



SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

AMENDED ORDINANCE NO. 04-016

**REPEALING CHAPTER 30.66A SCC; ADOPTING A NEW CHAPTER 30.66A
SCC RELATING TO PARK AND RECREATION FACILITY IMPACT
MITIGATION UNDER THE GROWTH MANAGEMENT ACT; AMENDING
CHAPTER 30.91 SCC**

WHEREAS, Snohomish County adopted an updated Comprehensive Parks and Recreation Plan (Parks Plan) by Ordinance No. 01-108 on December 19, 2001, as an optional element of its Growth Management Act (GMA) Comprehensive Plan; and

WHEREAS, the County adopted the 2001 Capital Facilities Plan Update (2001 CFP Update) by Amended Ordinance No. 01-111 on December 19, 2001, which included the adopted changes in the Parks Plan; and

WHEREAS, the Parks Plan expresses an intent to develop a GMA-based impact mitigation fee ordinance for park and recreation facilities pursuant to chapter 82.02 RCW; and

WHEREAS, Department of Planning & Development Services (PDS) and Parks Department staff met with a Park Impact Fee Focus Group beginning in 2001 to discuss and receive input on potential changes to the park impact fee ordinance; and

WHEREAS, PDS and Parks Department staff have developed code amendments that are designed to meet the conditions and limitations for impact fee programs in RCW 82.02.050 et. seq.; and

WHEREAS, Parks staff briefed the Parks Advisory Board on March 11, 2003, and received its support for the park impact mitigation ordinance and code revision; and

WHEREAS, the Planning Commission held a public hearing on the park impact mitigation ordinance on August 26, 2003; and

WHEREAS, the Snohomish County Council held a public hearing on the park impact mitigation ordinance on May 26, 2004 and February 23, 2005; and

WHEREAS, the county council considered the entire hearing record, including the Planning Commission's recommendation, and written and oral testimony submitted during the public hearings.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. Findings of fact and conclusions. The county council makes the following findings of fact and conclusions:

A. Snohomish County has expressed a commitment to replace the existing chapter 30.66A SCC, which imposes park mitigation fees under the authority of the State Environmental Policy Act (SEPA), with a GMA-based impact fee system. The County has previously adopted GMA-based impact fee programs for schools and roads in chapters 30.66B SCC and 30.66C SCC.

B. The County's 2001 Capital Facilities Plan Update identifies "community and combination" parks as public facilities that are "necessary for development," and the County (Parks Department via PDS) intends to collect impact fees only for "community and combination" parks.

C. County staff has designed the following formulae to establish an impact fee schedule for park and recreation facilities that is consistent with the requirements for and limitations on impact fees in chapter 82.02 RCW:

$$\frac{[\Sigma C_{LA} + \Sigma C_F] [H_{SF}] [S_{fac}]}{SF_{TOT}} = PIF_{SF}$$

$$\frac{[\Sigma C_{LA} + \Sigma C_F] [H_{MF}] [S_{fac}]}{MF_{TOT}} = PIF_{MF}$$

ΣC_{LA} = The sum of all land acquisition costs of new "community" and "combination" parks

ΣC_F = The sum of all facility costs of new "community" and "combination" parks

H_{SF} = Population proportion factor from single family housing starts

H_{MF} = Population proportion factor from multi-family housing starts

S_{fac} = The share of costs of new "community" and "combination" parks to be paid with impact fees from new development (after factoring in real estate excise tax and ongoing capital revenues generated by the new development, and other capital funding sources).

SF_{TOT} = Total projected single family housing starts over nine years

MF_{TOT} = Total projected multi-family housing starts over nine years

PIF_{SF} = Park impact fee per single family dwelling unit

PIF_{MF} = Park impact fee per multi-family dwelling unit

"Regional" park costs are not included in the calculation of impact fees.

D. County staff has identified seven park service areas (PSAs) that reflect logical areas of need for "community and combination" parks that would serve new growth and development in that area. These areas correspond to year 2000 census tract boundaries. A map identifying the PSA boundaries and identifying each census tract boundary therein is attached as Amended Exhibit A to this ordinance.

