

# 10862

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE relating to school impact fees; providing for exemptions for SEPA mitigation and amending the provisions for payments of fees under protest; and amending Ordinance No. 10162, Section 17 and K.C.C. 21.61A.070.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance No. 10162, Section 17 and K.C.C. 21.61A.070 are hereby amended to read as follows:

Adjustments, exceptions, and appeals.

A. The following are ~~((E))~~ excluded from the application of the impact fees; ~~((are))~~

1. any form of housing exclusively for the elderly, including nursing homes and retirement centers, so long as these uses are maintained~~((;))~~;

2. reconstruction, ~~((or))~~ remodeling, or replacement of existing dwelling units which does not result~~((ing))~~ in additional new dwelling units; ~~((or replacement of a pre-existing unit with a new unit. Also excluded from the application of the impact fees are))~~

3. shelters for temporary placement, relocation facilities and transitional housing facilities;

4. any development activity that is exempt from the payment of an impact fee pursuant to RCW 82.02.100, due to mitigation of the same system improvement under the State Environmental Policy Act;

5. any development activity for which school impacts have been mitigated pursuant to a condition of plat or PUD approval to pay fees, dedicate land or construct or improve school facilities, unless the condition of the plat or PUD approval provides otherwise; provided that the condition of the plat or PUD approval predates the effective date of a school district's fee implementing ordinance.

6. any development activity for which school impacts have been mitigated pursuant to a voluntary agreement entered into with a school district to pay fees, dedicate land or construct or improve school facilities, unless the terms of the voluntary agreement provide otherwise; provided that the agreement predates the effective date of a school district's fee implementing ordinance.

7. Housing units which fully qualify as housing for persons age 55 and over meeting the requirements of the Federal Housing Amendments Act of 1988, 42 U.S.C. 3607 (b) (2) (c) and (b) (3), as subsequently amended, and which have recorded covenants or other legal arrangements precluding school-aged children as residents in those units.

1 B. Arrangement may be made for later payment with the approval of the school  
2 district only if the district determines that it will be unable to use or will not need the  
3 payment until a later time, provided that sufficient security, as defined by the district, is  
4 provided to assure payment. Security shall be made to and held by the school district,  
5 which will be responsible for tracking and documenting the security interest.

6 C. The fee amount established in the schedule shall be reduced by the amount of  
7 any payment previously made for the lot or development activity in question, either as a  
8 condition of approval or pursuant to a voluntary agreement with a school district entered  
9 into after the effective date of a school district's fee implementing ordinance.

10 D. ~~((Whenever))~~ After the effective date of a school district's fee implementing  
11 ordinance, whenever a development is granted approval subject to a condition that the  
12 developer actually provide ~~((a))~~ school sites, school facilit((y))ies, or improvements to  
13 school facilities acceptable to the district, or whenever the developer has agreed, pursuant  
14 to the terms of a voluntary agreement with the school district, to provide land, provide  
15 school facilities, or make improvements to existing facilities, the developer shall be  
16 entitled to a credit for the value of the land or actual cost of ~~((providing the~~  
17 ~~facility,))~~ construction against the fee that would be chargeable under the formula provided  
18 by this chapter. The land value or cost of construction shall be estimated at the time of  
19 approval, but must be documented, ~~((, and))~~ If construction costs are estimated, the  
20 documentation shall be confirmed after the construction is completed to assure that an  
21 accurate credit amount is provided. If the land value or construction costs are less than the  
22 calculated fee amount, the difference remaining shall be chargeable as a school impact  
23 fee.

24 E. ~~((With respect to impact fees assessed under the terms of a county ordinance~~  
25 ~~establishing the fee amount, standard i))~~ Impact fees may be adjusted by the county, at the  
26 county's discretion, if one of the following circumstances exist, provided that the discount  
27 set forth in the fee formula fails to adjust for the error in the calculation or fails to  
28 ameliorate for the unfairness of the fee:

29 1. ~~((a:))~~ The developer demonstrates that an impact fee assessment was  
30 incorrectly calculated; or

31 2. ~~((b:))~~ Unusual circumstances identified by the developer demonstrate that  
32 if the standard impact fee amount was applied to the development, it would be unfair or  
33 unjust.

34 ~~((2. Fee adjustments shall follow the process for appeal of the underlying~~  
35 ~~application.))~~

1 F. A developer may provide studies and data to demonstrate that any particular  
2 factor used by the district may not be appropriately applied to the development proposal,  
3 but the district's data shall be presumed valid unless clearly demonstrated to be otherwise  
4 by the proponent.

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

12 H. Impact fees may be paid under protest in order to obtain a building permit or  
13 other approval of development activity. (~~(, but if the fee is protested, the county shall make~~  
14 ~~construction or development pursuant to the issuance of any approval or permit so~~  
15 ~~obtained conditional upon final resolution of the protest, if failure to pay the fee would~~  
16 ~~otherwise require a denial or deferral of the project.)~~)

17 Section 2. Severability. If any provision of this ordinance or its application to any  
18 person or circumstance is held invalid, the remainder of the ordinance or the application  
19 of the provision to other persons or circumstances is not affected.


20 INTRODUCED AND READ for the first time this 5<sup>th</sup> day of April, 1993.

21 PASSED this 7<sup>th</sup> day of June, 1993.

22 KING COUNTY COUNCIL  
23 KING COUNTY, WASHINGTON

24   
25 VICE Chair

26 ATTEST:

27   
28 Clerk of the Council

29 APPROVED this 18<sup>th</sup> day of June, 1993.

30   
31 King County Executive

32 Attachments: