

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: July 13, 2015

AGENDA ITEM: Revision to Impact Fee Deferral Ordinance	
PREPARED BY: Gloria Hirashima	DIRECTOR APPROVAL:
DEPARTMENT: Community Development	
ATTACHMENTS: 1. Memo to Council 2. SB 5923-Session Law 3. Planning Commission minutes -6/9/15 and 6/30/15. 4. Draft ordinances amending 22D.020.030, 22D.030.070, 22D.040.060 and 22D.010.160 of the Marysville Municipal Code.	
BUDGET CODE:	AMOUNT:
SUMMARY:	

The Washington Legislature passed and the Governor signed SB5923. The new law provides that cities adopt an impact fee deferral process for single family new construction by September 1, 2016. The law also provides that if a city has an existing impact fee deferral process in place prior to April 1, 2015 and if it remains in effect after September 1, 2016, the city is exempt from the new provisions.

The City of Marysville has had an impact fee deferral process in effect for single family, multi-family, commercial and industrial development since 2012. The provisions were scheduled to sunset (expire) on July 23, 2015. The attached memo describes the rationale for retaining our existing deferral provisions in order to remain exempt from the provisions of SB 5923.

RECOMMENDED ACTION: Adoption of Ordinance amending existing requirements for impact fee deferral.



EXECUTIVE DEPARTMENT
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Date: July 8, 2015
To: City Council
From: Gloria Hirashima, Chief Administrative Officer/CD Director
Subject: ESHB 5923

During the 2014-15 legislative session, the Washington Legislature passed and the Governor signed SB5923. The new law provides that cities adopt an impact fee deferral process for new attached and detached single family residences. ESHB 6923 requires cities/counties in Washington state adopt a deferral system prior to September 1, 2016. The law also provides that if a city has an existing impact fee deferral process in place prior to April 1, 2015 and if it remains in effect after September 1, 2016, the city is exempt from the new provisions.

The City of Marysville has an impact fee deferral process in effect for single family, multi-family, commercial and industrial development since 2012. The City's ordinance, Ordinance 2904, was adopted in response to the economic downturn and adverse housing market conditions experienced between 2006 and 2012 and the concerns about the languishing multifamily housing market and commercial/industrial projects. The provisions were scheduled to sunset (expire) on July 23, 2015. In reviewing the new legislation, the bill contains very similar provisions to the city's process. One key difference however is that the new legislation while allowing a city/county to choose the point of deferral (ranging from final inspection prior to occupancy, or beyond occupancy) requires recording of a lien on every building permit, regardless of whether the deferral is only to final inspection or beyond occupancy. A lien recording for a deferral to final inspection is unnecessary and burdensome for both city and builder. The City controls the process of final inspection and that in turn controls occupancy. The process of filing a lien and then a lien release would be costly and time consuming for no purpose. A lien and lien release does make sense if the deferral was granted beyond occupancy, because the City does not have controls over change in ownership and would have difficulty ensuring collection of the impact fees beyond occupancy and a lien process provides some measure of control (although it can still be difficult if there is no imminent transfer of ownership). Our prior ordinance chose the final inspection as the extent of deferral of impact fees for single family residences. This has been relatively easy to monitor and collect for single family residences. We have had no incidents involving non-payment at that point for any deferrals resulting from the ordinance.

The draft ordinance focuses on the ESHB requirements for single family deferrals. The draft ordinance does not propose continuation of the multi-family provisions as the City has experienced strong apartment growth and staff does not believe further impact fee deferrals are necessary to support new projects. The proposed ordinance does continue provisions for commercial/industrial growth deferrals. The deferral for commercial/industrial growth is 18 months from occupancy. Commercial/industrial developments are not subject to park or school impact fees, so the deferral applies to traffic fees only. A lien is required for deferrals for commercial/industrial, as the point of collection extends beyond occupancy of the buildings.

Because the City wishes to retain our existing deferral system, the Planning Commission is recommending revision to our existing ordinance to remove the sunset provisions and to remove the applicability to multi-family projects which were not included in the new legislation.

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.

PLANNING
COMMISSION



DRAFT

MINUTES

June 9, 2015

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the June 9, 2015 meeting to order at 7:00 p.m. noting the presence of all commissioners, two staff members, and one guest in the audience.

Marysville

Chairman: Steve Leifer

Commissioners: Roger Hoen, Jerry Andes, Kay Smith, Steven Lebo, Kelly Richards

Staff: CAO Hirashima, Associate Planner Angela Gemmer

Absent: None

APPROVAL OF MINUTES

Tuesday, May 12, 2015

Motion made by Commissioner Smith, seconded by Commissioner Richards, to approve the May 12, 2015 Meeting Minutes. **Motion** passed unanimously (6-0).

AUDIENCE PARTICIPATION

None

NEW BUSINESS

Impact Fee Deferrals (Senate Bill 5923)

CAO Hirashima explained that this bill involves impact fee deferrals. The new legislation specifically addresses single-family deferrals which the building community has lobbied for for several years. Marysville had a process for deferrals that was adopted in July of 2012 in light of the recession and economic downturn, and the provisions were much

broader than the new law requires. The City's impact fee deferral provisions are scheduled to sunset in July of 2015 because they were specifically created for the economic downturn. However, with the new legislation the City is required to have impact fee deferral provisions in place by September 2016. Staff is recommending amending the current provisions so they don't sunset. This would allow the provisions to qualify as an existing law in order to not have to comply with the onerous requirements of the new law. The new law requires that the city and the builder record a lien against that property for every single deferral which would involve a significant amount of paperwork. Instead, what the City has been doing on single-family residences is deferring the impact fees to final inspection. The City doesn't currently require any paperwork, but they won't finalize the house until it is paid. This is much less cumbersome to both the City and the builders. She stated the most important thing is to not allow the ordinance to sunset. She requested that the Planning Commission move quickly to hold a hearing at the next meeting and keep this alive.

Councilmember Richards asked if the deferral is even necessary. CAO Hirashima noted that if the law hadn't been passed by the state legislature, the City would have let its deferral provisions sunset, but since the State approved the provisions, amending the ordinance will allow the City to meet the requirements.

CAO Hirashima reviewed the proposed amendments to the ordinance.

- Parks – Would only apply to single family residence
- Traffic - Deferrals for commercial and industrial would continue with the same provisions as before. This would require a lien. Multi-family was eliminated.
- Schools – Will continue for single-family residences up to final inspection. Multi-family was removed.

Chair Leifer noted that this doesn't address the issue with the fees stepping up at the end of July. CAO Hirashima replied it does not because that is part of the Transportation Element, which is part of the Comprehensive Plan. She noted that if the Planning Commission would like to take a look at that prior to the hearing they could do that. Chair Leifer thought it was logical to look at that too in relationship to deferrals. She explained that locally there has been very fast paced growth so it is debatable whether or not incentives are needed. Chair Leifer thought incentives should at least continue for commercial development in order to create jobs. CAO Hirashima agreed that there was a desire by the City to encourage commercial development. She indicated staff could bring that back for a discussion about maintaining fee reductions for commercial and industrial.

Motion made by Commissioner Andes, seconded by Commissioner Richards, to have a public hearing at the next Planning Commission meeting. **Motion** passed unanimously (6-0).

**CITY OF MARYSVILLE
Marysville, Washington**

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, RELATING TO DEVELOPMENT IMPACT FEES; AMENDING SECTION 22D.020.030 OF MMC CHAPTER 22D.020 RELATING TO DEFERRAL OF PARK, RECREATION, OPEN SPACE AND TRAIL IMPACT FEES; AMENDING SECTION 22D.030.070 OF MMC CHAPTER 22D.030 RELATING TO DEFERRAL OF TRAFFIC IMPACT FEES; AMENDING SECTION 22D.040.060 OF MMC CHAPTER 22D.040 RELATING TO DEFERRAL OF SCHOOL IMPACT FEES; AND AMENDING MMC SECTION 22A.010.160 GENERAL ADMINISTRATION, RELATED TO TRACKING AMENDMENTS TO THE CITY'S UNIFORM DEVELOPMENT CODE; PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, the Marysville City Council approved Ordinance No. 2904 on July 9, 2012 providing options for deferral of park impact fees, traffic impact fees and school impact fees;

WHEREAS, the impact fee deferral process provided by Ordinance No. 2904 has worked as intended in regard to single-family residential development and commercial and industrial development; and

WHEREAS, the City wishes to continue to utilize the impact fee deferral process of Ordinance No. 2904 for single-family residential development and commercial and industrial development; and

WHEREAS, the impact fee deferral process provided by Ordinance No. 2904 is no longer warranted or needed to encourage multi-family residential development; and

WHEREAS, RCW 82.02.050 was amended by section 1, chapter 241, Laws of 2015, to mandate an impact fee deferral process for any city, except those cities that have an impact fee deferral process in effect on or before April 1, 2015, and that remains in effect after September 1, 2016; and

