

Title 18C

SCHOOL IMPACT FEES AND MITIGATION

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GENERAL PROVISIONS

DEFINITIONS

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Sections:

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18C.02.010 Purposes.

The purposes of this title 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. (Ord. 2213 § 1, 1998).

18C.04.010 Words defined by RCW 82.02.090.

Words used in this title and defined in RCW 82.02.090 shall have the same meaning assigned in RCW 82.02.090 unless a more specific definition is contained in MMC 18C.04.020. (Ord. 2213 § 1, 1998).

18C.02.020 Applicability.

The terms of this title shall apply to all development for which a complete application for approval is submitted on or after the effective date of the ordinance codified in this chapter, except for development that was the subject of a prior SEPA threshold determination that provided for school mitigation. An application will only be considered complete if the city has issued a letter of completeness pursuant to MMC 15.05.040. All building permit applications accepted by the department prior to the effective date of the ordinance codified this chapter, or for development that was the subject of a prior SEPA threshold determination that included provisions for school mitigation, shall be reviewed pursuant to the city of Marysville environmental policy ordinance, Chapter 19.22 MMC. (Ord. 2213 § 1, 1998).

18C.04.020 Other definitions.

(1) “Average assessed value” means the district’s average assessed value for each dwelling unit type.

(2) “Boeckh Index” means the current construction trade index of construction costs for each school type.

(3) “Capital facilities” means school facilities identified in a school district’s capital facilities plan and are “system improvements” as defined by the GMA as opposed to localized “project improvements.”

(4) “Capital facilities plan” means a district’s facilities plan adopted by its school board consisting of those elements required by Chapter 18C.06 MMC and meeting the requirements of the GMA.

(5) “Council” means the Marysville city council.

(6) “County” means Snohomish County.

(7) “Department” means the city of Marysville planning and building department.

(8) “Developer” means the proponent of a development activity, such as any person or entity who owns or holds purchase options or other development control over property for which development activity is proposed.

(9) “Development” means all subdivisions, short subdivisions, conditional or special use permits, binding site plan approvals, rezones accompanied by an official site plan, or building permits (including building permits for multifamily and duplex residential structures, and all similar uses) and other applications requiring land use permits or approval by the city of Marysville.

(10) “Development activity” means any residential construction or expansion of a building, structure or use of land, or any other change in use of a building, structure, or land that creates additional demand and need for school facilities, but excluding building permits for remodeling or reno-

vation permits which do not result in additional dwelling units. Also excluded from this definition is "housing for older persons" as defined by 46 U.S.C. Section 3607, when guaranteed by a restrictive covenant, and new single-family detached units constructed on legal lots created prior to the effective date of the ordinance codified in this chapter.

(11) "Development approval" means any written authorization from the city which authorizes the commencement of a development activity.

(12) "Director" means the city planner or the city planner's designee.

(13) "District" means a school district whose geographic boundaries include areas within the city of Marysville.

(14) "District property tax levy rate" means the district's current capital property tax rate per \$1,000 of assessed value.

(15) "Dwelling unit type" means:

(a) Single-family residences;

(b) Multifamily one-bedroom apartment or condominium units; and

(c) Multifamily multiple-bedroom apartment or condominium units.

(16) "Encumbered" means school impact fees identified by the district to be committed as part of the funding for capital facilities for which the publicly funded share has been assured, development approvals have been sought or construction contracts have been let.

(17) "Estimated facility construction cost" means the planned costs of new schools or the actual construction costs of schools of the same grade span recently constructed by the district, including on site and off-site improvement costs. If the district does not have this cost information available, construction costs of school facilities of the same or similar grade span within another district are acceptable.

(18) "Facility design capacity" means the number of students each school type is designed to accommodate, based on the district's standard of service as determined by the district.

(19) "Grade span" means a category into which a district groups its grades of students (e.g., elementary, middle or junior high, and high school).

(20) "Growth Management Act/GMA" means the Growth Management Act, Chapter 17, Laws of the State of Washington of 1990, First Ex. Sess., as now in existence or as hereafter amended.

