

ORDINANCE NO. 539

AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE AMENDING CHAPTER 4.55, PARKS, RECREATION AND OPEN SPACE IMPACT FEES, OF THE UNIVERSITY PLACE MUNICIPAL CODE AUTHORIZING THE IMPOSITION AND COLLECTION OF PARKS, OPEN SPACE AND RECREATION IMPACT FEES; PROVIDING AMENDED DEFINITIONS AND IMPACT FEE ASSESSMENT FORMULA.

WHEREAS, the City finds that new residential development continues to increase demand on public parks, open space and recreational facilities; and,

WHEREAS, the City finds that residential growth and development should pay a proportionate share of the cost of planned park and recreational facilities generated by new residential growth and development activity; and,

WHEREAS, the City is enabled under Chapter 82.02 RCW to require the payment of impact fees and is authorized to collect impact fees for publicly owned parks, open space and recreation facilities; and,

WHEREAS, the City approved a new Comprehensive Park, Recreation and Open Space Plan in June, 1997 and incorporated it as an element of the comprehensive plan; and

WHEREAS, the City replaced its Comprehensive Park, Recreation and Open Space Plan on November 5, 2007;

WHEREAS, the City first adopted Chapter 4.55 imposing a park impact fee on September 21, 1998 and has not thereafter adjusted the fee; and

WHEREAS, this ordinance and the formula for determining fee schedules incorporate the considerations required under RCW 82.02.050 through .100; and,

WHEREAS, the City Council conducted a public hearing in consideration of amendment to this Chapter 4.55 during its meeting of December 1, 2008; **NOW, THEREFORE,**

THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE DOES ORDAIN AS FOLLOWS:

Section 1. Impact Fees Authorized. Chapter 4.55, "Parks, Recreation and Open Space Impact Fees", to the University Place Municipal Code is hereby amended to read as set forth in Exhibit A attached hereto and incorporated herein by reference.

Section 2. Park Impact Fee Schedule. A Park Impact Fee is hereby imposed per the attached Park Impact Fee Schedule that sets forth the amount of the park impact fee a per type of dwelling unit basis and is attached hereto as Exhibit B and incorporated herein into this ordinance by this reference as if set forth in full.

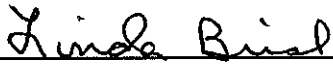
Section 3. Park Impact Fee Formula. The formula used for generating the maximum allowable park impact fee and associated definitions is attached hereto as Exhibit C and incorporated herein by this reference as if set forth in full.

Section 4. 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

unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.


Section 5. Publication and Effective Date. A summary of this ordinance consisting of its title shall be published in the official newspaper. This ordinance shall become effective five (5) days after such publication.

ADOPTED BY THE CITY COUNCIL ON DECEMBER 1, 2008.



Linda Bird, Mayor

ATTEST:



Emelita Genetia, City Clerk

APPROVED AS TO FORM:



Janean Parker, City Attorney

Published: 12/03/08
Effective Date: 01/01/09

Exhibit A

Chapter 4.55

PARKS, RECREATION AND OPEN SPACE IMPACT FEES

Sections:

- 4.55.010 Short title.
- 4.55.020 Statutory authority.
- 4.55.030 Findings.
- 4.55.040 Definitions.
- 4.55.050 Assessment of impact fees.
- 4.55.060 Exemptions.
- 4.55.070 Impact fee credits and adjustments.
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- 4.55.110 Refunds.
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- 4.55.150 Park impact fees.
- 4.55.160 Independent fee calculation.
- 4.55.170 Existing authority unimpaired.
- 4.55.180 Severability.

4.55.010 Short title.

The ordinance codified in this chapter may be referred to or cited as "City of University Place Parks, Recreation and Open Space Impact Fee Ordinance."

4.55.020 Statutory authority.

This chapter is enacted pursuant to Chapter 17, Laws of 1990, 1st Ex. Sess., Chapter 36.70A RCW et seq., Chapter 32, Laws of 1991, 1st Sp. Sess., Chapter 82.02 RCW, et seq., Chapter 219, Laws of 1992, and Chapter 6, Laws of 1993, 1st Sp. Sess., as now in existence or as hereafter amended.

