ORDINANCE NO. 4153

AN ORDINANCE of the City Council of the City of Kent, Washington, amending Kent City Code Section 12.14.060 to annually adjust fees based on the Engineering News Record Construction Cost Index.

RECITALS

The transportation impact fee ordinance has a provision that annually adjusts transportation impact fees based on the Washington State Department of Transportation Construction Cost Index. In recent years, this index has fluctuated widely, and the city finds that the Construction Cost Index published in the Engineering News Record would provide more predictable annual adjustments.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

ORDINANCE

SECTION 1. *–Amendment.* Kent City Code_Section 12.14.060 is hereby amended as follows:

Sec. 12.14.060. Collection of impact fees.

A. The city shall collect transportation impact fees, based on the rates published pursuant to KCC 12.14.190, from any applicant seeking development approval from the city for any development activity within the city, when such development activity requires the issuance of a building permit or a permit for a change in use, and creates a demand for additional public facilities.

B. Maximum allowable transportation impact fees are established by the rate study and the downtown Kent rate memorandum. The rate shall be thirty percent (30%) of the maximum allowable amount.

C. ~~Annually, o~~On January 1st of each calendar year, the director shall ~~adjust the previous year's~~increase or decrease the fees by the same percentage ~~change~~ as the percentage change in the ~~most recent~~previous calendar year's average monthly~~annual change of the~~ Engineering News Record (ENR) Seattle Area Construction Cost Index values, relative to the corresponding average monthly ENR Construction Cost Index values for the preceding year. ~~for Seattle-Tacoma-Bremerton published in the Engineering News Record.~~amendment to the Washington State Department of Transportation Construction Cost Index.

D. When a transportation impact fee, pursuant to subsection (A) of this section, applies to a change of use permit, the transportation impact fee shall be the applicable transportation impact fee for the land use category of the new use, less any transportation impact fee previously paid for the land use category of the prior use. For purposes of this provision, a change of use should be reviewed based on the land use category provided in the rate study that best captures the broader use of the property under development. Changes in use or tenancy, if consistent with the general character of the building or building aggregations (i.e.,

"industrial park," or "specialty retail") should not be considered a change in use that is subject to a transportation impact fee. Further, minor changes in tenancies that are consistent with the general character of the included structure, building, or previous use should not be considered changes in use subject to a transportation impact fee. If no transportation impact fee was paid for the prior use, the transportation impact fee for the new use shall be reduced by an amount equal to the current transportation impact fee rate for the prior use. Vacant buildings shall be assessed as if in the most recent legally established use as shown on a Kent business license, development permit, or other reliable and verifiable evidence acceptable to the director.

E. For mixed use developments, transportation impact fees shall be imposed for the proportionate share of each land use, based on the applicable measurement in the transportation impact fee rates published pursuant to KCC 12.14.190.

F. Transportation impact fees shall be determined at the time the complete application for a building permit or a permit for a change in use is submitted using the transportation impact fees then in effect. Transportation impact fees shall be due and payable before the building permit or permit for a change of use is issued by the city.

G. Until December 31, 2013, at the time of issuance of any single-family residential building permit for a dwelling unit that is being constructed for initial sale, the payment of the transportation impact fee may be deferred if the owner of the underlying real property executes a first position lien in favor of the city in the amount of the transportation impact fee in effect at the time of the deferral. The city shall record the lien against the real property and the lien amount shall be paid by the seller to the city at the time of closing of the sale of the real property and

single-family residence.

1. A feepayer who chooses to defer the transportation impact fee must combine the lien with a lien for deferring the water development system charge in KCC 7.02.160, for the transportation improvement fee in KCC 12.11.090 or Chapter 43.21C RCW, and for the drainage development charge in KCC 7.05.165.

2. A deferral fee, in the amount set by city council resolution for city of Kent planning and land use fees, "fee deferral lien," will be due at the time of the application for deferral. The administrative fee set out in KCC 12.14.170 will not be deferred.

H. -Feepayers allowed credits prior to the submittal of the complete building permit application or an application for a permit for a change of use shall submit, along with the complete application, a copy of the letter prepared by the director setting forth the dollar amount of the credit allowed. Transportation impact fees, as determined after the application of any credits, shall be collected from the feepayer no later than the time a building permit or permit for a change of use is issued.

I. The department shall not issue the required building permit or the permit for the change of use until the transportation impact fees have been paid.

SECTION 2.-*Severability*. If any portion of this title is found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other chapter or any other section of this title.

SECTION 3. - *Corrections by City Clerk or Code Reviser*. Upon

approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

SECTION 6. – *Effective Date.* This ordinance shall take effect and be in force thirty (30) days from and after its passage as provided by law.

SUZETTE COOKE, MAYOR

ATTEST:

RONALD F. MOORE, CITY CLERK

APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY

PASSED: 2ND day of JUNE, 2015.

APPROVED: 2ND day of JUNE, 2015.

PUBLISHED: 5TH day of JUNE, 2015.

I hereby certify that this is a true copy of Ordinance No. 4153 passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

Ronald F. Moore, MMC (SEAL)
RONALD F. MOORE, CITY CLERK

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