(21) "Interest rate" means the current interest rate as stated in the Bond Buyer Twenty Bond General Obligation Bond Index.

(22) "Land cost per acre" means the estimated average land acquisition cost per acre (in current dollars) based on recent site acquisition costs, comparisons of comparable site acquisition costs in other districts, or the average assessed value per acre of properties comparable to school sites located within the district.

(23) "Multifamily unit" means any residential dwelling unit that is not a single-family unit as defined by this chapter.

(24) "Permanent facilities" means school facilities of the district with a fixed foundation.

(25) "Relocatable facilities" means factory-built structures, transportable in one or more sections, that are designed to be used as education spaces and are needed to prevent the overbuilding of school facilities, to meet the needs of service areas within a district, or to cover the gap between the time that families move into new residential developments and the date that construction is completed on permanent school facilities.

(26) "Relocatable facilities cost" means the total cost, based on actual costs incurred by the district, for purchasing and installing portable classrooms.

(27) "Relocatable facilities student capacity" means the rated capacity for a typical portable classroom used for a specified grade span.

(28) "School impact fee" means a payment of money imposed upon development as a condition of development approval to pay for school facilities needed to serve new growth and development. The school impact fee does not include a reasonable permit fee, an application fee, the administrative fee for collecting and handling impact fees, or the cost of reviewing independent fee calculations.

(29) "Single-family unit" means any detached residential dwelling unit designed for occupancy by a single family or household.

(30) "Standard of service" means the standard adopted by each district which identifies the program year, the class size by grade span and taking into account the requirements of students with special needs, the number of classrooms, the types of facilities the district believes will best serve its student population, and other factors as identified in the district's capital facilities plan. The district's standard of service shall not be adjusted for any portion of the classrooms housed in relocatable facilities which are used as transitional facilities or from any specialized facilities housed in relocatable facilities.

(31) "State match percentage" means the proportion of funds that are provided to the district for specific capital projects from the state's common

school construction fund. These funds are disbursed based on a formula which calculates district assessed valuation per pupil relative to the whole state assessed valuation per pupil to establish the maximum percentage of the total project eligible to be paid by the state.

(32) “Student factor (student generation rate)” means the number of students of each grade span (elementary, middle/junior high, high school) that a district determines are typically generated by different dwelling unit types within the district. Each school district will use a survey or statistically valid methodology to derive the specific student generation rate; provided, that the survey or methodology is approved by the Marysville city council as part of the adopted capital facilities plan for each school district. (Ord. 2213 § 1, 1998).

Chapter 18C.06

SCHOOL DISTRICT ELIGIBILITY FOR IMPACT FEES

Sections:

18C.06.010 Capital facilities plan required.

18C.06.020 Expiration of district plans.

18C.06.030 Updating of district plans.

18C.06.010 Capital facilities plan required.

Any district serving the city of Marysville shall be eligible to receive school impact fees upon adoption by the council of a capital facilities plan for the district by reference as part of the capital facilities element of the city comprehensive plan. The plan shall meet the requirements of the GMA. Subject to the provisions of this title, these actions will also constitute adoption by the city of the schedule of school impact fees specified in such capital facilities plan. (Ord. 2471 § 1, 2003; Ord. 2339 § 2, 2000; Ord. 2330 § 4, 2000; Ord. 2213 § 1, 1998).

18C.06.020 Expiration of district plans.

For purposes of school impact fee eligibility, a district’s capital facilities plan shall expire two years from the date of its adoption by the council, or when an updated plan meeting the requirements of the GMA is adopted by the council, whichever date first occurs. (Ord. 2213 § 1, 1998).

18C.06.030 Updating of district plans.

(1) A district’s capital facilities plan shall be updated by the district and transmitted to the city by the district at least 60 days prior to its biennial expiration date. The district’s updated plan shall be submitted by the department to the council for its consideration within 45 days of the department’s receipt of the district’s approved CFP. In the event any district desires to amend its capital facilities plan prior to the biennial expiration date, the district may propose an amendment to be considered by the city, provided such amendments shall be considered by the city no more than once per year unless the board of directors of such district declares, and the city finds, that an emergency exists.