4.55.030 Findings.

The city finds and declares that new residential growth and development will create increased demand on public facilities including parks, open space and recreational facilities and further finds that growth and development should pay a proportionate share of the cost of such planned facilities needed to serve that growth and development activity. It is the desire of the city of University Place to have new development assessed impact fees in an orderly and uniform manner and to have common formulae and administrative processes for the levying of these fees. Therefore, pursuant to Chapter 82.02 RCW, the city council adopts this chapter to assess park impact fees. The provisions of this chapter shall be liberally construed in order to carry out the purpose of establishing the city of University Place impact fee program.

4.55.040 Definitions.

The following words, terms and phrases shall have the ascribed meaning for the purpose of this title, 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.

1. "Building permit" means a permit authorized pursuant to UPMC Title 14 for new construction or addition. The term "building permit," as used herein, shall not be deemed to include permits required for the remodeling, rehabilitation, or other improvements to an existing structure or rebuilding a damaged or destroyed structure; provided there is no increase in the number of dwelling units (for residential construction) resulting therefrom.

2. "Capital facilities" means the facilities or improvements included in the most recent city of University Place capital facilities plan.

3. "Capital facilities plan" or "CFP" means the most recent capital facilities plan element of a comprehensive plan adopted pursuant to Chapter 36.70A RCW, and such plan as subsequently amended and adopted by the city council.

4. "Department" means the city's ~~Planning and Community Development~~ Department.

5. "Director" means the director of the ~~Department of Planning and Community Development~~ Department of the city, or the director's designated representative.

6. "Development activity" means any construction or expansion of residential, commercial, industrial, institutional or public building, structure, or use, any change in the use of a building or structure or any change in the use of land that creates additional demand or need for public facilities.

7. "Duplex" or "Two-Family" means two dwelling units within the same building. For the purpose of impact fee calculation duplexes shall be considered equivalent to multiple-family.

8. "Dwelling unit" means one or more rooms designed for or occupied by one family for living or sleeping purposes and containing kitchen, sleeping and sanitary facilities for use solely by one family. All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit. This definition includes single-family, two-family (duplex) and multiple-family dwellings, but not including hotels and motels, lodging houses, rooming houses, and clubs.

9. "Encumbered" means to reserve, set aside, or otherwise earmark transfer the park impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for planned activities dollars from the park impact fee fund to an account for a particular system improvement that is funded in the City's capital budget. The account encumbering the park impact fee dollars shall include the name of the system improvement financed with such money.

10. "Fee payer" is a person, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau including any government entity or municipal corporation commencing a development activity which creates the demand for planned facilities, and which requires development approval and/or the issuance of a building permit. "Fee payer" includes an applicant for impact fee credit.

12. "Impact fee" means a fee levied pursuant to this chapter as a condition of issuance of a building permit. "Impact fee" does not include a reasonable permit fee, an application fee, an administrative fee, the administrative fee for collecting and handling impact fees, the cost of reviewing independent fee calculations or the administrative fee required for an appeal pursuant to this chapter.

13. "Impact fee account" or "account" means the account or accounts established for the planned facilities for which impact fees are collected. The accounts shall be established pursuant to UPMC 4.55.100 and comply with the requirements of RCW 82.02.070.

14. "Impact fee schedule" means the fee schedule and associated formula as set forth in Chapter 4.55.150 UPMC.

15. "Independent fee calculation" means the park impact calculation prepared by a fee payer to support the assessment amount of an impact fee different from the amount derived from use of the impact fee schedules.

16. "Municipal code" means the municipal code of the city of University Place.

17. "Multiple-family" means a detached or attached building and containing two or more dwelling units. For impact fee calculations this will include duplexes, triplexes, fourplexes, apartments, townhouses, and group and retirement apartments. Congregate care facilities, nursing homes and other types of assisted care facilities are not considered to be "multiple-family" for the purpose of this chapter.

18. "Open space" means any parcel or area of land or water essentially unimproved and set aside, dedicated or reserved from normal development and may contain environmental, geological or ecological sensitive or critical areas. These areas may contain limited trails, viewpoints or interpretive signage.

19. "Owner" means the owner of record of real property, although when real property is being purchased under a real estate contract, the purchaser shall be considered the owner of the real property if the contract is recorded.

20. "Park" means those dedicated park lands, developed parks and associated improvements so designated in the city of University Place Parks, Open Space and Recreation Element of the city of University Place Comprehensive Plan.

