

City of Monroe
806 West Main Street, Monroe, WA 98272
Phone (360) 794-7400 Fax (360) 794-4007
www.monroewa.gov

Planning Commission Agenda

Monday, June 13, 2016 7:00 p.m. Council Chambers

CALL TO ORDER

ROLL CALL

Chairman Kristiansen
Commissioner Bull
Commissioner Duerksen
Commissioner Jensen
Commissioner Stanger
Commissioner Tuttle

COMMENTS FROM CITIZENS

Members of the audience may comment on any city matter that is not listed on the agenda. Comments by individuals are limited to five (5) minutes. The Commission usually does not respond to matters brought up during audience participation and may, if appropriate, address the matter at a subsequent meeting.

APPROVAL OF MINUTES

May 23, 2016

Documents: [PC05232016.pdf](#)

PUBLIC HEARINGS

1. Impact Fee Deferral Code Amendment (CA2016-02) - Amendments to Monroe Municipal Code (MMC) Chapters 20.07, 20.10 and 20.12 responding to the requirements of Engrossed Senate Bill (ESB) 5923 by implementing an impact fee deferral program for single family detached and single family attached dwelling units.

Documents: [A New Business Agenda Bill - Impact Fee Deferral.pdf](#), [ATTACH 1 PUBLIC HEARING DRAFT DEFERRAL ORDINANCE.pdf](#), [ATTACH 2 Signed ESB 5923.pdf](#), [ATTACH 3 July 20 2015 Monroe School District Impact Fees letter.pdf](#), [ATTACH 4 April 7 2016 Monroe School District Letter.pdf](#), [ATTACH 5 Stakeholder Deferral Input March 1 2016.pdf](#), [ATTACHMENT 6 061316 DRAFT FINDING AND CONCLUSIONS.pdf](#)

OLD BUSINESS

1. Zoning Code - Amendments

Documents: [A Old Business Agenda Bill - Zoning Code.pdf](#), [ATTACHMENT 1 Downtown Zone Map.pdf](#)

NEW BUSINESS

NONE

DISCUSSION BY COMMISSIONERS AND STAFF

ADJOURNMENT

THE PLANNING COMMISSION MAY ADD AND/OR TAKE ACTION ON OTHER ITEMS NOT LISTED ON THIS AGENDA

Accommodations for people with disabilities will be provided upon request.
Please contact City Hall at 360-794-7400 and allow one-week advanced notice.

**CITY OF MONROE
PLANNING COMMISSION MINUTES
Monday, May 23, 2016**

The regular meeting and public hearing of the Monroe Planning Commission was held on **Monday, May 23, 2016 at 7:00 p.m.**, in the City Hall Council Chambers at 806 West Main Street, Monroe, WA 98272.

CALL TO ORDER

Chair Kristiansen called the meeting to order at **7:00 p.m.**

ROLL CALL

Secretary Christina LaVelle called the roll. The following were:

Commissioners Present: Chair Kristiansen, Vice Chair Tuttle, Commissioner Jensen, Commissioner Stanger and Commissioner Duerksen

Commissioners Absent: Commissioner Bull (excused)

Staff Present: Director of Community Development David Osaki, Public Works Director Brad Feilberg, and Planning Commission Secretary Christina LaVelle

COMMENTS FROM CITIZENS

None.

APPROVAL OF MINUTES

May 9, 2016

Commissioner Jensen moved to accept the **May 9, 2016**, Planning Commission Meeting minutes as written. **Commissioner Tuttle** seconded. Motion carried **5/0**.

PUBLIC HEARING

1. Code Amendment (CA2016-01) to Monroe Municipal Code Chapter 20.12 clarifying the applicability of transportation impact fees to development activity involving change of use.

Chairman Kristiansen opened the Public Hearing and Public Testimony for Code Amendment (CA2016-01) to Monroe Municipal Code Chapter 20.12 clarifying the applicability of transportation impact fees to development activity involving change of use.

Public Works Director Feilberg presented the following documents:

Attachment 1 shows the currently effective code. On July 5, 2016, if no further action is taken, the redlined changes will automatically be removed for the code.

Attachment 2 shows the alternative proposal as discussed on May 9, 2016. This proposed language would change transportation impact fees for substantial changes in use which is defined as improvements requiring a building permit that exceed 50% of the value of the existing improvements.

The Commission's discussion is summarized below:

The Commission discussed Attachment 2 and asked for clarification. **Director Feilberg** clarified the intent and application of the proposed ordinance.

Commissioner Tuttle moved to close the Public Hearing for Code Amendment (CA2016-01) to Monroe Municipal Code Chapter 20.12, to the Planning Commission meeting, May 23, 2016 at the Monroe City Hall at 7:00 pm. Seconded by **Commissioner Duerksen**. Motion carried **5/0**.

Commissioner Tuttle moved to recommend to the City Council the adoption of an ordinance amending MMC 20.12 for a period of 5 years based on Attachment 2, with the attached findings and conclusions. **Commissioner Duerksen** seconded. Motion carried **5/0**.

OLD BUSINESS

1. Zoning Code- Amendments

Director Osaki discussed MMC section 18.12.200 related to Downtown planning area bulk requirements and the purpose statements for the downtown neighborhoods (MMC Chapter 18.12). He also discussed a Comprehensive Plan policy that spoke to increasing density and height in the Downtown Neighborhood (DN) and Borlin Park Neighborhood.

The Commission's discussion is summarized below:

- **The Commission** discussed the Downtown Neighborhood bulk requirements which included increasing density and building heights.
- **The Commission** discussed revisiting and potentially amending the Downtown Design Guidelines. **Chairman Kristiansen** noted the importance public involvement in the development of design guidelines.
- **The Commission** discussed the "vision" for the AI Borlin Park area.

DISCUSSION BY COMMISSION AND STAFF

- **Director Osaki** informed the Commission that the June 13, 2016, Planning Commission Meeting will be a Public Hearing to discuss and take testimony on CA2016-02, Impact Fee Deferrals.
- **Director Osaki** notified the Commission that **Commissioner Coonan** resigned his position and that the City was actively seeking a replacement.
- **Director Osaki** notified the Commission that the consultants that are working on the Main Street Strategic Plan are forming a steering committee. He asked for a volunteer from the Commission to serve on the committee. **Commissioner Jensen** volunteered for the position.
- **Director Osaki** gave a brief update on new land use projects city-wide.
- **The Commission** asked **Director Osaki** for an updated Downtown zoning map that would merge an aerial map with the existing zoning map.
- **Commissioner Jensen** asked for an update on the control box for the Tjerne Place signal light.

