CITY OF SNOHOMISH
Snohomish, Washington

ORDINANCE 2313

AN ORDINANCE OF THE CITY OF SNOHOMISH, WASHINGTON, AMENDING THE CITY'S DEVELOPMENT CODE AS SET FORTH IN TITLE 14 OF THE SNOHOMISH MUNICIPAL CODE (SMC) BY AMENDING CHAPTER 14.290 ENTITLED "SCHOOL IMPACT FEES" RELATING TO THE PROCESS TO DEFER THE PAYMENT OF SCHOOL IMPACT FEES FOR NEW SINGLE FAMILY DETACHED OR ATTACHED RESIDENSES; BY AMENDING CHAPTER 14.295 ENTITLED "TRAFFIC IMPACT FEES" RELATING TO THE PROCESS TO DEFER THE PAYMENT OF TRAFFIC IMPACT FEES FOR NEW SINGLE FAMILY DETACHED OR ATTACHED RESIDENSES; BY AMENDING CHAPTER 14.300 ENTITLED "PARK IMPACT FEES" RELATING TO THE PROCESS TO DEFER THE PAYMENT OF PARK IMPACT FEES FOR NEW SINGLE FAMILY DETACHED OR ATTACHED RESIDENSES; PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE

WHEREAS, pursuant to Title 14 of the Snohomish Municipal Code (SMC), the City has adopted a Land Use Development Code ("Development Code") to implement the Comprehensive Plan and to promote orderly growth and development in the City; and

WHEREAS, RCW 82.02.050 and 82.02.060 authorize cities to adopt by ordinance a schedule of impact fees to ensure that adequate facilities are available to serve new growth and development; and

WHEREAS, RCW 82.02.050(2) authorizes cities that are required to plan under RCW 36.70A.040, which includes the City of Snohomish, to impose impact fees on development activity as part of the financing of public facilities, provided that the financing for system improvements to serve new development must provide for a balance between impact fees and other sources of public funds and cannot rely solely on impact fees; and

WHEREAS, RCW 82.02.050(4) authorizes impact fees to be collected and spent only for the public facilities defined in RCW 82.02.090 addressed in a capital facilities plan element of a comprehensive land use plan adopted pursuant to the provisions of RCW 36.70A.070 that identifies: (a) deficiencies in public facilities serving existing development and the means by which existing deficiencies will be eliminated within a reasonable period of time; (b) additional demands placed on existing public facilities by new development; and (c) additional public facility improvements required to serve new development; and

WHEREAS, the City has adopted 14.290 SMC, related to the collection of School Impact Fees, 14.295 SMC related to the collection of Traffic Impact Fees, and 14.300 SMC related to the collect of Park Impact Fees; and

WHEREAS, the Washington State Legislature passed Engrossed Senate Bill (ESB) 5923 as part of the 2015 legislative session; and

WHEREAS, ESB 5923 requires cities and counties, collecting impact fees authorized by RCW 82.02, to provide an optional process for the deferred collection of impact fees for single family attached or detached residences; and

WHEREAS, pursuant to SMC 14.15.070 and RCW 36.70A.106, the City has notified the Washington State Department of Commerce of the City's intent to adopt the proposed amendments to the City's Development Code; and

WHEREAS, acting as the City of Snohomish SEPA Responsible Official, the City Planning Director reviewed the proposed amendments and determined the proposal is exempt from SEPA review pursuant to Section 197-11-800(19) of the Washington Administrative Code; and

WHEREAS, on June 1, 2016, a public hearing on the proposed amendments was held by the Snohomish Planning Commission, and all persons wishing to be heard were heard; and

WHEREAS, on July 5th, 2016, a public hearing on the proposed amendments was held by the Snohomish City Council, and all persons wishing to be heard were heard;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SNOHOMISH, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Adoption of Planning Commission Findings and Recommendation. The Planning Commission findings are hereby adopted and incorporated herein by reference, including but not limited to the findings that the Development Code amendments adopted by this Ordinance are:

a. Internally consistent with the City of Snohomish Comprehensive Plan;
b. Consistent with the Washington State Growth Management Act;
c. Consistent with the Washington State Environmental Policy Act (Chapter 43.21C RCW); and
d. In the interest of the public health, safety, and welfare of Snohomish residents.

Section 2. Amendment of Chapter 14.290 SMC. SMC Sections 14.290.120 and 14.290.125 are hereby amended and added to 14.290 SMC as set forth in the attached **Exhibit A** and is incorporated herein by this reference.

Section 3. Amendment of Chapter 14.295 SMC. SMC Sections 14.295.130 and 14.295.135 are hereby amended and added to 14.295 SMC as set forth in the attached **Exhibit B** and is incorporated herein by this reference.

Section 4. Amendment of Chapter 14.300 SMC. SMC Sections 14.300.060 and 14.300.065 are hereby amended and added to 14.300 SMC as set forth in the attached **Exhibit C** and is incorporated herein by this reference.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase, or word of this ordinance.

Section 6. Effective Date. This ordinance shall be effective five days after adoption and publication by summary.

ADOPTED by the City Council and **APPROVED** by the Mayor this 19th day of July, 2016.

CITY OF SNOHOMISH

By _____
Karen Guzak, Mayor

ATTEST:

By _____
Pat Adams, City Clerk

APPROVED AS TO FORM:

By _____
Grant K. Weed, City Attorney

EXHIBIT A

Chapter 14.290

SCHOOL IMPACT FEES

Sections:

14.290.010 Purpose. The regulations contained in this chapter are necessary for the protection and preservation of the public health, safety, and general welfare of the citizens of the City of Snohomish. The public school system which serves City residents is unable to provide the services required to meet the educational needs of the growing community. The purposes of this chapter are (1) to ensure that adequate school facilities are available to serve new growth and development; and (2) to require that new growth and development pay a proportionate share of the costs of new school facilities needed to serve new growth and development.

14.290.020 Applicability. The terms of this title shall apply to all residential development as defined herein for which a complete application for approval has been submitted on or after the effective date of this chapter.

14.290.030 Incorporation of School District Capital Facilities Plan as a Sub-Element of the City Capital Facilities Plan. By separate ordinance, the City Council has adopted and incorporated by reference the Capital Facilities Plan of the Snohomish School District as a sub-element of the Capital Facilities Element of the City's Comprehensive Plan. The necessary school facilities and the methodology and schedule of school impact fees set forth in the School

District's Capital Facilities Plan shall constitute the basis for the school impact fees established in SMC 14.290.040.

14.290.040 Establishment of Impact Fees. As a condition of approval of all development or development activity, as defined herein, or as a condition of issuance of a building permit for existing undeveloped lots, the City will require mitigation of adverse impacts on school services pursuant to the State Growth Management Act, RCW 36.70A, RCW 82.02 and this chapter. School impact fee amounts shall be based on the Snohomish School District's adopted Capital Facilities Plan in the amounts shown in the adopted fee resolution No. 1340 as it now reads or is hereafter amended. (Ord. 2196, 2010; Ord. 2242, 2012; Ord. 2299, 2016)

14.290.050 Exemptions from Impact Fees. Accessory dwelling units, as defined in this title, are exempt from the requirements of this chapter. (Ord. 2196, 2010)

14.290.060 Procedure for Determining Mitigation Impacts. Approval of residential development by the City shall be contingent upon the project proponents documenting to the satisfaction of the City the projects adverse impacts on existing primary and secondary public educational improvements identified by this chapter and the School District's Capital Facilities Program. Documentation shall consist of a letter from the Snohomish School District stating that monetary, land, or comparable in-kind mitigation which meets the requirements of this chapter have been made by the project proponent.

14.290.070 Method for Calculating Impact Fees. The method and formula for determining any required school impact mitigation shall be as established by the Snohomish School District in its capital facilities plan and as adopted by the City of Snohomish in its Comprehensive Plan and this chapter. The school impact fees shall be in conformance with the schedule set forth in SMC 14.290.040.

14.290.080 Administrative Adjustment of Fee Amount.

A. Within 14 days of acceptance by the City of a building permit application a developer or school district may appeal to the Planner for an adjustment to the fees imposed by this title. The City Planner may adjust the amount of the fee, in consideration of studies and data submitted by the developer and any affected district, if one of the following circumstances exists:

1. It can be demonstrated that the school impact fee assessment was incorrectly calculated;
2. Unusual circumstances of the development demonstrate that application of the school impact fee to the development would be unfair or unjust;

3. A credit for in-kind contributions by the developer is warranted; or

4. Any other credit specified in RCW 82.02.060(1)(b) may be warranted.

B. To avoid delay pending resolution of the appeal, school impact fees may be paid under protest in order to obtain development approval.

C. Failure to exhaust this administrative remedy shall preclude appeals of the school impact fee pursuant to SMC 14.290.190 below.

14.290.090 School District Impact Area. The service area for which a subdivision or residential development shall be considered to have impacted, shall be the entire Snohomish School District. The District encompasses a geographic area in excess of that of the City of Snohomish; therefore, impact fees cannot be directly attributable to a specific geographic area at all times. This is particularly true for junior and senior high schools. The School District shall, however, attempt to designate impact mitigation for elementary schools, as much as possible, to the general geographic area in which the subdivision or residential development is located, especially in such cases where the school population for the subdivision or Snohomish Municipal Code residential development is within what is considered normal walking distances between home and an elementary school or school site.

