the school district; and

WHEREAS, the Stanwood Camano School District determined to not adopt a current Capital Facilities Plan; and

WHEREAS, Stanwood Camano School District has notified the City of Stanwood that due to declining enrollment the District has adequate school facilities to serve its current and expected students; and

WHEREAS, the Stanwood Municipal Code currently does not address the circumstance in which a school district no longer needs to plan for growth related capital facilities and determines that a Capital Facilities Plan is not needed.

WHEREAS, the Stanwood Camano School District Administration requested that the City update the Municipal Code to address this situation; and

WHEREAS, SMC 17.153.100 the 6 year limitation on the expenditure of fees has not been amended to be consistent with State law which now allows for 10 years; and

WHEREAS, the Community Development Department filed Application 2013ZP0001 on January 15, 2013; and

WHEREAS, on February 14, a public hearing was held by the City Council regarding Application 2013ZP0001 and all persons wishing to provide public input concerning the amendment were heard; and

WHEREAS, public notice of the above-referenced public hearing were provided in accordance with and as required by law; and

WHEREAS, the City Council met January 24th, 2013 and February 14, 2013 to consider the proposed zoning text amendments; and

WHEREAS, pursuant to RCW 36.70A.106, the City has notified the Washington State Department of Commerce of the City's intent to adopt the proposed change in regulations; and

WHEREAS, consistent with State law, the City desires to update its development regulations to provide efficient administrative procedures

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

SECTION 1. The Findings of Fact and Conclusions attached hereto as Attachment 1 are hereby incorporated by this reference.

SECTION 2. SMC Section 17.153.030, **School adequacy standards and applicability** is hereby amended to read as follows:

17.153.030 School adequacy standards and applicability.

(1) School facilities shall be deemed to have adequate capacity for purposes of determining adequate provision of school facilities for approval of any residential development proposal, if the circumstances in subsections (1)(a) and (1)(b), or subsection (1)(c), of this section exist. Additionally, the provisions of subsection (1)(d) of this section must be met in all cases.

(a) The District has permanent facilities to house the students projected to be coming from the development without exceeding the adopted capacity standards of the district by more than 10 percent. Permanent facilities will not include those that have been closed for more than two years until any necessary rehabilitation has been completed.

(b) The District has the land to accommodate the permanent and portable facilities needed to serve the students projected to be coming from the development.

(c) The department certifies that the concurrency standard defined in SMC 17.153.020 has been complied with.

(d) Any school impact fee required by this chapter is paid or is scheduled for payment and is adequately secured.

(2) If capacity standards are or would be exceeded with the construction of a proposed development, the school facilities available to serve the development shall be deemed inadequate and the development shall not be approved until the impact fee authorized by this chapter is paid; provided, the district has met all the other provisions of this chapter.

(3) The capacity standards and student factors for the district shall be documented by the capital facilities plan developed by the district and adopted by reference in the Stanwood Comprehensive Plan.

(4) The adequacy standards of this section shall apply to all forms of residential development which are subject to review and approval and which would result in the creation of new residential building lots or construction of new dwelling units. Reconstruction or remodeling of existing dwelling units or construction of new accessory dwelling units or commercial structures are not subject to the provisions of this chapter. (Ord. 1176 § 1, 2005; Ord. 981 § 3, 1993).

(5) Notwithstanding any other provision of this Chapter, in the event of any of the following, the City will not impose a school impact fee where:

a. The District does not timely provide an updated Capitol Facilities Plan to the City for adoption as an element of the City's Comprehensive Plan; or

b. The Capital Facilities Plan of the District does not satisfy the required ordinance or statutory criteria for imposition of a school impact fee; or

c. The Capital Facilities Plan prepared by the District results in the

calculation of the fee at \$0.

Provided however, in no event will any of the events referenced in 5 (a) – (c) above be construed as a repeal or waiver of the City's authority to impose school impact fees generally and the occurrence of any of these referenced conditions will act solely as a suspension of the imposition of the impact fees until the issue(s) in 5 (a) – (c) above are cured. Provided further nothing contained herein shall be construed as an intent to refund any school impact fee previously imposed and collected on behalf of the District by the City.

SECTION 3. SMC 17.153.100 Impact fee accounts and expenditure of funds is hereby amended to read as follows.

17.153.100 Impact fee accounts and expenditure of funds.

(1) Impact fees shall be retained in separate interest-bearing accounts. Any accumulated interest shall be kept in the account and spent for the purposes for which the fee was imposed.

(2) Annually, the city shall provide a report on each impact fee account, showing the source and amount of all moneys collected, earned, or received and system improvements that were financed in whole or in part by such impact fees.

(3) Impact fees for system improvements shall be expended only in conformance with the capital facilities plan adopted by reference into the city's Comprehensive Plan.

(4) Impact fees shall be expended or encumbered by the District for a permissible use within ~~six~~ ten years of receipt, unless there exist extraordinary and compelling reasons for fees to be held longer than ~~six-ten~~ years. Such extraordinary or compelling reasons shall be identified in written findings by the school district board of directors and then similarly by the city council. (Ord. 1176 § 1, 2005; Ord. 891 § 10(1), 1993. Formerly 17.153.110).

SECTION 4. SMC 17.153.110 Refunds is hereby amended to read as follows:

17.153.110 Refunds.

(1) Current owners of property on which an impact fee has been paid may receive a refund of such fees if the district fails to expend or encumber the impact fees within ~~six~~ ten years of when the fees were paid or such other period of time established pursuant to SMC 17.153.100(4).

