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SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

AMENDED ORDINANCE NO. 03-006

AMENDING SNOHOMISH COUNTY CODE TO IMPLEMENT AN ESSENTIAL
PUBLIC FACILITY SITING PROCESS; ADDING CHAPTER 30.42D SCC;
AMENDING CHAPTER 30.22.020

WHEREAS, RCW 36.70A.200 requires counties and cities planning under the Growth Management Act (hereinafter "GMA") to include a process for identifying and siting essential public facilities in county and city comprehensive plans and development regulations; and

WHEREAS, the county-wide planning policies adopted by Snohomish County under RCW 36.70A.210, Ordinance No. 93-004, as amended, provide for a siting process for essential public facilities through the interjurisdictional planning process known as Snohomish County Tomorrow (hereinafter "SCT"); and

WHEREAS, a siting process for essential public facilities was developed cooperatively by the county and its cities through SCT; and

WHEREAS, this siting process was incorporated into the county's Comprehensive Plan as Appendix B of the General Policy Plan by Amended Ordinance No. 95-117; and

WHEREAS, this ordinance would establish a new chapter in Title 30 of the county code to address the siting of essential public facilities;

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The county council adopts and incorporates the foregoing recitals as if fully set forth herein.

Section 2. The county council makes the following additional findings of fact and conclusions:

1. The GMA, chapter 36.70A RCW, requires Snohomish County to adopt a comprehensive plan to accommodate the next 20 years of population and employment growth and to include a process for siting essential public facilities.
2. In February 1993, the County adopted Countywide Planning Policies as required by the GMA, including Policy CF-1, which required the formulation of a common siting process to be used by the County and its cities in siting essential public facilities of a countywide or statewide nature.

3. In June 1995, the County approved Amended Ordinance No. 94-125 adopting the Snohomish County GMA Comprehensive Plan (hereinafter "GMACP"). The GMACP includes General Policy Plan Policy CF 11.A.1 which reaffirmed the County's commitment to the common siting process for essential public facilities developed through SCT.
4. In October 1995, after over 2 years of collaboration through the SCT process, including public discussion by the Community Advisory Board and deliberation by the Executive Committee and Steering Committee, the SCT Steering Committee accepted a conceptual design for the common siting process for essential public facilities of a countywide or statewide nature.
5. In January 1996, the county council adopted Ordinance No. 95-117, which amended the County's GMACP to incorporate as Appendix B the common siting process for essential public facilities as accepted by SCT.
6. The common siting process described in Appendix B is consistent with the Countywide Planning Policies and complies with the GMA directive requiring adoption of a siting process for essential public facilities.
7. During 2001, Snohomish County executed interlocal agreements with many of its cities that reaffirmed a collective commitment to adopt and implement the common siting process for essential public facilities.
8. Amending the county's development regulations to reflect and incorporate this common siting process is necessary and appropriate at this time to ensure consistency with the Countywide Planning Policies, fulfill commitments in the interlocal agreements, and implement Appendix B of the County's GMACP.
9. Following the preparation of an environmental checklist, staff issued a determination of non-significance on April 6, 2001 for this proposed action, in accordance with the State Environmental Policy Act and Title 23 SCC.
10. On April 24, 2001, the Snohomish County Planning Commission was initially briefed on the common siting process. Following public notification the planning commission was briefed again on May 28, 2002 on the siting process and on specific code amendments proposed to implement the process. After this public hearing, the planning commission voted to recommend adoption of those amendments.

11. The Snohomish County Council considered the proposed code amendments at a public hearing held on February 12, 2003, continued to February 19, 2003, following public notification in accordance with public participation requirements set forth in the GMA and county code. This public notice was provided on January 27, 2003.

Section 3. A new chapter is added to Title 30 of the Snohomish County Code to read:

Chapter 30.42D

SITING PROCESS FOR ESSENTIAL PUBLIC FACILITIES

30.42D.010 Purpose and applicability.

(1) This chapter establishes a siting process for essential public facilities (EPFs) that are difficult to site.

(a) An EPF is defined for purposes of this chapter as any facility owned or operated by a unit of local or state government, a public utility or transportation company, or any other entity under contract to a unit of local or state government to provide an essential public facility. Examples of EPFs include those facilities listed in RCW 36.70A.200, and any facility that appears on the list maintained by the state office of financial management under RCW 36.70A.200(4), except as provided to the contrary in subsection (1)(c) of this section.

(b) An EPF is defined as "difficult to site" if it requires a unique type of site, is perceived by the public as having significant adverse impacts, or is of a type that has been difficult to site in the past.

(c) The siting process described in this chapter does not apply to "secure community transition facilities" as that term is defined in Chapter 71.09 RCW, nor to residential health and social service facilities protected by state or federal law as residential uses permitted in residential zones.

