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SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

ORDINANCE NO. 12-083

RELATING TO THE DEFERRED PAYMENT OF PARK AND
RECREATION AND ROAD SYSTEM IMPACT MITIGATION FEES;
AMENDING PARTS OF ORDINANCE NO. 10-085

WHEREAS, Ordinance No. 10-085 amended Snohomish County Code (the "SCC" or the "County Code") 30.66A.020 and SCC 30.66B.340 to allow for the deferral of the payment of park and recreation impact fees and road impact fees; and

WHEREAS, Ordinance No. 10-085 contains an automatic repealer provision pursuant to which the changes to SCC 30.66A.020 and SCC 30.66B.340 will automatically expire on December 31, 2012, and be replaced by language eliminating the ability of a developer to defer the payment of the impact fees; and

WHEREAS, this ordinance would amend Ordinance No. 10-085 to extend the automatic repealer provision allowing developers to continue to defer payment of certain impact fees until December 31, 2014; and

WHEREAS, the County economy, together with the State and national economies, have experienced a severe economic downturn that remains today; and

WHEREAS, the economic downturn continues to have an adverse effect on the housing market in unincorporated Snohomish County; and

WHEREAS, financing for construction projects remains difficult to obtain as a result of the economic downturn; and

WHEREAS, reducing the amount of money needed for a construction loan will make construction loans more attainable; and

WHEREAS, allowing developers to continue to defer payment of park and recreation and road system impact mitigation fees as provided in Ordinance No. 10-085 will alleviate economic hardships experienced by developers and stimulate industry; and

WHEREAS, on Oct 24, 201a, the County Council held a public hearing after proper notice, and considered public comments and the entire record related to the proposal contained in this ordinance;

NOW, THEREFORE, BE IT ORDAINED:

1 Section 1. The County Council adopts the following findings in support of
2 this ordinance:
3

4 A. The foregoing recitals are adopted as findings as if set forth in full herein.
5

6 B. This ordinance will amend Ordinance No. 10-085 to extend the automatic
7 repealer provision of that ordinance to December 31, 2014, thereby allowing
8 the deferred payment of certain impact fees to continue. This ordinance does
9 not change already codified language, and there are no state or local
10 requirements or policies that dictate when impact fees are required to be paid.
11 Accordingly, this ordinance does not create any inconsistencies with state law
12 or the County Code.
13

14 C. This ordinance will continue to offer developers the opportunity to reduce
15 upfront costs of construction which could allow construction companies to
16 maintain or improve construction levels and secure new construction work and
17 reduce the upfront costs of building a new home that is being constructed for
18 resale. It should also contribute to maintaining and allowing more home
19 construction to occur, thereby maintaining and allowing the creation of
20 additional construction jobs.
21

22 D. This ordinance complies with and implements the following Snohomish County
23 General Policy Plan (GPP) goals, objectives, and policies related to the
24 proposed regulations:
25

26 Goal ED 1 Promote the maintenance and enhancement of a
27 healthy economy.
28

29 Objective ED 1.C Snohomish County shall recognize and address the
30 needs of small and minority owned businesses as
31 well as larger, established enterprises.
32

33 Goal ED 2 Provide a planning and regulatory environment which
34 facilitates growth of the local economy.
35

36 Objective ED 2.A Develop and maintain a regulatory system that is fair,
37 understandable, coordinated and timely.
38

39 ED Policy 2.A.2 Snohomish County should stress predictability but
40 maintain enough flexibility in the Comprehensive
41 Plan and development codes to allow for time
42 response to unanticipated and desirable
43 developments.
44

45 Goal ED 3 Encourage the retention and expansion of existing
46 businesses and jobs to attract new businesses and
47 jobs.
48

49 ED Policy CF 7.B.1 The county shall utilize impact fees as authorized
50 under GMA to help fund the cost of parkland and

1 facilities expansion and as required to serve new
2 development.
3

4 E. Procedural requirements.
5

- 6 1. This ordinance is considered procedural and is exempt from the State
7 Environmental Policy Act (SEPA), Chapter 43.21C RCW, review
8 pursuant to Section 197-11-800(19) Washington Administrative Code
9 and SCC 30.61.020.
10
11 2. The proposal is a Type 3 legislative action pursuant to SCC
12 30.73.040(2)(b) and is exempt from Snohomish County Planning
13 Commission hearing requirements.
14
15 3. Pursuant to RCW 36.70A.106, a notice of intent to adopt this ordinance
16 was transmitted to the Washington State Department of Commerce for
17 distribution to state agencies.
18
19 4. The public participation process used in the adoption of this ordinance
20 has complied with all applicable requirements of the GMA and the SCC.
21
22 5. The Washington State Attorney General last issued an advisory
23 memorandum, as required by RCW 36.70A.370, in December of 2006
24 entitled "Advisory Memorandum: Avoiding Unconstitutional Takings of
25 Private Property" to help local governments avoid the unconstitutional
26 taking of private property. The process outlined in the State Attorney
27 General's 2006 advisory memorandum was used by Snohomish County
28 in objectively evaluating the regulatory changes proposed by this
29 ordinance.
30

