Chapter 20.90

CONCURRENCY & IMPACT FEES

Sections:

Part I. Transportation Impact Fees

20.90.010 Transportation Impact Fees Established.

There is established, subject to the provisions of this chapter, a transportation impact fee program.

20.90.020 Definitions.

Unless the context otherwise requires, the terms defined in this section shall, for all purposes of this chapter, have the meanings specified in this section:

Act means the sections of the Washington State Growth Management Act, codified as RCW 82.02.050 through 82.02.090, as now in existence, or as hereinafter amended.

Development Activity means any development as defined in Chapter 20.08 (Definitions) that creates additional demand on and/or the need for public facilities, but not interior remodeling that does not change the PM Peak trips as categorized in the transportation plan element to the City's comprehensive plan or of the applicable code or regulation of the City.

Fair Market Value means the price in terms of money that a property will bring in a competitive and open market under all conditions of a fair sale, the buyer and seller each prudently knowledgeable, and assuming the price is not affected by undue stimulus.

Public Facilities as used in this section refers to public streets, roads and rights-of-way owned or operated by the City for other governmental entities, including trails, paths, bikeways, other transportation facilities and all attendant improvements.

Service Area means the development impact fee service area of the City identified in §20.90.030 (Establishment of Service Area), below.

System Improvements means public facilities that are included in the capital facilities plan.

Transportation Facilities means and refers to streets and roads, but includes all publicly owned streets, roads, alleys and rights-of-way within the City and street services, traffic control devices, curbs, gutters, sidewalks and related facilities and improvements.

20.90.030 Establishment of Service Area.

The City hereby establishes as the service area for development impact fees all areas in which development may occur that would impact the City's transportation system, including all property located within the corporate limits of the City as now exists or may be amended by annexation or any surrounding properties that would normally use City transportation facilities. The scope of the service area is hereby found to be reasonable and established on the basis of sound planning and engineering principles.

20.90.032 Interlocal Agreements Allowed.

Pursuant to State law, the Council may enter into an interlocal agreement, with any jurisdiction, that requires reciprocal traffic mitigation for extraterritorial impacts to one another's transportation systems.

20.90.040 Imposition of Impact Fees on Development Activity.

(a) All development projects within the City shall be assessed a transportation impact fee, at the rate of $3,355.00, based on peak p.m. trips, as computed in accordance with the most current edition of the Institute of Transportation Engineers Trip Generation Manual, as applied to the City's transportation element of the adopted Comprehensive Plan. It is hereby declared that such impact fees shall:
    (1) Only be imposed for system improvements that are reasonably related to new development; and,
    (2) Not exceed a proportionate share of the cost of the system improvements, including the costs of previously constructed system improvements, reasonably related to new development; and,
    (3) Be used for system improvements that will reasonably benefit new development; and
    (4) Not be imposed to make up for deficiencies in any previously constructed system improvements. Such impact fee schedule is based upon the formula for calculating the proportionate share of the cost of the system improvements, including the costs of previously constructed system improvements, necessitated by new development to be borne by impact fees, which formulas are described in the transportation element of the City's comprehensive plan and incorporated herein by this reference.
(b) For subdivisions, short plats, and all other development activities, impact fees shall be assessed prior to the issuance of the building permit. Impact fees shall be due and payable, in whole at said time without interest.
(c) Failure to pay the impact fees for a given development activity at the time of assessment shall result in denial of the building permit for which the owner has applied.
(d) If, as a condition of approval of development activity, the City requires the dedication of land, or construction of system improvements, in excess of the minimum development standards set out in this Title, the developer shall be eligible for a credit towards the transportation mitigation fees otherwise payable under this chapter. The amount of said credit shall be measured based on the pre-development fair market value of said land or improvements required in excess of the minimum standards and shall be deducted from the transportation mitigation fees charged under this chapter.
(e) A trip-for-trip credit for existing trips may be given when a site is being expanded or undergoing a change in use. However, no credits for existing trips may be transferred from one site to another.
(f) The City Administrator or designee may adjust the amount of the impact fee otherwise imposed hereby with respect to specific projects requiring a building permit upon determining that:
    (1) Unusual circumstances requires such adjustment to ensure that such impact fees are imposed fairly; and

(2) Studies and data submitted by the owner regarding the impacts of such owner's proposed development activity requires such adjustment to ensure that such impact fees are imposed fairly. Impact fees shall not be deemed unfair unless such unusual circumstances and studies and data support a finding that the impact fees otherwise imposed hereby allocate to the specific project in question a share of the cost of the systems improvements reasonably related to new development that is greater than or substantially less than such project's allocable proportionate share of such costs.

