

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON



CO00000782

ORDINANCE NO. 03 - 037

RELATING TO LAND USE AND DEVELOPMENT REGULATIONS, EXTENDING THE
REDUCED DRAINAGE DISCHARGE HOUSING DEMONSTRATION PROGRAM, RE-
ENACTING AND AMENDING CHAPTER 30.34B SCC, AND DECLARING AN
EMERGENCY

WHEREAS, on March 29, 2000, the County Council adopted Ordinance No. 00-004, establishing a Reduced Drainage Discharge Housing Demonstration Program under Ch. 18.50 SCC; and on December 9, 2002, the County Council adopted Amended Ordinance No. 02-064 which repealed and reenacted the Reduced Drainage Discharge Housing Demonstration Program as Ch. 30.34B SCC; and

WHEREAS, the Reduced Drainage Discharge Housing Demonstration Program was established to foster innovative design and development techniques which will demonstrate that development having an immeasurably small impact on stream habitat and aquatic life is possible and to develop reasonable changes to existing development regulations and building practices that will produce greater benefits to our water resources; and

WHEREAS, the Reduced Drainage Discharge Housing Demonstration Program is subject to a sunset clause contained in SCC 30.34B.110 which states that the program will expire on April 10, 2003 for the purposes of project selection; and

WHEREAS, the County Executive has determined that it would be beneficial to extend the expiration date so that additional projects may be included in the Reduced Drainage Discharge Housing Demonstration Program and has recommended that the County Council take emergency action within the meaning of SCC 30.73.090 to amend SCC 30.34B.110; and

WHEREAS, the County will be unable to accept additional projects under the Reduced Drainage Discharge Housing Demonstration Program after April 10, 2003 unless action is taken to extend the programs provided herein;

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The County Council makes the following findings of fact and conclusions:

- A. It is in the best interest of the Snohomish County and its residents to extend the time within which projects can be accepted into the Reduced Drainage Discharge Housing Demonstration Program in order to foster innovative design and development techniques which will demonstrate that development that has an immeasurably small impact on stream habitat and aquatic life is possible and

to develop reasonable changes to existing development regulations and building practices that will produce greater benefits to our water resources. The Reduced Drainage Discharge Housing Demonstration Program is an ongoing program that provides opportunities and flexibility to increase stream protection through innovative development practices that would not otherwise be allowed. The County wishes to extend the time for project selection in order to take full advantage of such opportunities.

- B. This ordinance constitutes an emergency action within the meaning of SCC 30.73.090. Having complied with SCC 30.73.090(4); additional public participation is not required because, under SCC 30.73.090, amendments to a GMA development regulation adopted as emergency actions are not subject to such requirements.

Section 2. Snohomish County Code Sections 30.34B.010 through 30.34B.100, adopted by Amended Ordinance No. 02-064 on December 9, 2002, are re-enacted for purposes of project selection within the meaning of SCC 30.34B.110 to read:

30.34B.010 Purpose and applicability.

(1) A reduced drainage discharge demonstration program is created with the purpose of encouraging innovative design and development techniques which will significantly reduce drainage discharge from a site after development. The purpose of the program is:

- (a) To provide housing developers the opportunity to demonstrate the environmental benefits of alternative forms of site development which significantly reduce offsite drainage discharge;
- (b) To improve the conditions of habitat and ground and surface waters within a watershed with innovative urban residential design and development techniques;
- (c) To foster broad community acceptance of the use of significantly less impervious surface and greater natural habitat conservation on housing sites;
- (d) To allow some flexibility within the development standards in county code through a demonstration program to allow development which reduces drainage discharge while maintaining necessary safety features; and
- (e) To provide the opportunity to identify and evaluate potential substantive changes to land use development regulations which support and improve natural functions of watersheds.

(2) This chapter applies to land use applications on sites in urban or rural areas for residential subdivisions, short subdivisions, multifamily development, and planned residential developments submitted for participation in the program.

30.34B.020 Project selection committee - creation and membership.