(2) This siting process is intended to ensure that EPFs, as needed to support orderly growth and delivery of public services, are sited in a timely and efficient manner. It is also intended to provide the county with additional regulatory authority to require mitigation of impacts that may occur as a result of EPF siting. Finally, it is intended to promote enhanced public participation that will produce siting decisions consistent with community goals.

30.42D.020 Conditional use permit required.

(1) Any EPF that is determined to be difficult to site shall be a conditional use in all zones in which it is listed as a permitted or conditional use in the use matrix, chapter 30.22 SCC. In the event of a conflict with chapter 30.22 SCC, the provisions of this section shall govern.

(2) An EPF that is difficult to site must satisfy the requirements of chapter 30.42C SCC and the requirements of this chapter.

30.42D.030 Siting process initiation.

The siting process required by this chapter shall be initiated by the project sponsor or by the department.

(1) Sponsor initiation.

(a) Before applying to site an EPF, a project sponsor shall request review under this siting process by submitting a letter to the department that describes the project proposal and why it may be difficult to site.

(b) The department shall transmit the sponsor's letter to the hearing examiner and to Snohomish County Tomorrow (SCT), who may prepare an advisory recommendation on the issue of whether the EPF is difficult to site.

(c) Within 90 days of receiving the sponsor's letter, the hearing examiner shall hold a hearing to determine whether the facility is difficult to site, using the criteria contained in SCC 30.42D.010. If the examiner determines that the proposed EPF is difficult to site, the project shall be reviewed under the conditional use permit process established in this chapter.

(2) Department initiation.

(a) If the department receives a permit application involving an EPF that it believes will be difficult to site, it shall inform the applicant that it cannot accept the application for processing and prepare a memorandum requesting a hearing examiner determination on whether the EPF will be difficult to site.

(b) The department shall transmit this memorandum to the SCT and the hearing examiner, who shall hold a hearing as described in SCC 30.42D.030(1)(c).

(3) If the project sponsor and the department agree that the proposed project will be difficult to site, a hearing under SCC 30.42D.030(1)(c) will not be required, and the proposal may proceed directly to the conditional use permit procedure described in 30.42D.050.

30.42D.040 Optional site consultation process.

Prior to submitting a conditional use permit application, an EPF sponsor may initiate optional site consultation with the SCT Planning Advisory Committee and/or the SCT Infrastructure Coordinating Committee. The consultation process, while not required, is encouraged as a means for project sponsors to present facility proposals, seek information about potential sites, and propose possible siting incentives and mitigation measures for affected jurisdictions.

30.42D.050 EPF conditional use permit procedure.

(1) The approval process for an EPF conditional use permit is a Type 2 process as described in chapter 30.72 SCC, as modified by the provisions of this chapter. Application shall be made according to the submittal requirements checklist provided by the department pursuant to SCC 30.70.030.

(2) The conditional use permit application shall also include a public participation plan designed to encourage early public involvement in the siting decision and in determining possible mitigation measures.

(3) In addition to the conditional use permit application fee, an additional fee of \$1000 shall be required for the additional costs associated with review of the application under the criteria established in SCC 30.42D.070.

30.42D.060 Independent consultant review.

(1) The department may require independent consultant review of the proposal to assess its compliance with the criteria contained in SCC 30.42D.070.

(2) If independent consultant review is required, the sponsor shall make a deposit with the department sufficient to defray the cost of such review. Unexpended funds will be returned to the applicant following the final decision on the application.

30.42D.070 Decision criteria.

An application for conditional use permit approval for any essential public facility determined to be difficult to site must comply with conditional use permit requirements, any applicable requirements for the proposed use, and the following site decision criteria:

(1) The project sponsor has demonstrated a need for the project, as supported by an analysis of the projected service population, an inventory of existing and planned comparable facilities, and the projected demand for the type of facility proposed.

(2) If applicable, the project would serve a significant share of the county's population or service area, and the proposed site will reasonably serve the project's overall service population.

(3) The sponsor has reasonably investigated alternative sites, as evidenced by a detailed explanation of site selection methodology, as verified by the County and reviewed by associated jurisdictions and agencies.

(4) The project is consistent with the sponsor's own long-range plans for facilities and operations, as well as the plans of those jurisdictions and agencies that may also be participating in a facilities plan.

(5) The sponsor's public participation plan has provided an opportunity for public participation in the siting decision and mitigation measures that is appropriate in light of the project's scope.

(6) The project will not result in a disproportionate burden of essential public facilities on a particular geographic area.

(7) The project is consistent and compatible with the county's comprehensive plan, county-wide planning policies and local land use regulations as well as consistent and compatible with other land use plans applicable to the host community.

