

June 20, 2016

CITY COUNCIL STUDY SESSION ITEM

SUBJECT

Proposed amendments to 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 adoption of 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).

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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. If the option to defer fee payment is made available to additional uses (e.g. multifamily or commercial development) the delayed cash flow impact may be greater (analysis of this potential is provided in the Background Section below). 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.

POLICY CONSIDERATIONS

State Law

RCW 82.02, amended in 2015, requires that counties, cities, and towns collecting impact fees must, by September 1, 2016, adopt and maintain a system for the deferred collection of impact fees for single family detached and attached residential construction.

Bellevue City Code

BCC 22.16 and 22.18 currently require the payment of impact fees, for transportation and school impacts respectively, for all affected land use development prior to the issuance of a building permit, or other development approval if a building permit is not required.

School impact fees for portions of the Issaquah and Renton School Districts located within the City of Bellevue's limits are only collected for developments that include residential dwelling units, single or multifamily. Both districts have indicated that they have no interest in allowing for the deferred payment of the impact fees for uses above and beyond what is required by the amended RCW 82.02, single family residential.

Transportation impact fees in the City of Bellevue are collected on any development in the service area, except a development or portion thereof specifically exempt (BCC 22.16.070). A key policy consideration involves whether the City should provide the option to defer payment of transportation impact fees for developments other than required by state law (e.g. multifamily residential and/or commercial development).

DIRECTION NEEDED FROM COUNCIL

<u> </u>	Action
<u> X </u>	Discussion
<u> X </u>	Information

Council direction is being sought to return to a future Regular Session (by August 1, 2016) with legislation to amend BCC Chapters 22.16 and 22.18, and to create a new Chapter 22.19 to comply with and/or be consistent with recent changes to state law requiring a system for the deferred payment of impact fees for certain uses and to make any other program modifications as directed by Council.

BACKGROUND/ANALYSIS

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.

Current Bellevue City Code

Chapter 22.16 of the Bellevue City Code (BCC) constitutes the City's Transportation Impact Fee Program. BCC Chapter 22.18 constitutes the legal mechanism for the City's collection of school impact fees on behalf of the Issaquah and Renton School Districts. Both BCC Chapters are enacted pursuant to RCW Chapter 82.02. Each school district boundary overlaps with a portion of the incorporated boundaries of the City of Bellevue.

Payment of transportation impact fees and school district impact fees (where applicable in the City) for all affected development in Bellevue is currently and has historically been required at the time of building permit issuance.

Recommended Code Changes

Staff recommends that Council adopt amendments to BCC Chapters 22.16 and 22.18, and adopt a new Chapter 22.19 to the BCC consistent with the redlining of the relevant Code sections and subsections included in the attachment to this memo.

Deferral System Applicability

Staff recommends that the impact fee deferral collection system adopted by the City only apply to the single family detached and attached permits, as required by the state legislation. This topic has been raised by and discussed with the Council for several years before the state passed legislation requiring a deferral system for certain uses. The rationale for the current recommendation is discussed below.

The option for agencies to voluntarily allow the deferred collection of impact fees has always been available under the law. The concept of requiring the option primarily arose out of an interest in promoting economic recovery during the "Great Recession." The pros of offering the deferral option include the benefits to a developer's cash flow – shifting the fee payment burden closer to the time when profits are realized – and the fact that the payment can be made closer to the time the impact of the development affects the transportation and school systems.

The cons of a deferral system primarily affect the administering agency, though one affects both the agency and the developer. The law requires the applicant for a deferral to grant and record a lien for the amount of the deferred fee in favor of the agency. The lien must be junior or secondary to a mortgage lien for the construction cost of the project. Other cons include the increased administrative process and costs of the deferral system, and maybe most importantly, the negative impact to an agency's or school district's cash flow. It becomes more difficult for the agency and/or school district to provide the roadway or school capacity in time to serve the new growth.

At Council's previous request, in late 2015, staff evaluated the potential cash flow impacts to CIP revenue that could occur if a new transportation impact fee payment deferral system were to be voluntarily expanded to include all residential development (multifamily in addition to the required single family) or to all types of development (commercial office, retail, etc.). The

potential revenue impact of these scenarios is shown in the chart below. As a starting point, the total projected impact fee revenue included within the adopted 2015-2021 CIP is \$48.8 million.

Revenue Projection and Variance (\$ in Millions, inflated)	2015-2021 Projection	Variance
Adopted Policy	\$48.8	N/A
Delay Collection of All Residential Fees	\$46.1	\$2.6
Delay Collection of All Fees	\$36.9	\$11.9

Each of the deferral scenarios results in lowered projected impact fee revenue, due to the delayed collection of fees outside of the current seven year CIP, and would require rebalancing of the CIP. Options to rebalance the CIP would be to reduce project spending, or to replace the lost impact fee revenue with some other funding source. Unless the replacement funding source is generated by new development, the effect could be to divert additional general government revenue sources to meet the needs of growth and development.

Deferred Impact Fee Payment Trigger

Staff recommends that of the three options for triggering payment of the deferred impact fee, (a) time of final inspection, (b) issuance of a certificate of occupancy, or (c) time of closing of the first sale of the property after issuance of the building permit, the trigger should be (a), at time of final inspection. A final inspection is a requirement that is both applicable to single family development and an event that City staff can track and must act upon. There is no certificate of occupancy required/issued for single family development, and the closing of property transactions is typically not an event that the City must be informed of.

Reasonable Administrative Fee

Staff recommends the initial establishment of a \$100.00 administrative fee per building permit for which an impact fee deferral is requested. Development Services Department (DSD) staff analyzed and estimated the time and level of effort that would be required to process and administer an application for deferred impact fee payment. This fee amount will be re-evaluated prior to the 2017 update of the DSD Fee Schedule, effective January 1, 2018.

Other Updates to the BCC Chapters to Achieve Greater Consistency with State Law

The draft City legislation also proposes to amend City Code to be consistent with state law regarding consideration of independent traffic studies (RCW 82.02.060) and expenditure or encumbrance of all impact fees within ten years of collection – changed in state Code from six years in 2011 (RCW 82.02.070). Current City Code, both Chapters 22.16 and 22.18, continue to require refund of unspent, unencumbered fees within six years of collection.

ATTACHMENTS

Proposed Amendments to Chapters 22.16 and 22.18 of the Bellevue City Code and a Proposed New Chapter 22.19