

SCMIT2
1/18/91

Introduced by: Sims
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Proposed No.: 91-98

9785

ORDINANCE NO. 9785

1
2 AN ORDINANCE addressing the impact of
3 residential development on schools;
4 providing adequacy standards and an impact
5 fee enabling program for public school
6 facilities; providing direction to the
7 building and land development division and
8 the zoning and subdivision examiner on the
9 application of the standards and impact
10 fees to address the impacts of residential
11 development on the demand for public school
12 facilities; adding a new chapter to Title
13 21 and a new section to Chapter 20.24 , and
14 declaring an emergency.

15 FINDINGS

16 1. During the last several years, the rate of residential
17 development in King County has caused student populations in
18 several school districts to rise more quickly than the
19 districts can build facilities to accommodate them.

20 2. Existing state and local funding sources for schools
21 have not been sufficient to meet the demands generated by new
22 residential development.

23 3. Residential development of all kinds is having a major
24 impact on public school facilities. Even with sufficient
25 revenues to construct schools, many school districts in King
26 County cannot complete construction quickly enough to provide
27 space for incoming students. As a result, students must be
28 housed in portable buildings and/or in overcrowded classrooms,
29 and transported in overcrowded busses. Class size is considered
30 to be a major factor in the quality of education students can
31 receive.

32 4. After receiving extensive testimony on the issue from
33 school district representatives in the fall of 1988, the
34 Council formed a School Impact Mitigation Task Force, in
35 cooperation with the Educational Service District.

36 5. The Task Force documented the amount of existing and
37 future unmet need projected to occur in each district through
38 the year 2000, in its report entitled Impact of Residential
39 Growth on Public Schools in King County, dated June 21, 1989.

40 6. The task force concluded that different and additional
41 funding sources beyond those already in existence were needed
42 to address the impact of residential development on schools,
43 and that specific authorization to charge impact fees to
44 address this impact should be sought in the legislature.
45 Such impact fees were authorized in the 1990 Growth Management
46 Act.

1 7. The county council has been working with
2 representatives of school districts in King County, as well as
3 with Educational Service District No. 121, to determine how
4 best to address these impacts.

5 8. A previous draft of this ordinance was introduced in
6 June of 1989. The county delayed action on that draft pending
7 the outcome of legislative efforts. The legislature address
8 impact fees and adequacy of public schools in the 1990 Growth
9 Management Act. It is now appropriate to move ahead with
10 ordinance adoption, with modifications as necessary to conform
11 to the Growth Management Act.

12 9. The 1990 Growth Management Act included two elements
13 that require and allow King County to address the impact of
14 development on schools:

15 A. 1. RCW 58.17.110, the state subdivision act, was
16 amended to require denial of any plat "unless the ... county
17 legislative body makes written findings that: (a) Appropriate
18 provisions are made for ... schools and schoolgrounds
19 Dedication of land to any public body, provision of public
20 improvements to serve the subdivision, and/or impact fees
21 imposed under ... this act may be required as a condition of
22 subdivision approval. ... "

23 2. RCW 58.17.060 was also amended to require that the
24 same determination be made with regard to short plats.

25 B. Specific authorization to impose impact fees for
26 school facilities was created.
27

28 10. It is the policy of King County, as stated in its 1985
29 Comprehensive Plan, to coordinate the development of land with
30 the provision of services, including schools. This ordinance
31 will implement the 1990 Growth Management Act and the
32 comprehensive plan policy.

33 11. The county has an obligation to coordinate the
34 development of land with the availability of public services
35 such as schools in order to mitigate the impacts of development
36 on county residents.

37 12. King County has, in the past, not given sufficient
38 direction to its Zoning and Subdivision Examiners as to how
39 their recommendations should address documented school
40 overcrowding. Similarly, there has been no regulatory guidance
41 for the Building and Land Development Division. There has been
42 reluctance on the part of both the Division and the Examiners
43 to act on a case-by-case basis, even though there has been an
44 ongoing statutory obligation to consider whether schools are
45 adequate for purposes of plat approval. This ordinance is
46 necessary to provide specific direction in this regard, and is
47 to be liberally construed to achieve statutory requirements.