- **Commissioner Tuttle** invited the Commissioners to join her in attending the June 16, 2016, Parks Board Meeting to tour and discuss Borlin Park. In addition, **Commissioner Tuttle** informed the Commission about the “Adopt- a-Park” program.

ADJOURNMENT

Commissioner Duerksen moved to adjourn the **May 23, 2016** Planning Commission meeting. Motion was seconded by **Commissioner Jensen**. Motion carried **5/0** and the meeting was adjourned at **8:18p.m.**

Bill Kristiansen
Chair

Christina L. LaVelle
Planning Commission Secretary

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.

**CITY OF MONROE
ORDINANCE NO. 00X/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 _____, 2016 to accept public testimony on the proposed code amendment; and

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

WHEREAS, on _____, 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 for in MMC subsection 20.07.150(B), \$school

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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.

BC. 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.

CD. The affected school district shall institute a procedure for the disposition of impact fees and provide for an annual reporting to the

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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) ~~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 the this latter option for collection of impacts 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 ~~(DE)~~ 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

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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.

CD. 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.

DE. 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.

EE. 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.~~

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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 in MMC subsection 20.12.110(B), 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.

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~~BC.~~ 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.

~~CD.~~ Except as provided for in MMC subsection 20.12.110(B), 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 _____ day of _____, 2016.

Adoption:
Published:
Effective:

CITY OF MONROE, WASHINGTON:

(SEAL)

Geoffrey Thomas, Mayor

ATTEST:

APPROVED AS TO FORM:

Elizabeth M. Smoot, MMC, City Clerk

J. Zachary Lell, City Attorney

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5923

Chapter 241, Laws of 2015

64th Legislature
2015 Regular Session

SINGLE-FAMILY DETACHED AND ATTACHED RESIDENTIAL CONSTRUCTION--
DEFERRED IMPACT FEES

EFFECTIVE DATE: 9/1/2016

Passed by the Senate April 16, 2015
Yeas 28 Nays 18

BRAD OWEN

President of the Senate

Passed by the House April 14, 2015
Yeas 82 Nays 15

FRANK CHOPP

Speaker of the House of Representatives

Approved May 11, 2015 2:46 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5923** as passed by Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

May 12, 2015

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5923

AS AMENDED BY THE HOUSE

Passed Legislature - 2015 Regular Session

State of Washington **64th Legislature** **2015 Regular Session**

By Senators Brown, Liiias, Roach, Dansel, Hobbs, Warnick, and Chase

Read first time 02/11/15. Referred to Committee on Trade & Economic Development.

1 AN ACT Relating to promoting economic recovery in the
2 construction industry; amending RCW 82.02.050 and 36.70A.070; adding
3 a new section to chapter 44.28 RCW; adding a new section to chapter
4 43.31 RCW; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 82.02.050 and 1994 c 257 s 24 are each amended to
7 read as follows:

8 (1) It is the intent of the legislature:

9 (a) To ensure that adequate facilities are available to serve new
10 growth and development;

11 (b) To promote orderly growth and development by establishing
12 standards by which counties, cities, and towns may require, by
13 ordinance, that new growth and development pay a proportionate share
14 of the cost of new facilities needed to serve new growth and
15 development; and

16 (c) To ensure that impact fees are imposed through established
17 procedures and criteria so that specific developments do not pay
18 arbitrary fees or duplicative fees for the same impact.

19 (2) Counties, cities, and towns that are required or choose to
20 plan under RCW 36.70A.040 are authorized to impose impact fees on
21 development activity as part of the financing for public facilities,

1 provided that the financing for system improvements to serve new
2 development must provide for a balance between impact fees and other
3 sources of public funds and cannot rely solely on impact fees.

4 (3)(a)(i) Counties, cities, and towns collecting impact fees
5 must, by September 1, 2016, adopt and maintain a system for the
6 deferred collection of impact fees for single-family detached and
7 attached residential construction. The deferral system must include a
8 process by which an applicant for a building permit for a single-
9 family detached or attached residence may request a deferral of the
10 full impact fee payment. The deferral system offered by a county,
11 city, or town under this subsection (3) must include one or more of
12 the following options:

13 (A) Deferring collection of the impact fee payment until final
14 inspection;

15 (B) Deferring collection of the impact fee payment until
16 certificate of occupancy or equivalent certification; or

17 (C) Deferring collection of the impact fee payment until the time
18 of closing of the first sale of the property occurring after the
19 issuance of the applicable building permit.

20 (ii) Counties, cities, and towns utilizing the deferral process
21 required by this subsection (3)(a) may withhold certification of
22 final inspection, certificate of occupancy, or equivalent
23 certification until the impact fees have been paid in full.

24 (iii) The amount of impact fees that may be deferred under this
25 subsection (3) must be determined by the fees in effect at the time
26 the applicant applies for a deferral.

27 (iv) Unless an agreement to the contrary is reached between the
28 buyer and seller, the payment of impact fees due at closing of a sale
29 must be made from the seller's proceeds. In the absence of an
30 agreement to the contrary, the seller bears strict liability for the
31 payment of the impact fees.

32 (b) The term of an impact fee deferral under this subsection (3)
33 may not exceed eighteen months from the date of building permit
34 issuance.

35 (c) Except as may otherwise be authorized in accordance with (f)
36 of this subsection (3), an applicant seeking a deferral under this
37 subsection (3) must grant and record a deferred impact fee lien
38 against the property in favor of the county, city, or town in the
39 amount of the deferred impact fee. The deferred impact fee lien,

1 which must include the legal description, tax account number, and
2 address of the property, must also be:

3 (i) In a form approved by the county, city, or town;

4 (ii) Signed by all owners of the property, with all signatures
5 acknowledged as required for a deed, and recorded in the county where
6 the property is located;

7 (iii) Binding on all successors in title after the recordation;
8 and

9 (iv) Junior and subordinate to one mortgage for the purpose of
10 construction upon the same real property granted by the person who
11 applied for the deferral of impact fees.

