

ORDINANCE NO. 10240

AN ORDINANCE relating to the road impact mitigation payment system (MPS) adopted by ordinance 9747 and amending ordinance, 9747, Section 4 A. and K.C.C. 27. 40.040 A.; and ordinance 9747, Section 5 D.9. and K.C.C. 27.40.050 D.9; and ordinance 9747, Section 7.A.2 and K.C.C. 27.40.070 A.2.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 9747, Section 4A. and K.C.C. 27.40.040 are hereby amended to read as follows:

27.40.040 Fee Schedule and Establishment of Service Areas.

A. Fee schedules stating the amount of the MPS fee which residential development shall pay for development subject to MPS fees during the calendar year 1991 are set forth in Attachment A hereto, which is incorporated herein by reference as if fully set forth. Fee schedules for subsequent years shall be established pursuant to Section 27.40.050 I. All other development shall pay an MPS fee individually calculated by the department, as set forth in Section 27.40.050 B. The fee schedules also state the MPS administrative fee which all developers shall pay.

B. For purposes of this chapter, the county is divided into service areas as set forth in Attachment B to Ordinance 9747\*, which is incorporated herein by reference as if fully set forth. In each service area, similar types of residential development shall pay the same MPS fee, unless the amount of the fee is altered because:

1. Unusual circumstances exist and the department adjusts the amount of the fee as provided in subsection C below; or

2. The developer submits studies or data showing that the fee as set forth in the applicable schedule or as calculated by the department is in error, as provided in K.C.C. 27.40.110.

C. The department may adjust the standard impact fee as set forth in the fee schedules at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that MPS fees are imposed fairly. The department shall set forth its reasons for adjusting the standard MPS fee in written findings. (Ord. 9747 § 4, 1990).

\* Available in the office of the clerk of the council.

1            SECTION 2. Ordinance 9747, Section 5.D.9. and K.C.C. 27.40.050 D. 9.  
2 are hereby amended to read as follows:

3            27.040.050 Calculation of MPS Fees.

4            A. The department shall calculate the MPS fees set forth in the fee  
5 schedules, K.C.C. 27.40.040A., by means of a computerized modeling system  
6 that:

- 7            1. Incorporates the service areas adopted in K.C.C. 27.40.040B.;
- 8            2. Within each service area of the county, determines the standard  
9 fee for similar types of residential development, which shall be reasonably  
10 related to each development's proportionate share of the cost of the  
11 transportation improvement projects being funded by this chapter and shall  
12 reasonably reflect the average fee for similar development in the same serv-  
13 ice area; and
- 14            3. Reduces the proportionate share by applying the benefit factors  
15 set forth in this chapter.

16            B. When a development's fee is not determined by the fee schedules  
17 adopted in K.C.C. 27.40.040A., the department shall calculate the MPS fee by  
18 means of a computerized modeling system, which is the same system used to  
19 determine the fee schedules, and which:

- 20            1. Determines the development's proportionate share of the cost of  
21 the transportation improvement projects being funded by this chapter; and
- 22            2. Reduces the proportionate share by applying the benefit factors  
23 set forth in this chapter.

24            C. The department's computer model shall calculate proportionate share  
25 for use in both the fee schedules and individual calculations by:

- 26            1. Determining the number of peak hour vehicle trips generated by  
27 development that will benefit from the vehicle capacity added, or to be  
28 added, by the road improvements on the MPS Project List;
- 29            2. Determining the unit cost of added capacity for each MPS project  
30 by dividing the estimated cost of each project by the amount of capacity  
31 added; and
- 32            3. Multiplying the number of peak hour trips added to each MPS pro-  
33 ject by the unit cost of added capacity for those projects.

1 D. In calculating proportionate share, the departments modeling system  
2 shall:

3 1. Recognize that a development's traffic will use a corridor rather  
4 than a particular roadway;

5 2. Use trip generation rates published by the Institute of  
6 Transportation Engineers (ITE) unless:

7 a. Actual measurements or the rate of trip generation by similar  
8 developments in King County are available, and the road engineer determines  
9 that these local measurements are more accurate; or

10 b. ITE trip generation rates for the proposed development are not  
11 available, in which case the road engineer:

12 (1) May use published rates from another source; or

13 (2) May calculate the rate from data about the population of the  
14 proposed development; or

15 (3) May require the developer to obtain actual measurements of  
16 trip generation rates by similar developments in King County;

17 3. Reduce the trip generation rate to reflect reductions in traffic  
18 that the developer can demonstrate will occur because of programs or services  
19 at the development that promote transit or high-occupancy vehicle use. The  
20 developer must prove the extent to which such programs or services will  
21 reduce traffic impacts and must prove that such programs or services will in  
22 fact be implemented and maintained;

23 4. Identify all roadways and intersections that will be impacted by  
24 traffic from each development for as far from the development as the model  
25 can measure;

26 5. Identify when the capacity of an MPS project has been fully  
27 utilized;

28 6. Update the data in the model as often as practicable, but at  
29 least annually;

30 7. Estimate the cost of constructing the projects on the MPS Project  
31 List as of the time they are placed on the list, and then update the cost  
32 estimates at least annually, considering the:

33 a. Availability of other means of funding transportation facility  
improvements;

1           b. Cost of existing transportation facility improvements; and

2           c. Methods by which transportation facility improvements were  
3 financed;

4           8. Update the fee collected against a project which has already been  
5 completed, through an advancement of county funds, at a rate, determined  
6 annually, which is equivalent to the county's return on its investments; and

7           9. Charge a development for the total traffic entering ((~~or~~)) and  
8 exiting the development during the peak hour.

