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SNOHOMISH COUNTY COUNCIL  
SNOHOMISH COUNTY, WASHINGTON

AMENDED ORDINANCE NO. 97-095

AMENDING SNOHOMISH COUNTY CODE TITLE 26C  
RELATING TO THE SCHOOL IMPACT MITIGATION FEE PROGRAM

WHEREAS, the State of Washington enacted the Growth Management Act in 1990 amending RCW 82.02 to authorize the collection of school impact fees on new development under specified conditions, including the adoption by the county of a GMA Comprehensive Plan as defined in RCW 36.70A; and

WHEREAS, on February 15, 1991 the Snohomish County Council adopted ordinance No. 91-027 establishing a SEPA-based school mitigation program; and

WHEREAS, the Snohomish County Council adopted a GMA Comprehensive Plan on June 28, 1995 that included a policy commitment to consider the adoption of a GMA-based school impact fee program (Goal CF 9 and Policy CF 9.A.3); and

WHEREAS, the county and school districts conducted a joint capital facility planning project to develop school capital facility plans for each district in accordance with the requirements of RCW 36.70A and RCW 82.02.050, et seq., as well as a model impact fee ordinance; and

WHEREAS, county staff has developed draft code amendments based upon the model ordinance which are designed to meet the conditions for impact fee programs in RCW 82.02.050, et seq.; and

WHEREAS, county staff prepared an environmental checklist and issued a determination of nonsignificance on March 11, 1997 to comply with the requirements of SEPA; and

WHEREAS, the Snohomish County Planning Commission held hearings on February 25, March 25, April 22, May 12, and June 24, 1997, on the draft code amendments; and

WHEREAS, the Snohomish County Council held public hearings on November 5 and November 17, 1997 to consider the Planning Commission's recommendations; and

WHEREAS, the Snohomish County Council considered the entire hearing record including the written and oral testimony submitted during the Planning Commission's hearings, the Planning Commission's recommendation, and the written and oral testimony submitted during the council hearings.

NOW, THEREFORE, BE IT ORDAINED:

**Section 1.** The name of Snohomish County Code Title 26C is **AMENDED** to read:

**TITLE 26C**

**SCHOOL IMPACT FEES AND MITIGATION**

**Section 2.** The following new chapters are **ADDED** to Snohomish County Code Title 26C to read:

**Chapter 26C.20**

**GENERAL PROVISIONS**

Sections:

26C.20.010 Purposes.

26C.20.020 Applicability.

**26C.20.010 Purposes.**

The purposes of this title are (1) to ensure that adequate school facilities are available to serve new growth and development; and (2) to require that new growth and development pay a proportionate share of the costs of new school facilities needed to serve new growth and development.

**26C.20.020 Applicability.**

The terms of this title shall apply to all development for which a complete application for approval is submitted on or after the effective date of this chapter, except for development that was the subject of a prior SEPA threshold determination that provided for school mitigation under the terms of Title 26C SCC as codified prior to the effective date of this chapter. All building permit applications accepted by the department prior to the effective date of this chapter, or for development that was the subject of a prior SEPA threshold determination that included provisions for school mitigation under Title 26C SCC, 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 26C SCC as codified prior to the effective date of this chapter, unless the developer, where allowed by state law, consents in writing to the application of the provisions of this chapter.

**Section 3.** The following new chapters are **ADDED** to Snohomish County Code Title 26C to read:

**Chapter 26C.22**

**DEFINITIONS**

Sections:

26C.22.010 Words defined by RCW 82.02.090.

26C.22.020 Other definitions.

**26C.22.010 Words defined by RCW 82.02.090.**

Words used in this title and defined in RCW 82.02.090 shall have the same meaning assigned in RCW 82.02.090 unless a more specific definition is contained in SCC 26C.22.020.

**26C.22.020 Other definitions.**

- 1) Appendix F - means Appendix F of the Snohomish County Growth Management Act (GMA) Comprehensive Plan, also referred to as the General Policy Plan.
- 2) Average Assessed Value - means the district's average assessed value for each dwelling unit type.
- 3) Boeckh Index - means the current construction trade index of construction costs for each school type.
- 4) Capital Facilities - means school facilities identified in a school district's capital facilities plan and are "system improvements" as defined by the GMA as opposed to localized "project improvements."
- 5) Capital Facilities Plan - means a district's facilities plan adopted by its school board consisting of those elements required by Chapter 26C.24 SCC and meeting the requirements of the GMA.
- 6) Council - means the Snohomish County Council.
- 7) County - means Snohomish County.
- 8) Developer - means the proponent of a development activity, such as any person or entity who owns or holds purchase options or other development control over property for which development activity is proposed.
- 9) Development - means all subdivisions, short subdivisions, conditional or special use permits, binding site plan approvals, rezones accompanied by an official site plan, or building permits (including building permits for multi-family and duplex residential structures, and all similar uses) and other applications requiring land use permits or approval by Snohomish County.

