

EXECUTIVE/COUNCIL APPROVAL FORM

MANAGEMENT ROUTING:
 EXECUTIVE _____
 DEPUTY/EXEC. DIR. _____
 DIRECTOR/ELECTED CM Nehring NW
 DEPARTMENT _____
 DIV. MGR. _____
 DIVISION _____
 ORIGINATOR Yorik Stevens-Wajda
 DATE May 10, 2018 EXT. 3209

TO: COUNCIL CHAIRPERSON:
SNOHOMISH COUNTY COUNCIL

EXECUTIVE RECOMMENDATION:
 _____ Approve _____ No Recommendation
 _____ Further Processing
 _____ Requested By _____

 Executive Office Signature
 CEO Staff Review _____ / /
 Received at Council Office EL 5/10/18

DOCUMENT TYPE:

_____ BUDGET ACTION:
 _____ Emergency Appropriation
 _____ Supplemental Appropriation
 _____ Budget Transfer

_____ CONTRACT:
 _____ New
 _____ Amendment

_____ GRANT APPLICATION
X ORDINANCE
 _____ Amendment to Ord. # _____

_____ PLAN/REPORT
 _____ MOTION
 _____ OTHER ACTION (describe below)

DOCUMENT / AGENDA TITLE:
 RELATING TO GROWTH MANAGEMENT, AMENDING WHEN SCHOOL IMPACT MITIGATION FEES FOR A DEVELOPMENT ARE CALCULATED, AMENDING CHAPTER 30.66C SCC AND CHAPTER 30.91D SCC

APPROVAL AUTHORITY: EXECUTIVE _____ COUNCIL X
 CITE BASIS SCC 2.08

HANDLING: NORMAL X EXPEDITE _____ URGENT _____ DEADLINE DATE _____

PURPOSE:
 Improving the ability for developers to make informed decisions regarding a project's ultimate viability and profitability by addressing uncertainty in the early stages of housing development projects concerning what school impact mitigation fee rates will be at building permit phase.

- BACKGROUND:**
- In 2017, the county council requested that county staff and the planning commission explore additional options to limit the variability of school impact mitigation fees from year to year.
 - County staff developed and evaluated options for reducing the variability of school impact mitigation fees from year to year and calculating school impact mitigation fee rates earlier in the development process, convened a stakeholder working group to help develop and review options, and presented options and contextual information to the planning commission.
 - The council received the planning commission's recommendation to focus on early notification and information sharing on school district plans for impact fee rates, and also requested the development of additional options to limit the variability of school impact mitigation fees from year to year and set school impact mitigation fee rates earlier in the development process.

FISCAL IMPLICATIONS:

EXPEND: FUND, AGY, ORG, ACTY, OBJ, AU	CURRENT YR	2ND YR	1ST 6 YRS
TOTAL	0		

REVENUE: FUND, AGY, ORG, REV, SOURCE	CURRENT YR	2ND YR	1ST 6 YRS
TOTAL	0		

DEPARTMENT FISCAL IMPACT NOTES:

BUDGET REVIEW: Analyst _____ Administrator _____ Recommend Approval _____

CONTRACT INFORMATION:

ORIGINAL _____ CONTRACT # _____ AMOUNT \$ _____
 AMENDMENT _____ CONTRACT # _____ AMOUNT \$ _____

CONTRACT PERIOD:

ORIGINAL Start _____ End _____
 AMENDMENT Start _____ End _____

CONTRACT / PROJECT TITLE:

CONTRACTOR NAME & ADDRESS (City/State only):

APPROVED:

RISK MANAGEMENT Yes _____ No _____

COMMENTS _____

PROSECUTING ATTY - AS TO FORM: Yes No _____

OTHER DEPARTMENTAL REVIEW / COMMENTS:

ELECTRONIC ATTACHMENTS :

G:\ECAF\Council\20066919 - ECAF.docx
 G:\ECAF\Council\20066919 - Ordinance.docx

NON-ELECTRONIC ATTACHMENTS:

Nomination form

1 Adopted:
2 Effective:

3
4 SNOHOMISH COUNTY COUNCIL
5 Snohomish County, Washington

6
7 ORDINANCE NO. 18-036

8
9 RELATING TO GROWTH MANAGEMENT,
10 AMENDING WHEN SCHOOL IMPACT MITIGATION FEES
11 FOR A DEVELOPMENT ARE CALCULATED,
12 AMENDING CHAPTER 30.66C SCC AND CHAPTER 30.91D SCC
13

