

From: [Debbie Tarry](#)
To: [Carolyn Wurdeman](#); [Chris Eggen](#); [Chris Roberts](#); [Doris McConnell](#); [Jesse Salomon](#); [John Norris](#); [Keith McGlashan](#); [Shari Winstead](#); [Will Hall](#)
Cc: [Heidi Costello](#); [Alicia McIntire](#); [Mark Relph](#); [Julie Ainsworth-Taylor](#)
Subject: FW: Amendments - Impact Fees
Date: Monday, July 21, 2014 2:02:10 PM
Attachments: [20140721 SR - Adoption of Concurrency and Impact Fees - Attachment D \(proposed modifications\).docx](#)
[20140710 Memorandum to Council on Impact Fees.pdf](#)

Council –

Attached you will find an updated Attachment D (potential amendments to Ordinance No. 690) for tonight's scheduled action to adopt Ordinance No. 690 implementing transportation impact fees.

Changes include:

1. Amendment 1 is now split into 1A – single family and 1B – single/multi family. Amendment 1A is the same as Amendment 1 was originally. Amendment 1B now accounts for single-family detached, condos, and multi-family buildings. This was at the request of Councilmember Eggen who made a request yesterday to have an amendment that included deferral of impact fees for multi-family developments. The staff recommendation is not to include any of these deferral provisions.
2. Amendment 4 is in 4A (no time restriction) and 4B (time restriction). The amendments now offers the exemption for low-income housing to a non-profit entity and defines non-profit per RCW 83.36.570(7)(f). We did look at some other jurisdictions and the majority gave this exemption a public housing agency or a private non-profit housing developer participating in publicly-sponsored or subsidized housing programs. A few even added a private developer to the available entities – although this amendment does not add private developer. In addition, we added a section vii – requiring a declaration to ensure the housing remains exempt and referenced SMC 3.27.080 which requires an annual declaration for the PTE. This amendment reflects the definition request made by HDC. If Council decides to provide a low-income housing exemption for transportation impact fees then staff recommends this revised language.

We will add this revised Attachment D to I-Legislate.

Action tonight will include the adoption of two ordinances:

1. Ordinance No. 689 – Concurrency: If Council adopts this ordinance then it infers that Council will adopt transportation impact fees as the concurrency model assumes the implementation of transportation impact fees
2. Ordinance No. 690 – Transportation Impact Fees. The ordinance before Council reflects the direction provided by Council on June 2. Since that time Councilmembers have requested that staff provide potential amendment language (Attachment D). It will be up to individual Councilmembers to move any of these amendments after there is a motion to adopt Ordinance No. 690. I provided Council with a memorandum with my recommendations on July 10. I have reattached that memorandum for your reference.

Staff will be concise in the staff report for tonight and will be prepared to help Council go through your discussion efficiently on any potential amendments to Ordinance No. 690.

Debbie Tarry
City Manager
City of Shoreline
17500 Midvale Ave N.
Shoreline, WA 98133

From: Julie Ainsworth-Taylor
Sent: Monday, July 21, 2014 12:24 PM
To: Debbie Tarry; John Norris; Alicia McIntire
Subject: Amendments - Impact Fees

Attached please find the Amendments.

Amendment 1 is now split into 1A – single family and 1B – single/multi family. Amendment 1A is the same as Amendment 1 was originally. Amendment 1B now accounts for single-family detached, condos, and multi-family buildings. I reviewed several other jurisdictions manner in addressing this and all were using 7 days of purchase or building permit issuance.

Amendment 4 is in 4A (no time restriction) and 4B (time restriction). The amendments now offers the exemption for low-income housing to a non-profit entity and defines non-profit per RCW 83.36.570(7)(f). I did look at some other jurisdictions and the majority gave this exemption a public housing agency or a private non-profit housing developer participating in publicly-sponsored or subsidized housing programs. A few even added a private developer to the available entities. In addition, I added a section vii – requiring a declaration to ensure the housing remains exempt and referenced SMC 3.27.080 which requires an annual declaration for the PTE.

See what you think.