(2) A district’s updated capital facilities plan may include revised data for the fee calculation and a corresponding modification to the impact fee schedule, consistent with the city GMA comprehensive plan. (Ord. 2213 § 1, 1998).

Chapter 18C.08

**CAPITAL FACILITIES PLAN
REQUIREMENTS AND PROCEDURES**

Sections:

- 18C.08.010 Minimum requirements for district capital facilities plans.
- 18C.08.020 Department review and acceptance.
- 18C.08.030 Council adoption.
- 18C.08.040 Correction of deficiencies.
- 18C.08.050 Delays.

18C.08.010 Minimum requirements for district capital facilities plans.

To be eligible for school impact fees, districts must submit capital facilities plans to the city pursuant to the procedure established by this chapter. Capital facilities plans shall contain data and analysis necessary and sufficient to meet the requirements of the GMA. The plans must provide sufficient detail to allow computation of school impact fees according to the formula contained in MMC 18C.10.010, Table 1. (Ord. 2213 § 1, 1998).

18C.08.020 Department review and acceptance.

Upon receipt of a district's capital facilities plan (or amendment thereof) the department shall determine the following:

- (1) That the analysis contained within the capital facilities plan is consistent with current data developed pursuant to the requirements of the GMA.
- (2) That any school impact fee proposed in the district's capital facilities plan has been calculated using the formula contained in MMC 18C.10.010, Table 1.
- (3) That the capital facilities plan has been adopted by the district's board of directors.

Upon finding that these requirements have been satisfied, the department shall transmit the capital facilities plan to the council for consideration and adoption. (Ord. 2213 § 1, 1998).

18C.08.030 Council adoption.

Following receipt from the department of a district's capital facilities plan or amendment thereof, the council shall consider adoption of said plan or amendment by reference as part of the capital facilities element of the city comprehensive plan. (Ord. 2213 § 1, 1998).

18C.08.040 Correction of deficiencies.

Prior to its adoption by the council, should the department find a district's capital facilities plan to be deficient, the department shall notify the district of the deficiency, identifying the specific matters found to be deficient, and shall indicate the standard for correction. The district shall then have 45 days (or such longer period as may be necessary to comply with applicable legal requirements) to correct the deficiencies and resubmit its revised, adopted capital facilities plan to the department. (Ord. 2213 § 1, 1998).

18C.08.050 Delays.

If a district fails to submit its biennial update of the capital facilities plan prior to 60 days before the expiration date, or if the department notifies a district of deficiencies in the district's proposed capital facilities plan and the district fails to correct identified deficiencies within 45 days (or such longer period as may be necessary to comply with applicable legal requirements), the department shall endeavor, but shall not be obligated, to complete review prior to the plan expiration date. If an updated capital facilities plan has not been adopted by the council prior to the existing plan's expiration date due to the district's failure to submit an updated plan, the district shall be ineligible to receive school impact fees until the updated plan has been adopted by the council. (Ord. 2213 § 1, 1998).

Chapter 18C.10

SCHOOL IMPACT FEE

Sections:

- 18C.10.010 Fee required.
- 18C.10.020 Impact fee schedule – Exemptions.
- 18C.10.030 Service areas established.
- 18C.10.040 Impact fee limitations.
- 18C.10.050 Fee determination.
- 18C.10.060 Credit for in-kind contributions/existing lots.
- 18C.10.070 SEPA mitigation and other review.

18C.10.010 Fee required.

(1) Each development activity, as a condition of approval, shall be subject to the school impact fee established pursuant to this title. The school impact fee shall be calculated in accordance with the formula established in Table 1 below. The school impact fee calculated in accordance with the formula established in Table 1 of this chapter shall then be multiplied by .75 to determine the school impact fee due and payable by the applicant.

TABLE 1

Impact Fee Calculation Formula

A. General. The formula in this section provides the basis for the impact fee schedule for each district serving the city of Marysville. District capital facilities plans shall include a calculation of its proposed impact fee schedule, by dwelling unit type, utilizing this formula. In addition, a detailed listing and description of the various data and factors needed to support the fee calculation is included herein and within Chapter 18C.04 MMC, Definitions.

