

1 ADOPTED: 12/05/18
2 EFFECTIVE: 01/01/19

3
4 SNOHOMISH COUNTY COUNCIL
5 Snohomish County, Washington

6
7 AMENDED ORDINANCE NO. 18-088

8
9 AMENDING SNOHOMISH COUNTY CODE CHAPTER 30.66A – PARK AND
10 RECREATION FACILITY IMPACT MITIGATION

11
12 WHEREAS, the Revised Code of Washington (RCW) Chapter 82.02 provides for local
13 jurisdictions to collect impact fees from development in order to support provision of capital
14 facilities needed to serve new population; and

15
16 WHEREAS, Snohomish County Code (SCC) Chapter 30.66A was adopted by Amended
17 Ordinance 04-016 on February 23, 2005, and established Snohomish County's Growth
18 Management Act (GMA) based impact mitigation fee program for park facilities pursuant to RCW
19 82.02.050; and

20
21 WHEREAS, SCC 30.66A was updated by Amended Ordinance 16-099 on November 14,
22 2016 and added the recommendation that park impact mitigation fees be reviewed and/or
23 adjusted in conjunction with revisions to the County's comprehensive plan and/or every two
24 years in conjunction with revision of the school district capital facility plans; and

25
26 WHEREAS, biennial update of park impact mitigation fees supports the intent that the
27 fees reflect current park improvement project costs and anticipated population growth; and

28
29 WHEREAS, consistent with such biennial update Parks has updated the projection for,
30 and cost estimate of, needed park amenities based upon projected population growth within
31 each Park Service Area in accordance with the adopted level-of-service standards which update
32 is set forth in the proposed 2019-2022 Parks' Capital Improvement Program (CIP); and

33
34 WHEREAS, Parks has conducted early and continuous public participation in developing
35 the proposed amendments to Chapter 30.66A SCC, which are proposed by this ordinance,
36 including a stakeholder meeting on July 12, 2018, and webpage postings; and

37
38 WHEREAS, State Environmental Policy Act (SEPA) requirements with respect to this
39 non-project action have been satisfied through the completion of an environmental checklist and
40 determination of non-significance issued on August 31, 2018 and

41
42 WHEREAS, the Snohomish County Planning Commission ("Planning Commission") held
43 a public hearing on September 25, 2018 to receive public testimony concerning the proposed
44 Chapter 30.66A SCC code amendments; and

1
2 WHEREAS, at the conclusion of the Planning Commission's public hearing, the Planning
3 Commission voted unanimously to recommend adoption of the code amendments contained in
4 this ordinance, as indicated in its recommendation letter dated September 27, 2018 and
5

6 WHEREAS, the County Council held a public hearing on December 5, 2018, after proper
7 notice, and considered public comment and the entire record related to the code amendments
8 contained in this ordinance; and
9

10 WHEREAS, following the public hearing, the County Council deliberated on the code
11 amendments contained in this ordinance;
12

13 NOW, THEREFORE, BE IT ORDAINED:
14

15 Section 1. The County Council adopts the following findings in support of this ordinance:
16

- 17 A. The foregoing recitals are adopted as findings as if set forth in full herein.
18
- 19 B. This ordinance amends Chapter 30.66A SCC to update park impact fees consistent
20 with the biennial update of the projection for, and cost estimate of, needed park
21 amenities to serve projected population growth within each of the designated Park
22 Service Areas in accordance with the adopted level-of-service standards as more fully
23 set forth in the proposed 2019-2022 Parks' CIP to support the provision of park
24 amenities to serve anticipated population growth through collection and utilization of
25 park impact fees.
26
- 27 C. This ordinance supports continued adherence to adopted level-of-service standards for
28 park amenities, within park classifications identified as 'necessary to support
29 development' in the Snohomish County Capital Facilities Plan (CFP), a component of
30 the Snohomish County Comprehensive Plan.
31
- 32 D. This ordinance implements a recommended biennial review and adjustment schedule
33 for park impact fees aligned with the school district CFP review cycle.
34
- 35 E. The adoption of this ordinance exercises the County's authority to impose impact fees
36 pursuant to RCW 82.02.050.
37
- 38 F. This ordinance is consistent with Chapter 36.70A RCW and maintains consistency with GMA.
39
- 40 G. This ordinance supports GMA Goal 12: "Public facilities and services. Ensure that
41 those public facilities and services necessary to support development shall be adequate
42 to serve the development at the time the development is available for occupancy and
43 use without decreasing current service levels below locally established minimum
44 standards" (RCW 36.70A.020(12)).

