**ENROLLED ORDINANCE**

*PUBLISHED PURSUANT TO CHAPTER 1 SECTION 4.5 OF THE REVISED ORDINANCES OF THE CITY OF EVERETT AND IN COMPLIANCE WITH MASSACHUSETTS GENERAL LAWS Chapter 43, Section 23.*

ENROLLED: 12/21/2020

DATE OF PROPOSED ORDAINMENT: 1/25/2021

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**CITY COUNCIL …………………………………………………………….No. C0177-20**

IN THE YEAR TWO THOUSAND AND TWENTY

**An Order creating an Affordable Housing Linkage Fee**

/s/Rosa Diflorio, as President

Be it

Ordered: By the City Council of the City of Everett, Massachusetts, as follows:

In accordance with the provisions of Chapter 1 Section 1-5 of the Revised Ordinances of the City of Everett the city council hereby amends the ordinance as follows:

Add the following new Section 4-5 – Affordable Housing Linkage Ordinance

The purpose of this Section is to ensure that new developments within the City of Everett bear a proportional or reasonably related share of the cost of development of new, expanded or redeveloped housing that matches the income of the current and future residents of Everett that are unable to pay market prices for safe and sanitary housing.

The ordinance shall include but not be limited to terms of applicability, calculation of Linkage Fee, Schedule, and Administrative Rules and Regulations.

This Section shall be enacted pursuant to Chapter 356 of the Acts of 2016 authorizing the City of Everett to establish an affordable housing linkage ordinance.

Section 4-5: Linkage Requirements for Affordable Housing

1. Authority

This Section is enacted pursuant to Chapter 356 of the Acts of 2016 authorizing the City of Everett to establish an affordable housing linkage ordinance.

1. Purpose

The purpose of this Section is to ensure that new developments within the City of Everett bear a proportional or reasonably related share of the cost of development of new, expanded or redeveloped housing that matches the income of the current and future residents of Everett that are unable to pay market prices for safe and sanitary housing.

1. Applicability

The following developments shall be subject to the requirements of this Section, with the exception of any municipal buildings or buildings owned or to be owned by the state or federal government.

1. Any new building or structure or addition to existing buildings or structures that results in a one or more new residential dwelling units;
2. Any new non-residential buildings or structures or any addition to existing buildings or structures that will result in a total of gross square footage greater than 15,000 square feet; and
3. Any change of use which results in a net increase in the linkage fee as set forth in Table 1, below.
4. Calculation of Linkage Fee
5. In General.

Linkage fees shall be calculated based upon the linkage fee schedule in effect at the time of submittal of a complete application for a building permit.

1. Determination of Use.

The determination of the applicable land use category in the linkage fee schedule shall be made by the Inspectional Services Director or his or her designee with reference to the City of Everett’s Linkage Fee Analysis, as the same may be revised from time to time by the City Council. Should the proposed development not match precisely the land use types listed within the linkage fee schedule, the Inspectional Services Director shall identify the land use most closely resembling the proposed development and require adherence to the payment requirements established for that closely resembling land use. When a land use classification covers more than one land use type listed in the Linkage Fee Schedule as contained in Table 1, below, the linkage fee shall be determined by reference to the actual or proposed use of the building or structure as determined by the Inspectional Services Director, regardless of how the fee payer would choose to characterize the use for purposes of marketing, land sale registration, permit applications, or any other purpose. When an application is requested for a structure with mixed uses, the Inspectional Services Director shall determine the fee by apportioning the space committed to uses specified on the Linkage Fee Schedule as contained in Table 1, below.

1. Mixed Use Development.

Developments consisting of one or more principal uses as permitted by the Zoning Ordinance shall pay linkage fees according to the Linkage Fee Schedule set forth in Table 1, below, based upon the total number of dwelling units and/or total square footage of the development when all square footage for the land use types for which building permits are sought are combined, provided that no linkage fee shall be required for any development that does not meet or exceed the triggering thresholds set forth in Table 1.

1. Linkage Fee Schedule

**Table 1: Linkage Fee Schedule**

|  |  |  |
| --- | --- | --- |
| **Land Use Type** | **Unit of Measurement** | **Affordable Housing Linkage Fee**  |
| Residential uses  | Per New Dwelling Unit | $1,000  |
| Commercial, Industrial or other nonresidential use greater than 15,000 square feet of gross floor area; and nonresidential redevelopment, including infill development and additions to existing non-residential structures, resulting in total interior area greater than 15,000 square feet of gross floor area  | Per square foot of gross floor area up to 30,000 square feet | $2.00  |
|  | Per square foot of gross floor area above 30,000 square feet up to 60,000 square feet | $3.00 |
|  | Per square foot of gross floor area above 60,000  | $4.00 |

1. Transition Rules

The following modified fees shall apply only to any residential project, for which a site plan approval, special permit or variance has been issued and filed with the City Clerk, but for which no building permit has yet issued for vertical construction, prior to adoption of this ordinance.

