



CO00000369

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

AMENDED ORDINANCE NO. 02-006

RELATING TO TRANSPORTATION MITIGATION REQUIREMENTS, REVISING ROAD SYSTEM IMPACT FEE RATES, REVISING TIME OF PAYMENT OF PROPORTIONATE SHARE MITIGATION PAYMENTS, AND AMENDING TITLE 26B SCC

WHEREAS, on June 28, 1995, the Snohomish County Council adopted Amended Ordinance No. 94-125, adopting the Snohomish County Growth Management Act Comprehensive Plan (GMACP), including a Transportation Element, which provides that "the county shall consider utilizing impact fees as authorized under the GMA to help fund the cost of infrastructure expansions required to serve new development" (Capital Facility Policy 6.A.2); and

WHEREAS, on August 23, 1995, the Snohomish County Council adopted Amended Ordinance No. 95-070, which amended Title 26B SCC to provide for road system impact fees pursuant to Chapter 82.02 RCW and establish fixed fees that have not changed since 1995; and

WHEREAS, the County Council requested that the Snohomish County Planning Commission review the policy issues on whether transportation impact fees should be adjusted and, if so, by how much; and

WHEREAS, on April 3, 2001, the Snohomish County Planning Commission recommended that the County Council further amend Title 26B SCC to revise the road system impact fee rates; and

WHEREAS, on January 30, 2002, at a public hearing considering ordinances on transportation impact fee rates, Council requested that Title 26B be amended to change the time of payment of proportionate share mitigation payments by subdivisions and short subdivisions, and

WHEREAS, having considered the Planning Commission's recommendation, the County Council finds that amendment of Title 26B SCC is appropriate to revise the road system impact fee rates.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The Snohomish County Council makes the following findings and conclusions:

1. Capacity improvements to the County transportation system needed to support new development are identified in the Snohomish County GMA Comprehensive Plan, Transportation Element. The cost basis for transportation impact fees is documented in the

AMENDED ORDINANCE NO. 02-006

1

As Amended and Adopted by Council 3/20/02
RELATING TO TRANSPORTATION MITIGATION,
REVISING RATES AND TIME OF PAYMENT

Snohomish County Transportation Needs Report (TNR). The TNR documentation includes the list of impact fee projects, the cost estimating model, the transportation service areas (TSAs), and the maximum possible impact fee rates that can be charged to development.

2. Actual current transportation fee rates were adopted in Amended Ordinance 95-070 and are codified in SCC 26B.55.025. These rates were less than the maximum amounts possible because of discounts applied to the true proportionate share cost of providing roads to serve new development. Discounts are used in almost all impact fee programs for a variety of purposes. First, they provide a chosen balance between costs of road capacity improvements borne by new developments (through fees) and existing residences and businesses (through taxes). Second, they provide a cushion so that Council does not have to adopt new fee rates after every update to the impact fee cost basis.
3. Typical County transportation impact fees for new developments under the 1995 impact fee rates are about \$1,700 for a single-family residential lot and \$1,200 for a multi-family residential unit excluding other mitigation payments required in Snohomish County that may include transportation demand management (TDM), state highways, some city streets, County parks, and County schools. Snohomish County totals for all impact fees average around \$6,500 for a single-family residence.
4. Since 1995 the TNR has been updated approximately once per year to reflect changes in projects, changes in unit costs for construction and right of way, inflation, etc. Despite the fact that over a dozen projects have been finished, several annexed, and several modified, the steady increase in the estimated costs of the rest of the projects has resulted in increases in the maximum possible fee rates for most of the TSAs. The actual fee rates have not been changed since their adoption in 1995. Thus, for most TSAs, the amount of the discounts (the percentage reduction from the maximum possible fee rate) has increased. In January of 2001 the discount levels averaged about 60% compared to 40% in 1995.
5. Snohomish County's GMA Comprehensive Plan, General Policy Plan, has a policy related to housing (GPP-HO Policy 3.A.6), that states: "The county's impact fee program shall be based on a fair assessment of the cost of new public facilities needed to accommodate each housing unit." This policy is a succinct summary of the requirements in state impact fee law (RCW 82.02.050-100) which requires impact fees to be based on fair proportionate shares of the cost of facilities necessitated by development.
6. The County has followed the GPP Housing policy and the state law in identifying road improvements needed to support new development in the GMA comprehensive planning process and in documenting the impact fee cost basis in the Transportation Needs Report as described above.
7. The analysis conducted by county staff, including the analysis of the amount of current impact fees and alternative changes to the fee rates compared to the average housing price, other real property taxes, the costs of facilities, the costs of other impact fees, and comparisons with other jurisdictions, provides a sound basis for adjusting road impact fees based on fair assessment of the cost of new public facilities needed to accommodate housing,