20.90.045 Imposition of Impact Fees on Cascade Industrial Center Development Activity.

(a) All development projects within the Cascade Industrial Center shall be assessed an additional transportation impact fee, at the rate of $5,841.39, based on peak p.m. trips, as computed in accordance with the most current edition of the Institute of Transportation Engineers Trip Generation Manual, as applied to the City's transportation element of the adopted Comprehensive Plan. It is hereby declared that such impact fees shall:
  (1) Only be imposed to those developments within the Cascade Industrial Center and subject to the Cascade Industrial Center Planned Action EIS adopted per Ordinance 2020-002.
  (2) Concurrency. All Planned Action projects shall meet the transportation concurrency requirements and the level of service (LOS) thresholds established in the Arlington Comprehensive Plan and §20.56.
  (3) Traffic Impact and Mitigation. The responsible City official shall require documentation by Planned Action Project applicants demonstrating that the total trips identified in Subsection 4.D(3)(a) of the Planned Action are not exceeded.
  (4) That the project meets the concurrency standards of Subsection 3.D(3)(b) of the Planned Action.
  (5) That the project has mitigated impacts consistent with Exhibit B of the Planned Action.
(b) Planned Action applicants shall provide the following documentation at a minimum unless otherwise required to address standards of §20.04.120 and §20.56:
  (1) Trip generation and total trips in relation to the trip bank in subsection 3.D(3)(a) and (d).
  (2) Site-specific access design and consistency with city standards.
  (3) Implementation of required frontage improvements per Exhibit B-3 and applicable city engineering standards.
  (4) Share of cost on area wide mitigation per Exhibit B-3.
(c) Discretion. The City Engineer or his/her designee shall have discretion to determine incremental and total trip generation, consistent with the Institute of Traffic Engineers (ITE) Trip Generation Manual (latest edition) or an alternative manual accepted by the City Engineer at his or her sole discretion, for each project permit application proposed under this Planned Action.
(d) Elements of the Environment and Degree of Impacts. A proposed project that would result in a significant change in the type or degree of adverse impacts of any element(s) of the environment analyzed in the Planned Action EIS, would not qualify as a Planned Action.
(e) Changed Conditions. Should environmental conditions change significantly from those analyzed in the Planned Action EIS, the city’s SEPA responsible official may determine that the Planned Action designation is no longer applicable until supplemental environmental review is conducted.
(f) Substantive Authority. Pursuant to SEPA substantive authority of §20.98.200 and Comprehensive Plan policies, impacts shall be mitigated through the measures included in Exhibit B of the Planned Action.

(g) For subdivisions, binding site plans, and all other development activities, impact fees shall be assessed prior to the issuance of the building permit. Impact fees shall be due and payable, in whole at said time without interest.
(h) Failure to pay the impact fees for a given development activity at the time of assessment shall result in denial of the building permit for which the owner has applied.
(i) If, as a condition of approval of development activity, the City requires the dedication of land, or construction of system improvements, in excess of the minimum development standards set out in this Title, the developer shall be eligible for a credit towards the transportation mitigation fees otherwise payable under this chapter. The amount of said credit shall be measured based on the pre-development fair market value of said land or improvements required in excess of the minimum standards and shall be deducted from the transportation mitigation fees charged under this chapter.
(j) A trip-for-trip credit for existing trips may be given when a site is being expanded or undergoing a change in use. However, no credits for existing trips may be transferred from one site to another.

