

CITY OF SULTAN
WASHINGTON
ORDINANCE NO. 1241-16

AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON, ADDING A NEW SULTAN MUNICIPAL CODE CHAPTER 16.118 ESTABLISHING AN IMPACT FEE DEFERRAL PROCESS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Sultan is authorized by Chapter 82.02 RCW to require new growth and development within the City to pay a proportionate share of the cost of new facilities to serve such new growth and development through the assessment of impact fees; and

WHEREAS, pursuant to such authority and the police powers of the City, the City has enacted Chapters 16.112 and 16.116 of the Sultan Municipal Code ("SMC") establishing such impact fees; and

WHEREAS, on April 16, 2015, the Washington State Legislature passed ESB 5923, Chapter 241, Laws of 2015, which requires cities to adopt a deferral process for the payment of impact fees for single-family detached and single-family attached residential construction; and

WHEREAS, the City desires to encourage new growth and development in the City, to ease the financial burden on individual homebuilders, and to promote economic recovery in the construction industry; and

WHEREAS, City staff has proposed the addition of a new Chapter 16.118 SMC establishing an impact fee deferral mechanism; and

WHEREAS, the City's proposed impact fee deferral process relates solely to governmental procedures and contains no substantive standards respecting use or modification of the environment and is therefore exempt from SEPA review pursuant WAC 197-11-800(19);

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

Section 1. New Chapter 16.118 SMC, Impact Fee Deferral, Added. A new Sultan Municipal Code Chapter 16.118, entitled "Impact Fee Deferral," is hereby adopted to read as follows:

Chapter 16.118
IMPACT FEE DEFERRAL

Sections:

- 16.118.010 Purpose
- 16.118.020 Applicability
- 16.118.030 Impact Fee Deferral
- 16.118.040 Deferral Term
- 16.118.050 Deferred Impact Fee Lien
- 16.118.060 Limitation on Deferrals

16.118.010 Purpose

The purpose of this chapter is to comply with the requirements of RCW 82.02.050, as amended by ESB 5923, Chapter 241, Laws of 2015, to provide an impact fee deferral process for single-family residential construction, in order to promote economic recovery in the construction industry.

16.118.020 Applicability

A. The provisions of this chapter shall apply to all impact fees established and adopted by the City pursuant to Chapter 82.02 RCW, including development impact fees and school impact fees as codified in Chapters 16.112 and 16.116 of the Sultan Municipal Code.

B. Subject to the limitations imposed in SMC 16.118.060, the provisions of this chapter shall apply to all building permit applications for single-family detached and single-family attached residential construction. For the purposes of this chapter, an "applicant" includes an entity that controls the named applicant, is controlled by the named applicant, or is under common control with the named applicant.

16.118.030 Impact Fee Deferral

A. Deferral Request Authorized. Applicants for single-family attached or single-family detached residential building permits may request to defer payment of required impact fees until the closing of the first sale of the property occurring after the issuance of the applicable building permit, which request shall be granted so long as the requirements of this chapter are satisfied. If a deferral request is granted under this section, payment of the impact fees shall be due to the City within seven (7) calendar days after the date of sale or transfer of ownership of the property. Unless an agreement to the contrary is reached between the buyer and seller, the payment of impact fees due at closing of a sale must be made from the seller's proceeds. In the absence of an agreement to the contrary, the seller bears strict liability for the payment of the impact fees.

B. Method of Request. A request for impact fee deferral shall be made in writing on a form provided by the City, and submitted contemporaneously with the associated building permit application. Any request for impact fee deferral must be accompanied by an administrative fee in an amount determined by resolution of the City Council.

C. Calculation of Impact Fees. The amount of impact fees to be deferred under this chapter shall be determined as of the date the request for deferral is submitted.

16.118.040 Deferral Term

The term of an impact fee deferral granted under this chapter may not exceed twelve (12) months from the date the building permit is issued ("Deferral Term"). If the condition triggering payment of the deferred impact fees does not occur prior to the expiration of the Deferral Term, then full payment of the impact fees shall be due on the last date of the Deferral Term. Payment of impact fees deferred under this chapter shall be made by cash, escrow company check, cashier's check, or certified check.

16.118.050 Deferred Impact Fee Lien

A. Applicant's Duty to Record Lien. An applicant requesting a deferral under this chapter must, at his or her own expense, grant and record a deferred impact fee lien, in an amount equal to the deferred impact fees as determined under SMC 16.118.030(C), against the property in favor of the City in accordance with the requirements of RCW 82.02.050(3)(c). The applicant or seller shall provide written disclosure of the deferred impact fee lien to a purchaser or

prospective purchaser of the property, including the amount of impact fees payable and the requirement that the impact fees be paid at the time of sale.

B. Satisfaction of Lien. Upon receipt of final payment of all deferred impact fees for the property, the City shall execute a release of deferred impact fee lien for the property. The property owner at the time of the release is responsible, at his or her own expense, for recording the lien release.

16.118.060 Limitation on Deferrals

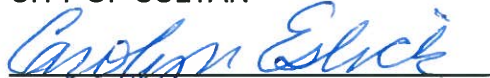
The deferral entitlements allowed under this chapter shall be limited to the first twenty (20) single-family residential construction building permits per applicant, as identified by contractor registration number or other unique identification number, per year.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force on September 1, 2016.

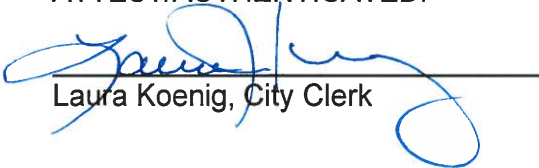
ADOPTED BY THE CITY COUNCIL OF THE CITY OF SULTAN AT A REGULAR MEETING THEREOF ON THE 28th DAY OF JULY, 2016.

CITY OF SULTAN



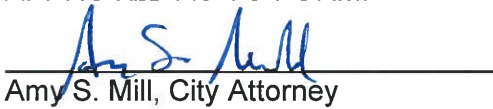
Carolyn Eslick, Mayor

ATTEST/AUTHENTICATED:



Laura Koenig, City Clerk

APPROVED AS TO FORM:



Amy S. Mill, City Attorney

Passed by the City Council: 7/28/16

Published: 8-2-16

Effective: 8-7-16