

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Discussion of Ordinance No.'s 716, 717, 718, 719 and 720 - Transportation Impact Fee Amendments		
DEPARTMENT:	City Attorney's Office		
PRESENTED BY:	Julie Ainsworth-Taylor		
ACTION:	<input type="checkbox"/> Ordinance	<input type="checkbox"/> Resolution	<input type="checkbox"/> Motion
	<input checked="" type="checkbox"/> Discussion	<input type="checkbox"/> Public Hearing	

PROBLEM/ISSUE STATEMENT:

On July 21, 2014, the City Council adopted Ordinance No. 690, establishing a transportation impact fee program for the City of Shoreline. This program became effective January 1, 2015. Some minor amendments to the program are needed to respond to a few administrative items that have arisen since the effective date, the potential inclusion of a new public purpose exemption, and two deferral programs – one mandated by state statute and the other at the request of two sponsoring Councilmembers. Since each of the proposed amendments has a unique subject matter, staff believed separating the amendments by ordinance would allow the Council to give full consideration to each amendment independent of the other amendments. The five (5) proposed amendments are attached to this staff report as proposed Ordinance No.'s 716 through 720.

RESOURCE/FINANCIAL IMPACT:

In regards to deferral programs and exemptions, the impact on resources and finances will be in direct relationship to the volume of exemptions or deferrals sought. Staff will be needed to administer and manage the deferral programs. City funds will be needed to cover fees exempted for public purposes but given the limited application of the proposed exemption, financial impact should be minimal. While financial impacts can be estimated for the statutorily-mandated single family deferral program (\$361,881.70 per year on average), the City does not track the volume of permits for eligible small businesses. But, the revenue is not lost under the deferral programs; just delayed.

RECOMMENDATION

No formal action is required at this time as this report is for discussion purposes only. Staff will return to the Council for adoption of the proposed amendments on August 3, 2015.

Approved By: City Manager **DT** City Attorney **MK**

BACKGROUND

On July 21, 2014, the City Council adopted Ordinance No. 690, establishing a transportation impact fee program. This program became effective January 1, 2015. With the adoption of Ordinance No. 690, Shoreline Municipal Code (SMC) Chapter 12.40 Transportation Impact Fees (TIF) was established, and Section 3.01.015 Impact Fee Rate Table was added to Title 3 of the SMC.

Some minor amendments in response to a few administrative items that have arisen are needed along with the potential inclusion of another public purpose exemption in addition to the low-income housing exemption, and two deferral programs – one mandated by statute the other at the request of Deputy Mayor Eggen and Councilmember Salomon.

Since each of the proposed amendments has a unique subject matter, staff believed separating the amendments by ordinance would allow the Council to give full consideration to each amendment independent of the other amendments. A total of five (5) amendments are being considered.

DISCUSSION

Since the effective date of the TIF program, there have been questions as to the administration of the impact fee program. One of those questions has been in regards to SMC 12.40.050(B)'s change of 'use/vacancy' language. Proposed Ordinance No. 716 responds to this issue. Another is the need to include a frequently used Institute of Transportation Engineers (ITE) land use code that was omitted from SMC 3.01.015. Proposed Ordinance No. 720 adds this land use code and its accompanying rate.

While previously presented at the time of Ordinance No. 690's adoption, Deputy Mayor Eggen and Councilmember Salomon have requested a small business payment deferral program be considered. At the time that Ordinance No. 690 was presented, the Council requested language for an amendment to consider adoption of such a payment deferral program, but this amendment was not moved at the time the ordinance was adopted. Proposed Ordinance No. 717 sets forth this program. This amendment does not create an exemption, just a payment deferral option.

In April 2015, the Washington State Legislature adopted Engrossed Senate Bill (ESB) 5923. With ESB 5923, the Legislature mandated that the City adopt and maintain a payment deferral program for the collection of impact fees for single family detached and attached residential construction. Proposed Ordinance No. 718 responds to this mandate. This amendment does not exempt single family construction; it just defers payment of the applicable impact fees.

Proposed Ordinance No. 719 seeks to add another public purpose exemption. The City may adopt exemptions for uses serving a broad public purpose, as it did with low-income housing. The City Manager's Office has requested an exemption be added to SMC 12.40.070 for community-based social service agencies. This amendment would exempt qualified service agencies from the payment of impacts fees in their entirety.

Each of these proposed amendments, proposed Ordinance No.'s 716 through 720 (Attachments A-E), are explained below in greater detail.