21. "Park land, dedicated" means any undeveloped or underdeveloped parcel or area of land or water that is controlled by the city of University Place for the intent of future park development.

22. "Park, developed" means any parcel or area and the improvements on those areas controlled by the city of University Place that have been designated for public passive or active recreational use

23. "Park impact fee" means the impact fee designated to assist in funding for acquisition and development of publicly owned parks and outdoor recreational facilities.

24. "Project" means a development with the necessary site improvements on a specific parcel of land.

25. "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. ~~An improvement or facility included in a capital facilities plan approved by the city shall not be considered a project improvement.~~

26. "Public facilities" means the following capital facilities planned, owned or operated by the city of University Place or other governmental entities: publicly owned parks, dedicated park lands, recreational facilities; roads and all associated improvements; storm drains, and schools and school facilities.

27. "Service area" means the city limits of the City of University Place.

28. "Single-family" means a detached building which meets the requirements of the Uniform Building Code or portions thereof and is used exclusively for occupancy by one family (including their guests, servants, and employees) and containing one dwelling unit.

29. "Structure" means anything that is constructed in or on the ground or over water, including any edifice, gas or liquid storage tank, and any piece of work artificially built up or composed of parts and joined together. For the purposes of this regulation, structure does not include paved areas, fill or any vehicle.

30. "System improvement" means public facilities that are included in the city of University Place capital facilities plan and are designed to provide service within the community at large, in contrast to project improvements.

4.55.050 Assessment of impact fees.

A. Impact fees shall be based on the calculations set forth in this Chapter and shall be collected from all applicants seeking approval for residential development activity within the areas controlled by the city of University Place. The city shall collect park impact fees charges at the time of building permit issuance.

B. If the development for which the approval is sought contains a mixture of residential use types, the impact fee must be separately calculated for each type of use. If the site on which development is sought contains an existing use, the impact of that use shall be subtracted from the calculation of the demand caused by the proposed development so that the impact fee is assessed only for the additional demand created by the proposed development.

4.55.060 Exemptions.

A. The following shall be exempt from the required payment of impact fees:

1. Alteration, expansion, enlargement, remodeling or rehabilitation of an existing dwelling unit where no additional units are created and the use is not changed; or

2. Miscellaneous improvements, including, but not limited to, fences, walls, signs, decks, swimming pools, drives, walkways, docks and piers;

3. Demolition or moving of a structure;

4. The construction of accessory structures that will not create significant impacts on planned facilities.

5. Replacement of a previously demolished structure with the same number of dwellings which previously occupied the property, provided the demolition occurred no greater than ~~six~~two (6~~2~~) years prior to the date of application for a building permit.

6. New non-residential development; mixed-use developments will be charged park impact fees based on the number of dwelling units at multiple-family residential rates.

7. Congregate care facilities, nursing homes, and other types of assisted care facilities.

B. The director is 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 procedure set forth in UPMC *Chapter 22.01*.

4.55.070 Impact fee credits and adjustments.

A. The fee payer shall be entitled to a credit against the applicable impact fee component for the present value of any dedication of land for, improvements to, or new construction of any park system improvement provided by the development applicant for facilities that are identified in the capital facilities plan and that are required as a condition of approval for the development proposal. ~~The amount of the credit shall be determined no later than the time of application for the associated building permit. Any claim not so made shall be deemed to be waived.~~ The credit must be requested in writing prior to the time of permit issuance or it is deemed waived.

B. Credit for dedication of land or improvements shall be based upon the cost assumptions contained within the capital facilities plan, or established by an appraiser retained by the fee payer and approved by the department to determine the value of the dedicated land improvements or construction provided by the fee payer. The fee payer shall pay the cost of appraisal. The date of value shall be the date the land was dedicated to the City. The appraisal shall only value the land dedicated and not any alleged damages to any abutting property.

C. After receiving the request for credit, the director shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, where applicable, the legal description of the site donated, and the legal description or other adequate description of the project or development to which the credit may be applied. Costs for preparing the legal description shall be borne by the applicant. If the accepted credit value is less than the calculated fee amount, the difference remaining shall be chargeable as an impact fee. In the event the amount of the credit is calculated to be greater than the amount of the impact fee due, the development applicant may apply such excess credit toward impact fees imposed on similar capital facilities for other developments within the service area. Such credits are not transferable between applicants.