14.290.100 Comparable In-Kind Mitigation Option. The Snohomish School District and the proponent of the project may consider in-kind options to satisfy the mitigation obligation. Land dedication, site preparation, provision of portable units, equipment purchases, and other in-kind mitigation options equivalent in value to the dollar amount required for mitigation may be utilized if acceptable to the School District, so long as the mitigation is found by the School District to be equal to the impact fees otherwise due under this chapter.

14.290.110 Credit for Payment or Obligation Previously Incurred. The dollar value of comparable in-kind mitigation shall be credited against the dollar amount of mitigation required pursuant to this chapter. If the dollar value of comparable in-kind mitigation or any impact element exceeds the dollar amount required for mitigation for that element, the project proponent shall be reimbursed from impact mitigation monies collected for the same or similar mitigation for subsequent projects. Any process or schedule for reimbursement shall be negotiated between the project proponent and the School District, a copy of which will be forwarded to the City of Snohomish to be included in the file for the project, prior to final development approval.

14.290.120 Time of Performance for Mitigation of Impact. Payment of any required school impact fees or in-kind contribution shall be made prior to the issuance of a building permit unless the project proponent elects to defer payment utilizing the process outlined in 14.290.125. A project proponent may elect to pay before the final plat is approved for the lots within a subdivision or residential development. Such election to pay shall be noted by a covenant placed on the deed for each affected lot within the subdivision or residential development. When a subdivision or residential development is conditioned upon the performance of a comparable in-kind mitigation, a final plat shall not be recorded, and no building permit for any individual lot shall be issued until the School District indicates in writing to the City that such in-kind mitigation has been satisfactorily completed.

14.290.125 Single-Family Residential Deferral Program. An applicant for a building permit for a single-family detached or attached residence may request a deferral of the full impact fee payment until final inspection or 18 months from the date of original building permit issuance, whichever occurs first. Deferral of impact fees are considered under the following conditions:

A. An applicant for deferral must request the deferral no later than the time of application for a building permit.

B. To receive a deferral, an applicant must:

1. Submit a deferred impact fee application and acknowledgment form for each single-family attached or detached residence for which the applicant wishes to defer payment of the impact fees on a form to be provided by the city;

2. Pay the applicable administrative fee as established by resolution or ordinance of the city;

3. Grant and record at the applicant's expense a deferred impact fee lien in a form approved by the city against the property in favor of the city in the amount of the deferred impact fee that:

    a. Includes the legal description, tax account number, and address of the property;

    b. Requires payment of the impact fees to the city prior to final inspection or 18 months from the date of original building permit issuance, whichever occurs first;

    c. Is signed by all owners of the property, with all signatures acknowledged as required for a deed recorded in Snohomish County;

    d. Binds all successors in title after the recordation; and

    e. Is junior and subordinate to one mortgage for the purpose of construction upon the same real property granted by the person who applied for the deferral of impact fees.

4. The amount of impact fees deferred shall be determined by the fees in effect at the time the applicant applies for a deferral.

5. The city shall withhold final inspection until the impact fees have been paid in full. Upon receipt of final payment of impact fees deferred under this subsection, the city shall execute a release of deferred impact fee lien for each single-family attached or detached residence for which the impact fees have been received. The applicant, or property owner at the time of release, shall be responsible for recording the lien release at his or her expense.

6. The extinguishment of a deferred impact fee lien by the foreclosure of a lien having priority does not affect the obligation to pay the impact fees as a condition of final inspection.

7. If impact fees are not paid in accordance with the provisions of this chapter and in accordance with the term provisions established herein, the city may institute foreclosure

proceedings in accordance with RCW 61.12.

8. Each applicant for a single-family attached or detached residential construction permit, in accordance with his or her contractor registration number or other unique identification number, is entitled to annually receive deferrals under this section for the first 20 single-family residential construction building permits.

14.290.130 Use of Impact Mitigation Funds. The Snohomish School District shall use mitigation impact funds received under this chapter to meet its Capital Facilities Plan, so long as said mitigation funds received are used in the same manner as mitigation funds received from subdivisions and residential developments from outside of the City limits of the City of Snohomish; and further provided the use of said mitigation funds results in improvements to district-wide student housing.

14.290.140 Unacceptable Impact Levels.

A. The City shall review residential development proposals pursuant to all applicable state and local laws and regulations, including the State Environmental Policy Act (Chapter 43.21C RCW), the State Subdivision Law (Chapter 58.17 RCW), and the applicable sections of the Snohomish Municipal Code. Following such review, the City may condition or deny development approval as necessary or appropriate to mitigate or avoid significant adverse impacts to school facilities, to assure that appropriate provisions are made for schools, school grounds, and safe student walking conditions, and to ensure that development is compatible and consistent with each district's services, facilities, and capital facilities plan.

B. Impact fees required by this chapter for development, together with compliance with development regulations and other mitigation measures offered or imposed at the time of development review, shall constitute adequate mitigation for all of a development's specific adverse environmental impacts on the school system for the purposes of Chapter 14.90 SMC. Nothing in this chapter prevents a determination of significance from being issued, the application of new or different development regulations, and/or requirements for additional environmental analysis, protection and mitigation measures to the extent required by applicable law.

14.290.150 Impact Fee Schedule Exemptions. The Council may, on a case-by-case basis, grant exemptions to the application of the fee schedule for low-income or senior housing that achieves broad public purposes as defined in Chapter 14.05.020 SMC, and authorized by and in accordance with the conditions specified under RCW 82.02.060(2). To qualify for the exemption, the developer of such housing shall submit a petition to the Planner for consideration by the Council prior to application for building permit. Conditions for such approvals shall be established by the Council at the time of approval that, at a minimum, meet the requirements of RCW 82.02.060(2), and which shall also include a requirement for a covenant to assure the project's continued use for low-income or senior housing. The covenant entered into by and between the developer and the City shall be an obligation that runs with the land, and shall be recorded against the title of the real property upon which such housing is located in the real

property records of the City of Snohomish. The covenant shall be reviewed and approved as to form by the City Attorney.

14.290.160 Impact Fee Limitations.

A. School impact fees shall be imposed for District capital facilities that are reasonably related to the development under consideration, shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the development, and shall be used for system improvements that will reasonably benefit the new development.

B. School impact fees must be expended or encumbered for a permissible use within six years of receipt by the District.

C. To the extent permitted by law, school impact fees may be collected for capital facilities costs previously incurred to the extent that new growth and development will be served by the previously constructed capital facilities, provided that school impact fees shall not be imposed to make up for any existing system deficiencies.

D. A developer required to pay a fee pursuant to RCW 43.21C.060 for capital facilities shall not be required to pay a school impact fee pursuant to RCW 82.02.050 - .090 and this title for the same capital facilities.

14.290.170 Revision of School District CFP. The Snohomish School District must review and update its CFP biennially in order for this ordinance to remain in effect. The CFP must be submitted in reasonable time for City review in advance of the expiration of the current CFP. The City will accept the updated CFP by adopting the Snohomish School District CFP as part of the City CFP in the City Comprehensive Plan and annual budget. (Ord. 2196, 2010)

14.290.180 Annual Report. The Snohomish School District must submit to the City annually a report in accordance with the requirements of RCW 82.02.070 showing the system improvements that were financed in whole or in part by impact fees and the amount of funds collected, expended and held for future improvements. The annual report shall be sent to the City on or before April 1 of each year for the preceding calendar year.

14.290.190 Appeals. Appeals of mitigation requirements imposed pursuant to this title shall be as provided in Chapter 14.75 of the Snohomish Municipal Code.

EXHIBIT B

TRAFFIC IMPACT FEES AND MITIGATION

Sections:

14.295.010 Findings. The City Council finds as follows:

A. The acquisition, construction, and improvement of streets to serve new developments in the City of Snohomish is a major burden upon City government; the City is experiencing a rapid, large-scale increase in intensity of land use and in population growth; rapid growth creates large "front-end" demands for City services, including streets, and causes increased street usage; existing and projected City funds are not adequate to meet the public's projected street needs; failure to ensure that street improvements are made as traffic increases cause severe safety problems, impedes commerce, and interferes with the comfort and repose of the public; and the provisions of this Chapter are necessary to preserve the State Legislature's intent that the City, in the exercise of reasonable discretion, retains ultimate responsibility for City services and the City's financial integrity.

B. The City has the power under existing law to condition development and require street improvements reasonably related to the traffic impact of a proposed development, and it is appropriate and desirable to set out in this Chapter what will be required of developments and to establish a uniform method of treatment for similar development impacts on the City street system.

C. The Growth Management Act (GMA), RCW 36.70A.070(6)(b), requires that "local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level-of-service on a transportation facility to decline below the

standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development" and that: "For the purposes of this subsection (6) 'concurrent with development' shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years."

D. This Chapter is consistent with and implements the City's Comprehensive Plan adopted pursuant to Chapter 36.70A RCW.

E. The total benefits of certain transportation demand management measures in reducing marginal trips are projected to significantly outweigh the total costs.

F. The regulations contained in this Chapter are necessary for the protection and preservation of the public health, safety and general welfare.

14.295.020 Declaration of Purpose.

A. The purpose of this Chapter is to ensure that the public health, safety and welfare will be preserved by having safe and efficient streets serving new and existing developments by requiring development to mitigate traffic impacts, which may include a proportionate share payment reasonably related to the traffic impact of the proposed development and construction of street improvements and dedication of right-of-way reasonably necessary as a result of the direct traffic impact of proposed developments.