B. Determination of Projected School Capacity Needs. Each district shall determine, as part of its capital facilities plan, projected school capacity needs for the current year and for not less than the succeeding five-year period. The capital facilities plan shall also include estimated capital costs for the additional capacity needs, and those costs shall provide the basis for the impact fee calculations set forth in this section.

C. Cost Calculation by Element. The fees shall be calculated on a “per dwelling unit” basis, by “dwelling unit type” as set forth below.

1. Site Acquisition Cost Element.

$$\{[B(2) \times B(3)] \div B(1)\} \times A(1) = \text{Site Acquisition Cost Element}$$

Where:

B(2) = Site Size (in acres, to the nearest 1/10th)

B(3) = Land Cost (per acre, to the nearest dollar)

B(1) = Facility Design Capacity (see MMC 18C.04.020)

A(1) = Student Factor (for each dwelling unit type – see MMC 18C.04.020)

The above calculation shall be made for each of the identified grade levels (e.g., elementary, middle, junior high and/or senior high). The totals shall then be added with the result being the “total site acquisition cost element” for purposes of the final school impact fee calculation below.

2. School Construction Cost Element.

$$[C(1) \div B(1)] \times A(1) = \text{School Construction Cost Element}$$

Where:

C(1) = Estimated Facility Construction Cost (see MMC 18C.04.020)

B(1) = Facility Design Capacity

A(1) = Student Factor (for each dwelling unit type)

The above calculation shall be made for each of the identified grade levels (e.g., elementary, middle, junior high and/or senior high). The totals shall then be added and multiplied by the square footage of permanent facilities divided by the total square footage of school facilities, with the result being the “total school construction cost element” for purposes of the final school impact fee calculation below.

3. Relocatable Facilities (Portables) Cost Element.

$$[E(1) \div E(2)] \times A(1) = \text{Relocatable Facilities Cost Element}$$

Where:

E(1) = Relocatable Facilities Cost

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E(2) = Relocatable Facilities Student Capacity
(see MMC 18C.04.020)

F(3) = Average Assessed Value (for each dwelling unit type – see MMC 18C.04.020)

A(1) = Student Factor (for each dwelling unit type)

E. Adjustments Against Cost Calculation – Elective by District. Recognizing that the availability of other sources of public funds varies among districts, each district may provide an additional credit against school impact fees which the district determines will provide the best balance in system improvement funding within the district, between school impact fees and other sources of local public funds available to the district. This adjustment may reduce, but may not increase, the school impact fee from the amount determined by application of the elements identified above. The adjustment, if any, applied by the district shall be specified within the capital facilities plan adopted by the city.

The above calculation shall be made for each of the identified grade levels (e.g., elementary, middle, junior high and/or senior high). The totals shall then be added and multiplied by the square footage of relocatable facilities divided by the total square footage of school facilities, with the result being the “total relocatable facilities cost element” for purposes of the final school impact fee calculation below.

D. Credits Against Cost Calculation – Mandatory. The following monetary credits shall be deducted from the calculated cost elements defined above for purposes of calculating the final school impact fee below.

F. Calculation of Total Impact Fee.

1. State Match Credit.

1. The total school impact fee, per dwelling unit, assessed on a development activity shall be the sum of:

$D(1) \times D(3) \times D(2) \times A(1) = \text{State Match Credit}$

Total Site Acquisition Cost Element
Total School Construction Cost Element
Total Relocatable Facilities Cost Element

Where:

minus the sum of:

D(1) = Boeckh Index (see MMC 18C.04.020)

Total State Match Credit
Total Tax Payment Credit
Elective Adjustment by District

D(3) = Square footage of school space allowed per student, by grade span, by the Office of the Superintendent of Public Instruction

expressed in total dollars per dwelling unit, by dwelling unit type.

D(2) = State Match Percentage (see MMC 18C.04.020)

A(1) = Student Factor (for each dwelling unit type)

2. The total school impact fee obligation for each development activity pursuant to the school impact fee schedule of this chapter shall be calculated as follows:

The above calculation shall be made for each of the identified grade levels (e.g., elementary, middle, junior high and/or senior high). The totals shall then be added with the result being the “total state match credit” for purposes of the final school impact fee calculation below.

