

**ORDINANCE NO. 2015-016**

**AN ORDINANCE OF THE CITY OF SEQUIM, WASHINGTON, AMENDING AND ADDING DEFINITIONS TO SUBSECTIONS 22.04.020 AND 22.12.020 OF THE CITY OF SEQUIM MUNICIPAL CODE AND ADDING A NEW CHAPTER, 22.20 TO THE CITY OF SEQUIM MUNICIPAL CODE RELATING TO DEFERRAL OF IMPACT FEE COLLECTION; REPEALING ORDINANCES IN CONFLICT; ESTABLISHING PENALTIES FOR NON-COMPLIANCE; AND PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE**

**WHEREAS**, the Legislature has proposed and/or passed SL 5923 in 2015 relating to deferring the collection date of assessed impact fees; and

**WHEREAS**, SL 5923 requires counties and cities to defer collection of residential impact fees and provides for a lien in favor of the City against property subject to impact fees; and

**WHEREAS**, the City wishes to provide a process for deferred collection of residential unit impact fees before implementation of the statute but to be effective only during the effective dates of the statute; and

**NOW, THEREFORE**, the City Council of the City of Sequim, Washington, ordains as follows:

**Section 1.** Subsections 22.04.020, 22.12.020 of the Sequim Municipal Code are hereby AMENDED to add definitions as set forth in Exhibit "A.";

**Section 2.** There is added to Title 22 of the Sequim Municipal Code, a new Chapter 22.20 to read as set forth in Exhibit "B.";

**Section 3. Corrections.** The City Clerk and the codifiers of this ordinance are authorized to make necessary clerical 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 4. Savings Clause.** Those portions of Ordinance 2010-007 and 2010-008 and SMC Chapter 22 which are repealed or amended by this ordinance shall remain in full force and effect until the effective date of this ordinance.

Such repeals and amendments shall not be construed as affecting any existing right acquired under the ordinances repealed or amended, nor as affecting any proceeding instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor the administrative action taken thereunder. Notwithstanding the foregoing actions, obligations under such ordinances or permits issued thereunder and in effect on the effective date of this ordinance shall continue in full force and effect, and no liability

thereunder, civil or criminal, shall be in any way modified. Further, it is not the intention of these actions to reenact any ordinances or parts of ordinances previously repealed or amended, unless this ordinance specifically states such intent to reenact such repealed or amended ordinances.

**Section 5. Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

**Section 6. Effective Date.** This ordinance shall become effective five days after publication of the ordinance, or a summary thereof, in the official newspaper of the City.

  
Candace Pratt, Mayor

Attest:

  
Karen Kuznek-Reese, MMC  
City Clerk

Approved as to form:

  
Craig A. Ritchie, City Attorney

9/28/15  
Approved Date

10/2/15  
Publication Date

10/7/15  
Effective Date

## **Exhibit “A” to Ordinance 2015-016**

*[Add the following definitions to the Definition sections (22.04.020 & 22.12.020):]*

“Applicant for Impact Fee Deferral” means an applicant for a building permit that also makes application for Impact Fee Deferral. It includes an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant.

“Transfer” means sale as defined in RCW 82.45.010, forfeiture, foreclosure, trade, gift, receivership, bankruptcy or other change in ownership interest in real property or improvements.

## **Exhibit “B” to Ordinance 2015-016**

Chapter 22.20

### **DEFERRAL OF IMPACT FEES**

In accordance with ESB 5923(2015), Impact Fees assessed for single-family detached or attached new residential construction may be deferred at the election of an Applicant for Impact Fee Deferral under the following terms and conditions:

1. For each single family residence for which any impact fee deferral is applied for, an administrative fee set in the annual Fee Ordinance must simultaneously be paid to the city due to the increased burden placed on city staff for processing and monitoring such deferran.
2. A separate application must be submitted for each single-family residence being constructed. Only the first twenty (20) applications per calendar year by each applicant for impact fee deferral are eligible for impact fee deferral under this chapter.
3. The period of deferral expires at the earliest of:
  - (a) the time of final inspection by the city;
  - (b) the time of issuance of a certificate of occupancy by the city;
  - (c) the time of closing of the first transfer of the property occurring after the issuance of the applicable building permit; or
  - (d) eighteen months after the building permit is issued by the city.
4. Final Inspection approval, certificate of occupancy, and hookups to water & sewer will not be issued or made until payment in full of the impact fees is made. For the first transfer of the property, the impact fees shall be paid at closing if they have not been previously paid.
5. The Applicant for Impact Fee Deferral must grant and record in favor of the City of Sequim an impact fee lien in the amount of the deferred impact fee. The lien must be in a form signed, dated and approved by the city attorney, and signed by all owners of the property and persons or entities holding any interest in the property, with all signatures acknowledged as required for a deed, and recorded among the appropriate land records of Clallam County. Proof of such

recording shall be submitted to the City before a building permit may be issued. The lien must specify that it is binding on all successors in title after the recordation. The lien may specify that it is subordinate to one mortgage for the purpose of construction upon the same real property granted by the Applicant for Impact Fee Deferral. A mortgage, Deed of Trust or other financing mechanism shall be limited to the property upon which construction on one single family residence will occur. A lien not paid when due shall bear interest at the statutory rate. A lien shall become due at the expiration of the deferral date.

6. If impact fees are not paid in accordance with ESB 5923(2015), the city may institute foreclosure proceedings in accordance with RCW Chapter 61.12.

7. After full payment of impact fees, and upon written request of the person paying said fees containing the name and address of the requester together with a copy of a proposed lien release form, the City, upon approval by the City Attorney, shall sign a lien release and deliver it to the person paying said fee either in person or by first class mail.