AMENDED ORDINANCE NO. 02-006

2

As Amended and Adopted by Council 3/20/02
RELATING TO TRANSPORTATION MITIGATION,
REVISING RATES AND TIME OF PAYMENT

consideration of the effect on the cost of new housing, consideration of other existing regulations and plans and those under development, and evaluation of the fairness and equity in local tax and fee programs.

8. SEPA requirements have been satisfied.
9. Public participation requirements of state law and county code have been met or exceeded through the stakeholder review and public hearings conducted by the Planning Commission and the County Council.
10. The transportation impact fee revisions comply with the state requirements for impact fees, RCW 82.02.050 through .100, and are consistent with the GMA, the county's GMA comprehensive plan, the Countywide Planning Policies for Snohomish County and other regulations.
12. The information, analysis, and process described in the findings of fact above provide the criteria, rationale and basis for revising the transportation impact fee rates found in SCC 26B.55.025 to require development to pay a fair proportionate share of the cost of facilities necessitated by development.
13. Title 26B.55.110, adopted by Ordinance 90-186 provided that transportation mitigation payments for subdivisions and short subdivisions be paid prior to recording. That provision was not changed by any subsequent revisions of Title 26B.
14. Title 26C.28.050(1) requires developments, including subdivisions and short subdivision, to pay any school impact fees prior to building permit. Thus, for subdivisions and short subdivisions, there is currently an inconsistency between the time of payment of school impact fees and transportation mitigation payments.
15. The county's AMANDA database provides an efficient tool with which to track developments and ensure that obligations for proportionate share payments imposed as conditions on subdivisions and short subdivisions, can be collected at the time of issuance of building permits on lots within those subdivisions and short subdivisions.

Section 2. Snohomish County Code Section 26B.55.025, last amended by Amended Ordinance No. 95-070 on August 23, 1995, is amended to read:

26B.55.025 Fee Schedule.

LOCATION	TYPE	NEW TRIP AMOUNT	
		Developments Inside the Urban Growth Area (UGA)	Developments Outside the Urban Growth Area (UGA)
Transportation Service Area (TSA)	Residential/Commercial		
A	RESIDENTIAL	(((\$158)) \$205	(((\$172)) \$224
A	COMMERCIAL	(((\$134)) \$174	(((\$148)) \$192
B	RESIDENTIAL	(((\$259)) \$337	(((\$283)) \$368
B	COMMERCIAL	(((\$220)) \$286	(((\$244)) \$317
C	RESIDENTIAL	(((\$156)) \$203	(((\$170)) \$221
C	COMMERCIAL	(((\$132)) \$172	(((\$146)) \$190
D	RESIDENTIAL	(((\$174)) \$226	(((\$190)) \$247
D	COMMERCIAL	(((\$148)) \$192	(((\$164)) \$213
E	RESIDENTIAL	(((\$150)) \$195	(((\$164)) \$213
E	COMMERCIAL	(((\$128)) \$166	(((\$141)) \$183
F	RESIDENTIAL	(((\$150)) \$195	(((\$164)) \$213
F	COMMERCIAL	(((\$128)) \$166	(((\$141)) \$183

Section 3. Snohomish County Code Section 26B.55.020, last amended by Amended Ordinance No. 95-070 on August 23, 1995, is amended to read:

26B.55.020. Road system capacity requirements, road system impact fee.

