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SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

EMERGENCY AMENDED ORDINANCE NO. 05-126

RELATING TO GROWTH MANAGEMENT; REVISING THE REQUIREMENTS FOR DEVELOPMENT AGREEMENTS FOR ESSENTIAL PUBLIC FACILITIES; AMENDING SCC 30.75.020 AND 30.75.100, AND ADDING A NEW SECTION 30.75.130 TO THE SNOHOMISH COUNTY CODE; DECLARING A TYPE 3 DECISION EMERGENCY ACTION PURSUANT TO SCC 30.73.090(2)

WHEREAS, RCW 36.70B.170 authorizes the use of development agreements that establish development standards and other provisions applicable to, governing and vesting the development, use, and mitigation of real property; and

WHEREAS, Chapter 30.75 of the Snohomish County Code (SCC) authorizes the use of development agreements; and

WHEREAS, pursuant to RCW 36.70A.200, the State requires each county planning under the Growth Management Act (GMA) to adopt in its comprehensive plan a process for identifying and siting essential public facilities; and

WHEREAS, the siting and permitting of essential public facilities often involve complex legal and procedural issues beyond those presented in ordinary development projects for which additional flexibility is necessary in the processing of permits for such facilities; and

WHEREAS, SCC 30.73.090 allows the Council to adopt a development regulation without first sending the ordinance to Planning Commission in the event of an emergency;

NOW, THEREFORE, BE IT ORDAINED:

Section 1. Snohomish County Code Section 30.75.020, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is hereby amended to read:

30.75.020 Procedure: development agreements.

(1) This section shall not apply to the review of development agreements for projects to site, construct, operate or expand essential public facilities. For those facilities, the development agreement shall be presented to the county council for approval upon the adoption of an ordinance meeting the requirements

of 30.75.100. Procedures for the review of permits applicable to such facilities shall be specified in the development agreement.

(2) Development agreements shall be reviewed in the manner and following the procedures established in chapters 30.70 and 30.72 SCC, except as follows:

((1))(a) The hearing examiner's decision, as set forth in SCC 30.72.060, shall be a recommendation to the county council instead of a decision, provided that any decision on a Type 1 appeal of a SEPA threshold determination shall be a final decision;

((2))(b) Each hearing examiner recommendation shall include a proposed ordinance for council consideration that would adopt the hearing examiner's recommendation as a final decision;

((3))(c) A party of record may request review of the hearing examiner's recommendation by the county council using the same process as required for appeal of a Type 2 decision; and

((4))(d) If no party of record requests review of the hearing examiner's recommendation, the department shall forward the recommendation to the county council for a closed record hearing, allowing for a presentation to the council by the applicant and the department regarding the recommendation and the proposed ordinance.

Section 2. Snohomish County Code Section 30.75.100, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is hereby amended to read:

30.75.100 Decision criteria.

The county council may adopt a development agreement upon passage of an ordinance with findings that:

(1) The proposed agreement is compatible with the goals and policies of the comprehensive plan;

(2) The proposed agreement is consistent with applicable development regulations, unless modified pursuant to SCC 30.75.130;

(3) The proposed agreement provides for adequate mitigation of adverse environmental impacts; provided that if the development is not defined at a project level, the agreement shall provide a process for evaluating and appropriately mitigating such impacts in the future; and

(4) The proposed agreement reserves authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

Section 3. A new section 30.75.130 is hereby added to Chapter 30.75 SCC to read:

30.75.130 Development Regulations Applicable to Essential Public Facilities

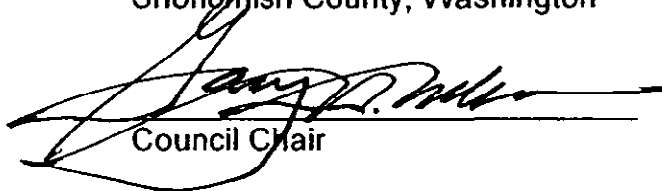
The county council may approve a development agreement that creates exemptions or modifications to the requirements of Title 30 SCC in order to allow for the siting, development or expansion of an essential public facility.

Section 4. This ordinance constitutes an emergency action pursuant to SCC 30.73.090(2). Emergency action is necessary because the proposed amendments to the code must be considered by mid-December to allow for timely settlement of litigation currently pending and to accommodate an essential public facility. Prior to taking action, the council provided public notice of the time, date, place, and general purpose of the public hearing on the emergency ordinance as required by SCC 30.73.090(2) and (4).

Section 5. Severability and Savings. If any section, sentence, clause, or phrase of this ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance. Provided, however, that if any section, sentence, clause, or phrase of this ordinance is held to be invalid by the Board or court of competent jurisdiction, then the section, sentence, clause, or phrase in effect prior to the effective date of this ordinance shall be in full force and effect for that individual section, sentence, clause, or phrase as if this ordinance had never been adopted.

