

**CITY OF SNOHOMISH
Snohomish, Washington**

ORDINANCE 2290

**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, BY AMENDING
CHAPTER 14.295 RELATING TO TRAFFIC IMPACT FEES;
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 amendments to its Comprehensive Plan pursuant to the provisions of RCW 36.70A.070, to address growth and development in the City through 2035 in accordance with the preliminary growth targets adopted in the Snohomish County Countywide Planning Policies; and

WHEREAS, adopted amendments to the City's Comprehensive Plan include an updated Capital Facilities Element and an updated Transportation Element; and

WHEREAS, the updated Transportation Element incorporates by reference a Transportation Master Plan (2015) that was prepared by a qualified consultant and separately adopted by the City Council pursuant to Ordinance 2307; and

WHEREAS, the adopted Comprehensive Plan Capital Facilities Element, together with the Transportation Element and Transportation Master Plan, identify additional public facility improvements required to serve new development with transportation infrastructure; and

WHEREAS, the estimated cost of the identified public facility improvements required to serve new development with transportation infrastructure was calculated in 2014 dollars; and

WHEREAS, the cost of construction of transportation projects does not remain constant over time; and

WHEREAS, the adopted Transportation Master Program recommends that transportation impact fees as initially established by ordinance should be automatically adjusted annually on the basis of a recognized published index of changes in the cost of transportation projects over time; and

WHEREAS, the Engineering News Record publishes a recognized construction cost index for labor and materials which is updated monthly, and is a suitable published index for automatic annual adjustment of transportation impact fees; and

WHEREAS, the City adopted Chapter 14.295 SMC pursuant to Ordinance 2067, as amended by Ordinance 2085, that establishes the basis and process for levying traffic impact fees; and

WHEREAS, Chapter 14.295 SMC states that the traffic impact fee shall be as calculated in the Transportation Element and in the Transportation Facilities Plan, but does not specify a rate at which the traffic impact fee shall be charged ; and

WHEREAS, impact fee rates for schools and parks are specified in a Master Fee Schedule adopted by City Council Resolution; and

WHEREAS, RCW 36.70A.070 requires the Comprehensive Plan to identify a policy level of service standard for locally owned arterials and transit routes to serve as a gauge to judge the performance of transportation systems; and

WHEREAS, the level of service standard for transportation facilities is and has been, since 1998, adopted in the Transportation Element and/or Capital Facilities Element of the Comprehensive Plan as level of service “E”; and

WHEREAS, Chapter 14.295 SMC states that standards for levels of service are as adopted in the Comprehensive Plan; and

WHEREAS, Chapter 14.295 SMC identifies a level of service standard of “D” for signalized intersections and provides a level of service standard for no other type of intersection; and

WHEREAS, the Washington State Growth Management Act (RCW 36.70A) requires that development regulations be consistent with and implement the Comprehensive Plan; and

WHEREAS, the City’s concurrency and traffic impact fee programs have been implemented consistent with the level of service standard adopted by policy in the Comprehensive Plan as a level of service “E”; and

WHEREAS, the inconsistency between the incorrect level of service “D” reference in Chapter 14.295 SMC and the adopted policy level of service “E” by which impacts to the street system have been and are evaluated is hereby corrected as a procedural adjustment; 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 to constitute procedural amendments resulting in no substantive changes respecting the use or modification of the environment and therefore the proposal is exempt from SEPA review pursuant to Section 197-11-800(19) of the Washington Administrative Code; and

WHEREAS, on June 2, 2015, 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. Amendment of Chapter 14.295 SMC. SMC Sections 14.295.050, 14.295.090, and 14.295.100 are hereby amended as set forth in the attached **Exhibit A** and are incorporated herein by this reference.

Section 2. 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 3. 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 15th day of March, 2016.

CITY OF SNOHOMISH

By _____
Karen Guzak, Mayor

ATTEST:

APPROVED AS TO FORM:

By _____
Pat Adams, City Clerk

By _____
Grant K. Weed, City Attorney

EXHIBIT A

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, except where determined untimely by the City Engineer due to the absence of street frontage improvements in the vicinity or to scheduled public improvement projects.

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.

14.295.090 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.))~~

- A. The impact fee rate per net new PM peak hour trip, as calculated according to the provisions of this chapter, shall be as adopted in the most recent fee schedule resolution. The initial traffic impact fee rate shall be \$1,603, which may be adjusted annually as described in Subsection B of this Section.
- B. Commencing on the first anniversary of the effective date of the impact fee rate established in Subsection A of this Section, and at subsequent intervals of at least one year, the City Engineer may propose adjustment of the impact fee rate set out in the most recent fee schedule resolution by the same percentage change as in the most recent annual change of the Construction Cost Index published in the Engineering News-Record. The City Council and may adopt such increase in the impact fee rate or a reduced amount as an amendment to the fee resolution. In addition to published notice as required for the City Council resolution, the City Engineer shall cause notice of the adjusted impact fee to be posted at City Hall and the Public Works Engineering office. In all cases, the maximum amount of the impact fee shall be the initial traffic impact fee rate plus an amount equal to the initial impact fee rate multiplied times the change in Construction Cost Index since the effective date of the initial traffic impact fee rate.

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)~~)E or better (~~(, using the operational method as a standard of review)~~).
2. The Transportation (~~Facilities Plan~~)Element may designate intersections that are exempt from the level-of-service standard set forth in this subsection.