B. Chapter 14.295 SMC is intended to ensure that City policy for the provision of safe and adequate access and the allocation of responsibility for immediate or future street improvements necessitated by new development is fairly and consistently applied to all developments.

C. This Chapter requires the analysis and mitigation of a development's traffic impact on the City street system. In order to quantify the continuing need for street improvements on the City street system anticipated by projected growth, the Public Works Department is authorized to develop and update the Transportation Facilities Plan based on and consistent with the Comprehensive Plan's Transportation Element. The Transportation Facilities Plan shall be used in evaluating the traffic impact of developments and determining necessary mitigation of such impacts.

14.295.030 Relationship to Environmental Impacts.

A. The requirements of this Chapter, together with the Comprehensive Plan and the City's other development regulations and policies adopted pursuant thereto, shall constitute the policies of the City under the GMA and the State Environmental Policy Act, Ch. 43.21C RCW, (SEPA) for the review of development and the determination of significant adverse environmental impacts and imposition of mitigation requirements due to the impacts of development on the transportation system.

B. Measures required by this Chapter shall constitute adequate mitigation of adverse or

significant adverse environmental impacts on the street system for the purposes of SEPA, to the extent that the City determines the specific impacts of the development are adequately addressed by this Chapter in accordance with SEPA.

C. In accordance with RCW 43.21C.065 and RCW 82.02.100, a person required to make a proportionate share mitigating payment under a SEPA payment program or pay a traffic impact fee under this Chapter shall be required to make a payment or pay a fee pursuant to either SEPA or the GMA, but not both, for the same system improvements.

14.295.040 Definitions.

A. Approving authority. "Approving authority" means the City employee, agency or official having authority to issue the approval or permit for the development involved.

B. Arterial unit. "Arterial unit" means a street, segment of a street, or portion of a street or a system of streets, including an intersection, consistent with the level-of-service methodology adopted in the City Comprehensive Plan and consistent with the criteria established by the Director, for the purpose of making level-of-service concurrency determinations.

C. Arterial Unit in arrears. "Arterial unit in arrears" means any arterial unit operating below the adopted level-of-service standard adopted in the Comprehensive Plan, except where improvements to such a unit have been programmed in the City six-year Transportation Improvement Program adopted pursuant to RCW 36.81.121. with funding identified that would remedy the deficiency within six years.

D. Capacity improvements. "Capacity improvements" means any improvements that increase the vehicle and/or people moving capacity of the street system.

E. Comprehensive Plan. "Comprehensive Plan" means the generalized, coordinated land use policy statement of the City adopted pursuant to Chapter 36.70A RCW, which may include a land use plan, a capital facilities plan, a Transportation Element, subarea plans, and any such other documents or portions of documents identified as constituting part of the Comprehensive Plan under Chapter 36.70A RCW.

F. Dedication. "Dedication" means conveyance of land to the City for street purposes by deed or some other instrument of conveyance or by dedication on a duly filed and recorded plat or short plat.

G. Department. "Department" means the City of Snohomish Public Works Department.

H. Developer. "Developer" means the person applying for or receiving a permit or approval for a development.

I. Development. "Development" means all activities that require the following types of City permits or approvals: subdivisions, short subdivisions, industrial or commercial building permits, conditional use permits, recorded development plans, or building permits (including building permits for multi-family and duplex residential structures, and all similar uses),

changes in occupancy and other applications pertaining to land uses; provided that "development" does not include building permits for single-family residential dwellings, attached or detached accessory apartments, or duplex conversions, on existing tax lots.

J. Direct traffic impact. "Direct traffic impact" means any new vehicular trip added by new development to the City street system.

K. Director. "Director" means the City of Snohomish Department of Public Works Director or his/her authorized designee.

L. Frontage improvements. "Frontage improvements" means improvements on streets abutting a development and tapers thereto required as a result of a development. Generally, frontage improvements shall consist of appropriate base materials, curb, gutter, sidewalk, storm drainage improvements, bus pullouts and waiting areas where necessary, bicycle lanes and bicycle paths where applicable, and lane improvements.

M. Highway capacity manual. "Highway capacity manual" means the Highway Capacity Manual, Special Report 209, Transportation Research Board, National Research Council, 1985, 2101 Constitution Avenue, Washington, D.C., amendments thereto, and any supplemental editions or documents published by the transportation research board adopted by the U.S. Department of Transportation, Federal Highway Administration.

N. Inadequate street condition. "Inadequate street condition" means any street condition, whether existing on the street system or created by a new development's access or impact on the street system, which jeopardizes the safety of street users, including no automotive users, as determined by the City engineer in accordance with the Department policy and procedure for the determination of inadequate street conditions.

O. Level-of-service. "Level-of-service" or "LOS" means a qualitative measure describing operational conditions within a traffic stream and the perception thereof by street users. Level-of-service standards may be evaluated in terms such as speed and travel time, freedom to maneuver, traffic interruptions, comfort, convenience, geographic accessibility, and safety. The highway capacity manual defines six levels of service for each type of facility for which analysis procedures are available. They are given letter designations, LOS A to F, with LOS A representing the best operating condition, and LOS F the worst. For the purposes of this Chapter, level-of-service will be measured only on arterial units.

P. Offsite street or street improvement. "Offsite street or street improvement" means an improvement, except a frontage improvement, to an existing or proposed City street, which improvement is required or recommended in accordance with this Chapter.

Q. Public agency. "Public agency" means any school district, public water, sewer or utility district, fire district, airport district, public transportation benefit area, or local government agency, seeking a land use permit or approval reviewed under this Chapter.

R. Street. "Street" means an open, public way for the passage of vehicles, that where

appropriate, may include pedestrian, equestrian and bicycle facilities. Limits include the outside edge of sidewalks, or curbs and gutters, paths, walkways, or side ditches, including the appertaining shoulder and all slopes, ditches, channels, waterways, and other features necessary for proper drainage and structural stability within the right-of-way or access easement.

S. Street system. "Street system" means those existing or proposed City streets within the transportation service area.

T. Transportation Element. "Transportation Element" means the element of the City's Comprehensive Plan that consists of transportation goals and policies, an inventory of transportation facilities and services, adopted level of service standards for the street system, an analysis of the street system's deficiencies and needs, prioritized street system improvements and management strategies, and a multiyear financial plan, adopted pursuant to Ch. 36.70A RCW.

U. Transportation Facilities Plan. "Transportation Facilities Plan" means the City approved document containing the prioritized improvements and projects designated by the City to implement the six-year Transportation Improvement Program.

V. Transportation service area. "Transportation service area" means the entire geographic area of the City, as identified and utilized in the Transportation Element for the purpose of evaluating the transportation impacts of development, determining proportionate shares of needed transportation improvements, and allocating revenue to transportation improvement projects.

14.295.050 Street System Policy-General Provisions.

A. Applicability to development. Any application for approval of a permit for a development in the City of Snohomish is subject to the provisions of this Chapter.

B. Director's recommendation: approval.

1. In approving or permitting a development, the approval authority shall consider the Director's recommendations and act in conformity with this Chapter.

2. The Director shall only recommend approval of a development, if, in the Director's opinion, adequate provisions for City streets, access, and mitigation of the transportation impacts of the development are made as provided in the City's development regulations, SEPA, and this Chapter.

3. The Director shall only recommend approval of a development if the development is deemed to be concurrent in accordance with this Chapter.

C. Excessive expenditure of public funds. If the location, nature, and/or timing of a proposed development necessitates the expenditure of public funds in excess of those currently available for the necessary street improvement or is inconsistent with priorities established to serve the general public benefit, and if provision has not otherwise been made to meet the mitigation requirements as provided in this Chapter, the City may refuse to approve or grant

a permit for development. As an alternative, the City may allow the developer to alter the proposal so that the need for street improvement is lessened or may provide the developer with the option of bearing all or more than the development's proportionate share of the required street improvement costs.

D. Development mitigation obligations. Any application for approval of a permit for a development shall be reviewed to determine any requirements or mitigation obligations that may be applicable for the following:

1. Impact on street system capacity;

2. Impact on specific level-of-service deficiencies;

3. Impact on specific inadequate street condition locations;

4. Frontage improvements requirements;

5. Access and transportation system circulation requirements;

6. Dedication or deeding of right-of-way requirements;

7. Transportation demand management measures.

E. Street system capacity requirements. The direct traffic impacts of any development on the capacity of all intersections, arterials and non-arterials in the street system identified as needing future capacity improvements in the currently adopted Transportation Element will be mitigated either by constructing street improvements which offset the traffic impact of the development or by paying the development's share of the cost of the future capacity improvements.

F. Level-of service standards.

1. As required by RCW 36.70A.070(6)(a), standards for levels of service on City arterials have been adopted by the City in the Comprehensive Plan. The Department will plan, program and construct transportation system capacity improvements for the purpose of maintaining these adopted level-of-service standards in order to facilitate new development that is consistent with the Comprehensive Plan.

2. In accordance with RCW 36.70A.070(6)(b), no development will be approved which would cause the level-of-service on any arterial unit or intersection to fall below the adopted level-of-service standards unless improvements are programmed and funding identified which would remedy the deficiency within six years.

3. When the City Council determines that excessive expenditure of public funds is not warranted for the purpose of maintaining adopted level-of-service standards on an intersection or arterial unit, the City Council may designate by motion such intersection

or arterial unit as being at ultimate capacity. Improvements needed to address operational and safety issues may be identified in conjunction with such ultimate capacity designation.

