

ORDINANCE NO. 4534

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, AMENDING TITLE 14 OF THE ELLENSBURG MUNICIPAL CODE TO ADD A NEW CHAPTER 14.04 ENTITLED "TRAFFIC IMPACT FEES" TO ESTABLISH AND IMPOSE TRAFFIC IMPACT FEES UPON CERTAIN NEW DEVELOPMENT AND ESTABLISH STANDARDS AND PROCEDURES FOR CREDITS, REFUNDS AND APPEALS FROM IMPOSITION OF SUCH FEES.

WHEREAS, the City of Ellensburg adopted a Comprehensive Plan establishing the intent of the citizens to ensure that new developments pay a proportionate share of the cost of new facilities needed to serve such growth; and

WHEREAS, the Comprehensive Plan contains a complete description of the existing level of service for transportation facilities and the impacts of future growth on that level of service; and

WHEREAS, the City Council wishes to ensure that those transportation facilities necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use, or shortly thereafter, without decreasing current service levels below established minimum standards for the City; and

WHEREAS, the adopted Comprehensive Plan directs staff to impose impact fees as one of several methods of funding transportation facilities in a manner that fairly distributes costs and benefits,

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

Section 1. A new Chapter 14.04 entitled "Traffic Impact Fees" is hereby added to the Ellensburg Municipal Code to read as follows:

Chapter 14.04
TRAFFIC IMPACT FEES

Sections

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14.04.010. Purpose.

This chapter is intended to:

- A. Assist in the implementation of the Comprehensive Plan for the City of Ellensburg.
- B. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use, or shortly thereafter, without decreasing current service levels below established minimum standards for the city.
- C. Establish standards and procedures so that new development pays a proportionate share of costs for new facilities and services and does not pay arbitrary or duplicative fees for the same impact.

14.04.020. Authority.

- A. This chapter is enacted pursuant to the provisions of RCW 82.02.050 through 82.02.100.

B. The city has conducted a study documenting cost and demand for new facilities and services. This study entitled "Impact Fee Report with Recommendations, dated December 2007" is hereby approved and adopted. A complete copy of the "Impact Fee Report with Recommendations, dated December 2007" shall be retained in the office of the city clerk for use and examination by the public. The most recent City of Ellensburg Comprehensive Plan as amended is also incorporated into this chapter by reference.

14.04.030. Definitions.

A. Commercial: For the purposes of city code chapter 14.04, commercial shall be defined as those activities allowable within the following zones as defined in Title 13: Commercial Neighborhood Zone (C-N), Tourist Commercial Zone (T-C), Highway Commercial Zone (C-H, Master Site Plans for Regional Retail Commercial Projects, Central Commercial Zone (C-C), Central Commercial II Zone (C-C II).

B. New Development: Any land use action which culminates in the issuance of a building permit for new construction and/or expansion of existing gross floor area.

C. Dwelling Unit: 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.

D. Duplex: Two dwelling units which are attached to one another.

E. Multi-Family Dwelling Unit: A structure containing three or more dwelling units, with the units joined to one another.

F. Industrial: For the purposes of city code chapter 14.04, industrial shall be defined as those activities allowable within the following zones as defined in Title 13: Light Industrial Zone (I-L) and Heavy Industrial Zone (I-H).

G. Gross Floor Area: The total square footage of livable area of any dwelling unit and the gross leasable square footage area of any non-residential building, structure, or use, including accessory uses.

H. Encumber: To transfer impact fee dollars from the Traffic Impact Fee Fund to a fund for a particular system improvement that is fully funded in the current year's budget. Funds may only be encumbered by an action of the city council. The fund encumbering the impact fee dollars shall bear the name of the system improvement financed with such money.

I. Project Improvements: Site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use

and convenience of the occupants or users of the project, and are not system improvements. No improvement or facility included in the City's Transportation Facilities Plan or Transportation Improvement Plan approved by the city council shall be considered a project improvement.

J. System Improvements: Transportation facilities that are included in the city's Six-Year Transportation Facilities Plan, and are designed to provide service to the community at large, in contrast to project improvements.