Any residential project, which includes at least 15% affordable units (as that term is defined in Section 32 of the Zoning Ordinance), shall not be required to pay any linkage fee hereunder. For any other residential project, the required linkage fee shall be $500 per unit for the project as approved under said site plan approval, special permit or variance.

1. Linkage Fees for Redevelopment or Additions to Existing Structures

The area of existing structures or portions thereof that predate this ordinance shall count toward the thresholds triggering the linkage fee requirement, but shall not be included for purposes of calculating the linkage fee, provided: (a) such existing structures or portions thereof have been actively and lawfully used for at least two years prior to issuance of a building permit for the new structure(s) or addition(s); and (b) no more than 50% of the preexisting structure is demolished in connection with the redevelopment. The area of existing structures constructed subsequent to adoption of this ordinance shall be included in calculation of the required linkage fee, except to the extent that such area was included in the calculation of a linkage fee previously paid pursuant to this ordinance. Development projects may not be segmented into separate applications or lots under common control in order to avoid or reduce the payments required under this ordinance.

1. Annual Adjustment of Linkage Fee

To account for inflation, there shall be an automatic annual increase to the linkage fee schedule set forth in Table 1 every January 1st based on the change in the City Cost Index as published by RS Means using the Average City Cost Index for Boston, Massachusetts. The fee adjustment shall be calculated by dividing the Average City Cost Index for Boston, Massachusetts published for the current year by the index amount published for the year 2020 and multiplying the resulting ratio by each fee amount to arrive at the adjusted linkage fee.

1. Collection of Linkage Fees

No certificate of occupancy required pursuant to the State Building Code or pursuant to any other rule, regulation, ordinance or statute shall be issued until the applicant has paid or provided surety securing the payment of all linkage fees required by this Section. An applicant may choose to pay the required linkage fee over a period of up to seven years; provided, however, that any linkage fee reduced pursuant to the Transition Rules set forth in Section 4-5.04.E must be paid in full within a period of no more than five years; provided further that at least ten percent of any required linkage fee shall be paid prior to issuance of a certificate of occupancy. In such event, the applicant shall enter into a written payment plan, approved by the Chief Financial Officer or his or her designee, and shall secure payment of such fees through one, or in part by one and in part by another, of the methods of surety described in G.L. c.41, §81U, clauses (1) through (4) of the General Laws, or through such other means as the Director of Inspectional Services may approve in his or her discretion and in consultation with the City Solicitor. The linkage fees required hereunder shall constitute a local charge or fee for purposes of G.L. c.40, §§57 and 58.

The record owner of the property to which the linkage fee is assessed at the time a certificate of occupancy is requested shall be responsible for payment in full of the linkage fee. Any outstanding linkage fee balance shall be paid prior to the transfer of the subject property or project (whether through sale, transfer or assignment of stock, assets or otherwise). In the case of a condominium or other project involving for-sale units, the linkage fee shall be paid on a proportional basis prior to the sale of each such unit, subject to the approval of the Chief Financial Officer. Notwithstanding the preceding provisions of this paragraph, any successor(s) in interest shall be jointly and severally responsible for the payment of any unpaid linkage fees.

1. Segregation of Linkage Fees from General Revenue

All funds collected pursuant to this Section shall be deposited into an Affordable Housing Linkage Fee Revolving Fund and invested by the Chief Financial Officer, pursuant to G.L. c.44, §54. This Fund shall be expended under the direction of the Mayor for the construction or rehabilitation of affordable housing within the City of Everett. Annually, on or before July 1, the Mayor shall file a report with the City Council regarding the administration of the Fund; said report to include (1) the current balance in the Fund; (2) any money deposited into the Fund and (3) expenditures from the Fund.

1. Use of Linkage Fees

Linkage fees collected by the City pursuant to this Section may be used only to improve or otherwise increase, the affordable housing stock in the City of Everett whether the same is pursuant to new construction, rehabilitation of existing housing or structures, land acquisition or other means or mechanism, including administrative expenses therefor.

1. Linkage Fees Do Not Substitute for Conditions of Special Permit, Variance or Site Plan Approval(s)

Linkage fees required by this Ordinance shall not substitute or be considered a replacement for any lawful condition imposed by the Planning Board, Board of Appeals, City Council or any other permitting or licensing board, body, official or department.

1. Administrative Rules and Regulations

The City Council is hereby authorized to promulgate rules, regulations and policies governing the administration of this Section.

1. Effective Date

The provisions of this Section shall become effective upon passage by the City Council and subsequent approval by the Mayor and shall apply to any structure or use otherwise required to comply with this Ordinance that has not, prior to the effective date of this Section, received a building permit for said structure or use.

 A true copy attest



 
 Sergio Cornelio, City Clerk