

WHATCOM COUNTY COUNCIL AGENDA BILL

NO. 2009-063

| CLEARANCES | Initial | Date | Date Received in Council Office | Agenda Date | Assigned to: |
|-------------------------------|---------|--------|--|-------------|---------------|
| Originator: | | | RECEIVED JAN 06 2009 WHATCOM COUNTY COUNCIL | 1-13-09 | Introduction |
| Division Head: | | | | 1/27/09 | P&D / Council |
| Dept. Head: David Stalheim | DS | 1-2-09 | | | |
| Prosecutor: | RS | 1-2-09 | | | |
| Purchasing/Budget: | | | | | |
| Executive: | PR | 1-6-09 | | | |

TITLE OF DOCUMENT:
Ordinance amending Chapter 20.75, School Impact Fees and 20.97, Definitions

ATTACHMENTS:
Ordinance

| | |
|---|--|
| SEPA review required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> NO SEPA review completed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> NO | Should Clerk schedule a hearing? <input type="checkbox"/> Yes <input type="checkbox"/> NO Requested Date: |
|---|--|

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: *(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)*

Ordinance amending Title 20 of the Whatcom County Code, Chapter 20.75, School Impact Fees and 20.97, Definitions. Ordinance would clarify requirements for interlocal agreements, level of service standards to be required, allowing an administrative fee to be charged if Whatcom County collects impact fees and adding a definition of low-income housing.

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| COMMITTEE ACTION: 1/27/2009: Forwarded to Council for approval | COUNCIL ACTION: 1/13/2009: Introduced 1/27/2009: Council Adopted 7-0 Ord. 2009-006 |
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|-----------------------------------|------------------------------|---|
| Related County Contract #: | Related File Numbers: | Ordinance or Resolution Number: Ord. 2009-006 |
|-----------------------------------|------------------------------|---|

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.

SPONSORED BY: Consent
PROPOSED BY: PDS
INTRODUCTION DATE: 1/13/09

ORDINANCE NO. 2009-006

**AMENDING WHATCOM COUNTY CODE TITLE 20,
CHAPTER 20.75, SCHOOL IMPACT FEES and CHAPTER 20.97, DEFINITIONS**

WHEREAS, the Washington State Legislature, with the passage of the Growth Management Act, has removed previously enacted restrictions and authorized the imposition of development of impact fees as an additional source of funding for common school facilities, in addition to local tax revenues and state grants from the common school construction fund;

WHEREAS, the Washington State Legislature, through Chapter 82.02 RCW, authorizes cities and counties planning under GMA to impose impact fees on development activity as part of the financing for public facilities to help ensure that adequate facilities are available to serve new growth and development;

WHEREAS, new residential development resulting from forecasted population growth will create additional demand for public school facilities;

WHEREAS, while the general community benefits from new public facilities and should continue to pay the majority of facility costs, it is appropriate to require new development to pay its proportionate share of the cost of new facilities;

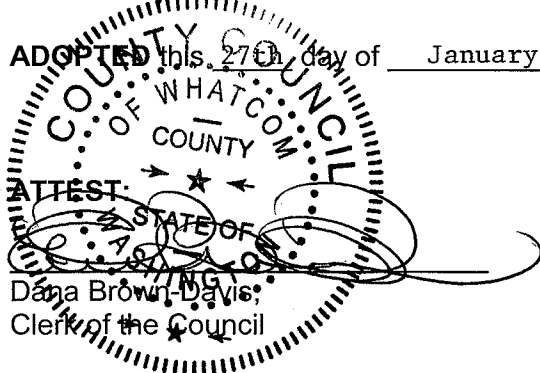
WHEREAS, the Whatcom County Council adopted Ordinance No. 2007-067 adding a new chapter to Title 20, School Impact Fees;

WHEREAS, the Planning Commission held a public hearing on December 11, 2008 and have forwarded amendments to Chapter 20.75 for Whatcom County Council consideration.

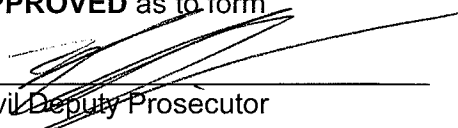
NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that WCC Title 20 is hereby amended as shown in Exhibit 1.

ADOPTED this 27th day of January, 2009.

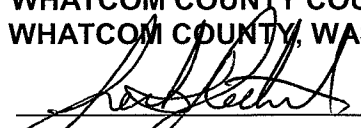
ATTEST:
STATE OF
Dana Brown-Davis;
Clerk of the Council



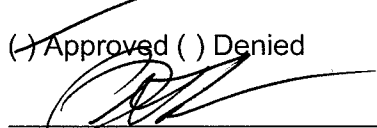
APPROVED as to form


Civil Deputy Prosecutor

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON


Seth Fleetwood, Council Chair

Approved Denied


Pete Kremen, County Executive

Date: 2-9-09

Exhibit 1

20.75.040 Findings, recommendations, and decisions regarding school capacities.

(1) In making a threshold determination pursuant to SEPA, the director and/or the hearing examiner, in the course of reviewing proposals for residential development including, but not limited to, applications for subdivisions, PUDs, mobile home parks and multifamily building permits, shall consider the school district's capital facilities plan as adopted by the County Council.

(2) County-adopted school facility capital facility plans shall be incorporated into the record in every case without requiring the district to offer such plans and data into the record. The school district is also authorized to present testimony and documents demonstrating a lack of concurrency in the district and the inability of the district to accommodate the students to be generated by a specific development.