E. The proposed GMA-based park and recreation impact fee system is consistent with the requirements of the GMA, chapter 82.02 RCW, the county's GMA comprehensive plan, and the Countywide Planning Policies for Snohomish County.

F. The proposed impact fee system will advance the goals of the GMA and the county's GMA Comprehensive Plan to provide adequate public facilities to accommodate new growth.

G. County staff has prepared an environmental checklist and issued a Determination of Non-Significance (DNS) satisfying the requirements of SEPA for this proposed action.

H. The public participation requirements of the GMA and county code have been met or exceeded through the public hearings conducted by the planning commission and county council.

Section 2. Basis. The County Council bases its findings and conclusions on the entire record of testimony and exhibits, including all written and oral testimony before the council.

Section 3. Repeal. Snohomish County Code chapter 30.66A, as constituted on the day before the effective date of this ordinance and consisting of sections; 30.66A.010, 30.66A.020, 30.66A.030, 30.66A.040, 30.66A.050, 30.66.052, 30.66A.055, 30.66A.060, 30.66A.070, 30.66A.090, 30.66A.100, 30.66A.110, 30.66A.120, 30.66A.130, 30.66A.140, 30.66A.150, and 30.66A.160, is hereby repealed.

Section 4. Adoption. A new chapter 30.66A SCC is adopted to read:

Chapter 30.66A

PARK AND RECREATION IMPACT MITIGATION

Sections:

- 30.66A.010 Purpose and applicability.
- 30.66A.020 Park and recreation impact fee required.
- 30.66A.030 Service areas established.
- 30.66A.040 Impact fee schedule.
- 30.66A.050 Impact fee limitations.
- 30.66A.060 Credit for in-kind contributions.
- 30.66A.070 Performance of in-kind contributions.
- 30.66A.080 Use of fees.
- 30.66A.090 Refunds.
- 30.66A.100 Use and disposition of dedicated land.
- 30.66A.110 Projects that cross park service area boundaries.
- 30.66A.120 Validity of pre-existing agreements.
- 30.66A.130 Administrative adjustment of fee amount.
- 30.66A.140 Appeals.

30.66A.010 Purpose and applicability.

(1) The purpose of this chapter is:

(a) To ensure that adequate park land and park facilities are available to serve new growth and development as defined in SCC 30.91D.200;

(b) To require that new growth and development pay its proportionate share of the costs of new park land and park facilities identified in the capital facilities plan element of the comprehensive plan that are reasonably related to the new development;

(c) To ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary or duplicative fees for the same impact; and

(d) To implement the policies established in the comprehensive park and recreation plan.

(2) This chapter shall apply to all development, except for development that was subject to a prior SEPA threshold determination that provided for mitigation under chapter 30.66A SCC as codified prior to the effective date of this chapter. An applicant subject to a prior version of this chapter may consent in writing to the application of this chapter.

30.66A.020 Park and recreation impact fee required.

(1) Each development, as a condition of approval, shall be subject to the park and recreation impact fee established in Table 30.66A.040(1).

(2) Payment of a park impact fee is required prior to building permit issuance. The amount of the fee shall be based upon the rate in effect at the time of filing a complete application for development; provided however, that those applications deemed complete before the adoption of the GMA-based impact fee contained in this section shall be required to pay the SEPA-based mitigation fee in effect at the time the application was deemed complete and further provided that if the building permit is not issued within five years after the application is deemed complete the fee shall be based upon the rate in effect at the time of building permit issuance.

30.66A.030 Service areas established.

The county is divided into seven park service areas ("PSAs") for purposes of calculating and imposing park impact fees. These PSAs correspond to year 2000 census tract boundaries.

30.66A.040 Impact fee schedule.

(1) Developments subject to this chapter shall pay the fees set forth in Table 30.66A.040(1).

