

ORDINANCE NO. 630

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, ADOPTING A DEFERRAL SYSTEM FOR COLLECTIONS OF SCHOOL, TRANSPORTATION, AND PARKS IMPACT FEES; AMENDING CHAPTERS 3.36, 3.39, AND 22.20 OF THE WOODINVILLE MUNICIPAL CODE AND ORDINANCE NOS. 279, 280, AND 527; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE AND SUMMARY PUBLICATION BY ORDINANCE TITLE ONLY.

WHEREAS, impact fees are authorized for those jurisdictions planning under the Growth Management Act and are charges assessed by local governments against new development projects that attempt to recover the cost incurred by government in providing the public facilities required to serve the new development; and

WHEREAS, the City has adopted code provisions governing the assessment and collection of impact fees for parks and recreation, transportation, and schools in Chapters 3.36, 3.39, and 22.20 of the Woodinville Municipal Code; and

WHEREAS, in April 2015, the Legislature enacted Engrossed Senate Bill (ESB) 5923, which amended Revised Code of Washington (RCW) 82.02.050 to require that cities adopt and maintain a deferral program for the collection of impact fees for new single-family detached and attached residential construction; and

WHEREAS, ESB 5923 sets forth specific requirements for the deferral program while also allowing the City certain discretion, including the time for deferral and the collection of an administrative fee; and

WHEREAS, the City seeks to comply with this legislative mandate and establish a deferral program; and

WHEREAS, the City exempts certain development activities from paying traffic impact fees and seeks to amend those provisions to combine similar subsections and to ensure that development activities with a measurable impact are not inadvertently exempted from paying traffic impact fees;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Woodinville Municipal Code (WMC) section 3.36.090 and the corresponding portions of Ordinance No. 279 § 1 are hereby amended to read as follows, with new text shown by underline and deletions of text shown by ~~strikethrough~~; all other provisions of this section shall remain unchanged and in full force:

3.36.090 Impact fee assessment and collection.

(1) City staff shall determine the total impact fee owed at the time of building permit issuance based on the fee schedule in effect at the time of such issuance.

(2) Impact fee collection shall also occur at the time of building permit issuance, unless the applicant applies for the deferred payment of impact fees pursuant to subsection (3) and satisfies all requirements contained therein.

(3) The applicant may request to defer payment of impact fees for single-family residential construction with the following conditions:

(a) In order for an applicant to qualify for the option to defer payment of impact fees, all of the following requirements must be met:

(i) Prior to building permit issuance, the applicant submits a written request to defer payment for specifically identified building permits. The request shall identify the applicable building permit number(s), the applicant's corporate identity, the full name of all legal owners, the tax parcel identification number(s), and the calculated impact fee amount at the time of building permit issuance.

(ii) The legal owners pay an administrative fee as provided by the City's current fee schedule.

(iii) All legal owners of the property sign a deferred impact fee payment lien in a form acceptable to the City and consistent with RCW 82.02.050(3)(c). The lien shall be granted in favor of the City in the amount of the deferred impact fee. The legal owners shall record the lien against the subject property.

(b) Deferred impact fees shall be paid at the time of final inspection, or at the time of the granting of a certificate of occupancy, or within 18 months from the date of building permit issuance, whichever occurs first.

(c) The City shall have the authority to withhold final inspection and to suspend or refuse to issue a certificate of occupancy or equivalent inspection or certification until impact fees have been paid in full.

(d) In the event that deferred impact fees are not paid within 18 months from the date of building permit issuance, the City may institute foreclosure proceedings under the process set forth in Chapter 61.12 RCW.

(e) The option for deferred payment is limited to the first 20 single-family residential building permits per calendar year per applicant, in accordance with a contractor registration number or other unique identification number.

(f) For the purposes of this section, an "applicant" includes an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant.

Section 2. WMC section 3.39.050 and the corresponding portions of Ordinance No. 527 § 1 are hereby amended to read as follows; all other provisions of this section shall remain unchanged and in full force:

3.39.050 Exemptions.

The following development activities are exempt from paying transportation 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.