The project selection committee is hereby created for the purpose of overseeing the reduced drainage discharge program, to select projects for the program and to make

recommendations regarding deviations from the county code and the EDDS. The county executive shall appoint a committee of no more than 10 persons including, but not limited to, representatives from:

- (1) The department;
- (2) Department of public works - roads and surface water management divisions;
- (3) The county planning commission;
- (4) An environmental organization;
- (5) A university or college; and
- (6) The construction or development industry.

30.34B.030 Project selection committee - duties and authority.

(1) The project selection committee will meet as necessary to review and select applications for participation in the reduced drainage discharge demonstration program. The program will accept no more than five project applications. The committee will employ the project evaluation and scoring methodology adopted by the director pursuant to SCC 30.34B.100 to assess the merits of project applications relative to the purposes of this chapter.

(2) Upon request by an applicant, the committee shall evaluate and make recommendations to the directors of the department and the department of public works regarding deviations from the county code and the EDDS, respectively, on a particular project or revision to an official site plan in accordance with SCC 30.34B.060, 30.34B.070, and 30.34B.080.

(3) The project selection committee will conduct a program evaluation and make annual reports to the county council in accordance with SCC 30.34B.090.

30.34B.040 Accepted projects - compliance with applicable requirements.

Acceptance of a project into the reduced drainage discharge demonstration program in no way guarantees or implies approval of any development permit. An application for a project accepted in the reduced drainage discharge demonstration program will be required to meet all applicable requirements of the county code and the EDDS, unless a deviation is approved by the director of the department or the department of public works, or the hearing examiner as specified in this chapter.

30.34B.050 Minimum performance standards for participation.

(1) An applicant shall demonstrate that the following standards will be met:

- (a) The development will not create new effective impervious surface, unless the applicant can demonstrate that infiltration is infeasible. In all cases the proposed development must result in a significant reduction in the amount of impervious

surface that would typically result from a traditional development of the type proposed. Any necessary impervious surface will be placed in discontinuous increments such that runoff travel distance to a forested buffer is minimized and in no case exceeds 50 feet;

(b) The development will retain natural vegetative cover to the maximum extent possible. Any landscaped areas will be minimized and mitigated on the downslope side by a forested area at least 50 feet in width. Forested area must comprise at least 60 percent of the project site. Forested areas must be maintained in perpetuity on the site through designation as a native growth protection area easement on the site plan and recorded on the title of the subject property;

(c) As an alternative to the minimum performance standards cited above, the development may, subject to the approval by the department, utilize a combination of open space, landscaping, permeable soils, trees and other vegetative ground cover, and similar elements which achieve the goal of 100 percent infiltration of drainage on site, i.e., zero drainage discharge from the site;

(d) The site is characterized by predominance of a soil type which is capable of allowing infiltration;

(e) The proposed development will be located in one of the following zones: MR, LDMR, NB, PCB, CB, GC, R-7200, R-8,400, R-9,600, WFB, R-5, or RC;

(f) The county will assist each applicant to create a means of data collection, measurement, and recording that conforms with the county's requirements for creating an accurate, reliable database that will serve as a basis for future policy analysis; and

(g) An ongoing monitoring program acceptable to the county will be prepared and submitted by the project applicant and will be used by the county to determine whether the goals of this chapter are met by the constructed development.

(2) In the event of a conflict between the requirements of SCC 30.34B.050(1) of this section and any other applicable section of this code, the requirements of SCC 30.34B.050(1) will control, unless the director or the director of the department of public works, whichever retains administrative authority over the section of the code in question, determines that imposition of the requirement would be detrimental to the public health, safety, or welfare.

30.34B.060 Development review process.

(1) Any project accepted in the reduced drainage discharge demonstration program will submit all necessary project applications and required documentation pursuant to county code. The department will coordinate county and outside agency review. Project applications will comply with applicable provisions of the county code and may deviate from certain code provisions pursuant to this chapter. At the time of application submittal, in addition to providing all underlying submittal documents which would otherwise be required for the proposed development, the applicant will also submit documentation that the requested deviations meet the criteria specified in SCC 30.34B.070(2) and (3).