G. Inadequate pre-existing street condition.

1. Mitigation of impacts on inadequate pre-existing street conditions is required in order to improve inadequate streets in accordance with adopted standards, prior to dealing with the impacts of traffic from new development. If such inadequate conditions are found to be existing in the street system at the time of development application review and the development will put three or more p.m. peak-hour trips through the identified locations, the development may be approved only if provisions are made in accordance with this Chapter for improving the inadequate street conditions.

2. The Public Works Director shall make determinations of street inadequacy in accordance with Department policies, standards, and procedures, as adopted pursuant to this Chapter.

H. Frontage improvements. All developments will be required to make frontage improvements in accordance with City standards.

I. Access and transportation circulation requirements. All developments shall be required to provide for access and transportation circulation in accordance with the Comprehensive Plan and the development regulations applicable to the particular development, to design and construct such access in accordance with the adopted engineering design and development standards, and to improve existing streets that provide access to the development in order to comply with adopted design standards.

J. Right-of-way requirements. As provided for by RCW 82.02.020, all developments, as a condition of approval, will be required to deed or dedicate property, as appropriate pursuant to City standards, when to do so is found by the Director or a City approval authority to be reasonably necessary as a direct result of the proposed development for improvement, use, or maintenance of the street system serving the proposed development.

K. Development permit application completeness. For purposes of this Chapter, permit applications for development shall be determined to be complete in accordance with the complete application provisions as defined in the applicable development regulations in accordance with Chapter 36.70B RCW. A development permit application shall not be considered complete until all traffic studies or data required in accordance with this Chapter and/or as specified in a preapplication meeting conducted pursuant to Title 14 SMC are received. Review periods and time limits shall be established in Title 14 SMC in accordance with Chapter 36.70B RCW.

L. Director authorization for administrative policies and technical standards and procedures. The Director is hereby authorized to produce and maintain administrative policies and technical standards and procedures in order to administer this Chapter. The policies, standards, and procedures shall cover the transportation-related aspects of processing land

use applications and shall set forth any necessary procedural requirements for developers to follow in order for their applications to be processed by staff in an efficient manner. The Director shall produce administrative policies and technical standards and procedures on at least the following topics:

1. Traffic studies: scoping, elements, processing.

2. Level-of-service determination: methodology, data collection.

3. Transit compatibility: transit supportive criteria.

4. Inadequate street conditions: criteria for identification.

5. Frontage improvements: standards, variables.

6. Mitigation measures: extent, timing, agreements.

14.295.060 Traffic Study.

A. When required. In order to provide sufficient information to assess a development's impact on the street system, developments adding three or more p.m. peak-hour trips will be required to provide a traffic study when it has been determined that there is not sufficient information existing in the Department's database to adequately assess the traffic impacts of the development. The traffic study will consist of at least a traffic generation and distribution analysis. The Director may require that additional information be provided on impacts of the development to level-of-service of affected streets, inadequate street conditions, adequacy of the proportionate share calculations of any voluntary payments required under this Chapter to reasonably or adequately mitigate impacts of the proposed development, and conformance with the Comprehensive Plan's Transportation Element. The Director may determine at a pre-application conference the need for a study and the scope of analysis of any needed study.

B. Waiver. If, in the opinion of the Director, there is sufficient information known about a development's street system impacts from previous traffic studies, the Director may waive the requirement for a traffic study and so state the waiver determination in the preapplication meeting. In such cases, the existing information will be used to establish any necessary traffic mitigation requirements to be recommended in the review of the development.

14.295.070 Determination of Street System Obligations.

A. Applications which have a prior SEPA threshold determination establishing developer obligation for the transportation impacts prior to the enactment of this Chapter shall be vested under the development obligation identified under SEPA.

B. A determination of developer obligation shall be made by the City before approval of preliminary plats, short subdivisions, and conditional use permits. For other development approvals, the determination of developer obligation shall be made prior to issuance of a building permit.

C. Mitigation measures imposed as conditions of a development approval shall remain valid until the expiration date of the concurrency determination for the development. Any building permit application submitted after the expiration date shall be subject to full reinvestigation of traffic impacts under this Chapter before the building permit can be issued. Determination of new or additional impact mitigation measures shall take into consideration, and may allow credit for, mitigation measures fully accomplished in connection with approval of the development or prior building permits pursuant to a recorded development plan, only where those mitigation measures addressed impacts of the current building permit application.

D. The Director, following review of any required traffic study and any other pertinent data, shall inform the developer in writing what the development's impacts and mitigation obligations are under this Chapter. The developer shall make a written proposal for mitigation of the development's traffic impact, except when such mitigation is by payment of any impact fee under the authority provided to the City under RCW 82.02.050(2). When the developer's written proposal has been reviewed for accuracy and completeness by the Director, the Director shall make a recommendation to the City approval authority, as to the concurrency determination and conditions of approval or reasons for recommending denial of the development application, citing the requirements of this Chapter.

E. Any request to revise a proposed development, following the determination of developer obligations and approval of the development, which causes an increase in the traffic generated by the development, or a change in points of access, shall be processed in the same manner as an original application except where the Director determines that such revision may be administratively approved.

14.295.080 Street System Capacity Requirements.

A. All developments must mitigate their impact upon the future capacity of the street system either by constructing offsite street improvements, which offset the traffic impacts of the development, or by paying the development's proportionate share cost of the future capacity improvements.

B. Construction option.

1. If a developer chooses to mitigate the development's impact to the street system capacity by constructing offsite street improvements, the developer must investigate the impact, identify improvements, and offer a construction plan to the Director for construction of the offsite improvements.

2. When two or more developers have agreed to fully fund a certain improvement, the proportionate sharing of the costs shall be on any basis that the developers agree among themselves would be equitable. Under such an arrangement, the terms of the agreement shall be binding on each development as a condition of approval.

3. Any developer who volunteers to construct more than the development's share of the cost of offsite improvements may apply for a reimbursement contract.

C. Payment option.

1. If a developer chooses to mitigate the development's impact by making a proportionate share mitigating payment, the development's share of the cost of future capacity improvements will be calculated as set forth in SMC 14.295.090.

2. Any developer who volunteers to pay more than the development's share of the cost of offsite improvements may apply for a reimbursement contract.

14.295.090 Traffic Impact Fee.

A. The proportionate share fee amount shall be calculated in the Comprehensive Plan's Transportation Element and in the Transportation Facilities Plan.

14.295.095 Traffic Impact Fee Exemption.

A. Application For Traffic Impact Fee Exemption.

Any developer applying for or receiving a building permit, which meets the criteria set forth in Subsection B below, may apply to the City Planner for an exemption from the traffic impact fee established pursuant to SMC 14.295.090. Said application shall be on forms provided by the City and shall be accompanied by all information and data the City deems necessary to process the application. To the extent it is authorized by law, the City shall endeavor to keep all proprietary information submitted with said application confidential, provided, however, that this ordinance shall not create or establish a special duty to do so.

B. Exemption Criteria. To be eligible for the traffic impact fee exemption, the applicant shall meet each of the following criteria:

1. The applicant must be a new commercial retail business within the Snohomish city limits that applies for a building permit or must be an existing commercial business that applies for a building permit for a major expansion of an existing building. For the purposes of this Section, "commercial retail business" shall mean any business, which sells retail goods and services that are subject to the retail sales tax provisions of Chapter 3.27 SMC and which is subject to payment of traffic impact fees pursuant to this Chapter.

2. Based on similar retail business sales or other reliable data, as determined by the City, the applicant must demonstrate that it is likely to generate to the City of Snohomish the City's portion of sales and use tax revenue in the average annual amount of at least $100,000, based upon the three year period commencing from the date of the applicant's certificate of occupancy. In the case of a major expansion of an existing business, the applicant must demonstrate that the expansion is likely to generate an increase of at least $100,000 more in average annual sales and use tax to the City than is generated by the applicant's existing business.

3. The applicant must be a new retail business located within one of the following land use designations: Commercial, Historic Business District, Business Park, Industry, Airport Industry, and Mixed Use.

4. For the purposes of this Section, the applicant shall not be allowed to aggregate sales and use tax revenue from more than one business that the applicant owns or operates within the City.
5. At the time of application for the traffic impact fee exemption, the applicant shall not have paid, or have been obligated to have paid, the traffic impact fee required under this Chapter.

C. Administration of Traffic Impact Fee Exemption.

1. Upon the City's acceptance of an application for exemption from traffic impact fees pursuant to Subsection A above, the applicant shall pay to the City the full amount of the traffic impact fees required pursuant to SMC 14.295.090. Following receipt of the traffic impact fees, the City shall deposit the fees in the Traffic Impact Fee Fund (124) and shall manage the traffic impact fees as set forth in this Chapter.

2. At the expiration of a three year period commencing from the date of the applicant's certificate of occupancy, the City Treasurer shall determine if the average annual amount of the City's portion of sales and use tax revenue received from the applicant's business by the City meets the minimum amount stated in Subsection B2 above. The determination shall be based upon the administration and collection requirements of Chapter 3.27 SMC as now or hereafter amended.