- 10) Development Activity - means any residential construction or expansion of a building, structure or use of land, or any other change in use of a building, structure, or land that creates additional demand and need for school facilities, but excluding building permits for attached or detached accessory apartments, and remodeling or renovation permits which do not result in additional dwelling units. Also excluded from this definition is "Housing for Older Persons" as defined by 46 U.S.C. § 3607, when guaranteed by a restrictive covenant, and new single-family detached units constructed on legal lots created prior to May 1, 1991.
- 11) Development Approval - means any written authorization from the county which authorizes the commencement of a development activity.
- 12) Director - means the Director of the Snohomish County Department of Planning and Development Services, or the director's designee.
- 13) District - means a school district whose geographic boundaries include areas within Snohomish County.
- 14) District Property Tax Levy Rate - means the district's current capital property tax rate per thousand dollars of assessed value.
- 15) Dwelling Unit Type - means (1) single-family residences, (2) multi-family one-bedroom apartment or condominium units and (3) multi-family multiple-bedroom apartment or condominium units.
- 16) Encumbered - means school impact fees identified by the district to be committed as part of the funding for capital facilities for which the publicly funded share has been assured, development approvals have been sought or construction contracts have been let.
- 17) Estimated Facility Construction Cost - means the planned costs of new schools or the actual construction costs of schools of the same grade span recently constructed by the district, including on site and off-site improvement costs. If the district does not have this cost information available, construction costs of school facilities of the same or similar grade span within another district are acceptable.
- 18) Facility Design Capacity - means the number of students each school type is designed to accommodate, based on the district's standard of service as determined by the district.
- 19) Grade Span - means a category into which a district groups its grades of students (e.g., elementary, middle or junior high, and high school).
- 20) Growth Management Act / GMA - means the Growth Management Act, Chapter 17, Laws of the State of Washington of 1990, 1st Ex. Sess., as now in existence or as hereafter amended.

- 21) Interest Rate - means the current interest rate as stated in the Bond Buyer Twenty Bond General Obligation Bond Index.
- 22) Land Cost Per Acre - means the estimated average land acquisition cost per acre (in current dollars) based on recent site acquisition costs, comparisons of comparable site acquisition costs in other districts, or the average assessed value per acre of properties comparable to school sites located within the district.
- 23) Multi-Family Unit - means any residential dwelling unit that is not a single-family unit as defined by this ordinance.
- 24) Permanent Facilities - means school facilities of the district with a fixed foundation.
- 25) Relocatable Facilities - means factory-built structures, transportable in one or more sections, that are designed to be used as education spaces and are needed to prevent the overbuilding of school facilities, to meet the needs of service areas within a district, or to cover the gap between the time that families move into new residential developments and the date that construction is completed on permanent school facilities.
- 26) Relocatable Facilities Cost - means the total cost, based on actual costs incurred by the district, for purchasing and installing portable classrooms.
- 27) Relocatable Facilities Student Capacity - means the rated capacity for a typical portable classroom used for a specified grade span.
- 28) School Impact Fee - means a payment of money imposed upon development as a condition of development approval to pay for school facilities needed to serve new growth and development. The school impact fee does not include a reasonable permit fee, an application fee, the administrative fee for collecting and handling impact fees, or the cost of reviewing independent fee calculations.
- 29) Single-Family Unit - means any detached residential dwelling unit designed for occupancy by a single family or household.
- 30) Standard of Service - means the standard adopted by each district which identifies the program year, the class size by grade span and taking into account the requirements of students with special needs, the number of classrooms, the types of facilities the district believes will best serve its student population, and other factors as identified in the district's capital facilities plan. The district's standard of service shall not be adjusted for any portion of the classrooms housed in relocatable facilities which are used as transitional facilities or from any specialized facilities housed in relocatable facilities.
- 31) State Match Percentage - means the proportion of funds that are provided to the district for specific capital projects from the state's Common School Construction Fund. These funds are disbursed based on a formula which calculates district assessed valuation per pupil relative to the whole state assessed valuation per pupil to establish the maximum percentage of the total project eligible to be paid by the state.

