

**CITY OF MONROE
ORDINANCE NO. 011/2016**

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON, IMPLEMENTING THE REQUIREMENTS OF ENGROSSED SENATE BILL (ESB) 5923 BY AMENDING SECTIONS 20.07.150, 20.10.100 AND 20.12.110 OF THE MONROE MUNICIPAL CODE RELATED TO AN IMPACT FEE DEFERRAL PROGRAM FOR SINGLE FAMILY DETACHED AND SINGLE FAMILY ATTACHED DWELLING UNITS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, in 2015 the Washington state legislature passed and the Governor signed into law Engrossed Senate Bill (ESB) 5923 related to impact fee deferral systems; and

WHEREAS, ESB 5923 requires local governments that collect impact fees to provide an impact fee deferral system for the collection of impact fees for new single family detached and attached residential construction by September 1, 2016; and

WHEREAS, the City of Monroe collects impact fees in accordance with Chapter 82.02 RCW; and

WHEREAS, Monroe Municipal Code (MMC) subsection 21.20.040(B) requires that amendments to the subdivision code, zoning code, and environmental code (MMC Titles 17 through 20) require Planning Commission review and recommendation; and

WHEREAS, the City of Monroe Planning Commission held a duly noticed public hearing on June 13, 2016, to accept public testimony on the proposed code amendment; and

WHEREAS, on June 13, 2016, the Planning Commission adopted facts and findings and made its recommendation to the City Council; and

WHEREAS, on July 12, 2016, the Monroe City Council considered the recommendation of the Planning Commission.

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

Section 1. Amendment of MMC 20.07.150. Section 20.07.150 of the Monroe Municipal Code is hereby amended as follows:

20.07.150 Collection and transfer of fees.

A. Except as provided in MMC subsection 20.07.150(B), [S]school impact fees shall be due and payable to the city by the developer at the time of issuance of residential building permits for all development activities.

B. Deferral of Impact Fee Payment

1. For single-family detached or attached single family residential dwelling units only, impact fee payments may be deferred to final inspection or up to 18 months from the date of issuance of the building permit, whichever occurs first. Deferral shall only be allowed when, prior to issuance of the building permit, the applicant:

a. Submits a deferred impact fee application form for the property which the applicant is requesting deferral of the impact fee payment; and,

b. Grants and records a deferred impact fee lien against the property in favor of the city of Monroe in a form as approved by the city. The content, form and procedure for the lien shall also be in accordance with RCW 82.02.050. Recording and release of the deferred impact fee lien shall be at the expense of the applicant.

Applications for an impact fee deferral shall be accompanied by payment of an administrative fee as provided for in the city's adopted fee resolution.

2. Each applicant for a single-family residential construction permit is entitled to annually receive (per calendar year) deferral for only the first twenty single-family residential construction building permits. For the purposes of this subsection, an "applicant" includes an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant.

3. The city shall withhold approval of final inspection until the deferred impact fees are paid and collected. For the purposes of this section, "final inspection" shall mean the city's signed approval of the final inspection for Occupancy on the job card.

[B]C. The affected school district, to receive school impact fees collected by the city, shall establish an interest-bearing account separate from all other school district accounts. The city shall deposit school impact fees in the appropriate district account within ten days after receipt, and shall contemporaneously provide the receiving district with a notice of deposit.

[C]D. The affected school district shall institute a procedure for the disposition of impact fees and provide for an annual reporting to the city that demonstrates compliance with the requirements of MMC 20.07.160 and RCW 82.02.070, and other applicable laws.

Section 2. Amendment of MMC 20.10.110. Section 20.10.110 of the Monroe Municipal Code is hereby amended as follows:

20.10.110 Payment of fee.

A. Impact fees shall be imposed upon development activity in the city, based upon the schedule set forth in this chapter, and shall be collected by the city from any applicant where such development activity requires final plat, PRD approval, issuance of a residential building permit or a mobile home permit and the fee for the lot or unit has not been previously paid.

B. For a plat or PRD applied for on or after the effective date of the ordinance codified in this chapter, the impact fees due on the plat or the PRD shall be assessed and collected from the applicant at the time of final approval, using the impact fee schedule in effect when the plat or PRD was approved; provided, that the applicants may opt to:

1. ~~[H]Have~~ impact fees allocated to the lots or dwelling units in the project and collected when the building permits are issued; or,
2. For single family attached and detached units only, the impact fee payment may be deferred and collected in accordance with MMC 20.10.110(C).

Where the applicant exercises ~~[this latter]~~the option for collection of impact fees at the time of building permit or deferral, the fees to be collected shall be those in effect at the time building permits are issued. Residential development proposed for short plats shall not be governed by this section, but shall be governed by subsection ~~([D])~~(E) of this section.

C. Deferral of Impact Fee Payment.

1. For single-family detached or attached single family residential dwelling units only, impact fee payments may be deferred to final inspection or up to 18 months from the date of issuance of the building permit, whichever occurs first. Deferral shall only be allowed when, prior to issuance of the building permit, the applicant:

a. Submits a deferred impact fee application form for the property which the applicant is requesting deferral of the impact fee payment; and,

b. Grants and records a deferred impact fee lien against the property in favor of the city of Monroe in a form as approved by the city. The content, form and procedure for the lien shall also be in accordance with RCW 82.02.050. Recording and release of the deferred impact fee lien shall be at the expense of the applicant.