**Table 30.66A.040(1)
PARK AND RECREATION IMPACT FEES**

Park Service Area	PSA Name	Single Family and Duplex - \$/unit	Multi-Family \$/unit
301	Kayak Point	\$811.29	\$594.01
302	River Meadows	\$48.82	\$35.75
303	Robe Canyon	\$0.00	\$0.00
304	White Horse	\$0.00	\$0.00
305	Lord Hill	\$344.52	\$473.16
306	Centennial	\$1,361.22	\$1,037.92
307	Nakeeta Beach	\$1,244.49	\$491.05

(2) The impact fee schedule may be reviewed and/or adjusted in conjunction with revisions to the County's comprehensive plan, or at any time that the County Council determines that economic or budgetary circumstances warrant review.

(3) The following types of development are exempt from park impact fees under this chapter:

(a) Nursing homes.

(b) Low-income housing. The director of parks and recreation may, on a case-by-case basis, grant exemptions to the application of the fee schedule for low-income housing as defined in SCC 30.91H.220 and in accordance with the conditions specified under RCW 82.02.060(2). To qualify for the exemption, the developer shall submit a petition to the director prior to application for building permit. Conditions for such approvals shall meet the requirements of RCW 82.02.060(2) and shall include a requirement for a covenant to assure the project's continued use for low-income housing. The covenant shall be an obligation that runs with the land upon which the housing is located, and shall be recorded against the title of the real property.

30.66A.050 Impact fee limitations.

(1) Park and recreation impact fees shall be imposed for the acquisition of or improvements to park land, and for the construction of recreational facilities that are identified in the capital facilities plan and are reasonably related to the development. These fees shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the development, and shall be used for system improvements that will reasonably benefit the new development.

(2) Park and recreation impact fees may be collected for capital facilities costs previously incurred to the extent that new growth and development will be served by the previously constructed capital facilities. Park and recreation impact fees shall not be imposed to make up for existing system deficiencies.

30.66A.060 Credit for in-kind contributions.

(1) A developer may request a credit against park and recreation impact fees due under this chapter for the dedication of land, or improvement to or construction of any capital facilities identified in the capital facilities plan.

(2) All credit requests must be submitted to the parks department concurrently with the development application and be accompanied by supporting documentation.

(3) The director of parks and recreation shall review a credit request to determine whether the proposed in-kind contribution is eligible for credit under the following eligibility criteria:

(a) A proposal for purchase, installation and/or improvement of park and recreation facilities located on land owned by the county shall be eligible for credit if:

(i) The county is responsible for continuing maintenance and operation of the facilities;

(ii) The director determines that the facility contribution corresponds to the type(s) of park and recreation facilities listed in the capital facilities plan;

(iii) The facility contribution is located in the same PSA; and

(iv) The director determines, after analysis of supply and demand data and the comprehensive park and recreation plan, that the proposed park and recreation facility contributions would better meet the community's need for facilities than would an impact fee.

(b) A proposal to dedicate or convey land to the county for park and recreation facilities may satisfy some or all of a developer's park and recreation impact fee obligation if the director determines, after analysis of supply/demand data and the county comprehensive park and recreation plan, that the proposed land dedication or conveyance would better meet the community's need for facilities than would an impact fee. The director shall also consider, among other criteria, the extent to which the proposed dedication or conveyance meets the following criteria:

(i) The land should be suitable for future active park and recreation facilities;

(ii) The land should have public access via a public street or an easement of an equivalent width and accessibility;

(iii) The land should be surveyed or otherwise readily distinguishable from adjacent property;

(iv) The land must have no known physical defect, such as problems with drainage, erosion or flooding, or the presence of hazardous waste, which the director determines would cause inordinate demands on public resources for maintenance and operation;

(v) The land should have no known on-site safety hazards; and

(vi) The developer must be willing to provide and fund, for an interim period of three years, unless extended in writing by the director, a method acceptable to the director for managing and maintaining the land.

(4) The credit granted for any in-kind contribution may not exceed the development's impact fee obligation, except as provided in SCC 30.66A.065.

(5) The developer's credit request shall be reviewed in accordance with the eligibility criteria set forth above. The director shall then notify the developer in writing whether the department will accept some or all of the developer's proposal as an in-kind credit.