3. In the event that the three year average annual amount of the City's portion of sales and use tax revenue from the applicant's business is at least $100,000, or in the case of a major expansion of an existing business the three year annual average is at least $100,000 more than the prior year, there shall be an exemption of 25% from the traffic impact fees otherwise due pursuant to SMC 14.295.090. In such case, 25% of the amount paid to the City pursuant to Subsection C1 above shall be refunded to the applicant, plus any accrued interest. The remainder of the funds deposited pursuant to Subsection C1 above shall belong to the City.

4. In the event that the applicant's three year annual average sales and use tax revenue to the City is at least $200,000, or in the case of a major expansion of an existing business the three year annual average is at least $200,000 more than the prior year, the applicant shall receive an exemption, which shall result in a refund of 50% of the amount paid to the City pursuant to Section C1 above, plus any accrued interest. The remainder of the funds deposited pursuant to Section C1 above shall belong to the City.

5. In the event that the applicant's three year annual average sales and use tax revenue to the City is at least $300,000, or in the case of a major expansion of an existing business the three year annual average is at least $300,000 more than the prior year, the applicant shall

receive an exemption, which shall result in a refund of 75% of the amount paid to the City pursuant to Section C1 above, plus any accrued interest. The remainder of the funds deposited pursuant to Section C1 above shall belong to the City.

6. In the event that the applicant does not generate at least a three year average annual sales and use tax revenue of $100,000, or in the case of a major expansion of an existing business at least a three year annual average of $100,000, the entire traffic impact fee required under SMC 14.295.090 shall belong to the City.

7. Determinations of the amounts set forth in this Section shall be made by the City Treasurer, which determinations shall be appealable as set forth in Subsection E.

D. Deposits and Refunds of Sales and Use Tax Revenue.

1. Sales and use tax revenues in the amount annually required to meet the traffic impact fee exemption level for which the applicant qualifies under this Section shall be deposited in the Reserve for Traffic Impact Fee Fund (125), which is hereby created. All sales and use tax revenues in excess of the amount annually required to meet the traffic impact fee exemption level for which the applicant qualifies under this Section shall remain in the City's General Fund (001) and may be expended for any lawful purpose as directed by the City Council.

2. At the end of an applicant's three year period, or in the case of a major expansion of an existing business at the end of an applicant's three year period, the City Treasurer shall determine the amount of refund to be paid the applicant. Refunds shall be paid from the Reserve for Traffic Impact Fee Fund (125).

E. Appeals. Any applicant aggrieved by the determination of the City as to whether the exemption criteria of Subsection B have been met or as to the amount of a refund to which an applicant is entitled pursuant to Subsections C and D, may file a written appeal to the City's Land Use Hearing Examiner, in the same manner as appeals of City Planner determinations as set forth in Chapters 14.75 and 14.95 SMC. The City Examiner is hereby specifically authorized to hear and decide such appeals, and the decision of the Hearing Examiner shall be final action of the City and shall be subject to appeal pursuant to Chapter 14.75 SMC. (Ord. 2085, 2005)

14.295.100 Level-of-Service Requirements and Concurrency Determinations.

A. The Department shall make a concurrency determination for each development application to ensure that the development will not impact an arterial unit where the level-of-service is below the adopted level-of-service standard or will not cause the level-of-service on an arterial unit to fall below the adopted level-of-service standard, unless improvements are programmed and funding identified which would remedy the deficiency within six years. The approval authority shall not approve any development that is not deemed concurrent under this section.

1. The Department shall make a concurrency determination upon receipt of a development's pre-application submittal. The determination may change based upon revisions in the

application. Any change in the development after approval will be resubmitted to the Director, and the development will be reevaluated for concurrency purposes.

2. The concurrency determination shall expire if the development for which the concurrency is reserved is not applied for within one hundred twenty (120) days of the concurrency determination. This determination is a prerequisite for a complete development application. The expiration date of the concurrency determination for a filed development application shall be six years after the date of the determination, except where the application is later withdrawn or approval is allowed to lapse.

3. Building permits for a development must be issued prior to expiration of the concurrency determination for the development, except when the development is a residential subdivision or short subdivision in which case the subdivision or short subdivision must be recorded prior to expiration of the concurrency determination for the development, and except where no building permit will be associated with a conditional use permit, in which case the conditional use permit must be issued prior to expiration of the concurrency determination. No additional concurrency determination shall apply to residential dwellings within a subdivision or short subdivisions recorded in compliance with this section.

4. If the concurrency determination expires prior to building permit issuance, except when the development is a residential subdivision or short subdivision, then prior to the recording of the subdivision or short subdivision, and except where no building permit will be associated with a conditional use permit, then prior to issuance of the conditional use permit, the Director shall at the request of the developer consider evidence that conditions have not significantly changed and make a new concurrency determination in accordance with this section.

5. Building permit applications for development within a recorded development plan, non-residential subdivision or short subdivision, for which a concurrency determination has been made in accordance with this section shall be deemed concurrent, provided that the concurrency determination has not expired, the building permit will not cause the approved traffic generation of the prior approval to be exceeded, there is no change in points of access, and mitigation required pursuant to the recorded development plan, non-residential subdivision or short subdivision approval is performed as a condition of building permit issuance.

B. In determining whether or not to deem a proposed development as concurrent, the Department shall analyze likely street system impacts on arterial units based on the size and location of the development.

1. A development shall be deemed concurrent for the period prior to the expiration date of the concurrency determination for the development.

2. A development’s forecasted trip generation at full occupancy shall be the basis for determining the impacts of the development on the street system. The City will accept

valid data from a traffic study prepared under this Chapter.

C. A concurrency determination made for a proposed development under this section will evaluate the development's impacts on any intersections or arterial units in arrears. If a development which generates seven or more p.m. peak-hour trips, or a nonresidential development which generates five or more p.m. peak-hour trips, is proposed to affect an intersection or arterial unit in arrears, then the development may only be deemed concurrent based on a trip distribution analysis to determine the impacts of the development. Impacts shall be determined based on each of the following:

1. If the trip distribution analysis indicates that the development will not place three or more p.m. peak-hour trips on any intersection or arterial units in arrears, then the development shall be deemed concurrent.

2. If the trip distribution analysis indicates that the development will place three or more p.m. peak-hour trips on any intersection or arterial unit in arrears, then the development shall not be deemed concurrent except where the development is deemed concurrent in accordance with the options under SMC 14.295.100E.

D. Any residential development that generates less than seven p.m. peak- hour trips or any nonresidential development that generates less than five p.m. peak-hour trips shall be considered to have only minor impact on City arterials for purposes of a concurrency determination on impacts to level-of- service on intersections and arterial units and shall accordingly be deemed concurrent.

E. Any development not deemed concurrent shall have options available to enable the development to be deemed concurrent as follows:

1. A development which meets the Department's criteria for transit compatibility, in accordance with the Director's policy and procedure for transit compatibility, shall be deemed concurrent if the impacted intersection or arterial unit in arrears meets the criteria for transit supportive design in accordance with the Director's policy and procedure for transit compatibility, and if the level-of-service on the impacted intersection or arterial unit in arrears meets the City's adopted LOS standards, and provided that the development can be deemed concurrent in accordance with all other provisions of this section.

2. A development may modify its proposal to lessen its impacts on the street system in such a way as to allow the City to deem the development concurrent under this section.

3. The City may deem such development concurrent based upon a written proposal signed by the proponent of the development and attached to the Director's recommendation under SMC 14.295.050B, and referenced in the concurrency determination, as a condition of approval.

   a. Such proposal may include conditions which would defer construction of all or

identified subsequent phases of a development until such time as the City has made or programmed capacity improvements which would remedy any intersection or arterial units in arrears.

b. Such proposals may include conditions which would defer construction of all or identified subsequent phases of a development until such time as the developer constructs capacity improvements which would remedy any intersection or arterial units in arrears.

i. If a developer chooses to mitigate the development's impact by constructing offsite street improvements, the developer must investigate the impact, identify improvements, and offer a construction plan to the Director for construction of the offsite improvements. Construction of improvements shall be in accordance with the City's engineering design and development standards.

ii. In cases where two or more developers have agreed to fully fund a certain improvement, the proportionate sharing of the cost shall be on any basis that the developers agree among themselves would be equitable. Under such an arrangement, the terms of the agreement shall be binding on each development as conditions of approval.

iii. Any developer who chooses to mitigate a development's impact by constructing offsite improvements may propose to the City that a joint public/private partnership be established to jointly fund and/or construct the proposed improvements. The Director will determine whether or not such a partnership is to be established.

iv. Construction of capacity improvements under this section must be complete or under contract prior to the issuance of any building permits and must be complete prior to approval for occupancy or final inspection; provided that where no building permit will be associated with a change in occupancy, then construction of improvements is required as a precondition to approval.

F. Adopted Level-of-Service.

1. The level of service for minor and collector arterials at signalized intersections shall be LOS D or better, using the operational method as a standard of review.

2. The Transportation Facilities Plan may designate intersections that are exempt from the level-of-service standard set forth in this subsection.

14.295.110 Inadequate Street Condition Requirements.

A. Regardless of the existing level-of-service, development which adds three or more p.m. peak-hour trips to an inadequate street condition existing on the street system, at the time of determination under this Chapter, or development whose traffic will cause an inadequate street condition at the time of full occupancy of the development, will only be approved for

occupancy or final inspection when provisions are made in accordance with this Chapter for elimination of the inadequate street condition. The improvements removing the inadequate street condition must be complete or under contract before a building permit on the development will be issued and the street improvement must be complete before any certificate of occupancy or final inspection will be issued; provided that where no building permit will be associated with a conditional use permit, then the improvements removing the inadequate street condition must be complete as a precondition to approval.