WHEREAS, the impact fee deferral process mandated by section 1, chapter 241, Laws of 2015 is more cumbersome than the process provided by Ordinance 2904; and

WHEREAS, the impact fee deferral provisions in Ordinance No. 2904 automatically terminate on July 23, 2015;

WHEREAS, by repealing the provisions of Ordinance 2904 that automatically terminate the impact fee deferral process for single family residential, commercial, and industrial development on July 23, 2015, the City can continue to utilize the more efficient impact fee deferral process of Ordinance 2904; and

WHEREAS, the continued use of the impact fee deferral process of Ordinance 2904 will support the continued recovery of the single family and commercial/industrial real estate market in Marysville; and WHEREAS, the Marysville Planning Commission held a public workshop on June 9, 2015 , on the proposed amendments to MMC 22D.020.030, MMC 22D.030.070, AND MMC 22D.040.060 amendments; and

WHEREAS, the Marysville Planning Commission held a public hearing on June 30, 2015 to consider the draft ordinance and proposed amendments of MMC 22D.020.030, MMC 22D.030.070, AND MMC 22D.040.060; and

WHEREAS, the City Council was briefed by City staff and deliberated in an open public meeting on July 13, 2015 to consider the Planning Commission's recommendations and proposed ordinance; and

WHEREAS, the Marysville City Council considered the entire hearing record including the written and oral testimony submitted during the Planning Commission's hearings, the Planning Commission's recommendation, and the written and oral testimony submitted during the Council hearings; and

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

Section 1. Section 22D.020.030 of MMC Chapter 22D.020 Parks, Recreation, Open Space and Trails Impact Fees is hereby amended to read as follows:

22D.020.030 Payment of impact fees required.

(1) Payment of impact fees required. Any person who applies for a building permit for any development activity or who undertakes any development activity shall pay the impact fees set in MMC 22D.020.060 or 22D.020.070 to the city of Marysville finance department or its designee. Except as otherwise provided in this section and Title 22 MMC, no new building permit shall be issued until the required impact fees have been paid to the city of Marysville finance department or its designee or successor. Where a building permit is not required for a development activity, the impact fees shall be paid to the city of Marysville finance department or its designee before undertaking the development activity.

(2) Deferral of impact fee payments allowed.

- (a) Required impact fee payments may be deferred to final inspection for single family detached or attached residential dwellings.
- (b) The Community Development Department shall allow an applicant to defer payment of the impact fees when, prior to submission of a building permit application for deferment under subsection (a), the applicant:
 - (i) Submits a signed and notarized deferred impact fee application and acknowledgement form for the development for which the property owner wishes to defer payment of the impact fees.
 - (c) Compliance with the requirements of the deferral option shall constitute compliance with the conditions pertaining to the timing of payment of the impact fees.

Section 2. Subsection 22D.030.070(8) of MMC Chapter 22D.030 Traffic Impact Fees and Mitigation is amended to read as follows:

(9) Administration of Traffic Impact Fees.

- (a) Any traffic impact fees made pursuant to this title shall be subject to the following provisions:
 - (i) Except as otherwise provided in this section and MMC Title 22, the traffic impact fee payment is required prior to building permit issuance unless the development is a subdivision or short subdivision, in which case the payment shall be made prior to the recording of the subdivision or short subdivision; provided, that where no building permit will be associated with a change in occupancy or conditional use permit then payment is required prior to approval of occupancy.
 - (ii) The traffic impact fees shall be held in a reserve account and shall be expended to fund improvements on the road system.
 - (iii) An appropriate and reasonable portion of traffic impact fees collected may be used for administration of this title.
 - (iv) The fee payer may receive a refund of such fees if the city fails to expend or encumber the impact fees within six years of when the fees were paid, or other such period of time established pursuant to RCW 82.02.070(3), on transportation facilities intended to benefit the development for which the traffic impact fees were paid, unless the city council finds that there exists an extraordinary and compelling reason for fees to be held longer than six years. These findings shall be set forth in writing and approved by the city council.

In determining whether traffic impact fees have been encumbered, impact fees shall be considered encumbered on a first-in/first-out basis. The city shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of claimants.

(v) The request for a refund must be submitted by the applicant to the city in writing within 90 days of the date the right to claim the refund arises, or the date that notice is given, whichever is later. Any traffic impact fees that are not expended within these time limitations, and for which no application for a refund has been made within this 90-day period, shall be retained and expended on projects identified in the adopted transportation element. Refunds of traffic impact fees under this subsection shall include interest earned on the impact fees.