20.90.050 Disposition of Impact Fee Revenues.

(a) The impact fees collected pursuant to the provisions of this chapter shall be deposited into the growth management fund created pursuant to AMC §3.64.010 (Growth Management Fund Created). Pending application as provided in this chapter, the monies deposited in the accounts of the impact fee fund shall be invested in any investment authorized for the investment of City funds. All interest and profits derived from the investment of monies in each account in the impact fee fund shall be retained in such account.
(b) The impact fees deposited in each account in the impact fee fund, and the interest and profit received from the investments there from shall be expended only for public facilities of the type for which such impact fees were collected, in conformity with the City's Comprehensive Plan and Capital Facilities Plan Element, and expended or encumbered within six years of receipt by the City, unless written findings by the City Council identify an extra-ordinary and compelling reason for the City to hold the fees for a longer time. The City shall account for annual expenditures and shall comply with this section in successive comprehensive plans, transportation plans and capital facilities plans as appropriate.
(c) The city shall prepare an annual report on the impact fee fund, which shows the source and amount of all monies collected, earned or received, and the public facilities that were financed in whole or in part by impact fees.

20.90.060 Refunds.

(a) The city shall refund to the current owners of property on which an impact fee has been paid any impact fees paid with respect to such property that has not been expended or encumbered for public facilities of the type of which such impact fees were collected within six years from the date of receipt or such longer period of time as is established in the event that the City Council finds that an extraordinary or compelling reason exists to hold the fees longer than six years as provided in §20.90.050 (Disposition of Impact Fee Revenues). Impact fees shall be considered encumbered on a first in first out basis. The City shall notify potential refund claimants by first-class mail deposited with the United States Postal Service at the last known address of the claimants.
(b) The City shall also refund to the current owner of property of which an impact fee has been paid all impact fees paid with respect to such property if the development activity for which the impact fee was imposed did not occur and no impact has resulted; provided, that if some,

but not all, of the development activity for which the impact fee was imposed occurred, the impact will be deemed to have occurred, and no refund shall be available under this section.

(c) Owners seeking a refund of impact fees must submit a written request for a refund of impact fees to the City Administrator or designee within one year of the date the right to claim the refund arises, which, for purposes of refund claims authorized pursuant to paragraph (b) of this section only, shall be the date of voluntary or involuntary abandonment of the building permit, or the date that notice is given as provided in paragraph (a) of this section, whichever occurs later. Refunds of impact fees shall include interest and any profits earned on the impact fees from the date of their receipt to the date of refund, as a percentage of the interest/profits earned by the fund on an annual basis. Any impact fees not expended within the time limitations described in AMC 16.84.050(b) and for which no application for a refund has been made within the one-year claim period, shall be retained by the City and expended on public facilities of the type for which such impact fees were initially collected, without further limitation as to the time of expenditure.

(d) In the event a refund is made by the city pursuant to this section, the city may, but is not required to, review the original approval or authorization for which the mitigation fees had been paid under this chapter. Refund of the mitigation fees shall be deemed to be a change in conditions, which authorizes review of the development activity for which approval was previously given. The provisions of local and state law shall govern review of said development activity.

20.90.070 Appeals.

(a) An owner may pay an impact fee imposed pursuant to this chapter under protest in order to obtain a building permit, and after such payment, may file an appeal regarding the amount of such impact fee in accordance with this section. Pending the completion of the appeal process as set forth herein, no building permits shall be issued for any development activity for which the mitigation fees about which appeal is being sought were imposed.

(b) The determination of the City Administrator or designee regarding the applicability of the impact fee to a given development activity within the service area shall be final. The City Council shall have the power to hear and decide appeals where it is alleged that there is an error in the City Administrator's or designee's determination of the impact fee imposed upon a development activity pursuant to this chapter.

(c) Appeal to the City Council regarding the amount of the impact fee imposed on any development activity may only be taken by the owner of the property where such development activity shall occur. No appeal shall be permitted unless and until the impact fee at issue has been paid. Such appeals shall be taken within a reasonable time, not exceeding ten days after the date the impact fee was paid, and in the case of subdivisions or short plats, prior to the recording of the final plat. An appeal shall be commenced by filing with the City Clerk or designee a notice of appeal specifying the grounds thereof and depositing an appeal-filing fee of two hundred fifty dollars ($250.00). The City Clerk or designee shall forthwith transfer to the City Council all papers constituting the record upon which the amount of the impact fee was determined.