Julie Ainsworth-Taylor
Assistant City Attorney
206-801-2222 Work
206-801-2781 Fax
jainsworth-taylor@shorelinewa.gov

Potential Amendments Requested by Councilmembers

Ordinance 690 – Potential Amendment #1A – Deferral of Payment for a Single Family Residential Unit

Shoreline Municipal Code 12.40.050

F. A building permit applicant may defer payment of impact fees for a single family detached residential dwelling unit until the earlier of the seven (7) days after the date of the sale of the dwelling unit or eighteen (18) months after issuance of the original building permit, whichever occurs first, but only if before issuance of the building permit, the applicant:

1. Submits to the Director a signed and notarized deferred impact fee application, pays associated administrative fees, and provides acknowledgement form for each single family detached residential dwelling unit for which the applicant wishes to defer payment of the impact fees;
2. Records at the applicant's expense a covenant and lien that:
 - a. requires payment of the impact fees to the City at the earlier of seven (7) days after the date of sale or eighteen (18) months after issuance of the original building permit, whichever occurs first;
 - b. provides that if the impact fees are paid through escrow at closing of sale, in the absence of an agreement between the buyer and the seller to the contrary, the impact fees shall be paid from the seller's proceeds;
 - c. provides that the seller bears strict liability for the payment of the impact fees;
 - d. requires the seller or seller's agent of property subject to the covenant and lien to provide written disclosure of the covenant and lien to a purchaser or prospective purchaser. Disclosure of the covenant must include the amount of impact fees payable and that the fees are to be paid to the City on the date of sale;
 - e. makes the applicant legally liable for payment of the impact fees if the fees are not paid by the earlier of seven days after the date of sale or eighteen months after the building permit has been issued, whichever occurs first; and
 - f. in the event impact fees are not paid in accordance with this section, the City may initiate any action legally available to collect such impact fees, including foreclosure. The City shall also be entitled to intent and reasonable attorney fees and costs incurred

G. Payment of impact fees deferred under this subsection shall be made by cash, escrow company check, cashier's check or certified check.

H. Upon receipt of payment of impact fees deferred under this subsection, the City shall execute a lien release for each single family detached residential dwelling unit for which the impact fees have been received. Unless an agreement to the contrary is reached between buyer and seller, the seller, at the seller's expense, shall be responsible for recording the lien release.

I. The director shall not issue the required building permit until the impact fees have been paid or the signed and notarized deferred impact fee application and acknowledgement form and deferral fee has been received and approved by the City.

J. Not later than one year after the effective date of this Chapter, the Director shall report to the Council on the effect of subsection 12.40.050.F-I. The report shall include information on the number of applications for deferral, the length of time of deferral, the amount of fees deferred, the number of fees and amount not paid as required, and any adverse impacts to the ability of the City to construct projects made necessary by new development. The report shall also include recommendations for changes to address deficiencies identified in the report.

12.40.020 Definitions.

“Impact fee” means a payment of money imposed upon development as a condition of development approval to pay for transportation facilities needed to serve new growth and development, and that is reasonably related to the new development that creates additional demand and need for transportation facilities, that is a proportionate share of the cost of the transportation facilities, and that is used for facilities that reasonably benefit the new development. An impact fee does not include a reasonable permit fee or application fee. An impact fee does not include the administrative fee for collecting and handling impact fees, the fee for reviewing independent fee calculations, or the fee for deferring payment of impact fees.

3.01.015 Transportation Impact Fees.

B. Administrative Fees.

3. Each application for a deferral of payment of residential impact fees as provided in SMC 12.40.050(F) shall pay a non-refundable administrative deferral fee equal to the charge for one hour as set forth in the City's fee schedule, SMC 3.01.010. The fee shall be paid at the time the application for deferral is submitted to the City.