PASSED this 7th day of *December, 2005*

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington



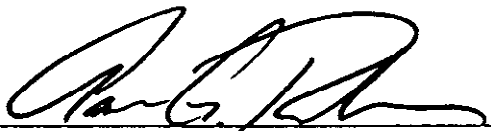
Council Chair

ATTEST:



Clerk of the Council

- APPROVED
- VETOED
- EMERGENCY



County Executive

DATE: 12/15/05

Approved as to form only:

Deputy Prosecuting Attorney

D-8

Approved:
Effective:

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

EMERGENCY ORDINANCE NO. 05-122

RELATING TO SEISMIC HAZARD AREAS; AMENDING SECTION 30.91S.120 SCC AND
ADDING NEW SECTIONS 30.51.010 AND 30.51.020 SCC; DECLARING AN EMERGENCY;
AND SETTING A PUBLIC HEARING DATE

WHEREAS, Snohomish County is located in a region known for seismic activity; and

WHEREAS, scientists are continually learning more about earthquake faults, areas with a high potential for ground rupture and liquefaction during earthquakes, and slopes that may be subject to instability or collapse during seismic events that are located throughout the entire Puget Sound region, including Snohomish County; and

WHEREAS, seismic events can result in extensive injury and damage to people, property and the environment where adequate provisions are not taken to minimize or eliminate the negative effects of such seismic events in the design and construction of certain new facilities; and

WHEREAS, the Snohomish County Council finds that seismic activity may occur at any time and the county is presently experiencing a high volume of construction applications; and

WHEREAS, on April 18, 2005, the Snohomish County Council adopted Emergency Ordinance No. 05-030 imposing interim development regulations relating to construction in seismic hazard areas; and

WHEREAS, at the public hearing held on the interim regulations on June 8, 2005, there was testimony and written comment received related to the recently discovered a fault at the site of the proposed Brightwater wastewater treatment facility in the Maltby area, as well as other areas of the county; and

WHEREAS, Emergency Ordinance No. 05-030 will expire on October 18, 2005; and

WHEREAS, it is necessary for the county council to take immediate action to implement conditions within the International Building Code (IBC) adopted by Chapter 19.27 RCW, specifically to establish the setback requirements from earthquake faults for certain essential facilities identified in Chapter 16 of the IBC; and

WHEREAS, it is necessary for the county council to provide the building official with the authority to require additional information and investigation of a site where earthquake faults may be present, along with the clear authority to modify setback requirements where certain conditions specified in the IBC are met; and

WHEREAS, the county council finds that this ordinance is necessary for the immediate preservation of the public health, safety, welfare and the environment;

THEREFORE, BE IT ORDAINED:

Section 1. The Snohomish County Council adopts the following findings and conclusions:

- A. The foregoing recitals are incorporated herein by this reference.
- B. Pursuant to section 2.120 of the Snohomish County Charter the council finds and concludes that that this ordinance is necessary for the immediate preservation of public health and safety and that an emergency exists.
- C. Pursuant to WAC 197-11-880 and SCC 30.61.020, the immediate adoption of new regulations for certain uses in seismic hazard areas is necessary to avoid an imminent danger to public and private property and the serious degradation of the environment. This ordinance is therefore categorically exempt from environmental review under the State Environmental Policy Act (SEPA).

Section 2. SCC 30.91S.120, added by Ordinance No. 02-064 on December 9, 2002, is amended to read as follows:

30.91S.120 Seismic hazard areas.

~~“Seismic hazard areas” means areas mapped as seismic zones 3 and 4 in the Uniform Building Code.~~ “Seismic hazard areas” means areas that have been determined by the building official to have known or inferred faults, ground rupture potential, liquefaction potential, or seismically induced slope instability, where such information is provided to Snohomish County through any of the following means: geotechnical studies and reports prepared by licensed professionals pursuant to Chapter 19.27 RCW or SCC 30.62.240; geotechnical studies and reports prepared by federal, state or local agencies; and geotechnical studies, reports or environmental impact statements prepared through the requirements of the State Environmental Policy Act (SEPA) Chapter 43.21C RCW.

Section 3. A new section 30.51.010 is added to chapter 30.51 of the Snohomish County Code to read:

30.51.010 Seismic hazard areas – setback requirements.

(1) Development applications for any building or structure located within a seismic hazard area assigned to seismic use group II, seismic use group III, and buildings or structures assigned to seismic design categories E or F, as defined in Chapter 16 of the International Building Code (IBC) adopted by Chapter 19.27 RCW, shall be required to set back fifty (50) feet from the closest edge of an identified active fault trace.

(2) The building official may modify the setback requirements of this section in accordance with Section 104.10 of the IBC.

Section 4. A new section 30.51.020 is added to chapter 30.51 of the Snohomish County Code to read:

30.51.020 Seismic hazard areas – additional information or tests authorized.

The building official may require an applicant to perform additional studies, tests, or site investigation to determine the specific location of an active fault trace, where needed to implement the requirements of section 30.51.010.

Section 5. Finding and effective date. The council finds as a fact that earthquakes and seismic activity are ongoing within the county and new facilities are being constructed in seismic hazard areas that require immediate attention, and that this ordinance is necessary for the immediate preservation of public health and safety. Based on the foregoing, the county council declares that an emergency exists and this ordinance shall take effect immediately upon the expiration of Emergency Ordinance No. 05-030.


Section 6. Emergency Ordinance. Pursuant to SCC 30.73.090, this emergency ordinance adopts development regulations that shall remain in effect for six (6) months from the effective date, unless affirmed or amended prior to that time as permanent regulations following a public hearing for which notice has been provided under SCC 30.73.090.

Section 7. Public hearing. A public hearing is scheduled on December 7, 2005 at the hour of 10:30 a.m. in the Jackson Board Room, 8th Floor, Snohomish County East Administration Building, in Everett, Washington for council to consider public testimony as to whether it should amend, repeal or affirm this ordinance.

Section 8. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

PASSED this 11th day of October, 2005.

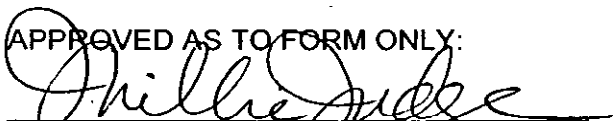
SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Gary Nelson
Chairperson

ATTEST:


Sheila McCallister
Asst. Clerk of the Council

APPROVED AS TO FORM ONLY:


Deputy Prosecuting Attorney

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