ORDINANCE NO. _____

AN ORDINANCE OF THURSTON COUNTY, WASHINGTON, ADDING TITLE 25 OF THE THURSTON COUNTY CODE TO AUTHORIZE TRANSPORTATION PARKS, AND SCHOOL IMPACT FEES.

WHEREAS, the Board of County Commissioners of Thurston County (Board) finds that new growth and development in Thurston County (County) will create additional demand and need for public facilities; and

WHEREAS, in the Revised Code of Washington 82.02.050(1), the Legislature has stated that its intent is to allow counties to require that new growth and development within their boundaries pay a proportionate share of the cost of system improvements to serve such new development activity through the assessment of impact fees for transportation, parks, and schools; and

WHEREAS, in RCW 82.02.050 - .090 the Legislature has authorized counties to adopt an ordinance imposing impact fees; and

WHEREAS, the Board finds that it is in the public interest, and consistent with the intent and purposes of the Growth Management Act, RCW 36.70A et seq., and consistent with RCW 82.02.060(1) for the County to adopt impact fees which are uniform to the greatest extent practicable; and

WHEREAS, the County has conducted extensive research documenting the procedures for measuring the impact of new growth and development on public facilities, and has prepared the April 2012 Transportation Impact Fee Program for Thurston County, Washington, April 2012 and Parks and Recreational Facilities Impact Fee Study, March 12, 2012; and

WHEREAS, the school districts named in this ordinance have prepared capital facilities plans and impact fee calculations as the basis for the school impact fees; and

WHEREAS, a public hearing was held on June 19, 2012 to take public testimony on the proposed impact fee ordinance; and

WHEREAS, a second public hearing was held on November 8, 2012 to allow for public testimony on a revised impact fee ordinance and associated impact fee schedule; and

WHEREAS, a State Environmental Policy Act determination of ________ was issued on ________, 2012; and

WHEREAS, the Board believes the impact fees enabled by the adoption of this ordinance are necessary for the preservation of the public health, safety, and general welfare of Thurston County residents.
NOW, THEREFORE, THE THURSTON COUNTY BOARD OF COUNTY COMMISSIONERS ORDAINS AS FOLLOWS:

SECTION 1. TITLE 25 IMPACT FEES. The Thurston County Code is hereby amended as shown in Attachment A to add Title 25 Impact Fees.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause, phrase or other portion of this ordinance or its application to any person is, for any reason, declared invalid, illegal or unconstitutional in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

SECTION 4. IMPACT FEE ASSESSMENT. Fees shall not be assessed until authorized by the Board of County Commissioners through a separate fee resolution.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect immediately upon adoption. Fees shall not be assessed until authorized by the Board of County Commissioners.

ADOPTED: __________________________

ATTEST:  BOARD OF COUNTY COMMISSIONERS

Thurston County, Washington

____________________________________

Clerk of the Board  Chair

APPROVED AS TO FORM:

JON TUNHEIM  PROSECUTING ATTORNEY

Vice-Chair

____________________________________

Jeffrey G. Fancher  Deputy Prosecuting Attorney

Commissioner
ATTACHMENT A

TITLE 25 IMPACT FEES

Chapters:
25.04 General Provisions Governing the Assessment of Impact Fees
25.06 Definitions
25.08 Impact Fees

Chapter 25.04
General Provisions Governing the Assessment of Impact Fees

Sections:
25.04.005 Short Title
25.04.010 Findings and authority.
25.04.020 Existing authority unimpaired.
25.04.030 Service areas.
25.04.040 Assessment of impact fees.
25.04.050 Independent Fee Calculations.
25.04.060 Exemptions.
25.04.070 Credits.
25.04.080 Tax adjustments.
25.04.090 Appeals.
25.04.100 Establishment of impact fee accounts for parks and transportation.
25.04.110 Authorization for the school interlocal agreement and the establishment of the school impact account.
25.04.120 Refunds.
25.04.130 Use of funds.
25.04.140 Administrative guidelines.
25.04.150 Review.

25.04.160 Administrative Fees.

25.04.005 - Short title.

This title shall be known as the “Thurston County Impact Fee Ordinance.”

25.04.010 - Findings and authority.