1
2 H. The proposed impact fee system will advance the goals of the GMA and the County's
3 GMA Comprehensive Plan to provide adequate public facilities to accommodate new
4 growth.

5
6 I. This ordinance complies with and implements the following Snohomish County Growth
7 Management Act Comprehensive Plan General Policy Plan (GPP) goals, objectives
8 and policies:

9
10 Goal PR 3 – Maintain and monitor minimum level-of-service standards for parks and for
11 park facilities that are necessary to support development.

12
13 Policy PR 3.A.1 – Apply a level-of-service method to: monitor the level-of-service of
14 park facilities necessary to support development; identify priority park projects that are
15 necessary to support development; and provide a basis for collecting and allocating
16 park impact mitigation fees.

17
18 Policy PR 3.A.3 – Impact fees should be used to: (1) develop park facilities that are
19 categorized as active recreation facilities, passive recreation facilities, regional trails,
20 waterfront, campsites, and parking spaces in Neighborhood Parks, Community Parks,
21 Regional Parks and Regional Trails; and (2) acquire park properties for Neighborhood
22 Parks, Community Parks, Regional Parks, and Regional Trails.

23
24 J. Procedural requirements.

- 25
26 1. SEPA requirements with respect to this non-project action have been satisfied
27 through the completion of an environmental checklist and issuance of a determination
28 of non-significance on August 31, 2018.
- 29
30 2. This proposal is a Type 3 legislative action pursuant to SCC 30.73.010.
- 31
32 3. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance was
33 transmitted to the Washington State Department of Commerce for distribution to state
34 agencies on August 31, 2018.
- 35
36 4. The public participation process used in the adoption of this ordinance has complied
37 with all applicable requirements of the GMA and the SCC.
- 38
39 5. The Washington State Attorney General last issued an advisory memorandum, as
40 required by RCW 36.70A.370, in December of 2015 entitled "Advisory Memorandum:
41 Avoiding Unconstitutional Takings of Private Property" to help local governments
42 avoid the unconstitutional taking of private property. The process outlined in the State
43 Attorney General's 2015 advisory memorandum was used by Snohomish County in
44 objectively evaluating the regulatory changes proposed by this ordinance.

1
2 K. This ordinance updates the date of park impact mitigation fee assignment to align with
3 the assignment date utilized for identification of road impact mitigation fees
4

5 L. This ordinance is consistent with the record in that the code amendments proposed by
6 this ordinance were developed to reflect and support Snohomish County's parks level-
7 of-service adopted in the 2015 Snohomish County Capital Facilities Plan.
8

9 Section 2. The County Council makes the following conclusions:
10

11 A. This ordinance is necessary to comply with Chapter 36.70A RCW and to maintain
12 consistency with the new Park and Recreation Element of the County's 2015
13 Comprehensive Plan.
14

15 B. The proposal is consistent with the goals, objectives, and policies of the County's GPP.
16

17 C. The proposal is consistent with Washington State law and the SCC.
18

19 D. The County has complied with all SEPA requirements in respect to this non-project
20 action.
21

22 E. The regulations proposed by this ordinance do not result in an unconstitutional taking of
23 private property for public purpose.
24

25 Section 3. The County Council bases its findings and conclusions on the entire record of the
26 County Council, including all testimony and exhibits. Any finding, which should be deemed a
27 conclusion, and any conclusion which should be deemed a finding, is adopted as such.
28

29 Section 4. Snohomish County Code Section 30.66A.020, amended by Amended Ordinance
30 No. 16-099 on November 14, 2016, is amended to read:
31

32 **30.66A.020 Park and recreation impact fee required.**

33 (1) Each development, as a condition of approval, shall be subject to the park and recreation
34 impact fee established in Table 30.66A.040(1) or as provided in SCC 30.66A.020(2).

35 ~~(2) For development applications filed on or after January 1, 2017, the amount of the fee shall be~~
36 ~~based upon the rate in effect at the time of filing of a complete building permit application for~~
37 ~~each residential structure/dwelling unit constructed upon the approved development subject to~~
38 ~~impact fees. For development applications filed on or before December 31, 2016 the, The~~
39 ~~amount of the fee shall be based upon the rate in effect at the time of filing a complete~~
40 ~~application for development; provided however, that those development applications deemed~~
41 ~~complete before March 11, 2005, shall be required to pay the SEPA-based mitigation fee in~~
42 ~~effect at the time the application was deemed complete unless the applicant elects to be subject~~
43 ~~to the then current GMA based impact fee as provided in SCC 30.66A.010(2) above. and further~~

1 provided that if the building permit is not issued within five years after the application is deemed
2 complete the fee shall be based upon the rate in effect at the time of building permit application.

3 (3) Payment of a park and recreation impact fee is required prior to building permit issuance
4 except as provided in SCC 30.66A.020(4).

5 (4) An applicant may request a deferral of the payment of park and recreation impact fees. The
6 deferral of park and recreation impact fees shall be allowed only for single-family attached and
7 detached residential construction by a property owner having a contractor registration number or
8 other unique identification number. The amount of impact fees that may be deferred under this
9 subsection shall be determined by the fees in effect at the time the applicant applies for a
10 deferral.

11 (a) For this subsection:

12 (i) "Applicant" means the property owner which includes an entity that controls, is
13 controlled by, or is under common control with the applicant.

14 (ii) "Common control" means two or more entities controlled by the same person or
15 entity.

16 (iii) "Control" means the possession, directly or indirectly, of the power to direct or
17 cause the direction of the management and policies of an entity, whether through the
18 ownership of voting shares, by contract, or otherwise.

19 (b) An applicant wishing to defer the payment of a park and recreation impact fee shall:

20 (i) Submit a signed and notarized deferred impact fee application and completed lien
21 form signed by all owners of the property subject to the lien concurrent with the
22 building permit application for the building subject to the impact fees. Multiple
23 deferrals can be included on one application as long as the building permit
24 applications are located within the same development and the applicant pays a
25 separate administrative fee as required below for each single-family dwelling unit
26 whether detached or attached;

27 (ii) Submit a signed and notarized certification that the applicant has requested
28 deferral of impact fees for no more than a total of twenty building permits in the
29 calendar year within unincorporated Snohomish County; and

30 (iii) Pay a non-refundable \$250.00 administration fee for each deferred impact fee
31 application.

32 (c) The lien shall:

33 (i) Be in a form approved and provided by the county;

34 (ii) Include the legal description, property tax account number, and address for each
35 lot or unit the lien will encumber and identify the type and amount of the deferred
36 impact fees;

37 (iii) Be binding on all successors in title after the recording;

- 1 (iv) Be junior and subordinate to a first mortgage for the purpose of construction upon
2 the same real property granted by the person who applied for the deferral of impact
3 fees, but in no case shall the lien be in less than second place; and
- 4 (v) Be signed by all owners of the property, with all signatures acknowledged as
5 required for a deed.
- 6 (d) The lien shall be recorded prior to the issuance of the building permit for the building
7 subject to the impact fees.
- 8 (e) Each applicant eligible to defer impact fees shall only be entitled to receive deferrals for
9 no more than a total of twenty building permits within unincorporated Snohomish
10 County during each calendar year.
- 11 (f) The applicant shall be responsible for the payment of all recording fees.
- 12 (g) The deferred impact fees for each single-family dwelling unit whether detached or
13 attached shall be paid in full prior to whichever of the following occurs first:
 - 14 (i) Scheduling final inspection;
 - 15 (ii) Issuance of a certificate of occupancy;
 - 16 (iii) The closing of the first sale of the property occurring after the recording of the
17 lien; or
 - 18 (iv) Eighteen months from the date of building permit issuance.
- 19 (h) If the building for which the deferral of the impact fees is requested is located within a
20 subdivision or short subdivision, the subdivision or short subdivision shall be recorded
21 prior to recording the lien for impact fees and issuance of the building permit.
- 22 (i) Upon receipt of final payment of all deferred impact fees for a building permit, the county
23 shall execute a release of the deferred impact fee lien. The applicant is responsible for
24 submitting a lien release application to PDS. The applicant, at their own expense, will be
25 responsible for recording the lien release after all deferred impact fees associated with a
26 lot or unit subject to a lien have been paid.
- 27 (j) Compliance with the requirements of the deferral option shall constitute compliance with
28 subdivision or short subdivision conditions pertaining to the timing of the impact fee
29 payment.
- 30 (k) If deferred impact fees are not paid in accordance with terms authorized by state law
31 and this section, the county may initiate foreclosure proceedings for the unpaid impact
32 fees and all costs associated with the collection of the unpaid impact fees.
- 33 (l) A request to defer park and recreation impact fees under this section may be combined
34 in one application with a request to defer road system impact fees under SCC
35 30.66B.340(5) and school impact fees under SCC 30.66C.200(2).
- 36