Proposed Ordinance 716 – Change of Use and Vacancy Requirements

SMC 12.40.050(B) states that if a building permit application for a change of use is submitted, that the applicable fee is calculated based on the proposed land use less any impact fee paid for the immediately preceding use. If no impact fee was paid, then the fee for the preceding use is determined based on the current fee for that use. For example, if the Key Bank at N 175th Street and Aurora Avenue N (across the street from City Hall) closed and Starbucks sought to open a new store in that building, the impact fee would be the current rate for a coffee shop less the current rate for a bank. However, SMC 12.40.050(B) modifies this methodology for structures that have been vacant for more than twelve (12) months. In that situation, no offsetting credit is granted, the full impact fee must be paid.

Staff reviewed the provisions of other jurisdictions and found most did not address vacancy at all and of those that did, they had a much longer vacancy requirement. The City of Redmond requires a structure to be vacant for a period of three (3) years before it loses any right to a credit for the preceding use (RMC 3.10.130(5)), Pierce County sets five (5) years as the required vacancy period (PCC 4A.10.010(B)), and the City of Des Moines sets ten (10) years as the required vacancy period (DMMC 12.40.100(8)).

Staff believes the twelve (12) month vacancy limitation creates a disincentive for the redevelopment of existing structures. The language proposed by staff in proposed Ordinance No. 716 eliminates the vacancy language in its entirety. In addition, it makes clear to an applicant that a credit is not applied if the resulting calculation of impact fees is a negative number.

Staff recommends this structure but seeks direction from Council on whether the Council would prefer a vacancy period and, if so, what that period should be.

Proposed Ordinance 717 – Small Business Deferral Program

During the initial adoption of the TIF program in 2014, Council requested an amendment that would allow a payment deferral of the impact fee for small businesses. This amendment defined small business based on the number of full-time employees and would defer fifty percent (50%) of the fee for 24 months from building occupancy or transfer of ownership, whichever occurred first. This amendment also required that the property owner place a lien on the property to secure the unpaid portion of the fees. This amendment was not moved for adoption.

Staff received notification that Deputy Mayor Eggen and Councilmember Eggen would like to reconsider the payment deferral program for small businesses. Staff has modified the previous proposal to respond to concerns about administering the program based on the number of employees and requiring the property owner to be liable for the impact fee.

Proposed Ordinance No. 717 provides for a modified program. The payment deferral amount remains no more than fifty percent (50%) but the deferral period has been reduced to 18 months; to be consistent with the Legislature's deferral period for single family construction. In contrast to defining a small business by the number of employees, staff now recommends square footage. Staff's research shows small establishments (e.g. sandwich shops, salons, small restaurants) are generally less than 2,000 square feet. Since the square footage of a development proposal for tenant improvements is required at the time of application, staff can easily determine if a business qualifies for the deferral.

In addition, since most small businesses lease space, having the property owner liable for the impact fees seemed unfair and problematic. Thus, staff has proposed to require a financial guarantee from the small business, not the property owner. While this financial guarantee generally will be a bond, an applicant could utilize other types of guarantees the City presently allows, such as an assignment of funds. The new proposal does provide an option for property owners seeking the deferral to place a lien on the property if they so desire. An administrative fee will be charged to applicants seeking a payment deferral. The deferral must be requested at time of application.

The deferral program does not excuse a business from financial liability if the business ceases operations prior to the 18 month period. A business remains liable and the City can seek to collect based on the financial guarantee. The City does not refund impact fees paid by any other applicant (except as provided for in RCW 82.02 for failure on the City's part to expend or encumber with the 10 year statutory period) and, therefore, excusing liability for failed small businesses would be inconsistent and unfair. That being said, statistics show that overall 50 percent (50%) of small business are still open after five (5) years. Restaurants are the exception with statistics showing a first year failure rate of anywhere from twenty percent (20%) to sixty percent (60%) to ninety percent (90%). The proposed 18 month payment would not cover some of these failed establishments.

Staff reviewed other jurisdictions impact fee programs for a similar deferral program but was unable to locate such a program within Washington State. Most jurisdictions' impact fee programs were permitting a waiver/exemption to draw large, not small, business to the community. For example, the City of Vancouver allows for a reduction in impact fees to promote economic development based on the number of employees and median salary. For business with a minimum of 200 employees, a twenty-five percent (25%) reduction is available; if a minimum of 600 employees, a fifty percent (50%) reduction is available (VMC Table 20.915.080). Programs that appeared to encompass small business were limited. The City of Auburn does defer impact fees up to 18 months in areas of the city for certain commercial office, retail, and manufacturing uses upon execution of a payment agreement (AMC 19.04.040(J)). Pierce County permits a deferral for non-residential uses but only until final building inspection (PMC 4A.10.080). The City of Bonney Lake has a fund to assist certain types of business in locating within specified areas of the city but, expressly prohibits many types of small business from eligibility (BLMC 19.04.150).

