

MONROE PLANNING COMMISSION
Agenda Item Cover Sheet

TITLE:	Public Hearing: Code Amendment - Impact Fee Deferral
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DATE:		CONTACT:	PRESENTER:	ITEM:
06/13/2016		David Osaki	David Osaki	Public Hearing

Discussion: 03/14/2016

Public Hearing: 06/13/2016

- Attachments:**
1. Draft Ordinance
 2. Engrossed Senate Bill 5923
 3. Monroe Public School Letter July 20, 2015
 4. Monroe Public School Letter April 7, 2016
 5. Stakeholder Summary Input (From March 1, 2016)
 6. Draft Planning Commission Findings and Conclusions

DESCRIPTION/BACKGROUND

ESB 5923 (see Attachment 2) requires counties, cities, and towns to adopt an impact fee deferral system for the collection of impact fees for new single-family detached and attached residential construction. The Monroe Municipal Code (MMC) currently authorizes the City to collect impact fees for transportation (MMC Chapter 20.12), parks (MMC Chapter 20.10), and schools (MMC Chapter 20.07). The deadline to adopt and implement a single family impact fee deferral program is September 1, 2016.

Under the new law, counties, cities, and towns must adopt an impact fee deferral system for the collection of impact fees that, upon developer request, delays payment until the time of either:

1. Final inspection;
2. Issuance of the certificate of occupancy or equivalent certification; and/or
3. The closing of the first sale of the property.

(NOTE: An applicant could, if he/she wishes, still pay impact fees at the time of or prior to building permit issuance.)

In the City of Monroe, Item 1 above (final inspection) and Item 2 (issuance of the certificate of occupancy) above occur at the same time for single family dwellings. From a practical standpoint, this means that the two options available to the City essentially are:

1. Time of final inspection (this is when the City does an inspection of the single family dwelling and approves the dwelling for occupancy); and/or
2. Time of closing of the first sale of the property.

The new State law requires that an applicant seeking an impact fee deferral grant and record a lien against the property, in the amount of the deferred impact fees, in favor of the municipality. Deferrals may not, however, exceed 18 months from the date of building permit issuance.

The new State law limits the number of annual deferrals for an applicant to 20; although the local government has the option of allowing for a higher amount. The City will need to consider whether to include code language that allows an applicant to obtain annual deferrals in excess of 20.

With regards to the number of deferrals, the legislation states that a local government must consult with school districts about additional deferrals, if there is a desire to go over 20. "Substantial weight" must be given to the recommendation of school districts regarding the number of additional deferrals. Further, if the county, city, or town disagrees with the recommendations of one or more school districts, the county, city, or town must provide the district or districts with a written rationale for its decision

Attachment 3 and **Attachment 4** include a July 2015 letter and an April 2016 letter respectively from the Monroe School District on the impact fee deferral legislation. The Monroe School District requests that the number of deferrals be limited to 20 annually.

Attachment 5 summarizes stakeholder outreach information that was conducted earlier this year and which was included in the City Council's March 1, 2016 meeting packet. Verbal comments from the Snohomish School District are also summarized in the Attachment 5. The Snohomish School District expressed a desire to see the number of annual deferrals per applicant to be capped at 20.

Provisions of the new impact fee deferral law include:

- The term of deferral may not exceed 18 months from the date of issuance of the building permit.
- The amount of impact fees that may be deferred is determined by the fees in effect at the time the applicant applies for a deferral.
- Deferral of impact fees can be limited to the first 20 single-family residential building permits, annually, per applicant.
- An applicant seeking a deferral must grant and record a lien against the property in favor of the municipality in the amount of the deferred impact fee.
- Municipalities may collect reasonable administrative fees from applicants seeking a deferral.
- To limit the "spin-off LLC" issue, "applicant" is defined to include "an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant."
- Municipalities and school districts are authorized to institute foreclosure proceedings if impact fees are not paid.
- The City must provide data to the Washington State Department of Commerce for an annual report, beginning December 1, 2018, on the payment and collection of impact fees.

OTHER INFORMATION

Staff reached out to adjacent communities earlier this year. The City of Marysville has implemented a deferral program since at least 2012. Marysville ties its fee deferral program to final inspection (for single family dwellings).

Snohomish County did implement a deferral program during the Great Recession; however, that program sunset in 2012. The County's program deferred fee payment to closing. Only four homes utilized the program during the 3-4 years the deferral program was in effect.

The State legislation provides that local governments may collect reasonable administrative fees to cover costs of implementing the impact fee deferral program. This would be set in the City's fee resolution when the impact fee deferral ordinance is passed. To-date, administrative fees imposed elsewhere are in the \$200-\$250 range per deferral.

DRAFT ORDINANCE

Attachment 1 is the proposed Ordinance being considered for the June 13, 2016 Planning Commission public hearing. Key elements of the proposed ordinance include:

- Impact fees may be deferred to the time of final inspection, or 18 months, whichever is sooner;
- An applicant may have up to 20 annual (calendar year) impact fee deferrals.
- A reasonable administrative fee is authorized.

RECOMMENDED ACTION

1. Hold public hearing.
2. Close public testimony portion of the public hearing.
3. Discuss proposed amendment.
4. If desired, motion to adopt facts and findings (*Attachment 6*) and recommend to the City Council the adoption of the attached ordinance (*Attachment 1*) amending Monroe Municipal Code Chapters 20.07, 20.10 and 20.12.