(3) Based upon a finding that adequate school facility requirements are not met per the requirements of WCC 20.75.050, the director may require or recommend phasing or provision of the needed facilities and/or sites as appropriate to address the deficiency or deny or condition approval, consistent with the provisions of this chapter, WCC Title 21, the State Subdivision Act, and the State Environmental Policy Act.

(4) Where the County Council has not adopted an capital facility plan and interlocal agreement for a particular school district, the language of this section shall not affect the authority or duties of the hearing examiner or the director pursuant to the State Environmental Policy Act or the State Subdivision Act.

(5) Determinations of the hearing examiner or director regarding school facility adequacy may be appealed pursuant to the provisions for appeal of the development permit process for which the determination has been made.

20.75.050 School concurrency standard.

(1) School districts shall set level of service standards through their capital facility plans. School district capital facility plans will be considered as an amendment to the Whatcom County Comprehensive plan.

(2) Schools shall be considered to have been provided concurrently with the development which will impact the schools if:

(a) The permanent and interim improvements necessary to serve the development are planned to be in place at the time the impacts of development are expected to occur based on adopted level of service standards; or

(b) The necessary financial commitments are in place to assure the completion of the needed improvements to meet the district's level of service standard within six years of the time that the impacts of development are expected to occur.

(3) Any combination of the following shall constitute the "necessary financial commitments" for the purposes of this section:

(a) The district has received voter approval of and/or has bonding authority;

(b) The district has received approval for federal, state, or other funds;

(c) The district has received a secured commitment from a developer to construct the needed permanent school facility, and the school district has found such facility to be acceptable and consistent with its capital facilities plan; and/or

(d) The district has other assured funding, including but not limited to school impact fees which have been paid.

20.75.070 Imposition of impact fees.

(1) This chapter shall be uniformly applicable to residential development that occurs within the County pursuant to Chapter 82.02 RCW. Impact fees will be assessed on every new dwelling unit for which the requirements of WCC 20.75.050 been met.

(2) The school impact fees specified in the District's School Capital Facilities Plan and adopted by the County Council shall constitute the County's schedule of school impact fees.

(3) Implementation of the fee collection process shall be further detailed by interlocal agreement. No fee will be collected by the County until an interlocal agreement as required in WCC 20.75.100 has been approved by the County and the district.

(4) For nondiscretionary residential building permits, the applicability of school impact fees will be determined at the time of building permit application. The amount of the fee due shall be based on the fee schedule in effect at the time of a complete permit application. Credit amounts and allocation of credits to be applied against the fees shall be determined by the district at the time of permit approval in accordance with WCC 20.75.090.

(5) Residential development activities that are subject to discretionary review by the County such as subdivisions and development agreements shall include in the conditions of approval a determination of the project's school impact fee obligation under this chapter. Said determination shall include any credits for in-kind contributions provided per WCC 20.75.090.

(6) In all cases, the amount of school impact fees shall be that which is in effect at the time of complete application for building permit. The fee shall be collected by the County at building permit issuance.

20.75.080 Calculation of impact fees.

(1) Separate fees shall be calculated for single-family and multifamily types of dwelling units. For purposes of this chapter, manufactured housing shall be treated as single-family dwellings and duplexes shall be treated as multifamily dwellings.

(2) The calculation of school impact fees shall be based upon the school district's capital facilities plan, as approved by the County council and adopted by reference into the capital facilities element of the Whatcom County Comprehensive Plan.

(3) The capital facilities plan shall contain the following as a basis for the adoption of school impact fees to be collected by the County:

- (a) Inventory of permanent and relocatable classroom facilities;
- (b) Student enrollment projections over a six-year period;
- (c) Facility needs and planned improvements over a six-year period;
- (d) Six-year financing plan; and
- (e) Methodology used for the calculation of the fees.

(4) The proposed fee shall be calculated based on the following factors as documented in the capital facilities plan:

- (a) The costs of site acquisition;
- (b) The costs of facility construction or improvements;
- (c) The costs of needed portables;
- (d) The proportionate share of the above costs attributable to new development;
- (e) The costs of previously constructed facilities that serve new development; provided, that the fee is not used to make up for any existing system deficiencies not related to new growth; and
- (f) Credits, or other revenues applied, such as user fees, debt service payments, taxes, or other payments earmarked for or prorable to the particular system improvement.

(5) The impact fee may be discounted by an amount deemed appropriate by the County in order to be consistent with impact fees being required by other jurisdictions within the school district.

(6) An administrative fee may be charged by Whatcom County for the collection and disbursement of school impact fees as set forth in an interlocal agreement with the School District or as set forth in the Unified Fee Schedule.

20.75.140 Adjustment of Fee Amount

The County Council may adjust the fee and if one of the following exists:

- (1) An applicant requests reduction in writing and submits compelling data demonstrating a lower student generation rate and the district concurs; or
- (2) The proposed development will result in the provision of low-income housing as defined by this title. Fees reduced or waived in this circumstance must be replaced with other public funds.

20.97.221 Low-Income Housing

“Low-income housing” means housing for which the monthly expenditure by a qualified low-income household purchaser or tenant, including mortgage or rent payment, insurance, taxes, and utilities (water and sewer) does not exceed thirty-eight percent of gross monthly household income at the time of purchase or lease, and where the amount of mortgage or rent does not exceed thirty percent of gross monthly household income, with documented assurance that the housing provided is restricted under a government or nonprofit housing program or agency, and that this will continue over time. A low income household means a single person, family, or unrelated persons living together whose income, at their initial occupancy of the premises, is less than eighty percent of the median family income, adjusted for household size, for Whatcom County, as defined by the U.S. Department of Housing and Urban Development at the time of application. A monthly expenditure higher than the standard above may be allowed for homes or projects that have received state, federal, and/or other affordable housing program funding.

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