Number of Dwelling Units, by Dwelling Unit Type

2. Tax Payment Credit.

multiplied by

$$\frac{[(1 + F(1))^{10}] - 1}{F(1)(1 + F(1))^{10}} \times F(2) \times F(3) = \text{Tax Credit}$$

School Impact Fee for Each Dwelling Unit Type

Where:

less

F(1) = Interest Rate (see MMC 18C.04.020)

the value of any in-kind contributions proposed by the developer and accepted by the school district, as provided in this chapter.

F(2) = District Property Tax Levy Rate (see MMC 18C.04.020)

(Ord. 2339 § 1, 2000; Ord. 2332 § 1, 2000; Ord. 2316 § 1, 2000; Ord. 2306 § 1, 1999; Ord. 2213 § 1, 1998).

18C.10.020 Impact fee schedule – Exemptions.

Subject to the provisions of this title, the school impact fees specified in each district's capital facilities plan and adopted by the council shall constitute the city's schedule of school impact fees. The department shall, for the convenience of the public, keep available an information sheet summarizing the schedule of school impact fees applicable throughout the city. (Ord. 2471 § 2, 2003; Ord. 2213 § 1, 1998).

18C.10.030 Service areas established.

For purposes of calculating and imposing school impact fees for various land use categories per unit of development, the geographic boundary of each district constitutes a separate service area. (Ord. 2213 § 1, 1998).

18C.10.040 Impact fee limitations.

(1) 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.

(2) School impact fees must be expended or encumbered for a permissible use within six years of receipt by the district.

(3) 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.

(4) 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 through 82.02.090 and this title for the same capital facilities. (Ord. 2213 § 1, 1998).

18C.10.050 Fee determination.

(1) On or before the time of development approval, the city shall determine whether school impact fees will be due pursuant to this chapter. Where such fees are due, the development approval shall state that the payment of school impact fees will be required prior to issuance of building permits. The amount of the impact fee due shall be based on the fee schedules in effect at the time a building permit application is accepted by

the city. The impact fees shall be paid on or before the time of building permit issuance.

(2) Credit amounts and allocation of credits to be applied against the fees shall be determined at the time of development approval in accordance with MMC 18C.10.070.

(3) The final determination of a development activity's fee obligation under this chapter shall include any credits for in-kind contributions provided under MMC 18C.10.070. Final determinations of the amounts of the fee or credit due may be appealed pursuant to the procedures established in Chapter 18C.14 MMC. (Ord. 2339 § 2, 2000; Ord. 2331 § 1, 2000; Ord. 2213 § 1, 1998).

18C.10.060 Credit for in-kind contributions/existing lots.

(1) A developer may request and the director may grant a credit against school impact fees otherwise due under this title for the value of any dedication of land, improvement to, or new construction of any capital facilities identified in the district's capital facilities plan provided by the developer. Such requests must be accompanied by supporting documentation of the estimated value of such in-kind contributions. All requests must be submitted to the department in writing prior to its determination of the impact fee obligation for the development activity. Each request for credit will be immediately forwarded to the affected school district for its evaluation.

(2) Where a district determines that a development activity is eligible for a credit for a proposed in-kind contribution, it shall provide the department and the developer with a letter setting forth the justification for and dollar amount of the credit, the legal description of any dedicated property, and a description of the development activity to which the credit may be applied. The value of any such credit may not exceed the impact fee obligation of the development activity in question.

(3) Where there is agreement between the developer and the school district concerning the value of proposed in-kind contributions, their eligibility for a credit, and the amount of any credit, the director may (a) approve the request for credit and adjust the impact fee obligation accordingly, and (b) require that such contributions be made as a condition of development approval. Where there is disagreement between the developer and the school district regarding the value of in-kind contributions, however, the director may render a decision that can be appealed by either party pursuant to the procedures in Chapter 18C.14 MMC.

