

CITY OF MUKILTEO  
MUKILTEO, WASHINGTON

ORDINANCE NO. 1387

AN ORDINANCE OF THE CITY OF MUKILTEO, WASHINGTON, RELATING TO SCHOOL IMPACT FEES; AMENDING SECTIONS 3.100.060 AND 3.100.070 OF THE MUKILTEO MUNICIPAL CODE AND ADDING SECTION 3.100.075 TO THE MUKILTEO MUNICIPAL CODE TO ESTABLISH PROVISIONS FOR DEFERRAL OF PAYMENT OF IMPACT FEES FOR SINGLE FAMILY RESIDENTIAL CONSTRUCTION AND AMENDING THE TIME PERIOD FOR WHICH FEES MAY BE USED FOR CONSISTENCY WITH STATE LAW; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

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WHEREAS, in 2011 the Washington State Legislature extended the period of time for use of impact fees from six years to ten years or longer with written findings demonstrating extraordinary and compelling reasons; and

WHEREAS, in 2015 the Washington State Legislature adopted Engrossed Senate Bill 5923 requiring counties, cities and towns to adopt a deferral system for the collection of impact fees for new single family residential construction by September 1, 2016; and

WHEREAS, the City of Mukilteo desires to update its municipal code now for consistency with current state law and to meet the requirements under ESB 5923, to be effective September 1, 2016; and

WHEREAS, the City Council finds that this ordinance is in the best interests of the citizens of the City of Mukilteo;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MUKILTEO, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. MMC 3.100.060 - Amended. Subsection E of section 3.100.060 of the Mukilteo Municipal Code shall be amended as follows:

**3.100.060 School impact fee.**

A. ....

....

E. Impact Fee Limitations.

1. School impact fees shall be imposed for district capital facilities that are reasonably related to the development under consideration, shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the development, and shall be used for system improvements that will reasonably benefit the new development.

2. School impact fees must be expended or encumbered for a permissible use within ~~six~~ ten years of receipt by the district.
3. To the extent permitted by law, school impact fees may be collected for capital facilities costs previously incurred to the extent that new growth and development will be served by the previously constructed capital facilities, provided that school impact fees shall not be imposed to make up for any existing system deficiencies.
4. A developer required to pay a fee pursuant to RCW 43.21C.060 for capital facilities shall not be required to pay a school impact fee pursuant to RCW 82.02.050 through 82.02.090 and this title for the same capital facilities.

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Section 2. MMC 3.100.070 - Amended. Subsection A of section 3.100.070 of the Mukilteo Municipal Code shall be amended to read as follows:

**3.100.070 Impact fee accounting.**

A. Collection and Transfer of Fees.

1. School impact fees shall be due and payable to the city by the developer at the time of issuance of residential building permits for all development activities. At the developer's option, school impact fees for new single family residential construction may be deferred as provided in MMC 3.100.075.
2. The district shall establish an interest-bearing account separate from all other district accounts in which to deposit the impact fees. The city will remit to the district all impact fees collected, without interest, within forty-five days of receipt. The district shall deposit all impact fees received from the city in the impact fee account.
3. The 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.

Section 3. MMC 3.100.075 - New. A new section 3.100.075 is hereby added to the Mukilteo Municipal Code as follows:

**3.100.075 Option for deferred payment of school impact fees.**

A. Application.

1. An applicant may request, at any time prior to building permit issuance, and consistent with the requirements of this chapter, to defer to final inspection the payment of any impact fee for a single family dwelling unit.
2. The applicant shall submit to the city a written request to defer the payment of an impact fee for a specifically identified building permit. The applicant's request shall identify, as applicable, the applicant's corporate identity and contractor registration number, the full names of all legal owners of the property upon which the development activity allowed by the building permit is to occur, the legal description of the property upon which the development activity allowed by the building permit is to occur, the tax parcel identification number of the property upon which the

development activity allowed by the building permit is to occur, and the address of the property upon which the development activity allowed by the building permit is to occur. All applications shall be accompanied by an administrative fee as provided for in the city's fee resolution.