B. The Director shall determine whether or not a location constitutes an inadequate street condition. Any known inadequate street condition to which the development adds three or more p.m. peak-hour trips shall be identified as part of the Director's recommendation under SMC 14.295.050B.

C. A development's access onto a City street shall be designed so as not to create an inadequate street condition. Developments shall be designed so that inadequate street conditions are not created.

D. Construction option – requirements.

1. If a developer chooses to eliminate an inadequate street condition by constructing offsite street improvements, the developer must investigate the impact, identify improvements, and offer a construction plan to the Director for construction of the offsite improvements.

2. When two or more developers have agreed to fully fund a certain improvement, the proportionate sharing of the costs shall be on any basis that the developers agree among themselves would be equitable. Under such an arrangement, the terms of the agreement shall be binding on each development as conditions of approval.

14.295.120 Special Circumstances. Where the only remedy to an arterial unit in arrears is the installation of a traffic signal, but signalization warrants contained in the current edition of the Manual on Uniform Traffic Control Devices (MUTCD) are not met at present, developments impacting the arterial unit may be allowed to proceed without the installation of the traffic signal; provided that all other warranted level-of-service and transit related improvements are made on the arterial unit within the deficient level-of-service. Developments impacting such arterial units will not be issued building permits or occupancies (whichever comes first) until the improvements (not including the traffic signal) to the level-of-service deficient arterial unit are under contract or being performed. Such developments will be subject to all other obligations as specified in this Chapter.

14.295.130 Administration of Traffic Impact Fee Payments.

A. Any traffic impact fee payment made pursuant to this Chapter shall be subject to the following provisions:

1. The payment is required prior to building permit issuance unless the project proponent elects to defer payment utilizing the process outlined in 14.295.135. Payment for ~~the development is~~ a subdivision or short subdivision, ~~in which case the payment~~ shall be

made prior to the recording of the final plat, provided that if no building permit will be associated with a change in occupancy or conditional use permit, then payment is required prior to approval of occupancy.

2. The payment shall be held in a reserve account and shall be expended to fund improvements on the street system.

3. An appropriate and reasonable portion of payments collected may be used for administration of this Chapter.

4. The fee payer may receive a refund of such fees, if the City fails to expend or encumber the impact fees within six (6) years of when the fees were paid or other such period of time established pursuant to RCW 82.02.070(3), for transportation facilities intended to benefit the development for which the transportation impact fees were paid, unless the City Council finds that there exists an extraordinary and compelling reason for fees to be held longer than six (6) years. Such findings shall be set forth in writing and approved by the City Council. In determining whether traffic impact fees have been encumbered, impact fees shall be considered encumbered on a first in/first out basis. The City shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of claimants.

5. A request for a refund must be submitted by the applicant to the City in writing within ninety (90) days of the date the right to claim the refund arises, or the date that notice is given, whichever is later. Any traffic impact fees that are not expended within these time limitations, and for which no application for a refund has been made within this ninety (90) day period, shall be retained and expended on projects identified in the Transportation Facilities Plan. Refunds of traffic impact fee payments under this subsection shall include interest earned on the impact fees.

B. Credit for offsite improvements.

1. Offsite improvements include construction of improvements to mitigate an arterial unit in arrears and/or specific inadequate street condition locations.

2. If a developer chooses to construct improvements to mitigate an arterial unit in arrears or inadequate street condition problem, and the improvements constructed are part of the cost basis of any traffic impact fee imposed under this Chapter to mitigate the development's impact on the future capacity of City streets, the cost of these improvements will be credited against the traffic impact fee amount.

14.295.135 Single-Family Residential Deferral Program. An applicant for a building permit for a single-family detached or attached residence may request a deferral of the full impact fee payment until final inspection or 18 months from the date of original building permit issuance, whichever occurs first. Deferral of impact fees are considered under the following conditions:

1. Submit a deferred impact fee application and acknowledgment form for each single-

family attached or detached residence for which the applicant wishes to defer payment of the impact fees on a form to be provided by the city;

2. Pay the applicable administrative fee as established by resolution or ordinance of the city;

3. Grant and record at the applicant's expense a deferred impact fee lien in a form approved by the city against the property in favor of the city in the amount of the deferred impact fee that:

    a. Includes the legal description, tax account number, and address of the property;

    b. Requires payment of the impact fees to the city prior to final inspection or 18 months from the date of original building permit issuance, whichever occurs first;

    c. Is signed by all owners of the property, with all signatures acknowledged as required for a deed recorded in Snohomish County;

    d. Binds all successors in title after the recordation; and

    e. Is junior and subordinate to one mortgage for the purpose of construction upon the same real property granted by the person who applied for the deferral of impact fees.

4. The amount of impact fees deferred shall be determined by the fees in effect at the time the applicant applies for a deferral.

5. The city shall withhold final inspection until the impact fees have been paid in full. Upon receipt of final payment of impact fees deferred under this subsection, the city shall execute a release of deferred impact fee lien for each single-family attached or detached residence for which the impact fees have been received. The applicant, or property owner at the time of release, shall be responsible for recording the lien release at his or her expense.

6. The extinguishment of a deferred impact fee lien by the foreclosure of a lien having priority does not affect the obligation to pay the impact fees as a condition of final inspection.

7. If impact fees are not paid in accordance with the provisions of this chapter and in accordance with the term provisions established herein, the city may institute foreclosure proceedings in accordance with RCW 61.12.

8. Each applicant for a single-family attached or detached residential construction permit, in accordance with his or her contractor registration number or other unique identification number, is entitled to annually receive deferrals under this section for the first 20 single-family residential construction building permits.

14.295.140 Administrative Appeals. Administrative interpretations and administrative approvals made pursuant to this Chapter may be appealed to the Hearing Examiner pursuant to Title 14 SMC.

14.295.150 Severability. If any section, subsection, sentence, clause, phrase or word of this Chapter should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this Chapter.

14.295.160 No Special Duty. It is the purpose of this Chapter to provide for the health, welfare and safety of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Chapter. No provision or term used in this Chapter is intended to impose any duty whatsoever upon the City or any of its officers, agents or employees for whom the implementation or enforcement of this Chapter shall be discretionary and not mandatory.

Nothing contained in this Chapter is intended to be, nor shall be construed to create or form the basis for, any liability on the part of the City or its officers, agents and employees for any injury or damage resulting from the failure to comply with the provisions of this Chapter or be a reason or a consequence of any inspection, notice or order, in connection with the implementation or enforcement of this Chapter, or by reason of any action of the City related in any manner to enforcement of this Chapter by its officer, agents or employees. (Ord. 2067, 2005)

Exhibit C

PARK IMPACT FEES

Sections:

14.300.010 Purpose. The purposes of this chapter are to: (1) Ensure that parks, recreation, and trail facilities necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing service levels below established minimum standards for the City; and (2) Establish standards and procedures so that new development pays a proportionate share of costs for facilities and services necessary to serve growth and does not pay arbitrary or duplicative fees for the same impact.

14.300.020 Establishment of Impact Fees and Fund. As a condition of approval of all residential development or development activity, as defined herein, the City will require mitigation of adverse impacts on the park system pursuant to the State Growth Management Act, RCW 36.70A, RCW 82.02, and this chapter. Park impact fees collected by the City shall be deposited in a fund entitled "Park Impact Fee Fund." The fund shall include deposits from payments made pursuant to this chapter and shall permit tracking and segregation of all mitigation payments.

14.300.030 Incorporation of Parks Capital Facilities Plan. By separate ordinance, Ordinance 2135, the City Council has adopted the Parks Element of the Comprehensive Plan and the Parks, Recreation, and Open Space Long Range Plan (Parks Plan). The Parks Plan includes the 20-

Year Parks and Recreation Capital Facilities Plan (Capital Facilities Plan) which identifies park facilities necessary to provide for growth, and the methodology used to calculate park impact fees. The Parks Plan as adopted and amended is hereby incorporated into this chapter by reference as if set forth in full.

14.300.040 Applicability.

A. Except as exempted by 14.300.050 SMC and subsection B below, the terms of this chapter shall apply to all residential development, including:

1. The issuance of any building permit that increases the number of dwellings.

2. The approval of a change in use or occupancy that increases the number of dwellings.

3. Final plat approval for plats and short plats.

B. The terms of this chapter shall not apply to:

1. Residential lots and dwellings for which the park impact or mitigation fee has been paid pursuant to a previous permit or approval.

2. Complete applications for building permits or changes in use or occupancy received prior to the effective date of this chapter.

3. Final plat approval and building permits related to a preliminary plat approved prior to the effective date of this chapter.

14.300.050 Impact Fee Schedule Exemptions.

A. A person required to pay a fee pursuant to RCW 43.21C.060 (SEPA) for system improvements shall not be required to pay an impact fee under RCW 82.02.050 through 82.02.090 (GMA) for those same system improvements.

B. The following development activities are exempt from paying park impact fees because they do not have a measurable impact on the City's park facilities, or because the City has chosen to exempt them pursuant to RCW 82.02.060(2).

1. Existing Dwelling Unit. Any alteration, expansion, reconstruction, remodeling, or replacement of existing single-family or multifamily dwelling units that does not result in the creation of one or more additional dwelling unit(s).