4.55.080 Adjustment.

The impact fee schedule in UPMC 4.55.150 has been reasonably adjusted for taxes and other revenue sources which are anticipated to be available to fund public improvements.

4.55.090 Appeals Reserved.

~~A. Any fee payer may pay the impact fee imposed by this chapter under protest in order to obtain development approval. Appeals regarding the impact fees imposed on any development activity may only be taken forward by the fee payer of the property where such development activity will occur. No appeals shall be permitted unless and until the impact fees at issue have been paid.~~

~~B. Determination 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 with respect to the independent fee calculation or any other determination which the director is authorized to make pursuant to this chapter shall be appealed to the hearing examiner as per UPMC Chapter 22.01.~~

4.55.100 Establishment of impact fee accounts for parks.

A. Impact fee receipts shall be earmarked specifically and deposited in a special interest-bearing account in the Parks Capital Improvement Fund. The fees received shall be prudently invested in a manner consistent with investment policies of the city.

B. There is hereby established a parks impact fee account in the Parks Capital Improvement Fund for the fees collected pursuant to this title. Funds withdrawn from this account must be used in accordance with the provisions of UPMC 4.55.120. Interest earned on the fees shall be retained in the account and expended for the purpose for which the impact fees were collected.

C. On an annual basis, the city's Finance Manager shall provide a report to the city council on the impact account showing the source and amounts of all moneys collected, earned or received and the public improvements that were financed in part by the impact fees.

D. Impact fees shall be expended or encumbered within six years of receipt, unless the city 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. A "first in, first out" basis will be used for determining which impact fees have been used or encumbered.

4.55.110 Refunds.

A. If the city fails to expend or encumber the appropriate impact fees within the six (6) years of when the fees were paid, or within such other time periods as established pursuant to UPMC 4.55.100 above, the current owner(s) of the property on which impact fees have been paid may receive a refund of such fees.

B. The city shall notify potential claimants by registered first class mail, postage paid, deposited with the United States Postal Service at the last known address of such claimants. A potential claimant must be the legal owner of record for the property.

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

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

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

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 shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the city shall notice 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 to the last known address of claimants. All funds available for refund shall be retained for a period of one year from the date of notice. At that time any remaining funds shall be retained by the city, but must be expended for appropriate public facilities. If there are no funds in the terminated account, the notice action is not required.

4.55.120 Use of funds.

A. Pursuant to this chapter:

1. Impact fees collected for system improvements shall be used only in conformance with the most recent capital facilities plan adopted by the city council.

2. Impact fees shall not be used to eliminate or reduce background deficiencies in existing facilities serving existing developments.

3. Impact fees shall not be used for maintenance or operation expenses.

4. Impact fees may be spent for public improvements for planned facilities, including but not limited to: planning, ~~land~~ property acquisition, ~~right-of-way~~ acquisition, easement or access acquisition, engineering, and architectural design.

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

4.55.130 Review of impact fees.

The fee schedule set forth in this chapter shall be reviewed and may be amended by the city council as it may deem necessary and appropriate in conjunction with the update of the capital facilities element of the city's comprehensive plan.

4.55.140 Establishment of service area.

The service area for parks shall be the corporate limits of the city of University Place.

4.55.150 Park impact fees.

A. A park impact fee will be assessed to all new residential and the residential portion of mixed use development according to the type of residential land use in the amount adopted by ordinance of the City Council. ~~and based on the formula, as follows: $(LOS \times C / 1,000) \times U \times D = PIF$~~

where:

~~— "LOS" means the adopted level of service standard for parks as adopted within the city of University Place Comprehensive Plan expressed as a number of acres of developed park land per 1,000 residents.~~

~~— "PIF" means the parks impact fee component of the total development charge.~~

~~— "C" means the cost for land appraisal, acquisition, closing and/or development of new or existing dedicated land needed to maintain current level of service.~~

~~— "D" means the administrative discount including credit for future taxes to be paid and other potential sources of park funding.~~

~~— "U" means the average number of occupants per dwelling unit in the city as determined by the most recent United States census.~~

B. ~~Park impact fees are established as follows based upon the aforementioned formula:~~

_____	Single Family Residential	\$	322.00
_____	Multiple Family Residential	\$	231.00

Any residential development type not listed above will be assessed the impact fee for the most similar type of development, as determined by the director.