12 (d)(i) If impact fees are not paid in accordance with a deferral
13 authorized by this subsection (3), and in accordance with the term
14 provisions established in (b) of this subsection (3), the county,
15 city, or town may institute foreclosure proceedings in accordance
16 with chapter 61.12 RCW.

17 (ii) If the county, city, or town does not institute foreclosure
18 proceedings for unpaid school impact fees within forty-five days
19 after receiving notice from a school district requesting that it do
20 so, the district may institute foreclosure proceedings with respect
21 to the unpaid impact fees.

22 (e)(i) Upon receipt of final payment of all deferred impact fees
23 for a property, the county, city, or town must execute a release of
24 deferred impact fee lien for the property. The property owner at the
25 time of the release, at his or her expense, is responsible for
26 recording the lien release.

27 (ii) The extinguishment of a deferred impact fee lien by the
28 foreclosure of a lien having priority does not affect the obligation
29 to pay the impact fees as a condition of final inspection,
30 certificate of occupancy, or equivalent certification, or at the time
31 of closing of the first sale.

32 (f) A county, city, or town with an impact fee deferral process
33 on or before April 1, 2015, is exempt from the requirements of this
34 subsection (3) if the deferral process delays all impact fees and
35 remains in effect after September 1, 2016.

36 (g)(i) Each applicant for a single-family residential
37 construction permit, in accordance with his or her contractor
38 registration number or other unique identification number, is
39 entitled to annually receive deferrals under this subsection (3) for
40 the first twenty single-family residential construction building

1 permits per county, city, or town. A county, city, or town, however,
2 may elect, by ordinance, to defer more than twenty single-family
3 residential construction building permits for an applicant. If the
4 county, city, or town collects impact fees on behalf of one or more
5 school districts for which the collection of impact fees could be
6 delayed, the county, city, or town must consult with the district or
7 districts about the additional deferrals. A county, city, or town
8 considering additional deferrals must give substantial weight to
9 recommendations of each applicable school district regarding the
10 number of additional deferrals. If the county, city, or town
11 disagrees with the recommendations of one or more school districts,
12 the county, city, or town must provide the district or districts with
13 a written rationale for its decision.

14 (ii) For purposes of this subsection (3)(g), an "applicant"
15 includes an entity that controls the applicant, is controlled by the
16 applicant, or is under common control with the applicant.

17 (h) Counties, cities, and towns may collect reasonable
18 administrative fees to implement this subsection (3) from permit
19 applicants who are seeking to delay the payment of impact fees under
20 this subsection (3).

21 (i) In accordance with sections 3 and 4 of this act, counties,
22 cities, and towns must cooperate with and provide requested data,
23 materials, and assistance to the department of commerce and the joint
24 legislative audit and review committee.

25 (4) The impact fees:

26 (a) Shall only be imposed for system improvements that are
27 reasonably related to the new development;

28 (b) Shall not exceed a proportionate share of the costs of system
29 improvements that are reasonably related to the new development; and

30 (c) Shall be used for system improvements that will reasonably
31 benefit the new development.

32 ((+4)) (5)(a) Impact fees may be collected and spent only for
33 the public facilities defined in RCW 82.02.090 which are addressed by
34 a capital facilities plan element of a comprehensive land use plan
35 adopted pursuant to the provisions of RCW 36.70A.070 or the
36 provisions for comprehensive plan adoption contained in chapter
37 36.70, 35.63, or 35A.63 RCW. After the date a county, city, or town
38 is required to adopt its development regulations under chapter 36.70A
39 RCW, continued authorization to collect and expend impact fees
40 ((shall be)) is contingent on the county, city, or town adopting or

1 revising a comprehensive plan in compliance with RCW 36.70A.070, and
2 on the capital facilities plan identifying:

3 ~~((a))~~ (i) Deficiencies in public facilities serving existing
4 development and the means by which existing deficiencies will be
5 eliminated within a reasonable period of time;

6 ~~((b))~~ (ii) Additional demands placed on existing public
7 facilities by new development; and

8 ~~((c))~~ (iii) Additional public facility improvements required to
9 serve new development.

10 (b) If the capital facilities plan of the county, city, or town
11 is complete other than for the inclusion of those elements which are
12 the responsibility of a special district, the county, city, or town
13 may impose impact fees to address those public facility needs for
14 which the county, city, or town is responsible.

15 **Sec. 2.** RCW 36.70A.070 and 2010 1st sp.s. c 26 s 6 are each
16 amended to read as follows:

17 The comprehensive plan of a county or city that is required or
18 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
19 and descriptive text covering objectives, principles, and standards
20 used to develop the comprehensive plan. The plan shall be an
21 internally consistent document and all elements shall be consistent
22 with the future land use map. A comprehensive plan shall be adopted
23 and amended with public participation as provided in RCW 36.70A.140.
24 Each comprehensive plan shall include a plan, scheme, or design for
25 each of the following:

26 (1) A land use element designating the proposed general
27 distribution and general location and extent of the uses of land,
28 where appropriate, for agriculture, timber production, housing,
29 commerce, industry, recreation, open spaces, general aviation
30 airports, public utilities, public facilities, and other land uses.
31 The land use element shall include population densities, building
32 intensities, and estimates of future population growth. The land use
33 element shall provide for protection of the quality and quantity of
34 groundwater used for public water supplies. Wherever possible, the
35 land use element should consider utilizing urban planning approaches
36 that promote physical activity. Where applicable, the land use
37 element shall review drainage, flooding, and storm water run-off in
38 the area and nearby jurisdictions and provide guidance for corrective

1 actions to mitigate or cleanse those discharges that pollute waters
2 of the state, including Puget Sound or waters entering Puget Sound.

3 (2) A housing element ensuring the vitality and character of
4 established residential neighborhoods that: (a) Includes an inventory
5 and analysis of existing and projected housing needs that identifies
6 the number of housing units necessary to manage projected growth; (b)
7 includes a statement of goals, policies, objectives, and mandatory
8 provisions for the preservation, improvement, and development of
9 housing, including single-family residences; (c) identifies
10 sufficient land for housing, including, but not limited to,
11 government-assisted housing, housing for low-income families,
12 manufactured housing, multifamily housing, and group homes and foster
13 care facilities; and (d) makes adequate provisions for existing and
14 projected needs of all economic segments of the community.