Ordinance 690 – Potential Amendment #1B – Deferral of Payment for Residential Dwelling Units (Single and Multi-Family)

Shoreline Municipal Code 12.40.050

F. A building permit applicant may defer payment of impact fees for a single-family detached dwelling unit, a condominium unit(s), or a multi-family residential building until the earlier of the seven (7) days after the date of sale of the unit or building or eighteen (18) months after issuance of the original building permit, whichever occurs first, but only if before issuance of the building permit, the applicant:

1. Submits to the Director a signed and notarized deferred impact fee application, pays associated administrative fees, and provides acknowledgement form for each single-family detached dwelling unit, condominium unit, or all of the dwelling units in a multi-family residential building for which the applicant wishes to defer payment of the impact fees;
2. Records at the applicant's expense a covenant and lien that:
 - a. requires payment of the impact fees to the City at the earlier of seven (7) days after the date of sale or eighteen (18) months after issuance of the original building permit, whichever occurs first;
 - b. provides that if the impact fees are paid through escrow at closing of sale, in the absence of an agreement between the buyer and the seller to the contrary, the impact fees shall be paid from the seller's proceeds;
 - c. provides that the seller bears strict liability for the payment of the impact fees;
 - d. requires the seller or seller's agent of property subject to the covenant and lien to provide written disclosure of the covenant and lien to a purchaser or prospective purchaser. Disclosure of the covenant must include the amount of impact fees payable and that the fees are to be paid to the City on the date of sale;
 - e. makes the applicant legally liable for payment of the impact fees if the fees are not paid by the earlier of seven (7) days after the date of sale or eighteen months after the building permit has been issued, whichever occurs first; and
 - f. in the event impact fees are not paid in accordance with this section, the City may initiate any action legally available to collect such impact fees, including foreclosure. The City shall also be entitled to intent and reasonable attorney fees and costs incurred

G. Payment of impact fees deferred under this subsection shall be made by cash, escrow company check, cashier's check or certified check.

H. Upon receipt of payment of impact fees deferred under this subsection, the City shall execute a lien release for each single-family detached residential dwelling unit, condominium unit, or multi-family residential building for which the impact fees have been received. Unless an agreement to the contrary is reached between buyer and seller, the seller, at the seller's expense, shall be responsible for recording the lien release.

I. The director shall not issue the required building permit until the impact fees have been paid or the signed and notarized deferred impact fee application and acknowledgement form and deferral fee has been received and approved by the City.

J. Not later than one year after the effective date of this Chapter, the Director shall report to the Council on the effect of subsection 12.40.050.F-I. The report shall include information on the number of applications for deferral, the length of time of deferral, the amount of fees deferred, the number of fees and amount not paid as required, and any adverse impacts to the ability of the City to construct projects made necessary by new development. The report shall also include recommendations for changes to address deficiencies identified in the report.

12.40.020 Definitions.

"Impact fee" means a payment of money imposed upon development as a condition of development approval to pay for transportation facilities needed to serve new growth and development, and that is reasonably related to the new development that creates additional demand and need for transportation facilities, that is a proportionate share of the cost of the transportation facilities, and that is used for facilities that reasonably benefit the new development. An impact fee does not include a reasonable permit fee or application fee. An impact fee does not include the administrative fee for collecting and handling impact fees, the fee for reviewing independent fee calculations, or the fee for deferring payment of impact fees.

3.01.015 Transportation Impact Fees.

B. Administrative Fees.

3. Each application for a deferral of payment of residential impact fees as provided in SMC 12.40.050(F) shall pay a non-refundable administrative deferral fee equal to the charge for one hour as set forth in the City's fee schedule, SMC 3.01.010. The fee shall be paid at the time the application for deferral is submitted to the City.

Ordinance 690 – Potential Amendment #2 – Reduction in Impact Fee (75%)

WHEREAS; the City of Shoreline developed a Rate Study for Impact Fees for Transportation that identified a transportation impact fee at \$6,124.77 per trip and has determined that adoption of seventy five percent of that fee per trip is appropriate;