(d) The City Council shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties of interest, and decide the same within a reasonable time of the hearing. Any party may appear in person or by agent or through his/her attorney.

(e) In exercising the above-mentioned powers, the City Council may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partially or may modify the determination of the amount of the impact fee appealed from only upon a determination that it is proper to do so based on principal of fairness, and may make such order, requirements, decisions or determination as ought to be made, and to that end shall have the powers with respect to the determination of the impact fees as they are granted to the City pursuant to this chapter.

(f) Any person or persons, or any board, taxpayer or department or division of the City aggrieved by any decision of the City Council may seek review by a court of record of such decision, in the manner provided by the laws of the State of Washington.

Part II. School Impact Fees

20.90.110 Purpose.

The purposes of this Part 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.

20.90.120 Applicability.

The terms of this Part shall apply to all development for which a complete application for approval is submitted on or after the effective date of this chapter, except for development that was the subject of a prior SEPA threshold determination that provided for school mitigation under the terms of Ordinance 1001 as codified prior to the effective date of this Title. All building permit applications accepted by the department prior to the effective date of this Title, or for development that was the subject of a prior SEPA threshold determination that included provisions for school mitigation under (repealed) Title 18A, shall be reviewed for all purposes allowed under state law, including environmental review pursuant to Arlington's SEPA regulations (Chapter 20.98), unless the developer, where allowed by state law, consents in writing to the application of the provisions of this Part.

20.90.130 Words Defined by RCW 82.02.090.

Words used in this Part and defined in RCW 82.02.090 shall have the same meaning assigned in Chapter 82.02 RCW unless a more specific definition is contained in Chapter 20.08 (Definitions).

20.90.140 Other Definitions.

Average Assessed Value means the average assessed value by dwelling unit type of all residential units constructed within the district.

Boeckh Index means the current construction trade index of construction costs for each school type.

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."

Capital Facilities Plan means a school district's facilities plan adopted by its board consisting of those elements required by §20.90.180 (Minimum Requirements for District Capital Facilities Plans), and meeting the requirements of the GMA.

Department means the City of Arlington Department of Community Development.

Development Activity means any construction or expansion of a residential building, structure or use of land, or any other change in use of a residential building, structure, or land that creates additional demand and need for school facilities, but excluding building permits for attached or detached accessory apartments, and remodeling or renovation 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**.** §3607, when guaranteed by a restrictive covenant.

Development Approval means any written authorization from the City that authorizes the commencement of a development activity.

Director means the Director of the City of Arlington Department of Community Development, or the Director's designee.

District means the Arlington School District No. 16, the Lakewood School District No. 306, or any other district that serves the student residing within the City of Arlington.

District Property Tax Levy Rate means the district's current capital property tax rate per thousand dollars of assessed value.

Dwelling Unit Type means (1) single-family residences, including duplexes, each as a separate unit, and night watchman's quarters, (2) multi-family one-bedroom apartment or condominium units, and (3) multi-family multiple-bedroom apartment or condominium units.

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.

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.

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.

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

Interest Rate means the current interest rate as stated in the Bond Buyer Twenty-Year Bond General Obligation Bond Index.

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 acquisitions costs in other districts, or the average assessed value per acre of properties comparable to school sites located within the district.

Multi-Family Unit means any residential dwelling unit that is not a single-family unit as defined by this Part.

Permanent Facilities means school facilities of the district with a fixed foundation.

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 the 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.

Relocatable Facilities Cost means the total cost, based on actual costs incurred by the district, for purchasing and installing portable classrooms.

Relocatable Facilities Student Capacity means the rated capacity for a typical portable classroom used for a specified grade span.

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.

Single Family Unit. See "dwelling unit."

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 that are used as transitional facilities or for any specialized facilities housed in relocatable facilities.

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.

Student Factor (Student Generation Rate) means the number of students of each grade span (elementary, middle or junior high, and high school) that a district determines are typically generated by different dwelling unit types within the district. The school district will use a survey or statistically valid methodology to derive the specific student generation rate.