32) Student Factor (Student Generation Rate) - means the number of students of each grade span (elementary, middle/jr. high, high school) that a district determines are typically generated by different dwelling unit types within the district. Each school district will use a survey or statistically valid methodology to derive the specific student generation rate, provided that the survey or methodology is approved by the Snohomish County Council as part of the adopted capital facilities plan for each school district.

## Chapter 26C.24

### SCHOOL DISTRICT ELIGIBILITY FOR IMPACT FEES

#### Sections:

26C.24.010 Capital facilities plan required.

26C.24.020 Expiration of district plans.

26C.24.030 Updating of district plans.

#### **26C.24.010 Capital facilities plan required.**

Any district serving Snohomish County shall be eligible to receive school impact fees upon adoption by the council of a capital facilities plan for the district by reference as part of the capital facilities element of the county comprehensive plan. The plan shall meet the requirements of the GMA and Appendix F of the GMA Comprehensive Plan/General Policy Plan. These actions will also constitute adoption by the county of the schedule of school impact fees specified in such capital facilities plan.

#### **26C.24.020 Expiration of district plans.**

For purposes of school impact fee eligibility, a district's capital facilities plan shall expire two years from the date of its adoption by the council, or when an updated plan meeting the requirements of the GMA and of Appendix F is adopted by the council, whichever date first occurs.

#### **26C.24.030 Updating of district plans.**

(1) A district's capital facilities plan shall be updated by the district and transmitted to the county by the district at least 60 days prior to its biennial expiration date. The district's updated plan shall be submitted by the department to the council for its consideration within forty-five (45) days of the department's receipt of complete and accurate information as required in Appendix F. In the event any district desires to amend its capital facilities plan prior to the biennial expiration date, the district may propose an amendment to be considered by the county pursuant to the procedures established by Appendix F, provided such amendments shall be considered by the county no more than once per year unless the board of directors of such district declares, and the county finds, that an emergency exists.

(2) A district's updated capital facilities plan may include revised data for the fee calculation and a corresponding modification to the impact fee schedule, consistent with the county GMA Comprehensive Plan.

## Chapter 26C.26

### CAPITAL FACILITIES PLAN REQUIREMENTS AND PROCEDURES

#### Sections:

- 26C.26.010 Minimum requirements for district capital facilities plans.
- 26C.26.020 Department review and acceptance.
- 26C.26.030 Council adoption.
- 26C.26.040 Correction of deficiencies.
- 26C.26.050 Delays.

#### **26C.26.010 Minimum requirements for district capital facilities plans.**

To be eligible for school impact fees, districts must submit capital facilities plans to the county pursuant to the procedure established by this chapter. Capital facilities plans shall contain data and analysis necessary and sufficient to meet the requirements of the GMA and Appendix F of the GMA Comprehensive Plan/General Policy Plan. The plans must provide sufficient detail to allow computation of school impact fees according to the formula contained in Table 1. Additional elements may be contained within a capital facilities plan, provided that any such additional elements are consistent with those mandatory elements outlined in Appendix F.

#### **26C.26.020 Department review and acceptance.**

Upon receipt of a district's capital facilities plan (or amendment thereof) the department shall determine the following:

- 1) That the required plan contents and plan performance criteria outlined in Appendix F are reflected in the document.
- 2) That the analysis contained within the capital facilities plan is consistent with current data developed pursuant to the requirements of the GMA and Appendix F.
- 3) That any school impact fee proposed in the district's capital facilities plan has been calculated using the formula contained in Table 1 of this title.
- 4) That the capital facilities plan has been adopted by the district's board of directors.

Upon finding that these requirements have been satisfied, the department shall transmit the capital facilities plan to the council for consideration and adoption.

#### **26C.26.030 Council adoption.**

Following receipt from the department of a district's capital facilities plan or amendment thereof, the council shall consider adoption of said plan or amendment by reference as part of the capital facilities element of the county comprehensive plan.

#### **26C.26.040 Correction of deficiencies.**

Prior to its adoption by the council, should the department find a district's capital facilities plan to be deficient in any way, the department shall notify the district of the deficiency, identifying the specific matters found to be deficient, and shall indicate the standard for correction. The district shall then have forty-five (45) days (or such longer period as may be necessary to comply with applicable legal requirements) to correct the deficiencies and resubmit its revised, adopted capital facilities plan to the department.