(6) The director may find it necessary to establish the value of the credit on a per-unit basis as a part of the development approval for subdivisions, PRDs and other large-scale developments where credits for in-kind contributions or pre-existing lots are proposed or required. The resulting credit values will then be recorded as part of the subdivision or other instrument of approval and will be used in determining the fee obligation, if any, at the time of building permit application for the development activity.

(7) If the developer disagrees with the director's valuation of proposed in-kind contributions, the developer may appeal the decision pursuant to the procedures in SCC 30.66A.140.

30.66A.065 Credit to developer for land dedication or conveyance in excess of required impact fees.

The director of parks and recreation, in consultation with the department, may reimburse or credit the developer if the fair market value of the land dedication or conveyance exceeds the developer's impact fee obligation for a development. The developer may be reimbursed or credited with any one or more of the following:

- (1) Direct cash payments from the trust fund(s);
- (2) An adjustment in allowable dwelling units equal to the value of the excess dedication for subdivisions, short subdivisions or planned residential developments in residential zones as follows: R 7,200, R 8,400, R 9,600, R 12,500 and R 20,000 providing all minimum requirements of the zone are met or;
- (3) Issuing a parks and recreation impact fee credit document equal to the dollar value of the excess dedication or conveyance of the land. The impact fee credit document shall be valid for six years from the date of issuance and may be applied toward a developer's impact fee obligation within the PSA where the development generating the credit is located.

30.66A.070 Performance of in-kind contributions.

If a development is conditioned upon the dedication, purchase, installation, or improvement of park and recreation facilities, a final subdivision or short subdivision shall not be recorded, and no building permit shall be issued until:

(1) The director of parks and recreation has determined in writing that any land to be dedicated is shown on the face of the final subdivision or short subdivision, or a deed conveying the land to the county has been recorded with the county auditor; and

(2) The director has determined in writing that the developer has satisfactorily undertaken, or guaranteed to undertake in a manner acceptable to the director, any required purchase, installation, or improvement of park and recreation facilities.

30.66A.080 Use of fees.

(1) Park and recreation impact fees collected under this chapter shall be deposited into an interest-bearing account established for each PSA. Funds deposited into these accounts shall be expended or encumbered within six years of receipt, unless there exists an extraordinary and compelling reason, as identified in written findings by the county council, for the funds to be held longer than six years.

(2) All impact fees collected under this chapter shall be used to mitigate development impacts within the PSA in which the development is located through purchase or development of land and/or purchase or improvement of facilities identified in the capital facilities element and the comprehensive parks and recreation plan.

(3) Park impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the capital facilities provided are consistent with the requirements of this title.

30.66A.090 Refunds.

(1) Park and recreation impact fees not spent or encumbered within six years after they were collected may be refunded to the current landowner unless the county council has identified in written findings an extraordinary and compelling reason for the funds to be held longer than six years.

(2) If the county decides to terminate any or all impact fee requirements under this chapter, all unexpended or unencumbered funds, including interest earned, shall be refunded in accordance with RCW 82.02.080(2).

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

30.66A.100 Use and disposition of dedicated land.

(1) All land dedicated or conveyed pursuant to this chapter shall be set aside for development of park and recreation facilities. The county and any city, school district, or special purpose district to which land is dedicated or conveyed pursuant to this chapter shall make every effort to use, develop and maintain land dedicated or conveyed for park and recreation facilities.

(2) If the use of any such dedicated land is determined by the director of parks and recreation to be infeasible for development of park and recreation facilities, the dedicated land may be sold or traded for another parcel of land in the same PSA, subject to the requirements of state law and county code. The proceeds from such a sale shall be used to acquire land or develop park and

recreation facilities in the same PSA. Prior to any proposed sale of land which has been dedicated to the county, the county shall notify each current taxpayer of record or resident of known address in the subdivision in which the dedicated land is proposed for sale and each taxpayer of record and resident of known address within 500 feet of the said park site.

30.66A.110 Projects that cross park service area boundaries.