The board hereby finds and determines the following:

A. That new growth and development, including but not limited to new residential, commercial, retail, office, and industrial development, in Thurston County will create additional demand and need for public facilities in Thurston County, and the board finds that new growth and development should pay a proportionate share of the cost of new facilities needed to serve the new growth and development;

B. Thurston County has conducted extensive studies documenting the procedures for measuring the impact of new developments on public facilities, has prepared the Transportation Study and the Parks Study, and hereby incorporates these studies into this title by reference;

C. This title is adopted to assess impact fees for transportation, park, and school facilities pursuant to chapter 82.02 RCW; and

D. The provisions of this title shall be liberally construed in order to carry out the purposes of the board in establishing the impact fee program.

25.04.020 - Existing authority unimpaired.

Nothing in this title shall preclude the county from requiring the feepayer or the proponent of a development activity 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.

25.04.030 – Service areas.

A. The service areas for impact fees are described in the Transportation Study and the Parks Study.

B. The service areas for school impact fees are the boundaries of the school districts.
C. The service areas in the Transportation Study, the Parks Study and the school district capital facilities plans, as amended, are hereby found to be reasonable and established on the basis of sound planning and engineering principles and are consistent with RCW 82.02.060.

25.04.040 - Assessment of impact fees.

A. The county shall collect impact fees, based on the adopted county impact fee schedule or an independent fee calculation as provided for in TCC 25.04.050, from any applicant seeking development approval from the county for any development activity within the unincorporated territory of the county, where such development activity requires the issuance of a building or occupancy permit. This shall include, but is not limited to, the development of residential, commercial, retail, office, and industrial land, and includes the expansion of existing uses that creates a demand for additional public facilities, as well as a change in existing use that creates a demand for additional public facilities.

B. When an impact fee applies to a change of use permit, the impact fee shall be the applicable impact fee for the land use category of the new use, less any impact fee previously paid for the land use category of the prior use. For purposes of this provision, a change of use will be reviewed based on the land use category provided in the Transportation Study or Park Study that best captures the use or development activity of the property under development or being changed. If the studies do not explicitly include a use or activity that is proposed by the feepayer, the director shall determine which use category shall apply. Changes in use or tenancy that are consistent with the general character of the building or building aggregations (i.e., “industrial park,” or “specialty retail”) will not be considered a change in use that is subject to an impact fee. If no impact fee was paid for the prior use, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the prior use. Vacant buildings shall be assessed as if occupied by the most recent legally established use as shown on a locally owned business license or development permit document.

C. For mixed use developments, impact fees shall be imposed for the proportionate share of each land use, based on the applicable measurement in the impact fee rates in the county impact fee schedule.

D. Impact fees shall be assessed at the time the complete building permit application is submitted for each unit in the development, using either the impact fee schedules then in effect or an independent fee calculation, at the election of the applicant and pursuant to the requirements set forth in section 25.04.050 TCC. The county shall not accept an application for a building permit if final plat or binding site plan approval is needed and has not yet been granted by the county.
E. Applicants that have been awarded credits prior to the submittal of the complete building permit application pursuant to TCC 25.04.070, shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the director pursuant to TCC 25.04.070 setting forth the dollar amount of the credit awarded.

F. A feepayer may identify in the application information regarding fees that the feepayer has paid or will be required to pay under the State Environmental Policy Act (Ch. 43.21 RCW), or that are being assessed upon the feepayer by other municipalities, in either case which the feepayer believes would duplicate the impact fee. The director will respond to the information in writing, determining whether collection of the impact fee under the circumstances would be unlawful under RCW 82.02.100 or other applicable law, and the determination may be appealed through the procedures provided under this title.

G. Impact fees, as determined after the application of appropriate credits, shall be collected from the feepayer at the time the building permit is issued for each unit in the development.

H. Where the impact fees imposed are determined by the square footage of the development, the impact fee shall be based on the size and type of structure proposed to be constructed on the property. If the final square footage of the development is in excess of the initial square footage set forth in the building permit, any difference will be adjusted at the time that a certificate of occupancy is issued or the time that the building is occupied, using the rate schedule in effect at that time of permit application.

I. The department shall not issue a building permit unless and until the impact fees required by this title, less any permitted exemptions, credits or deductions, have been paid.

[Sections J – N, below are an alternative for delayed payment of impact fees for residential development.]