**26C.26.050 Delays.**

If a district fails to submit its biennial update of the capital facilities plan prior to 60 days before the expiration date, or if the department notifies a district of deficiencies in the district's proposed capital facilities plan and the district fails to correct identified deficiencies within forty-five (45) days (or such longer period as may be necessary to comply with applicable legal requirements), the department shall endeavor, but shall not be obligated, to complete review prior to the plan expiration date. If an updated capital facilities plan has not been adopted by the council prior to the existing plan's expiration date due to the district's failure to submit an updated plan, the district shall be ineligible to receive school impact fees until the updated plan has been adopted by the council.

**Section 4.** The following new chapters are **ADDED** to Snohomish County Code Title 26C to read:

**Chapter 26C.28**

**SCHOOL IMPACT FEE**

Sections:

- 26C.28.010 Fee required.
- 26C.28.020 Impact fee schedule; exemptions.
- 26C.28.030 Service areas established.
- 26C.28.040 Impact fee limitations.
- 26C.28.050 Fee determination.
- 26C.28.070 Credit for in-kind contributions / existing lots.
- 26C.28.080 SEPA mitigation and other review.

**26C.28.010 Fee required.**

(1) Each development activity, as a condition of approval, shall be subject to the school impact fee established pursuant to this title. The school impact fee shall be calculated in accordance with the formula established in Table 1 below. The school impact fee calculated in accordance with the formula established in Table 1 of this title shall then be multiplied by 0.5 to determine the school impact fee due and payable in accordance with Section 26C.30.010(1). Such school impact fee shall, however, be subject to the limitations of Sections 26C.28.010(2), (3), and (4) below.

(2) The school impact fee amount calculated in accordance with Section 26C.28.010(1) shall not exceed the amount of \$2000 per each single-family unit proposed for a given development activity.

(3) The school impact fee amount calculated in accordance with Section 26C.28.010(1) shall not exceed the amount of \$1500 per each multi-family unit proposed for a given development activity.

(4) The school impact fee limitations set forth in Section 26C.28.010(2) and (3) above (i.e., \$2000 per single-family unit and \$1500 per multi-family unit) shall be subject to annual adjustment to reflect the increase (if any) in the adjustment index for the adjustment year, as follows:



$$\text{SCHOOL IMPACT FEE LIMITATION} \times \frac{\text{ADJUSTMENT INDEX FOR ADJUSTMENT YEAR}}{\text{ADJUSTMENT INDEX FOR BASE YEAR}} = \text{ADJUSTED SCHOOL IMPACT FEE LIMITATION}$$

The "adjustment index for the adjustment year" shall be determined by reference to the Producer Price Index, Material Inputs to Construction Industries, New Construction. The "adjustment index for the base year" is 135.1 (May, 1997.) If for any reason the adjustment index referenced herein shall cease to exist, the Director shall determine a successor adjustment index.

TABLE 1

Impact Fee Calculation Formula

A. General

The formula in this section provides the basis for the impact fee schedule for each district serving Snohomish County. District capital facilities plans shall include a calculation of its proposed impact fee schedule, by dwelling unit type, utilizing this formula. In addition, a detailed listing and description of the various data and factors needed to support the fee calculation is included herein and within Chapter 26C.22 SCC - Definitions.

B. Determination of Projected School Capacity Needs

Each district shall determine, as part of its capital facilities plan, projected school capacity needs for the current year and for not less than the succeeding five-year period. The capital facilities plan shall also include estimated capital costs for the additional capacity needs, and those costs provide the basis for the impact fee calculations set forth in this section.

C. Cost Calculation by Element

The fees shall be calculated on a "per dwelling unit" basis, by "dwelling unit type" as set forth below.

1. Site Acquisition Cost Element

$$\{[B(2) \times B(3)] \div B(1)\} \times A(1) = \text{Site Acquisition Cost Element}$$

Where:

B(2) = Site Size (in acres, to the nearest 1/10th)

B(3) = Land Cost (Per Acre, to the nearest dollar)

B(1) = Facility Design Capacity [see SCC 26C.22.020]

A(1) = Student Factor (for each dwelling unit type) [see SCC 26C.22.020]

The above calculation shall be made for each of the identified grade levels (e.g. elementary, middle, junior high and/or senior high). The totals shall then be added with the result being the "Total Site Acquisition Cost Element" for purposes of the final school impact fee calculation below.