4.55.160 Independent fee calculation.

A. If, in the judgment of the director, none of the categories of fee amounts set forth in the schedules in UPMC 4.55.150 accurately reflects the impacts of the new development, the director may conduct independent park impact fee calculations and the director may impose alternative fees on a specific development based on those calculations.

~~B. If a fee payer opts not to have the park impact fees determined according to the fee schedules in UPMC 4.55.150, then An applicant may request an adjustment to the impact fees determined according to this Chapter as follows: The fee payer shall prepare and submit to the director an independent fee calculation for the development activity for which a building permit or development approval is sought. The document(s) submitted shall show the basis upon which the independent fee calculation was made and the proposed amount of the fee.~~

C. A fee payer submitting an independent fee calculation will be required to pay the department an administrative fee pursuant to the City's fee schedule.

~~D. While there is a presumption that The calculations set forth in UPMC 4.55.150 are presumed valid for each form of development, The director shall consider the independent fee~~

calculation documentation submitted by the fee payer. However, ~~the~~ The director is not required to accept any documentation that the director reasonably deems to be inaccurate or unreliable and may, in the alternative, require the fee payer to submit additional or different documentation for consideration. Based on the information within the director's possession, the director is authorized to adjust the impact fee calculation to the specific characteristics of the development.

4.55.170 Existing authority unimpaired.

Nothing in this chapter shall impair the authority of the city to require the fee payer or the proponent of a development activity to provide parks, park improvements, trails, open space or other park and or recreational facilities under other provisions of this code; provided, that the exercise of this authority is consistent with the provisions of RCW 82.02.050(1)(c).

4.55.175 Appeals and payments under protest.

A. This subsection (A) applies when an applicant seeks a permit to construct a portion of a development that has already been reviewed and approved, in other respects, pursuant to procedures that comply with Chapter 36.70B RCW. An example of this circumstance would be an application for a permit to build one house in a large subdivision that was previously approved. In this case, any appeal of the decision of the City with regard to the imposition of an impact fee or the amount of any impact fees, impact fee credit or impact fee refund must be taken before the Hearings Examiner pursuant to UPMC Title 22 in conjunction with an appeal of the underlying building permit.

B. This subsection (B) applies when an applicant seeks a permit in conjunction with other development approvals that may be subject to an open record hearing and closed record appeal pursuant to procedures that comply with chapter 36.70B RCW. An example of this circumstance would be an application for a short plat and permit to build a new office park. In this case, any appeal of the decision of the City with regard to the imposition of an impact fee or the amount of any impact fees, impact fee credit, or impact fee refund must be made according to the process outlined for and in conjunction with the underlying development approval.

C. Any applicant may pay the impact fees imposed by this chapter under protest in order to obtain a permit.

D. Only the applicant has standing to appeal impact fee matters.

4.55.180 Severability.

If any portion of this chapter is found to be invalid or unenforceable for any reason, such findings shall not affect the validity or enforceability of any other section of this chapter.