Shoreline Municipal Code 3.01.015(A). Rate Table

ITE Code	Land Use Category/Description	Impact Fee Per Unit @ \$4,593.58 per Trip	
90	Park-and-ride lot w/ bus svc	2,136.02	per parking space
110	Light industrial	5.84	per square foot
140	Manufacturing	4.40	per square foot
151	Mini-warehouse	1.57	per square foot
210	Single family house (includes townhouse and duplex)	4,175.56	per dwelling unit
220	Apartment (includes accessory dwelling unit)	2,705.62	per dwelling unit
230	Condominium	2,746.96	per dwelling unit
240	Mobile home park	1,951.35	per dwelling unit
251	Senior housing	892.99	per dwelling unit
255	Continuing care retirement	1,332.14	per dwelling unit
310	Hotel	2,791.52	per room
320	Motel	2,223.75	per room
444	Movie theater	8.75	per square foot
492	Health/fitness club	11.53	per square foot
530	School (public or private)	3.39	per square foot
540	Junior/community college	8.87	per square foot
560	Church	2.28	per square foot
565	Day care center	21.89	per square foot
590	Library	11.06	per square foot
610	Hospital	5.36	per square foot
710	General office	8.07	per square foot
720	Medical office	14.66	per square foot
731	State motor vehicles dept	70.66	per square foot
732	United States post office	16.86	per square foot
820	General retail and personal services (includes shopping center)	6.11	per square foot
841	Car sales	11.23	per square foot
850	Supermarket	16.67	per square foot
851	Convenience market-24 hr	30.98	per square foot
854	Discount supermarket	17.00	per square foot
880	Pharmacy/drugstore	9.82	per square foot

ITE Code	Land Use Category/Description	Impact Fee Per Unit @ \$4,593.58 per Trip	
912	Bank	23.89	per square foot
932	Restaurant: sit-down	17.23	per square foot
934	Fast food	39.64	per square foot
937	Coffee/donut shop	50.29	per square foot
941	Quick lube shop	17,880.50	per service bay
944	Gas station	16,259.54	per pump
948	Automated car wash	34.76	per square foot

Ordinance 690 – Potential Amendment #3 – Deferral of Payment for Small Business

12.40.020 Definitions.

“Impact fee” means a payment of money imposed upon development as a condition of development approval to pay for transportation facilities needed to serve new growth and development, and that is reasonably related to the new development that creates additional demand and need for transportation facilities, that is a proportionate share of the cost of the transportation facilities, and that is used for facilities that reasonably benefit the new development. An impact fee does not include a reasonable permit fee or application fee. An impact fee does not include the administrative fee for collecting and handling impact fees, the fee for reviewing independent fee calculations, or the fee for deferring payment of impact fees.

Shoreline Municipal Code 12.40.XXX

Deferral of Impact Fees Allowed for Small Business.

For the purpose of this section a “small business” is a commercial enterprise that employs ten (10) or fewer full-time equivalent employees. The payment of required impact fees may be deferred from the time of building permit issuance in accordance with the following:

- A. The property owner shall be solely liable for impact fees deferred pursuant to this section;
- B. Fifty (50) percent of the impact fees shall be paid before the building permit is issued by the City;
- C. The remaining fifty (50) percent of the impact fee shall be paid within 24 months from the date of building occupancy or, when ownership of the property is transferred, whichever is earlier;
- D. The property owner has submitted a city-approved deferred impact fee application for the development for which the property owner/applicant wishes to defer payment of the impact fees and has paid the required administrative fees;
- E. The property owner, at their sole expense, records a lien in a form approved by the City Attorney for impact fees against the property in favor of the City in the total amount of all deferred impact fees for the development;
- F. In the event impact fees are not paid in accordance with this section, the City may initiate any action legally available to collect such impact fees, including foreclosure. The City shall also be entitled to interest and reasonable attorney fees and costs incurred; and
- G. Upon receipt of final payment of all deferred impact fees, the Planning Department shall execute a separate lien release for the property in a form approved by the city attorney. The property owner, at their sole expense, will be responsible for recording each lien release.

Ordinance 690 – Potential Amendment #4A – Low-Income Housing Exemption

SMC 12.40.070(G) Exemptions. [With no time restriction and AMI open to Council Discretion]

Low-income housing provided by a non-profit entity. "Low-income housing" means housing with a monthly housing expense, that is no greater than thirty percent of _____ percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development. As provided in RCW 82.02.060, a non-profit entity, as defined in RCW 84.36.560(7)(f), as amended, shall be entitled to an exemption of impact fees under the following conditions:

:

- i. The developer/applicant shall execute and record a covenant that prohibits using the property for any purpose other than for low-income housing except as provided within this subsection;
- ii. The covenant shall, at a minimum, address price restrictions and household income limits for the low-income housing;
- iii. The covenant shall run with the land and apply to subsequent owners and assigns;
- iv. The covenant must state that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion;
- v. Any claim for an exemption for low-income housing must be made no later than the time of application for a building permit.
- vi. Any claim for an exemption for low-income housing not made shall be deemed waived.
- vii. The developer/applicant or any subsequent property owner shall file a notarized declaration with the city manager as provided in SMC 3.27.080(A), as amended, within 30 days after the first anniversary of the date of issuance of the building permit and each year thereafter.