2. School Construction Cost Element

$[C(1) \div B(1)] \times A(1) = \text{School Construction Cost Element}$

Where:

C(1) = Estimated Facility Construction Cost [see SCC 26C.22.020]

B(1) = Facility Design Capacity

A(1) = Student Factor (for each dwelling unit type)

The above calculation shall be made for each of the identified grade levels (e.g. elementary, middle, junior high and/or senior high). The totals shall then be added and multiplied by the square footage of permanent facilities divided by the total square footage of school facilities, with the result being the "Total School Construction Cost Element" for purposes of the final school impact fee calculation below.

3. Relocatable Facilities (Portables) Cost Element

$[E(1) \div E(2)] \times A(1) = \text{Relocatable Facilities Cost Element}$

Where:

E(1) = Relocatable Facilities Cost

E(2) = Relocatable Facilities Student Capacity [see SCC 26C.22.020]

A(1) = Student Factor (for each dwelling unit type)

The above calculation shall be made for each of the identified grade levels (e.g. elementary, middle, junior high and/or senior high). The totals shall then be added and multiplied by the square footage of relocatable facilities divided by the total square footage of school facilities, with the result being the "Total Relocatable facilities Cost Element" for purposes of the final school impact fee calculation below.

D. Credits Against Cost Calculation--Mandatory

The following monetary credits shall be deducted from the calculated cost elements defined above for purposes of calculating the final school impact fee below.

1. State Match Credit

$$D(1) \times D(3) \times D(2) \times A(1) = \text{State Match Credit}$$

Where:

$$D(1) = \text{Boeckh Index [see SCC 26C.22.020]}$$

$$D(3) = \text{Square footage of school space allowed per student, by grade span, by the Office of the Superintendent of Public Instruction}$$

$$D(2) = \text{State Match Percentage [see SCC 26C.22.020]}$$

$$A(1) = \text{Student Factor (for each dwelling unit type)}$$

The above calculation shall be made for each of the identified grade levels (e.g. elementary, middle, junior high and/or senior high). The totals shall then be added with the result being the "Total State Match Credit" for purposes of the final school impact fee calculation below.

2. Tax Payment Credit

$$\frac{[(1 + F(1))^{10}] - 1}{F(1)(1 + F(1))^{10}} \times F(2) \times F(3) = \text{Tax Credit}$$

Where:

$$F(1) = \text{Interest Rate [see SCC 26C.22.020]}$$

$$F(2) = \text{District Property Tax Levy Rate [see SCC 26C.22.020]}$$

$$F(3) = \text{Average Assessed Value (for each dwelling unit type) [see SCC 26C.22.020]}$$

E. Adjustments Against Cost Calculation--Elective by District

Recognizing that the availability of other sources of public funds varies among districts, each district may provide an additional credit against school impact fees which the district determines will provide the best balance in system improvement funding within the district, between school impact fees and other sources of local public funds available to the district. This adjustment may reduce, but may not increase, the school impact fee from the amount determined by application of the elements identified above. The adjustment, if

any, applied by the district shall be specified within the capital facilities plan adopted by the county.

F. Calculation of Total Impact Fee

1. The total school impact fee, per dwelling unit, assessed on a development activity shall be the sum of:

Total Site Acquisition Cost Element  
Total School Construction Cost Element  
Total Relocatable Facilities Cost Element

minus the sum of:

Total State Match Credit  
Total Tax Payment Credit  
Elective Adjustment by District

expressed in Total Dollars per Dwelling Unit, by Dwelling Unit Type.

2. The total school impact fee obligation for each development activity pursuant to the school impact fee schedule of this ordinance shall be calculated as follows:

Number of Dwelling Units, by Dwelling Unit Type

multiplied by

School Impact Fee for Each Dwelling Unit Type

less

the value of any in-kind contributions proposed by the developer and accepted by the school district, as provided in Chapter 26C.28 SCC.

**26C.28.020 Impact fee schedule; exemptions.**

(1) The school impact fees specified in each district's capital facilities plan and adopted by the council shall constitute the county's schedule of school impact fees. The department shall, for the convenience of the public, keep available an information sheet summarizing the schedule of school impact fees applicable throughout the county.

