



CO00011256

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

ORDINANCE NO. 04-140

AN ORDINANCE,
RELATING TO THE APPLICABILITY OF SCHOOL IMPACT FEE REQUIREMENTS;
AMENDING SCC 30.66C.010; AND AMENDING SCC 30.91D.220.

WHEREAS, Snohomish County has adopted GMA-based impact fee ordinance to mitigate the impacts of new development on public school facilities pursuant to RCW 82.02.050; and

WHEREAS, under RCW 82.02.050, the county may only collect impact fees to ensure adequate facilities are available to serve new development and growth, and spend impact fees for public facilities addressed by the capital facilities plan element of the comprehensive plan; and

WHEREAS, SCC 30.66C.010 identifies the purpose and applicability of school impact fees and general exceptions for specific developments; and

WHEREAS, SCC 30.91D.220 defines "development" and exempts certain types of development from the requirement to pay school impact fees; and

WHEREAS, the Planning Commission was briefed on August 24, 2004, held a public hearing for the development code amendment September 21, 2004, and forwarded a recommendation to the County Council, dated August 24, 2004; and

WHEREAS, the County Council held a public hearing on January 12, 2005, to consider the entire record and hear public testimony on Ordinance 04-140, adopting amendments to school mitigation impact fees.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. Based on the entire record of testimony and exhibits, including all oral and written testimony before the County Council and Planning Commission, the Council incorporates the forgoing recitals as findings and conclusions and adopts the following additional findings and conclusions:

- A. The amendments to chapters 30.66C and 30.91D SCC adopted by this ordinance are consistent with the public participation and coordination goal of the GMA.

AN ORDINANCE, RELATING TO EXEMPTIONS FROM SCHOOL IMPACT
FEE REQUIREMENTS; ADDING A NEW SECTION 30.91D.220; AND
AMENDING SCC 30.66C.010. - Page 1 of 4

- B. The amendments to chapters 30.66C and 30.91D SCC adopted by this ordinance satisfy the procedural and substantive requirements of and are consistent with the GMA.
- C. The amendments to chapters 30.66C and 30.91D SCC adopted by this ordinance are consistent with the Snohomish County GMA Comprehensive Plan.
- D. The public participation requirements of the GMA and chapters 30.73 and 30.74 SCC have been met in the review and adoption of this ordinance.
- E. Addendum No. 42 to the Final Environmental Impact Statement (FEIS) was issued on August 19, 2004. This Addendum adds information and analysis of previously identified significant impacts and alternatives to the county's GMA Comprehensive Plan/General Policy Plan EIS dated April 11, 1994 (DEIS), and June 21, 1995 (FEIS). The information contained in Addendum No. 42 expanded on previously identified alternatives but did not substantially change the analysis of significant impacts and alternatives analyzed in the county's existing adopted environmental documents. No additional significant impacts beyond those identified in the original EIS are expected to occur.
- F. The code amendments adopted by this ordinance are within the scope of analysis contained in the FEIS, dated June 21, 1995, and associated adopted environmental documents, as well as the other relevant environmental documents. The addendum performs the function of keeping the public apprised of the refinement of the original GMA comprehensive plan proposal by adding new information but does not substantially change the analysis of significant impacts and alternatives analyzed in the existing adopted environmental documents.
- G. Addendum No. 42 satisfies the requirements of the State Environmental Policy Act, chapter 43.21C RCW, with respect to this proposed action.
- H. The public was notified of the public hearings held by the Planning Commission and the County Council by means of published legal notices in The (Everett) Herald, local newspapers and letters to interested parties.
- I. The proposal has been broadly disseminated and opportunities have been provided for written comments and public hearing after effective notice.

Section 2. The County Council bases its findings of fact and conclusions on the entire record of the planning commission and the county council, including all testimony and exhibits.

Section 3. SCC 30.66C.010, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is amended to read:

30.66C.010 Purpose and applicability.

- (1) The purpose of this chapter is:
 - (a) to ensure that adequate school facilities are available to serve new growth and development; and
 - (b) to require that new growth and development pay its proportionate share of the costs of new school facilities.
- (2) This chapter shall apply to all development, except for the following:
 - (a) Development that (i) was the subject of a prior SEPA threshold determination that resulted in the imposition of school mitigation conditions under chapter 30.66C SCC, as codified prior to January 1, 1999; and (ii) has not undergone modifications or other administrative revisions following issuance of the SEPA threshold determination. An applicant subject to a prior version of this chapter may consent in writing to the application of this chapter.
 - (b) Permits for attached or detached accessory apartments.
 - (c) Permits for remodeling or renovation.
 - (d) "Housing for Older Persons" as defined by 42 U.S.C. § 3607(2), when guaranteed by a restrictive covenant.
 - (e) Permits for temporary dwellings.
 - (f) Permits for new single-family detached units and duplexes constructed on legal lots created prior to May 1, 1991.
 - (g) Building permits for residential development on or located within:
 - (i) existing lots recognized through the administrative lot status process pursuant to SCC 30.41A.030 or SCC 30.41B.025;
 - (ii) unrecorded short plats filed with the county prior to September 12, 1972, and pursuant to SCC 30.41B.025(2); and
 - (iii) exempt subdivisions or large tract subdivisions, including five acre segregations pursuant to SCC 30.41A.030(1) or SCC 30.41B.025(1)(a), 20-acre segregations pursuant to 30.41A.030(2) or 30.41B.025(1)(b), and 80-acre segregations pursuant to SCC 30.41A.020(7) or SCC 30.41B.020(7).

Section 4. SCC 30.91D.220, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is amended to read:

30.91D.220 "Development" means any residential construction or expansion of a building, structure or use of land, or any other change in use of a building, structure, or land that creates additional dwelling units. ~~demand and need for school facilities, but excluding building permits for attached or detached accessory apartments, and remodeling or renovation permits which do not result in additional dwelling units. Also~~


~~excluded from this definition is "Housing for Older Persons" as defined by 46 U.S.C. § 3607, when guaranteed by a restrictive covenant, and new single-family detached units constructed on legal lots created prior to May 1, 1991~~

This definition applies only to "School impact mitigation" regulations in chapter 30.66C SCC.

Section 5. Severability. If any provision of this ordinance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remainder of this ordinance. Provided, however, that if any provision of this ordinance is held invalid or unconstitutional, then the provision in effect prior to the effective date of this ordinance shall be in full force and effect for that individual provision as if this ordinance had never been adopted.

PASSED this 12 day of January, 2005.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Chairperson

ATTEST:


Clerk of the Council

- APPROVED
 VETOED
 EMERGENCY

DATE: 1/19/05


Snohomish County Executive

ATTEST: Laura Nelson

Approved as to form only:


Deputy Prosecuting Attorney