J A building permit applicant may defer payment of impact fees for a single detached dwelling unit, condominium unit, or all of the dwelling units in a multifamily residential building until the earlier of the seven (7) days after the date of the sale of a single detached dwelling unit, a condominium unit or a multifamily residential building or eighteen (18) months after issuance of the original building permit, whichever occurs first, but only if before issuance of the building permit, the applicant:

1. Submits to the director a signed and notarized deferred impact fee application and acknowledgement form for each single detached dwelling unit, condominium unit or all of the dwelling units in a multifamily residential building for which the applicant wishes to defer payment of the impact fees;

2. Records at the applicant's expense a covenant and lien that:
i. Requires payment of the impact fees to the county at the earlier of seven (7) days after the date of sale or eighteen (18) months after issuance of the original building permit, whichever occurs first;

ii. Provides that if the impact fees are paid through escrow at closing of sale, in the absence of an agreement between the buyer and the seller to the contrary, the impact fees shall be paid from the seller's proceeds;

iii. Provides that the seller bears strict liability for the payment of the impact fees;

iv. Requires the seller or seller's agent of property subject to the covenant and lien to provide written disclosure of the covenant and lien to a purchaser or prospective purchaser. Disclosure of the covenant must include the amount of impact fees payable and that the fees are to be paid to the county on the date of sale; and

v. Makes the applicant legally liable for payment of the impact fees if the fees are not paid by the earlier of seven days after the date of sale or eighteen months after the building permit has been issued, whichever occurs first;

K. Payment of impact fees deferred under this subsection shall be made by cash, escrow company check, cashier's check or certified check.

L. Upon receipt of payment of impact fees deferred under this subsection, the county shall execute a lien release for each single detached dwelling unit, condominium unit, or multifamily residential building for which the impact fees have been received. Unless an agreement to the contrary is reached between buyer and seller, the seller, at the seller's expense, shall be responsible for recording the lien release.

M. The department shall not issue the required building permit or the permit for the change of use until the impact fees have been paid or the signed and notarized deferred impact fee application and acknowledgement form and deferral fee has been received and accepted by the county.

N. Not later than two years after the effective date of this ordinance, the director shall report to the Board on the effect of subsections J-M. The report shall include information on the number of applications for deferral, the length of time of deferral, the amount of fees deferred, the number of fees and amount not paid as required, and any adverse impacts to the ability of the county to construct projects made necessary by new development. The report shall also include recommendations for changes to address deficiencies identified in the report.
25.04.050 - Independent fee calculations.

A. If in the judgment of the director, none of the fee categories or fee amounts set forth in the county’s impact fee schedule accurately describe or capture the impacts of a new development on transportation or parks facilities, the department may prepare independent fee calculations and the director may impose alternative fees on a specific development based on those calculations. The alternative fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.

B. If the school district for which the impact fee is being charged believes in good faith that none of the fee categories or fee amounts set forth in the county’s impact fee schedule accurately describe or capture the impacts of a new development on schools, the school district may conduct independent fee calculations and submit such calculations to the director. The director may impose alternative fees on a specific development based on the calculations of the school district, or may impose alternative fees based on the calculations of the department. The alternative fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.

C. An applicant may elect to prepare and submit an independent fee calculation for the development activity for which a building permit is sought. The applicant must make the election between fees calculated under the county’s impact fee schedule and an independent fee calculation prior to issuance of the building permit for the development. If the applicant elects to prepare his/her own independent fee calculation, the applicant must submit documentation showing the basis upon which the independent fee calculation was made. An independent fee calculation shall use the same methodology used to establish impact fees in the Transportation Study, and the Park Parks Study, and shall be limited to adjustments in trip generation rates and lengths for transportation impact fees, and persons per dwelling unit for park impact fees. For schools, the independent fee calculation shall use the same methodology used to establish the District’s fee schedule.

D. While there is a presumption that the calculations set forth in the county’s impact fee schedule based on the Transportation Study, the Parks Study, and School calculations are valid, the director shall consider the documentation submitted by the feepayer but is not required to accept such documentation or analysis which the director reasonably deems to be inapplicable, inaccurate, incomplete, or not reliable, and may modify or deny the request, or, in the alternative, require the feepayer to submit additional or different documentation for consideration. The director is authorized to adjust the impact fees on a case-by-case basis based on the independent fee calculation, the specific characteristics of the development, and/or principles of fairness. The director’s decision shall be set forth in writing and shall be mailed to the feepayer.
E. Determinations made by the director pursuant to this Section may be appealed to the office of the hearing examiner subject to the procedures set forth in TCC 20.60.060(1).

25.04.060 – Exemptions.