9           E. The department's modeling system shall reduce the calculated pro-  
10 portionate share by giving credit for the following benefit factors:

11           1. A 15% incentive factor for developers who pay the MPS fee, as set  
12 forth in the fee schedule or as individually calculated by the department,  
13 without initiating a challenge pursuant to K.C.C. 27.40.110, in recognition  
14 that some of the trips from a development paying an MPS fee may begin or end  
15 within a jurisdiction with which the county has executed a reciprocal MPS  
16 agreement, or within another development which is or has been subject to MPS  
17 requirements;

18           2. Past or future payments made or reasonably anticipated to be made  
19 by a development to pay for particular transportation improvements in the  
20 form of user fees, debt service payments, taxes or other payments earmarked  
21 for or proratable to the same projects being funded by such development's MPS  
22 fee; and

23           3. The value of any dedication of land for, improvement to, or new  
24 construction of any system improvements provided by the developer, to trans-  
25 portation facilities that are identified in the MPS Project List and that are  
26 required by the county as a condition of approving the development activity;  
27 provided that when an MPS project is constructed on both on-site and off-site  
28 land, the department shall determine, in light of all the circumstances, what  
29 proportion of the developer's costs should fairly and reasonably be attrib-  
30 uted to the work done on off-site land.

31           F. The department shall review the 15% incentive factor annually and  
32 propose revisions to the factor when appropriate to reflect the actual amount

1 of trips generated by new development which also begin or end in other devel-  
2 opments which have previously been subject to a fee for the same impact.

3 G. If the credit determined pursuant to K.C.C. 27.40.050 E.3. exceeds  
4 the amount of the developer's MPS fee, the department shall reimburse the  
5 developer from MPS fees collected from other developers for the same MPS  
6 project.

7 H. The amount of credit determined pursuant to K.C.C. 27.40.050 E.  
8 shall be credited proportionately among all the lots in the development, and  
9 the MPS fee for each lot for which a building permit is applied for shall be  
10 reduced accordingly.

11 I. The department shall use the information from the computerized mod-  
12 eling system to prepare an annual draft fee schedule list. The council  
13 shall, as often as is necessary but at least annually, by ordinance establish  
14 the fee schedule applicable to each service area in the county by adopting,  
15 with or without modification, the department's draft fee schedules.

16 J. The department shall present to the council proposed changes in the  
17 service area boundaries, set forth in K.C.C. 27.40.040 B., as often as is nec-  
18 essary to ensure that the service area boundaries conform to sound planning  
19 or engineering principles.

20 K. To the extent practicable, and in accordance with sound planning or  
21 engineering principles, the department shall develop and propose to the coun-  
22 cil for adoption precalculated fee schedules applicable to types of develop-  
23 ment in addition to residential development. (Ord. 9747 § 5, 1990).

24 SECTION 3. Ordinance 9747, Section 7.A.2. and K.C.C. 27.40.070 are  
25 hereby amended to read as follows:

26 27.40.070 MPS Project List.

27 A. In conjunction with the department's annual review and update of  
28 the Transportation Needs Report (TNR) element of the King County  
29 Transportation Plan, as required by Ordinance No. 9153, the department shall  
30 do the following:

31 1. Identify each project on the TNR that is growth-related and the  
32 proportion of each such project that is growth-related;

33

1           2. Forecast the total monies available from taxes and other public  
2 sources for road improvements over the ((~~subsequent 12 years~~)) multi-year  
3 program;

4           3. Calculate the amount of MPS fees already paid; and

5           4. Identify those MPS projects that have been or are being built but  
6 whose performance capacity has not been fully utilized.

7           B. The department shall use this information to prepare an annual  
8 Draft MPS Project List, which shall comprise:

9           1. The projects on the TNR, in order of priority, that are growth-  
10 related and that are capable of being funded with the forecast public monies  
11 and the MPS fees already paid; and

12           2. The MPS projects already built or funded pursuant to this chapter  
13 whose performance capacity has not been fully utilized.

14           C. The council, at the same time that it adopts the annual budget and  
15 appropriates funds for capital improvement projects, shall by separate ordi-  
16 nance establish the annual MPS Project List by adopting, with or without  
17 modification, the department's draft list.

18           D. Once a project is placed on the MPS Project List, a fee shall be  
19 imposed on every development that impacts the project until the project is  
20 removed from the list by one of the following means:

21           1. The council by ordinance removes the project from the MPS Project  
22 List, in which case the fees already collected will be refunded if necessary  
23 to ensure that the MPS fee remains reasonably related to the traffic impacts  
24 of development that have paid an MPS fee; provided, that a refund shall not  
25 be necessary if the council transfers the fees to the budget of another pro-  
26 ject that the council determines will mitigate essentially the same traffic  
27 impacts; or

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1           2. The capacity created by the project has been fully utilized, in  
2 which case the department shall administratively remove the project from the  
3 MPS Project List. (Ord. 9747 § 7, 1990).

4           INTRODUCED AND READ for the first time this 2<sup>nd</sup> day of  
5 December, 1991.

6           PASSED this 13<sup>th</sup> day of January of 1992

8 KING COUNTY COUNCIL  
9 KING COUNTY

10 Audrey Kruger  
11 Chair

12 ATTEST:

13 Muel Masmo  
14 DEPUTY Clerk of the Council

15           APPROVED this 23<sup>rd</sup> day of January of 1992

16 Jim Hill  
17 King County Executive