Covenants shall be record with the applicable county auditor or recording officer.

Ordinance 690 – Potential Amendment #4B – Low-Income Housing Exemption

SMC 12.40.070(G) Exemptions. [With time restriction and AMI open to Council Discretion]

Low-income housing provided by a non-profit entity. "Low-income housing" means housing with a monthly housing expense, that is no greater than thirty percent of _____ percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development. As provided in RCW 82.02.060, a non-profit entity, as defined

in RCW 84.36.560(7)(f), as amended, shall be entitled to an exemption of impact fees under the following conditions:

:

- i. The developer/applicant shall execute and record a covenant that prohibits using the property for any purpose other than for low-income housing except as provided within this subsection;
- ii. The covenant shall, at a minimum, address price restrictions and household income limits for the low-income housing;
- iii. The covenant shall run with the land and apply to subsequent owners and assigns;
- iv. The covenant must require that the proposed housing unit or development will continue to be used for low-income housing for a period of not less than ____ years;
- v. The covenant must state that if the property is converted to a use other than for low-income housing prior to the expiration of the ____ year time restriction, the property owner must pay the applicable impact fees in effect at the time of conversion;
- vi. Any claim for an exemption for low-income housing must be made no later than the time of application for a building permit.
- vii. Any claim for an exemption for low-income housing not made shall be deemed waived.
- viii. The developer/applicant or any subsequent property owner shall file a notarized declaration with the city manager as provided in SMC 3.27.080(A), as amended, within 30 days after the first anniversary of the date of issuance of the building permit and each year thereafter.

Covenants shall be record with the applicable county auditor or recording officer.



Memorandum

DATE: July 10, 2014

TO: City Councilmembers

FROM: Debbie Tarry, City Manager

RE: Concurrency and Impact Fees – Potential Ordinance Amendments

CC: Ian Sievers, City Attorney
Julie Ainsworth-Taylor, Assistant City Attorney
Mark Relph, Public Works Director
Kirk McKinley, Transportation Services Manager
Alicia McIntire, Senior Transportation Planner

Council will be considering the adoption of two ordinances at your July 21, 2014, Council meeting regarding Concurrency and Impact Fees. Council discussed this issue on May 12 and June 2. At the meeting on June 2, Council directed staff to return with an ordinance for potential adoption that did not include any payment deferrals or exemptions. The ordinance (Ordinance No. 690) that will be included in the packet for July 21 reflects this direction.

Although this is the case, we have received requests from Councilmembers to prepare potential amendments for Council's consideration. Given that the packet for July 21 will come out on July 14, and that I will be on vacation through July 18, I wanted to provide you a preliminary look at those potential amendments and provide you with my recommendations.

Attached to this memo is a draft of the attachment that will be included with the staff report in the July 21 packet – it is labeled as Attachment D. The staff report will have a full explanation, but I will provide a brief summary below. By providing this draft early to Council it gives you additional time to review the potential amendment language. It will be up to individual Councilmembers to move to bring these amendments forward on the night of July 21 for Council's consideration.

Potential Amendments

Amendment #1 – Deferral of Payment for a Single Family Residential Unit

This amendment was requested by Councilmember Eggen. The language in this amendment reflects the language that was originally included in the draft ordinances presented by staff on June 2. Originally this language was included in the ordinance to reflect past requests to other jurisdictions by the Master Builders Association (MBA). MBA expressed their support for inclusion of this language in their June 2, 2014 letter to Council. At that meeting there was direction from a majority of the Council to remove the language from the ordinance. Basically this amendment allows the building permit applicant for a single family detached residential unit to have an option to defer the payment of the impact fee to the earlier of the seven (7) days after the date of the sale of the dwelling unit or eighteen (18) months after issuance of the original building permit. Although the developer is responsible to pay the impact fee, ultimately the purchaser of the home pays the impact fee through the price of the home. Staff believes that the benefit of this deferral for the developer is fairly minimal and that the tracking requirements will add an unnecessary level of complexity to the impact fee process, and therefore I would recommend that Council not approve this amendment.