14 WHEREAS, in 1999 Snohomish County adopted an impact fee ordinance to provide
15 mitigation for the impacts of new development on public school facilities under RCW 82.02.050;
16 and
17

18 WHEREAS, under RCW 82.02.050(5)(a), impact fees may be collected and spent only
19 for the public facilities defined in RCW 82.02.090, which are addressed by the Capital Facilities
20 Element of the Snohomish County ("County") comprehensive plan created under the Growth
21 Management Act (GMA), Chapter 36.70A RCW; and
22

23 WHEREAS, the County collects school impact mitigation fees on behalf of school
24 districts based on the fee schedule in SCC 30.66C.100 in effect at the time of building permit
25 application; and
26

27 WHEREAS, in 2017, the Snohomish County Council ("County Council") requested the
28 Snohomish County Department of Planning and Development Services (PDS) staff and the
29 Snohomish County Planning Commission ("Planning Commission") explore additional options to
30 limit the variability of school impact mitigation fees from year to year; and
31

32 WHEREAS, the County Council adopted Substitute Ordinance No. 16-097 on November
33 14, 2016, which included a budget note requesting that PDS develop, evaluate, and propose
34 amendments to Snohomish County Code that would reduce the variability of school impact
35 mitigation fee charges from one year to the next; and
36

37 WHEREAS, PDS developed and evaluated options for reducing the variability of school
38 impact mitigation fees from year to year and calculating school impact mitigation fee rates
39 earlier in the development process, convened a stakeholder working group to help develop and
40 review options, and presented options and contextual information to the Planning Commission;
41 and
42

43 WHEREAS, the Planning Commission was briefed on the school impact mitigation fee
44 stabilization budget note in June 2017, deliberated in July 2017 and August 2017, and
45 submitted the following recommendation to the County Council by letter dated August 25, 2017:
46 *"No code amendments. Explore early notification with all sides and report back to the planning*
47 *commission on progress at the appropriate time. Encourage the County (department of planning*
48 *and development services) to provide the building industry members and public with earliest*
49 *possible notification of proposed increases in school impact fees through prominent features on*
50 *the department of planning and development services webpage."*; and

1
2 WHEREAS, the County Council received the Planning Commission’s recommendation
3 and held a discussion at the County Council’s planning committee meeting on September 19,
4 2017; and
5

6 WHEREAS, the County Council requested staff to continue to explore options to limit the
7 variability of school impact mitigation fees from year to year and calculate school impact
8 mitigation fee rates earlier in the development process; and
9

10 WHEREAS, this ordinance amends the point in time when school impact fees are
11 calculated from the time of building permit application to the time of development application,
12 unless more than five years passes between development application and building permit
13 application; and
14

15 WHEREAS, the definition of “development” in SCC 30.91D.200, which applies to park
16 impact mitigation regulations, also provides an appropriate definition for the purposes of school
17 impact mitigation fees; and
18

19 WHEREAS, the definition of “development” in SCC 30.91D.200 requires amendments
20 for consistency with changes to the related development regulations since that section was last
21 amended in 2005; and
22

23 WHEREAS, amending the definition of “development” found in SCC 30.91D.200 and
24 making that definition applicable to Chapter 30.66C renders the definition of “development”
25 codified at SCC 30.91D.220 superfluous and unnecessary and it should be repealed for clarity;
26 and
27

28 WHEREAS, the proposal is a Type 3 procedural legislative action under SCC
29 30.73.040(2)(b) and is exempt from Planning Commission hearing requirements; and
30

31 WHEREAS, the County Council held a public hearing on _____, and considered
32 public comment and the entire record related to the code amendments contained in this
33 ordinance; and
34

35 WHEREAS, following the public hearing, the County Council deliberated on the code
36 amendments contained in this ordinance;
37

38 NOW, THEREFORE, BE IT ORDAINED:
39

40 Section 1. The County Council adopts the foregoing recitals as findings of fact as if set
41 forth in full herein.
42

43 Section 2. The County Council makes the following additional findings of fact:
44

- 45 A. Uncertainty in the early stages of a housing development project concerning what school
46 impact mitigation fee rates will be at building permit phase makes it difficult for developers to
47 make informed decisions regarding a project’s ultimate viability and profitability.
48
49 B. Limiting the lag between the time a school impact mitigation fee is calculated and a building
50 permit application is received to a maximum of five years will maintain a close connection

1 between the impact fees collected to mitigate capital facility needs to support projected
2 student population growth and the actual growth in student population.

