

SCHLAMD.AS
12/17/90

Introduced by: Sims
Laing
Sullivan
Derdowski
Pullen

Proposed No.: 89-483

ORDINANCE NO. **9767**

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AN ORDINANCE addressing the impact of residential development on schools; providing adequacy standards and an impact fee enabling program for public school facilities; providing direction to the building and land development division and the zoning and subdivision examiner on the application of the standards and impact fees to address the impacts of residential development on the demand for public school facilities; adding a new chapter to Title 21 and a new section to Chapter 20.24.

FINDINGS

1. During the last several years, the rate of residential development in King County has caused student populations in several school districts to rise more quickly than the districts can build facilities to accommodate them.
2. Existing state and local funding sources for schools have not been sufficient to meet the demands generated by new residential development.
3. Residential development of all kinds is having a major impact on public school facilities. Even with sufficient revenues to construct schools, many school districts in King County cannot complete construction quickly enough to provide space for incoming students. As a result, students must be housed in portable buildings and/or in overcrowded classrooms, and transported in overcrowded busses. Class size is considered to be a major factor in the quality of education students can receive.
4. After receiving extensive testimony on the issue from school district representatives in the fall of 1988, the Council formed a School Impact Mitigation Task Force, in cooperation with the Educational Service District.
5. The Task Force documented the amount of existing and future unmet need projected to occur in each district through the year 2000, in its report entitled Impact of Residential Growth on Public Schools in King County, dated June 21, 1989.
6. The task force concluded that different and additional funding sources beyond those already in existence were needed to address the impact of residential development on schools, and that specific authorization to charge impact fees to address this impact should be sought in the legislature. Such impact fees were authorized in the 1990 Growth Management Act.
7. The county council has been working with representatives of school districts in King County, as well as with Educational Service District No. 121, to determine how best to address these impacts.
8. A previous draft of this ordinance was introduced in June of 1989. The county delayed action on that draft pending

1 the outcome of legislative efforts. The legislature address
2 impact fees and adequacy of public schools in the 1990 Growth
3 Management Act. It is now appropriate to move ahead with
4 ordinance adoption, with modifications as necessary to conform
5 to the Growth Management Act.

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

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

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

19 B. Specific authorization to impose impact fees for
20 school facilities was created.
21

22 10. It is the policy of King County, as stated in its 1985
23 Comprehensive Plan, to coordinate the development of land with
24 the provision of services, including schools. This ordinance
25 will implement the 1990 Growth Management Act and the
26 comprehensive plan policy.

27 11. The county has an obligation to coordinate the
28 development of land with the availability of public services
29 such as schools in order to mitigate the impacts of development
30 on county residents.

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

42 13. There are various forms of residential development,
43 such as apartments, condominiums and planned unit developments
44 (PUD's) which have similar kinds of impacts on public
45 facilities as do residential plats, and should be treated
46 similarly and made subject to the same kind of review as
47 subdivisions and short subdivisions.

48 14. This ordinance provides the framework within which
49 the school districts can request that fees be collected on
50 their behalf. Actual implementation of a fee program in any
51 district will require additional actions by the districts,
52 either individually or collectively, as described further in
53 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 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

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

18 SECTION 2. Authority. This ordinance is adopted as an
19 official control to implement King County comprehensive plan
20 policies and the 1990 Growth Management Act. This ordinance is
21 necessary to address identified impacts of development on
22 schools in order to protect the public health, safety and
23 welfare.

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

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

27 B. "SPI" means the Washington State Superintendent of
28 Public Instruction.

29 C. "Capacity" means the number of students a school site
30 and its school buildings is designed to accommodate. The
31 capacity standard for each district shall be established in
32 each fee implementing ordinance which adopts the fee for a
33 particular school district, and shall be the standard adopted
34 by the school district for which the fee is being established,
35 so long as the district's standard is derived from and does not
36 exceed the standard capacity formulae of the State Board of
37 Education found in WAC 180-26 and 180-27 by more than 10%. If
38 the district's standards are more than 10 % above SBE's
39 standard, the standard adopted in the fee implementing
40 ordinance shall be adjusted accordingly. No school facility

1 which has been closed for more than two years due to lack of
2 demand for the facility shall be counted in the district's
3 inventory for purposes of determining the district's existing
4 capacity.

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

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

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

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

22 H. "Student Factor" means the number derived by a school
23 district to describe how many students of each grade level are
24 expected to be generated by a dwelling unit.

25 SECTION 4. School Adequacy Standards - Applicability.

26 A. The standards set out in this ordinance shall apply to
27 all forms of residential development which are subject to
28 county review and approval and which would result in the
29 creation of new residential building lots or construction of
30 new dwelling units. Excluded from this category would be any
31 form of housing exclusively for the elderly, including nursing
32 homes and retirement centers. Reconstruction or remodelling of
33 existing dwelling units is not subject to the provisions of
34 this ordinance.

