

1 ADOPTED: 10/03/18  
2 EFFECTIVE: 10/16/18

3  
4 SNOHOMISH COUNTY COUNCIL  
5 Snohomish County, Washington

6  
7 AMENDED ORDINANCE NO. 18-036

8  
9 RELATING TO GROWTH MANAGEMENT, AMENDING WHEN SCHOOL IMPACT  
10 MITIGATION FEES FOR A DEVELOPMENT ARE CALCULATED,  
11 AMENDING CHAPTER 30.66C SCC AND CHAPTER 30.91D SCC  
12

13 WHEREAS, in 1999 Snohomish County adopted an impact fee ordinance to provide  
14 mitigation for the impacts of new development on public school facilities under RCW 82.02.050;  
15 and  
16

17 WHEREAS, under RCW 82.02.050(5)(a), impact fees may be collected and spent only  
18 for the public facilities defined in RCW 82.02.090, which are addressed by the Capital Facilities  
19 Element of the Snohomish County ("County") comprehensive plan created under the Growth  
20 Management Act (GMA), Chapter 36.70A RCW; and  
21

22 WHEREAS, the County collects school impact mitigation fees on behalf of school  
23 districts based on the fee schedule in SCC 30.66C.100 in effect at the time of building permit  
24 application; and  
25

26 WHEREAS, in 2017, the Snohomish County Council ("County Council") requested the  
27 Snohomish County Department of Planning and Development Services (PDS) staff and the  
28 Snohomish County Planning Commission ("Planning Commission") explore additional options to  
29 limit the variability of school impact mitigation fees from year to year; and  
30

31 WHEREAS, the County Council adopted Substitute Ordinance No. 16-097 on November  
32 14, 2016, which included a budget note requesting that PDS develop, evaluate, and propose  
33 amendments to Snohomish County Code that would reduce the variability of school impact  
34 mitigation fee charges from one year to the next; and  
35

36 WHEREAS, PDS developed and evaluated options for reducing the variability of school  
37 impact mitigation fees from year to year and calculating school impact mitigation fee rates  
38 earlier in the development process, convened a stakeholder working group to help develop and  
39 review options, and presented options and contextual information to the Planning Commission;  
40 and  
41

42 WHEREAS, the Planning Commission was briefed on the school impact mitigation fee  
43 stabilization budget note in June 2017, deliberated in July 2017 and August 2017, and  
44 submitted the following recommendation to the County Council by letter dated August 25, 2017:  
45 "*No code amendments. Explore early notification with all sides and report back to the planning*  
46 *commission on progress at the appropriate time. Encourage the County (department of planning*  
47 *and development services) to provide the building industry members and public with earliest*  
48 *possible notification of proposed increases in school impact fees through prominent features on*  
49 *the department of planning and development services webpage.*"; and  
50

1 WHEREAS, the County Council received the Planning Commission’s recommendation  
2 and held a discussion at the County Council’s planning committee meeting on September 19,  
3 2017; and  
4

5 WHEREAS, the County Council requested staff to continue to explore options to limit the  
6 variability of school impact mitigation fees from year to year and calculate school impact  
7 mitigation fee rates earlier in the development process; and  
8

9 WHEREAS, this ordinance amends the point in time when school impact fees are  
10 calculated from the time of building permit application to the time of development application,  
11 unless more than five years passes between development application and building permit  
12 application; and  
13

14 WHEREAS, the definition of “development” in SCC 30.91D.200, which applies to park  
15 impact mitigation regulations, also provides an appropriate definition for the purposes of school  
16 impact mitigation fees; and  
17

18 WHEREAS, the definition of “development” in SCC 30.91D.200 requires amendments  
19 for consistency with changes to the related development regulations since that section was last  
20 amended in 2005; and  
21

22 WHEREAS, amending the definition of “development” found in SCC 30.91D.200 and  
23 making that definition applicable to Chapter 30.66C renders the definition of “development”  
24 codified at SCC 30.91D.220 superfluous and unnecessary and it should be repealed for clarity;  
25 and  
26