K. Applicant: A person, individual, or organization seeking permission to develop land within the city of Ellensburg by applying for a building permit.

L. Interest: The interest earned by the account during the period the fees were retained.

M. Central Commercial District: The established commercial area of the City of Ellensburg which has historically supported intensive urban usage and is zoned for CC.

N. Traffic Impact Fee: Payment of money imposed by the City of Ellensburg upon development activity pursuant to this chapter as a condition of granting development approval and/or a building permit for new development in order to pay for the public facilities needed to serve the new development. Traffic impact fees do not include permit fees, an application 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.

O. Peak Hour: The consecutive sixty (60) minute period during the 4:00 PM and 6:00 PM peak period during which the highest volume occurs.

P. Traffic Impact Fee Fund: The Fund established for the public facilities for which traffic impact fees are collected, pursuant to section 14.04.070 of this chapter and in compliance with the requirements of RCW 82.02.060.

Q. Traffic Impact Fee Schedule: The traffic impact fee schedule is that schedule adopted by section 14.04.170 or as amended by city council. Trip generation rates in the schedule shall be those rates derived from the "8th Edition Trip Generation" manual published by the Institute of Transportation Engineers, or subsequent editions.

R. Traffic Impact Fee Study: The study which determined the traffic impact fee dated December 2007 and subsequent updates.

S. Low-income housing: Any unit of housing where the eligibility requirements for rental or purchase requires the renter or purchaser to have certified household income equal to or less than fifty (50%) percent of area median income, adjusted for household size ("AMI"), and where the eligibility requirements for homeownership require the purchaser to have certified household income equal to or less than eighty (80%) percent of AMI. In addition, the developer

and/or owner shall have entered into a binding, irrevocable programmatic commitment with one or more federal, state, or local governmental agencies and/or nonprofit agencies qualified as 501(c)(3) under the Internal Revenue Service code. Development activity that is comprised of a mix of affordable and market rate housing and/or affordable housing and commercial space shall be defined as low-income housing only for those specific units that are set aside as low-income housing with the aforementioned income limits. Programs that may otherwise be defined elsewhere as “low-income housing” and/or “affordable housing,” but have income eligibility limits above those described above or no income limits, shall not be defined as low-income housing.

14.04.040. Applicability.

All persons receiving building permits for new development within the City of Ellensburg, but outside of the Central Commercial District (CC), after the effective date of this ordinance shall be required to pay traffic impact fees in an amount and manner set forth in this chapter.

14.04.050. Exemptions.

The following development activities are exempt from paying traffic impact fees because they do not have a measurable impact on the city's transportation facilities, or because the city has chosen to exempt them pursuant to RCW 82.02.060(2), as development with broad public purposes.

A. Existing Dwelling Unit: Any alteration, expansion, reconstruction, remodeling, replacement, or demolition/removal of an existing single family, duplex or multifamily dwelling unit that does not result in the generation of additional peak hour trips.

B. Existing Non-Residential Building: Any alteration, reconstruction, remodeling, replacement, or demolition/removal of an existing non-residential building that does not result in the generation of any new peak hour trips.

C. Any development activity in the Central Commercial District is considered to be redevelopment, not new development and therefore is not subject to this chapter.

D. The Director of Public Works shall be authorized to determine whether a particular development activity falls within an exemption from traffic impact fees identified in this section or under other applicable law. Determinations of the Director of Public Works shall be in writing and shall be subject to appeal to the city council as provided in section 14.02.300 of the Ellensburg Municipal Code.

E. Low-income housing, as defined in 14.04.030 S, shall be exempted from the payment of impact fees.

1. Any claim for an exemption under this section must be made before payment of the impact fee. Any claim not so made shall be deemed waived.

2. The claim for exemption must be accompanied by a draft lien and covenant against the property guaranteeing that the low-income housing will continue for a period of not less than fifteen (15) years. Before final approval of the exemption, the department shall approve the form of the lien and covenant. Within ten (10) days of exemption approval, the applicant shall execute and record the approved lien and covenant with the county auditor. The lien and covenant shall run with the land.