31 F. The proposal is consistent with the record for this proposal.
32

- 33 1. Snohomish County is experiencing a significant economic downturn that
34 has dramatically affected the construction industry.
35
36 2. Snohomish County is faced with economic issues that were not present
37 when code provisions requiring the payment of impact mitigation fees at
38 the time of building permit issuance was originally adopted.
39
40 3. The proposals allows for the continuation of an alternative to the timing
41 of the payment of impact mitigation fees imposed pursuant to Chapters
42 30.66A and 30.66B SCC. The proposed amendments allow deferral of
43 the payment of park and recreation and road system impact mitigation
44 fees only for a detached single-family residential dwelling being
45 constructed for resale when a building permit has not previously been
46 issued and the impact fee has not previously been paid.
47
48 4. The proposal addresses difficulties that the County's construction
49 industry is experiencing in financing the construction of a detached
50 single-family residential dwelling.

1
2 5. The proposal should reduce the cost of construction loans, making them
3 easier to obtain until there is sufficient economic and market recovery,
4 thereby allowing construction projects to start and stimulating the local
5 economy.
6

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

- 8
9 A. The proposal is consistent with the goals, objectives and policies of the GPP.
10
11 B. The proposal is consistent with Washington State law and the SCC.
12
13 C. The County has complied with all SEPA requirements in respect to this non-
14 project action.
15
16 D. The regulations proposed by this ordinance do not result in an unconstitutional
17 taking of private property for a public purpose.
18
19 E. The proposed amendments are needed to address local impacts on the
20 development industry due to the national economic crisis.
21

22 Section 3. The County Council bases its findings and conclusions on the
23 entire record of the County Council, including all testimony and exhibits. Any
24 finding which should be deemed a conclusion, and any conclusion which should be
25 deemed a finding, is hereby adopted as such.
26

27 Section 4. Section 4 of Ordinance No. 10-085, adopted by Ordinance No.
28 10-085 on October 20, 2010, is amended to read:
29

30 Section 4. Sections 6 and 8 of this ordinance shall take
31 effect 45 days after the date of adoption and shall be
32 repealed on December 31, ~~((2012))~~ 2014.
33

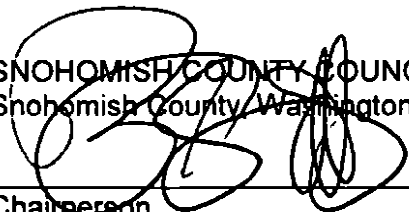
34 Section 5. Section 5 of Ordinance No. 10-085, adopted by Ordinance No.
35 10-085 on October 20, 2010, is amended to read:
36

37 Section 5. Sections 7 and 9 of this ordinance shall take effect
38 on January 1, ~~((2013))~~ 2015 (immediately upon the repeal of
39 Sections 6 and 8 of this ordinance).
40

41 Section 6. Severability and Savings. If any section, sentence, clause or phrase of
42 this ordinance shall be held to be invalid by the Growth Management Hearings
43 Board (Board), or unconstitutional by a court of competent jurisdiction, such
44 invalidity or unconstitutionality shall not affect the validity or constitutionality of any
45 other section, sentence, clause or phrase of this ordinance. Provided, however,
46 that if any section, sentence, clause or phrase of this ordinance is held to be invalid
47 by the Board or court of competent jurisdiction, then the section, sentence, clause
48 or phrase in effect prior to the effective date of this ordinance shall be in full force
49 and effect for that individual section, sentence, clause or phrase as if this
50 ordinance had never been adopted.

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PASSED this 24th day of October, 2012.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Chairperson

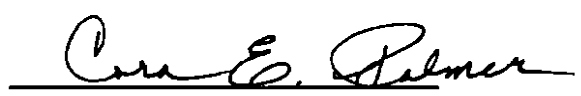
ATTEST:


Clerk of the Council, *asst.*

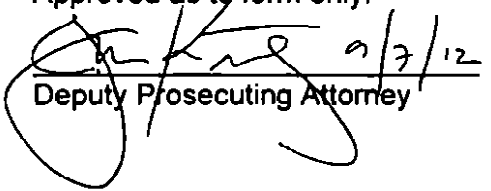
- APPROVED
- EMERGENCY
- VETOED

DATE: 10/31/12

County Executive

ATTEST:



Approved as to form only:

 9/7/12
Deputy Prosecuting Attorney

D.3