

1 ADOPTED: 03/14/18  
2 EFFECTIVE: 03/29/18

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6 SNOHOMISH COUNTY COUNCIL  
7 Snohomish County, Washington

8  
9 ORDINANCE NO. 18-012

10  
11 AMENDING CHAPTER 30.66C OF THE SNOHOMISH COUNTY CODE (SCC) FOR  
12 CONSISTENCY WITH THE REVISED CODE OF WASHINGTON; PERTAINING TO  
13 THE TIME LIMITATION FOR THE EXPENDITURE OF SCHOOL IMPACT FEES  
14

15 WHEREAS, in 1997 Snohomish County (“the County”) adopted an impact fee  
16 ordinance to provide mitigation for the impacts of new development on public school  
17 facilities pursuant to RCW 82.02.050; and

18  
19 WHEREAS, pursuant to RCW 82.02.050(5), impact fees may be collected and  
20 spent only for the public facilities defined in RCW 82.02.090, which are addressed by  
21 the capital facilities element of the County’s Growth Management Act Comprehensive  
22 Plan (“GMACP”) created under the Growth Management Act (GMA), Chapter 36.70A  
23 RCW; and

24  
25 WHEREAS, pursuant to RCW 82.02.070(3)(b), school impact fees shall be  
26 expended or encumbered for a permissible use within ten years of receipt, unless there  
27 exists an extraordinary and compelling reason for fees to be held longer than ten  
28 years; and

29  
30 WHEREAS, pursuant to RCW 82.02.080(1), the current property owner on which  
31 impact fees have been paid may receive a refund for impact fees not encumbered or  
32 spent within ten years of when the fees were paid; and

33  
34 WHEREAS, on March 14, 2018, the Snohomish County Council (“County  
35 Council”) held a public hearing after proper notice, received public testimony related to  
36 this Ordinance No. 18-012, and considered the entire record; and

37  
38 WHEREAS, following the public hearing on March 14, 2018, the County Council  
39 deliberated on this Ordinance No. 18-012, considered the entire hearing record,  
40 including written and oral testimony submitted during the public hearings;

41  
42 NOW, THEREFORE, BE IT ORDAINED:

43  
44 Section 1. The County Council adopts the following findings in support of this  
45 ordinance:

46  
47 A. The foregoing recitals are adopted as findings as if set forth herein.

48  
49 B. This ordinance will amend chapter 30.66C SCC as follows:  
50

- 1 1. Amend SCC 30.66C.130 for consistency with RCW 82.02.070, and to  
2 reference chapter 82.02 RCW for the limitation on the expenditure of impact  
3 fees.
- 4
- 5 2. Amend SCC 30.66C.220 for consistency with SCC 30.66C.130, and to  
6 reference chapter 82.02 RCW for the limitation on the expenditure of impact  
7 fees.
- 8

9 C. The proposal implements the following goal, objective, and policy contained in the  
10 General Policy Plan (GPP) of the GMACP ("GMACP-GPP"):

- 11 1. Goal CF 10 "Ensure that county growth and development anticipated under  
12 the comprehensive plan can be accommodated by present and future school  
13 facilities."
- 14
- 15 2. Policy CF 10.A.4 "The county shall monitor and adjust, when appropriate, its  
16 school impact fee program as authorized under the GMA to help fund the cost  
17 of school expansions required to serve new development. County acceptance  
18 of a district plan which proposes the use of impact fees may not by itself  
19 constitute complete approval of the proposed impact fees. Approval of impact  
20 fees must be secured in accordance with the provisions of county code and  
21 state statute in affect at the time."  
22
- 23 3. Goal ED 2 "Provide a planning and regulatory environment which facilitates  
24 growth of the local economy."  
25
- 26 4. Objective ED 2.A "Develop and maintain a regulatory system that is fair,  
27 understandable, coordinated and timely."  
28
- 29 5. Policy ED 2.A.1 "Snohomish County shall work to ensure that the Snohomish  
30 County Code is an understandable, accessible, and user friendly document."  
31
- 32

33 D. Procedural requirements.

- 34 1. The proposed amendments are consistent with state law, chapter 82.02  
35 RCW.
- 36
- 37 2. This ordinance is exempt from the State Environmental Policy Act (SEPA),  
38 chapter 43.21C RCW, pursuant to Section 197-11-800(19) Washington  
39 Administrative Code, because the action relates solely to governmental  
40 procedures.  
41
- 42 3. This ordinance is exempt from review by the Snohomish County Planning  
43 Commission ("Planning Commission") pursuant to SCC 30.73.040(2)(b)  
44 because the amendments are procedural in nature.  
45
- 46 4. Pursuant to RCW 36.70A.106, a notice to adopt this ordinance was received  
47 by the Washington State Department of Commerce ("Commerce") on  
48 December 28, 2017, for distribution to state agencies.  
49

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- 2
- 3 5. The public participation process used in the adoption of this ordinance
- 4 complied with all applicable requirements of the GMA and the SCC.
- 5
- 6 6. The Washington State Attorney General last issued an advisory
- 7 memorandum, as required by RCW 36.70A.370, in December 2015, entitled
- 8 "Advisory Memorandum: Avoiding Unconstitutional Takings of Private
- 9 Property" to help local governments avoid the unconstitutional taking of
- 10 private property. The process outline in the State Attorney General's 2015
- 11 advisory memorandum was used by Snohomish County in objectively
- 12 evaluating the regulatory changes proposed by this ordinance.