(1) Existing Dwelling Unit. Any alteration, expansion, reconstruction, remodeling or replacement of existing single-family or multifamily dwelling units that does not result in the creation of additional dwelling units.

(2) Development activities for retail, commercial, and industrial buildings if all the listed conditions below are met:

(a) The proposed development does not add to the footprint, internal floor area, floors and/or mezzanines to (size) of the existing building.

~~(b) The proposed development does not add any internal floor area, floors and/or mezzanines to the existing building.~~

~~(c) The proposed development does not further increase the number of require the construction of new parking stalls required under to meet the requirements of Chapter 21.18 WMC.~~

~~(c)(d) The proposed development is an internal alteration/tenant improvement of an existing building.~~

Section 3. WMC section 3.39.090 and the corresponding portions of Ordinance No. 527 § 1 are hereby amended to read as follows; all other provisions of this section shall remain unchanged and in full force:

3.39.090 Impact fee determination and collection.

(1) 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. ~~(2) Impact fee collection shall also occur at the time of building permit issuance, unless the applicant applies for the deferred payment of impact fees pursuant to subsection (2) and satisfies all requirements contained therein.~~

(2) The applicant may request to defer payment of impact fees for single-family residential construction with the following conditions:

(a) In order for an applicant to qualify for the option to defer payment of impact fees, all of the following requirements must be met:

(i) Prior to building permit issuance, the applicant submits a written request to defer payment for specifically identified building permits. The request shall identify the applicable building permit number(s), the applicant's corporate identity, the full name of all legal owners, the tax parcel identification number(s), and the calculated impact fee amount at the time of building permit issuance.

(ii) The legal owners pay an administrative fee as provided by the City's current fee schedule.

(iii) All legal owners of the property sign a deferred impact fee payment lien in a form acceptable to the City and consistent with RCW 82.02.050(3)(c). The lien shall be granted in favor of the City in the amount of the deferred impact fee. The legal owners shall record the lien against the subject property.

(b) Deferred impact fees shall be paid at the time of final inspection, or at the time of the granting of a certificate of occupancy, or within 18 months from the date of building permit issuance, whichever occurs first.

(c) The City shall have the authority to withhold final inspection and to suspend or refuse to issue a certificate of occupancy or equivalent inspection or certification until impact fees have been paid in full.

(d) In the event that deferred impact fees are not paid within 18 months from the date of building permit issuance, the City may institute foreclosure proceedings under the process set forth in Chapter 61.12 RCW.

(e) The option for deferred payment is limited to the first 20 single-family residential building permits per year per applicant, in accordance with a contractor registration number or other unique identification number.

(f) For the purposes of this section, an "applicant" includes an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant.

(3) 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.

(4) The City shall use as a basis to predict the amount of new average daily trips created by any proposed development the current edition of the publication titled "Trip Generation, an ITE Informational Report" published by the Institute of Transportation Engineers, or other factual basis accepted by the Public Works Director.

(5) This impact fee owed for a development shall be determined by multiplying the number of predicted new average daily trips by the impact fee amount per average daily trip as computed in WMC 3.39.085.

(6) If the predicted number of average daily trips for a property is less than the existing number of average daily trips from the existing uses on the same property as a result of the proposed development, transportation impact fees will not be assessed by the City. The highest number of predicted average daily trips from a previous use of the site since 2005 will be used as a basis for number of existing average daily trips generated by that property.

(7) The number of average daily trips remains with the property or lot and cannot be moved, traded, bought, sold, or transferred to another property within the City.

Section 4. WMC section 22.20.110 and the corresponding portions of Ordinance No. 280 § 12 are hereby amended to read as follows, with alterations of Ordinance No. 280 expressed in WMC 22.20.110 indicated in brackets; all other provisions of this section shall remain unchanged and in full force:

22.20.110 Imposition of impact fees.

(1) Impact fees shall be imposed upon development activity in the City, based upon the schedule set forth in Attachment A, and shall be collected by the District on behalf of the City from any applicant where such development activity requires final plat approval, or issuance of a residential building permit or a mobile home permit and the fee for the lot or unit has not been previously paid.