(b) Off-site improvements include construction of improvements to mitigate an arterial unit in arrears and/or specific inadequate road condition locations. If a developer chooses to construct improvements to mitigate an arterial unit in arrears or inadequate road condition problem, and the improvements constructed are part of the cost basis of any traffic impact fees imposed under this title to mitigate the development's impact on the future capacity of city roads, the cost of these improvements will be credited against the traffic impact fee amount; provided, that the amount of the cost to be credited shall be the estimate of the public works director as to what the city's cost would be to construct the improvement. Any developer who volunteers to pay for and/or construct off-site improvements of greater value than any traffic impact fees imposed under this title, to mitigate the development's impact on the future capacity of city roads, based on the cost basis contained within the transportation element, or which are not part of the cost basis of any traffic impact fees imposed under this title to mitigate the development's impact on the future capacity of city roads, and therefore not credited against the traffic impact fees, may apply for a reimbursement contract.

(c) Deferral of impact fees allowed.

(i) Required payment of impact fees may be deferred to final inspection for single family detached or attached residential dwelling . Payment of required impact fees for a commercial building, or industrial building, may be deferred from the time of building permit issuance in accordance with following:

(A) Fifty percent (50%) of the impact fees shall be paid prior to approved occupancy of the structure; and

(B) The remaining fifty percent (50%) of the impact fees shall be paid within eighteen (18) months from the date of building occupancy, or when ownership of the property is transferred, whichever is earlier.

(iii) The Community Development Department shall allow an applicant to defer payment of the impact fees when, prior to submission of a building permit application for deferment under subsection (c)(i) or prior to final inspection for deferment under subsection (c)(ii), the applicant:

(A) Submits a signed and notarized deferred impact fee application and acknowledgement form for the development for which the property owner wishes to defer payment of the impact fees; and

(B) With regard to deferred payment under subsection (c)(ii), records a lien for impact fees against the property in favor of the City in the total amount of all deferred impact fees for the development. The lien for impact fees shall:

1. Be in a form approved by the city attorney;
2. Include the legal description, tax account number and address of the property
3. Be signed by all owners of the property, with all signatures as required for a deed, and recorded in the county in which the property is located;
4. Be binding on all successors in title after the recordation; and
5. Be 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.

(iv) In the event that the impact fees are not paid in accordance subsection (c)(ii), the city shall institute foreclosure proceedings under the process set forth in Chapter 61.12 RCW, except as revised herein. In addition to any unpaid impact fees, the city shall be entitled to interest on the unpaid impact fees at the rate provided for in RCW 19.52.020 and the reasonable attorney fees and costs incurred by the city in the foreclosure process. Notwithstanding the foregoing, prior to commencement of foreclosure, the City shall give not less than thirty (30) days written notice to the person or entity whose name appears on the assessment rolls of the county assessor as owner of the property via certified mail with return receipt requested and regular mail advising of its intent to commence foreclosure proceedings. If

the impact fees are paid in full to the city within the thirty (30) day notice period, no attorney fees, costs and interest will be owed.

(v) In the event that the deferred impact fees are not paid in accordance with this section, and in addition to foreclosure proceedings provided in subsection (c)(iv), the city may initiate any other action(s) legally available to collect such impact fees.

(vi) Upon receipt of final payment of all deferred impact fees for the development, the department shall execute a separate lien release for the property in a form approved by the city attorney. The property owner, at their expense, will be responsible for recording each lien release.

(vii) Compliance with the requirements of the deferral option shall constitute compliance with the conditions pertaining to the timing of payment of the impact fees.

Section 3. Section 22D.040.060 of MMC Chapter 22D.040 School Impact Fees and Mitigation is amended to read as follows:

22D.040.060 Impact fee accounting.

(1) Collection and Transfer of Fees, Fund Authorized and Created.

(a) Except as otherwise provided in this section and MMC Title 22, school impact fees shall be due and payable to the city by the developer at or before the time of issuance of residential building permits for all development activities.

(b) In conjunction with the adoption of the city budget, there is hereby authorized the creation and establishment of a fund to be designated the “school impact fee fund.” The city shall temporarily deposit all impact fees collected on behalf of a district pursuant to this chapter and any interest earned thereon in the school impact fee fund with specific organizational identity for a district until the transfer of the fees to the school district’s school impact fee account pursuant to the interlocal agreement between the city and the district.