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

1. Alteration of an existing nonresidential structure that does not expand the usable space or add any dwelling units;

2. Miscellaneous improvements that do not increase the occupancy, users, or number of dwelling units, including, but not limited to, fences, walls, residential swimming pools, mining, dredging, filling, grading, paving, excavation, or drilling operations, storage of equipment or materials and signs;

3. Demolition or moving of a structure, or dwelling unit;

4. Replacement of a structure with a new structure of the same size and use at the same site or lot when such replacement occurs within six years of the demolition or destruction of the prior structure;

5. Dwelling units located in housing developments intended for and solely occupied by persons 62 years or older, including nursing homes and retirement centers, shall be exempt from the payment of school impact fees so long as those uses are maintained, and the necessary covenants or declaration of restrictions, in a form approved by the Prosecuting Attorney and the school district attorney, required to ensure the maintenance of such uses, are recorded on the property;

6. The creation of an accessory dwelling unit, including but not limited to family member units, shall be exempt from the payment of school impact fees; and

7. A single room occupancy dwelling shall be exempt from the payment of school impact fees.

B. With respect to impact fees for parks and transportation, the director shall be 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 appeal procedures set forth in TCC 20.60.060(1).

C. With respect to school impact fees, requests for an exemption shall be directed to the school district. The school district shall determine whether a particular development activity falls within an exemption identified in this Section, in any other Section, or under other applicable law. The school district shall forward its determination to the director in writing, and the director may adopt the determination of the school district and may
exempt or decline to exempt a particular development activity, or the director may make
an alternative determination and set forth the rationale for the alternative determination.
Determinations of the director shall be in writing and shall be subject to the appeal
procedures set forth in TCC 20.60.060(1).

25.04.070 – Credits.

A. A feepayer may request that a credit or credits for impact fees be awarded to him/her for
the total value of system improvements, including dedications of land and improvements,
and/or construction provided by the feepayer. The application for credits shall be
presented by the feepayer on forms to be provided by the department and shall include
the content designated in such forms. The application for credits shall include
documentation, such as receipts, to establish the amount of credit requested by the
feepayer. Credits will be given only if the land, improvements, and/or the facility
constructed are:

1. Included within the capital facilities plan;
2. Determined by the county to be at suitable sites and constructed at acceptable
   quality;
3. Serve to offset impacts of the feepayer’s development activity; and
4. Are for one (1) or more of the projects listed in the Transportation Study, the
   Parks Study, or the school district’s capital facilities plan as the basis for
   calculating the impact fee.

B. Credits for dedications of real property:

1. For each request for a credit or credits, the director shall select an appraiser or, in
   the alternative, the feepayer may select an independent appraiser acceptable to the
director.
2. Unless approved otherwise by the director, the appraiser must be a Member of the
   American Institute of Appraisers and be licensed in good standing under chapter
   18.40 RCW in the category for the property to be appraised.
3. Where the dedicated land, improvements, and/or construction is for the benefit of
   the school district, the feepayer shall direct the request for a credit or credits to the
   school district. The school district shall first determine the general suitability of
   the land, improvements, and/or construction for school district purposes. Second,
   the school district shall determine whether the land, improvements, and/or the
   facility constructed are included within the school district’s adopted capital
   facilities plan or the board of directors for the school district may make the
finding that such land, improvements, and/or facilities would serve the goals and objectives of the capital facilities plan of the school district. The school district shall forward its determination to the Director, including cases where the school district determines that the dedicated land, improvements, and/or construction are not suitable for school district purposes. The director may adopt the determination of the school district and may award or decline to award a credit, or the director may make an alternative determination and set forth in writing the rationale for the alternative determination.

4. A description of the appraiser’s certification shall be included with the appraisal, and the appraiser shall certify that he/she does not have a fiduciary or personal interest in the property being appraised.

5. The feepayer shall pay for the cost of the appraisal or request that the cost of the appraisal be deducted from the credit which the director may be providing to the feepayer, in the event that a credit is awarded.

6. The appraiser shall be directed to determine the total value of the dedicated land, improvements, and/or construction provided by the feepayer on a case-by-case basis.

C. After receiving and reviewing the application, including any required appraisals, the Director shall provide the applicant with a letter or certificate 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 or certificate indicating his/her agreement to the terms of the letter or certificate, and return such signed document to the Director before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within sixty (60) calendar days from the date specified on the document shall nullify the credit. The credit must be used within seventy-two (72) months of the award of the credit.

D. The feepayer can also request a credit or credits for significant past tax payments. For each request for a credit or credits for significant past tax payments for transportation and park impact fees, the feepayer shall submit receipts and a calculation of past tax payments earmarked for or proratable to the projects in the Transportation Study or the Parks Study. The director shall determine the amount of credits, if any, for past tax payments for system improvements.