(2) The council may, on a case-by-case basis, grant exemptions to the application of the fee schedule for low-income housing that achieves broad public purposes as defined in Chapter 14.01.020 SCC and authorized by and in accordance with the conditions specified under RCW 82.02.060(2). To qualify for the exemption, the developer of such housing shall submit a petition to the director for consideration by the council prior to application for building permit. Conditions for such approvals shall be established by the council at the time of approval that, at a minimum, meet the requirements of RCW 82.02.060(2) and which shall also include a requirement for a covenant to assure the project's continued use for low-income housing. The covenant entered into by and between the developer and the district shall be an obligation that

runs with the land, and shall be recorded against the title of the real property upon which such housing is located in the real property records of Snohomish County.

**26C.28.030 Service areas established.**

For purposes of calculating and imposing school impact fees for various land use categories per unit of development, the geographic boundary of each district constitutes a separate service area.

**26C.28.040 Impact fee limitations.**

(1) School impact fees shall be imposed for district capital facilities that are reasonably related to the development under consideration, shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the development, and shall be used for system improvements that will reasonably benefit the new development.

(2) School impact fees must be expended or encumbered for a permissible use within six years of receipt by the district.

(3) To the extent permitted by law, school impact fees may be collected for capital facilities costs previously incurred to the extent that new growth and development will be served by the previously constructed capital facilities, provided that school impact fees shall not be imposed to make up for any existing system deficiencies.

(4) A developer required to pay a fee pursuant to RCW 43.21C.060 for capital facilities shall not be required to pay a school impact fee pursuant to RCW 82.02.050 - .090 and this title for the same capital facilities.

(5) A condition of eligibility shall be that a school district must provide documentation that it has petitioned every other local government (city and/or county) served by that district to establish a school impact fee or mitigation program.

**26C.28.050 Fee determination.**

(1) At the time of development approval the county shall determine whether school impact fees will be due at the time of building permit issuance. Where such fees are due, the development approval shall state that the payment of school impact fees will be required prior to issuance of building permits. The amount of the fee due shall be based on the fee schedule in effect at the time of building permit application. Credit amounts and allocation of credits to be applied against the fees shall be determined at the time of development approval in accordance with SCC 26C.28.070.

(2) The final determination of a development activity's fee obligation under this chapter shall be made prior to the application for building permit. Said final determination shall include any credits for in-kind contributions provided under SCC 26C.28.070 below. Final determinations may be appealed pursuant to the procedures established in Chapter 26C.32 SCC.

**26C.28.070 Credit for in-kind contributions / existing lots.**

(1) A developer may request, and the director may grant a credit against school impact fees otherwise due under this title for the value of any dedication of land, improvement to, or new construction of any capital facilities identified in the district's capital facilities plan provided by the developer. Such requests must be accompanied by supporting documentation of the estimated value of such in-kind contributions. All requests must be submitted to the department in writing prior to its determination of the impact fee obligation for the development activity. Each request for credit will be immediately forwarded to the affected school district for its evaluation.

(2) Where a district determines that a development activity is eligible for a credit for a proposed in-kind contribution, it shall provide the department and the developer with a letter setting forth the justification for and dollar amount of the credit, the legal description of any dedicated property, and a description of the development activity to which the credit may be applied. The value of any such credit may not exceed the impact fee obligation of the development activity in question.

(3) Where there is agreement between the developer and the school district concerning the value of proposed in-kind contributions, their eligibility for a credit, and the amount of any credit, the director may 1) approve the request for credit and adjust the impact fee obligation accordingly, and 2) require that such contributions be made as a condition of development approval. Where there is disagreement between the developer and the school district regarding the value of in-kind contributions, however, the director may render a decision that can be appealed by either party pursuant to the procedures in Chapter 26C.32 SCC.

(4) For any development subject to the provisions of this title that is sited on one or more legal lots created prior to May 1, 1991, a credit equal to the applicable impact fee for a single-family unit times the number of such pre-existing lots shall apply to the fee obligation of the development.

(5) For subdivisions, PRDs and other large-scale developments where credits for in-kind contributions or pre-existing lots are proposed or required, it may be appropriate or necessary to establish the value of the credit on a per-unit basis as a part of the development approval. Such credit values will then be recorded as part of the plat 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. In the event that such credit value is greater than the impact fee in effect at the time of permit application, the fee obligation shall be considered satisfied, and the balance of the credit may be transferable to future developments by the applicant within the same school district by agreement with the school district.

