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SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

AMENDED ORDINANCE NO. 05-141

RELATING TO MANDATORY UPDATES OF THE SNOHOMISH COUNTY
GROWTH MANAGEMENT ACT COMPREHENSIVE PLAN, PURSUANT TO
RCW 36.70A.130; ADOPTING TEXT, POLICY AND MAP AMENDMENTS
TO THE GENERAL POLICY PLAN, AN ELEMENT OF THE COMPREHENSIVE
PLAN, RELATING TO THE TRANSFER OF DEVELOPMENT RIGHTS;
AND AMENDING AMENDED ORDINANCE 94-125

WHEREAS, Snohomish County (county) adopted the Snohomish County Growth Management Act Comprehensive Plan (GMACP) on June 28, 1995 through passage of Amended Ordinance 94-125; and

WHEREAS, the county has amended the GMACP several times since its adoption, most recently in December 2004 as part of the "7-Year Compliance Review" required by RCW 36.70A.130(1) in order to ensure ongoing compliance with the Growth Management Act (GMA); and

WHEREAS, the county must also conduct a "10-Year Update" of its GMACP pursuant to RCW 36.70A.130(3), which directs counties planning under the GMA to take legislative action to review and, if needed, revise their comprehensive plans and development regulations at least every ten years to ensure that population growth for the succeeding 20-year period can be accommodated; and

WHEREAS, in the spring of 2003 the county provided general notice that it was, pursuant to RCW 36.70A.130, undertaking a review of its comprehensive plan to complete the 7-Year Compliance Review and the separate 10-Year Update process, through its widely disseminated *Focus on Tomorrow Newsletter* and through updates to the county website; and

WHEREAS, public open houses concerning the 7-Year Compliance Review and the 10-Year Update were held in Everett on February 4, 2003, Lynnwood on February 6, 2003, Monroe on February 10, 2003, and Arlington on February 19, 2003; and

WHEREAS, on July 22, 2003, the county council and planning commission conducted a joint public meeting in Everett concerning the 7-Year Compliance Review and 10-Year Update; and

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AN ELEMENT OF THE COMPREHENSIVE PLAN, RELATING TO THE TRANSFER OF DEVELOPMENT RIGHTS; AND AMENDING
AMENDED ORDINANCE NO. 94-125

WHEREAS, on November 8, 2003, all-day events referred to as "Planners in the Library" were held in Lynnwood, Marysville and Monroe for the purpose of discussing the 7-Year Compliance Review and 10-Year Update with the public; and

WHEREAS, in April 2004 the county updated the public on the 7-Year Compliance Review and 10-Year Update process through its widely disseminated *Focus on the Future Newsletter* and through updates to the county website; and

WHEREAS, the county held public hearings concerning the 7-Year Compliance Review and 10-Year Update in Arlington on June 1 and June 8, 2004, as well as in Everett on June 3, 2004; and

WHEREAS, on May 15, 2004, all-day events known as "Planners in the Library" were held in Lynnwood, Marysville and Monroe for the purpose of discussing the 7-Year Compliance Review update and 10-Year Update with the public; and

WHEREAS, Snohomish County Department of Planning and Development Services (PDS) staff hosted public workshops on the 7-Year Compliance Review and 10-Year Update in Lynnwood on June 14, 2004, Monroe on June 16, 2004, and Arlington on June 17, 2004; and

WHEREAS, on June 29, 2004, the county council and planning commission conducted a joint public hearing in Everett concerning the 7-Year Compliance Review and 10-Year Update; and

WHEREAS, on July 27, 2004, PDS presented overviews of the 7-Year Compliance Review and 10-Year Update to the planning commission and the planning committee, a standing committee of the county council; and

WHEREAS, on October 12, 2004, PDS unveiled its preferred alternative future land use map (FLUM) at an advertised public meeting before the planning commission; and

WHEREAS, on October 14 and 20, 2004, PDS held public open houses to facilitate public knowledge of and to receive public input concerning the preferred alternative FLUM; and

WHEREAS, on November 3, 4, 9 and 18, 2004, PDS held public workshops with city and county planning commissioners to discuss key policy issues related to the comprehensive plan, including infrastructure challenges for transportation, parks and drainage, economic development, resource land preservation, fully-contained communities and others; and

