

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON



CO00023162

AMENDED
ORDINANCE NO. 95-070

AMENDING TITLE 26B
DEVELOPER CONTRIBUTIONS FOR ROAD PURPOSES AS A CONDITION OF
LAND USE APPROVALS

BE IT ORDAINED:

Section 1. Snohomish County Code Section 26B.50.010, last amended by Amended Ordinance No. 95-039 on June 28, 1995, is amended to read:

26B.50.010 Findings. It is hereby found that the acquisition, construction, and improvement of roads to serve new developments in Snohomish county is a major burden upon county government; that the county is experiencing a rapid, large-scale increase in intensity of land use and in population growth; that rapid growth creates large "front-end" demands for county services, including roads, and causes increased road usage; that existing and projected county funds are not adequate to meet the public's projected road needs; that failure to ensure that road improvements are made as traffic increases causes severe safety problems, impedes commerce and interferes with the comfort and repose of the public; and that the provisions of this title are necessary to preserve the legislature's intent that the county, in the exercise of reasonable discretion, retain ultimate responsibility for its financial integrity.

It is further found that the demand for use of existing and projected county funds for the purpose of providing additional road system capacity needed as a result of new development, without requiring new development to contribute its fair share towards the cost of such capacity improvements, would severely limit the ability of the county to provide needed safety improvements and to maintain the existing road system.

It is further found that the county has the power under existing law to condition development and require road improvements ~~((as))~~ reasonably ~~((necessary))~~ related to ~~((as the result of))~~ the ~~((direct))~~ traffic impact of a proposed development, and that it is appropriate and desirable to set out in this title what will be required of developments, and to establish hereby a uniform method of treatment for ~~((like classes of))~~ similar development impact on road systems.

It is further found that RCW 82.02.050(2) provides that "Counties, cities and towns that are required or choose to plan under RCW 36.70A.040 are authorized to impose impact fees on development activity as part of the financing for public facilities, provided that the financing for system improvements to serve new development must provide for a balance between impact fees and other sources of public funds and cannot rely solely on impact fees."

It is further found and declared that the regulations contained in this title are necessary for the protection and preservation of the public health, safety and general welfare.

NEW SECTION. Section 2. A new section is added to Chapter 26B.51 of the Snohomish County Code to read:

26B.51.105 Road system impact fee. "Road system impact fee" means any proportionate share mitigating payment imposed under the authority provided to the county under RCW 82.02.050(2) to mitigate the development's impact on the future capacity of the road system, as defined in SCC 26B.51.100.

Section 3. Snohomish County Code Section 26B.52.050, adopted by Ordinance No. 90-186 on November 14, 1990, is amended to read:

26B.52.050 Road system capacity requirements. (~~The direct traffic impact of any development on the capacity of all arterials and non-arterials in the road system identified as needing future capacity improvements in the currently adopted road needs report will be mitigated either by constructing road improvements which offset the traffic impact of the development or by paying the development's share of the cost of the future capacity improvements.~~)

(1) Under the authority provided to the county by RCW 82.02.050(2), all development will be required to mitigate its impact on the capacity of the road system by paying a road system impact fee reasonably related to the impacts of the development on arterial roads located in the same transportation service area as the development, in accordance with SCC 26B.55.020.

(2) The road system impact fees will be collected and spent for capacity improvements on facilities which are addressed by the county's capital facilities plan. In accordance with RCW 82.02.050(3), the impact fees:

(a) shall only be imposed for system improvements that are reasonably related to the new development.

(b) shall not exceed a proportionate share of the costs of the system improvements reasonably related to the new development.

(c) shall be used for system improvements that will reasonably benefit the new development.

(3) The estimated cost of capacity improvements that are reasonably related to the impacts of new development, and that will reasonably benefit new development, will be identified in the transportation needs report for each transportation service area. Capacity improvements to facilities under the jurisdiction of the Washington State Department of Transportation (WSDOT), cities or other counties may be included when consistent with the terms of an interlocal agreement as specified in SCC 23.36.030(4). These costs, after the application of any of the following adjustments, shall become the road system impact fee cost basis:

(a) Improvements needed to remedy any level-of-service deficiencies in facilities serving current uses will not be included in the impact fee cost basis.