27 WHEREAS, the Planning Commission was provided a briefing on the proposed  
28 ordinance on June 26, 2018; and  
29

30 WHEREAS, the Planning Commission held a public hearing on July 24, 2018, and  
31 received public testimony on the proposed ordinance; and  
32

33 WHEREAS, at the conclusion of the Planning Commission’s public hearing, the Planning  
34 Commission deliberated and voted to recommend that the County Council not adopt the  
35 proposed ordinance, as set forth in its recommendation letter dated August 7, 2018; and  
36

37 WHEREAS, as part of its recommendation, the Planning Commission strongly urges the  
38 County Council to seek changes at the state level to provide a more fair and predictable  
39 mechanism to fund the state’s public schools; and  
40

41 WHEREAS, the County Council held a public hearing on October 3, 2018, and  
42 considered public comment and the entire record related to the code amendments contained in  
43 this ordinance; and  
44

45 WHEREAS, following the public hearing, the County Council deliberated on the code  
46 amendments contained in this ordinance;  
47

48 NOW, THEREFORE, BE IT ORDAINED:  
49

50 Section 1. The County Council adopts the foregoing recitals as findings of fact as if set  
51 forth in full herein.

1  
2 Section 2. The County Council makes the following additional findings of fact:  
3

4 A. Uncertainty in the early stages of a housing development project concerning what school  
5 impact mitigation fee rates will be at building permit phase makes it difficult for developers to  
6 make informed decisions regarding a project's ultimate viability and profitability.  
7

8 B. Limiting the lag between the time a school impact mitigation fee is calculated and a building  
9 permit application is received to a maximum of five years will maintain a close connection  
10 between the impact fees collected to mitigate capital facility needs to support projected  
11 student population growth and the actual growth in student population.  
12

13 C. Procedural Requirements.

- 14
- 15 1. This ordinance is consistent with state law and Chapter 30.73 SCC.
  - 16
  - 17 2. These code amendments are procedural and are exempt from Planning Commission  
18 review under SCC 30.73.040(2)(b).  
19
  - 20 3. This action is considered procedural and is exempt from the State Environmental  
21 Policy Act (SEPA), Chapter 43.21C RCW, review pursuant to WAC 197-11-  
22 800(19)(b) and SCC 30.61.030.  
23
  - 24 4. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance was  
25 transmitted to the Washington State Department of Commerce for distribution to  
26 state agencies on April 30, 2018.  
27
  - 28 5. The Washington State Attorney General last issued an advisory memorandum, as  
29 required by RCW 36.70A.370, in December 2015, entitled "Advisory Memorandum:  
30 Avoiding Unconstitutional Takings of Private Property" to help local governments  
31 avoid the unconstitutional taking of private property. The process outlined in the  
32 State Attorney General's 2015 advisory memorandum was used by Snohomish  
33 County in objectively evaluating the regulatory changes proposed by this ordinance.  
34
  - 35 6. The public participation process used in the adoption of this ordinance has complied  
36 with all applicable requirements of the GMA and the SCC.  
37

38 D. These amendments are consistent with the record.  
39

40 E. The code amendments are consistent with the comprehensive plan, including the following  
41 goals and policies in particular:  
42

- 43 1. GOAL CF 10 – Ensure that county growth and development anticipated under the  
44 comprehensive plan can be accommodated by present and future school facilities.  
45
- 46 2. GPP CF Policy 10.A.4 – The county shall monitor and adjust, when appropriate, its  
47 school impact fee program as authorized under the GMA to help fund the cost of  
48 school expansions required to serve new development. County acceptance of a  
49 district plan which proposes the use of impact fees may not by itself constitute  
50 complete approval of the proposed impact fees. Approval of impact fees must be

1 secured in accordance with the provisions of county code and state statute in affect  
2 at the time.