3. In the event that the housing unit is not used for low-income housing for the prescribed period, or in the event that other exempted development activity is converted to a non-exempt use during the prescribed period, the current owner shall pay the impact fees then in effect plus interest to the date of the payment.

F. Transitional Exemption: This ordinance is not applicable to building permits for development projects for which the city's SEPA official has issued a final SEPA determination prior to the effective date of this ordinance for which a final traffic impact mitigation has been determined. For purposes of this exemption, a SEPA determination will include the issuance of a final declaration of non-significance (DNS), final mitigated declaration of non-significance (MDNS), and, if an environmental impact statement (EIS) was required, issuance of a final EIS.

14.04.055 Additional Exemptions.

[reserved]

14.04.060. Service Area.

A. This section establishes one service area which shall be consistent with the city limits of the City of Ellensburg.

14.04.070. Traffic Impact Fee Fund Established.

A. This section establishes a special purpose traffic impact fee fund to receive traffic impact fees. All traffic impact fees and any investment income generated by such fees shall remain in that fund until spent, encumbered or refunded pursuant to the provisions of this chapter.

B. On an annual basis, the finance director shall provide a report to the city council on the Impact Fee Fund showing the source and amount of all monies collected, earned, or received, and system improvements that were financed in whole or in part by impact fees. Additionally, on an annual basis, the public works director shall provide a report to the city

council on the amount of traffic impact fee that was not collected as a result of the provisions of 14.04.175.

14.04.080. Use of Funds.

A. Impact Fees shall:

1. Be used for public facility improvements that will reasonably benefit new development; and
2. Not be imposed to make up for deficiencies in the facilities serving existing development; and
3. Not be used for maintenance or operation.

B. Impact fees will be spent for improvements listed in the Six Year Transportation Plan and identified as being funded in part by impact fees. Expenditures may include but are not limited to, facility planning, land acquisition, site improvements, necessary off-site improvements, construction, engineering, permitting, financing, grant match funds and administrative expenses, mitigation costs, capital equipment pertaining to public facilities, and any other capital cost related to a particular system improvement.

C. Impact fees may also be used to recoup costs previously incurred by the city to finance system improvements identified per 14.04.080.B and directly benefiting new growth and development.

D. In the event that bonds or similar debt instruments are or have been issued for the construction of a public facility or system improvement for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this chapter and are used to serve new development.

14.04.090. Impact Fee Determination and Collection.

A. At the time of building permit issuance, city staff shall determine the total impact fee owed based on the fee schedule in effect at the time of such issuance.

B. Impact fee collection shall also occur at the time of building permit issuance. Alternatively, the applicant may post a bond in favor of the city for the impact fee at the time of building permit issuance, subject to the conditions set forth in this section. If bond is posted, cash payment of the impact fee shall be due and payable at the time of issuance of certificate of occupancy or upon such earlier demand by the city in the event the city, in its sole judgment, determines either (1) that the applicant's development is substantially complete (regardless of whether or not a certificate of occupancy has been requested) or (2) that the impact fee is at risk

of not being paid. In the event the impact fee is not paid when due, the city shall have immediate recourse against the bond which shall be written in a manner entitling the city to immediate receipt of the full amount of the bond upon the city's demand. The following conditions also apply:

1. The bond or security shall be in a form and upon such terms deemed acceptable by the city to ensure full payment upon demand of an amount equivalent to the impact fee owed;

2. The bond shall be in an amount equal to one hundred and twenty-five percent (125%) of the impact fee owed on the development;

3. The bond shall be in the form of a surety bond, performance bond or irrevocable assignment of a savings account, with terms and conditions acceptable to the city attorney and public works director, and with a company authorized to do business in the State of Washington. The terms of the bond shall include a provision entitling the city to recover from the surety the city's costs, expenses and reasonable attorney's fees incurred in bringing any action or litigation to enforce the terms of the bond.

4. Bonds or other security authorized by this section shall remain in effect until the city receives full payment of the impact fee secured by the bond or security.

5. Depletion, failure, or collection of bond funds shall not discharge the obligation of the applicant or development to pay the impact fee.