(1) All developments shall mitigate their impact upon the future capacity of the road system by paying a road system impact fee at the rate identified in SCC 26B.55.025 for the type and location of the proposed development. A development's road system impact fee will be equal to the development's new average daily traffic (ADT), based on the latest edition of the ITE Trip Generation report published by the Institute of Transportation Engineers, times the per trip amount for the specific transportation service area identified in SCC 26B.55.025. However,

(a) In accordance with RCW 82.02.060(4), the director shall have the authority to adjust the amount of the impact fee to consider unusual circumstances in specific cases to ensure that impact fees are fairly imposed;

(b) In accordance with RCW 82.02.060(5), the director shall have the authority to adjust the amount of the impact fee to be imposed on a particular development to reflect local information when available, including studies and data submitted by the developer;

(c) Adjustments will be made for trip reduction credits approved under SCC 26B.55.130.

(2) ~~((The payment is required prior to building permit issuance unless the development is a subdivision or short subdivision, in which case the payment is required prior to the recording of the subdivision or short subdivision: PROVIDED, That where no building permit will be associated with a conditional or special use permit then payment is required as a precondition to approval; or where the expiration date of the certificate of concurrency for a binding site plan is more than six (6) years after the date of the concurrency determination, in accordance with SCC 26B.55.030(1)(e), one half (1/2) of the payment is required prior to recording of the binding site plan with record of survey.))~~ Payment of road system impact fees shall be made in accordance with SCC 26B.55.110.

(3) As required by RCW 82.02.060(3), credit against a development's road system impact fee shall be provided for dedication of land for, improvement to, or construction of any capacity improvements that are identified in the transportation needs report as part of the road system impact fee cost basis and are imposed by the county as a condition of approval.

(4) As provided for by RCW 82.02.060(2), exemption from road system impact fees may be provided for low income housing and other development with a broad public purpose, provided that the road system impact fee for such development is paid from public funds other than impact fee accounts. The developer requesting the exemption shall be responsible for identifying the source of and securing the availability of such public funds.

(5) Developments which are determined to cause a greater reduction in ADT on the road system than the number of new ADT generated by the development, by promoting the use of transit or other means, will be determined to generate no new ADT for the purpose of determining the developments road system impact fee.

Section 4. Snohomish County Code Section 26B.55.070, last amended by Amended Ordinance No. 95-063 on August 9, 1995, is amended to read:

26B.55.070 State highways.

When a development's road system includes a state highway:

(1) Mitigation requirements for impacts on state highways and at intersections of county roads with state highways will be established consistent with the terms of a letter of understanding or an inter-local agreement as specified in SCC 23.36.030(4), between the county and the WSDOT, rather than by the provisions of SCC 26B.52.050 through SCC 26B.52.090 and SCC 26B.55.010 through SCC 26B.55.060. (2) The director will submit to the WSDOT the traffic study and/or any other information relating to the traffic impact of the development, and request a review under the WSDOT's mitigation policy.

(3) The director will review the WSDOT determined mitigation requirements and, to the extent that such requirements are reasonably related to the impact of the proposed development, the director shall, as part of the director's recommendation under SCC 26B.55.010, recommend that the requirements be imposed. The approving authority will impose such mitigation measures as a condition of approval of the development in conformance with the terms of the letter of understanding or interlocal agreement as specified in SCC 23.36.030(4), between the county and the other agency.

AMENDED ORDINANCE NO. 02-006

5

As Amended and Adopted by Council 3/20/02
RELATING TO TRANSPORTATION MITIGATION,
REVISING RATES AND TIME OF PAYMENT

(4) A development which takes access from or has frontage on a state highway will be required to meet the WSDOT requirements for dedication or deeding of additional right-of-way, provision of access and construction of frontage improvements on the state highway as deemed necessary by the WSDOT. Such development must also comply with this title with respect to county roads in its road system.

(5) Any payment to mitigate impacts on state highways (~~(is required prior to building permit issuance unless the development is a subdivision or short-subdivision, in which case the payment is required prior to the recording of the subdivision or short-subdivision; PROVIDED, That where no building permit will be associated with a conditional or special use permit then payment is required as a precondition to approval.)~~) shall be made in accordance with SCC 26B.55.110.

