1 ADOPTED: 11/14/16 2 EFFECTIVE: 01/01/17 SNOHOMISH COUNTY COUNCIL 3 4 Snohomish County, Washington 5 6 AMENDED ORDINANCE NO. 16-099 7 AMENDING SNOHOMISH COUNTY CODE CHAPTER 30.66A - PARK AND 8 9 RECREATION FACILITY IMPACT MITIGATION 10 11 WHEREAS, the Revised Code of Washington (RCW) Chapter 82.02 provides for local 12 jurisdictions to collect impact fees from development in order to support provision of capital facilities needed to serve new population; and 13 14 WHEREAS, Snohomish County Code (SCC) Chapter 30.66A was adopted by Amended 15 Ordinance 04-016 on February 23, 2005, and established Snohomish County's Growth 16 Management Act (GMA) based impact mitigation fee program for park facilities pursuant to 17 RCW 82.02.050; and 18 19 20 WHEREAS, identification of capital facilities needed to support new population is based upon adopted level-of-service standards; and 21 22 23 WHEREAS. Snohomish County adopted new level-of-service standards for provision of park facilities with adoption of the 2015 Capital Facilities Plan (CFP) by Amended Ordinance 14-24 25 135; and 26 27 WHEREAS, Snohomish County has identified the park classifications of 'Neighborhood,' 28 'Community,' 'Regional' and 'Regional Trails' as necessary to support development in the CFP: 29 and 30 31 WHEREAS, the Snohomish County Department of Parks & Recreation (Parks) has 32 identified park amenities needed to support projected population growth and meet adopted level-of-service standards; and 33 34 35 WHEREAS, through review of Chapter 30.66A SCC staff has identified a number of 36 other modifications to promote code clarity and to align park impact fee implementation to the method utilized for school impact fees; and 37 38 39 WHEREAS, Parks has conducted early and continuous public participation in developing 40 the proposed amendments to Chapter 30.66A SCC, which are proposed by this ordinance, including a stakeholder meeting on June 21, 2016, and webpage postings; and 41 42 WHEREAS, State Environmental Policy Act (SEPA) requirements with respect to this 43 44 non-project action have been satisfied through the completion of an environmental checklist and 45 determination of non-significance issued on September 16, 2016; and 46 WHEREAS, the Snohomish County Planning Commission ("Planning Commission") held 47 a public hearing on September 27, 2016, to receive public testimony concerning the proposed 48 Chapter 30.66A SCC code amendments; and 49

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WHEREAS, at the conclusion of the Planning Commission's public hearing, the Planning Commission voted six to one to recommend adoption of the code amendments contained in this ordinance, as indicated in its recommendation letter dated September 28, 2016; and

WHEREAS, the County Council held a public hearing on November 14, 2016, after proper notice, and considered public comment and the entire record related to the code amendments contained in this ordinance; and

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

# NOW, THEREFORE, BE IT ORDAINED:

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

- A. The foregoing recitals are adopted as findings as if set forth in full herein.
- B. This ordinance amends Chapter 30.66A SCC to update park impact fees and support the provision of park amenities to serve anticipated population growth through collection and utilization of park impact fees.
- C. This ordinance supports continued adherence to adopted level-of-service standards for park amenities, within park classifications identified as 'necessary to support development' in the CFP, a component of the Snohomish County Comprehensive Plan.
- D. This ordinance establishes a biennial review and adjustment schedule for park impact fees aligned with the school district CFP review cycle in order to promote consistency.
- E. This ordinance promotes alignment between the methods of impact fee assignment utilized for parks to that utilized for school impact fees.
- F. This ordinance locates the park impact fee calculation equation within SCC in order to facilitate access to the methodology and to align with code content provided for assessment of school impact fees.
- G. The adoption of this ordinance exercises the County's authority to impose impact fees pursuant to RCW 82.02.050.
- H. This ordinance is consistent with Chapter 36.70A RCW and maintains consistency with GMA.
- I. This ordinance supports GMA Goal 12: "Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards" (RCW 36.70A.020(12)).
- J. 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.

K. This ordinance complies with and implements the following Snohomish County Growth Management Act Comprehensive Plan General Policy Plan (GPP) goals, objectives and policies:

Goal PR 3 – Maintain and monitor minimum level-of-service standards for parks and for park facilities that are necessary to support development.