20.90.150 Capital Facilities Plan Required.

Any district serving the City of Arlington 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's Comprehensive Plan. The plan shall meet the requirements of the GMA, and §20.90.180 (Minimum Requirements for District Capital Facilities Plans). These actions will also constitute adoption by the City of the schedule of school impact fees specified in such Capital Facilities Plan.

20.90.160 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.

20.90.170 Updating of District Plans.

(a) A district's capital facilities plan shall be updated by the district and transmitted to the City by the district at least sixty (60) days prior to its biennial expiration date and prior to the City's annual deadline for Comprehensive Plan amendment applications. The City shall process the amendment pursuant to its established Comprehensive Plan amendment process. In the event the 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 through its established Comprehensive Plan amendment process, provided such amendments shall be

considered by the City no more than once per year unless the board of directors of the district declares, and the City finds, that an emergency exists.

(b) A district's updated capital facilities plan may include revised data for the fee calculation and a corresponding modification to the impact fee schedule.

20.90.180 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 and the City's Comprehensive Plan. The plans must provide sufficient detail to allow computation of school impact fees according to the formula contained in 20.90.240 (Impact Fee Calculation Formula). Additional elements may be contained within a capital facilities plan.

20.90.190 Department Review and Acceptance.

(a) Upon receipt of the district's capital facilities plan (or amendment thereof) the department shall determine the following:
  (1) That the required plan contents and plan performance criteria outlined in the GMA are reflected in the document.
  (2) That the analysis contained within the capital facilities plan is consistent with current data developed pursuant to the requirements of the GMA.
  (3) That any school impact fee proposed in the district's capital facilities plan has been calculated using the formula contained in §20.90.240 (Impact Fee Calculation Formula) of this Part.
  (4) That the district's board of directors has adopted the capital facilities plan.

(b) Upon finding that these requirements have been satisfied, the department shall transmit the capital facilities plan to the Council for consideration and adoption pursuant to the City's established amendment process.

20.90.200 Council Adoption.

Following receipt from the department of a district's capital facilities plan or amendment thereof, the Council, through its established Comprehensive Plan amendment process, shall consider adoption of said plan or amendment by reference as part of the Capital Facilities Element of the City's Comprehensive Plan.

20.90.210 Correction of Deficiencies.

Prior to its adoption by the Council, should the department find a district's capital facilities plan to be deficient in any way, 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 forty-five (45) days (or such longer period as may be necessary to comply with applicable legal requirements, so long as it falls within the City's established Comprehensive Plan amendment process timeline) to correct the deficiencies and resubmit its revised, adopted capital facilities plan to the department.

20.90.220 Delays in Updating the Capital Facilities Plan.

If a district fails to submit its biennial update of the capital facilities plan pursuant to §20.90.170 (Updating of District Plans), or if the department notifies the district of deficiencies in the district's proposed capital facilities plan and the district fails to correct identified deficiencies as per §20.90.210 (Correction of Deficiencies), the department shall endeavor, but shall not be

obligated, to complete review prior to the plan expiration date. If, due to the district's failure to submit an updated plan, the Council has not adopted an updated Capital Facilities Plan prior to the existing plan's expiration date, the district shall be ineligible to receive school impact fees until the Council has adopted the updated plan.

20.90.230 Fee Required.

Each development activity, as a condition of approval, shall be subject to the school impact fee of $4,002 for each single-family, $0 for each multi-family (1 bedroom), and $2,328 for each multi-family (2+ bedrooms) dwelling unit for the Arlington School District; and $0 for each single-family, $0 for each multi-family (1 bedroom), and $0 for each multi-family (2+ bedrooms) dwelling unit for the Lakewood School District. The proposed school impact fee shall be calculated in accordance with the formula established in §20.90.240 (Impact Fee Calculation Formula), then be multiplied by 0.5 to determine the maximum school impact fee that the Council could adopt.

20.90.240 Impact Fee Calculation Formula.

(a) **General.** The formula in this section provides the basis for the impact fee schedule for the district. The capital facilities plan 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 with this section.

