



CO00014209

**SNOHOMISH COUNTY COUNCIL  
SNOHOMISH COUNTY, WASHINGTON**

**AMENDED ORDINANCE NO. 05-022**

**RELATING TO REINSTATING PROCEDURE TO ALLOW A LANDOWNER TO VACATE TERMINATED OR NON-EXISTENT CONDITIONAL OR ADMINISTRATIVE CONDITIONAL USE PERMITS, OR VARIANCES WHICH WAS INADVERTENTLY OMITTED DURING TRANSFER OF FORMER TITLE 18 SCC TO THE UNIFIED DEVELOPMENT CODE, ADOPTING LANGUAGE IN CHAPTERS 30.42C, 30.43A, 30.43B, 30.71 AND 30.72 SCC**

WHEREAS, on December 9, 2002, the County adopted the Unified Development Code (UDC) in Title 30 of the Snohomish County Code (SCC) to consolidate and streamline county land use and development codes to eliminate duplication, inconsistency, and ambiguity; and

WHEREAS, the creation of the UDC resulted in reorganization of numerous code sections including former Chapter 18.72 SCC (Procedures for Conditional, Special, and Temporary Use Permits, Variances and Administrative Appeals); and

WHEREAS, during the reorganization process from former Ch. 18.72 SCC to the UDC, several provisions were inadvertently omitted resulting in unintended consequences that require correction; and

WHEREAS, numerous former Title 18 SCC provisions on revision, departmental review and revocation, and transfer of ownership of conditional use permits, administrative conditional use permits, and variances were transferred to the UDC; and

WHEREAS, former section 18.72.220 SCC which allowed vacation of permits and variances by the landowner upon county approval, was not transferred to the UDC; and

WHEREAS, amendments related to landowner request for vacation of a conditional use permit, administrative conditional use permit, and variances are necessary to properly implement the UDC; and

WHEREAS, the UDC divided the types of permits and variances into three separate chapters and the types of permit decisions into three separate chapters so reinstating former SCC 18.72.220 requires adding language to five of the six chapters of the UDC (chapters 30.42C SCC, conditional use permits; 30.43A SCC, administrative conditional use permit; 30.43B SCC, variances; 30.71 SCC, type one permits and

RELATING TO THE UNIFIED DEVELOPMENT CODE, MAKING NECESSARY CORRECTIONS TO SUBTITLES 30.4 AND 30.7 SCC TO REINSTITUTE LANGUAGE, RELATED TO LANDOWNER VACATION OF CONDITIONAL AND ADMINISTRATIVE CONDITIONAL USE PERMITS, AND VARIANCES, INADVERTANTLY OMITTED DURING TRANSFER OF TITLE 18 TO THE UNIFIED DEVELOPMENT CODE

decisions – administrative; and 30.72 SCC, type two permits and decisions – hearing examiner)<sup>1</sup>; and

WHEREAS, the Planning Commission was briefed and held a public hearing for the development code amendment on January 25, 2005, and forwarded a recommendation to the County Council, dated January 25, 2005; and

WHEREAS, the County Council held a public hearing on May 11, 2005, to consider the entire record and hear public testimony on Ordinance 05-022, 2005, adopting amendments to development regulations.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. The County Council makes the following findings of fact:

A. Former chapter 18.72 SCC contained provisions for conditional, special and temporary use permits, variance and administrative appeals with the following four categories of uses:

- ◆ Permitted uses are those allowed as a matter of course in a given zone. No special zoning permit is required to establish a permitted use in a zone in which it is allowed.
- ◆ Conditional uses are those which require special review in order to insure compatibility with permitted uses in the same zone. A conditional use permit is required before a conditional use may be established.
- ◆ Temporary uses are those which may be established under special circumstances for some temporary time period.
- ◆ Prohibited uses are those which are not allowed in a given zone. Any use not allowed by the code in a given zone is therein prohibited. A use may be prohibited in one zone, a conditional use in a second zone, and permitted outright in a third.