Policy PR 3.A.1 – Apply a level-of-service method to: monitor the level-of-service of park facilities necessary to support development; identify priority park projects that are necessary to support development; and provide a basis for collecting and allocating park impact mitigation fees.

Policy PR 3.A.3 – Impact fees should be used to: (1) develop park facilities that are categorized as active recreation facilities, passive recreation facilities, regional trails, waterfront, campsites, and parking spaces in Neighborhood Parks, Community Parks, Regional Parks and Regional Trails; and (2) acquire park properties for Neighborhood Parks, Community Parks, Regional Parks, and Regional Trails.

- L. Procedural requirements.
  - 1. SEPA requirements with respect to this non-project action have been satisfied through the completion of an environmental checklist and issuance of a determination of non-significance on September 16, 2016.
  - 2. This proposal is a Type 3 legislative action pursuant to SCC 30.73.010.
  - 3. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance was transmitted to the Washington State Department of Commerce for distribution to state agencies on September 14, 2016.
  - 4. The public participation process used in the adoption of this ordinance has complied with all applicable requirements of the GMA and the SCC.
  - 5. The Washington State Attorney General last issued an advisory memorandum, as required by RCW 36.70A.370, in December of 2015 entitled "Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property" to help local governments avoid the unconstitutional taking of private property. The process outlined in the State Attorney General's 2015 advisory memorandum was used by Snohomish County in objectively evaluating the regulatory changes proposed by this ordinance.
- M. This ordinance is consistent with the record in that the code amendments proposed by this ordinance were developed to reflect and support Snohomish County's parks level-of-service adopted in the 2015 Snohomish County Capital Facilities Plan.
- N. This ordinance updates park impact mitigation fees based upon an impact fee calculation formula which allocates a percentage of the estimated sum total cost of new park amenities needed to support new development. The percentage of this sum total cost of new park amenities allocated to new residential development is identified as S<sub>FAC</sub> and is included to meet requirements of RCW 82.02.050(2), which requires that the full cost of new improvements not be fully borne by development. The impact fee schedule adopted herein is based on an 80/20 proportionate share with Eighty percent (80%) of

said costs allocated to new residential development in the form of impact fees, and Twenty percent (20%) allocated to other sources of funding

Section 2. The County Council makes the following conclusions:

- A. This ordinance is necessary to comply with Chapter 36.70A RCW and to maintain consistency with the new Park and Recreation Element of the County's 2015 Comprehensive Plan.
- B. The proposal is consistent with the goals, objectives, and policies of the County's GPP.
- C. The proposal is consistent with Washington State law and the SCC.
- D. The County has complied with all SEPA requirements in respect to this non-project action.
- E. The regulations proposed by this ordinance do not result in an unconstitutional taking of private property for public purpose.

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

Section 4. Snohomish County Code Section 30.66A.010, added by Amended Ordinance No. 04-016 on February 23, 2005, is amended to read:

## 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)) Snohomish County Comprehensive 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 March 11, 2005. ((the effective date of this chapter.)) An applicant subject to a SEPA based mitigation fee imposed under a prior version of this chapter may consent in writing to the application of this chapter and imposition of the then current GMA based impact mitigation fee in lieu of the prior SEPA based impact mitigation fee.

Section 5. Snohomish County Code Section 30.66A.020, amended by Amended Ordinance No. 16-060 on August 24, 2016, is amended to read:

# 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) or as provided in SCC 30.66A.020(2).
- (2) For development applications filed on or after January 1, 2017, the amount of the fee shall be based upon the rate in effect at the time of filing of a complete building permit application for each residential structure/dwelling unit constructed upon the approved development subject to impact fees. For development applications filed on or before December 31, 2016, ((The))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 development applications deemed complete before ((the adoption of the GMA-based impact fee contained in this section)) March 11, 2005, shall be required to pay the SEPA-based mitigation fee in effect at the time the application was deemed complete unless the applicant elects to be subject to the then current GMA based impact fee as provided in SCC 30.66A.010(2) above.((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.))
- (3) Payment of a park and recreation impact fee is required prior to building permit issuance except as provided in SCC 30.66A.020(4).
- (4) An applicant may request a deferral of the payment of park and recreation impact fees. The deferral of park and recreation impact fees shall be allowed only for single-family attached and detached residential construction by a property owner having a contractor registration number or other unique identification number. The amount of impact fees that may be deferred under this subsection shall be determined by the fees in effect at the time the applicant applies for a deferral.
  - (a) For this subsection:
    - (i) "Applicant" means the property owner which includes an entity that controls, is controlled by, or is under common control with the applicant.
    - (ii) "Common control" means two or more entities controlled by the same person or entity.
    - (iii) "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting shares, by contract, or otherwise.
  - (b) An applicant wishing to defer the payment of a park and recreation impact fee shall:
    - (i) Submit a signed and notarized deferred impact fee application and completed lien form signed by all owners of the property subject to the lien concurrent with the building permit application for the building subject to the impact fees. Multiple deferrals can be included on one application as long as the building permit applications are located within the same development and the applicant pays a separate administrative fee as required below for each single-family dwelling unit whether detached or attached;
      - (ii) Submit a signed and notarized certification that the applicant has requested deferral of impact fees for no more than a total of twenty building permits in the calendar year within unincorporated Snohomish County; and
      - (iii) Pay a non-refundable \$250.00 administration fee for each deferred impact fee application.
  - (c) The lien shall:
    - (i) Be in a form approved and provided by the county;
    - (ii) Include the legal description, property tax account number, and address for each lot or unit the lien will encumber and identify the type and amount of the deferred impact fees:
    - (iii) Be binding on all successors in title after the recording:

- (iv) Be junior and subordinate to a first mortgage for the purpose of construction upon the same real property granted by the person who applied for the deferral of impact fees, but in no case shall the lien be in less than second place; and
- (v) Be signed by all owners of the property, with all signatures acknowledged as required for a deed.
- (d) The lien shall be recorded prior to the issuance of the building permit for the building subject to the impact fees.
- (e) Each applicant eligible to defer impact fees shall only be entitled to receive deferrals for no more than a total of twenty building permits within unincorporated Snohomish County during each calendar year.
- (f) The applicant shall be responsible for the payment of all recording fees.
- (g) The deferred impact fees for each single-family dwelling unit whether detached or attached shall be paid in full prior to whichever of the following occurs first:
  - (i) Scheduling final inspection;
  - (ii) Issuance of a certificate of occupancy;
  - (iii) The closing of the first sale of the property occurring after the recording of the lien; or
  - (iv) Eighteen months from the date of building permit issuance.
- (h) If the building for which the deferral of the impact fees is requested is located within a subdivision or short subdivision, the subdivision or short subdivision shall be recorded prior to recording the lien for impact fees and issuance of the building permit.
- (i) Upon receipt of final payment of all deferred impact fees for a building permit, the county shall execute a release of the deferred impact fee lien. The applicant is responsible for submitting a lien release application to PDS. The applicant, at their own expense, will be responsible for recording the lien release after all deferred impact fees associated with a lot or unit subject to a lien have been paid.
- (j) Compliance with the requirements of the deferral option shall constitute compliance with subdivision or short subdivision conditions pertaining to the timing of the impact fee payment.
- (k) If deferred impact fees are not paid in accordance with terms authorized by state law and this section, the county may initiate foreclosure proceedings for the unpaid impact fees and all costs associated with the collection of the unpaid impact fees.
- (I) A request to defer park and recreation impact fees under this section may be combined in one application with a request to defer road system impact fees under SCC 30.66B.340(5) and school impact fees under SCC 30.66C.200(2).

Section 6. A new section is added to Chapter 30.66A of the Snohomish County Code to read:

### 30.66A.035 Impact fee calculation formula.

- (1) General. The formula in this section provides the basis for the impact fee schedule for each PSA serving the county.
- (2) Determination of projected parks amenities needed for serving growth. Parks shall determine, as part of updating the impact fee schedule, projected park amenity needs required to respond to anticipated growth and the estimated capital cost of providing those amenities.
- Those costs shall provide the basis for the impact fee calculations set forth in this section.
- (3) Cost calculation by element. The fees shall be calculated on a "per dwelling unit" basis, by "dwelling unit type" as set forth below.
  - (a) Single Family Impact Fee Calculation Formula [[ΣC<sub>PA</sub>] [H<sub>SF</sub>] /[SF<sub>TOT</sub>][S<sub>FAC</sub>]]

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Where:

 $\Sigma C_{PA}$  = The sum (total) cost of park amenities

(b) Multi Family Impact Fee Calculation Formula

 $[[\Sigma C_{PA}][H_{MF}]/[MF_{TOT}][S_{FAC}]]$ 

H<sub>SF</sub> = Population proportion factor from single family housing starts

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

SF<sub>TOT</sub> = Total projected single family housing starts over six years

MF<sub>TOT</sub> = Total projected multi family housing starts over six years

 $S_{FAC}$  = The proportion of new parks amenities to be paid with impact fees from new development

Section 7. Snohomish County Code Section 30.66A.040, added by Amended Ordinance No. 04-016 on February 23, 2005, is amended to read:

### 30.66A.040 Impact fee schedule.

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

Park Service Area	PSA Name	Single Family and Duplex - \$/unit	Multi-Family <u>and</u> Townhouse \$/unit
301	Kayak Point	\$811. <u>29</u> \$420. <u>98</u>	\$594.01 <u>\$279.49</u>
302	River Meadows	\$48.82 <u>\$420.98</u>	<del>\$35.75</del> <u>\$279.49</u>
303	Robe Canyon	<del>\$0.00</del> <u>\$579.68</u>	<del>\$0.00</del> <u>\$386.16</u>
304	White Horse	<del>\$0.00</del> <u>\$420.98</u>	<del>\$0.00</del> <u>\$279.49</u>
305	Lord Hill	\$344.52 <u>\$420.98</u>	\$473.16 <u>\$279.49</u>
306	Centennial	\$1,361.22 <u>\$420.98</u>	\$1,037.92 <u>\$279.49</u>
307	Nakeeta Beach	\$1,244.49 <u>\$1,624.59</u>	<del>\$491.05</del> <u>\$1,050.49</u>

- (2) The impact fee schedule may should be reviewed and/or adjusted in conjunction with revisions to the County's comprehensive plan, and/or ((at any time that the County Council determines that economic or budgetary circumstances warrant review)) every two years in conjunction with revision of the school district capital facility plans.
- (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 projects 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.

 Section 8. Snohomish County Code Section 30.66A.060, added by Amended Ordinance No. 04-016 on February 23, 2005, is amended to read:

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)) Snohomish County Park and Recreation Element, 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 developers park and recreation impact fee obligation if the director determines, after analysis of supply/demand data and the ((county comprehensive park and recreation plan)) Snohomish County Park and Recreation Element, 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 developments 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 ((er)) on 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.

Section 9. Snohomish County Code Section 30.66A.065, added by Amended Ordinance No. 04-016 on February 23, 2005, is amended to read:

# 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 planning and development services 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.

Section 10. Snohomish County Code Section 30.66A.080, amended by Amended Ordinance No. 12-018 on May 2, 2012, is amended to read:

### 30.66A.080 Use of fees.

- (1) Park and recreation impact fees collected under this chapter shall be deposited into an interest-bearing ((account)) accounts established for each PSA and for county-wide/regional use. Funds deposited into these accounts shall be expended or encumbered within ten 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 ten 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)) Snohomish County Park and Recreation Element.
- (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.

Section 11. Effective date, implementation. This ordinance shall take effect January 1, 2017. The Snohomish County Planning and Development Services and Parks and Recreation Departments are authorized to take such actions as may be necessary to implement this ordinance on its effective date.

Section 12. Severability and savings. If any section, sentence, clause, or phrase of this ordinance shall be ruled to be invalid or unconstitutional by a court of competent jurisdiction, such ruling shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance, and 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.

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1	PASSED this 14 <sup>th</sup> day of November, 2016.		
2 3 4 5		SNOHOMISH COUNTY COUNCIL Snohomish County, Washington	
6 7 8		Council Chair	
9 10	ATTEST:		
11 12 13 14	Clerk of the Council		
15 16 17 18	( ) APPROVED ( ) EMERGENCY ( ) VETOED		
19 20 21 22 23		DATE: <u>(//2//6</u> , 2016	
<ul><li>24</li><li>25</li><li>26</li><li>27</li><li>28</li></ul>	ATTEST:  ora & Jalmer	County Executive	
29 30 31 32	Approved as to form only:		
33 34 35 36 37 38	Deputy Prosecuting Attorney		
39 40 41 42 43			
44 45			