2. Facilities for Long-Term Care. Any housing facility or long-term care facility exclusively providing any or all of the following services as defined in RCW 74.39A.009: "assisted living services," "enhanced adult residential care," or "nursing home;" provided that this exemption ceases if the housing facility is later converted to permanent use as a single-family or multifamily residence not providing such services, in which case park impact fees shall be imposed at that point; and provided further that where a housing facility provides a mixture of independent senior housing in combination with any of the above mentioned services, the exemption shall be limited to that portion

of the facility providing such services and the impact fee shall be appropriately calculated on a per dwelling unit basis for that portion of the facility not providing such services.

3. Temporary Accommodation. Any dwelling unit licensed and operated as transient accommodations under Chapter 70.62 RCW and WAC 248-144-026(26), such as hotels, motels, and resorts; provided that this exclusion ceases if the housing is later converted to permanent use as a single-family or multifamily residence not subject to such restrictions. (Ord. 279 § 1, 2001)

4. Any accessory dwelling unit as that term is defined in SMC 14.100.

C. The City Council may, on a case-by-case basis, grant exemptions to the application of the fee schedule for low-income or senior housing that achieves broad public purposes as defined in Chapter 14.05.020 SMC, and authorized by and in accordance with the conditions specified under RCW 82.02.060(2), provided that the impact fees for such development activity shall be paid from public funds other than impact fee accounts. To qualify for the exemption, the developer of such housing shall submit a petition to the City Planner for consideration by the Council prior to application for building permit. Conditions for such approvals shall be established by the Council at the time of approval that, at a minimum, meet the requirements of RCW 82.02.060(2), and that include a requirement for a covenant to assure the project's continued use for low-income or senior housing. The covenant entered into by and between the developer and the City shall be an obligation that runs with the land for no less than 25 years, and shall be recorded against the title of the real property upon which such housing is located in the real property records of the Snohomish County Auditor. The covenant shall be reviewed and approved as to form by the City Attorney

14.300.060 Impact Fee Collection and Assessment.

A. Impact fee collection shall occur prior to building permit issuance unless the project proponent elects to defer payment utilizing the process outlined in 14.300.065. Payment for ~~the development is~~ a subdivision or short subdivision~~, in which case the payment~~ shall be made prior to approval of the final plat. If the scope of work does not require a building permit, then payment is required prior to approval of occupancy.

B. Assessment. City permit staff shall determine the total impact fee owed based on the fee schedule in effect at the time of permit issuance or, in the case of subdivisions, the fee schedule in effect at the time of final plat approval.

14.300.065 Single-Family Residential Deferral Program. An applicant for a building permit for a single-family detached or attached residence may request a deferral of the full impact fee payment until final inspection or 18 months from the date of original building permit issuance, whichever occurs first. Deferral of impact fees are considered under the following conditions:

A. An applicant for deferral must request the deferral no later than the time of application for a building permit.

B. To receive a deferral, an applicant must:

1. Submit a deferred impact fee application and acknowledgment form for each single-family attached or detached residence for which the applicant wishes to defer payment of the impact fees on a form to be provided by the city;

2. Pay the applicable administrative fee as established by resolution or ordinance of the city;

3. Grant and record at the applicant's expense a deferred impact fee lien in a form approved by the city against the property in favor of the city in the amount of the deferred impact fee that:

    a. Includes the legal description, tax account number, and address of the property;

    b. Requires payment of the impact fees to the city prior to final inspection or 18 months from the date of original building permit issuance, whichever occurs first;

    c. Is signed by all owners of the property, with all signatures acknowledged as required for a deed recorded in Snohomish County;

    d. Binds all successors in title after the recordation; and

    e. Is junior and subordinate to one mortgage for the purpose of construction upon the same real property granted by the person who applied for the deferral of impact fees.

4. The amount of impact fees deferred shall be determined by the fees in effect at the time the applicant applies for a deferral.

5. The city shall withhold final inspection until the impact fees have been paid in full. Upon receipt of final payment of impact fees deferred under this subsection, the city shall execute a release of deferred impact fee lien for each single-family attached or detached residence for which the impact fees have been received. The applicant, or property owner at the time of release, shall be responsible for recording the lien release at his or her expense.

6. The extinguishment of a deferred impact fee lien by the foreclosure of a lien having priority does not affect the obligation to pay the impact fees as a condition of final inspection.

7. If impact fees are not paid in accordance with the provisions of this chapter and in accordance with the term provisions established herein, the city may institute foreclosure proceedings in accordance with RCW 61.12.

8. Each applicant for a single-family attached or detached residential construction permit, in

accordance with his or her contractor registration number or other unique identification number, is entitled to annually receive deferrals under this section for the first 20 single-family residential construction building permits.

14.300.070 Schedule of Park Impact Fees. The impact fee shall be set by resolution of the City Council. (Ord. 2299, 2016)

14.300.080 In-Kind Mitigation Option.

A. The Public Works Director (Director) and the developer may consider in-kind options to satisfy all or part of the mitigation obligation. Land dedication, site preparation, and related public parks and trails system development, as well as other in-kind mitigation options, may be utilized if acceptable to the Director and the Parks and Recreation Board (Parks Board), and conforms to the 20-Year Parks and Recreation Capital Facilities Plan.

B. In approving or permitting a development, the approval authority shall consider the Director's recommendations and act in conformity with this chapter.

C. Dedication of land and/or provision of improvements for public parks, recreation facilities, and open spaces may be accepted in lieu of payment of the park impact fees under this chapter. Credit shall be allowed only to the extent agreed between the applicant and the Director. If agreement cannot be reached, or is not appropriate, the park impact fees imposed by this chapter shall be paid.

D. The Director shall request Parks Board review of proposed dedication of land and improvements for parks, recreation facilities, and open spaces. The Parks Board recommendation shall be considered in determining the acceptability of the proposed dedication.

E. Some or all of a developer's mitigation obligation may be satisfied by dedication or conveyance of land to the City for park and recreation facilities if, after review of an analysis of supply/demand data, the Parks Plan, and a recommendation by the Parks Board, the Director determines that the proposed land dedication or conveyance better meets the community's need for park and recreation facilities than payment of park impact fees.

F. The following criteria shall be considered in determining the extent to which the proposed dedication or conveyance meets the requirements of this chapter:

1. The land and its development shall result in an integral element of the Parks Capital Facilities Plan identified as serving growth;

2. The land should be suitable for future active park and recreation facilities;

3. The land should be of a size and horizontal and vertical configuration necessary to accommodate identified recreational uses;

4. The land should have public access via a public street or an easement of an appropriate width and accessibility;

5. The land should be located in or near areas designated by City park, trail, or land use plans for parks and recreation purposes;

6. The land should provide linkage between City and/or other publicly owned recreation properties;
7. The land shall be surveyed or adequately marked with survey monuments, or otherwise readily distinguishable from adjacent privately owned property;

8. The land should have no known physical problems associated with it, such as problems with drainage, erosion, or the presence of hazardous waste, which the Director determines would cause inordinate demands on public resources for maintenance and operation;

9. The land should be reasonably unencumbered with easements, utilities, and critical areas to be suitable for identified recreational uses and improvements.

G. Some or all of a developer's mitigation obligation may be satisfied by the purchase, installation, and/or improvement of park and recreation facilities located on land owned by the City if:

1. The City is responsible for permanent, continuing maintenance and operation of the facilities;

2. The Director determines that the facilities correspond to the type(s) of park and recreation facilities designated as serving growth in the Parks Capital Facilities Plan; and

3. A final plat may be approved or a building permit for an individual lot may be issued following the City's determination that the specified in-kind mitigation has been completed in a satisfactory manner. The City may approve a final plat or a building permit for an individual lot with in-kind mitigation incomplete only when the provisions of SMC 14.215.060 are satisfied.

14.300.090 Credit for Payment or Obligation Previously Incurred.

A. The City may provide a credit for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer that are identified in the Capital Facilities Plan and that are required by the City as a condition of approving the development activity.

B. A developer may be entitled to a credit against the park impact fees collected under this chapter in any of the following situations:

1. Where the applicant is required to provide park system improvements identified in the Capital Facilities Plan; or

2. Where the applicant has agreed, pursuant to the terms of a voluntary agreement with the City, to provide land for system improvements identified in the Capital Facilities Plan; or

3. Where the applicant has agreed, pursuant to the terms of a voluntary agreement with the City, to make system improvements to existing park facilities.

C. If applicable, improvements for which credit is requested must be identified prior to approval of a preliminary plat, conditional use permit, development plan, or other development permit.

D. For the purposes of calculating the credit, the land value or costs of construction shall be determined as follows:

1. The amount of credit for land dedicated shall be the higher of either the most recent land valuation by the Snohomish County Assessor, or by an appraisal conducted by an independent professional appraiser chosen by the applicant and acceptable to the City. Either the fee payer or the City may request an appraisal, in which event the cost of the appraisal shall be borne by the requesting party. For the purposes of this section, the value shall be established as of the date the land is dedicated to the City.

2. Credit for facilities constructed shall be based upon the actual cost of construction at the time of construction and shall apply only to approved park system improvements.

E. Applicants for credit for construction of park improvements shall submit acceptable engineering drawings and specifications, legal description, and construction cost estimates to the Director. The estimated value of credits for in-kind improvements shall be based on either the submitted cost estimates or upon alternative engineering criteria and construction cost estimates, at the Director's discretion. The Director shall provide the applicant with a letter setting forth the estimated dollar amount of the credit, the reason for the credit, and the legal description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating their agreement to the terms of the letter or certificate and return such signed document to the Director before credit will be given. The failure of the applicant to sign, date, and return such document within 60 days shall nullify the credit. Final credit will be established at acceptance of improvements.