48 13. There are various forms of residential development,
49 such as apartments, condominiums and planned unit developments
50 (PUD's) which have similar kinds of impacts on public
51 facilities as do residential plats, and should be treated
52 similarly and made subject to the same kind of review as
53 subdivisions and short subdivisions.

54 14. This ordinance provides the framework within which
55 the school districts can request that fees be collected on
56 their behalf. Actual implementation of the adequacy standards
57 and a fee program in any district will require additional
58 actions by the districts, either individually or collectively,
59 as described further in this ordinance.

1 15. The formula adopted in this ordinance accounts for
2 existing and expected future public funding sources for
3 schools, including state funding and local property tax levies.
4 It assumes that these sources will continue to provide funding
5 at least at historical levels, and specifically provides a
6 credit for these two funding sources against the calculated
7 impact fee.
8

9 16. The formula will be applied against needs documented
10 in a school district's capital facilities plan as being
11 necessary to meet projected future growth in student
12 population.

13 17. Continued review of development proposals for their
14 impact on schools, without sufficient standards by which to
15 determine adequacy, has resulted in unmitigated impacts to
16 school facilities; the need to repair this legal deficiency
17 constitutes an emergency requiring immediate application of
18 this ordinance to protect the public health, safety and
19 welfare.

20 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

21 SECTION 1. Title. There is hereby added to Title 21, a
22 new chapter entitled "Development Impact on Public School
23 Facilities" containing the provisions set out in Sections 1
24 through 9 and Section 11 of this ordinance.

25 SECTION 2. Authority. This ordinance is adopted as an
26 official control to implement King County comprehensive plan
27 policies and the 1990 Growth Management Act. This ordinance is
28 necessary to address identified impacts of development on
29 schools in order to protect the public health, safety and
30 welfare.

31 SECTION 3. Definitions. For purposes of this ordinance,
32 the following terms shall have the indicated meanings:

33 A. "SBE" means the Washington State Board of Education.

34 B. "SPI" means the Washington State Superintendent of
35 Public Instruction.

36 C. "Capacity" means the number of students a school site
37 and its school buildings is designed to accommodate. The
38 capacity standard for each district shall be the standard
39 adopted by the school district for which the fee is being
40 established, so long as the district's standard is derived from
41 and does not exceed the standard capacity formulae of the State
42 Board of Education found in WAC 180-26 and 180-27 by more than
43 10%. If the district's standards are more than 10 % above

1 SBE's standard, the standard adopted in the fee implementing
2 ordinance shall be adjusted to keep it within the 10%
3 variation allowance. No school facility which has been closed
4 for more than two years due to lack of demand for the facility
5 shall be counted in the district's inventory for purposes of
6 determining the district's existing capacity.

7 D. "Grade level" means the categories into which a
8 district groups its grades of students; i.e., elementary,
9 middle or junior high school, and high school.

10 E. "Site cost per student" means the estimated cost of a
11 site in the district for the grade level of school to be
12 provided, divided by the district's design capacity for that
13 grade level of school.

14 F. "Construction cost per student" means the estimated
15 cost of construction of a school in the district for the grade
16 level of school to be provided, divided by the district's
17 design capacity for that grade level of school.

18 G. "Temporary facilities cost per student" means the
19 estimated cost of purchasing and siting a temporary facility
20 (portable classroom) in the district for the grade level of
21 school to be provided, divided by the district's design
22 capacity for temporary facilities for that grade level of
23 school.

24 H. "Student Factor" means the number derived by a school
25 district to describe how many students of each grade level are
26 expected to be generated by a dwelling unit. Student factors
27 shall be based on district records of average actual student
28 generated rates for new developments constructed over a period
29 of not more than five years prior to the date of the fee
30 calculation; if such information is not available in the
31 district, data from adjacent districts, districts with similar
32 demographics, or county wide averages must be used. Student
33 factors must be separately determined for single family and
34 multifamily dwelling units, and for grade levels.