E. Any claim for credit must be made no later than twenty (20) calendar days after the submission of an application for a building permit.
F. In no event shall the credit exceed the amount of the impact fees that would have been due for the proposed development activity.

G. No credit shall be given for project improvements.

H. Determinations made by the director pursuant to this section shall be subject to the appeals procedures set forth in TCC 20.60.060(1).

25.04.080 - Tax adjustments.

Pursuant to and consistent with the requirements of RCW 82.02.060, the Transportation Study and the Parks Study have provided adjustments for future taxes to be paid by the new development which are earmarked or proratable to the same new public facilities which will serve the new development. The impact fees on the county’s impact fee schedule have been reasonably adjusted for taxes and other revenue sources which are anticipated to be available to fund these public improvements.

25.04.090 – Appeals.

A. Determinations 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 concerning the independent fee calculation, or exemptions, or any other determination which the director is authorized to make pursuant to this title, can be appealed to the hearing examiner subject to the procedures set forth in TCC 20.60.060(1).

B. Any feepayer may pay the impact fees imposed by this title under protest in order to obtain a building permit or occupancy permit. No appeal shall be permitted until the impact fees at issue have been paid.

C. Appeals regarding the impact fees imposed on any development activity shall only be filed by the feepayer of the property where such development activity will occur.

25.04.100 - Establishment of impact fee accounts for parks and transportation.

A. Impact fee receipts shall be earmarked specifically and deposited in special interest-bearing accounts. The fees received shall be invested in a manner consistent with the investment policies of the county.

B. There are hereby established two separate impact fee accounts for the fees collected pursuant to this title: the Transportation Impact Account and the Parks Impact Account. Funds withdrawn from these accounts must be used in accordance with the provisions of Section 25.04.130 of this title. Interest earned on the fees shall be retained in each of the accounts and expended for the purposes for which the impact fees were collected.
C. On an annual basis, the director shall provide a report to the board on each of the two impact fee accounts showing the source and amount of all moneys collected, earned, or received, and the public improvements that were financed in whole or in part by impact fees.

D. Impact fees shall be expended or encumbered within ten (10) years of receipt, unless the board identifies in written findings an extraordinary and compelling reason or reasons for the county to hold the fees beyond the ten (10) year period. Under such circumstances, the Board shall establish the period of time within which the impact fees shall be expended or encumbered.

25.04.110 - Authorization for the school interlocal agreement and the establishment of the school impact account.

A. The county manager is authorized to execute, on behalf of the county, interlocal agreements for the collection, expenditure, and reporting of school impact fees; provided that such interlocal agreement complies with the provisions of this Section.

B. As a condition of the interlocal agreement, the school district shall establish a School Impact Account with the Office of the Thurston County Treasurer, who serves as the Treasurer for the school district. The account shall be an interest-bearing account, and the school impact fees received shall be invested in a manner consistent with the investment policies of the school district.

C. For administrative convenience while processing the fee payments, school impact fees may be temporarily deposited in a county account. As soon as practicable, the county shall transmit the school impact fees collected and any interest for the school district to the school district. The school district shall deposit the fees in the School Impact Account established by the school district.

D. Funds withdrawn from the School Impact Account for the school district must be used in accordance with the provisions of Section 25.04.130 of this title. The interest earned shall be retained in this account and expended for the purposes for which the school impact fees were collected.

E. On an annual basis, pursuant to the interlocal agreement, the school district shall provide a report to the board on the School Impact Account, showing the source and amount of all monies collected, earned, or received, and the public improvements that were financed in whole or in part by impact fees.

F. School impact fees shall be expended or encumbered within ten (10) years of receipt, unless the Board identifies in written findings an extraordinary and compelling reason or reasons for the school district to hold the fees beyond the ten (10) year period. Under
such circumstances, the Board shall establish the period of time within which the impact
fees shall be expended or encumbered, after consultation with the school district.

25.04.120 – Refunds.

A. If the county or the school district fails to expend or encumber the impact fees within ten
(10) years of when the fees were paid, or where extraordinary or compelling reasons
exist, such other time periods as established pursuant to sections 25.04.100 and
25.04.110, the current owner of the property on which impact fees have been paid may
receive a refund of such fees. 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 county shall notify potential claimants by first class mail deposited with the United
States Postal Service at the last known address of such claimants. The potential claimant
must be the current owner of record of the property for which the impact fee was paid.

C. Current owner(s) seeking a refund of impact fees must submit a written request for a
refund of the fees to the director and/or the school district within one (1) year of the date
the right to claim the refund arises or the date that notice is given, whichever is later.