(8) The project site meets the facility's minimum physical site requirements, including projected expansion needs. Site requirements may be determined by the minimum size of the facility, access, support facilities, topography, geology, and on-site mitigation needs. The sponsor shall identify future expansion needs of the proposed facility during the initial environmental review and the phasing of additional needs early in the process.

(9) The project site, as developed with the proposed facility and under the proposed mitigation plan, is compatible with surrounding land uses.

(10) The sponsor has proposed mitigation measures that substantially avoid, reduce, or compensate for adverse impacts on the environment, including but not limited to buffers, impervious surfaces, design elements and other operational or programmatic measures contained in the proposal.

30.42D.080 Permit approval.

If the project sponsor demonstrates compliance with the review criteria listed in SCC 30.42D.070 and satisfies the requirements for a conditional use permit and other applicable requirements, the conditional use permit application shall be approved.

30.42D.090 Reconsideration and optional advisory review process.

(1) Reconsideration of the examiner's ruling may be requested as provided in SCC 30.72.065, except that a project sponsor may also request review by an advisory board appointed by SCT. Such a request shall stay the reconsideration period until SCT review is complete.

(2) The advisory board shall complete its review within 60 days of receipt of the request. The SCT advisory board shall not have the authority to overturn a decision, but if the board finds that the decision does not accurately reflect the evidence provided by the project sponsor, it may remand the decision to the examiner.

(3) Upon receipt of the advisory board's recommendation, the examiner shall have an opportunity to reconsider the decision in accordance with SCC 30.72.065.

30.42D.100 Building permit application.

(1) Any building permit for an EPF approved under this chapter shall comply with all conditions of approval in the conditional use permit. In the event a building permit for an EPF is denied, the department shall submit in writing the reasons for denial to the project sponsor.

(2) No construction permits may be applied for prior to conditional use approval of the EPF unless the applicant signs a written release acknowledging that such approval is neither guaranteed nor implied by the department's acceptance of the construction permit applications. The applicant shall expressly accept all financial risk associated with preparing and submitting construction plans before the final decision is made under this chapter.

Section 4. Snohomish County Code Section 30.22.020, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is amended to read:

30.22.020 Categories of uses.

(1) SCC 30.22.100, 30.22.110, and 30.22.120 comprise the use matrix. The use matrix lists uses and indicates whether uses are permitted (P), require conditional use (C) or administrative conditional use (A) approval, or are prohibited in a particular zone.

(1)(a) **Permitted uses (P)** are those permitted outright. Certain uses have special requirements indicated by footnotes in the use matrices.

(2)(b) **Conditional uses (C)** are those which required special review in order to ensure compatibility with permitted uses in the same zone. Conditional

use permits are granted by the hearing examiner following a review and recommendation from the department and an open record public hearing.

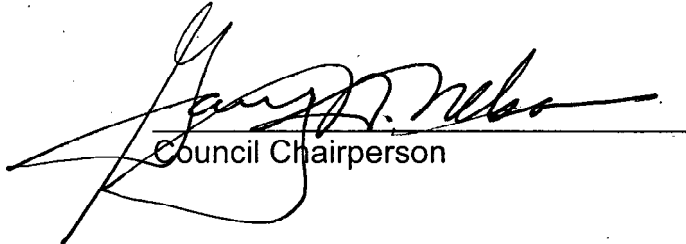
(3)(c) **Administrative conditional uses (A)** also require special review to ensure compatibility with permitted uses in the same zone. Administrative conditional uses are granted by the department. Uses formerly categorized as temporary uses or special uses are now processed as administrative conditional uses.

(4)(d) **Prohibited uses** are those which are not allowed in a zone. A blank box in the use matrix indicates a use is not allowed.

(2) Essential public facilities that are difficult to site may be conditionally permitted in any zone in which they are listed as a permitted or conditional use if they satisfy the requirements of chapter 30.42D SCC and 30.42C SCC.

PASSED this 19th day of February, 2003.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington



Council Chairperson

ATTEST:

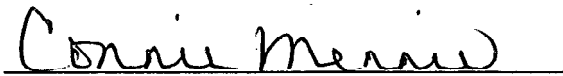


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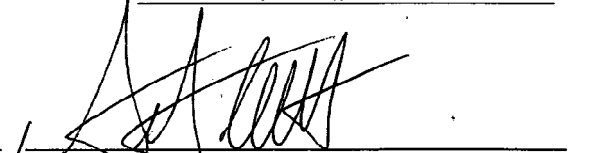
- APPROVED
 VETOED
 EMERGENCY

DATE: 2-27-03

ATTEST:



Approved as to Form Only:



for County Executive

STEPHEN L. HOLT
Executive Director

Deputy Prosecuting Attorney