Applications for an impact fee deferral shall be accompanied by payment of an administrative fee as provided for in the city's adopted fee resolution.

2. Each applicant for a single-family residential construction permit is entitled to annually receive (per calendar year) deferral for only the first twenty single-family residential construction building permits. For the purposes of this subsection, an "applicant" includes an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant.

3. The City shall withhold approval of final inspection until the deferred impact fees are paid and collected. For the purposes of this section, "final inspection" shall mean the City's signed approval of the final inspection for Occupancy on the job card.

[G]D. If, on the effective date of the ordinance codified in this chapter, a plat or PRD has already received preliminary approval and is not otherwise exempt from the payment of impact fees under MMC 20.10.160, such plat or PRD shall not be required to pay the impact fees at the time of final approval, but the impact fees shall be allocated to the lots or dwelling units and assessed and collected from the lot or unit owner at the time the building permits are issued **or deferred in accordance with MMC subsection 20.10.110(C)**, using the impact fee schedule then in effect. If, on the effective date of the ordinance codified in this chapter, an applicant has applied for preliminary plat or PRD approval, but has not yet received such approval, the applicant shall follow the procedures set forth in subsection (B) of this section.

[D]E. For existing lots or lots not covered by subsection (B) of this section, application for single-family and multifamily residential building permits, mobile home permits, and site plan approval for mobile home parks proposed, the total amount of the impact fees shall be assessed and collected from the applicant when the building permit is issued **or deferred in accordance with MMC subsection 20.10.110(C)**, using the impact fee schedules then in effect.

[E]F. Any application for preliminary plat or PRD approval 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.

~~[F. ARRANGEMENT MAY BE MADE FOR LATER PAYMENT OF THE IMPACT FEE WITH THE APPROVAL OF THE CITY ONLY IF THE CITY DETERMINES THAT IT WILL BE UNABLE TO USE OR WILL NOT NEED THE PAYMENT UNTIL A LATER TIME; PROVIDED, THAT SUFFICIENT SECURITY, AS DEFINED BY THE CITY, IS PROVIDED TO ASSURE PAYMENT. SECURITY SHALL BE MADE TO AND HELD BY THE CITY, WHICH WILL BE RESPONSIBLE FOR TRACKING AND DOCUMENTING THE SECURITY INTEREST.]~~

Section 3. Amendment of MMC 20.12.110. Subsection 20.12.100 of the Monroe Municipal Code is hereby amended as follows:

20.12.110 Time of payment.

A. **Except as provided for in MMC subsection 20.12.110(B), [i]impact fees shall be calculated and assessed for each development activity at the time of building permit issuance for each unit within the development, pursuant to the impact fee rates then in effect; provided, that if no building permit is required for the development activity in question, impact fees shall be calculated and assessed for each development activity at the time an occupancy permit or other permit authorizing the underlying use is issued.**

B. Deferral of Impact Fee Payment.

1. For single-family detached or attached single family residential dwelling units only, impact fee payments may be deferred to final inspection or up to 18 months from the date of issuance of the building permit, whichever occurs first. Deferral shall only be allowed when, prior to issuance of the building permit, the applicant:

a. Submits a deferred impact fee application form for the property which the applicant is requesting deferral of the impact fee payment.

b. Grants and records a deferred impact fee lien against the property in favor of the city of Monroe in a form as approved by the city. The content, form and procedure for the lien shall also be in accordance with RCW 82.02.050. Recording and release of the deferred impact fee lien shall be at the expense of the applicant.

Applications for an impact fee deferral shall be accompanied by payment of an administrative fee as provided for in the city's adopted fee resolution.

2. Each applicant for a single-family residential construction permit is entitled to annually receive (per calendar year) deferral for only the first twenty single-family residential construction building permits. For the purposes of this subsection, an "applicant" includes an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant.

3. The city shall withhold approval of final inspection until the deferred impact fees are paid and collected. For the purposes of this section, "final inspection" shall mean the city's signed approval of the final inspection for Occupancy on the job card.

[B]C. Applicants who have been awarded credits pursuant to MMC 20.12.060 shall prior to building permit issuance submit a copy of the statement prepared by the city engineer setting forth the monetary value of the credit awarded. Impact fees, as determined after the application of appropriate credits, shall be collected from the applicant at the time the building permit is issued for each unit in the proposed development.

[C]D. Except as provided for in MMC subsection 20.12.110(B), [F]the city shall not issue a building, occupancy or other use permit unless and until the impact fees required pursuant to this chapter have been paid.


Section 4. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by State or federal law or regulation, such decision or pre-emption shall not affect the validity or enforceability of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 5. Effective Date. This ordinance shall be in full force and effect five (5) days from and after its passage and approval and publication as required by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 19 day of July, 2016.

First Reading: July 12, 2016
Adoption: July 19, 2016
Published: July 26, 2016
Effective: July 31, 2016

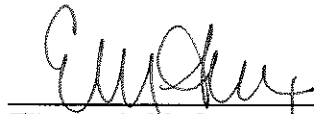
CITY OF MONROE, WASHINGTON:



Geoffrey Thomas, Mayor

(SEAL)

ATTEST:



Elizabeth M. Smoot, MMC, City Clerk

APPROVED AS TO FORM:



J. Zachary Lell, City Attorney