Ordinance No. 03-____

RELATING TO LAND USE AND DEVELOPMENT REGULATIONS, EXTENDING THE
REDUCED DRAINAGE DISCHARGE HOUSING DEMONSTRATION PROGRAM, ETC., -- Page 4 of 8

(2) If a proponent fails to demonstrate progress on a selected project six months following receipt of a letter from the department outlining the status of project compliance with the requirements of this chapter, the project selection committee may immediately thereafter terminate the project's participation in this program. In the event of termination, the proponent may submit the project subject to applicable land use development regulations of the county.

(3) Deviations from requirements of the county code and the EDDS authorized pursuant to SCC 30.34B.070 and 30.34B.080 may be recommended by the project selection committee and approved by the director or the director of the department of public works, whichever retains administrative authority over the deviation request, or by the hearing examiner for permits under the jurisdiction of that office, if the approving entity determines that the deviation is consistent with this chapter. Projects granted deviations from the EDDS will be required to demonstrate adequate provision for fire safety and access.

(4) A site plan will be prepared for all demonstration projects in conformance with the regulations for official site plans in SCC 30.42B.200.

(5) A concomitant agreement in a form approved by the county must be signed by the property owner for all projects accepted into the program. The agreement shall be recorded, and shall be binding on the owners, heirs, and successors of the property. The concomitant agreement will reference the required conditions of approval, including the site plan, for the application.

(6) The county may require adoption of covenants and restrictions as a condition of approval. Development of land, site design, landscaping, natural drainage features, habitat protection, stormwater design, housing design, building placement and size, and other site features related to this program shall be consistent with the approved site plan. A specific land clearing and tree retention plan shall be submitted as part of the approved site plan.

(7) Changes to the site plan proposed or approved under this chapter will require approval under the appropriate revision process established by the county code. The project selection committee will make recommendations on any revision to the official site plan to the appropriate decision-making body. The project selection committee may immediately terminate the project's participation in this program if it determines that as a result of the revision, the project is no longer consistent with the purposes of this chapter. If the project is terminated from this program, all deviations from the code approved pursuant to this chapter shall be null and void, and the project will be required to comply with the county code.

30.34B.070 Deviations from Snohomish County Code.

(1) To accomplish the purposes of the reduced drainage discharge program, an applicant may request deviations from the following provisions of the county code:

- (a) Chapter 30.23 SCC, General development standards - bulk regulations;
- (b) Chapter 30.42B SCC, Planned residential developments;
- (c) Chapter 30.51 SCC, Construction code;
- (d) Chapter 30.63A SCC, Drainage; and/or
- (e) Chapter 30.41C SCC, Rural Cluster Subdivision.

Ordinance No. 03-_____

RELATING TO LAND USE AND DEVELOPMENT REGULATIONS, EXTENDING THE
REDUCED DRAINAGE DISCHARGE HOUSING DEMONSTRATION PROGRAM, ETC., -- Page 5 of 8

(2) Deviations from the county code listed in SCC 30.34B.070(1) or 30.34B.080 will be made based upon the following criteria:

- (a) The change is consistent with and furthers the purposes of this chapter;
- (b) The change does not result in significant adverse environmental impacts;
- (c) The change furthers compliance with the county's NPDES permit responsibilities and deviates from particular provisions of chapters 30.51 or 30.63A SCC of the county code only for the purpose of demonstrating higher levels of compliance than is achieved by applying those chapters' standards for off-site drainage for water quantity and quality purposes;
- (d) The change complies with the substantive environmental requirements of chapter 30.61 SCC;
- (e) The change does not threaten public health, safety, or welfare;
- (f) The change is consistent with generally accepted engineering and design criteria, except as provided in this chapter;
- (g) The change promotes one or more of the following: innovative site or housing design furthering the purposes of the program, increased on-site stormwater retention using a variety of vegetation and landscape conditions, retention or redevelopment of original natural habitat conditions over a significant portion of the site, improved on-site water quality beyond that required by current applicable regulations, retention or re-creation of pre-development and/or natural hydrologic conditions, and retention or re-creation of forested watershed conditions;
- (h) The change does not allow unit yield greater or lesser than what would otherwise be allowed under existing county regulations; and
- (i) The change complies with chapter 30.62 SCC.