(b) **Determination of Projected School Capacity Needs.** The 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 district's capital facilities plan shall also include estimated capital costs for the additional capacity needs, and those costs provide the basis for 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 current 1/10th)
B(3) = Land Cost (per acre, to the nearest dollar)
B(1) = Facility Design Capacity (see 2. below)
A(1) = Student Factor (for each dwelling unit type [see 2. below])

The above calculation shall be made for each of the identified grade levels (e.g., elementary, middle or 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) ÷ B(1)] x A(1) = School Construction Element.

Where:
C(1) = Estimated Facility Construction Cost
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 or 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) Costs Element.

[E(1) ÷ E(2)] x A(1) = Relocatable Facilities Cost Element

Where:
E(1) = Relocatable Facilities Cost
E(2) = Relocatable Facilities Student 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 or 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.**

(1) State Match Credit.

D(1) x D(3) x D(2) x A(1) = State Match Credit

Where:
D(1) = Boeckh Index
D(3) = Square footage of school space allowed per student, by grade span, by the Office of the Superintendent of Public Instruction
D(2) = State Match Percentage
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 or 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.

(2) Tax Payment Credit.

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

Where:
F(1) = Interest Rate
F(2) = District Property Tax Levy Rate
F(3) = Average Assessed Value (for each dwelling unit type)

(e) **Adjustments Against Cost Calculation.** The district may provide an additional credit against school impact fees that the district determines will provide the best balance in system improvement funding 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.

(f) **Calculation of Total Impact Fee.**

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

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

minus the sum of:

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

expressed in Total Dollars per Dwelling Unit, by Dwelling Unit Type.

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

Number of Dwelling Units, by Dwelling Unit Type,

multiplied by

School Impact Fee for Each Dwelling Unit Type,

less

the value of any in-kind contributions proposed by the developer and accepted by the school district.

20.90.250 Impact Fee Schedule—Exemptions.

(a) The school impact fees adopted by the City 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.

(b) The City Council may, on a case-by-case basis, grant exemptions to the application of the fee schedule for affordable and for low-income housing activities in accordance with RCW 82.02.060(2). To qualify for such exemption, the developer of such housing shall submit a petition to the director for consideration by the Council prior to application for building permit. The Council shall establish conditions for such approvals 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 housing. The covenant entered into by and between the developer and the district 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 Snohomish County.

20.90.260 Service Areas Established.

For purposes of calculating and imposing school impact fees for various land use categories per unit of development, the geographic boundaries of the districts constitute separate service areas.

20.90.270 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 - 100 and this Part for the same capital facilities.

20.90.280 Fee Determination.

(a) For development that requires a land use permit, the City shall determine whether school impact fees are due at the time of issuance of said permit. The amount of the fee due shall be based on the fee schedule then in effect.
(b) For projects that do not require a land use permit (only a building permit), such a determination shall be made prior to issuance of building permits. For such projects, the amount of the fee due shall be based on the fee schedule in effect at the time the fee is paid.
(c) The final determination of a development activity's fee obligation under this section shall be made prior to the application for building permit. Said final determination shall include any credits for in-kind contributions provided under §20.90.290 (Credit for In-Kind Contributions/Existing Lots), below. Final determinations may be appealed pursuant to the procedures established in §20.90.350 (Appeals of Decisions).

20.90.290 Credit for In-Kind Contributions/Existing Lots.

(a) A developer may request, and the district may grant, a credit against school impact fees otherwise due under this Part 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 district in writing, and a letter from the district granting such credit submitted to the department pursuant to Subsection (b) prior to its determination of the impact fee obligation for the development activity.

(b) Where the 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 its agreement to the credit, the justification for the 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.

(c) Where there is written agreement between the developer and the district concerning the value of proposed in-kind contributions, eligibility for a credit, and the amount of any credit, the director shall: a) 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 district regarding the value of in-kind contributions, however, the District shall render a decision that can be appealed by the developer to the City's Hearing Examiner using the City's appeal process.