1 B. The fee schedules developed for a particular school
2 district pursuant to this ordinance and subsequently adopted by
3 the council in support of the district's needs shall also be
4 collected by any city which reviews and approves such
5 residential development in the affected school district, unless
6 said city has adopted its own school impact fee ordinance.
7 Implementation of the fee collection process shall be further
8 detailed by interlocal agreements between the county, the city
9 and the district.

10 SECTION 5. Findings, Recommendations and Decisions
11 Regarding School Capacities. In making a threshold
12 determination pursuant to the State Environmental Policy Act,
13 BALD shall review the impacts on schools. The Division and/or
14 the Examiner, in the course of reviewing proposals for
15 residential development including preliminary plat
16 applications, PUD's, or actualization of potential multi-family
17 zoning, and building permits, shall consider any documentation
18 of capacity problems provided by the district as presumptively
19 valid, and shall deny or condition approval as required by this
20 ordinance and as necessary to remedy the deficiency, or
21 recommend such denial or conditional approval, as provided for
22 in Section 6 of this ordinance. Failure of a district to
23 document a deficiency shall be considered as indicating that
24 the facilities are adequate. Documentation provided in support
25 of an adopted county ordinance establishing a fee for the
26 district shall be presumed to apply to any application made in
27 that district and shall be incorporated into the record in
28 every case without requiring the district to offer it.

29 SECTION 6. School Adequacy Standards.

30 A. School facilities shall be deemed to have adequate
31 capacity for purposes of approval of any residential
32 development proposal if all of the following circumstances
33 exist:

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

8 2. The district has the land to accommodate the
9 permanent and portable facilities needed to serve the students
10 projected to be coming from the development.

11 3. Any school mitigation fee required by ordinance to be
12 paid is paid or is scheduled for payment and is adequately
13 secured.

14 B. If the capacity standards set out in subsections A1 and
15 A3 are or would be exceeded with the construction of a proposed
16 development, the school facilities available to serve the
17 development shall be deemed inadequate and the development
18 shall not be approved unless the development is phased to meet
19 the standards and the impact fee authorized by this ordinance
20 is paid in a manner timely to the needs of the impacted school
21 district, or the needed land or facilities are provided before
22 or concurrently with the construction of the development. An
23 offer of payment of an applicable impact fee shall not be
24 deemed sufficient if the fee cannot be used in a timely fashion
25 to actually provide needed school facilities, and the payment
26 shall be delayed until such time as it can be used, but shall
27 not be forgiven unless a facility of equal value is provided.

28 C. A certificate of school facility adequacy from the
29 district in which a development proposal is located shall be
30 required as a part of any development proposal application.

31 D. Building permits for individual single family dwellings
32 shall be exempt from the requirements of this section and shall
33 not require certificates of adequacy.

34 SECTION 7. Impact Fee Program Elements.

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

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

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

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

31 E. Impact fees shall be collected as follows:

32 1. For plats or PUD's receiving preliminary approval,
33 the full fee shall be assessed at the time of approval, and 50%
34 of the assessed fee shall be collected at the time of final
35 approval. For developments being finalized in phases, the 50%

1 collection shall be due with the granting of final approval of
2 each phase. The balance of the fee shall be allocated to the
3 dwelling units in the project, and shall be collected when
4 building permits are issued.

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

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

13 SECTION 8. Fee Calculation.

14 A. The fee shall be calculated based on the formula set
15 out in Attachment A.

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

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

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

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

34 F. A development proponent may provide studies and data to
35 demonstrate that any particular factor used by the district may

1 not be appropriately applied to the development proposal, but
2 the district's data shall be presumed valid unless clearly
3 demonstrated to be otherwise by the proponent.

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

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

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

33 SECTION 10. Examiner Findings and Recommendations
34 Regarding School Capacities. There is hereby added to K.C.C.
35 20.24, the following new section:

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

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

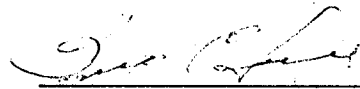
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SECTION 12. Severability. If any provision of this act or its application to any person or circumstance is held to be unconstitutional or invalid for any reason, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

INTRODUCED AND READ for the first time this 19th day of June, 1990.

PASSED this 17th day of December, 1990.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Vice-Chair

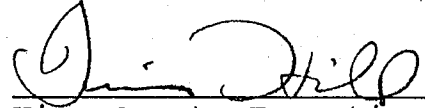
ATTEST:

I have vetoed Ordinance 9767 in its entirety for the reasons set forth in my attached statement.


Clerk of the Council

~~APPROVED~~ this 31st day of December, 1990.

Vetoed


King County Executive

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

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

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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 = _____

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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 = $\frac{\text{Value of site or facilities provided directly by the development}}{\text{number of dwelling units in development}}$

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