

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 per dwelling unit	MULTI- FAMILY 1-BEDROOM per dwelling unit	MULTI-FAMILY 2+ BEDROOMS per dwelling unit	DUPLEXES AND 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: \$7,000 On or after April 1, 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.*

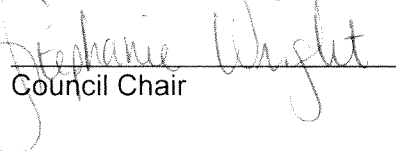
8
9 Section 7. Snohomish County Code Section 30.91D.220, last amended by Ordinance
10 No. 04-140 on January 12, 2005, is repealed.

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 3rd 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