Given that the City does not have permit records denoting small business development, staff is unable to determine an estimated amount of impact fees that would be deferred.

But, unlike the Single-Family deferral program discussed below, staff is confident that payment of the deferred amount would be at the 18 month maximum for almost all small businesses.

While staff is responding to Council's request for reconsideration of this deferral program, staff is not recommending the deferral. The administration of the program will be burdensome during the application and deferral period. Since small businesses that may apply for this program may fail or struggle to pay at the end of the deferral period, collection of the unpaid funds would be difficult. In addition, the recent enactment of State Engrossed Senate Bill (ESB) 5923 in April of this year raises concerns about the statutory authority to permit a small business deferral program when RCW 82.02 only speaks to exemptions, credits, and adjustments – no deferrals.

Thus, staff is seeking Council's direction on continued analysis of this program, and, if so, if the parameters established in proposed Ordinance No. 717 are sufficient to achieve the intended purpose.

Proposed Ordinance 718 – Single Family Deferral Program

As noted above, in April 2015, the Washington State Legislature adopted ESB 5923. With this bill, the Legislature amended RCW 82.02.050, mandating that cities enact a payment deferral program for the collection of impact fees for single-family detached and attached residential construction. The deferral program being presented to Council allows for the payment of impact fees to be delayed from the time of building permit issuance, the current point of collection, until final inspection of the residence or 18 months, whichever occurs first. This program is similar to the one presented to the City by the Master Builders' Association when Ordinance No. 690 was originally being considered.

The proposed amendment would add a new section to SMC 12.40.060 to establish this statutorily mandated single-family residential deferral program.

While ESB 5923 delineates the mandatory requirements of the program, the Legislature did give the City flexibility as to the time of collection – final inspection, certificate of occupancy, or time of closing of first sale. The only limitation on this flexibility is that deferral may not be in excess of 18 months from the date of building permit issuance. For ease of administration, the City's Planning and Community Development Department has selected "final inspection" as the time of collection for this deferral program.

While the Legislature requires the City to have the deferral program, the program is optional for a developer. If a developer would like to receive a deferral, the developer must make the request no later than the time of application for a building permit. If the developer fails to make such a request, deferral is deemed waived. This is consistent with optional exemptions the City offers, such as the low-income housing exemption.

As provided for in the legislation, the City is charging an administrative fee for the deferral program.

As to the financial impact of this program, this is a deferral, not an exemption. Over the past three years (2012 – 2014), the City has issued 194 permits for single family residential units; an average of 65 permits a year. The current impact fee for single family is \$5,567.41 per unit. Thus, on average, the City would be deferring \$361,881.70 per year. However, these fees are deferred until final inspection or 18 months, whichever is sooner. City permitting records denote that the average time from building permit issuance to completion of construction (final inspection) is eight (8) months for a contractor and 12 months for the construction of a residence by a homeowner. In other words, the City should expect to capture the deferral amounts in an 8-12 month time period.

ESB 5923 also provides that the City has until September 1, 2016, to adopt this deferral program. However, since ESB 5923 is a mandate and staff is presenting several other amendments to SMC 12.40, staff believes that presenting this potential amendment now was prudent. Thus, Staff would like Council's direction on the date this deferral program should become effective.

Proposed Ordinance 719 – Community-Based Human Service Agency Exemption

This proposed amendment was submitted by the City Manager's Office. The origin of this submittal came to light as part of the relocation of Hopelink to the Ronald Commons facility. This relocation requires the payment of impact fees as there is no exemption in SMC 12.40 that precludes collection. Although that is the case for Hopelink, as an amendment to SMC 12.40 at this time will excuse Hopelink's of its obligation to pay impact fees (unless they were to choose to make a new permit application), it did bring to light a policy choice for Council that the City Manager believed the City Council would want to consider. Hopelink is aware that this proposed amendment is coming forward and is not interested in delaying their project through a re-application process, and recognizes that they will be subject to impact fees, unless a provision is made in the adopting ordinance to allow any new exemption to apply to an applicant who has already submitted their building permit applications.

Hopelink proposes a new food bank at Ronald Commons, relocating the one operated at Aurora Square. There is no ITE land use code, the basis for calculating fees, for a food bank. The City Traffic Engineer has determined that the ITE land use code most reasonable is mini warehouse, which sets \$2.09/square foot as the impact fee. Based on Hope Link's proposal, this would mean an impact fee of \$26,158.44 for its relocated food bank. These fees impose a substantial burden on a non-profit community service agency such as Hopelink.