1 SECTION 4. School Adequacy Standards, Impact Fees -
2 Applicability.

3 A. The adequacy standards set out in this ordinance shall
4 apply to all forms of residential development which are subject
5 to county review and approval and which would result in the
6 creation of new residential building lots or construction of
7 new dwelling units. Excluded from the application of this
8 standard would be any form of housing exclusively for the
9 elderly, including nursing homes and retirement centers.
10 Reconstruction or remodelling of existing dwelling units is not
11 subject to the provisions of this ordinance.

12 B. The fee schedules developed for a particular school
13 district pursuant to this ordinance and subsequently adopted by
14 the council in support of the district's needs shall be applied
15 by the county to all residential development which is subject
16 to the adequacy standard adopted herein. The fee shall also be
17 applicable to all residential development within that portion
18 of a city that is in the school district for which the fee is
19 being established, if the city adopts the county's fee program
20 by reference and requests that the county assess and collect
21 the fee. Implementation of the fee collection process shall be
22 further detailed by interlocal agreements between the county,
23 the city and the district. Any form of housing exclusively for
24 the elderly, including nursing homes and retirement centers, is
25 exempt from the application of the fee.

26 SECTION 5. Findings, Recommendations and Decisions

27 Regarding School Capacities. In making a threshold
28 determination pursuant to the State Environmental Policy Act,
29 BALD shall review the impacts on schools. The Division and/or
30 the Examiner, in the course of reviewing proposals for
31 residential development including preliminary plat
32 applications, PUD's, or actualization of potential multi-family
33 zoning, and building permits, shall consider any documentation
34 of capacity problems provided by the district as presumptively
35 valid but subject to rebuttal, and shall require or recommend

1 phasing or provision of the needed facilities and sites as
2 appropriate to address the deficiency or deny or condition
3 approval as required by this ordinance and as necessary to
4 remedy the deficiency, or recommend such denial or conditional
5 approval, as provided for in Section 6 of this ordinance.
6 Failure of a district to document a deficiency shall be
7 considered as indicating that the facilities are adequate.
8 Documentation provided in support of an adopted county
9 ordinance establishing a fee for the district shall be presumed
10 to apply to any application made in that district and shall be
11 incorporated into the record in every case without requiring
12 the district to offer it.

13 SECTION 6. School Adequacy Standards.

14 A. School facilities shall be deemed to have adequate
15 capacity for purposes of approval of any residential
16 development proposal if all of the following circumstances
17 exist:

18 1. The district as a whole has permanent facilities to
19 house the students projected to be coming from the development
20 without exceeding the class size capacity standards of the
21 district by more than 5 percent and any facilities that have
22 been closed for more than two years due to lack of demand for
23 the facilities are not treated as available permanent
24 facilities until any needed remodelling can be provided for.

25 2. The district has the land to accommodate the
26 permanent and portable facilities needed to serve the students
27 projected to be coming from the development.

28 3. Any school mitigation fee required by ordinance to be
29 paid is paid or is scheduled for payment and is adequately
30 secured.

31 B. If the capacity standards set out in subsections A1 and
32 A3 are or would be exceeded with the construction of a proposed
33 development, the school facilities available to serve the
34 development shall be deemed inadequate and the development
35 shall not be approved unless the development is phased to meet

1 the standards and the impact fee authorized by this ordinance
2 is paid in a manner timely to the needs of the impacted school
3 district, or the needed land or facilities are provided before
4 or concurrently with the construction of the development. An
5 offer of payment of an applicable impact fee shall not be
6 deemed sufficient if the fee cannot be used in a timely fashion
7 to actually provide needed school facilities, and the payment
8 shall be delayed until such time as it can be used, but shall
9 not be forgiven unless a facility of equal value is provided.

10 C. A certificate of school facility availability from the
11 district in which a development proposal is located shall be
12 required as a part of any development proposal application.
13 The factors to be applied in the certificate, such as student
14 factors and capacity numbers, shall be consistent with the
15 provisions of this ordinance. Any determination of adequacy
16 shall be made for the anticipated date the proposed development
17 will actually occur and based on the information provided in
18 the certificate of availability. The information in the
19 certificate shall be presumptively valid, but any information
20 provided by other sources demonstrating any errors in the
21 certificate shall also be considered.