B. Determination of impact fee. The impact fee amount due under any request to defer payment of impact fees shall be based on the schedule in effect at the time the applicant provides the city with the information required in subsection A of this section.

C. Lien; recording. Prior to the issuance of a building permit that is the subject of a request for a deferred payment of impact fee, all applicants and/or legal owners of the property upon which the development activity allowed by the building permit is to occur must sign a deferred impact fee payment lien in a form acceptable to the city attorney. The lien shall be recorded against the property subject to the building permit and be granted in favor of the city in the amount of the deferred impact fee. Any such lien shall be junior and subordinate only to one mortgage for the purpose of construction upon the same real property subject to the building permit. In addition to the administrative fee required in subsection A of this section, the applicant shall pay to the city the fees necessary for recording the lien agreement with the Snohomish County Auditor.

D. Payment; release of lien.

1. The city shall not approve a final inspection until the impact fees identified in the deferred impact fee lien are paid in full.
2. Upon receipt of full payment of the deferred impact fee as identified in the deferred impact fee lien, the city shall execute a release of lien for the property. The property owner may, at his or her own expense, record the lien release.

E. Limitations.

1. In no case shall payment of the impact fee be deferred for a period of more than 18 months from the date of building permit issuance.
2. An applicant is entitled to defer impact fees pursuant to this section for no more than 20 single-family dwelling unit building permits per year in the city. For purposes of this section, an "applicant" includes an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant.

F. Enforcement. In the event that the deferred impact fee is not paid within the time provided in this chapter, the city shall institute foreclosure proceedings under the process set forth in chapter 61.12 RCW. Nothing in this section prohibits the city from seeking other administrative, legal or equitable remedies in the event of nonpayment.

Section 4. Findings, Conclusions, and Analysis. In support of the amendments approved in this ordinance, the Mukilteo City Council adopts the Findings of Fact and Conclusions attached hereto as Exhibit "A" and incorporated herein by reference and the analysis contained in the Staff Report on the amendments.

Section 5. Conflict. In the event that there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

Section 6. Severability. If any section, subsection, clause, sentence, or phrase of this ordinance should be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 7. Authority to make necessary corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 8. Effective Date. This ordinance shall take effect and be in full force within five days of publication of the attached Summary which is hereby approved, except that sections 2, 3, and 4 shall take effect on September 1, 2016.

PASSED by the City Council and APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

APPROVED:

\_\_\_\_\_  
MAYOR, JENNIFER GREGERSON

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
CITY CLERK, JANET KEEFE

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

By: \_\_\_\_\_  
ANGELA G. SUMMERFIELD

FILED WITH THE CITY CLERK:  
PASSED BY THE CITY COUNCIL:  
PUBLISHED:  
EFFECTIVE DATE:  
ORDINANCE NO. 1387

SUMMARY OF ORDINANCE NO. 1387  
of the City of Mukilteo, Washington

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On \_\_\_\_\_, 2016, the City Council of the City of Mukilteo, Washington, approved Ordinance No. 1387, the main point of which may be summarized by its title as follows:

AN ORDINANCE OF THE CITY OF MUKILTEO, WASHINGTON, RELATING TO SCHOOL IMPACT FEES; AMENDING SECTIONS 3.100.060 AND 3.100.070 OF THE MUKILTEO MUNICIPAL CODE AND ADDING SECTIONS 3.100.065 AND 3.100.075 TO THE MUKILTEO MUNICIPAL CODE TO ESTABLISH PROVISIONS FOR DEFERRAL OF PAYMENT OF IMPACT FEES FOR SINGLE FAMILY RESIDENTIAL CONSTRUCTION AND AMENDING THE TIME PERIOD FOR WHICH FEES MAY BE USED FOR CONSISTENCY WITH STATE LAW; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this ordinance will be mailed upon request.

APPROVED by the City Council at their meeting of \_\_\_\_\_, 2016.

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City Clerk, Janet Keefe