RCW 82.02 060(2) provides that the City may establish exemptions for development activities that provide a broad public purpose. Staff believes that agencies providing community services to those in need serve a broad public purpose worthy of exemption. In reviewing other jurisdictions code provisions, few had an exemption for community service agencies. The City of Bellevue exempts privately operated not-for-profit social service facilities recognized by the Internal Revenue Service under Internal Revenue Code Section 501(c)(3) (BMC 22.16.070(B)(5)). Staff believes this exemption was too general and based the amendment it is proposing on the City of Kirkland's exemption of community-based human services (KMC 27.04.050(8)). Thus, under staff's proposed

amendment, before the exemption applies, the service agency must not only be an IRS 501(c)(3) organization but it must provide essential human services within the Shoreline community to vulnerable populations within a variety of cultures and languages that exist within Shoreline.

In addition to the qualifying criteria, which would be reviewed by the City Manager, staff has proposed that an applicant record a covenant prohibiting the use of the property for any purpose other than community-based human services for a period of ten (10) years so as to ensure long-time commitment. Staff selected ten (10) years because this is the period of time the City has to expend or encumber an impact fee. If the applicant breaches this covenant, they must pay the applicable impact fee in effect at the time of conversion.

Council must remember that pursuant to RCW 82.02.060(2), any impact fees not collected under this type of exemption must be paid for from public funds other than the impact fee account. This can be at the time of the project. If the City was not collecting impact fees, then 100% of the project costs would be paid from public funds.

Staff is recommending approval of this amendment but seeks Council's direction as the types of agencies that may be eligible for this exemption and the criteria required to support such a request.

Effective Application Time of Vacancy and Social Service Exemption

The City Attorney has advised that the Council can legislatively, through inclusion of the ordinances, include a provision in the ordinances that says that for those that would otherwise be exempted from impact fees under the proposed amended vacancy and community service sections would not need to withdraw their pending applications and re-apply. In other words, the change in ordinance could apply retrospectively to those who have applied for building permits and/or paid impact fees since January 1, 2015. Staff is in the process of reviewing the building permit applications and impact fees already collected so as to identify the projects that may be entitled to a reduction or refund of impact fees. Staff will advise Council during the July 13 presentation of the results of this review.

Proposed Ordinance 720 – Assisted Living Land Use Code

Impact fees are calculated utilizing ITE land use codes. These codes are based on vehicle trip generation for the type of development proposed. Shoreline uses these codes to establish the impact fee set forth in SMC 3.01.015.

The City's Traffic Engineer has proposed to include ITE Code 254 – Assisted Living - to SMC 3.01.015 since the uses set forth in the rate table do not adequately cover this use. The City Traffic Engineer calculated the rate based on a per bed unit for a Continuing Care Retirement facility but adjusting it for reduced trip generation and trip length, a methodology utilized by other jurisdictions in Washington.

The proposed rate for Assisted Living is \$545.71/bed.

RESOURCE/FINANCIAL IMPACT

The deferral programs will require Staff resources to administer. Staff will need to review applications for compliance, secure financial guarantees or liens, monitor for payment compliance, and seek collection or legal avenues for unpaid fees. The costs of administering the program will be in direct correlation to the number of deferrals sought. The deferral programs will not result in a loss of impact fees, unless collection is unsuccessful, these programs will just delay the time of collection.

The community-based human services exemption is limited and Staff does not believe it will be used frequently. Public funds must be used to account for this exemption.

The removal of the vacancy provision, while impacting the total amount of fees collection, will remove a barrier to redevelopment of existing, vacant structures – especially those that may be difficult to sell/lease. Impact fees will still be collected, if required, just at a reduced level.

RECOMMENDATION

No formal action is required at this time as this report is for discussion purposes only. Staff will return to the Council for addition discussion, if necessary, and for adoption of the proposed amendments.

ATTACHMENTS

- Attachment A – Proposed Ordinance No. 716
- Attachment B – Proposed Ordinance No. 717
- Attachment C – Proposed Ordinance No. 718
- Attachment D – Proposed Ordinance No. 719
- Attachment E – Proposed Ordinance No. 720 and Exhibit A

CITY OF SHORELINE, WASHINGTON

ORDINANCE NO. 716

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON,
AMENDING CHAPTER 12.40 TRANSPORTATION IMPACT FEES TO
THE SHORELINE MUNICIPAL CODE TO ADDRESS CHANGE OF USE
IN OCCUPIED AND VACANT STRUCTURES.**

WHEREAS, on July 21, 2014, the Shoreline City Council adopted Ordinance 690, adopted Chapter 12.40 of the Shoreline Municipal Code, establishing a transportation impact fee program; and

WHEREAS, SMC 12.40.050(B) states that an existing structure that has been vacant for less than 12 months is entitled to a credit for the previous use, a structure that has been vacant for more than 12 months must pay the full impact fee for the new impact fee; and

WHEREAS, the administration of this provisions has been problematic and may unduly burden structures and/or the types of business that have a high turn-over rate; creating a disincentive to their redevelopment; and

WHEREAS, the City seeks to amend SMC 12.40.050(B) to resolve this issue;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE,
WASHINGTON, DO ORDAIN AS FOLLOWS:**

Section 1. SMC 12.40.050(B). Section 12.40.050(B) Collection of Impact Fees is amended as shown below:

12.40.050 Collection of impact fees.

...