#### **26C.28.080 SEPA mitigation and other review.**

(1) The county shall review development proposals and development activity permits pursuant to all applicable state and local laws and regulations, including the State Environmental Policy Act (Chapter 43.21C RCW), the state subdivision law (Chapter 58.17 RCW), and the applicable sections of Snohomish County Code. Following such review, the county may condition or deny development approval as necessary or appropriate to mitigate or avoid significant adverse impacts to school services and facilities, to assure that appropriate provisions are made for schools, school grounds, and safe student walking conditions, and to ensure that development is compatible and consistent with each district's services, facilities and capital facilities plan.

(2) Impact fees required by this title for development activity, together with compliance with development regulations and other mitigation measures offered or imposed at the time of development review and development activity review, shall constitute adequate mitigation for all of a development's specific adverse environmental impacts on the school system for the purposes of Title 23 SCC. Nothing in this title prevents a determination of significance from being issued, the application of new or different development regulations, and/or requirements for additional environmental analysis, protection, and mitigation measures to the extent required by applicable law.

## Chapter 26C.30

### IMPACT FEE ACCOUNTING

#### Sections:

26C.30.010 Collection and transfer of fees.

26C.30.020 Use of funds.

26C.30.030 Refunds.

26C.30.040 Reimbursement for county administrative costs, legal expenses, and refund payments.

#### **26C.30.010 Collection and transfer of fees.**

(1) School impact fees shall be due and payable to the county by the developer at the time of issuance of residential building permits for all development activities.

(2) Districts eligible to receive school impact fees collected by the county shall establish an interest-bearing account separate from all other district accounts. The county shall deposit school impact fees in the appropriate district account within ten (10) days after receipt, and shall contemporaneously provide the receiving district with a notice of deposit.

(3) Each district shall institute a procedure for the disposition of impact fees and providing for annual reporting to the county that demonstrates compliance with the requirements of RCW 82.02.070, and other applicable laws.

#### **26C.30.020 Use of funds**

(1) School impact fees may be used by the district only for capital facilities that are reasonably related to the development for which they were assessed and may be expended only in conformance with the district's adopted capital facilities plan.

(2) In the event that bonds or similar debt instruments are issued for the advance provision of capital facilities for which school impact fees may be expended, and where consistent with the provisions of the bond covenants and state law, school 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.

(3) The responsibility for assuring that school impact fees are used for authorized purposes rests with the district receiving the school impact fees. All interest earned on a school impact fee account must be retained in the account and expended for the purpose or purposes for which the school impact fees were imposed, subject to the provisions of Section 26C.30.030 below.

(4) Each district shall provide the county an annual report showing the source and the amount of school impact fees received by the district and the capital facilities financed in whole or in part with those school impact fees.

#### **26C.30.030 Refunds.**

(1) School impact fees not spent or encumbered within six years after they were collected shall - upon receipt of a proper and accurate claim - be refunded, together with interest, to the then current owner of the property. In determining whether school impact fees have been encumbered, impact fees shall be considered encumbered on a first in, first out basis. At least annually, the county, based on the annual report received from each district pursuant to SCC 26C.30.020(4), shall give notice to the last known address of potential claimants of any funds, if any, that it has

collected that have not been spent or encumbered. The notice will state that any persons entitled to such refunds may make claims.

(2) Refunds provided for under this section shall be paid only upon submission of a proper claim pursuant to county claim procedures. Such claims must be submitted to the director within one year of the date the right to claim the refund arises, or the date of notification provided for above, where applicable, whichever is later.

**26C.30.040 Reimbursement for county administrative costs, legal expenses, and refund payments.**

Each participating school district shall enter into an agreement with Snohomish County for reimbursement of the actual administrative costs of assessing, collecting and handling fees for the district, any legal expenses and staff time associated with defense of this title against district-specific challenges, and payment of any refunds provided under Section 26C.30.030. The county will bill each participating district on a quarterly basis to cover the cost of staff time spent on administration of the impact fee program for the district, and other covered expenses incurred during the last quarter.

**Chapter 26C.32**

**ADJUSTMENTS; APPEALS; ARBITRATION**

Sections:

26C.32.010 Administrative adjustment of fee amount.

26C.32.020 Appeals of decisions - procedure.

26C.32.030 Arbitration of disputes.