1
2
3
4
5

6
7
8

9

10

11
12
13
14
15
16
17
18
19

20
21
22
23
24

Section 5. Snohomish County Code Section 30.66A.040, amended by Amended Ordinance No. 16-099 on November 14, 2016, is amended to read:

30.66A.040 Impact fee schedule.

(1) Developments subject to this chapter shall pay the fees set forth in Table 30.66A.040(1).

Park Service Area	PSA Name	Single Family and Duplex - \$/unit	Multi-Family and Townhouse \$/unit
-------------------	----------	------------------------------------	------------------------------------

Table 30.66A.040(1) Park and Recreation Impact Fees

301	Kayak Point	\$420.98 <u>\$503.84</u>	\$279.49 <u>\$339.32</u>
302	River Meadows	\$420.98 <u>\$503.84</u>	\$279.49 <u>\$339.32</u>
303	Robe Canyon	\$579.68 <u>\$684.73</u>	\$386.16 <u>\$465.64</u>
304	White Horse	\$420.98 <u>\$503.84</u>	\$279.49 <u>\$339.32</u>
305	Lord Hill	\$420.98 <u>\$503.84</u>	\$279.49 <u>\$339.32</u>
306	Centennial	\$420.98 <u>\$503.84</u>	\$279.49 <u>\$339.32</u>
307	Nakeeta Beach	\$1,624.59 <u>\$1,630.22</u>	\$1,050.49 <u>\$1,071.45</u>

(2)The impact fee schedule should be reviewed and/or adjusted in conjunction with revisions to the county’s comprehensive plan, and/or every two years in conjunction with revision of the school district capital facility plans.

(3)The following types of development are exempt from park impact fees under this chapter:

- (a) Nursing homes.
- (b) Low-income housing. The director of parks and recreation may, on a case-by-case basis, grant exemptions to the application of the fee schedule for low-income housing as defined in SCC 30.91H.220 and in accordance with the conditions specified under RCW 82.02.060(2). To qualify for the exemption, the developer shall submit a petition to the director prior to application for building permit. Conditions for such approvals shall meet the requirements of RCW 82.02.060(2) and shall include a requirement for a covenant to assure the project’s continued use for low-income housing. The covenant shall be an obligation that runs with the land upon which the housing is located, and shall be recorded against the title of the real property.


Section 6. Effective date, implementation. This ordinance shall take effect January 1, 2019. The Snohomish County Planning and Development Services and Parks and Recreation Departments are authorized to take such actions as may be necessary to implement this ordinance on its effective date.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

Section 7. Severability and savings. If any section, sentence, clause, or phrase of this ordinance shall be ruled to be invalid or unconstitutional by a court of competent jurisdiction, such ruling shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance, and the section, sentence, clause, or phrase in effect prior to the effective date of this ordinance shall be in full force and effect for that individual section, sentence, clause, or phrase as if this ordinance had never been adopted.

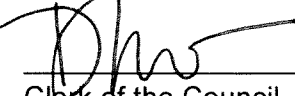
PASSED this 5th day of December, 2018.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington




Council Chair

ATTEST:



Clerk of the Council

- APPROVED
- EMERGENCY
- VETOED

DATE: 12/7, 2018


County Executive

ATTEST:



Approved as to form only:

Deputy Prosecuting Attorney