B. When an impact fee applies to a building permit for a change of use of an existing building, the impact fee shall be the applicable impact fee for the land use category of the new use, less any impact fee paid for the immediately preceding use. The preceding use shall be determined by the most recent legally established use based on a locally owned business license and development permit documents.

1. For purposes of this provision, a change of use should be reviewed based on the land use category provided in the rate study that best captures the broader use or development activity of the property under development or being changed. Changes of use and minor changes in tenancies that are consistent with the general character of the building or building aggregations (i.e., “industrial park,” or “specialty retail”), or the previous use shall not be considered a change of use

that is subject to an impact fee.

2. If no impact fee was paid for the immediately preceding use, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the immediately preceding use.

~~3. Buildings vacant for less than 12 months shall be assessed with a reduction based on the most recent legally established use as shown on a locally owned business license. If the calculated impact fee is a negative amount, the applicant will not be required to pay impact fees nor will the applicant be compensated by the City for a negative impact fee.~~

~~4. Buildings vacant for 12 months or more shall pay the full impact fee for the new use.~~

Section 2. Severability. If any portion of this chapter is found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other chapter or any other section of this chapter.

Section 3. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON AUGUST 3, 2015.

Mayor Shari Winstead

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik-Smith
City Clerk

Margaret King
City Attorney

Date of Publication: _____, 2015

Effective Date: _____, 2015

CITY OF SHORELINE, WASHINGTON

ORDINANCE NO. 717

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON,
AMENDING CHAPTER 12.40 TRANSPORTATION IMPACT FEES TO
THE SHORELINE MUNICIPAL CODE TO INCLUDE A DEFERRAL
PROGRAM FOR SMALL BUSINESSES.**

WHEREAS, on July 21, 2014, the Shoreline City Council adopted Ordinance 690, establishing a transportation impact fee program and adopting a new Chapter 12.40 to Title 12 of the Shoreline Municipal Code; and

WHEREAS, impact fees can impose a substantial burden on small businesses, especially if applicants must pay fees at the time of building permit issuance, well before business operations begin; and

WHEREAS, this burden may have a detrimental effect of a small business's ability to locate within the City of Shoreline; and

WHEREAS, this inability to locate adversely impacts economic development within the City, preventing the development of a broad public interest, namely the creation of local community assets that serve the immediate surrounding community in a non-motorized connection between businesses and residents; and

WHEREAS, the City seeks to amend Chapter 12.40 to establish a deferral program to respond;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE,
WASHINGTON, DO ORDAIN AS FOLLOWS:**

Section 1. SMC 12.40.050. A new section, section "G," of SMC 12.040.050 *Collection of Impact Fees*, is hereby adopted to read as follows:

12.40.050(G) Small Business Deferral Program. A building permit applicant may defer payment of up to fifty (50) percent of the impact fees until twenty-four (24) months from the date of final inspection. For the purpose of this deferral program a "small business" is a for-profit commercial enterprise occupying a total gross floor area of 2,000 square feet or less. Deferral of impact fees are considered under the following conditions:

1. An applicant for deferral must request deferral no later than the time of application for a building permit. Any request not so made shall be deemed waived.
2. An applicant is entitled to a deferral of up to fifty percent (50%) of the full amount of impact fees. The amount of impact fees deferred shall be determined by the fees in effect at the time the applicant applies for a deferral. That portion of the impact

fees not being deferred shall be due and payable before the issuance of a building permit by the City. The remaining balance shall be paid within eighteen (18) months from the date of final inspection.