**26C.32.010 Administrative adjustment of fee amount.**

(1) Within 14 days of acceptance by the county of a building permit application a developer or school district may appeal to the director for an adjustment to the fees imposed by this title. The director may adjust the amount of the fee, in consideration of studies and data submitted by the developer and any affected district, if one of the following circumstances exists:

- a) it can be demonstrated that the school impact fee assessment was incorrectly calculated;
- b) unusual circumstances of the development activity demonstrate that application of the school impact fee to the development would be unfair or unjust;
- c) a credit for in-kind contributions by the developer, as provided for under SCC 26C.28.070 above, is warranted; or
- d) any other credit specified in RCW 82.02.060(1)(b) may be warranted.

(2) To avoid delay pending resolution of the appeal, school impact fees may be paid under protest in order to obtain a development approval.

(3) Failure to exhaust this administrative remedy shall preclude appeals of the school impact fee pursuant to SCC 26C.32.020 below.

**26C.32.020 Appeals of decisions - procedure.**

(1) Any person aggrieved by a decision applying an impact fee under this title to a development activity may appeal such decision to the hearing examiner pursuant to the provisions of Chapter 2.02 SCC. Where there is an administrative appeal process for the



underlying development approval, appeals of an impact fee under this title must be combined with the administrative appeal for the underlying development approval. Where there is no administrative appeal for the permit, then appeals solely of the impact fee issue shall be subject to the provisions of SCC 2.02.125 and chapter 2.02 SCC.

(2) At the hearing, the appellant shall have the burden of proof, which burden shall be met by a preponderance of the evidence. The impact fee may be modified upon a determination that it is proper to do so based on the application of the criteria contained in SCC 26C.32.010. Appeals shall be limited to application of the impact fee provisions to the specific development activity and the provisions of this title shall be presumed valid.

(3) The decision of the hearing examiner pursuant to subsection shall be final and conclusive with an optional right of reconsideration as provided in SCC 2.02.167 and may then be reviewable by filing a land use petition in Snohomish County superior court as provided in Chapter 2.02 SCC; except as may be limited by Chapters 43.21C RCW, 197-11 WAC and 23.40 SCC.

#### **26C.32.030 Arbitration of disputes.**

With the consent of the developer and the affected district, a dispute regarding imposition or calculation of a school impact fee may be resolved by arbitration.

**Section 5.** Snohomish County Code Chapter 26C.11 adopted by Ordinance No. 91-027, on February 27, 1991, is **AMENDED** to read:

#### **Chapter 26C.((11)) 34**

#### **SEVERABILITY AND SAVINGS.**

Sections:

26C. ((11)) 34. ((010)) 020 ((Severability)) Savings clause.

**26C. ((11)) 34. ((010)) 020 ((Severability)) Savings clause.**

~~((If any provision of this title or its application to any person or circumstance is held to be invalid, such decision shall not affect the remaining provisions of this title or its application to other persons or circumstances.))~~ In the event that this title is determined to be invalid in whole or in part, the provisions of Title 26C 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 26C SCC in effect immediately prior and these conflicting provisions shall not be revived.

**Section 6.** The following chapters of Snohomish County Code Title 26C, adopted by Ordinance No. 91-027 on February 27, 1991, and amended by Ordinance Nos. 91-117 (July 31, 1991), 92-053 (May 6, 1992), 94-029 (April 6, 1994), 95-004 (February 15, 1995), and 97-047 (June 4, 1997), are **REPEALED** in their entirety: Chapter 26C.01 (GENERAL PROVISIONS), Chapter 26.03 (DEFINITIONS), Chapter 26C.05 (SCHOOL DISTRICT CERTIFICATION), Chapter 26C.07 (METHODOLOGY AND PROCEDURE), including Appendix 1, and 26C.09 (APPEALS).

**Section 7. Effective dates.** Sections 3 and 5 of this ordinance shall be effective as set forth in Snohomish County Charter Section 2.110. Sections 1,2,4 and 6 of this ordinance shall be effective on the effective date of the initial ordinance adopting any school district capital facility plans as part of the county's GMA comprehensive plan.

Passed this 17<sup>th</sup> day of November, 1997.

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

John Lamer  
Chair

ATTEST:

Sheila McCallister  
Clerk of the Council, *asst.*

- APPROVED
- VETOED
- EMERGENCY

Date 11/19/97  
Robert J. Drewel  
County Executive

ROBERT J. DREWEL  
County Executive

APPROVED AS TO FORM ONLY:

ATTEST:

\_\_\_\_\_  
Deputy Prosecuting Attorney

Marilyn Abel

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