20.90.300 SEPA Mitigation and Other Review.

(a) The City shall review development proposals and development activity permits pursuant to all applicable state and City laws and regulations, including the State Environmental Policy Act (Chapter 43.21C RCW), the State Subdivision Act (Chapter 58.17 RCW) and the applicable sections of the Arlington Municipal Code (AMC). 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 the district's services, facilities, and capital facilities plan.

(b) Impact fees required by this Part 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 this Part. Nothing in this Part 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.

20.90.310 Collection of Fees.

(a) Where school impact fees are found to be due for development that requires a land use permit, issuance of a building permit or for projects that do not require a land use permit (only a building permit), impact fees shall be paid to the district prior to issuance of building permits. The amount of the fee due shall be based on the fee schedule in effect at the time the impact fee payment is paid.

(b) Fee payments shall be made by the developer directly to the district, who shall then provide a receipt, a copy of which shall be provided by the developer to the department prior to the recordation of plats or issuance of permits.

(c) To receive school impact fees the district shall establish an interest-bearing account separate from all other district accounts.
(d) The district shall institute a procedure for the disposition of impact fees and provide for an annual report to the City that demonstrates compliance with the requirements of RCW 82.02.070, and other applicable laws.

20.90.320 Use of Funds.

(a) 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.
(b) 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 section.
(c) The responsibility for assuring that school impact fees are used for authorized purposes rests with the district. 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 §20.90.330 (Refunds), below.
(d) The 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.

20.90.330 Refunds.

(a) 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 by the District. 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 District, based on the annual report pursuant to §20.90.310 (Collection of Fees) shall give notice to the last known address of potential claimants of any funds, if any, that it has collected fees that have not been spent or encumbered. The notice will state that any persons entitled to such refunds may make claims.
(b) Refunds provided for under this section shall be paid only upon submission of a proper claim pursuant to district claim procedures. Such claims must be submitted to the district 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.

20.90.340 Administrative Adjustment of Fee Amount.

(a) Within fourteen (14) days of acceptance by the City of a building permit application, a developer or school district may appeal to the City's Hearing Examiner for an adjustment to the fees imposed by this title. The Hearing Examiner may adjust the amount of the fee, in consideration of studies and data submitted by the developer and the school district, if one or the following circumstances exists, provided that the discount set forth in the fee formula fails to adjust for the error in the calculation or fails to ameliorate for the unfairness of the fee:
    (1) It can be demonstrated that the school impact fee for assessment was incorrectly calculated;

(2) Unusual circumstances of the development activity 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, as provided for under §20.90.290 (Credit for In-Kind Contributions/Existing Lots) 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 a development approval.
(c) Failure to exhaust this administrative remedy shall preclude appeals of the school impact fee pursuant to §20.90.350 (Appeals of Decisions).

20.90.350 Appeals of Decisions.

(a) Any person aggrieved by a decision applying an impact fee under this Part to a development activity may appeal such decision pursuant to provisions of Chapter 20.20 (Appeals, Variances, Interpretations). Where there is an administrative appeal process for the underlying development approval, appeals of an impact fee under this Part 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 20.20.
(b) 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 §20.90.340 (Administrative Adjustment of Fee Amount). Appeals shall be limited to application of the impact fee provisions to the specific development activity and the provisions of this Part shall be presumed valid.

Part III. Neighborhood and Community Parks

20.90.400 Community and Neighborhood/Mini Parks Impact Fee.

(a) Residential developments shall pay a Community Park Impact Fee of $1,662 for each single-family dwelling unit and $1,497 for each multi-family dwelling unit prior to issuance of a building permit.
(b) Residential developments which do not set aside for a Neighborhood/Mini-Park per §20.52.010 (Mini-Parks Required) or existing lots shall pay a Neighborhood/Mini Park In Lieu Fee of $484 per single family dwelling unit and $436 per multi-family dwelling unit, prior to issuance of a building permit.

Part IV. Impact Fee Credits

20.90.410 Credit of Impact Fee Amount.

(a) Impact fees shall be credited for the value of dedicated land, and for improvements to or new construction of facilities provided by the developer if such facilities are listed in the City's current adopted Capital Facilities or Comprehensive Plan and required as a condition of the development approval, all in accordance with RCW 82.02.060(3). The determination of the value of the dedicated land and/or improvements will be made by the Public Works Director. Any credit towards the school impact fees imposed by AMC 20.90.230 shall require the concurrence of the affected school district.

