

**CITY OF SNOHOMISH
Snohomish, Washington**

ORDINANCE 2196

AN ORDINANCE OF THE CITY OF SNOHOMISH, WASHINGTON AMENDING THE SCHOOL IMPACT FEES CHAPTER OF THE ZONING CODE BY PROVIDING FOR REVISED IMPACT FEE AMOUNTS CONSISTENT WITH THE SNOHOMISH SCHOOL DISTRICT'S 2010-2015 CAPITAL FACILITIES PLAN AND AMENDING ORDINANCE 1855 AS AMENDED AND CHAPTER 14.290 OF THE SNOHOMISH MUNICIPAL CODE

WHEREAS, following duly held public hearings and deliberation by the Snohomish City Council, Ordinance 1855 was adopted on December 15, 1998, enacting a new Chapter 14.17 of the Snohomish Municipal Code relating to school impact fees; and

WHEREAS, following duly held public hearings and deliberation by the Snohomish City Council, Ordinance 1855 was subsequently amended by Ordinances 1897, 2071, 2122, and 2175, applying school district impact fees to all new development, including development of residential housing on existing undeveloped lots; and

WHEREAS, Ordinance 2082 adopted a new Title 14 SMC and the City's school impact fee requirements previously contained within Chapter 14.17 SMC were codified as Chapter 14.290 SMC; and

WHEREAS, Chapter 14.290 SMC sets forth the amount of the school impact fees charged to new development in the City based upon the Snohomish School District's Capital Facilities Plan; and

WHEREAS, a public hearing was held before the City Council on October 5, 2010 and all persons wishing to be heard were heard; and

WHEREAS, the Council deems it to be in the interest of the public to revise the school impact fee amounts set forth in Chapter 14.290 SMC in order to be consistent with the Snohomish School District's 2010-2015 Capital Facilities Plan; and

WHEREAS, the City of Snohomish SEPA Responsible Official has reviewed this proposed action and determined that is procedural in nature and categorically exempt from SEPA threshold determination and EIS requirements;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SNOHOMISH, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Ordinance 1855 as amended and Chapter 14.290 of the Snohomish Municipal Code are hereby amended to read as follows:

Chapter 14.290
SCHOOL IMPACT FEES

Sections:

14.290.010	Purpose
14.290.020	Applicability
14.290.030	Incorporation of School District Capital Facilities Plan as a Sub-Element of the City Capital Facilities Plan
14.290.040	Establishment of Impact Fees
14.290.050	Exemptions from Impact Fees
14.290.060	Procedure for Determining Mitigation Impacts
14.290.070	Method for Calculating Impact Fees
14.290.080	Administrative Adjustment of Fee Amount
14.290.090	School District Impact Area
14.290.100	Comparable In-Kind Mitigation Option
14.290.110	Credit for Payment or Obligation Previously Incurred
14.290.120	Time of Performance for Mitigation of Impact
14.290.130	Use of Impact Mitigation Funds
14.290.140	Unacceptable Impact Levels
14.290.150	Impact Fee Schedule Exemptions
14.290.160	Impact Fee Limitations
14.290.170	Revision of School District CFP
14.290.180	Annual Report
14.290.190	Appeals

14.290.010 Purpose. The regulations contained in this chapter are necessary for the protection and preservation of the public health, safety, and general welfare of the citizens of the City of Snohomish. The public school system which serves City residents is unable to provide the services required to meet the educational needs of the growing community. The purposes of this chapter 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.

14.290.020 Applicability. The terms of this title shall apply to all residential development as defined herein for which a complete application for approval has been submitted on or after the effective date of this chapter.

14.290.030 Incorporation of School District Capital Facilities Plan as a Sub-Element of the City Capital Facilities Plan. By separate ordinance, the City Council has adopted and incorporated by reference the Capital Facilities Plan of the Snohomish School District as a sub-element of the Capital Facilities Element of the City's Comprehensive Plan. The necessary school facilities and the methodology and schedule of school impact fees set forth in the School District's

Capital Facilities Plan shall constitute the basis for the school impact fees established in SMC 14.290.040.

14.290.040 Establishment of Impact Fees. As a condition of approval of all development or development activity, as defined herein, or as a condition of issuance of a building permit for existing undeveloped lots, the City will require mitigation of adverse impacts on school services pursuant to the State Growth Management Act, RCW 36.70A, RCW 82.02 and this chapter. School impact fee amounts shall be based on the Snohomish School District’s Capital Facilities Plan 2010-2015 as follows:

Development	Per Dwelling Impact Fee
Single-Family Dwelling	\$4,732
Studio or one-bedroom multifamily dwelling	\$0
Multifamily dwelling with two or more bedrooms	\$463

14.290.050 Exemptions from Impact Fees. Accessory dwelling units, as defined in this title, are exempt from the requirements of this chapter.

14.290.060 Procedure for Determining Mitigation Impacts. Approval of residential development by the City shall be contingent upon the project proponents documenting to the satisfaction of the City the projects adverse impacts on existing primary and secondary public educational improvements identified by this chapter and the School District’s Capital Facilities Program. Documentation shall consist of a letter from the Snohomish School District stating that monetary, land, or comparable in-kind mitigation which meets the requirements of this chapter have been made by the project proponent.

14.290.070 Method for Calculating Impact Fees. The method and formula for determining any required school impact mitigation shall be as established by the Snohomish School District in its capital facilities plan and as adopted by the City of Snohomish in its Comprehensive Plan and this Chapter. The school impact fees shall be in conformance with the schedule set forth in SMC 14.290.040.