6. The terms of the bond shall incorporate by reference the provisions of this section.

C. An applicant may request that the impact fee be calculated in advance of building permit issuance, but any such advance calculation shall not be binding upon the city and should only be used as guidance by the applicant. Applicants should note that it is not possible to have a vested right to pay a particular impact fee in advance of building permit issuance. If the city council revises the impact fee formula or the impact fees themselves prior to the time that a building permit is issued for a particular development, the formula or fee amount in effect at the time of building permit issuance shall apply to the development.

14.04.100. Impact Fee Adjustments, Independent Calculations.

A. An applicant may request an adjustment to the impact fees determined according to the fee schedule adopted by this ordinance by preparing and submitting to the Public Works Director an independent fee calculation for the development activity for which a building permit

is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. Independent fee calculations for traffic impact fees shall use the same formulas and methodology used to establish the impact fees in this chapter and shall be limited to adjustments in trip generation rates used in the Traffic Impact Fee Study, and shall not include travel demand forecasts, trip distribution, traffic assignment, transportation service areas, costs of road projects, or cost allocation procedures.

1. If the Public Works Director agrees with the independent fee calculation, a written agreement to accept such amount shall be transmitted to the applicant who shall, in turn, present it to the Public Works Department upon impact fee collection.

2. If the Public Works Director does not agree with the independent fee calculation, the fee payer may appeal this decision to the city council through procedures outlined in section 14.02.300 of the Ellensburg Municipal Code.

14.04.110. Impact Fee Credits.

A. An applicant shall be entitled to a credit against the applicable traffic impact fee collected under the fee schedule adopted by this ordinance for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the applicant, to facilities that are:

1. Included within the Six Year Transportation Improvement Plan and identified as system improvements that are to be funded in part by traffic impact fees;

2. At suitable sites and constructed at an acceptable quality as determined by the city; and

3. Are completed, dedicated, or otherwise transferred to the city prior to the determination and award of a credit as set forth in this section.

B. No credit shall be given for project improvements.

C. The value of a credit for improvements shall be established by original receipts provided by the applicant for one or more of the same system improvements for which the impact fee is being charged.

D. The value of a credit for land shall be established on a case-by-case basis by an appraiser selected by, or acceptable to the city. The appraiser must be licensed in good standing by the State of Washington for the category of the property appraised. The appraisal and review shall be at the expense of the applicant. The appraisal shall be in accordance with the most recent

version of the Uniform Standards of Professional Appraisal Practice, as published by The Appraisal Foundation, and shall be subject to review and acceptance by the city.

E. Upon the effective date of this chapter, whenever a development is granted approval subject to a condition that road improvements that are identified in the Six Year Transportation Plan be constructed or provided, or whenever the applicant has agreed, pursuant to the terms of a voluntary agreement with the city to donate or dedicate land for road facilities that are identified in the Six Year Transportation Plan, and which are included in the list of road projects that are used to determine the traffic impact fee, as listed in the Traffic Impact Fee Study, the applicant shall be entitled to a credit for the value of the land or actual costs of capital facility construction against the fee that would be chargeable under the formula provided. The land value or costs of construction shall be determined pursuant to this section.

F. This subsection (f) applies only to residential developments and the residential portion of a mixed use development. In cases where a developer would be entitled to a credit under this section, but the amount of the credit has yet to be determined on a per dwelling unit basis, the city shall take the total credit amount available to the entire plat or project, calculated by applying subsections (a) through (c) above, and divide that amount by the number of dwelling units approved for that plat or project. The impact fee and credit may then be calculated and collected on a per dwelling unit basis as building permits are issued for those dwelling units. Where building permits for some, but not all, of the dwelling units within a plat or project have already been obtained at the time this chapter becomes effective, the credit for the unpermitted dwelling units will be calculated to arrive at a per dwelling unit amount in the same manner. For example, if a plat has been approved for twenty dwelling units, and building permits have only been issued for ten of those units, the per dwelling unit credit for the remaining ten units will equal the total credit amount divided by twenty dwelling units.