D. Any impact fees for which no application for a refund has been made by the claimant
within this one-year period shall be retained by the county or the school district and
expended on the appropriate public facilities. Claimants shall have no right to a refund if
not timely requested pursuant to Subsection 25.04.120(C).

E. Refunds of impact fees under this Section shall include any interest earned on the impact
fees by the county or the school district.

F. When the county 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 earned, shall be refunded pursuant to this section. Upon the finding
that any or all fee requirements are to be terminated, the county shall place notice of such
termination and the availability of refunds in a newspaper of general circulation at least
two (2) times and shall notify all potential claimants by first class mail at the last known
address of the claimants. All funds available for refund shall be retained for a period of
one (1) year. At the end of one (1) year, any remaining funds shall be retained by the
county, but must be expended for appropriate public facilities. This notice requirement
shall not apply if there are no unexpended or unencumbered balances within the account
or accounts being terminated.

G. The county shall also refund to the current owner of property for which impact fees have
been paid all impact fees paid, including interest earned on the impact fees, if the
development activity for which the impact fees were imposed did not occur; provided that if the county or the school district has expended or encumbered the impact fees in good faith prior to the application for a refund, the director or the school district can decline to provide the refund. 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 can petition the director or the school district for an offset against the actual impact fee amounts paid. The petitioner must provide receipts of impact fees previously paid for a development of the same or substantially similar nature on the same property or some portion thereof. In the case of park or transportation impact fees, the director shall determine whether to grant an offset, and the determinations of the director may be appealed pursuant to the procedures in TCC 20.60.060(1). In the case of school impact fees, the school district shall determine whether to grant an offset. The school district shall forward its determination to the director, and the director may adopt the determination of the school district and may grant or decline to grant an offset, or the director may make an alternative determination and set forth the rationale for the alternative determination. Determinations of the director shall be in writing and shall be subject to the appeals procedures set forth in TCC 20.60.060(1).

25.04.130 - Use of funds.

A. Pursuant to this title, impact fees:

1. Shall be used for public improvements that will reasonably benefit the new development; and

2. Shall not be imposed to make up for deficiencies in public facilities; and

3. Shall not be used for maintenance or operation.

B. Transportation impact fees may be spent for public improvements, including, but not limited to, planning, land acquisition, right-of-way acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable impact fees, or mitigation costs, and any other expenses which can be capitalized pertaining to transportation improvements.

C. Parks impact fees may be spent for public improvements, including, but not limited to, planning for parks, recreational facilities and open space that will reasonably benefit the new development, land acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable impact fees or mitigation costs, and capital equipment pertaining to park facilities.
D. With respect to schools, impact fees may be spent for public improvements, including, but not limited to, school planning, land acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable impact fees or mitigation costs, capital equipment pertaining to educational facilities, and any other expenses which can be capitalized.

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

F. In the event that bonds or similar debt instruments are or have been issued for the advanced provision of public improvements 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 Section and are used to serve the new development.

25.04.140 - Administrative Guidelines.

The director shall be authorized to adopt forms, applications, brochures, and guidelines for the implementation of this title which may include the adoption of a procedures guide for impact fees.

25.04.150 – Review.

A. The county’s impact fee schedule shall be reviewed by the board as it may deem necessary and appropriate in conjunction with the annual update of the capital facilities plan element of the county’s comprehensive plan.

B. The fees shall automatically be amended by the same percentage change as in the most recent annual change of the Construction Cost Index published in the Engineering News Record.

25.04.160 - Administrative Fees.

A. For each impact fee imposed, there shall be fees charged for any staff time associated with calculating impact fees, which is included in the fee for reviewing the underlying permit. If the cost of reviewing the permit goes beyond the permit fee amount, any additional time or expense, including, but not limited to additional modeling, will be billed at the actual cost or at the hourly rate provided in the county's fee schedule, as amended." Fees shall be paid prior to issuance of the associated development activity or building permit.

B. Requests to the department for an estimate or preliminary determination of impact fees shall be charged an administrative processing fee as shown on the county impact fee
schedule. The base fee shall be paid at the time the request is submitted to the county for an estimate or preliminary determination of impact fees. Any additional costs related to the preliminary determination of impact fees incurred by the county shall be the responsibility of the applicant.

C. Any feepayer submitting an independent fee calculation shall pay a fee to cover the cost of reviewing the independent fee calculation. The fee shall be shown on the county impact fee schedule. The base fee shall be paid at the time the independent fee calculation is submitted to the county. The applicant shall remit all remaining actual costs of the county’s review of the independent fee calculation prior to and as a precondition of the county’s issuance of the development activity or building permit.