(3) As a part of an application for deviations from the county code or the EDDS, the applicant must quantify reductions in runoff and improvements to water quality and demonstrate which deviation, whether it results in a change to public infrastructure or to private development or building design, causes the reduction in runoff or improvement to water quality.

30.34B.080 Deviation from the EDDS.

Deviations from the EDDS may be approved by the director of the department of public works to allow for the flexibility necessary to accomplish project innovations, to allow greater compatibility with natural site conditions and restraints, to reduce impervious surfaces and reduce drainage discharge offsite or to otherwise further the purposes of this program. Any approval will be based on a finding by the director of the department of public works that the deviation will not be detrimental to the public health, safety, and welfare, and will meet criteria in SCC 30.34B.070. Applicants will be required to list and document each deviation required from the EDDS and its justification.

36.34B.090 Program evaluation.

The project selection committee and the department will document project progress, itemize innovations and code deviations and their intended purpose, and record the process of design and development review by the county. Progress evaluations will be conducted quarterly by the department and proponent, with written summaries provided to the executive and county council. An annual report on all selected projects will be prepared for the county council as part of the department's budget submittal including a summary description and evaluation of each selected project, and recommendations regarding substantive changes to the county code supported by evidence gathered from the program experience. Relevant materials gathered in the course of project selection and development will be collated and made available by the department for the use of the professional development community as well as the general public.

30.34B.100 Rulemaking authority.

The director, after soliciting input from the committee, will adopt a project evaluation and scoring methodology by administrative rule pursuant to chapter 30.82 SCC designed to evaluate at least the following:

- (1) Ability to perform proposed technical innovations;
- (2) Project readiness to proceed, including access to financing, feasibility, and transferability of design techniques to other projects;
- (3) Potential environmental benefits of innovative techniques proposed;
- (4) Development experience of the proponent;
- (5) Ability to meet the requirements and purposes of this chapter;
- (6) Location of the project within a particular watershed; and
- (7) Ability to demonstrate that basic public health and safety requirements will be met.

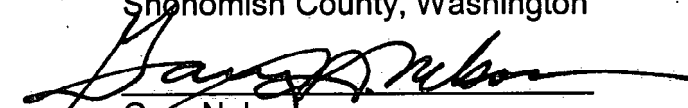
Section 3. Snohomish County Code Section 30.34B.110, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is amended to read:

30.34B.110 Sunset Clause. This chapter will expire three years from April 10, ((2000)) 2003, for purposes of project selection, and for selected projects whose applications are determined to be complete within three years from the ((effective date of this chapter)) April 10, 2003, this chapter will expire at such time as final county administrative land use approval occurs for all selected projects.

Section 4. Effective date/Retroactivity. This ordinance is procedural and remedial in nature and shall apply retroactively to April 10, 2003.

PASSED this 9th day of April, 2003.

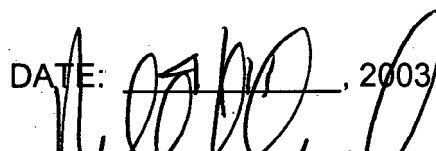
SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Gary Nelson
Chair

ATTEST:


Clerk of the Council, *asst.*

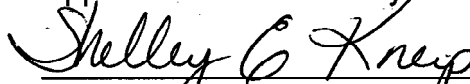
- (☒) APPROVED
() EMERGENCY
() VETOED

DATE: , 2003
Robert J. Drewel
County Executive

ATTEST:



Approved as to form only:


Deputy Prosecuting Attorney