- 3  
4 3. GPP HO Policy 3.A.5 – The county's impact fee program shall be based on a fair  
5 assessment of the cost of new public facilities needed to accommodate each  
6 housing unit.

- 7  
8 F. The code amendments are consistent with the requirements of the GMA and are guided by  
9 and support the GMA planning goals found in RCW 36.70A.020 including: Goal 11 ("Citizen  
10 participation and coordination. Encourage the involvement of citizens in the planning  
11 process and ensure coordination between communities and jurisdictions to reconcile  
12 conflicts.") and Goal 12 ("Public facilities and services. Ensure that those public facilities and  
13 services necessary to support development shall be adequate to serve the development at  
14 the time the development is available for occupancy and use without decreasing current  
15 service levels below locally established minimum standards.").

16  
17 Section 3. Based on the foregoing findings of fact, the County Council makes the  
18 following conclusions:

- 19  
20 A. The code amendments are consistent with the goals, objectives and policies of the County's  
21 comprehensive plan.  
22  
23 B. The code amendments are consistent with and comply with the procedural and substantive  
24 requirements of the GMA.  
25  
26 C. The code amendments area consistent with Washington State law and the County Code.  
27  
28 D. The County has complied with all SEPA requirements in respect to this non-project action.  
29

30 Section 4. The County Council bases its findings and conclusions on the entire record of  
31 the County Council, including all testimony and exhibits. Any finding, which should be deemed  
32 a conclusion, and any conclusion which should be deemed a finding, is hereby adopted as  
33 such.  
34

35 Section 5. Snohomish County Code Section 30.66C.100, last amended by Amended  
36 Ordinance No. 17-085 on December 20, 2017, is hereby amended to read:  
37

38 **30.66C.100 Fee required.**

39  
40 (1) Each development, as a condition of approval, shall be subject to the school impact fee  
41 established pursuant to this chapter. The school impact fee shall be calculated in accordance  
42 with the formula established in SCC 30.66C.045.  
43

44 (2) The fees listed in Table 30.66C.100(1) represent one-half of the amount calculated by each  
45 school district in its respective capital facilities plan in accordance with the formula identified in  
46 SCC 30.66C.045. From January 1, 2017, to April 1, 2018, school impact fees listed in Table  
47 30.66C.100(1) shall be limited to a maximum of \$7,000 per dwelling unit.  
48

49 (3)The payment of school impact fees will be required prior to issuance of building permits,  
50 except as provided in SCC 30.66C.200(2). The amount of the fee due shall be based on the fee  
51 schedule in effect at the time of ~~((building permit application))~~ filing a complete application for

1 development. For building permit applications received by the department more than five years  
 2 after the filing of a complete application for development, the amount of the fee due shall be  
 3 based on the fee schedule in effect at the time of building permit application.

4  
 5 (4) The department shall maintain and provide to the public upon request a table summarizing  
 6 the schedule of school impact fees for each school district within the county.

7  
 8 (5) The fees set forth in Table 30.66C.100(1) apply to developments that vest to county  
 9 development regulations from January 1, 2017, to December 31, 2018.

10  
 11 (6) Building permits submitted after January 1, 1999, for which prior plat approval has been  
 12 obtained under chapter 30.66C SCC as codified prior to January 1, 1999, shall be subject to the  
 13 school impact fees established pursuant to this chapter, as set forth in this section, except as  
 14 provided in SCC 30.66C.010(2).  
 15