15 (3) A capital facilities plan element consisting of: (a) An
16 inventory of existing capital facilities owned by public entities,
17 showing the locations and capacities of the capital facilities; (b) a
18 forecast of the future needs for such capital facilities; (c) the
19 proposed locations and capacities of expanded or new capital
20 facilities; (d) at least a six-year plan that will finance such
21 capital facilities within projected funding capacities and clearly
22 identifies sources of public money for such purposes; and (e) a
23 requirement to reassess the land use element if probable funding
24 falls short of meeting existing needs and to ensure that the land use
25 element, capital facilities plan element, and financing plan within
26 the capital facilities plan element are coordinated and consistent.
27 Park and recreation facilities shall be included in the capital
28 facilities plan element.

29 (4) A utilities element consisting of the general location,
30 proposed location, and capacity of all existing and proposed
31 utilities, including, but not limited to, electrical lines,
32 telecommunication lines, and natural gas lines.

33 (5) Rural element. Counties shall include a rural element
34 including lands that are not designated for urban growth,
35 agriculture, forest, or mineral resources. The following provisions
36 shall apply to the rural element:

37 (a) Growth management act goals and local circumstances. Because
38 circumstances vary from county to county, in establishing patterns of
39 rural densities and uses, a county may consider local circumstances,
40 but shall develop a written record explaining how the rural element

1 harmonizes the planning goals in RCW 36.70A.020 and meets the
2 requirements of this chapter.

3 (b) Rural development. The rural element shall permit rural
4 development, forestry, and agriculture in rural areas. The rural
5 element shall provide for a variety of rural densities, uses,
6 essential public facilities, and rural governmental services needed
7 to serve the permitted densities and uses. To achieve a variety of
8 rural densities and uses, counties may provide for clustering,
9 density transfer, design guidelines, conservation easements, and
10 other innovative techniques that will accommodate appropriate rural
11 densities and uses that are not characterized by urban growth and
12 that are consistent with rural character.

13 (c) Measures governing rural development. The rural element shall
14 include measures that apply to rural development and protect the
15 rural character of the area, as established by the county, by:

16 (i) Containing or otherwise controlling rural development;
17 (ii) Assuring visual compatibility of rural development with the
18 surrounding rural area;

19 (iii) Reducing the inappropriate conversion of undeveloped land
20 into sprawling, low-density development in the rural area;

21 (iv) Protecting critical areas, as provided in RCW 36.70A.060,
22 and surface water and groundwater resources; and

23 (v) Protecting against conflicts with the use of agricultural,
24 forest, and mineral resource lands designated under RCW 36.70A.170.

25 (d) Limited areas of more intensive rural development. Subject to
26 the requirements of this subsection and except as otherwise
27 specifically provided in this subsection (5)(d), the rural element
28 may allow for limited areas of more intensive rural development,
29 including necessary public facilities and public services to serve
30 the limited area as follows:

31 (i) Rural development consisting of the infill, development, or
32 redevelopment of existing commercial, industrial, residential, or
33 mixed-use areas, whether characterized as shoreline development,
34 villages, hamlets, rural activity centers, or crossroads
35 developments.

36 (A) A commercial, industrial, residential, shoreline, or mixed-
37 use area (~~shall be~~) are subject to the requirements of (d)(iv) of
38 this subsection, but (~~shall~~) are not (~~be~~) subject to the
39 requirements of (c)(ii) and (iii) of this subsection.

1 (B) Any development or redevelopment other than an industrial
2 area or an industrial use within a mixed-use area or an industrial
3 area under this subsection (5)(d)(i) must be principally designed to
4 serve the existing and projected rural population.

5 (C) Any development or redevelopment in terms of building size,
6 scale, use, or intensity shall be consistent with the character of
7 the existing areas. Development and redevelopment may include changes
8 in use from vacant land or a previously existing use so long as the
9 new use conforms to the requirements of this subsection (5);

10 (ii) The intensification of development on lots containing, or
11 new development of, small-scale recreational or tourist uses,
12 including commercial facilities to serve those recreational or
13 tourist uses, that rely on a rural location and setting, but that do
14 not include new residential development. A small-scale recreation or
15 tourist use is not required to be principally designed to serve the
16 existing and projected rural population. Public services and public
17 facilities shall be limited to those necessary to serve the
18 recreation or tourist use and shall be provided in a manner that does
19 not permit low-density sprawl;

20 (iii) The intensification of development on lots containing
21 isolated nonresidential uses or new development of isolated cottage
22 industries and isolated small-scale businesses that are not
23 principally designed to serve the existing and projected rural
24 population and nonresidential uses, but do provide job opportunities
25 for rural residents. Rural counties may allow the expansion of small-
26 scale businesses as long as those small-scale businesses conform with
27 the rural character of the area as defined by the local government
28 according to RCW 36.70A.030(15). Rural counties may also allow new
29 small-scale businesses to utilize a site previously occupied by an
30 existing business as long as the new small-scale business conforms to
31 the rural character of the area as defined by the local government
32 according to RCW 36.70A.030(15). Public services and public
33 facilities shall be limited to those necessary to serve the isolated
34 nonresidential use and shall be provided in a manner that does not
35 permit low-density sprawl;

36 (iv) A county shall adopt measures to minimize and contain the
37 existing areas or uses of more intensive rural development, as
38 appropriate, authorized under this subsection. Lands included in such
39 existing areas or uses shall not extend beyond the logical outer
40 boundary of the existing area or use, thereby allowing a new pattern

1 of low-density sprawl. Existing areas are those that are clearly
2 identifiable and contained and where there is a logical boundary
3 delineated predominately by the built environment, but that may also
4 include undeveloped lands if limited as provided in this subsection.
5 The county shall establish the logical outer boundary of an area of
6 more intensive rural development. In establishing the logical outer
7 boundary, the county shall address (A) the need to preserve the
8 character of existing natural neighborhoods and communities, (B)
9 physical boundaries, such as bodies of water, streets and highways,
10 and land forms and contours, (C) the prevention of abnormally
11 irregular boundaries, and (D) the ability to provide public
12 facilities and public services in a manner that does not permit low-
13 density sprawl;

14 (v) For purposes of (d) of this subsection, an existing area or
15 existing use is one that was in existence:

16 (A) On July 1, 1990, in a county that was initially required to
17 plan under all of the provisions of this chapter;

18 (B) On the date the county adopted a resolution under RCW
19 36.70A.040(2), in a county that is planning under all of the
20 provisions of this chapter under RCW 36.70A.040(2); or

21 (C) On the date the office of financial management certifies the
22 county's population as provided in RCW 36.70A.040(5), in a county
23 that is planning under all of the provisions of this chapter pursuant
24 to RCW 36.70A.040(5).