22 D. Building permits for individual single family dwellings
23 shall be exempt from the requirements of this section and shall
24 not require certificates of adequacy.

25 E. The capacity standards and student factors for each
26 district shall be determined administratively by BALD based on
27 the standards as defined Section 3 until such time as it is
28 formally established in each fee implementing ordinance which
29 adopts a fee program and schedule for a particular school
30 district.

31 SECTION 7. Impact Fee Program Elements.

32 A. Impact fees will be assessed on every new dwelling unit
33 in the district for which a fee schedule has been established.

34 B. Impact fees will be imposed on a district-by-district
35 basis, on behalf of any school district which provides to the

1 county, a capital facilities plan documenting the amount of the
2 existing and future unmet needs in the district, estimates of
3 the cost of providing needed schools and temporary classrooms,
4 the district's capacity standards for the various grade levels,
5 and the data from the district called for by the formula
6 adopted in Section 8 of this ordinance. The actual fee
7 schedule for the district will be adopted by ordinance, based
8 on this information. Any impact fee imposed shall be
9 reasonably related to the impact caused by the development and
10 shall not exceed a proportionate share of the cost of system
11 improvements that are reasonably related to the development.
12 The impact fee formula shall account in the fee calculation for
13 future revenues the district will receive from the development.
14 The ordinance adopting the fee schedule shall specify under
15 what circumstances the fee may be adjusted in the interests of
16 fairness.

17 C. The impact mitigation fee shall be based on a capital
18 facilities plan developed and approved by the district, and
19 adopted by reference the county solely for the purpose of
20 establishing the need and basis for the fee program.

21 D. The ordinance adopting the actual fee schedule shall
22 provide for maintenance of separate accounts, expenditure of
23 fees collected in a timely fashion and only on appropriate
24 capital projects, as required by Section 46 (1-3) of the Growth
25 Management Act (SHB 2929), and shall be accompanied by an
26 interlocal agreement assuring that those requirements are met.

27 E. Impact fees shall be collected as follows:

28 1. For plats or PUD's receiving preliminary approval,
29 the full fee shall be assessed at the time of approval, and 50%
30 of the assessed fee shall be collected at the time of final
31 approval. For developments being finalized in phases, the 50%
32 collection shall be due with the granting of final approval of
33 each phase. The balance of the fee shall be allocated to the
34 dwelling units in the project, and shall be collected when
35 building permits are issued.

1 2. For residential development proposed for existing
2 lots, payment shall be due at the time of building permit
3 issuance.

4 3. Arrangement may be made for later payment with the
5 approval of the school district only if the district determines
6 that it will be unable to use or will not need the payment
7 until a later time, provided that sufficient security is
8 provided to assure payment.

9 SECTION 8. Fee Calculation.

10 A. The fee shall be calculated based on the formula set
11 out in Attachment A.

12 B. Separate fees shall be calculated for single family and
13 multifamily types of dwelling units, and separate student
14 generation rates must be determined by the district for each
15 type of dwelling unit. For purposes of this ordinance, mobile
16 homes shall be treated as single family dwellings and duplexes
17 shall be treated as multifamily dwellings.

18 C. The fee shall be calculated on a district-by-district
19 basis using the appropriate factors and data to be supplied by
20 the district, as indicated in Attachment A. The fee
21 calculations shall be made on a district-wide basis to assure
22 maximum utilization of all school facilities in the district
23 used currently or within the last two years for instructional
24 purposes.

25 D. The formula will provide a credit for the anticipated
26 tax contributions that would be made by the development based
27 on historical levels of bond support in the school district.

28 E. The formula will also provide a credit for facilities
29 or sites actually provided by a development proponent.

30 F. A development proponent may provide studies and data to
31 demonstrate that any particular factor used by the district may
32 not be appropriately applied to the development proposal, but
33 the district's data shall be presumed valid unless clearly
34 demonstrated to be otherwise by the proponent.

1 G. Any appeal of the decision of the manager or the zoning
2 and subdivision examiner with regard to school adequacy
3 determinations or fee amounts shall follow the appeal process
4 for the underlying permit and not be subject to a separate
5 appeal process. Where no other administrative appeal process
6 is available, an appeal may be taken to the Zoning Examiner
7 using the appeal procedures for variances. Any errors in the
8 formula identified as a result of an appeal should be referred
9 to the Council for possible modification.