F. In cases where a developer would be entitled to a credit under this section, but the amount of the credit has yet to be determined on a per dwelling unit basis, the City shall take the total credit amount available to the entire plat or project, calculated by applying Subsections (A) through (F) of this section, and divide that amount by the number of dwelling units planned for that plat or project. The impact fee and credit may then be calculated and collected on a per dwelling unit basis as application is made for building permits. Where building permits for some, but not all, of the dwelling units within a plat or project have already been obtained at the time the ordinance codified in this chapter becomes effective, the credit for remaining dwelling units will be calculated to arrive at a per dwelling unit amount in the same manner. For example, if a plat is planned for 20 dwelling units, and building permits have only been

issued for 10 of those units, the per dwelling unit credit for the remaining 10 units will equal the total credit amount divided by 20.

G. To utilize an approved credit to reduce impact fees assessed at the time of building permit issuance, the credit must be requested prior to building permit issuance or it is deemed waived.

H. No refund will be allowed in the event that the impact fee credit exceeds the amount of the impact fee itself.

14.300.100 Administrative Adjustment of Fee Amount – Payment under Protest.

A. Within 14 days of issuance by the City of a building permit, an applicant may appeal to the Planning Director for an adjustment to the fees imposed by this title. The Planning Director may adjust the amount of the fee, in consideration of studies and data submitted by the developer and any affected district, if one of the following circumstances exists:

1. It can be demonstrated that the impact fee assessment was incorrectly calculated;

2. Unusual circumstances of the development demonstrate that application of the impact fee to the development would be unfair or unjust;

3. A credit specified in RCW 82.02.060(1)(b) may be warranted.

B. To avoid delay pending resolution of the appeal, impact fees may be paid under protest in order to obtain development approval.

C. Failure to exhaust this administrative remedy shall preclude appeals of the impact fee pursuant to SMC 14.300.110 below.

14.300.110 Appeals. Appeals of mitigation requirements imposed pursuant to this title shall be as provided in Chapter 14.75 SMC.

14.300.120 Service Area Established. The service area established in this section assures a proportional benefit of public facilities to development applicants and establishes a nexus between those paying for the fees and those benefiting from the capital facilities. Because the City's size allows its park and recreation facilities to provide a reasonable benefit to its entire population regardless of their location within the City, the service area for the park impact fee shall be the entire City of Snohomish. The boundary within which impact fees will be charged shall include all unincorporated areas annexed to the City on and after the effective date of the ordinance codified in this chapter.

14.300.130 Use of Funds.

A. Park impact fees shall be used for development of parks, linear trail parks, and recreation facilities to serve new growth and development in Snohomish; provided that such impact fees may only be spent on system improvements. Sidewalks located parallel to public streets are not eligible for the use of park impact fee funds except as identified in the parks and

recreation Capital Facilities Plan. The park Capital Facilities Plan distinguishes between facilities and funds needed to serve new development and those facilities and funds needed to correct existing deficiencies.

B. Impact fees may be spent on the following items to the extent that they relate to a particular system improvement: facility planning; land acquisition costs including survey, appraisal, recording fees, and other related expenses; site improvements, necessary off-site improvements; facility construction, engineering, design work, and permitting fees; facility financing, grant matching funds, applicable mitigation costs, capital equipment pertaining to public facilities, and any other expenses which can be capitalized and are consistent with the Capital Facilities Plan.

C. In the event that bonds or similar debt instruments are or have been issued for the construction of public facility or system improvements for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this chapter and are used to serve new development.

14.300.140 Refunds.

A. The current owner of property on which an impact fee has been paid may receive a refund of such fees if the City fails to expend or encumber the impact fees within six years of when the fees were paid on public facilities intended to benefit the development activity for which the impact fees were paid. This 6-year period may be extended by City Council, based on extraordinary and compelling reasons, which shall be identified in written findings approved by City Council. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first in, first out basis. The amount to be refunded shall include the interest earned by this portion of the account from the date that it was deposited into the impact fee fund.

B. An owner may request and shall receive a refund, including interest earned on the impact fees, when:

1. The owner does not proceed to finalize the development activity as required by statute or City code or the Uniform Building Code; and

2. The City has not expended or encumbered the impact fees prior to the application for a refund. In the event that the City has expended or encumbered the fees in good faith, no refund shall be forthcoming. However, if within a period of three years, the same or subsequent owner of the property proceeds with the same or substantially similar development activity, the owner shall be eligible for a credit against any then-existing park impact fee requirement. The owner must petition the City in writing and provide receipts of impact fees paid by the owner for a development of the same or substantially similar nature on the same property or some portion thereof. The City shall determine whether to grant a credit and such determinations may be appealed by following the procedures set forth in this chapter.

C. The City shall provide for the refund of fees according to the requirements of this section and RCW 82.02.080.

1. The City shall notify potential claimants of the refund availability by first-class mail deposited with the United States Postal Service addressed to the owner of the property as shown in the Snohomish County Assessor's property records.

2. An owner's request for a refund must be submitted to the City Finance Director in writing within one year of the date the right to claim the refund arises or the date that notice is given, whichever date is later. Notice is considered given on the date of mailing by the City.

D. Any impact fees that are not expended or encumbered within six years of their receipt by the City, and for which no application for a refund has been made within this one-year period, shall be retained by the City and expended consistent with the provisions of this chapter.

E. If the City seeks to terminate park impact fee requirements, all unexpended or unencumbered funds, including interest earned, shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the City shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first-class mail to the last known address of claimants. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the City, but must be expended for the indicated public facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within the account being terminated.

14.300.150 Use and Disposition of Land. All land dedicated or conveyed pursuant to this chapter shall be set aside for development of park and recreation facilities. The City shall make every effort to use, develop and maintain land dedicated or conveyed for park and recreation facilities. In the event that the use of any such dedicated land is determined by the City Council to be infeasible for development of park and recreation facilities, the dedicated land may be sold or traded for another parcel of land, subject to the requirements of state law and City code. The proceeds from such a sale shall be used to acquire land or develop park and recreation facilities in the City. Prior to any proposed sale of land which has been dedicated to the City, the City shall notify each current taxpayer of record or resident of known address in the plat in which the dedicated land is proposed for sale and each taxpayer of record and resident of known address within five hundred feet of the park site.

14.300.160 Annual Report. The City Finance Department shall prepare an annual report in accordance with the requirements of RCW 82.02.070 showing the system improvements that were financed in whole or in part by impact fees and the amount of funds collected, expended and held for future improvements. The annual report shall be complete on or before April 1 of each year for the preceding calendar year.

14.300.170 Definitions. Unless the context clearly requires otherwise, the following definitions shall apply.

Department means the City of Snohomish Public Works Department.

Development approval means any written authorization from the City which authorizes the commencement of development activity.

Director means Public Works Director or his/her authorized designee.

Dwelling Unit is defined in SMC 14.100.

Encumber means to transfer funds from the general park impact fee fund to an account created to fund, in whole or in part, a particular system improvement. Once funds have been encumbered they cannot be used to fund any other system improvement. Funds may only be encumbered by an action of the City Council.

Impact fee means a payment of money imposed upon development as a condition of development approval to pay for public facilities needed to serve new growth and development, and that is reasonably related to the new development that creates additional demand and need for public facilities, that is a proportionate share of the cost of the public facilities, and that is used for facilities that reasonably benefit the new development. "Impact fee" does not include a reasonable permit or application fee.

Owner means the owner of record of real property, although when real property is being purchased under a real estate contract, the purchaser shall be considered the owner of the real property if the contract is recorded.

Proportionate share means that portion of the cost of public facility improvements that is reasonably related to the service demands and needs of a new development.

Project improvements mean site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. No improvement or facility included in a capital facilities plan approved by the governing body of the City shall be considered a project improvement.

Public facilities means the following capital facilities owned or operated by government entities: (a) Public streets and roads; (b) publicly owned parks, open space, trails and recreation facilities; (c) school facilities; and (d) fire protection facilities in jurisdictions that are not part of a fire district.

Service area is defined in SMC 14.300.120.

System improvements mean public facilities that are designed to provide service to the community at large, in contrast to project improvements. System improvements are facilities included in any of the following documents: Capital Facilities Element of the Comprehensive Plan; Parks Element of the Comprehensive Plan; or Parks, Recreation, and Open Space Long Range Plan.

14.300.180 Severability. If any section, subsection, sentence, clause, phrase, or word of this Chapter should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase, or word of this Chapter.

14.300.190 No Special Duty. It is the purpose of this Chapter to provide for the health, welfare, and safety of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Chapter. No provision or term used in this Chapter is intended to impose any duty whatsoever upon the City or any of its officers, agents, or employees for whom the implementation or enforcement of this Chapter shall be discretionary and not mandatory.

Nothing contained in this Chapter is intended to be, nor shall be construed to create or form the basis for, any liability on the part of the City or its officers, agents, and employees for any injury or damage resulting from the failure to comply with the provisions of this Chapter or be a reason or a consequence of any inspection, notice or order, in connection with the implementation or enforcement of this Chapter, or by reason of any action of the City related in any manner to enforcement of this Chapter by its officer, agents, or employees.

(Ord. 2141, 2008)