(a) In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first-in, first-out basis.

(b) If funds are not encumbered, the District shall notify the city, and the city shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of claimants.

(c) The request for refund money must be submitted to the city finance director in writing within one year of the date the right to claim the refund arises or the date the notice is given, whichever is later. Any impact fees that are not expended within the ~~six~~ ten year time limitation, and for which no application for refund has been made within this one-year period, shall be retained and expended on the indicated public facilities. Refunds of impact fees under this subsection shall include interest earned on the impact fees.

(d) A development applicant may request and shall receive a refund, including interest earned on the impact fees, when the building permit for which the impact fee has been paid has lapsed for non-commencement of construction. A partial refund shall be provided where the project for which a building permit has been issued has been altered, resulting in a decrease in the amount of the impact fee due under SMC 17.153.060.

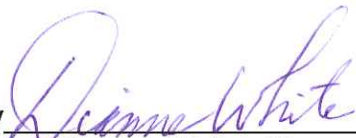
(2) The interlocal agreement required in SMC 17.153.050 shall detail a refund process, as required by Chapter 82.02 RCW. (Ord. 1176 § 1, 2005; Ord. 891 §§ 10(2), (3), 1993. Formerly 17.153.120).

SECTION 5. If any section, sentence, clause, or phrase of this Ordinance is 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.

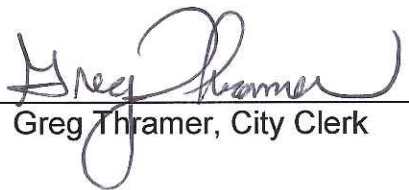
SECTION 6. This Ordinance shall take effect and be in force five (5) days after its passage, approval and publication as provided by law.

PASSED by the City Council and APPROVED by the Mayor this 14th day of February, 2013.


CITY OF STANWOOD

By 
Dianne White, Mayor

ATTEST:

By 
Greg Thramer, City Clerk

Approved as to form:

By 
Grant K. Weed, City Attorney

Date of Publication: 2-26-13

FINDINGS OF FACT AND CONCLUSIONS

Findings of Fact:

1. The Community Development Department filed a zoning text amendment Application 13ZP 0001 on January 15, 2013.
2. Consistent with RCW 43.21C, the Responsible Official issued a Notice of Determination on January 16, 2013.
3. The City Council, pursuant to SMC 17.155.030, Procedure for Amendments to the zoning code, assumed the Planning Commission's responsibility for conducting the review and public hearing for this ordinance based on the finding that this zoning text amendment implements a clear policy direction already determined by the city council and there is no need for additional study and review. This code amendment involves a housekeeping amendment to provide language eliminating a requirement for collection of impact fees when the fees are not requested by the school district.
4. January 24, 2013 at its regularly scheduled City Council meeting which was open to the public, after review of the applications, staff reports, the City Council held first reading of the ordinance.
5. The City Council held a duly noticed public hearing on Application ZP 0001 on February 14, 2013. February 14, 2013 after consideration of the public testimony submitted at or as part of the public hearing, the City Council held second reading of Ordinance 1329, adopting amendments to Title 17 SMC, Chapter 17.153 School Impact Fees
6. The decision criteria for amending the Chapter 17 zoning are the following (SMC 17.155.090 (2))
 - (a) *The purpose and desired effect of the proposed zoning code amendment is consistent with the Stanwood Municipal Code.* The proposed zoning text amendment makes the Stanwood Municipal Code more internally consistent and compliant with State law by eliminating the requirement to collect of impact fees when the fees are not requested by the school district and by adopting a 10 year period to use the fees.
 - (b) *There is a positive relationship to the public health, safety and welfare of the community.* SMC Title 17 Zoning, Chapter 17.153 as amended promotes the general public welfare by eliminating the requirement for the collection of impact fees when the school district does not have an adopted capital facilities plan demonstrating the need for growth related facilities, but retaining the existing regulations authorizing the collection of impact fees should the school district adopt a capital facilities plan in the future.
 - (c) *The proposed amendment is consistent with the Stanwood Comprehensive Plan.* The proposed amendment is consistent with the Economic Development Element of the Comprehensive Plan policies because it eliminates the requirement to collect a fee from developers, and then return that fee to them after the School District determines that it cannot use the revenue for development of growth related facilities. The amendment improves the efficiency of permitting by removing an unnecessary procedure and up-front cost.
 - o ***EDG-6 Support local business by providing up to date information and equitable and efficient licensing/ permitting procedures***
 - o ***Policy EDP6.1 Ensure that City licensing and permitting procedures and development regulations are coherent, fair and expeditious.***

Conclusions/Decision: Based upon the entire record in this matter, which shall be incorporated by this reference, the Stanwood City Council adopts the following conclusions and decisions.

1. *The City will not impose a school impact fee where:*
 - a. *The District does not provide an updated Capitol Facilities Plan to the City for adoption as an element of the City's Comprehensive Plan; or*
 - b. *The Capital Facilities Plan of the District does not satisfy the required ordinance or statutory criteria for imposition of a school impact fee; or*
 - c. *The Capital Facilities Plan prepared by the District results in the calculation of the fee at \$0.*
2. *The time period for use of impact fees is extended from 6 to 10 years.*