If a development is located in two or more PSAs, the impact mitigation funds shall be used for acquisition and/or development of park land and facilities on a prorated basis determined by the number of lots or units located in each PSA.

30.66A.120 Validity of pre-existing agreements.

Written mitigation agreements between the county and a developer that have been executed prior to July 3, 1991, shall be accepted as satisfying the park and recreation impact fee obligations for those phases of a development addressed by the written agreement.

30.66A.130 Administrative adjustment of fee amount.

(1) A developer may appeal to the director of parks and recreation for an adjustment to the amount of or an elimination of fees imposed under this chapter by submitting a written explanation of the basis for appeal within 14 days of acceptance by the county of a building permit application. If the developer has chosen the early payment option in 30.66A.020(4), the developer may appeal to the director of parks and recreation within 14 days of final plat recording. The director of parks and recreation may adjust the fee amount, in consideration of information submitted by the developer, if one of the following circumstances exists:

(a) The park and recreation impact fee assessment was incorrectly calculated;

(b) Unusual circumstances exist that demonstrate the park and recreation impact fee is unfair as applied to the specific development;

(c) A credit for in-kind contributions by the developer, as provided for under SCC 30.66A.060 above, is warranted;

(d) Any other credit specified in RCW 82.02.060(1)(b) is warranted; or

(e) The impact fee assessment was improper under RCW 82.02.020 or RCW 82.02.050 et seq.

(2) Park and recreation impact fees may be paid under protest in order to obtain a development approval without delay pending resolution of the appeal. A

written protest must be submitted at or prior to the time fees are paid and will relate only to the specific fees identified in the protest.

(3) Failure to file a written protest and to seek a timely appeal to the director shall preclude any appeal of the park and recreation impact fee under SCC 30.66A.140.

(4) Refunds approved under this section, or following an administrative appeal as provided in SCC 30.66A.140, shall be made to the current property owner at the time the refund is authorized, unless the current property owner releases the county from any obligation to refund the current property owner.

(5) The developer may appeal the director's decision as provided in SCC 30.66A.140.

30.66A.140 Appeals.

(1) Any person aggrieved by a decision to impose impact fees, impose modifications, or waive an impact fee under this chapter may appeal the decision to the hearing examiner. Appeals of an impact fee under this chapter must be combined with the administrative appeal for the underlying development approval if there is an administrative appeal process for the underlying development approval. Appeal of the impact fee shall proceed as a Type 1 appeal pursuant to chapter 30.71 SCC if there is no administrative appeal for the permit.

(2) The impact fee may be modified or refunded only if paid under written protest in accordance with SCC 30.66A.130, upon a determination based on the criteria contained in SCC 30.66A.130. Appeals shall be limited to application of the impact fee provisions to a specific development.

Section 5. Snohomish County Code section 30.91D.200, added on December 9, 2002, by Amended Ordinance No. 02-064, is hereby amended to read:

30.91D.200 "Development" means all residential subdivisions and short subdivisions ~~subject to SEPA~~, single family condominiums and multifamily residential development, including multifamily rezones which require binding site plans, planned residential developments, mobile home parks, condominiums, and all multifamily structures which require building permits, but does not include permits for attached or detached accessory apartments, or remodeling or renovation permits which do not result in additional dwelling units. This definition applies only to "Park and recreation impact mitigation" regulations in chapter 30.66A SCC.

Section 6. Effective date. This ordinance shall take effect within ten (10) days of enactment as provided by Snohomish County Charter § 2.110.