B. The UDC separates conditional use permits (chapter 30.42C SCC), administrative conditional use permit (chapter 30.43A SCC) and variances (chapter 30.43B SCC) into three individual chapters. Chapter 30.91 SCC lists definitions for each permit or variance:

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<sup>1</sup> Because vacation of conditional use and administrative conditional use permits and variances are only processed as Type 1 or Type 2 decisions, there is no need to add a provision to vacation Type 3-Legislative decisions.

- ◆ \*SCC 30.91A.085 "Administrative Conditional Use" means a use allowed in a zone after review by the department and with approval of permit conditions as necessary to make the use compatible with other permitted uses in the same vicinity and zone.
  - ◆ SCC 30.91C.240 "Conditional use" means a use allowed in a zone only after review by the hearing examiner and with approval of permit conditions as necessary to make the use compatible with other permitted uses in the same vicinity and zone.
  - ◆ SCC 30.91V.010 "Variance" means a permit for the purpose of granting relief from specific development standards of this title as applied to a particular piece of property.
- C. The UDC also separates types of decisions into three separate chapters: Type 1 Permits and Decisions – Administrative (chapter 30.71 SCC); Type 2 Permits and Decisions – Hearing Examiner (chapter 30.72 SCC); and Type 3 Decisions–Legislative (chapter 30.73 SCC). An administrative conditional use permit or a variance is processed as a Type 1 decision. A conditional use permit is processed as a Type 2 decision.
- D. The transfer of the permit and variance information from former Chapter 18.72 SCC into three separate chapters in the UDC requires duplication of procedures and decision criteria for each type of permit or variance. The provision discussing review and revocation of permits and/or variances, formerly at SCC 18.72.190 (?), was transferred to SCC 30.42C.210 (conditional use permits), SCC 43A.110 (administrative conditional use permit), and SCC 30.42B.130 (variances). The provision discussing transfer of ownership, formerly at SCC 18.72.200, was transferred to SCC 30.42C.220 (conditional use permits), SCC 43A.120 (administrative conditional use permit), and SCC 30.42B.110 (variances). The vacation of permits and variances, formerly at SCC 18.72.220 was not transferred to the UDC.
- E. The omission of the landowner vacation of a permit or variance language in the UDC resulted in no option for landowners to elect to vacate their permit or variance.
- F. A SEPA Notice for Adoption of Existing Environmental Document was issued on December 30, 2004.
- G. The County published legal notices in The (Everett) Herald, local newspapers and letters to interested parties on January 12, 2005 and April 25, 2005, notifying the public of public hearings held by the Planning Commission and the County Council.

Section 3. The County Council makes the following conclusions:

- A. Research of the process to transfer former Chapter 18.72 SCC into the UDC confirms that the omission of the landowner vacation of a permit or variance language was unintended.
- B. The amendments to Chapters 30.42C, 30.43A, 30.43B, 30.71 and 30.72 SCC ensure consistency between the UDC and former Title 18 SCC by reinstating a landowner's option to request vacation of a terminated or nonexistent conditional use, administrative conditional use or variance with approval by the department.
- C. With adoption of the UDC, the County separated conditional use permits, administrative conditional use permits and variances into three chapters and separated the three types of decisions (administrative, hearing examiner, legislative) into three chapters. Thus, the language in former SCC 18.72.220 cannot be simply recodified, but must be modified and included for each applicable subsection in the UDC, including Chapters 30.42C, 30.43A, 30.43B, 30.71 and 30.72 SCC.
- D. The amendments to chapters 30.42C, 30.43A, 30.43B, 30.71 and 30.72 SCC are consistent with the public participation and coordination goal of the Growth Management Act (GMA).
- E. The County has met the public participation requirements of the GMA and chapters 30.73 and 30.74 SCC in the review and adoption of this amendment.
- F. The amendments to chapters 30.42C, 30.43A, 30.43B, 30.71 and 30.72 SCC satisfy the procedural and substantive requirements of and are consistent with the GMA.
- G. The amendments to chapters 30.42C, 30.43A, 30.43B, 30.71 and 30.72 SCC are consistent with the County's Growth Management Act Comprehensive Plan (GMACP).
- H. The proposed amendments satisfy the State Environmental Policy Act (SEPA) requirements by this document.
- I. The County broadly disseminated the proposed amendment and provided opportunities for the public to provide written comments and testimony at public hearings after effective notice.