(b) As required by RCW 82.02.060(1)(b), the impact fee cost basis will be adjusted to provide a credit for taxes (excluding impact fees imposed under this section) paid by new development which help pay for the identified capacity improvements.

(c) Consideration shall be given to other funds available to pay for the capacity improvements included in the impact fee cost basis.

(d) The impact fee cost basis may include costs previously incurred by the county for capacity improvements for which excess capacity exists.

(4) The amounts of the impact fees imposed under this section will be determined for each transportation service area, based on and not to exceed, the impact fee cost basis divided by the number of new daily vehicle trip ends generated, as identified in the transportation needs report, for each transportation service area, based on the county's comprehensive land use plan.

(5) Any comprehensive plan amendment proposed in conjunction with a development proposal will include in its environmental impact analysis the change ((brought on by the amendment)) in capacity needs, as a result of the proposed plan amendment, of ((the)) all arterial roads impacted by ((three)) twenty-five (25) or more P.M. peak hour trips generated by the development irrespective of the boundaries of the transportation service area wherein the plan amendment is located and not limited to the road system as defined in SCC 26B.51.100. Any increases in the capacity needs of the roads analyzed will be deemed as impact caused by the plan amendment and will be mitigated as a requirement of development approvals if the plan amendment is allowed.

Section 4. Snohomish County Code Section 26B.55.020, re-enacted by Amended Ordinance No. 95-039 on June 28, 1995, is amended to read:

26B.55.020 Road system capacity requirements, road system impact fee.

(1) All developments ((must)) shall mitigate their impact upon the future capacity of the road system ((either by constructing offsite road improvements which offset the traffic impact of the development or)) by paying ((the development's proportionate share of the cost of future capacity improvements)) a road system impact fee at the rate identified in SCC 26B.55.025 for the type and location of the proposed development.

~~((2) Construction option requirements.~~

~~(a) If a developer chooses to mitigate the development's impact to the road system capacity by constructing offsite road improvements, the developer must investigate the impact, identify improvements, and offer a construction plan to the director for construction of the offsite improvements. Upon approval of the construction plan, the developer must provide the county with a security in conformance with a right-of-way permit issued pursuant to Title 13 SCC.~~

~~(b) In cases where two or more developers have agreed to fully fund a certain improvement, the proportionate sharing of the cost shall be on any basis that the developers agree among themselves would be equitable. Under such an arrangement, the terms of the agreement shall be binding on each development as conditions of approval.~~

~~(c) Any developer who volunteers to construct more than the development's share of the cost of offsite improvements may apply for a reimbursement contract under the provisions of chapter 13.95 SCC.~~

(3) Payment option requirements

~~(a) If a developer chooses to mitigate the development's impact by making a proportionate share mitigating payment, the)~~

A development's ((share of the cost of future capacity improvements)) road system impact fee will be equal to the development's new average daily traffic (ADT), based on the latest edition of the ITE Trip Generation report published by the Institute of Transportation Engineers, times the per trip amount for the specific transportation

service area as identified in ~~((the annually updated Snohomish county road needs report))~~ SCC 26B.55.025. However,

(a) in accordance with RCW 82.02.060(4), the director shall have the authority to adjust the amount of the impact fee to consider unusual circumstances in specific cases to ensure that impact fees are fairly imposed;

(b) in accordance with RCW 82.02.060(5), the director shall have the authority to adjust the amount of the impact fee to be imposed on a particular development to reflect local information when available, including studies and data submitted by the developer;

(c) adjustments will be made for trip reduction credits approved under SCC 26B.55.130.

~~((b) If a developer chooses to mitigate the development's impact by making a proportionate share mitigating payment, the))~~

~~(2) The payment is required prior to building permit issuance unless the development is a subdivision or short-subdivision, ((wherein)) in which case the payment is required prior to the recording of the subdivision or short-subdivision((-));~~

PROVIDED, That where no building permit will be associated with a conditional or special use permit then payment is required as a precondition to approval; or where the expiration date of the certificate of concurrency for a binding site plan is more than six (6) years after the date of the concurrency determination, in accordance with SCC 26B.55.030(1)(c), one half (1/2) of the payment is required prior to recording of the binding site plan with record of survey.