(6) Construction of improvements to mitigate impacts on state highways is required prior to approval for occupancy or final inspection; PROVIDED, That where no building permit will be associated with a conditional or special use permit then construction of improvements is required as a precondition to approval unless some later time of construction is recommended by WSDOT and imposed by the approving authority as a condition of approval, in which case that time of construction shall apply.

(7) Right-of-way required for state highways shall be dedicated or deeded prior to building permit issuance when required as part of conditional and special use permits; as a precondition to approval of rezone applications accompanied by an official site plan; prior to issuance of a commercial, or duplex residential building permit; or, if the development is a binding site plan approval, subdivision or short-subdivision, then the right-of-way shall be dedicated or deeded prior to, or at the time of recording of the binding site plan subdivision or short-subdivision; PROVIDED, That where no building permit will be associated with a conditional or special use permit then right-of-way shall be dedicated or deeded as a precondition to approval. In cases where more than one of the above applies to a development, the right-of-way shall be dedicated or deeded at the earliest stage of development.

Section 5. Snohomish County Code Section 26B.55.080, last amended by Amended Ordinance No. 95-063 on August 9, 1995, is amended to read:

26B.55.080 Other streets and roads.

When a development's road system includes city streets or other counties' roads:

(1) The director shall forward to the appropriate representative of any city, town or other county, for review under its mitigation policy, the traffic study and/or any other information on traffic impact for any developments whose road system includes such city's, town's or other county's roads. Such city, town or other county may determine the threshold at which a developer must mitigate traffic impacts and what mitigation measures reasonably related to the impacts of the development are needed on such streets or roads and may assign all or part of such mitigation to the developer.

(2) The director will review the city's, town's or other county's recommended mitigating measures and to the extent that such requirements are reasonably related to the impact of the proposed development and consistent with the terms of the interlocal agreement specified in SCC 23.36.030 (4) between the county and the other agency, the director shall as part of the director's recommendation under SCC 26B.55.010, recommend that those requirements be imposed. The approving authority will impose such measures as a condition of approval of the

AMENDED ORDINANCE NO. 02-006

6

As Amended and Adopted by Council 3/20/02
RELATING TO TRANSPORTATION MITIGATION,
REVISING RATES AND TIME OF PAYMENT

development in conformance with the terms of the interlocal agreement specified in SCC 23.36.030(4) between the county and the other agency.

(3) A development which takes access from or has frontage on a city street or other county's road will be required to meet the city's or county's requirements for dedication or deeding of additional right-of-way, provision of access and construction of frontage improvements on the city's street or county's road as deemed necessary by the city or county. Such development must also comply with this title with respect to county roads in its road system.

(4) Any payment to mitigate impacts on cities' streets or other counties' roads (~~(is required prior to building permit issuance unless the development is a subdivision or short-subdivision, in which case the payment is required prior to the recording of the subdivision or short-subdivision; PROVIDED, That where no building permit will be associated with a conditional or special use permit then payment is required as a precondition to approval.)~~) shall be made in accordance with SCC 26B.55.110.

(5) Construction of improvements to mitigate impacts on cities' streets or other counties' roads is required prior to approval for occupancy or final inspection; PROVIDED, That where no building permit will be associated with a conditional or special use permit then construction of improvements is required as a precondition to approval unless some later time of construction is recommended by the city or other county and imposed by the approving authority as a condition of approval, in which case that time of construction shall apply.

(6) Right-of-way required for cities' streets or other counties' roads shall be dedicated or deeded prior to building permit issuance when required as part of conditional and special use permits; as a precondition to approval of rezone applications accompanied by an official site plan; prior to issuance of a commercial, or duplex residential building permit; or, if the development is a binding site plan approval, subdivision or short-subdivision, then the right-of-way shall be dedicated or deeded prior to, or at the time of recording of the binding site plan, subdivision or short-subdivision; PROVIDED, That where no building permit will be associated with a conditional or special use permit then right-of-way shall be dedicated or deeded as a precondition to approval. In cases where more than one of the above apply to a development, the right-of-way shall be dedicated or deeded at the earliest stage of development.