Section 4. The County Council bases its findings of fact and conclusions on the entire record of the Planning Commission and the County Council, including all testimony and exhibits.

Section 5. A new section is added to Chapter 30.42C of the Snohomish County Code, to read:

**30.42C.208 Vacation of conditional use permit.**

(1) Any conditional use permit issued pursuant to this chapter may be vacated by the current landowner upon county approval provided that:

(a) the use authorized by the permit does not exist and is not actively being pursued;  
or

(b) the use has been terminated and no violation of the terms and the conditions of the permit exists.

(2) Landowner request for vacation of a conditional use permit shall be conducted in accordance with SCC 30.72.140.

Section 6. Snohomish County Code Section 30.42C.210, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is amended to read:

**30.42C.210 Continuing jurisdiction - review and revocation.**

Any review or revocation proceedings shall be conducted in accordance with SCC ~~30.71.027~~30.72.140.

Section 7. A new section 30.43A.108 is added to Chapter 30.43A of the Snohomish County Code to read:

**30.43A.108 Vacation of administrative conditional use permit.**

(1) Any administrative conditional use permit issued pursuant to this chapter, or any temporary or special use permit issued previously, may be vacated by the current landowner upon county approval provided that:

(a) the use authorized by the permit does not exist and is not actively being pursued;  
or

(b) the use has been terminated and no violation of the terms and the conditions of the permit exists.

(2) Landowner request for vacation of an administrative conditional use permit shall be conducted in accordance with SCC 30.71.026.

Section 8. A new section is added to Chapter 30.43B of the Snohomish County Code, adopted by Amended Ordinance No. 02-064 on December 9, 2002, to read:

**30.43B.128 Vacation of variance.**

(1) Any variance issued pursuant to this chapter may be vacated by the current landowner upon county approval provided the:

(a) the use authorized by the variance does not exist and is not actively being pursued; or

(b) the use has been terminated and no violation of the terms and the conditions of the permit exists.

(2) Landowner request for vacation of a variance shall be conducted in accordance with SCC 30.71.026.

Section 9. A new section is added to chapter 30.71 of the Snohomish County Code to read:

**30.71.026 Vacation of permits and variances.**

(1) Requests to vacate a permit or variance shall be made in writing to the department of planning and development services.

(2) The director shall determine if the conditions in 30.43A.108 or 30.43B.128 are present prior to authorizing the vacation.

(3) Vacation of any permit or variance shall be documented by the filing of a notice of land use permit or variance vacation with the county auditor on a form provided by the department of planning and development services.

Section 10. A new section is added to Chapter 30.72 of the Snohomish County Code to read:

**30.72.140 Vacation of permits or approvals.**

(1) Requests to vacate a permit shall be made in writing to the department of planning and development services.

(2) The director shall determine if the conditions in 30.42C.208 are present prior to authorizing the vacation.

(3) Vacation of any permit shall be documented by the filing of a notice of land use permit vacation with the county auditor on a form provided by the department of planning and development services.

Section 11. A new section, is added to Chapter 30.72 of the Snohomish County Code, to read:

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**30.72.150 Review or revocation of certain permits or approvals.**

(1) If the director determines that a permit or approval is in material violation of this title, the director may initiate proceedings before the hearing examiner to review or revoke the permit or approval, in whole or in part.

(2) The hearing examiner shall hold a hearing in accordance with SCC 30.71.100. The director shall provide notice in accordance with SCC 30.70.050.

(3) The hearing examiner, upon good cause shown, may direct the department to issue a stop work order to temporarily stay the force and effect of all or any part of an issued permit or approval until the final decision of the hearing examiner is issued.

PASSED this 11<sup>th</sup> day of May, 2005

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

ATTEST:

*Christina J. Bratcher*  
Clerk of the Council

*Laura Nelson*  
Chairperson

APPROVED

EMERGENCY

VETOED

DATE: 5/18/05

ATTEST:

*Laura Nelson*

*Dary Weibel*  
County Executive

Approved as to form only:

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Deputy Prosecuting Attorney

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