D. Any feepayer filing an appeal of impact fees shall pay the fee set by the county for appeals of administrative interpretations and decision under the Thurston County Zoning Ordinance (title 20). The appeal fee shall be paid at the time of filing of the appeal.

E. Each application for a deferral of payment of residential impact fees shall pay a nonrefundable administrative deferral fee as shown on the county’s impact fee schedule. The fee shall be paid at the time the application for deferral is submitted to the county.

F. Administrative fees shall be deposited into a separate administrative fee account that is established by the county separate from any impact fees paid by the feepayer. Administrative fees shall be used to defray the county’s actual costs associated with reviewing the permit/request.

G. Administrative fees shall not be refundable, shall not be waived, and shall not be credited against the impact fees.

Chapter 25.06
Definitions
Section 25.06.010 Definitions

The following words and terms shall have the following meanings for the purposes 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.

“Board, or board” means the Thurston County Board of County Commissioners.

“Building Permit” means an official document or certification which is issued by the Building Official, or designee, and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, change of use, demolition, moving or repair of a building or structure or any portion thereof.
“Capital facilities” means the facilities or improvements included in a capital budget or capital facilities plan.

“Capital Facilities Plan” means the capital facilities plan element of a comprehensive plan adopted by Thurston County pursuant to Chapter 36.70A RCW, and such plan as amended.

“County, or county” means the county of Thurston County, state of Washington, unless otherwise specified by this title.

“Department, or department” means the Thurston County Resource Stewardship Department, unless otherwise specified in this title.

“Development” means any physical man-made change to improved or unimproved real estate requiring a county approval including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations, storage of equipment or materials, or any change in use or use area.

“Development activity” means any development, as defined in this title, that creates additional demand and need for public facilities.

“Development approval” in this title means any written authorization from Thurston County which authorizes the commencement of a development activity as defined in this title.

“Director or director” means the director of the Thurston County’s Resource Stewardship Department, or designee, unless otherwise specified in this title.

“Dwelling unit” in this title means a dwelling unit, dwelling, manufactured home dwelling, mobile home dwelling, modular home dwelling, multiple family dwelling, single-family dwelling, and single-family attached dwelling as defined in Chapter 20.03.

“Encumbered” means to reserve, set aside, or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for system improvements.

“Feepayer, or feepayer” is a person, collection of persons, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation commencing a land development activity which creates the demand for additional system improvements, and which requires the issuance of a building permit or a permit for a change of use. “feepayer” includes an applicant for an impact fee credit.

“Hearing Examiner” means the office of hearing examiner established by chapter 2.06 TCC who acts on behalf of the board in considering and applying land use regulatory codes on matters assigned to the hearing examiner by the board.
“Impact fee” means a payment of money imposed by Thurston County on development activity pursuant to this title as a condition of granting development approval in order to pay for the public facilities needed to serve new growth and development. “Impact fee” does not include a reasonable permit fee, an application fee, the administrative fee for collecting and handling school impact fees, the cost of reviewing independent fee calculations, or the fee for deferring payment of impact fees.

“Impact fee account” or “account” means the account(s) established for each type of public facility for which impact fees are collected. The Accounts shall be established pursuant to Sections 25.04.100 of this title, and comply with the requirements of RCW 82.02.070.

“Independent fee calculation” means the transportation impact calculation, the school impact calculation, the park impact calculation, and/or economic documentation prepared by a feepayer, to support the assessment of an impact fee other than by the use of the county’s impact fee schedule, or the calculations prepared by the director where none of the fee categories or fee amounts in the county’s impact fee schedule accurately describe or capture the impacts of the new development on public facilities.

“Interest” means the average interest rate earned by Thurston County.

“Occupancy permit” means the permit issued by Thurston County where a development activity results in a change in use of a pre-existing structure.

“Open space” means for the purposes of this title undeveloped public land that is permanently protected from development (except for the development of trails or other passive public access or use).

“Owner” means the owner of record of real property, or a person with an unrestricted written option to purchase property; provided that, if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the real property.

“Parks” means parks, open space, and recreational facilities, including but not limited to land, improvements and any furnishings and equipment that can be capitalized.

“Parks Study” means the Parks and Recreational Facilities Impact Fee Study, March 12, 2012, and as may be amended in the future.