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(4) For subdivisions, PRDs and other large-scale developments where credits for in-kind contributions or pre-existing lots are proposed or required, it may be appropriate or necessary to establish the value of the credit on a per-unit basis as a part of the development approval. Such credit values will then be recorded as part of the plat or other instrument of approval and will be used in determining the fee obligation, if any, at the time of building permit application for the development activity. In the event that such credit value is greater than the impact fee in effect at the time of permit application, the fee obligation shall be considered satisfied, and the balance of the credit may be transferable to future developments by the applicant within the same school district by agreement with the school district. (Ord. 2213 § 1, 1998).

18C.10.070 SEPA mitigation and other review.

(1) The city shall review development proposals and development activity permits 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 Marysville 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 services and 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.

(2) Impact fees required by this chapter for development activity, together with compliance with development regulations and other mitigation measures offered or imposed at the time of development review and development activity review, shall constitute adequate mitigation for all of a development's specific adverse environmental impacts on the school system for the purposes of Chapter 19.22 MMC. 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. (Ord. 2213 § 1, 1998).

Chapter 18C.12**IMPACT FEE ACCOUNTING**

Sections:

- 18C.12.010 Collection and transfer of fees, fund authorized and created.
- 18C.12.020 Use of funds.
- 18C.12.030 Refunds.
- 18C.12.040 Reimbursement for city administrative costs, legal expenses, and refund payments.

18C.12.010 Collection and transfer of fees, fund authorized and created.

(1) School impact fees shall be due and payable to the city by the developer at or before the time of issuance of residential building permits for all development activities.

(2) In conjunction with the adoption of the city budget, there is hereby authorized the creation and establishment of a fund to be designated the "school impact fee fund." The city shall temporarily deposit all impact fees collected on behalf of a district pursuant to this chapter and any interest earned thereon in the school impact fee fund with specific organizational identity for a district until the transfer of the fees to the school district's school impact fee account pursuant to the interlocal agreement between the city and the district.

(3) Districts eligible to receive school impact fees collected by the city shall establish an interest-bearing account separate from all other district accounts. The city shall deposit school impact fees in the appropriate district account within 10 days after receipt, and shall contemporaneously provide the receiving district with a notice of deposit.

(4) Each district shall institute a procedure for the disposition of impact fees and providing for annual reporting to the city that demonstrates compliance with the requirements of RCW 82.02.070, and other applicable laws. (Ord. 2213 § 1, 1998).

18C.12.020 Use of funds.

(1) School impact fees may be used by the district only for capital facilities that are reasonably related to the development for which they were assessed and may be expended only in conformance with the district's adopted capital facilities plan.

(2) In the event that bonds or similar debt instruments are issued for the advance provision of capital facilities for which school impact fees may be expended, and where consistent with the provisions of the bond covenants and state law, school

impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the capital facilities provided are consistent with the requirements of this title.

(3) The responsibility for assuring that school impact fees are used for authorized purposes rests with the district receiving the school impact fees. All interest earned on a school impact fee account must be retained in the account and expended for the purpose or purposes for which the school impact fees were imposed, subject to the provisions of MMC 18C.12.030.

(4) Each district shall provide the city an annual report showing the source and the amount of school impact fees received by the district and the capital facilities financed in whole or in part with those school impact fees. (Ord. 2213 § 1, 1998).

18C.12.030 Refunds.

(1) School impact fees not spent or encumbered within six years after they were collected shall, upon receipt of a proper and accurate claim, be refunded, together with interest, to the then current owner of the property. In determining whether school impact fees have been encumbered, impact fees shall be considered encumbered on a first in, first out basis. At least annually, the city, based on the annual report received from each district pursuant to MMC 18C.12.020(4), shall give notice to the last known address of potential claimants of any funds, if any, that it has collected that have not been spent or encumbered. The notice will state that any persons entitled to such refunds may make claims.

(2) Refunds provided for under this section shall be paid only upon submission of a proper claim pursuant to city claim procedures. Such claims must be submitted to the director within one year of the date the right to claim the refund arises, or the date of notification provided for above, where applicable, whichever is later. (Ord. 2213 § 1, 1998).