G. This subsection (g) applies to non-residential developments, or the non-residential portion of a mixed use development. In cases where a developer would be entitled to a credit under this section, but the amount of the credit has yet to be determined on a per square foot basis, the city shall take the total credit amount available to the entire plat or project, calculated by applying subsections (a) through (c) above, and divide that amount by the number of square feet approved for that plat or project. The impact fee and credit may then be calculated and collected on a per square foot basis as building permits are issued for that square footage. Where building permits for some, but not all, of the square footage within a plat or project have already been obtained at the time this chapter becomes effective, the credit for the unpermitted square footage will be calculated to arrive at a per square footage amount in the same manner.

For example, if a twenty thousand square foot commercial project has been approved, and building permits have only been issued for ten thousand square feet of the project, the per square foot credit for the remaining ten thousand square feet will equal the total credit amount divided by twenty thousand square feet.

H. Pursuant to and consistent with the requirements of RCW 82.02.060, impact fee schedules have been adjusted for future taxes and other revenue sources to be paid by the new development which are earmarked or pro ratable to the same new public facilities which will serve the new development.

I. After receiving the receipts for improvements, the appraisal of land value, the receipts and calculations of prior payments earmarked or pro ratable to the same system improvements for which the impact fee is imposed, the Director of Public Works shall provide the applicant with a letter setting forth the dollar amount of the credit, the reason for the credit, the legal description of the site donated where applicable, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter indicating their agreement to the terms of the letter and return such signed document to the city before the impact fee credit will be awarded. The failures of the applicant to sign, date, and return such document within sixty (60) calendar days shall nullify the credit.

J. If the amount of the credit is less than the calculated fee amount, the difference remaining shall be chargeable as an impact fee and paid at the time of application for the building permit. In the event the amount of the credit is calculated to be greater than the amount of the impact fee due, the applicant shall forfeit such excess credit.

K. A claim for credit will be processed by the city using whichever of the following options is selected by the applicant:

1. Claims for credits that are submitted prior to, or with an application for a building permit for which an impact fee will be due will be processed by the city before payment of the impact fee is due in order to allow any credit authorized by the city to reduce the amount of the impact fee; or

2. Claims for credits that are submitted no later than thirty (30) days after the issuance of a building permit for which an impact fee is due shall be processed by the city after the impact fee is paid in full, and any credit authorized by the city will be refunded to the applicant within ninety (90) days of receipt of the claim for credit.

L. Claims for credits that are submitted more than 180 calendar days after the issuance of a building permit for which an impact fee is due are deemed to be waived and shall be denied.

M. Determinations made by the Director of Public Works pursuant to this section shall be subject to appeal to the city council subject to the procedures set forth in section 14.02.300 of the Ellensburg Municipal Code.

14.04.120. Impact Fee Refunds.

A. The current owner of property on which impact fees have been paid may receive a refund of such fees if the impact fees have not been expended or encumbered within six years of their receipt by the city. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first in, first out basis.

B. The city shall provide for the refund of fees according to the requirements of this section and RCW 82.02.080.

1. The city shall notify potential claimants of the refund availability by first-class mail deposited with the United States Postal Service addressed to the owner of the property as shown in the county tax records.

2. An owner's request for a refund 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 that notice is given, whichever date is later.

C. Any impact fees that are not expended or encumbered within six years of their receipt by the city, and for which no application for a refund has been made within this one-year period, shall be retained by the city and expended consistent with the provisions of this chapter.

D. Refunds of impact fees shall include any interest earned on the impact fees.

E. Should the city seek to terminate all impact fee requirements, all unexpended or unencumbered funds, including interest earned, shall be refunded to the current owner of the property for which an impact fee was paid. Upon the finding that all fee requirements are to be terminated, the city shall place notice of 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 addressed to the owner of the property as shown in the county tax records. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the city, but must be expended for the original purposes, consistent with the provisions of this chapter. The notice requirement set forth above shall not

apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

F. An applicant may request and shall receive a refund, including interest earned on the impact fee, when:

1. The applicant does not proceed to finalize the development activity as required by statute or city code or the International Building Code; and

2. The city has not expended or encumbered the impact fees prior to the application for a refund. In the event that the city has expended or encumbered the fees in good faith, no refund shall be forthcoming. However, if within a period of three (3) years, the same or subsequent owner of the property proceeds with the same or substantially similar development activity, the owner shall be eligible for a credit against any then-existing traffic impact fee requirement. The owner must petition the city in writing and provide receipts of impact fees paid by the owner for a development of the same or substantially similar nature on the same property or some portion thereof. The city shall determine whether to grant a credit and such determinations may be appealed by following the procedures set forth in this chapter.