“Project improvements” mean site improvements and facilities that are planned and designed to provide service for a particular development or users of the project, 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 a capital facilities plan adopted by the Board shall be considered a project improvement.
“Public facilities” means the following capital facilities owned or operated by Thurston County or other governmental entities: (1) public streets; and roads; (2) publicly owned parks, open space, and recreational facilities; and (3) public school facilities.

“Residential” or “residential development” means all types of construction intended for human habitation. This shall include, but is not limited to, single-family, duplex, triplex, and other multifamily development.

“School district” when used alone means the Olympia School District, the Rochester School District, the Tenino School District, the Tumwater School District No. 33, and the Yelm Community Schools District No. 2.

“Square footage” means the square footage of the gross floor area of the development.

“System improvements” means public facilities that are included in Thurston County’s capital facilities plan, and such plan as amended, and are designed to provide service to service areas within the community at large, in contrast to project improvements.

“Transportation” means public streets and roads and related appurtenances.

“Transportation Study” means Transportation Impact Fee Program for Thurston County, Washington, April 2012 and as may be amended in the future.

“Use or Use Area” means the portion of property or a building that is physically occupied or used by the land use activity.

Chapter 25.08

IMPACT FEES

Sections:

25.08.010 Transportation impact fees.

25.08.020 Park impact fees.

25.08.030 School impact fees.

25.08.010 - Transportation impact fees.

A. The transportation impact fees in the county impact fee schedule are generated from the formula for calculating impact fees set forth in the Transportation Study. One Copy of the Transportation Study will be kept on file with the Thurston County Public Works Department. Except as otherwise provided in sections 25.04.050 through 25.04.070 TCC, all new development activity shall be charged the transportation impact fees identified in the county impact fee schedule.
B. The transportation impact fees as identified in the county impact fee schedule will be reviewed annually to consider adjustments to the fees to account for system improvement cost increases due to increased costs of labor, construction materials and real property. When necessary, the Board of County Commissioners intends that such review should occur concurrently with the annual review of the county budget and county Capital Facilities Plan.

25.08.020 – Park impact fees.

A. The park impact fees set forth in the county impact fee schedule is generated from the formula for calculating impact fees in the Parks Study, as amended. Except as otherwise provided in Sections 25.04.050 through 25.04.070, all new residential dwelling units in the County will be charged the park impact fee identified in the county impact fee schedule.

B. The park impact fees in the county impact fee schedule will be reviewed annually to consider adjustments to the fees to account for increased costs of labor, construction materials and real property. When necessary, the Board of County Commissioners intends that such review should occur concurrently with the annual review of the county budget and county Capital Facilities.

25.08.030 – School Impact Fees.

For complete building or development permit applications submitted after the effective date of this title, the following shall apply:

A. The school impact fees set forth in the county impact fee schedule are generated from the formula for calculating impact fees set forth in the capital facilities plan of the Olympia School District, as amended, which is incorporated herein by reference. Except as otherwise provided in Sections 25.04.050 through 25.04.070, all new residential developments in the unincorporated area of the Olympia School District will be charged the school impact fee in the county impact fee schedule.

B. The school impact fees set forth in the county impact fee schedule are generated from the formula for calculating impact fees set forth in the capital facilities plan of the Rochester School District, as amended, which is incorporated herein by reference. Except as otherwise provided in Sections 25.04.050 through 25.04.070, all new residential developments in the unincorporated area of the Rochester School District will be charged the school impact fee in the county impact fee schedule.

C. The school impact fees set forth in the county impact fee schedule are generated from the formula for calculating impact fees set forth in the capital facilities plan of the Tenino School District, as amended, which is incorporated herein by reference. Except as
otherwise provided in Sections 25.04.050 through 25.04.070, all new residential developments in the unincorporated area of the Tenino School District will be charged the school impact fee in the county impact fee schedule.

D. The school impact fees set forth in the county impact fee schedule are generated from the formula for calculating impact fees set forth in the capital facilities plan of the Tumwater School District No. 33, as amended, which is incorporated herein by reference. Except as otherwise provided in Sections 25.04.050 through 25.04.070, all new residential developments in the unincorporated area of the Tumwater School District will be charged the school impact fee in the county impact fee schedule.

E. The school impact fees set forth in the county impact fee schedule are generated from the formula for calculating impact fees set forth in the capital facilities plan of the Yelm Community Schools District No. 2, as amended, which is incorporated herein by reference. Except as otherwise provided in Sections 25.04.050 through 25.04.070, all new residential developments in the unincorporated area of the Yelm School District will be charged the school impact fee in the county impact fee schedule.