

ORDINANCE NO. 1657

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to impact fees, adding and codifying a new chapter to Title 3 DMMC to create an option for deferred payment of impact fees and a new section to chapter 12.40 DMMC providing a referral to the deferred payment option in Title 3 DMMC.

WHEREAS, impact fees are authorized for those jurisdictions planning under the Growth Management Act and are charges assessed by local governments against new development projects to recover the cost incurred by government in providing the public facilities required to serve the new development, and

WHEREAS, the City has adopted code provisions governing the assessment and collection of transportation impact fees in chapter 12.40 DMMC, and

WHEREAS, the 2015 Legislature enacted changes to how impact fees are to be collected by Washington counties, cities, and towns. ESB 5923 requires counties, cities, and towns to adopt a deferral system for the collection of impact fees for new single-family detached and attached residential construction, and

WHEREAS, the City Council finds that the provisions of this Ordinance are appropriate and necessary for the preservation of the public health and welfare; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. A new chapter is added to Title 3 DMMC to read as follows:

Option for deferred payment of impact fees. An applicant may request, at any time prior to building permit issuance, and consistent with the requirements of this section, to defer to final inspection the payment of an impact fee for a residential development unit. The following shall apply to any request to defer payment of an impact fee:

(1) 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 adopted permit and impact fee schedule.

(2) 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 (1) of this section.

(3) Prior to the issuance of a building permit that is the subject of a request for a deferred payment of impact fee, 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, with all signatures acknowledged as required for a deed. The lien shall include the legal description, tax account number, and address of the property and shall be binding on all successors in title after the recordation. The deferred impact fee payment 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 (1) of this section, the applicant shall pay to the City the fees necessary for recording the lien agreement with the King County recorder.

(4) The City shall not approve a final inspection until the impact fees identified in the deferred impact fee payment lien are paid in full.

(5) In no case shall payment of the impact fee be deferred for a period of more than eighteen (18) months from the date of building permit issuance.

(6) Upon receipt of final payment of the deferred impact fee as identified in the deferred impact fee payment 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.

(7) In the event that the deferred impact fee is not paid within the time provided in this section, the City shall institute foreclosure proceedings under the process set forth in chapter 61.12 RCW. A District may also institute foreclosure proceedings as set forth in RCW 82.02.050(3).

(8) An applicant is entitled to defer impact fees pursuant to this section for no more than twenty (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.

Sec 2. A new section is added to chapter 12.40 DMMC to read as follows:

Deferred payment of impact fees. Impact fees required in this chapter may be deferred as provided in Title 3 DMMC.

Sec. 3. Codification.

(1) Section 1 of this Ordinance shall be codified as a new chapter in Title 3 DMMC, entitled "*Option for deferred payment of impact fees.*"

(2) Section 2 of this Ordinance shall be codified as a new section in chapter 12.40 DMMC, entitled "*Deferred payment of impact fees.*"

Sec. 4. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

(2) If the provisions of this Ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

Sec. 5. Effective date. This Ordinance shall take effect and be in full force five (5) days after its final passage by the Des Moines City Council in accordance to law.

PASSED BY the City Council of the City of Des Moines this 14th day of July, 2016 and signed in authentication thereof this 14th day of July, 2016.



M A Y O R

APPROVED AS TO FORM:



Interim City Attorney

ATTEST:



City Clerk

Published: July 19, 2016

LEGAL NOTICE
SUMMARY OF ADOPTED ORDINANCE
CITY OF DES MOINES

ORDINANCE NO. 1657, Adopted July 14, 2016.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This Ordinance relates to impact fees, adds and codifies a new chapter to Title 3 DMMC creating an option for deferred payment of impact fees and adds a new section to chapter 12.40 DMMC providing a referral to the deferred payment option in Title 3 DMMC.

The full text of the Ordinance will be mailed without cost upon request.

Bonnie Wilkins, CMC
City Clerk

Published: July 19, 2016