13 E. The proposed amendments are consistent with the record.

- 14
- 15 1. Amendments to chapter 30.66C SCC are necessary for consistency with
- 16 Washington state law, chapter 82.02 RCW, and for internal code consistency.
- 17
- 18 2. Adoption of these amendments would provide greater clarity for the school
- 19 districts and the public.
- 20
- 21 3. The proposal implements goals, objectives, and policies of the GMACP-GPP.
- 22

23 Section 2. The County Council makes the following conclusions:

- 24
- 25 A. The proposed amendments provide greater clarity for the code provisions regarding
- 26 school impact fees.
- 27
- 28 B. The proposed amendments are consistent with Washington state law and the SCC.
- 29
- 30 C. The proposed amendments implement and are consistent with the goals, objectives,
- 31 and policies of the GMACP-GPP.
- 32
- 33 D. The proposed amendments are exempt from SEPA review.
- 34
- 35 E. The proposed amendments do not result in an unconstitutional taking of private
- 36 property for a public purpose and they do not violate substantive due process.
- 37

38 Section 3. Snohomish County Code Section 30.66C.130, adopted by Amended

39 Ordinance No. 02-064 on December 9, 2002, is hereby amended to read:

40

41 **30.66C.130 Impact fee limitations.**

42

43 (1) School impact fees shall be imposed for district capital facilities that are reasonably

44 related to the development under consideration, shall not exceed a proportionate share

45 of the costs of system improvements that are reasonably related to the development,

46 and shall be used for system improvements that will reasonably benefit the new

47 development.

48

1 (2) School impact fees must be expended or encumbered for a permissible use within  
2 ~~((six years of receipt by the district))~~ the time limits established in chapter 82.02 RCW.

3  
4 (3) To the extent permitted by law, school impact fees may be collected for capital  
5 facilities costs previously incurred to the extent that new growth and development will be  
6 served by the previously constructed capital facilities, provided that school impact fees  
7 shall not be imposed to make up for any existing system deficiencies.

8  
9 (4) A developer required to pay a fee pursuant to RCW 43.21C.060 for capital facilities  
10 shall not be required to pay a school impact fee pursuant to RCW 82.02.050 - .090 and  
11 this title for the same capital facilities.

12  
13 Section 4. Snohomish County Code Section 30.66C.220, last amended by  
14 Amended Ordinance No. 12-018 on May 2, 2012, is hereby amended to read:

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16 **30.66C.220 Refunds.**

17  
18 (1) School impact fees not spent or encumbered within ~~((ten years after they were  
19 collected))~~ the time limits established in chapter 82.02 RCW, shall be refunded pursuant  
20 to RCW 82.02.080(1). For purposes of this chapter, "encumbered" means school impact  
21 fees identified by the district to be committed as part of the funding for capital facilities  
22 for which the publicly funded share has been assured, development approvals have  
23 been sought or construction contracts have been let.

24  
25 (2) When the county seeks to terminate any or all impact fee requirements under this  
26 section, all unexpended or unencumbered funds, including interest earned, shall be  
27 refunded in accordance with RCW 82.02.080(2).

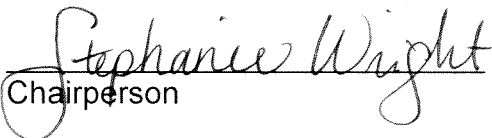
28  
29 (3) Refunds provided for under this section shall be paid only upon submission of a  
30 proper claim pursuant to county claim procedures. Such claims must be submitted  
31 within one year of the date the right to claim the refund arises, or the date that notice is  
32 given, whichever is later.


33  
34 Section 5. The County Council bases its findings and conclusions on the entire  
35 record of the County Council, including all testimony and exhibits. Any findings, which  
36 should be deemed a conclusion, and any conclusion, which should be deemed a  
37 finding, are hereby adopted as such.

1 Section 6. If any section, sentence, clause or phrase of this ordinance shall be  
2 held to be invalid or unconstitutional by the Growth Management Hearings Board or a  
3 court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the  
4 validity or constitutionality of any other section, sentence, clause or phrase of this  
5 ordinance. If any section, sentence, clause or phrase of this ordinance is held to be  
6 invalid by the board or court of competent jurisdiction, the section, sentence, clause or  
7 phrase in effect prior to the effective date of this ordinance shall be in full force and  
8 effect for that individual section, sentence, clause or phrase as if this ordinance had  
9 never been adopted.

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PASSED this 14<sup>th</sup> day of March, 2018.

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington  
  
Chairperson

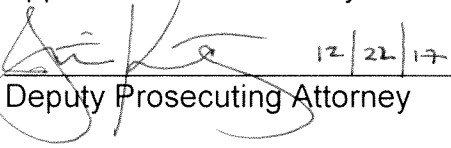
ATTEST:  
  
\_\_\_\_\_  
Clerk of the Council

- APPROVED
- VETOED
- EMERGENCY

DATE: 3/19, 2018

  
\_\_\_\_\_  
Snohomish County Executive

ATTEST:  
  
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Approved as to form only:  
  
\_\_\_\_\_  
Deputy Prosecuting Attorney

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