3
4 C. Procedural Requirements.

- 5
6 1. This ordinance is consistent with state law and Chapter 30.73 SCC.
7
8 2. These code amendments are procedural and are exempt from Planning Commission
9 review under SCC 30.73.040(2)(b).
10
11 3. This action is considered procedural and is exempt from the State Environmental
12 Policy Act (SEPA), Chapter 43.21C RCW, review pursuant to WAC 197-11-
13 800(19)(b) and SCC 30.61.030.
14
15 4. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance was
16 transmitted to the Washington State Department of Commerce for distribution to
17 state agencies on April 30, 2018.
18
19 5. The Washington State Attorney General last issued an advisory memorandum, as
20 required by RCW 36.70A.370, in December 2015, entitled "Advisory Memorandum:
21 Avoiding Unconstitutional Takings of Private Property" to help local governments
22 avoid the unconstitutional taking of private property. The process outlined in the
23 State Attorney General's 2015 advisory memorandum was used by Snohomish
24 County in objectively evaluating the regulatory changes proposed by this ordinance.
25
26 6. The public participation process used in the adoption of this ordinance has complied
27 with all applicable requirements of the GMA and the SCC.

28
29 D. These amendments are consistent with the record.

30
31 E. The code amendments are consistent with the comprehensive plan, including the following
32 goals and policies in particular:

- 33
34 1. GOAL CF 10 – Ensure that county growth and development anticipated under the
35 comprehensive plan can be accommodated by present and future school facilities.
36
37 2. GPP CF Policy 10.A.4 – The county shall monitor and adjust, when appropriate, its
38 school impact fee program as authorized under the GMA to help fund the cost of
39 school expansions required to serve new development. County acceptance of a
40 district plan which proposes the use of impact fees may not by itself constitute
41 complete approval of the proposed impact fees. Approval of impact fees must be
42 secured in accordance with the provisions of county code and state statute in affect
43 at the time.
44
45 3. GPP HO Policy 3.A.5 – The county's impact fee program shall be based on a fair
46 assessment of the cost of new public facilities needed to accommodate each
47 housing unit.

48
49 F. The code amendments are consistent with the requirements of the GMA and are guided by
50 and support the GMA planning goals found in RCW 36.70A.020 including: Goal 11 ("Citizen

1 participation and coordination. Encourage the involvement of citizens in the planning
2 process and ensure coordination between communities and jurisdictions to reconcile
3 conflicts.”) and Goal 12 (“Public facilities and services. Ensure that those public facilities and
4 services necessary to support development shall be adequate to serve the development at
5 the time the development is available for occupancy and use without decreasing current
6 service levels below locally established minimum standards.”).

7
8 Section 3. Based on the foregoing findings of fact, the County Council makes the
9 following conclusions:

- 10
11 A. The code amendments are consistent with the goals, objectives and policies of the County’s
12 comprehensive plan.
13
14 B. The code amendments are consistent with and comply with the procedural and substantive
15 requirements of the GMA.
16
17 C. The code amendments are consistent with Washington State law and the County Code.
18
19 D. The County has complied with all SEPA requirements in respect to this non-project action.
20

21 Section 4. The County Council bases its findings and conclusions on the entire record of
22 the County Council, including all testimony and exhibits. Any finding, which should be deemed
23 a conclusion, and any conclusion which should be deemed a finding, is hereby adopted as
24 such.

25
26 Section 5. Snohomish County Code Section 30.66C.100, last amended by Amended
27 Ordinance No. 17-085 on December 20, 2017, is hereby amended to read:

28
29 **30.66C.100 Fee required.**

30
31 (1) Each development, as a condition of approval, shall be subject to the school impact fee
32 established pursuant to this chapter. The school impact fee shall be calculated in accordance
33 with the formula established in SCC 30.66C.045.
34

35 (2) The fees listed in Table 30.66C.100(1) represent one-half of the amount calculated by each
36 school district in its respective capital facilities plan in accordance with the formula identified in
37 SCC 30.66C.045. From January 1, 2017, to April 1, 2018, school impact fees listed in Table
38 30.66C.100(1) shall be limited to a maximum of \$7,000 per dwelling unit.
39

40 (3) The payment of school impact fees will be required prior to issuance of building permits,
41 except as provided in SCC 30.66C.200(2). The amount of the fee due shall be based on the fee
42 schedule in effect at the time of (~~building permit application~~) filing a complete application for
43 development. For building permit applications received by the department more than five years
44 after the filing of a complete application for development, the amount of the fee due shall be
45 based on the fee schedule in effect at the time of building permit application.
46

47 (4) The department shall maintain and provide to the public upon request a table summarizing
48 the schedule of school impact fees for each school district within the county.
49

1 (5) The fees set forth in Table 30.66C.100(1) apply to developments that vest to county
 2 development regulations from January 1, 2017, to December 31, 2018.

