

July 5, 2016

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Ordinance amending Bellevue City Code Chapters 22.16 (Transportation Impact Fee Program) and 22.18 (School Impact Fees for Issaquah School District No. 411 and Renton School District No. 403) to provide an option for deferral of payment of impact fees for single family attached and detached residential construction and make other necessary amendments for clarity and consistency with Chapter 82.02 of the Revised Code of Washington (RCW); adopting a new Chapter 22.19 (Option for Deferred Payment of Impact Fees) to the Bellevue City Code to establish the process for optional deferral of payment of impact fees for single family attached and detached residential construction; and establishing an effective date.

FISCAL IMPACT

Transportation impact fee revenues are included in the adopted 2015-2021 Capital Investment Program (CIP) Plan, with projections based on the total amount of land use growth projected in the City through the CIP Plan period and the adopted fee rate schedule.

New state law, described and analyzed further below, requires all cities imposing impact fees to adopt a system by September 1, 2016, for the deferred collection of impact fees for single-family residential uses. Once a deferral system is implemented and eligible developments defer fee payments, there will be a fiscal impact to the City in the form of delayed cash flow. Projections for new single family development in Bellevue are very limited, less than ten new units per year, so the impact of deferral will also be limited. The law does allow the City to collect a reasonable and appropriate administrative fee from applicants that seek deferral to support costs associated with processing, tracking, and monitoring deferred payments.

All school impact fee revenues collected by the City are allocated to the applicable school district.

STAFF CONTACTS

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City Attorney's Office

Gregg Schrader, Building Official/Division Director, 452-6451

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Dave Berg, Director, 452-6468

Eric Miller, Capital Programming Division Manager, 452-6146

Transportation Department

POLICY CONSIDERATION

Should the City Council adopt an Ordinance amending Chapters 22.16 and 22.18 of the Bellevue City Code (BCC) and adopting a new Chapter 22.19 BCC to allow for the option for deferred collection of

impact fees for single family attached and detached residential construction and make other necessary amendments consistent with state law?

DIRECTION NEEDED FROM COUNCIL

- Action
- Discussion
- Information

BACKGROUND

In 2015, City staff conducted a review of the Transportation Impact Fee Program associated with the update of the City’s 2016-2027 Transportation Facilities Plan. The 2015 process resulted in the Council’s adoption of an updated Transportation Impact Fee Schedule in December (Ordinance No. 6266-D). During the process, Council was informed that staff would need to return in 2016 to address changes in state law affecting impact fees collected by the City.

New State Impact Fee Legislation

In May 2015, the state passed into law Engrossed Senate Bill 5923, amending RCW 82.02, which will require that cities, counties and towns collecting impact fees must, by September 1, 2016, adopt a system for the deferred collection of impact fees for single family detached and attached residential construction. The deferral system offered must include one or more of the following options, though the term of an impact fee deferral may not exceed eighteen months:

- a) Deferring collection of the fee payment until final inspection;
- b) Deferring collection of the fee payment until certificate of occupancy or equivalent certification;
- or,
- c) Deferring collection of the fee payment until the time of closing of the first sale of the property occurring after the issuance of the applicable building permit.

The new law also provides that an applicant seeking a deferral must grant and record a deferred impact fee lien against the property in favor of the City. The lien must be junior and subordinate to one mortgage for the purpose of construction upon the same property. If fees are not paid in accordance with the authorized deferral, the City may institute foreclosure proceedings. Finally, the law also provides that the City may collect reasonable administrative fees to implement the payment deferral system.

June 20, 2016 City Council Meeting

At the June 20, 2016 City Council meeting, Council directed staff to return with an Ordinance to adopt a process to implement the state mandated impact fee deferral option for single family attached and detached residential construction, deferring collection of the fee until final inspection, and making other necessary amendments for consistency with state law.

Response to City Council Questions

At the June 20, 2016 meeting, Council requested additional information on the following:

1. Exemption or Reduction in Impact fees for Affordable Housing Proposals.

Under BCC 22.16.070(B)(2) and BCC 22.18.060(A)(7), any development, or any portion of a development, used for affordable housing is exempt from paying impact fees, provided that the

developer has either signed an agreement or recorded a covenant that any units granted an exemption under this section shall remain affordable for the life of the project. Affordable housing includes all categories of affordable housing as defined in Bellevue Land Use Code (LUC) 20.50.010.

2. Enforcement of Failure to Pay Impact Fees at Time of Final Inspection.

Under the proposed Ordinance, deferred impact fees would be due at the time of final inspection, or 18 months after building permit issuance, whichever occurs first. The building permit will be conditioned to stipulate the deadlines for payment and the consequences of non-payment. In addition to foreclosing on the lien, the Building Official may issue a stop work order (SWO) for failure to pay fees at final inspection or 18 months after permit issuance. The SWO would force the contractor to halt all construction and would prevent legal occupancy of the structure until the fees have been paid and the stop-work order lifted.

EFFECTIVE DATE

If approved, this Ordinance becomes effective on July 15, 2016.

OPTIONS

1. Adopt Ordinance amending Bellevue City Code Chapters 22.16 (Transportation Impact Fee Program) and 22.18 (School Impact Fees for Issaquah School District No. 411 and Renton School District No. 403) and adopting a new Chapter 22.19 (Option for Deferred Payment of Impact Fees) to comply with and improve consistency with recent amendments to the Revised Code of Washington (RCW 82.02).
2. Do not adopt Ordinance and provide other direction to staff.

RECOMMENDATION

Option 1.

MOTION

Move to adopt Ordinance No. 6298 amending Bellevue City Code Chapters 22.16 (Transportation Impact Fee Program) and 22.18 (School Impact Fees for Issaquah School District No. 411 and Renton School District No. 403) to provide an option for deferral of payment of impact fees for single family attached and detached residential construction and make other necessary amendments for clarity and consistency with Chapter 82.02 of the Revised Code of Washington (RCW); adopting a new Chapter 22.19 (Option for Deferred Payment of Impact Fees) to the Bellevue City Code to establish the process for optional deferral of payment of impact fees for single family attached and detached residential construction; and establishing an effective date.

ATTACHMENTS

Proposed Ordinance No. 6298
Ordinance No. 6298 - Redlined