G. The amount to be refunded shall include the interest earned by this portion of the account from the date that it was deposited into the Traffic Impact Fee Fund.

14.04.130. Appeals and Payments under Protest.

A. This subsection applies when an applicant seeks a building permit to construct a portion of a development that has already been reviewed and approved by the city. 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 may be taken before the city council pursuant to section 14.02.300 of the Ellensburg Municipal Code in conjunction with an appeal of the underlying building permit.

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

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

14.04.140. Council Review of Impact Fees.

The impact fee schedule adopted by this ordinance shall be reviewed by the city council, as it deems necessary and appropriate in conjunction with the update of the city's Transportation Improvement Plan.

14.04.150. Administrative Fees.

A. The cost of administering the traffic impact fee program shall also include an amount equal to five (5%) percent of the amount of the total traffic impact fee determined from the schedule of fees. The administrative fee shall be deposited into an administrative fee account within the Traffic Impact Fee Fund. Administrative fees shall be used to defray the cost incurred by the city in the administration and update of the traffic impact fee program, including, but not limited to, review of independent fee calculations and the value of credits. The administrative fee is not creditable or refundable.

B. The administrative fee, in addition to the actual impact fees, shall be paid by the applicant to the city at the same time as the impact fee.

14.04.160. Impact Fee Calculations.

A. The traffic impact fee shall be calculated using a schedule that identifies a particular fee amount for a particular type of development.

B. The traffic impact fee per peak hour vehicle trip has been calculated using the data shown in "Impact Fee Report with Recommendations, dated December 2007," which is filed in the office of the city clerk and incorporated herein by this reference as if set forth in full.

14.04.170. Schedule of Fees.

A traffic impact fee shall be assessed against all new development based on development type in an amount provided for in the Traffic Impact Fee Schedule, Appendix "E", of the Impact Fee Report with Recommendations, which is filed in the office of the city clerk and incorporated herein by this reference as if set forth in full. The traffic impact fee is hereby established at \$1,758 per peak hour trip (PHT). This fee schedule represents the city's determination of the appropriate share of system improvement costs to be paid by new growth and development.

14.04.175 Fee Reductions.

The traffic impact associated with a building permit in commercial and industrial zones as defined in 14.04.030 shall be reduced by fifty (50%) percent. There shall be no traffic impact fee associated with building permits issued within the Central Commercial (C-C) zone.

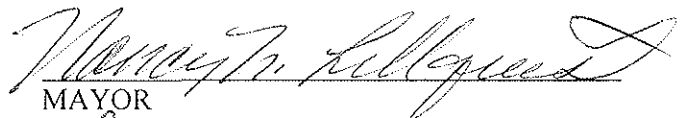
14.04.180. Existing Authority Unimpaired.

Nothing in this chapter shall preclude the city from requiring the applicant to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, chapter 43.21C RCW, based on the environmental documents accompanying the underlying development approval process, and/or chapter 58.17 RCW governing plats and subdivisions; provided, that, the exercise of this authority is consistent with the provisions of chapter 43.21C RCW and chapter 82.02 RCW.

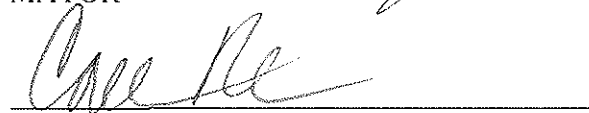
Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the city, and shall take effect and be in full force five (5) days after publication.

PASSED by the city council of the City of Ellensburg this 20th day of April, 2009.


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

Publish : 4-23-09

I, Coreen M. Reno, City Clerk of said City, do hereby certify that Ordinance No. 4534 is a true and correct copy of said Ordinance of like number of said City as the same was passed by said Council, and that Ordinance No. 4534 was published as required by law.


COREEN M. RENO, CMC