(c) Districts eligible to receive school impact fees collected by the city shall establish an interest-bearing account separate from all other district accounts. The city shall deposit school impact fees in the appropriate district account within 10 days after receipt, and shall contemporaneously provide the receiving district with a notice of deposit.

(d) Each district shall institute a procedure for the disposition of impact fees and providing for annual reporting to the city that demonstrates compliance with the requirements of RCW 82.02.070, and other applicable laws.

(2) Use of Funds.

(a) School impact fees may be used by the district only for capital facilities that are reasonably related to the development for which they were assessed and may be expended only in conformance with the district's adopted capital facilities plan.

(b) In the event that bonds or similar debt instruments are issued for the advance provision of capital facilities for which school impact fees may be expended, and where consistent with the provisions of the bond covenants and state law, school impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the capital facilities provided are consistent with the requirements of this title.

(c) The responsibility for assuring that school impact fees are used for authorized purposes rests with the district receiving the school impact fees. All interest earned on a school impact fee account must be retained in the account and expended for the purpose or purposes for which the school impact fees were imposed, subject to the provisions of subsection (3) of this section.

(d) Each district shall provide the city an annual report showing the source and the amount of school impact fees received by the district and the capital facilities financed in whole or in part with those school impact fees.

(3) Deferral of School Impact Fee Payments Allowed.

(a) Required school impact fee payments may be deferred to final inspection for a single family detached or attached residential dwelling.

(b) The Community Development Department shall allow an applicant to defer payment of the impact fees when, prior to submission of a building permit application for deferment under subsection (a) or prior to final inspection for deferment under subsection (b), the applicant:

(i) Submits a signed and notarized deferred impact fee application and acknowledgement form for the development for which the property owner wishes to defer payment of the impact fees.

(c), the city may initiate any other action(s) legally available to collect such school impact fees.

(d) Compliance with the requirements of the deferral option shall constitute compliance with the conditions pertaining to the timing of payment of the impact fees.

(4) Refunds.

(a) School impact fees not spent or encumbered within six years after they were collected shall, upon receipt of a proper and accurate claim, be refunded, together with interest, to the then current owner of the property. In determining whether school impact fees have been encumbered, impact fees shall be considered encumbered on a first-in, first-out basis. At least annually, the city, based on the annual report received from each district pursuant to subsection (2)(d) of this section, shall give notice to the last known address of potential claimants of any funds, if any, that it has collected that have not been spent or encumbered. The notice will state that any persons entitled to such refunds may make claims.

(b) Refunds provided for under this section shall be paid only upon submission of a proper claim pursuant to city claim procedures. Such claims must be submitted to the director within one year of the date the right to claim the refund arises, or the date of notification provided for above, where applicable, whichever is later.

(5) Reimbursement for City Administrative Costs, Legal Expenses, and Refund Payments. Each participating school district shall enter into an agreement with the city of Marysville providing for such matters as the collection, distribution and expenditure of fees and for reimbursement of any legal expenses and staff time associated with defense of this chapter as more specifically set forth in an interlocal agreement between the city and a school district, and payment of any refunds provided under subsection (3) of this section. The city’s costs of administering the impact fee program shall be paid by the applicant to the city as part of the development application fee. Said fee shall be as set forth in Chapter 22G.030 MMC and shall be an amount that approximates, as nearly as possible, the actual administrative costs of administering the school impact fee program.

Section 4. MMC 22A.010.160, Amendments, of MMC Chapter 22A.010, General Administration, is hereby amended as follows by adding reference to this adopted ordinance in order to track amendments to the City’s Unified Development Code:

“22A.010.160 Amendments.

The following amendments have been made to the UDC subsequent to its adoption:

<u>Ordinance</u>	<u>Title (description)</u>	<u>Effective Date</u>
_____	Impact Fee Deferment	_____, 2015”

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by the Growth Management Hearings Board (Board) or a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided, however that if any section, sentence, clause or phrase of this ordinance is held to be invalid by the Board or a court of competent jurisdiction, then the section, sentence, clause or phrase in effect prior to the effective date of this ordinance shall be in full force and effect for that individual section, sentence, clause or phrase as if this ordinance had never been adopted.

Section 5. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

PASSED by the City Council and APPROVED by the Mayor this ___ day of _____, 2015.

CITY OF MARYSVILLE

By _____
JON NEHRING, MAYOR

ATTEST:

By _____
SANDY LANGDON, CITY CLERK

Approved as to form:

By _____
JON WALKER, CITY ATTORNEY

Date of Publication: _____

Effective Date (5 days after publication): _____