3. The applicant may pay the deferred amount in installments prior to the expiration of the eighteen (18) month period, with no penalty for early payment.
4. The City shall collect an administrative fee from the applicant seeking to defer the payment of impact fees under this section as provided in SMC 3.01.015(B).
5. To receive a deferral, an applicant must:
 - a. Submit a deferred impact fee application for the development which the applicant wishes to defer payment of the impact fees;
 - b. Pay the applicable administrative fee;
 - c. Enter into a deferral agreement.
6. The deferral agreement shall require the applicant to provide a financial guarantee for the payment of deferred impact fees. If the applicant is the property owner, this guarantee may be satisfied by recording a deferred impact fee lien with King County against the property, in favor of the city, in the amount of the deferred impact fees. The recording of documents shall be at the sole cost of the applicant.
7. The extinguishment of a deferred impact fee lien by the foreclosure of a lien having priority does not affect the obligation to pay the impact fees as provided for in this section.
8. If a lien has been recorded, upon receipt of final payment of impact fees deferred under this subsection, the City shall execute a release of deferred impact fee lien. The applicant, or property owner at the time of release, shall be responsible for recording the lien release at his or her expense.
9. If a surety bond or other mechanism has been used as a financial guarantee, upon receipt of final payment of impact fees deferred under this subsection, the City shall notify the surety that the bond may be released.
10. If impact fees are not paid in accordance with the deferral agreement and in accordance with the term provisions established herein, the City may commence a civil action to collect the impact fees or any other method of collection permitted by law.

Section 2. Severability. If any portion of this chapter is found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other chapter or any other section of this chapter.

Section 3. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON AUGUST 3, 2015.

Mayor Shari Winstead

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik-Smith
City Clerk

Margaret King
City Attorney

Date of Publication: _____, 2015

Effective Date: _____, 2015

CITY OF SHORELINE, WASHINGTON

ORDINANCE NO. 718

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, AMENDING CHAPTER 12.40 TRANSPORTATION IMPACT FEES TO THE SHORELINE MUNICIPAL CODE TO INCLUDE A DEFERRAL PROGRAM FOR SINGLE-FAMILY DETACHED AND ATTACHED RESIDENTIAL CONSTRUCTION AND AMENDING CHAPTER 3.01 FEE SCHEDULES TO INCLUDE AN ADMINISTRATIVE FEE.

WHEREAS, on July 21, 2014, the Shoreline City Council adopted Ordinance 690, establishing a transportation impact fee program and adopting a new Chapter 12.40 to Title 12 of the Shoreline Municipal Code; and

WHEREAS, with the adoption of Engrossed Senate Bill (ESB) 5923 in April 2015, the Legislature amended Revised Code of Washington (RCW) 82.02.050 so as to mandate that cities collecting impact fees adopt and maintain a deferral program for the collection of impact fees for single-family detached and attached residential construction; and

WHEREAS, ESB 5923 sets forth specific requirements for the deferral program while also allowing the City certain discretion, including the time for deferral and the collection of an administrative fee; and

WHEREAS, pursuant to this legislative mandate, the City seeks to amend Chapter 12.40 to establish a deferral program and Chapter 3.01 to include an administrative fee for this program;

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

Section 1. SMC 12.40.050. A new section, section “F,” of SMC 12.040.050 *Collection of Impact Fees*, is hereby adopted to read as follows:

12.40.050 (F) Single-Family Residential Deferral Program. An applicant for a building permit for a single-family detached or attached residence may request a deferral of the full impact fee payment until final inspection or eighteen (18) months from the date of original building permit issuance, whichever occurs first. Deferral of impact fees are considered under the following conditions:

- (1) An applicant for deferral must request the deferral no later than the time of application for a building permit. Any request not so made shall be deemed waived.
- (2) For the purposes of this deferral program, the following definitions apply:
 - (a) “Applicant” includes an entity that controls the applicant, is controlled by the

applicant, or is under common control with the applicant.

(b) “Single-Family Residence” means a permit for a single-family house as set forth in SMC 3.01.015(A) ITE Code 210.

(3) To receive a deferral, an applicant must:

- (a) Submit a deferred impact fee application and acknowledgement form for each single-family attached or detached residence for which the applicant wishes to defer payment of the impact fees;
- (b) Pay the applicable administrative fee;
- (c) Grant and record at the applicant's expense a deferred impact fee lien in a form approved by the City against the property in favor of the City in the amount of the deferred impact fee that:
 - i. includes the legal description, tax account number, and address of the property;
 - ii. requires payment of the impact fees to the City prior to final inspection or eighteen (18) months from the date of original building permit issuance, whichever occurs first;
 - iii. is signed by all owners of the property, with all signatures acknowledged as required for a deed and recorded in King County;
 - iv. binds all successors in title after the recordation; and
 - v. is junior and subordinate to one mortgage for the purpose of construction upon the same real property granted by the person who applied for the deferral of impact fees.

(4) The amount of impact fees deferred shall be determined by the fees in effect at the time the applicant applies for a deferral.

(5) Prior to final inspection or eighteen (18) months from the date of original building permit issuance, the applicant may pay the deferred amount in installments, with no penalty for early payment.