10 H. Impact fees may be paid under protest, but if the fee is
11 protested, the county shall make construction or development
12 pursuant to the issuance of any permit so obtained conditional
13 upon final resolution of the protest, if failure to obtain the
14 fee payment would otherwise require a denial or deferral of the
15 project to meet state or county adequacy standards
16 requirements.

17 SECTION 9. Credit for Improvements. Whenever a
18 development is granted approval subject to a condition that the
19 development proponent actually provide a school facility
20 acceptable to the district, the development proponent shall be
21 entitled to a credit for the actual cost of providing the
22 facility, against the fee that would be chargeable under the
23 formula provided by this ordinance. The cost of construction
24 shall be estimated at the time of approval, but must be
25 documented and the documentation confirmed after the
26 construction is completed to assure that an accurate credit
27 amount is provided. If construction costs are less than the
28 calculated fee amount, the difference remaining shall be
29 chargeable as a school impact fee.

30 SECTION 10. Examiner Findings and Recommendations
31 Regarding School Capacities. There is hereby added to K.C.C.
32 20.24, the following new section:
33 Whenever the Examiner in the course of conducting hearings or
34 reviewing preliminary plat applications, PUD's, or
35 actualization of potential multi-family zoning, receives

1 documentation that the public schools in the district where the
2 development is proposed would not meet the standards set out in
3 Section 6 if the development were approved, the examiner shall
4 remand to BALD to require or recommend phasing or provision of
5 the needed facilities and sites as appropriate to address the
6 deficiency, or deny the proposal if required by the provisions
7 of this ordinance. The examiner shall prepare findings to
8 document the facts which support the action taken. The
9 examiner shall recommend such phasing as may be necessary to
10 coordinate the development of the housing with the provision of
11 sufficient school facilities, or in the alternative shall
12 require the provision of the needed facilities. An offer of
13 payment of a school impact fee as required by ordinance shall
14 not be a substitute for such phasing, but the fee is still
15 assessable. The examiner shall recommend a payment schedule
16 for the fee to coordinate the payment with the phasing of a
17 impact mitigation fee if such provision or payment is
18 satisfactory to the district. The Examiner must determine
19 independently that the conditions of approval and assessable
20 fees will provide for adequate schools.

21 SECTION 11. A task force shall be established by council
22 motion when the first school district proposes to have its
23 impact fee schedule established pursuant to the formula in this
24 ordinance. The task force shall have representatives from the
25 Council staff, executive staff, the impacted school district, a
26 community representative, the Educational Service District, any
27 impacted cities, and the private development sector. The task
28 force shall identify any issues that arise in the process of
29 implementation of the fee program, including issues that are
30 raised by the application of this ordinance to subsequent
31 implementing ordinances, and make suggestions to the Council as
32 to the resolution of these issues.

33 SECTION 12. Severability. If any provision of this act or
34 its application to any person or circumstance is held to be
35 unconstitutional or invalid for any reason, the remainder of

1 the ordinance or the application of the provision to other
2 persons or circumstances is not affected.

3 SECTION 13. Emergency. The county council finds as a fact
4 and declares than an emergency exists and that this ordinance
5 is necessary for the immediate preservation of public peace,
6 health or safety or for the support of county government and
7 its existing public institutions.

8 INTRODUCED AND READ for the first time this 22nd day
9 of January, 1991.

10 PASSED this 22nd day of January, 1991.

11 KING COUNTY COUNCIL
12 KING COUNTY, WASHINGTON

13 Lois North
14 Vice-Chair

15 ATTEST:

16 Gerald A. Patten
17 Clerk of the Council

18 APPROVED this 4th day of February, 1991.

19 Jim Hill
20 King County Executive
21

ATTACHMENT A

FORMULA FOR DETERMINING SCHOOL IMPACT FEES

IF:

A = Student Factor for Dwelling Unit Type and grade level X site cost per student for sites for facilities in that grade level = Full cost Fee for site acquisition cost