14.290.080 Administrative Adjustment of Fee Amount.

A. Within 14 days of acceptance by the City of a building permit application a developer or school district may appeal to the Planner for an adjustment to the fees imposed by this title. The City Planner 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:

1. It can be demonstrated that the school impact fee assessment was incorrectly calculated;

2. Unusual circumstances of the development demonstrate that application of the school impact fee to the development would be unfair or unjust;
 3. A credit for in-kind contributions by the developer is warranted; or
 4. Any other credit specified in RCW 82.02.060(1)(b) may be warranted.
- B. To avoid delay pending resolution of the appeal, school impact fees may be paid under protest in order to obtain development approval.
- C. Failure to exhaust this administrative remedy shall preclude appeals of the school impact fee pursuant to SMC 14.290.190 below.

14.290.090 School District Impact Area. The service area for which a subdivision or residential development shall be considered to have impacted, shall be the entire Snohomish School District. The District encompasses a geographic area in excess of that of the City of Snohomish; therefore, impact fees cannot be directly attributable to a specific geographic area at all times. This is particularly true for junior and senior high schools. The School District shall, however, attempt to designate impact mitigation for elementary schools, as much as possible, to the general geographic area in which the subdivision or residential development is located, especially in such cases where the school population for the subdivision or residential development is within what is considered normal walking distances between home and an elementary school or school site.

14.290.100 Comparable In-Kind Mitigation Option. The Snohomish School District and the proponent of the project may consider in-kind options to satisfy the mitigation obligation. Land dedication, site preparation, provision of portable units, equipment purchases, and other in-kind mitigation options equivalent in value to the dollar amount required for mitigation may be utilized if acceptable to the School District, so long as the mitigation is found by the School District to be equal to the impact fees otherwise due under this chapter.

14.290.110 Credit for Payment or Obligation Previously Incurred. The dollar value of comparable in-kind mitigation shall be credited against the dollar amount of mitigation required pursuant to this chapter. If the dollar value of comparable in-kind mitigation or any impact element exceeds the dollar amount required for mitigation for that element, the project proponent shall be reimbursed from impact mitigation monies collected for the same or similar mitigation for subsequent projects. Any process or schedule for reimbursement shall be negotiated between the project proponent and the School District, a copy of which will be forwarded to the City of Snohomish to be included in the file for the project, prior to final development approval.

14.290.120 Time of Performance for Mitigation of Impact. Payment of any required school impact fees or in-kind contribution shall be made prior to the

issuance of a building permit. A project proponent may elect to pay before the final plat is approved for the lots within a subdivision or residential development. Such election to pay shall be noted by a covenant placed on the deed for each affected lot within the subdivision or residential development. When a subdivision or residential development is conditioned upon the performance of a comparable in-kind mitigation, a final plat shall not be recorded, and no building permit for any individual lot shall be issued until the School District indicates in writing to the City that such in-kind mitigation has been satisfactorily completed.

14.290.130 Use of Impact Mitigation Funds. The Snohomish School District shall use mitigation impact funds received under this chapter to meet its Capital Facilities Plan, so long as said mitigation funds received are used in the same manner as mitigation funds received from subdivisions and residential developments from outside of the City limits of the City of Snohomish; and further provided the use of said mitigation funds results in improvements to district-wide student housing.

14.290.140 Unacceptable Impact Levels.

- A. The City shall review residential development proposals 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 the Snohomish Municipal Code. Following such review, the City may condition or deny development approval as necessary or appropriate to mitigate or avoid significant adverse impacts to school 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.
- B. Impact fees required by this chapter for development, together with compliance with development regulations and other mitigation measures offered or imposed at the time of development review, shall constitute adequate mitigation for all of a development's specific adverse environmental impacts on the school system for the purposes of Chapter 14.90 SMC. Nothing in this chapter 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.

14.290.150 Impact Fee Schedule Exemptions. The Council may, on a case-by-case basis, grant exemptions to the application of the fee schedule for low-income or senior housing that achieves broad public purposes as defined in Chapter 14.05.020 SMC, 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 Planner 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 or senior housing. The covenant entered into by and between the developer and the City 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 the City of Snohomish. The covenant shall be reviewed and approved as to form by the City Attorney.

14.290.160 Impact Fee Limitations.

- A. 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.
- B. School impact fees must be expended or encumbered for a permissible use within six years of receipt by the District.
- C. 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.
- D. 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.

14.290.170 Revision of School District CFP. The Snohomish School District must review and update its CFP biennially in order for this ordinance to remain in effect. The CFP must be submitted in reasonable time for City review in advance of the expiration of the current CFP. The City will accept the updated CFP by adopting the Snohomish School District CFP as part of the City CFP in the City Comprehensive Plan and annual budget.

14.290.180 Annual Report. The Snohomish School District must submit to the City annually a report in accordance with the requirements of RCW 82.02.070 showing the system improvements that were financed in whole or in part by impact fees and the amount of funds collected, expended and held for future improvements. The annual report shall be sent to the City on or before April 1 of each year for the preceding calendar year.

14.290.190 Appeals. Appeals of mitigation requirements imposed pursuant to this title shall be as provided in Chapter 14.75 of the Snohomish Municipal Code.

Section 2. Severability. If any section, subsection, sentence, phrase, or word of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase, or word of this Ordinance.

Section 3. Effective date. This Ordinance shall be effective five days after publication by summary.

ADOPTED by the City Council and **APPROVED** by the Mayor this 5th day of October 2010.

CITY OF SNOHOMISH

By _____
Karen Guzak, Mayor

ATTEST:

By _____
Torchie Corey, City Clerk

APPROVED AS TO FORM:

By _____
Grant Weed, City Attorney

Date of Publication: _____, 2010

Effective Date (5 days after publication): _____, 2010