

CITY OF MUKILTEO
MUKILTEO, WASHINGTON

ORDINANCE NO. 1388

AN ORDINANCE OF THE CITY OF MUKILTEO, WASHINGTON, RELATING TO PARK IMPACT FEES; AMENDING SECTIONS 3.105.120 AND 3.105.130 OF THE MUKILTEO MUNICIPAL CODE AND ADDING SECTION 3.105.125 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.

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 3.105.120 - Amended. Subsection A of section 3.105.120 of the Mukilteo Municipal Code shall be amended to read as follows:

3.105.120 Time of performance.

A. Payment of any required park and recreation facility impact mitigation shall be made prior to the issuance of a building permit. The park impact mitigation payment requirement shall be noted by a covenant placed on the face of the recorded plat or short plat and included in the deed for each affected lot within the subdivision. At the applicant's option, park impact fees for new single family residential construction may be deferred as provided in MMC 3.105.125.

Section 2. MMC 3.105.125 - New. A new section 3.105.125 is hereby added to the Mukilteo Municipal Code to read as follows:

3.105.125 Option for deferred payment of park 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 3. MMC 3.105.130 - Amended. Subsections A and B of section 3.105.130 of the Mukilteo Municipal Code shall be amended as follows:

3.105.130 Trust accounts.

A. Impact mitigation funds required pursuant to this chapter shall be deposited by the permitting agency directly into a finance director’s trust account which shall be established for the city. Funds deposited into these accounts shall be expended or encumbered as provided in Section 3.105.070 of this chapter within ~~six~~ ten years of receipt unless there exists an extraordinary and compelling reason, as identified in written findings by the city council for the funds to be held longer than ~~six~~ ten years.

B. The current owner of property on which an impact fee has been paid may receive a refund of such fees if the city fails to expend or encumber the impact fees within ~~six~~ ten years of when the fees were paid, unless there exists an extraordinary and compelling reason for fees to be held longer than ~~six~~ ten years and this reason is adopted in written findings by the city council.

C.

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 1, 2 and 3 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. 1388

SUMMARY OF ORDINANCE NO. 1388
of the City of Mukilteo, Washington

On _____, 2016, the City Council of the City of Mukilteo, Washington, approved Ordinance No. 1388, the main point of which may be summarized by its title as follows:

AN ORDINANCE OF THE CITY OF MUKILTEO, WASHINGTON, RELATING TO PARK IMPACT FEES; AMENDING SECTIONS 3.105.120 AND 3.105.130 OF THE MUKILTEO MUNICIPAL CODE AND ADDING SECTION 3.105.125 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.

City Clerk, Janet Keefe