25 (e) Exception. This subsection shall not be interpreted to permit
26 in the rural area a major industrial development or a master planned
27 resort unless otherwise specifically permitted under RCW 36.70A.360
28 and 36.70A.365.

29 (6) A transportation element that implements, and is consistent
30 with, the land use element.

31 (a) The transportation element shall include the following
32 subelements:

33 (i) Land use assumptions used in estimating travel;

34 (ii) Estimated traffic impacts to state-owned transportation
35 facilities resulting from land use assumptions to assist the
36 department of transportation in monitoring the performance of state
37 facilities, to plan improvements for the facilities, and to assess
38 the impact of land- use decisions on state-owned transportation
39 facilities;

40 (iii) Facilities and services needs, including:

1 (A) An inventory of air, water, and ground transportation
2 facilities and services, including transit alignments and general
3 aviation airport facilities, to define existing capital facilities
4 and travel levels as a basis for future planning. This inventory must
5 include state-owned transportation facilities within the city or
6 county's jurisdictional boundaries;

7 (B) Level of service standards for all locally owned arterials
8 and transit routes to serve as a gauge to judge performance of the
9 system. These standards should be regionally coordinated;

10 (C) For state-owned transportation facilities, level of service
11 standards for highways, as prescribed in chapters 47.06 and 47.80
12 RCW, to gauge the performance of the system. The purposes of
13 reflecting level of service standards for state highways in the local
14 comprehensive plan are to monitor the performance of the system, to
15 evaluate improvement strategies, and to facilitate coordination
16 between the county's or city's six-year street, road, or transit
17 program and the office of financial management's ten-year investment
18 program. The concurrency requirements of (b) of this subsection do
19 not apply to transportation facilities and services of statewide
20 significance except for counties consisting of islands whose only
21 connection to the mainland are state highways or ferry routes. In
22 these island counties, state highways and ferry route capacity must
23 be a factor in meeting the concurrency requirements in (b) of this
24 subsection;

25 (D) Specific actions and requirements for bringing into
26 compliance locally owned transportation facilities or services that
27 are below an established level of service standard;

28 (E) Forecasts of traffic for at least ten years based on the
29 adopted land use plan to provide information on the location, timing,
30 and capacity needs of future growth;

31 (F) Identification of state and local system needs to meet
32 current and future demands. Identified needs on state-owned
33 transportation facilities must be consistent with the statewide
34 multimodal transportation plan required under chapter 47.06 RCW;

35 (iv) Finance, including:

36 (A) An analysis of funding capability to judge needs against
37 probable funding resources;

38 (B) A multiyear financing plan based on the needs identified in
39 the comprehensive plan, the appropriate parts of which shall serve as
40 the basis for the six-year street, road, or transit program required

1 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
2 35.58.2795 for public transportation systems. The multiyear financing
3 plan should be coordinated with the ten-year investment program
4 developed by the office of financial management as required by RCW
5 47.05.030;

6 (C) If probable funding falls short of meeting identified needs,
7 a discussion of how additional funding will be raised, or how land
8 use assumptions will be reassessed to ensure that level of service
9 standards will be met;

10 (v) Intergovernmental coordination efforts, including an
11 assessment of the impacts of the transportation plan and land use
12 assumptions on the transportation systems of adjacent jurisdictions;

13 (vi) Demand-management strategies;

14 (vii) Pedestrian and bicycle component to include collaborative
15 efforts to identify and designate planned improvements for pedestrian
16 and bicycle facilities and corridors that address and encourage
17 enhanced community access and promote healthy lifestyles.

18 (b) After adoption of the comprehensive plan by jurisdictions
19 required to plan or who choose to plan under RCW 36.70A.040, local
20 jurisdictions must adopt and enforce ordinances which prohibit
21 development approval if the development causes the level of service
22 on a locally owned transportation facility to decline below the
23 standards adopted in the transportation element of the comprehensive
24 plan, unless transportation improvements or strategies to accommodate
25 the impacts of development are made concurrent with the development.
26 These strategies may include increased public transportation service,
27 ride sharing programs, demand management, and other transportation
28 systems management strategies. For the purposes of this subsection
29 (6), "concurrent with the development" means that improvements or
30 strategies are in place at the time of development, or that a
31 financial commitment is in place to complete the improvements or
32 strategies within six years. If the collection of impact fees is
33 delayed under RCW 82.02.050(3), the six-year period required by this
34 subsection (6)(b) must begin after full payment of all impact fees is
35 due to the county or city.

36 (c) The transportation element described in this subsection (6),
37 the six-year plans required by RCW 35.77.010 for cities, RCW
38 36.81.121 for counties, and RCW 35.58.2795 for public transportation
39 systems, and the ten-year investment program required by RCW
40 47.05.030 for the state, must be consistent.

1 (7) An economic development element establishing local goals,
2 policies, objectives, and provisions for economic growth and vitality
3 and a high quality of life. The element shall include: (a) A summary
4 of the local economy such as population, employment, payroll,
5 sectors, businesses, sales, and other information as appropriate; (b)
6 a summary of the strengths and weaknesses of the local economy
7 defined as the commercial and industrial sectors and supporting
8 factors such as land use, transportation, utilities, education,
9 workforce, housing, and natural/cultural resources; and (c) an
10 identification of policies, programs, and projects to foster economic
11 growth and development and to address future needs. A city that has
12 chosen to be a residential community is exempt from the economic
13 development element requirement of this subsection.