Amendment #2 – Reduction in Impact Fee

Councilmember Hall requested an amendment that would reduce the amount collected from 97% to 75% of the fee per trip. This is reflected in the potential amendment language. As Council will see from the staff report there are some cities who have chosen to implement a lower fee or to start with a lower fee and then ramp up to the full fee over time. Although it has been my recommendation to adopt the fee at the full level, I would recommend that a lower fee with a plan to increase over time is a preferred option to establishing exemptions for particular types of land use. Also I would recommend that if Council is hesitant to move forward with impact fees at this time, that instead of delaying implementation, which would require redoing our transportation concurrency policy and identifying a different transportation level of service, that Council adopt a lower fee percentage at this time with a plan to ramp up to the full fee over the next three to seven years.

Amendment #3 – Deferral of Payment for Small Businesses

Councilmember Eggen requested this amendment. For purposes of this amendment staff has included proposed language that would define a small business as a commercial enterprise that employs ten or fewer full-time equivalent employees. The proposed language would make the property owner liable for deferred impact fees as many small businesses lease space, would require that 50% of the impact fee be paid before the building permit is issued by the City, and require that the remaining 50% be paid within 24 months from the date of the building occupancy or, when ownership of the property is transferred, whichever is earlier. Although I understand our desire to continue to encourage the development of small businesses in the Shoreline community, I do not recommend that Council adopt this amendment. Implementation has the potential to

become administratively burdensome and expensive, especially in cases where the fee is not paid in accordance with the provisions of the ordinance. Also even though it provides for putting a lien on the property, to make the property owner liable, if the property does not sell, the fee will remain uncollected.

Amendment #4 – Low-Income Housing Exemption

Councilmember Eggen requested this amendment. The original ordinance reviewed by Council on June 2 included this language with a definition of low-income housing being housing with a monthly housing expense that is no greater than thirty percent **of eighty percent** of the median family income adjusted for family size. Given that this definition approximated the market rates in Shoreline, Council directed staff to remove this exemption. Since the time of the June 2 meeting, staff has been contacted by the Housing Development Consortium (HDC) with a request to revisit the low income housing provision that was in the proposed ordinance on June 2. Based on that review, we have determined that there is flexibility in the statute to establish a lower threshold on the percentage of median income that is used to define low-income housing for the purposes of impact fees. For example, the amendment could say that low-income housing means housing with a monthly housing expense, that is no greater than thirty percent **of sixty percent (or whatever percentage the Council supports)** of the median family income. This would target the exemption to housing that is meant to meet the needs of a targeted sector for our community. Although much of this housing would be eligible for at least the City's five year property tax exemption program, if Council desires to continue to provide incentives for low-income housing to meet a specific demographic need, this exemption could be such a tool. As such, I would be supportive of such an exemption, but I do believe that the exemption needs to be for housing to meet the needs of those in the greatest need, so perhaps even lower than 60% of median income. Council can also determine if there should be a time period for the housing to continue to meet the need of this specific demographic, although staff would recommend against this given our interpretation of the statute.

Summary

There has been significant staff and financial resources invested in developing both the Traffic Concurrency and Impact Fee policies and ordinances that will be in front of Council on July 21. This work started with policy direction adopted by the City Council in 2011 through the Transportation Master Plan. Most of Council's discussion has focused on impact fees, but it is important to recognize that the concurrency policies are based on the assumption that impact fees will be implemented to help fund future growth projects that will allow the City to meet its adopted levels of service for traffic as a result of growth within the City. As such, I recommend that Council move forward with adoption of Ordinance No. 689 and 690 on July 21. I know that some Councilmembers may have concerns regarding any negative impact that this may have on potential investors in Shoreline and our goal of increased economic development. I share that concern, at the same time we have not seen increased development as a result of not having impact fees. Impact fees collected on growth projects can serve as a grant match to those projects, such as 175th. I also think it is helpful that our community recognize that the growth that will come to Shoreline will also help fund directly the improvements

that will be needed to the City's transportation system to make sure that the City's level of service can be met at the same time we are meeting our long-term growth targets.

Attachment: Potential Amendments Requested by Councilmembers