~~((e) Any developer who volunteers to pay more than the development's share of the cost of offsite improvements may apply for a reimbursement contract under the provisions of chapter 13.95 SCC.))~~

(3) As required by RCW 82.02.060(3), credit against a development's road system impact fee shall be provided for dedication of land for, improvement to, or construction of any capacity improvements that are identified in the transportation needs report as part of the road system impact fee cost basis and are imposed by the county as a condition of approval.

(4) As provided for by RCW 82.02.060(2), exemption from road system impact fees may be provided for low income housing and other development with a broad public purpose, provided that the road system impact fee for such development is paid from public funds other than impact fee accounts. The developer requesting the exemption shall be responsible for identifying the source of and securing the availability of such public funds.

(5) Developments which are determined to cause a greater reduction in ADT on the road system than the number of new ADT generated by the development, by promoting the use of transit or other means, will be determined to generate no new ADT for the purpose of determining the developments road system impact fee.

NEW SECTION. Section 5. A new section is added to Chapter 26B.55 of the Snohomish County Code to read:

26B.55.025 Fee Schedule

((Transportation Service Area	Residential Rate	Commercial Rate
A	\$25 to \$239*	\$25 to \$239*
B	\$25 to \$524*	\$25 to \$524*
C	\$25 to \$242*	\$25 to \$242*
D	\$25 to \$352*	\$25 to \$352*
E	\$25 to \$228*	\$25 to \$228*
F	\$25 to \$228*	\$25 to \$228*

** Range of possible rates.))*

<u>LOCATION</u>	<u>TYPE</u>	<u>NEW TRIP AMOUNT</u>	
<u>Transportation Service Area (TSA)</u>	<u>Residential / Commercial</u>	<u>Developments Inside the Urban Growth Area (UGA)</u>	<u>Developments Outside the Urban Growth Area (UGA)</u>
<u>A</u>	<u>RESIDENTIAL</u>	<u>\$158</u>	<u>\$172</u>
<u>A</u>	<u>COMMERCIAL</u>	<u>\$134</u>	<u>\$148</u>
<u>B</u>	<u>RESIDENTIAL</u>	<u>\$259</u>	<u>\$283</u>
<u>B</u>	<u>COMMERCIAL</u>	<u>\$220</u>	<u>\$244</u>
<u>C</u>	<u>RESIDENTIAL</u>	<u>\$156</u>	<u>\$170</u>
<u>C</u>	<u>COMMERCIAL</u>	<u>\$132</u>	<u>\$146</u>
<u>D</u>	<u>RESIDENTIAL</u>	<u>\$174</u>	<u>\$190</u>
<u>D</u>	<u>COMMERCIAL</u>	<u>\$148</u>	<u>\$164</u>
<u>E</u>	<u>RESIDENTIAL</u>	<u>\$150</u>	<u>\$164</u>
<u>E</u>	<u>COMMERCIAL</u>	<u>\$128</u>	<u>\$141</u>
<u>F</u>	<u>RESIDENTIAL</u>	<u>\$150</u>	<u>\$164</u>
<u>F</u>	<u>COMMERCIAL</u>	<u>\$128</u>	<u>\$141</u>

Section 6. Snohomish County Code Section 26B.55.110, amended by Amended Ordinance No. 95-039, on June 28, 1995, is amended to read:

26B.55.110 Administration of proportionate share mitigating payments.

(1) Any proportionate share mitigating payment made pursuant this title shall be subject to the following provisions:

(a) The payment is required prior to building permit issuance unless the development is a subdivision or short-subdivision, in which case the payment shall be made prior to the recording of the subdivision or short-subdivision; PROVIDED, That where no building permit will be associated with a conditional or special use permit then payment is required as a precondition to approval ((-)); or where the expiration date of the certificate of concurrency for a binding site plan is more than six (6) years after the date of the concurrency determination, in accordance with SCC 26B.55.030(1)(c), one half (1/2) of the payment made pursuant to SCC 26B.52.050 and SCC 26B.55.020 is required prior to recording of the binding site plan with record of survey. Recording of a subdivision or short subdivision, or a binding site plan with record of survey, shall be deemed to be proceeding with development activity for the purpose of refund applicability.