Section 6. Snohomish County Code Section 26B.55.110, last amended by Amended Ordinance No. 95-070 on August 23, 1995, is amended to read:

26B.55.110 Administration of proportionate share mitigating payments.

(1) Any proportionate share mitigating payment made pursuant to this title shall be subject to the following provisions:

(a) The payment is required prior to building permit issuance (~~(unless the development is a subdivision or short-subdivision, in which case the payment shall be made prior to the recording of the subdivision or short-subdivision)~~); PROVIDED, That where no building permit will be associated with a conditional or special use permit then payment is required as a precondition to approval; or where the expiration date of the certificate of concurrency for a binding site plan is more than six (6) years after the date of the concurrency determination, in accordance with SCC 26B.55.030(1)(c), one-half (1/2) of the payment made pursuant to SCC 26B.52.050 and SCC 26B.55.020 is required prior to recording of the binding site plan with record of survey. Recording of a subdivision or short-subdivision, or a binding site plan with

AMENDED ORDINANCE NO. 02-006

7

As Amended and Adopted by Council 3/20/02
RELATING TO TRANSPORTATION MITIGATION,
REVISING RATES AND TIME OF PAYMENT

record of survey, shall be deemed to be proceeding with development activity for the purpose of refund applicability.

(b) The payment shall be held in a reserve account and shall be expended to fund improvements on the road system as specified in a written agreement between the developer and the county, except where the payment is an impact fee made pursuant to RCW 82.02.050, a written agreement shall not be required.

(c) An appropriate and reasonable portion of payments collected may be used for administration of this title.

(d) Any payment made pursuant to RCW 82.02.020 shall be expended for a permissible use within five years of receipt in accordance with RCW 82.02.020(2). Any payment made pursuant to RCW 82.02.020 and not so expended shall be refunded in accordance with RCW 82.02.020(3).

(e) Any payment made pursuant to RCW 82.02.050 shall be expended for a permissible use within six years of receipt in accordance with RCW 82.02.070. Any payment made pursuant to RCW 82.02.050 and not so expended shall be refunded in accordance with RCW 82.02.080.

(f) The amount of the impact fee payment shall be based upon the rate in effect at the time of filing of a complete application for a development.

(2) Offsite improvements include construction of improvements to mitigate an arterial unit in arrears and/or specific inadequate road condition locations. If a developer chooses to construct improvements to mitigate an arterial unit in arrears or inadequate road condition problem, and the improvements constructed are part of the cost basis of any proportionate share mitigating payment imposed under this title to mitigate the development's impact on the future capacity of county roads, the cost of these improvements will be credited against the proportionate share mitigating payment amount. Any developer who volunteers to pay for and/or construct offsite improvements of greater value than any proportionate share mitigating payment imposed under this title to mitigate the development's impact on the future capacity of county roads, based on the cost basis contained within the transportation needs report, or which are not part of the cost basis of any proportionate share mitigating payment imposed under this title to mitigate the development's impact on the future capacity of county roads, and therefore not credited against the proportionate share mitigating payment, may apply for a reimbursement contract under the provisions of chapter 13.95 SCC or propose the establishment of a road improvement district (RID) under the provisions of chapter 13.140 SCC

Section 7. Severability and savings. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by the Growth Management Hearings Board (Board), or 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. Provided, however, that if any section, sentence, clause or phrase of this ordinance is held to be invalid by the Board or court of competent jurisdiction, then the section, sentence, clause or phrase in effect prior to the effective date of this ordinance shall be in full force and effect for that individual section, sentence, clause or phrase as if this ordinance had never been adopted.

PASSED this 20th day of March, 2002.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

ATTEST:

Sheila McCallister
Asst. Clerk of the Council

Gayle R. Nelson
Chairperson
03-20-02

- () APPROVED
- () VETOED
- () EMERGENCY

DATE: _____

Returned Unsigned
Robert Drewel
County Executive

Approved as to form only:

Deputy Prosecuting Attorney