3
 4 (6) Building permits submitted after January 1, 1999, for which prior plat approval has been
 5 obtained under chapter 30.66C SCC as codified prior to January 1, 1999, shall be subject to the
 6 school impact fees established pursuant to this chapter, as set forth in this section, except as
 7 provided in SCC 30.66C.010(2).
 8
 9

Table 30.66C.100(1)
SCHOOL IMPACT MITIGATION FEES

SCHOOL DISTRICT	SINGLE FAMILY per dwelling unit	MULTI- FAMILY 1-BEDROOM per dwelling unit	MULTI-FAMILY 2+ BEDROOMS per dwelling unit	DUPLEXES AND TOWNHOMES
Arlington No. 16	\$0	\$0	\$0	\$0
Edmonds No. 15	\$0	\$0	\$0	\$0
Everett No. 2	\$6,950	\$0	\$3,230	\$3,230
Lake Stevens No. 4	\$6,624	\$0	\$3,678	\$3,678
Lakewood No. 306	\$857	\$0	\$1,037	\$1,037
Marysville No. 25	\$1,552	\$0	\$2,096	\$2,096
Monroe No. 103	\$2,749	\$0	\$3,032	\$3,032
Mukilteo No. 6	\$4,275	\$0	\$2,972	\$2,972
Northshore No. 417	Before April 1, 2018: \$7,000 On or after April 1, 2018: \$10,563	\$0	\$0	\$0
Snohomish No. 201	\$0	\$0	\$0	\$0
Sultan No. 311	\$1,501	\$0	\$2,133	\$2,133

10
 11 Section 6. Snohomish County Code Section 30.91D.200, last amended by Amended
 12 Ordinance No. 04-016 on February 23, 2005, is hereby amended to read:

13
 14 **30.91D.200 Development.**

15
 16 "Development" means all residential subdivisions and short subdivisions, single family detached
 17 unit, cottage, townhouse, mixed townhouse, ((condominium)) and multifamily residential
 18 development, including multifamily rezones which require binding site plans, planned residential
 19 developments, mobile home parks, ((condominiums)), and all multifamily structures which
 20 require building permits and are subject to but does not include permits for attached or detached
 21 accessory apartments, or remodeling or renovation permits which do not result in additional
 22 dwelling units.
 23

1 *This definition applies only to "Park and recreation impact mitigation" regulations in chapter*
2 *30.66A SCC and "School impact mitigation" regulations in chapter 30.66C SCC.*

3
4 Section 7. Snohomish County Code Section 30.91D.220, last amended by Ordinance
5 No. 04-140 on January 12, 2005, is repealed.
6

7 Section 8. It is the intent of the County Council that this ordinance apply prospectively to
8 development applications received after the effective date of this ordinance. School impact
9 mitigation fees rates shall continue to be calculated based on the fee schedule in effect at the
10 time of building permit application for building permits associated with development applications
11 received before the effective date of this ordinance.
12

13 Section 9. Severability. If any section, sentence, clause or phrase of this ordinance is
14 held to be invalid by the Growth Management Hearings Board ("Board"), or unconstitutional by a
15 court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or
16 constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided,
17 however, that if any section, sentence, clause or phrase of this ordinance is held to be invalid by
18 the Board or a court of competent jurisdiction, then the section, sentence, clause or phrase in
19 effect prior to the effective date of this ordinance shall be in full force and effect for that
20 individual section, sentence, clause or phrase as if this ordinance had never been adopted.
21

22 PASSED this _____ day of _____, 20__.

23
24
25 SNOHOMISH COUNTY COUNCIL
26 Snohomish, Washington

27
28 _____
29 Council Chair

30 ATTEST:

31 _____
32
33 Asst. Clerk of the Council

34
35
36
37 () APPROVED
38 () EMERGENCY
39 () VETOED

40 DATE:

41 _____
42 County Executive

43 ATTEST:

44 _____
45
46 Approved as to form only:

47 _____
48
49 Deputy Prosecuting Attorney
50