Section 7. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

PASSED this 23rd day of February, 2005

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Chairperson

ATTEST:


Clerk of the Council, *asst.*

- APPROVED
 VETOED
 EMERGENCY

DATE: 3/1/05

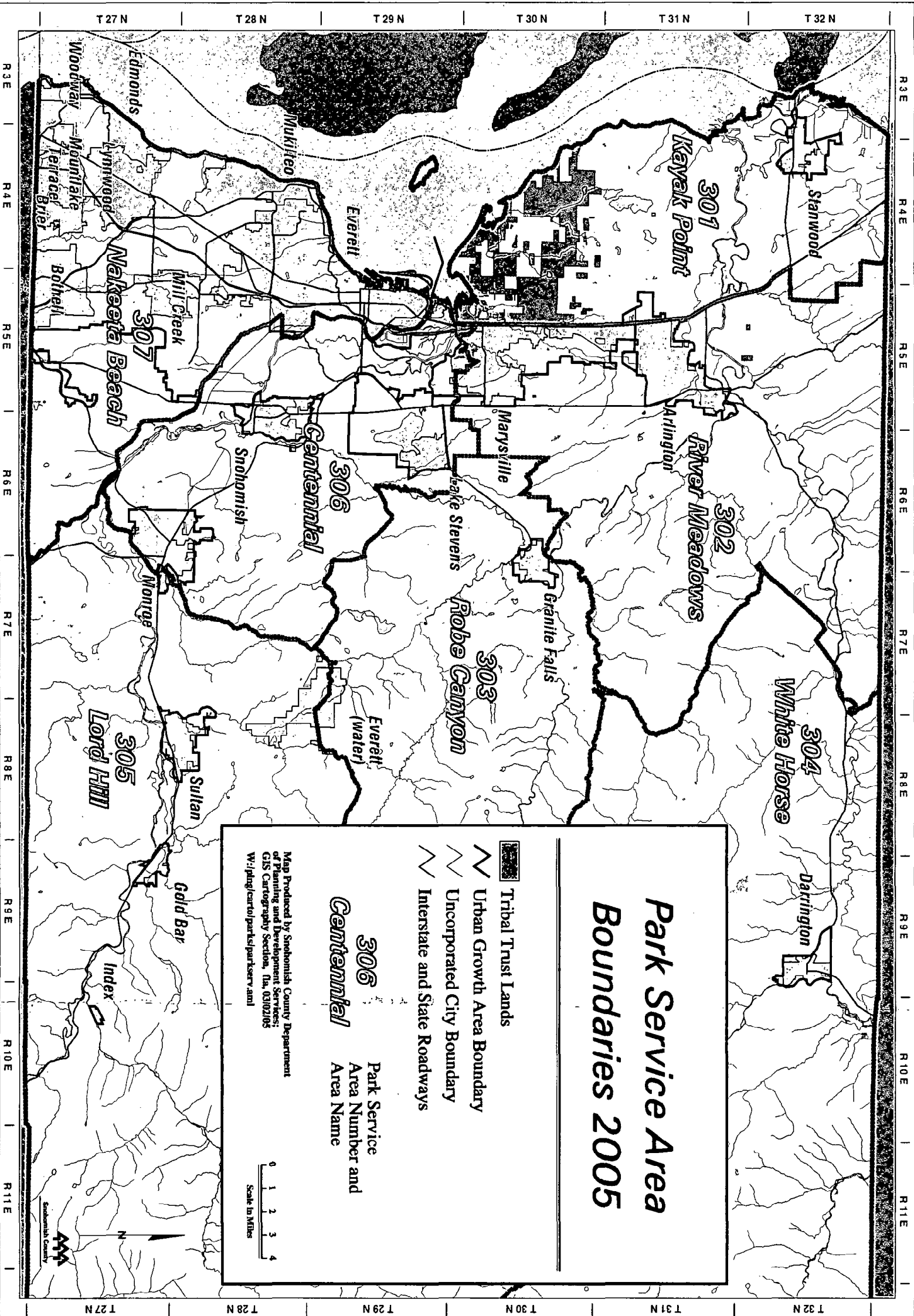

County Executive

ATTEST: Conie Merino





Approved as to form only:

Deputy Prosecuting Attorney

D-28



Park Service Area Boundaries 2005

-  Tribal Trust Lands
-  Urban Growth Area Boundary
-  Unincorporated City Boundary
-  Interstate and State Roadways

306 Centennial
Park Service Area Number and Area Name

Map Produced by Snohomish County Department of Planning and Development Services; GIS Cartography Section, (ta.03102105) W:\jnhg\carto\parkes\parkeserv.aml