Exhibit B

Park Impact Fee Schedule

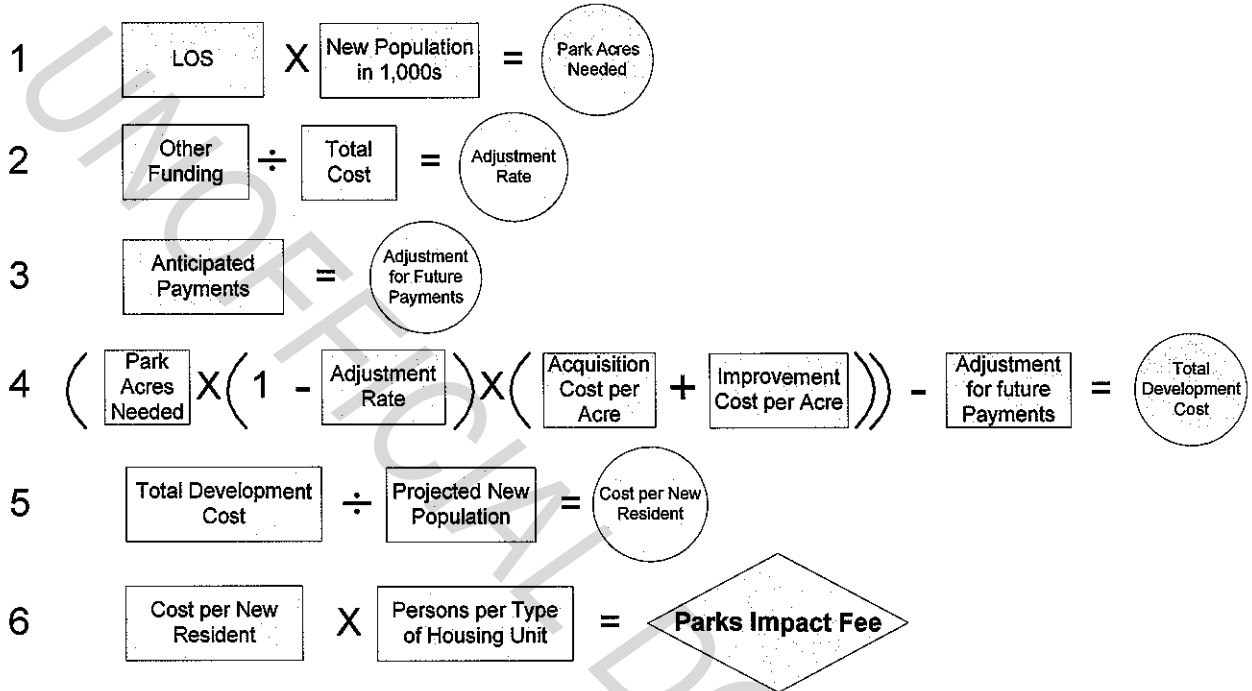
The Park Impact Fee authorized under UPMC 4.55 as herein adopted, shall be imposed as follows:

1. In 2009 and 2010, \$1,200 shall be assessed for each single family dwelling unit and \$1,200 shall be assessed for each multi-family dwelling unit.
2. In 2011 and 2012, \$2,000 shall be assessed for each single family dwelling unit and \$2,000 shall be assessed for each multi-family dwelling unit.
3. In 2013 and 2014, \$2,800 shall be assessed for each single family dwelling unit and \$2,660 shall be assessed for each multi-family dwelling unit.
4. In 2015 and each year thereafter, \$3,644 shall be assessed for each single family dwelling unit and \$2,660 shall be assessed for each multi-family dwelling unit.

Exhibit C

Park Impact Fee Formula

The following formula is used for generating the maximum allowable park impact fee:



The following words, terms, and phrases shall have the ascribed meaning for the purpose of the park impact fee formula:

Level of Service (LOS) – The existing level of service standard for parks within the City of University Place, expressed as a number of acres of developed and undeveloped park land per 1,000 residents.

New Population – The anticipated number of new city residents during the six year period from 2009 to 2014, based on estimates included in the City of University Place Comprehensive Plan.

Park Acres Needed – The park land needed to maintain the existing LOS, calculated by multiplying the Existing LOS by the projected new population in thousands.

Other Funding – Total grant monies received and expended or encumbered for projects in the preexisting CIP during the six year period from 2002 to 2007.

Total Cost – The total actual cost of projects in the preexisting Park CIP during the six year period from 2002 to 2007.

Adjustment Rate – The percentage of the parks acquisition and improvements discounted to account for other funding sources.

Anticipated Payments - Projected total debt-service payments by the projected new residents from 2008 through 2014 that will be used to repay debt incurred to fund existing park system improvements.

Adjustment for Future Payments – Equal to the anticipated payments, this is a discount to the total development cost, used to calculate the PIF, based on Anticipated Payments.

Acquisition Cost per Acre – Cost per acre for new park land, based on the average assessed land value per acre of all of the parcels of land in the City of University Place.

Improvement Cost per Acre – Cost per acre to improve park land, based on the sum of the cost of the itemized park components included in the adopted Comprehensive Plan, adjusted for the number of each component needed based on the existing levels of service of each component type (active, passive, indoor) in the Parks, Recreation and Open Space Plan and the added capacity that the projected new residents will place on the parks system.

Total Development Cost – The cost to acquire and improve the park land needed to maintain the existing LOS.

Cost per New Resident - The cost per person, based on the projected six year population increase between 2008 and 2014, to acquire and improve new park system improvements to maintain the existing LOS.

Persons per Type of Housing Unit – The average number of persons per single family or multi-family housing unit, based on the unit under development for which the fee is being charged, based on the most recent decennial census data.