(6) The City shall withhold final inspection until the impact fees have been paid in full. Upon receipt of final payment of impact fees deferred under this subsection, the City shall execute a release of deferred impact fee lien for each single-family attached or detached residence for which the impact fees have been received. The applicant, or property owner at the time of release, shall be responsible for recording the lien release at his or her expense.

(7) The extinguishment of a deferred impact fee lien by the foreclosure of a lien having priority does not affect the obligation to pay the impact fees as a condition of final inspection.

(8) If impact fees are not paid in accordance with the deferral and in accordance with the term provisions established herein, the City may institute foreclosure proceedings in accordance with chapter 61.12 RCW.

(9) Each applicant for a single-family attached or detached residential construction permit, in accordance with his or her contractor registration number or other unique identification number, is entitled to annually receive deferrals under this section for the first 21 single-family residential construction building permits.

(10) The City shall collect an administrative fee from the applicant seeking to defer the payment of impact fees under this section as provided in SMC 3.01.015(B).

Section 2. SMC 3.01.015. Section 3.01.015 Transportation Impact Fees B. Administrative Fees is amended to include an administrative fee to be collected from permit applicants who are seeking to defer the payment of impact fees under SMC 12.40.050(F). SMC 3.01.015(B) is amended to add a new section, Section B(4), as follows:

B. Administrative Fees		2015 Fee Schedule
1	Administrative Fee – All applicable projects	\$158.75
2	Administrative Fee – Impact fee estimate/preliminary determination	Hourly rate, 1-hour minimum \$158.75
3	Administrative Fee – Independent fee calculation	Hourly rate, 1-hour minimum \$158.75
4	<u>Administrative Fee – Deferral Program</u>	<u>\$158.75</u>

Section 3. Severability. If any portion of this chapter is found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other chapter or any other section of this chapter.

Section 4. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days after publication *[or, delay the effective date to September 1, 2016 – the date ESB 5923 requires the program to be in place]*.

PASSED BY THE CITY COUNCIL ON AUGUST 3, 2015.

Mayor Shari Winstead

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik-Smith
City Clerk

Margaret King
City Attorney

Date of Publication: _____, 2015
Effective Date: _____, 2015

CITY OF SHORELINE, WASHINGTON

ORDINANCE NO. 719

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, AMENDING CHAPTER 12.40 TRANSPORTATION IMPACT FEES TO THE SHORELINE MUNICIPAL CODE TO INCLUDE AN EXEMPTION FOR COMMUNITY-BASED HUMAN SERVICES AGENCIES.

WHEREAS, on July 21, 2014, the Shoreline City Council adopted Ordinance 690, establishing a transportation impact fee program and adopting a new Chapter 12.40 to Title 12 of the Shoreline Municipal Code; and

WHEREAS, the Revised Code of Washington (RCW) 82.02.060(2) permits the City to exempt development activities with broad public purposes from these impact fees so long as the impact fees for such development activity is paid for from public funds other than impact fee accounts; and

WHEREAS, the City Council has determined that certain community-based human services agencies that provide for employment assistance, food, shelter, clothing, or health services for low and moderate-income residents are broad public purpose worthy of exemption;

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

Section 1. SMC 12.40.070. A new section, section “H,” of SMC 12.040.070 *Exemption*, is hereby adopted to read as follows:

12.40.070(H) Community-Based Human Services Agencies. Development activities of community-based human services agencies which meet the human services needs of the community such as providing employment assistance, food, shelter, clothing, or health services for low- and moderate-income residents may be entitled to an exemption of impact fees under the following conditions:

- (1) An applicant for an exemption must request the exemption no later than the time of application for a building permit. Any request not so made shall be deemed waived.
- (2) To be eligible for an exemption, the applicant shall meet each of the following criteria:
 - (a) The applicant must have secured federal tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

(b) The applicant must provide services and programs to those considered most vulnerable and/or at risk, such as youth, seniors, and those with financial needs, special needs and disabilities and be responsive to the variety of cultures and languages that exist in the City.

(c) The applicant shall certify that no person shall be denied or subjected to discrimination in receipt of the benefit of services and programs provided by the applicant because of sex, marital status, sexual orientation, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability.

(d) The applicant must provide direct human services at the premises for which the applicant is seeking exemption.

(3) The city manager, or designee, shall review application for exemptions pursuant to the above criteria and shall advise the applicant, in writing, of the granting or denial of the application. The determination of the city manager shall be the final decision of the city with respect to the applicability of the community-based human services exemption.