(b) The payment shall be held in a reserve account and shall be expended to fund improvements on the road system as specified in a written agreement between the developer and the county, except where the payment as an impact fee made pursuant to RCW 82.02.050, a written agreement shall not be required.

(c) An appropriate and reasonable portion of payments collected may be used for administration of this title.

(d) Any payment made pursuant to RCW 82.02.020 shall be expended for a permissible use within five years of receipt in accordance with RCW 82.02.020(2). Any payment made pursuant to RCW 82.02.020 and not so expended shall be refunded in accordance with RCW 82.02.020(3).

(e) Any payment made pursuant to RCW 82.02.050 shall be expended for a permissible use within six years of receipt in accordance with RCW 82.02.070. Any payment made pursuant to RCW 82.02.050 and not so expended shall be refunded in accordance with RCW 82.02.080.

(2) Offsite improvements include construction of improvements to mitigate an arterial unit in arrears and/or specific inadequate road condition locations. If a developer chooses to construct improvements to mitigate an arterial unit in arrears or inadequate road condition problem, and the improvements constructed are part of the cost basis of any proportionate share mitigating payment imposed under this title to mitigate the development's impact on the future capacity of county roads, the cost of these improvements will be credited against the proportionate share mitigating payment amount. Any developer who volunteers to pay for and/or construct offsite improvements of greater value than any proportionate share mitigating payment imposed under this title to mitigate the development's impact on the future capacity of county roads, based on the cost basis contained within the transportation needs report, or which are not part of the cost basis of any proportionate share mitigating payment imposed under this title to mitigate the development's impact on the future capacity of county roads, and therefore not credited against the proportionate share mitigating payment, may apply for a reimbursement contract under the provisions of chapter 13.95 SCC or propose the establishment of a road improvement district (RID) under the provisions of chapter 13.140 SCC.

Section ~~(6)~~ 7. Snohomish County Code Section 26B.58.901, adopted by Amended Ordinance No. 95-039 on June 28, 1995, is amended to read:

~~((26B.58.901 Application of 1995 Title 26B SCC Amendments. All development applications deemed complete by the department of planning and development services, as appropriate, prior to the effective date of ((this)) an adopted ordinance shall be reviewed for all purposes allowed under state law, including environmental review pursuant to the Snohomish county environmental policy ordinance (SCEPO), Title 23 SCC, under the provisions of Title 26B SCC as codified prior to the effective date of ((this)) an adopted ordinance, unless the developer, where allowed by state law, consents in writing to the application of the provisions of ((this)) an adopted ordinance.))~~

26B.58.901 Application of 1995 Title 26B SCC Amendments. All development applications deemed complete by the department of planning and development services(~~(;~~ *as appropriate,* ~~))~~ prior to the effective date of Ordinance 95-039 shall be reviewed for all purposes allowed under state law, including environmental review pursuant to the Snohomish county environmental policy ordinance (SCEPO), Title 23 SCC, under the provisions of Title 26B SCC as codified prior to the effective date of Ordinance 95-039, unless the developer, where allowed by state law, consents in writing to the application of the provisions of Ordinance 95-039 as amended by Emergency Ordinance No. 95-065.

All development applications deemed complete by the department of planning and development services prior to the effective date of Ordinance 95-070 shall be reviewed for all purposes allowed under state law, including environmental review pursuant to the Snohomish county environmental policy ordinance (SCEPO), Title 23 SCC, under the provisions of Title 26B SCC as codified prior to the effective date of ordinance 95-070, unless the developer, where allowed by state law, consents in writing to the application of the provisions of Ordinance 95-070.

Section 8. Snohomish County Code Section 26B.50.030, adopted by Amended Ordinance No. 95-039 on June 28, 1995, is amended to read:

26B.50.030 Relationship to Environmental Impacts. The requirements of this title, together with the comprehensive plan adopted pursuant to RCW 36.70A, Title 13 SCC, and other development regulations and policies that may be adopted, constitute the policy of the county under the county's police power authority, the GMA and SEPA for the review of development and the determination of significant adverse environmental impacts and imposition of mitigation requirements due to the impacts of development on the transportation system.