14 (8) A park and recreation element that implements, and is
15 consistent with, the capital facilities plan element as it relates to
16 park and recreation facilities. The element shall include: (a)
17 Estimates of park and recreation demand for at least a ten-year
18 period; (b) an evaluation of facilities and service needs; and (c) an
19 evaluation of intergovernmental coordination opportunities to provide
20 regional approaches for meeting park and recreational demand.

21 (9) It is the intent that new or amended elements required after
22 January 1, 2002, be adopted concurrent with the scheduled update
23 provided in RCW 36.70A.130. Requirements to incorporate any such new
24 or amended elements shall be null and void until funds sufficient to
25 cover applicable local government costs are appropriated and
26 distributed by the state at least two years before local government
27 must update comprehensive plans as required in RCW 36.70A.130.

28 NEW SECTION. **Sec. 3.** A new section is added to chapter 44.28
29 RCW to read as follows:

30 (1) The joint legislative audit and review committee must review
31 the impact fee deferral requirements of RCW 82.02.050(3). The review
32 must consist of an examination of issued impact fee deferrals,
33 including: (a) The number of deferrals requested of and issued by
34 counties, cities, and towns; (b) the type of impact fee deferred; (c)
35 the monetary amount of deferrals, by jurisdiction; (d) whether the
36 deferral process was efficiently administered; (e) the number of
37 deferrals that were not fully and timely paid; and (f) the costs to
38 counties, cities, and towns for collecting timely and delinquent
39 fees. The review must also include an evaluation of whether the

1 impact fee deferral process required by RCW 82.02.050(3) was
2 effective in providing a locally administered process for the
3 deferral and full payment of impact fees.

4 (2) The review required by this section must, in accordance with
5 RCW 43.01.036, be submitted to the appropriate committees of the
6 house of representatives and the senate on or before September 1,
7 2021.

8 (3) In complying with this section, and in accordance with
9 section 4 of this act, the joint legislative audit and review
10 committee must make its collected data and associated materials
11 available, upon request, to the department of commerce.

12 (4) This section expires January 1, 2022.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.31
14 RCW to read as follows:

15 (1) Beginning December 1, 2018, and each year thereafter, the
16 department of commerce must prepare an annual report on the impact
17 fee deferral process established in RCW 82.02.050(3). The report must
18 include: (a) The number of deferrals requested of and issued by
19 counties, cities, and towns; (b) the number of deferrals that were
20 not fully and timely paid; and (c) other information as deemed
21 appropriate.

22 (2) The report required by this section must, in accordance with
23 RCW 43.01.036, be submitted to the appropriate committees of the
24 house of representatives and the senate.

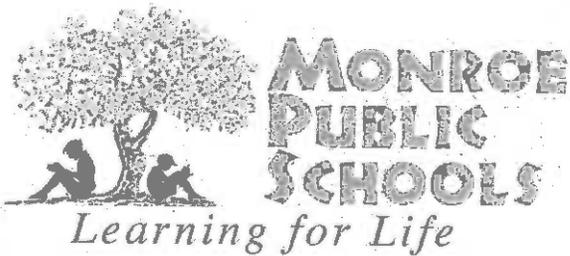
25 NEW SECTION. **Sec. 5.** This act takes effect September 1, 2016.

Passed by the Senate April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.



Dr. Fredrika Smith
Superintendent
360.804.2501
200 East Fremont Street
Monroe, WA 98272-2336
FAX 360.804.2508

July 20, 2015

Mayor Geoffrey Thomas
City of Monroe
806 W. Main St.
Monroe, WA 98272

Dear Mayor Thomas:

As you may know, the Legislature enacted a bill in the 2015 Session that provides developers with the limited option of deferring impact fee payments (ESB 5923). In the upcoming months, we would like to work with the City on implementation issues. The new law outlines a specific role for school districts as the City develops the deferral process.

The new law limits the number of deferrals that each applicant can receive for single-family detached or attached dwelling units. By July 1, 2016, cities and counties must have in place a program that allows the collection of impact fees at one of three possible points in time: 1) final inspection; 2) issuance of the certificate of occupancy; or 3) closing. Deferrals may not exceed 18 months from the date of building permit issuance. In order to receive a deferral, an applicant must record a lien on the property.

As the City reviews the deferral process and works on amendments to the City Code, we would like to encourage the City to set the date of collection either at the time of final inspection or when the certificate of occupancy is issued. These points of collection are still within the City's control and will ensure the payment of impact fees. Because our District serves several/the City/cities and the County, we are encouraging all of our jurisdictions to adopt the same process. This will promote consistency and predictability among the programs.

In addition to the date of collection, we look forward to working with you regarding the question of whether more than 20 deferrals per applicant should be authorized. We welcome the opportunity to meet with you to discuss these issues. Thank you.

Sincerely,

Dr. Fredrika Smith
Superintendent

cc: Grace T. Yuan, K&L Gates



Operations & Support Services
200 East Fremont Street
Monroe, WA 98272-2336
Phone: 360 804 2570
Fax: 360 804 2529

April 7, 2016

Mr. David Osaki
Community Development Director
City of Monroe
806 W. Main Street
Monroe, WA 98272

RECEIVED

APR 07 2016

CITY OF MONROE

RE: Implementation of ESB 5923

Dear Mr. Osaki,

The Monroe School District supports the concept to limit the number of Impact Fee deferrals per applicant to twenty residential dwelling units per year within the boundaries of the City of Monroe, and strongly prefers that for those twenty units the impact fees should be collected at the time of final inspection or issuance of the certificate of occupancy.

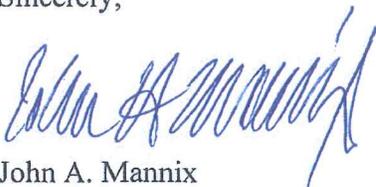
The Monroe School District strongly recommends against using the date of closing as the collection point for the Mitigation Impact Fee. Because closing is handled by a third party, the date of closing can be difficult for the City to track. In contrast, the dates of final inspection and issuance of certificate of occupancy provide more certainty for school districts and administrative convenience for the City.

Additionally, the school district recommends that the City specifically state that the twenty unit limit be applied to housing units located within the City of Monroe boundaries. This would align the provisions of the school impact fees inside the City limits to those proposed for unincorporated Snohomish County.