B = Student Factor for Dwelling Unit Type and grade level X school construction cost per student for facilities in that grade level X ratio of district's square footage of permanent facilities to total square footage of facilities = Full cost Fee for school construction

C = Student Factor for Dwelling Unit Type and grade level X temporary facilities cost per student for facilities in that grade level X ratio of district's square footage of temporary facilities to total square footage of facilities = Full cost Fee for temporary facilities construction

D = Student Factor for Dwelling Unit Type and grade level X "Boeckh Index" X SPI Square Ft per student factor X state match % = State Match Credit, and

A1, B1, C1, D1 = A, B, C, D for Elementary grade levels

A2, B2, C2, D2 = A, B, C, D for Middle/Junior High grade levels

A3, B3, C3, D3 = A, B, C, D for High School grade levels

TC = Tax payment credit = The net present value of the Average Assessed Value in District for Unit Type X Current School District Capital Property Tax Levy Rate, using a 10 year discount period and current interest rate (based on the Bond Buyer Twenty Bond General Obligation Bond Index)

FC= Facilities Credit = The per-dwelling-unit value of any site or facilities provided directly by the development

THEN the unfunded need = UN = A1+...+C3 - (D1-D2-D3)-TC

AND the developer fee obligation = F = UN/2

AND the net fee obligation = NF = F-FC

- 1 [Notes: 1. Student Factors are to be provided by the school
2 district based on district records of average actual
3 student generation rates for new developments
4 constructed over a period of not more than five years
5 prior to the date of the fee calculation; if such
6 information is not available in the district, data
7 from adjacent districts, districts with similar
8 demographics, or countywide averages must be used.
9 Student factors must be separately determined for
10 single family and multifamily dwelling units, and for
11 grade levels.
- 12 2. The "Boeckh index" is a construction trade
13 index of construction costs for various kinds of
14 buildings; it is adjusted annually.
- 15 3. The district is to provide its own site and
16 facilities standards and projected costs to be
17 used in the formula, consistent with the
18 requirements of this ordinance.
- 19 4. The formula can be applied by using the following
20 table.]

TABLE FOR CALCULATING SCHOOL IMPACT FEE OBLIGATIONS FOR RESIDENTIAL DWELLING UNITS
(TO BE SEPARATELY CALCULATED FOR SINGLE FAMILY AND MULTI-FAMILY UNITS)

A1= Elementary school site cost per student X the student factor = _____
 A2= Middle/Junior high school site cost per student X student factor = _____
 A3= High School site cost per student X student factor = _____
 A= A1+A2+A3 = _____

B1= Elementary school construction cost per student X student factor = _____
 B2= Middle/Junior high school construction cost per student X student factor = _____
 B3= High School construction cost per student X student factor = _____

B= (B1+B2+B3) X square footage of permanent facilities
 total square footage of facilities = _____

C1= Elementary school temporary facility cost per student X student factor = _____
 C2= Middle/Junior high school temporary facility cost per student X student factor = _____
 C3= High School temporary facility cost per student X student factor = _____

C= (C1+C2+C3) X square footage of temporary facilities
 total square footage of facilities = _____

D1= Boeckh index X SPI Square footage per student for elementary
 school X state match % x student factor = _____

D2= Boeckh index X SPI Square footage per student for middle/junior
 high school X state match % x student factor = _____

D3= Boeckh index X SPI Square footage per student for high school
 X state match % X student factor = _____

D= D1+D2+D3 = _____

9785

TC = $\frac{((1+i)^{10})-1}{i(1+i)^{10}}$ X average assessed value for the dwelling unit type in the school district.

X current school district capital property tax levy rate where i = the current interest rate as stated in the Bond Buyer Twenty Bond General Obligation Bond Index

FC = Value of site or facilities provided directly by the development
number of dwelling units in development

Total Unfunded Need = A+B+C-D-TC =

_____ A

+ _____ B

+ _____ C

Subtotal

- _____ D

- _____ TC

TOTAL UNFUNDED NEED UN = _____ divided by 2 =

_____ = DEVELOPER FEE OBLIGATION

- _____ Less FC (if applicable)

_____ NET FEE OBLIGATION

9785