Measures required by this title shall constitute adequate mitigation of adverse or significant adverse environmental impacts on the road system for the purposes of Title 23 SCC to the extent that the director determines the specific impacts of the development are adequately addressed by this title in accordance with RCW 43.21C as allowed by ESHB 1724, Section 202 of Chapter 347, Laws of 1995. ~~*((For purposes of environmental review pursuant to the state environmental policy act, Chapter 43.21C RCW, and the Snohomish county environmental policy ordinance, Title 23 SCC, this title, as revised, shall not apply to development permit applications submitted to the department prior to the effective date of Ordinance No. 95-039 (July 13, 1995))).*~~

As a policy of the county, the provisions of this title do not limit the ability of the approving authority to impose mitigation requirements for the direct impacts of development on state highways, or city streets, where the other affected jurisdiction lies outside the road system of a development, as defined by this title, provided that there is an agreement between the county and another affected jurisdiction which specifically addresses level-of-service standards, impact identification, documentation, and mitigation, and which references the environmental policies formally designated by the agency or jurisdiction and it is determined that an adverse environmental impact would result from the approval of a development without the imposition of such additional mitigation measures.

In accordance with RCW 43.21C.065 and RCW 82.02.100, a person required to make a proportionate share mitigating payment under a SEPA payment program or pay an impact fee under a GMA mandatory impact fee program shall not be required to make a payment or pay a fee pursuant to the other authority for the same system improvements.

Section ~~**(7)**~~ **9.** Severability. If any portion of this ordinance or its application to any person or circumstance is held invalid, such decision shall have no effect upon the validity of the remaining portions of this ordinance and the application of this ordinance to other persons or circumstances shall not be affected. The county council hereby declares that it would have adopted this ordinance and each part or portions thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

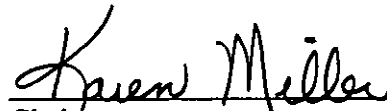
Section ~~**(8)**~~ **10.** *Savings Clause. In the event that this ordinance is determined to be invalid in whole or in part, the provisions of title 26B SCC in effect immediately prior to the effective date of this ordinance shall be revived and applied in addition to any surviving provisions of this ordinance, except that, in the event of a conflict, the surviving provisions of this ordinance shall apply instead of the conflicting provisions of title 26B SCC in effect immediately prior and these conflicting provisions shall not be revived. This section is intended to revive the prior title 26B SCC provisions in certain circumstances as provided in section 110 of Chapter 347, Laws of 1995.*

Section ((9)) 11. Review of Fee Schedule. Upon amendment of the Transportation Element of the Snohomish County GMA Comprehensive Plan, SCC 26B.55.025 fee schedule shall be reviewed by council for a determination as to whether the fee schedule should also be amended. If Council takes no action to amend the fee schedule, then the existing schedule shall remain in effect. Council may also amend the fee schedule in SCC26B.55.025 from time to time, as necessary, to reflect policy and fiscal decisions.

Section ~~((10))~~ 12. Effective Date. This ordinance shall take effect *ten (10) days after it is signed by the county executive in accordance with Snohomish County Charter Section 2.110* (~~(, or on the effective date of that portion of the county comprehensive plan, adopted pursuant to RCW 36.70A that includes a capital facilities plan for transportation, whichever is later)~~). The director of public works may immediately take such steps as are necessary to ensure that this ordinance is implemented on its effective date.

PASSED this 23rd day of August, 1995

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

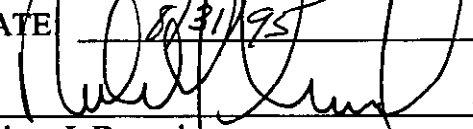


Chairperson

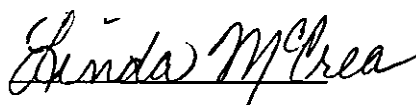


Clerk of the Council, *Asst.*

- APPROVED
 EMERGENCY
 VETOED

DATE 8/31/95


Robert J. Drewel
Snohomish County Executive

ATTEST: 

Approved as to form only:

Marya J. Silvernale
Deputy Prosecuting Attorney
Date: _____

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