**Table 30.66C.100(1)**  
**SCHOOL IMPACT MITIGATION FEES**

| SCHOOL DISTRICT    | SINGLE FAMILY<br>per dwelling unit   | MULTI-<br>FAMILY<br>1-BEDROOM<br>per dwelling<br>unit | MULTI-FAMILY<br>2+ BEDROOMS<br>per dwelling unit | DUPLEXES AND<br>TOWNHOMES |
|--------------------|--|---|--|---------------------------|
| Arlington No. 16   | \$0  | \$0   | \$0  | \$0                       |
| Edmonds No. 15     | \$0  | \$0   | \$0  | \$0                       |
| Everett No. 2      | \$6,950  | \$0   | \$3,230  | \$3,230                   |
| Lake Stevens No. 4 | \$6,624  | \$0   | \$3,678  | \$3,678                   |
| Lakewood No. 306   | \$857  | \$0   | \$1,037  | \$1,037                   |
| Marysville No. 25  | \$1,552  | \$0   | \$2,096  | \$2,096                   |
| Monroe No. 103     | \$2,749  | \$0   | \$3,032  | \$3,032                   |
| Mukilteo No. 6     | \$4,275  | \$0   | \$2,972  | \$2,972                   |
| Northshore No. 417 | Before April 1, 2018:<br>\$7,000<br><br>On or after April 1,<br>2018: \$10,563 | \$0   | \$0  | \$0                       |
| Snohomish No. 201  | \$0  | \$0   | \$0  | \$0                       |
| Sultan No. 311     | \$1,501  | \$0   | \$2,133  | \$2,133                   |

16  
 17 Section 6. Snohomish County Code Section 30.91D.200, last amended by Amended  
 18 Ordinance No. 04-016 on February 23, 2005, is hereby amended to read:

19  
 20 **30.91D.200 Development.**

21  
 22 "Development" means all residential subdivisions and short subdivisions, single family detached  
 23 unit, cottage housing, townhouse, mixed townhouse, ((condominium)) and multifamily  
 24 residential development, including multifamily rezones which require binding site plans, planned

1 residential developments, mobile home parks, ((condominiums)), and all multifamily structures  
2 which require building permits and are subject to but does not include permits for attached or  
3 detached accessory apartments, or remodeling or renovation permits which do not result in  
4 additional dwelling units.

5  
6 *This definition applies only to "Park and recreation impact mitigation" regulations in chapter*  
7 *30.66A SCC and "School impact mitigation" regulations in chapter 30.66C SCC.*

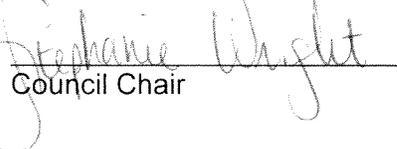
8  
9 Section 7. Snohomish County Code Section 30.91D.220, last amended by Ordinance  
10 No. 04-140 on January 12, 2005, is repealed.

11  
12 Section 8. It is the intent of the County Council that this ordinance apply prospectively to  
13 development applications received after the effective date of this ordinance. School impact  
14 mitigation fees rates shall continue to be calculated based on the fee schedule in effect at the  
15 time of building permit application for building permits associated with development applications  
16 received before the effective date of this ordinance.

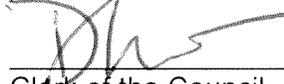
17  
18 Section 9. Severability. If any section, sentence, clause or phrase of this ordinance is  
19 held to be invalid by the Growth Management Hearings Board ("Board"), or unconstitutional by a  
20 court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or  
21 constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided,  
22 however, that if any section, sentence, clause or phrase of this ordinance is held to be invalid by  
23 the Board or a court of competent jurisdiction, then the section, sentence, clause or phrase in  
24 effect prior to the effective date of this ordinance shall be in full force and effect for that  
25 individual section, sentence, clause or phrase as if this ordinance had never been adopted.

26  
27 PASSED this 3<sup>rd</sup> day of October, 2018.

28 SNOHOMISH COUNTY COUNCIL  
29 Snohomish, Washington

30   
31 Council Chair

32 ATTEST:

33   
34 \_\_\_\_\_  
35 Clerk of the Council

- 36  
37  
38 (✓) APPROVED  
39 ( ) EMERGENCY  
40 ( ) VETOED

41 DATE:

42   
43 \_\_\_\_\_  
44 County Executive  
45 10/6/18

46 ATTEST:

47   
48 \_\_\_\_\_

49 Approved as to form only:

50 \_\_\_\_\_  
51 Deputy Prosecuting Attorney

D-1