18C.12.040 Reimbursement for city administrative costs, legal expenses, and refund payments.

Each participating school district shall enter into an agreement with the city of Marysville providing for such matters as the collection, distribution and expenditure of fees and for reimbursement of any legal expenses and staff time associated with defense of this chapter as more specifically set forth in an interlocal agreement between the city and a school district, and payment of any refunds provided under MMC 18C.12.030. The city's costs

18C.14.010

of administering the impact fee program shall be paid by the applicant to the city as part of the development application fee. Said fee shall be as set forth in Chapter 19.60 MMC and shall be an amount that approximates, as nearly as possible, the actual administrative costs of administering the school impact fee program. (Ord. 2213 § 1, 1998).

Chapter 18C.14

ADJUSTMENTS – APPEALS – ARBITRATION

Sections:

- 18C.14.010 Administrative adjustment of fee amount.
- 18C.14.020 Appeals of decisions – Procedure.
- 18C.14.030 Arbitration of disputes.

18C.14.010 Administrative adjustment of fee amount.

(1) Within 14 days of acceptance by the city of a building permit application a developer or school district may appeal to the director for an adjustment to the fees imposed by this title. The 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:

- (a) It can be demonstrated that the school impact fee assessment was incorrectly calculated;
- (b) Unusual circumstances of the development activity demonstrate that application of the school impact fee to the development would be unfair or unjust;
- (c) A credit for in-kind contributions by the developer, as provided for under MMC 18C.10.060, is warranted; or
- (d) Any other credit specified in RCW 82.02.060(1)(b) may be warranted.

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

(3) Failure to exhaust this administrative remedy shall preclude appeals of the school impact fee pursuant to MMC 18C.14.020. (Ord. 2213 § 1, 1998).

18C.14.020 Appeals of decisions – Procedure.

(1) Any person aggrieved by a decision applying an impact fee under this title to a development activity may appeal such decision to the hearing examiner pursuant to the provisions of Chapter 15.11 MMC. Where there is an administrative appeal process for the underlying development approval, appeals of an impact fee under this title must be combined with the administrative appeal for the underlying development approval. Where there is no administrative appeal for the permit, then appeals solely of the impact fee issue shall be subject to the provisions of Chapter 15.11 MMC.

(2) At the hearing, the appellant shall have the burden of proof, which burden shall be met by a

preponderance of the evidence. The impact fee may be modified upon a determination that it is proper to do so based on the application of the criteria contained in MMC 18C.14.010. Appeals shall be limited to application of the impact fee provisions to the specific development activity and the provisions of this title shall be presumed valid.

(3) The decision of the hearing examiner pursuant to subsection (1) of this section shall be final and conclusive with an optional right of reconsideration as provided in MMC 15.09.060 and may then be reviewable by filing a land use petition in Snohomish County superior court as provided in Chapter 36.70C RCW, the Land Use Petition Act. (Ord. 2213 § 1, 1998).

18C.14.030 Arbitration of disputes.

With the consent of the developer and the affected district, a dispute regarding imposition or calculation of a school impact fee may be resolved by arbitration. (Ord. 2213 § 1, 1998).

Chapter 18C.16

SEVERABILITY AND SAVINGS

Sections:

18C.16.010 Savings clause – Effective date – Emergency.

18C.16.010 Savings clause – Effective date – Emergency.

(1) If any section, subsection, sentence, clause, phrase or word of this title 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 title.

(2) Effective Date. The ordinance codified in this title shall be effective five days following adoption and publication; provided, however, the schedule of school impact fees adopted herein shall not be effective until the approval and incorporation by reference as a subelement of the city's comprehensive plan, a school district's capital facilities plan. The schedule of school impact fees adopted herein shall also not be effective until approval by the city and the affected school district of an inter-local agreement for the collection, distribution and expenditure of school impact fees.

(3) Emergency. In light of the rapid rate of development in the Marysville School District and the need to provide school facilities to serve development, an emergency is hereby (declared to exist due to the fiscal impacts of delay on the district and in order to preserve the public health, safety and welfare. (Ord. 2213 § 1, 1998).