(b) Impact fees shall not be credited for those transportation improvement projects that are required by the City's Capital Facilities Plan or Comprehensive Plan, unless those improvements are in excess of the minimum development standards set out in this Title. Conditions for the credit shall be based on the criteria indicated in 20.90.040 (d).

(c) A developer shall be entitled to a credit against the park impact fee collected under the fee schedule adopted by this chapter in any of the following situations:
  (1) Whenever a project is granted approval subject to a condition that the developer actually provide system improvements; or
  (2) Whenever a developer has agreed, pursuant to the terms of a voluntary agreement with the City, to provide land for system improvements; or
  (3) Whenever a developer has agreed to make system improvements to existing park facilities.

(d) If, in any of the cases in 20.90.410(c), the land dedicated, or facility constructed is allocated partly toward system improvements and partly toward project improvements, the credit shall be limited to that portion allocated to system improvements.

Part V. Impact Fee Deferral

20.90.420 Deferred Collection of Impact Fees

(a) An applicant for a building permit for a single-family detached or attached residence may, upon payment of an application fee, request a deferral of any or all impact fee payments under this chapter until the earliest of the following dates:
  (1) Issuance of the certificate of occupancy for completion of the single-family residence;
  (2) At the time of closing of the first sale of any portion of the property covered by the building permit; or
  (3) Eighteen months from the date of issuance of the building permit.

The city may withhold certification of final inspection, certification of occupancy, or any equivalent certification, and the extension of utilities until the impact fees are paid in full.

(b) The amount of impact fees that may be deferred under this section will be determined by the fees in effect at the time the applicant applies for the deferral.

(c) Each applicant for a single-family residential construction permit, in accordance with his or her contractor registration number, social security number, or other unique identification number, is entitled to annually receive deferrals under this section for only the first twenty single-family residential construction building permits. A separate application and fee payment shall be required for each single-family residence being constructed. For purposes of this section, the term "applicant" as defined in Section 20.08.010 shall also include any entity which controls the applicant, is controlled by the applicant, or is under common control with the applicant.

(d) Unless a written agreement between the buyer and the seller is received at the time of closing, the payment of impact fees due at closing of the sale must be made from the seller's proceeds. In the absence of an agreement to the contrary, the seller bears strict liability for the payment of all impact fees.

(e) An applicant seeking a deferral under this section must grant and record a deferred impact fee lien against the property in favor of the city in the amount of the deferred impact fee prior to issuance of a building permit. The deferred impact fee lien, which must include the legal description, tax account number, and address of the property, must also be:
  (1) In a form approved by the city;

(2) Signed by all owners of the property and persons or entities holding any interest in the property, with all signatures acknowledged as required for a deed, and recorded in the county;
(3) Binding on all successors in title after the recordation; and
(4) 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.

(f) If the impact fees are not paid in accordance with a deferral authorized by this section, and in accordance with the term provisions in subsection (a), the city may institute foreclosure proceedings in accordance with RCW Chapter 61.12. If the impact fee is a school impact fee collected under Section 20.90.230, then the city may institute foreclosure proceedings in accordance with RCW Chapter 61.12 upon request by the school district for which the fee is collected, and if the city does not do so within forty-five days, the school district may institute foreclosure proceedings in accordance with RCW Chapter 61.12. In the event of foreclosure by either the city or the affected school district, interest shall accrue from the date of the recording of the lien at the statutory rate of interest.

(g) Upon receipt of final payment of all deferred impact fees for a property, the city will execute a release of the deferred impact fee lien for the property. The property owner at the time of the release, at the property owner's sole expense, shall be responsible for recording the lien release.

(h) 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, certificate of occupancy, or at the time of closing of the first sale.

20.90.430 Fees

Fees for the administration of the deferred impact fee program are established by the city's fee resolution. The fee shall be paid at the time of application for deferral and is non-refundable.