(2) At the time of application for development activity, an applicant will be notified of the requirement to pay school impact fees to the District based on the fee schedule adopted by the City as a part of the impact fee program. Upon receipt of the impact fee payments, the District shall issue a certificate to the applicant indicating that the school impact fees have been paid. Prior to approving or permitting any development activities subject to the impact fees adopted pursuant to this [chapter], the City shall require that the applicant provide to the City the original of the certificate issued by the District. The District shall develop standardized forms for this purpose, showing that impact fees have been paid to the District, and that the City may proceed to issue the permit or grant the necessary approval. Impact fees may be paid to the District under protest pursuant to the procedures set forth in [WMC 22.20.120(9)].

(3) For a plat applied for on or after the effective date of the ordinance [codified in this chapter], fifty percent (50%) of the impact fees due on the plat shall be imposed and collected from the applicant at the time of final approval, using the impact fee schedule in effect when the plat was approved. The balance of the fee shall be allocated to the dwelling units in the project, and shall be collected when the building permits are issued. At the time of final approval, the applicant shall be required to place a covenant on the face of the recorded plat and include in the deed for each affected lot within the plat the requirement to pay the balance of the fee when the building permit is issued. Residential developments proposed for short plats shall not be governed by this subsection, but shall be governed by subsection [(5) of this section].

(4) If on the effective date of the ordinance [codified in this chapter], a plat has already received preliminary approval, such plat shall not be required to pay 50 percent of the impact fees at the time of final approval, but the impact fees shall be imposed by the City and collected by the district on behalf of the City from the lot owner at the time the building permit is issued, using the impact fee schedules then in effect. If on the effective date of the ordinance codified in this chapter, an applicant has applied for preliminary plat approval, but has not yet received such approval, the applicant shall follow the procedures set forth in subsection [(3) of this section].

(5) For existing lots or lots not covered by subsection [(3) of this section], application for single-family and multi-family residential building permits, mobile home permits, and site plan approval for mobile home parks proposed, the total amount of the impact fees shall be imposed by the City

and collected by the District on behalf of the City from the applicant when the building permit is issued, using the impact fee schedules then in effect.

(6) The City shall not grant final plat approval nor issue the required building permit or mobile home permit nor grant the required site plan approval for a mobile home park unless and until the impact fees set forth in the impact fee schedule have been paid.

(7) Any application for preliminary plat approval or multi-family development which has been approved subject to conditions requiring the payment of impact fees established pursuant to this [chapter] shall be required to pay the fee in accordance with the conditions of approval.

(8) When school impact fees are imposed, an applicant may request to defer payment of school impact fees for single-family residential construction pursuant to the same procedures and requirements applicable to park impact fees and traffic impact fees as established in Sections 1 and 3 of this ordinance.

Section 5. Severability. Should any section, paragraph, sentence, clause, or phrase of this Ordinance be held 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, or phrase of this Ordinance.

Section 6. Effective date. This Ordinance shall take effect thirty (30) days after its passage and publication as required by law; *provided*, that Sections 1, 3, and 4 of this Ordinance shall take effect on September 1, 2016. The City Clerk is directed to publish a summary of this ordinance at the earliest possible publication date by publication of the ordinance title.

**ADOPTED BY THE CITY COUNCIL AND SIGNED IN AUTHENTICATION OF ITS
PASSAGE THIS 19TH DAY OF JULY, 2016.**



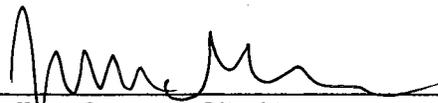
Bernard W. Talmas, Mayor

ATTEST/AUTHENTICATED:



Jennifer Kuhn, City Clerk/CMC

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY



Jeffrey Ganson, City Attorney

PASSED BY THE CITY COUNCIL: 7-19-2016
PUBLISHED: 7-25-2016
EFFECTIVE DATE: 9-1-2016
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