Finally, the school district requests that each applicant should certify that it has requested deferrals for no more than a total of twenty dwelling units within the City of Monroe boundaries each calendar year. In proposing this we would define each "applicant" as including "an entity that controls, is controlled by, or is under common control with the applicant." We believe that this language, or something of a similar nature, will both assist the City in tracking the number of deferral applications per applicant, and also create an additional structural safeguard to monitor the number of deferrals provided to any given applicant.

Thank you for seeking our input, and for your willingness to work with the school district to implement the requirements of Enhanced Senate Bill 5923.

Sincerely,



John A. Mannix
Assistant Superintendent, Operations

Cc: Dr. Fredrika Smith, Superintendent

ATTACHMENT 5: STAKEHOLDER COMMENTS (March 1, 2016)

Stakeholder	Preferred Time of Deferral	Should the Number of Annual Deferrals per Applicant be Capped at 20?	Comments
Monroe School District	Final Inspection or certificate of occupancy <i>(in Monroe these times are the same)</i>	Staff and the School District have been attempting to schedule a meeting to discuss the number of deferrals. Staff is waiting on the school district for a meeting date/time.	See letter dated July 20, 2015. Monroe School District requested final inspection/certificate of occupancy as the preferred time of deferral. The letter also expresses a desire to work with the City to discuss whether more than 20 annual deferrals per applicant should be authorized.
Snohomish School District	Final Inspection	Yes	In responding to growth, the Snohomish School District verbally explained that it can take 3 months or more to acquire portables and secure necessary permits. Impact fees are needed as early as possible to address growth, before the dwelling unit is occupied (with potential students). Final Inspection is the preferred time of deferral as that is typically the earliest point in time (as provided for in the deferral legislation). Receiving impact fees when the dwelling unit closes for sale means the dwelling unit will be occupied imminently, leaving less time to address the growth impact (e.g. occupancy of the single family dwelling with potential students). Staff has requested a written comment letter from the School District.
Master Builders Association of King and Snohomish counties	Closing of First Sale	Was going to contact membership for feedback.	The MBAKS prefers that impact fees be paid as late in the process as possible. Banks do not lend money for impact fees, so this money is coming directly out of the builders pocket or is being privately financed, making it difficult to get some projects off the ground. The MBAKS indicates that the 18 month limit would ensure the City will receive payment even if the house is never sold.
Developer/Builder #1 <i>(had over 20 single family permits issued in 2015)</i>	Final inspection is acceptable	Acceptable	Also commented that they would likely continue to pay impact fees at time of building permit issuance as not to encumber the title with lien language.
Developer/Builder #2 <i>(had over 20 single family permits issued in 2015)</i>	See Comments Column	See Comments Column	Indicated that they would likely continue to pay at the time of building permit. Views impact fee deferrals as a nice tool to have available if needed, but felt that the paperwork needed to apply for deferrals (e.g. recording and removing liens) outweighed the benefit of using it. Thought that impact fee deferral program is a much more important tool for smaller builders.
Developer/Builder #3 <i>(previously built homes in Monroe w/ additional development in progress)</i>	See Comments Column	See Comments Column	Indicated that they would likely continue to pay at time of building permit. Felt the paperwork and company staff time needed to process impact fee deferrals outweighed their benefit. They also indicated that the time difference between paying at the time of building permit and the time the home was completed or sold wasn't significant enough to take advantage of the deferral program and extra administrative work it required.
Developer/Builder #4 <i>(pending subdivision)</i>	See Comments Column	See Comments Column	Indicated that they will likely just pay impact fees at time of building permit rather than use deferrals.



ATTACHMENT 6

City of Monroe Planning Commission Findings and Conclusions (CA2016-02)

Findings

1. In 2015 the Washington state legislature passed and the Governor signed into law Engrossed Senate Bill (ESB) 5923 related to impact fee deferral systems. ESB 5923 requires local governments that collect impact fees to, by September 1, 2016, provide an impact fee deferral system for the collection of impact fees for new single family detached and attached residential construction..
2. The City of Monroe collects impact fees in accordance with Chapter 82.02 RCW.
3. Monroe Municipal Code (MMC) subsection 21.20.040(B) states that the planning commission shall review and make recommendations on the following subjects:

“B. Amendments to the subdivision code, zoning code, and environmental code (MMC Titles 17 through 20).”

Impact fees (for schools, parks and transportation) are codified in MMC chapters 20.12, 20.07 and 20.10. Planning Commission review and recommendation is required.

4. WAC 197-11-800 14(i) and WAC 197-11-800 (19) categorically exempt from SEPA threshold determinations the following,

“(14) **Activities of agencies.** The following administrative, fiscal and personnel activities of agencies shall be exempt:

(i) Adoptions or approvals of utility, transportation and solid waste disposal rates.”

and

“(19) **Procedural actions.** The proposal, amendment or adoption of legislation, rules, regulations, resolutions or ordinances, or of any plan or program shall be exempt if they are:

- (a) Relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment.
- (b) Text amendments resulting in no substantive changes respecting use or modification of the environment.
- (c) Agency SEPA procedures.”

The proposal is SEPA exempt. It is specific to the timing of collection of (school, transportation and park) impact fees and involves no substantive changes with respect to use or modification of the environment.

5. The proposed code amendment allows, should an applicant choose a deferral option, for the deferral of the payment of impact fees to the time of final inspection of the single family dwelling, but in no case longer than 18 months from time of building permit issuance. Final inspection, along with certificate of occupancy and time of first sale of the property, is one of the alternatives provided for to a local government in ESB 5923.
6. The proposed code amendment would limit the number of annual (calendar year) impact fee deferrals per applicant to 20 single family homes. This limitation of 20 deferrals per applicant annually is provided for in ESB 5923, although a local government may choose to allow more than 20 deferrals per year.
7. The Monroe Public Schools provided written comments requesting that the time of deferral be at the time of final inspection and that the number of deferrals be annually capped at 20 per applicant. Verbal conversation with the Snohomish School District confirmed a similar preference on the time of impact fee collection (at time of final inspection) and the number of annual deferrals an applicant may have (maximum of 20 annually (calendar year)).
8. Stakeholder outreach in early 2016, prior to the Planning Commission public hearing, found that many builders who have or who are doing work in Monroe will not likely use the deferral process but will instead continue to pay impact fees at the time of building permit issuance. Administrative processes and company resources associated with requesting deferrals were cited as a reason. However, some of these same builders thought that smaller developers/builders might find the impact fee deferral process useful and that it (impact fee deferral) is a good tool to have available.

