

## ORDINANCE NO. 2016-16

**AN ORDINANCE** of the City of Bainbridge Island, Washington, amending Chapter 15.30 of the Bainbridge Island Municipal Code relating to Transportation Impact Fees to add a deferral program for single-family residential construction and to amend the table in Section 15.30.200(B).

**WHEREAS**, on September 8, 2015, the Bainbridge Island City Council adopted Ordinance No. 2015-07 establishing a Transportation Impact Fee Program and adopting a new Chapter 15.30 to Title 15 of the Bainbridge Island Municipal Code; and

**WHEREAS**, with the adoption of Engrossed Senate Bill (ESB) 5923 in April 2015, the Legislature amended Section 82.02.050 of the Revised Code of Washington (RCW) to mandate that cities collecting impact fees adopt and maintain a deferral program for the collection of impact fees for single-family detached and attached residential construction; and

**WHEREAS**, ESB 5923 sets forth specific requirements for the deferral program while also allowing cities certain discretion, including the time for deferral and the collection of an administrative fee; and

**WHEREAS**, there are other administrative changes needed to clarify the intent of the existing code;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1.** Section 15.30.070 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

A. The following development activity shall be exempted from the payment of TIFs:

1. Alteration, expansion, or replacement of an existing single-family home.
- ~~2. Alteration of a nonresidential structure that does not expand the usable space or add any residential units.~~
- ~~23.~~ Any legal accessory dwelling unit approved under BIMC Title 18, Zoning, because it is considered part of the associated single-family use.

34. Miscellaneous improvements that do not generate increased p.m. peak hour trips including, but not limited to, fences, walls, residential swimming pools, and signs.

45. Demolition or moving of a structure when additional p.m. peak hour trips are not generated.

56. A change of use that does not generate additional trips per unit of development according to the trip generation rates established in the transportation impact fee rate schedule in BIMC 15.30.200.

67. Miscellaneous permits for activities that do not generate any new trips.

78. Rezones, comprehensive plan amendments, subdivisions, boundary line adjustment and lot line eliminations, or any other land use permits.

89. Buildings or structures constructed by a regional transit authority pursuant to RCW 82.02.090.

940. Any building permit application that has been submitted to the city before 4:00 p.m. the business day before the effective date of the ordinance codified in this chapter that has been deemed complete based on the information on file as of the effective date of the ordinance codified in this chapter.

1044. Affordable housing as defined by BIMC 18.21.020 and 18.36.030(16) or their successors.

1112. Pursuant to RCW 82.02.060, the city may provide exemptions for development activities with broad public purposes; provided, that the impact fees from such development activity shall be paid from public funds other than impact fee funds. The director shall be authorized to determine whether a particular development activity falls within an exemption identified in this section or under other applicable law. Determinations of the director shall be in writing and shall be subject to the appeals procedures established in Chapter 2.16 BIMC.

**Section 2.** The categories “Park and Ride” and “Retail – Small, ITE 925, Drinking Place” in Section 15.30.200(B) of the Bainbridge Island Municipal Code are hereby amended to read as follows:

			Impact Fee per Trip Rate: \$1,632.47			
Land Use Group	ITE Code <sup>1</sup>	ITE Land Use Category <sup>1</sup>	ITE Trip Rate <sup>2</sup>	% Pass-By Trips <sup>3</sup>	Net New Trips per Development Unit	Impact Fee per Development Unit <sup>4</sup>
Park and Ride	090	Park and Ride with Bus Service	0.62	0%	0.620	\$1,012.13 per Space
Retail – Small	925	Drinking Place	11.34	0% 35%	11.340	\$18,512.21 per KSF

**Section 3.** A new section 15.30.210 of the Bainbridge Island Municipal Code is hereby adopted to read as follows:

**15.30.210 Single-Family Residential Deferral Program**

An applicant for a building permit for a single-family detached or attached residence may request a deferral of the full impact fee payment until final inspection. Deferral of impact fees are considered under the following conditions:

- A. An applicant for deferral must request the deferral no later than the time of application for a building permit. Any request not so made shall be deemed waived.
- B. For the purposes of this deferral program, the following definitions apply:
  - 1. “Applicant” includes an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant.
  - 2. “Single-Family Residence” means a permit for a single-family attached or detached residence as set forth in Chapter 15.04 BIMC.
- C. To receive a deferral, an applicant must:

1. Submit a deferred impact fee application and acknowledgement form for each single-family attached or detached residence for which the applicant wishes to defer payment of the impact fees;

2. At the applicant's expense, grant and record a deferred impact fee lien in a form approved by the city against the property in favor of the city in the amount of the deferred impact fee that:

a. includes the legal description, tax account number, and address of the property;

b. requires payment of the impact fees to the city prior to final inspection;

c. is signed by all owners of the property, with all signatures acknowledged as required for a deed and recorded in Kitsap County;

d. binds all successors in title after the recordation; and

e. is junior and subordinate to one mortgage for the purpose of construction upon the same real property, granted by the person who applied for the deferral of impact fees.

D. The amount of impact fees deferred shall be determined by the fees in effect at the time the applicant applies for a deferral.

E. Prior to final inspection, the applicant may pay the deferred amount in installments, with no penalty for early payment.

F. The city shall withhold final inspection until the impact fees have been paid in full. Upon receipt of final payment of impact fees deferred under this subsection, the city shall execute a release of deferred impact fee lien for each single-family attached or detached residence for which the impact fees have been received. The applicant, or property owner at the time of release, shall be responsible for recording the lien release at his or her expense.

G. The extinguishment of a deferred impact fee lien by the foreclosure of a lien having priority does not affect the obligation to pay the impact fees as a condition of final inspection.

H. The city will not issue occupancy permits, including temporary occupancy permits, until the impact fee is paid in full. If a residence is discovered to be occupied without full payment of impact fees, then the city may foreclose the lien. Satisfactory evidence of occupancy includes but is not limited to the presence of furnishings, personal belongings, and utility bills.

I. If impact fees are not paid in accordance with the deferral and in accordance with the term provisions established herein, the city may institute foreclosure proceedings in accordance with Chapter 61.12 RCW and may recover all costs incurred, including reasonable attorneys' fees.


**Section 4.** This ordinance shall take effect and be in force five (5) days from its passage, approval, and publication as required by law. Section 3 of this Ordinance shall be effective September 1, 2016 and shall apply to all building permit applications made on or after that date.

PASSED BY THE CITY COUNCIL this 23<sup>rd</sup> day of September, 2016.

APPROVED BY THE MAYOR this 23<sup>rd</sup> day of September, 2016.

  
Val Tollefson, Mayor

ATTEST/AUTHENTICATE:

  
Rosalind D. Lassoff, CMC, City Clerk

FILED WITH THE CITY CLERK:	August 3, 2016
PASSED BY THE CITY COUNCIL:	August 23, 2016
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