(4) Prior to issuance of building permit, the applicant shall execute and record a covenant with the King County Recorder's office at the applicant's sole expense. The covenant shall prohibit using the property for any purpose other than community-based human services for a period of ten (10) years; shall run with the land and apply to subsequent owners and assigns; and must state that if the property is converted to a use other than human services, the applicant must pay the applicable impact fees in effect at the time of conversion.

(5) The amount of impact fees not collected from human services agencies pursuant to this exemption shall be paid from public funds other than the impact fee account.

Section 2. Severability. If any portion of this chapter is found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other chapter or any other section of this chapter.

Section 3. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON AUGUST 3, 2015.

Mayor Shari Winstead

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik-Smith
City Clerk

Margaret King
City Attorney

Date of Publication: _____, 2015

Effective Date: _____, 2015

CITY OF SHORELINE, WASHINGTON

ORDINANCE NO.720

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, AMENDING SECTION 3.01.015 TRANSPORTATION IMPACT FEES TO THE SHORELINE MUNICIPAL CODE TO INCLUDE “ASSISTED LIVING” AS A LAND USE CATEGORY IN THE TRANSPORTATION IMPACT FEE RATE TABLE.

WHEREAS, on July 21, 2014, the Shoreline City Council adopted Ordinance 690, establishing a transportation impact fee program and adopting a new Section 3.01.015 to Title 3 of the Shoreline Municipal Code; and

WHEREAS, the Institute of Transportation Engineers (ITE) has established land use codes based on vehicle trip generation for various types of development; and

WHEREAS, permits for facilities most closely related to the ITE land use code 254 for Assisted Living are frequently submitted to the City but the current Transportation Impact Fee rate table does not include a similar land use category with equivalent units of measurement; and

WHEREAS, the City seeks to amend Section 3.01.015 to include Assisted Living as a land use category in the Transportation Impact Fee rate table;

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

Section 1. SMC 3.01.015. Section 3.01.015 Transportation Impact Fees A. Rate Table is amended to include the ITE land use category 254 Assisted Living and its associated fee as shown in Exhibit A.

Section 2. Severability. If any portion of this chapter is found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other chapter or any other section of this chapter.

Section 3. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON AUGUST 3, 2015.

Mayor Shari Winstead

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik-Smith
City Clerk

Margaret King
City Attorney

Date of Publication: _____, 2015

Effective Date: _____, 2015

**TRANSPORTATION IMPACT FEES
EXHIBIT A**

3.01.015 Transportation Impact Fees.

A. Rate Table.

ITE Code	Land Use Category/Description	Impact Fee Per Unit @ \$6,124.77 per Trip
90	Park-and-ride lot w/ bus svc	2,848.02 per parking space
110	Light industrial	7.78 per square foot
140	Manufacturing	5.86 per square foot
151	Mini-warehouse	2.09 per square foot
210	Single family house (includes townhouse and duplex)	5,567.41 per dwelling unit
220	Apartment (includes accessory dwelling unit)	3,607.49 per dwelling unit
230	Condominium	3,662.61 per dwelling unit
240	Mobile home park	2,601.80 per dwelling unit
251	Senior housing	1,190.65 per dwelling unit
<u>254</u>	<u>Assisted Living</u>	<u>545.71 per bed</u>
255	Continuing care retirement	1,776.18 per dwelling unit
310	Hotel	3,722.02 per room
320	Motel	2,965.00 per room
444	Movie theater	11.67 per square foot
492	Health/fitness club	15.37 per square foot
530	School (public or private)	4.52 per square foot
540	Junior/community college	11.82 per square foot
560	Church	3.04 per square foot
565	Day care center	29.19 per square foot
590	Library	14.75 per square foot
610	Hospital	7.15 per square foot
710	General office	10.76 per square foot
720	Medical office	19.55 per square foot
731	State motor vehicles dept	94.21 per square foot
732	United States post office	22.48 per square foot
820	General retail and personal services (includes shopping center)	8.14 per square foot
841	Car sales	14.97 per square foot
850	Supermarket	22.23 per square foot
851	Convenience market-24 hr	41.31 per square foot
854	Discount supermarket	22.67 per square foot
880	Pharmacy/drugstore	13.09 per square foot
912	Bank	31.85 per square foot
932	Restaurant: sit-down	22.97 per square foot

**TRANSPORTATION IMPACT FEES
EXHIBIT A**

ITE Code	Land Use Category/Description	Impact Fee Per Unit @ \$6,124.77 per Trip
934	Fast food	52.85 per square foot
937	Coffee/donut shop	67.05 per square foot
941	Quick lube shop	23,840.66 per service bay
944	Gas station	21,679.38 per pump
948	Automated car wash	46.34 per square foot