9. The proposed code amendment authorizes the City to assess a reasonable administrative fee for those applicants requesting an impact fee deferral. Assessing a reasonable administrative fee is provided for in ESB 5923.

10. The City of Monroe Planning Commission held a duly noticed public hearing on June 13, 2016 to accept public testimony on the proposed impact fee deferral code amendment.

Conclusions

1. The proposed code amendment providing for an impact fee deferral system responds to the requirements of Engrossed Senate Bill (ESB) 5923

2. The proposed impact fee deferral code amendment is SEPA exempt.

MONROE PLANNING COMMISSION
Agenda Item Cover Sheet

TITLE:	Zoning Code - Amendments
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DATE:		CONTACT:	PRESENTER:	ITEM:
06/13/16		David Osaki	Dave Osaki	Old Business

Discussion: 01/11/16; 01/25/2016, 02/22/2016, 03/28.2016, 4/11/2016, 4/25/2016, 05/09/2016, 05/23/2016

Public Hearing: None

Attachments: 1. Aerial with Downtown District Boundaries

DESCRIPTION/BACKGROUND

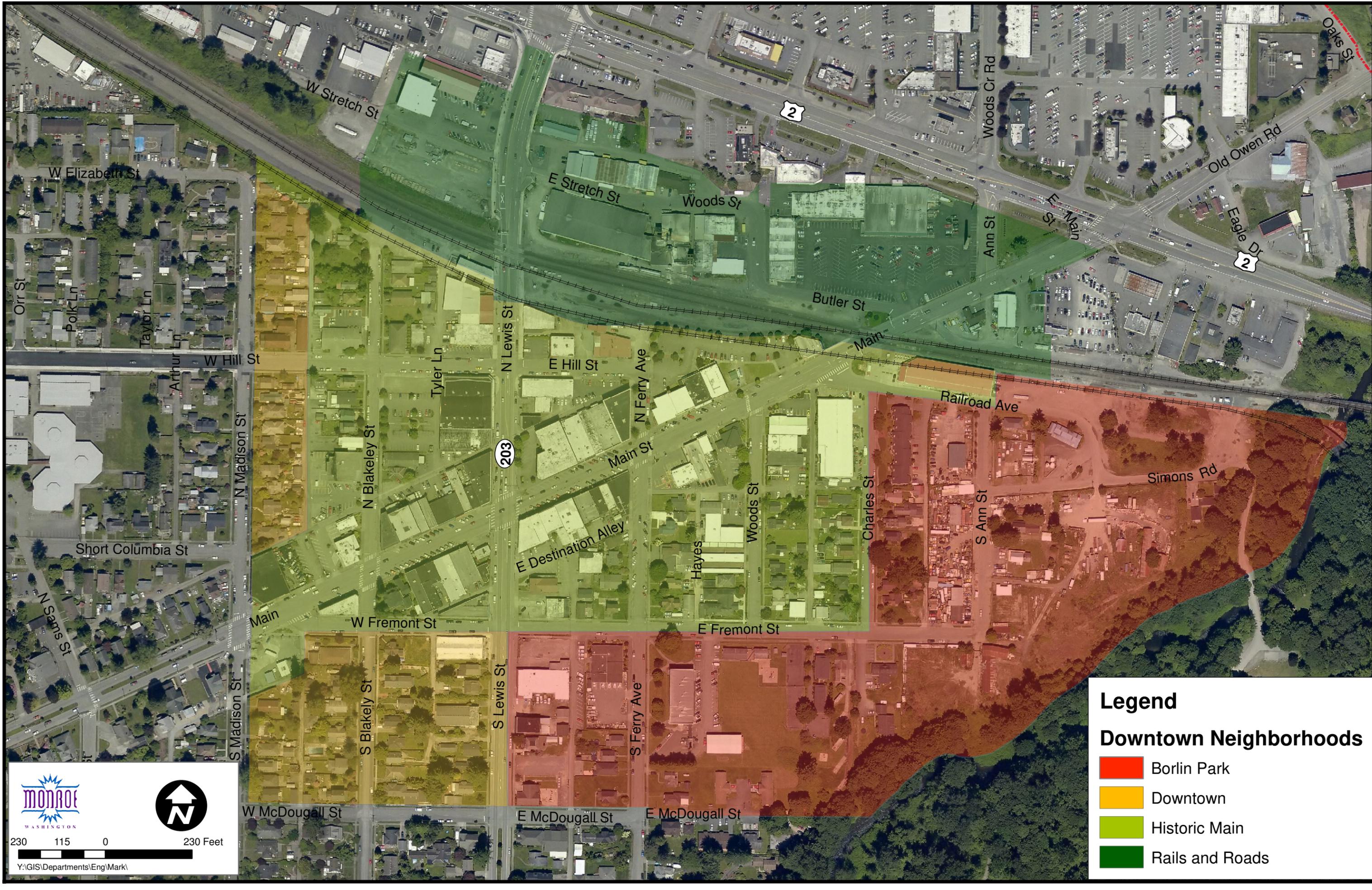
Prior Planning Commission meetings have discussed amendments to the zoning code, particularly the Downtown Commercial District.

At its May 23, 2016 meeting the Planning Commission requested an aerial map with an overlay of the Downtown Commercial neighborhood district boundaries. A copy of this map is attached (**Attachment 1**). A hard copy of this map will be provided to the Commission at the June 13, 2016 meeting.

If time permits after the public hearing on the impact fee deferral code amendments (also scheduled on the June 13, 2016 meeting agenda), additional discussion about the downtown will take place.

Staff is working on an updated version of the downtown land use matrix (not yet including revised definitions). If completed, that revised table will be presented at the Planning Commission’s June 13, 2016 meeting.

RECOMMENDED ACTION	Discussion.
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Legend

Downtown Neighborhoods

- Borlin Park
- Downtown
- Historic Main
- Rails and Roads

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