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WHEREAS, on April 19, 21, 28 and May 21, 2005, PDS held public open houses on the department's recommended package of comprehensive plan amendments for the 10-Year Update, including amendments to the General Policy Plan (GPP), the Transportation Element, the Capital Facilities Plan, the Comprehensive Park and Recreation Plan, the FLUM, the county zoning map, and selected sections of the code; and

WHEREAS, on May 24 and 26 and June 1 and 2, 2005, the Snohomish County Planning Commission and the Snohomish County Council held joint public hearings to receive public testimony concerning the proposed amendments to the comprehensive plan; and

WHEREAS, on June 7, 9, 14, 16 and 21, 2005, the planning commission deliberated on the PDS recommended package of comprehensive plan amendments at an advertised public meeting; and

WHEREAS, the planning commission voted to recommend adoption of the proposed package of comprehensive plan amendments, with certain modifications as enumerated in its recommendation letter of July 26, 2005; and

WHEREAS, the county council held public hearings on October 3, 4, 5 and 6, 2005 to consider the entire record, including the planning commission's recommendations on the full package of comprehensive plan amendments, and to hear public testimony on proposed Ordinance No. 05-069; and

WHEREAS, the county council deliberated on the planning commission recommendations, executive alternatives, and public testimony on October 10, 11, 12, 17, 18, 19, 20 and 31, 2005 and November 3 and 9, 2005 and December 14, 19 and 21, 2005.

WHEREAS, the county council received testimony from landowners and others expressing concern with the proposed Transfer of Development Rights (TDR) subsection of the Land Use chapter and the associated FLUM designation of Transfer of Development Rights Receiving Area Overlay; and

WHEREAS, public input concerning the TDR policies and implementing regulations proposed for adoption as part of the 10-year update was considered by the county council and PDS staff, which resulted in a decision to develop alternative TDR polices and regulations for consideration by the council; and

WHEREAS, at the county council's request, county staff prepared revisions to the policies and map designations consistent with two alternative approaches to TDR; and

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WHEREAS, a public hearing was held before the planning commission on October 25, 2005, concerning both sets of proposed TDR amendments; and

WHEREAS, the planning commission voted on October 25, 2005, to recommend adoption of the second set of proposed TDR policies and map designations, with certain modifications as enumerated in its recommendation letter of October 25, 2005; and

WHEREAS, the county council held a public hearing on December 7, 2005, to consider the entire record, including the planning commission's recommendations on the proposed TDR policies and map designations, and to hear public testimony on proposed Ordinance No. 05-141; and

WHEREAS, the county council deliberated on the planning commission recommendations, executive alternatives, and public testimony on December 14, 19 and 21, 2005.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The county council makes the following findings:

- A. The county council adopts and incorporates the foregoing recitals as findings as if set forth fully herein.
- B. The county council hereby adopts and incorporates by reference:
 - 1. The findings and conclusions adopted in section 1 of Amended Ordinance No. 04-123, as well as the legislative records developed in adopting the ordinance.
 - 2. The findings and conclusions adopted in sections 1 and 2 of Amended Ordinance No. 05-069, as well as the legislative records developed in adopting the ordinance.
 - 3. The findings and conclusions adopted in sections 1 and 2 of Amended Ordinance No. 05-073, as well as the legislative records developed in adopting the ordinance.
 - 4. The findings and conclusions adopted in sections 1 and 2 of Amended Ordinance No. 05-090, as well as the legislative records developed in adopting the ordinance.

C. The county council adopts the following additional general findings of fact concerning the TDR-related text and map amendments to the GPP adopted by this ordinance:

1. These amendments provide an innovative mechanism, as encouraged by RCW 36.70A.090, for conditionally expanding urban growth areas (UGAs) to include TDR receiving areas. Such expansions become effective upon the execution of an interlocal agreement providing for timely annexation of the TDR receiving area by the adjacent city and the adoption of TDR regulations requiring the use of TDR certificates as a condition to development approvals within the receiving area following annexation.
2. These amendments were developed in consideration of the 13 goals of the GMA for the development of local comprehensive plans, as codified at RCW 36.70A.020, and reflect a careful balancing of these goals within the local conditions of Snohomish County.
 - a. RCW 36.70A.020(1) requires comprehensive plans to encourage development within urban areas, which these amendments achieve by providing development incentives within TDR receiving areas.
 - b. RCW 36.70A.020(2) requires comprehensive plans to reduce sprawling low-density development, which these amendments achieve by providing incentives to use TDR certificates that in turn reduce development pressures on designated agricultural lands.
 - c. RCW 36.70A.020(8) requires comprehensive plans to maintain and enhance natural resource based industries, which these amendments achieve by encouraging the use of TDR certificates that help to conserve designated agricultural and forest lands.
3. These amendments were developed from and are consistent with the Snohomish County Countywide Planning Policies (CPPs), adopted by Ordinance 93-004 on February 4, 1993, and as subsequently amended, most recently by Amended Ordinance 04-007 on March 31, 2004.
 - a. CPP UG-14 provides for the expansion of a UGA when the expansion will result in the realization of a significant public benefit as evidenced by the transfer of TDR certificates to the expansion area from Agriculture or Forest lands designated as TDR sending areas.
 - b. CPP OD-13 encourages the use of innovative development approaches and techniques to promote quality communities.
4. These amendments were developed from, and are consistent with, the Multi-County Planning Policies for Central Puget Sound and with the Regional Growth

and Transportation Strategy for the Central Puget Sound Region, as expressed through the 1995 Update to Vision 2020 and the Destination 2030 Plan.

5. Following an extended scoping period that included a public scoping meeting held on July 22, 2003, a draft environmental impact statement (DEIS) was prepared and issued in May 2004. The DEIS analyzed the environmental impacts of three alternative growth and land use scenarios to address the state forecasts of population and employment growth to the year 2025.
6. On October 12, 2004, PDS publicly released its "preferred alternative" land use plan at a public meeting with the planning commission. The comprehensive plan will accommodate a population and employment growth target within the range forecasted by the state Office of Financial management (OFM) and is within the range of land use scenarios analyzed in the DEIS.
7. In April 2005 PDS transmitted to county council and planning commission the complete package of plan and code amendments for the mandatory updates. In preparing this package, PDS considered the public input received through stakeholder interviews conducted in 2002, public meetings, open houses, hearings and workshops conducted in 2002, 2003 and 2004, and written letters and comments on the DEIS and the preferred alternative and other public input received through February 1, 2005. PDS also considered the results of various environmental and technical analyses performed by county staff and consultants during this period.
8. A final environmental impact statement (FEIS) was prepared and issued on December 13, 2005 that provided responses to 382 comments on the DEIS received during the 45-day comment period and which provided supplemental analysis and information relating to the preferred alternative land use plan.
9. The planning commission considered the analysis and information contained in the DEIS in making its recommendations on the plan amendments. The county council considered the analysis and information contained in the DEIS and the FEIS in taking its actions on the plan amendments.
10. The planning commission and county council heard over 15 hours of public testimony on the comprehensive plan amendments at public hearings.
11. The general public and various interested agencies and parties were notified of the public hearings by means of legal notices, newsletters, news releases, the county website, and direct mail notices were sent to owners and neighbors of affected properties. Notification was provided in accordance with SCC 30.73.050.

12. The planning commission and county council considered numerous documents relating to the amendments for the mandatory updates submitted by citizens, interest groups and organizations, public officials, municipalities, advisory committees, public agencies, and county staff, which are all part of the public hearing record.
 13. In accordance with chapter 30.73 SCC, the county council's public hearing on the planning commission and county executive recommendations was widely publicized through the public media and through individual mailed notices to affected property owners, resulting in over 350 written exhibits in the hearing record.
 14. The TDR receiving area east of Arlington is located directly adjacent to urban growth and is easily served with urban services.
 15. The City of Arlington is the appropriate provider of urban services to the area.
 16. In the appendix for Population Targets attached to the 10-Year Update GPP, the Population Targets for the City of Arlington should be increased to accommodate this UGA area and should be subtracted from the TDR Population Reserve shown in the same appendix.
 17. The landowners within the proposed TDR receiving area and the City of Arlington support the urban designation, TDR overlay, and requirement for use of TDR certificates.
 18. Designation of this area as a UGA expansion was analyzed as part of "Alternative 3" in the Draft Environmental Impact Statement for the 10-Year Update.
 19. The TDR receiving area should receive a Future Land Use Map designation of ULDR with a Transfer of Development Rights Receiving Area Overlay.
- D. The county council adopts the following additional specific findings of fact concerning the TDR-related text amendments to the GPP adopted by this ordinance:
1. The amendment to the Population and Employment Chapter is necessary to establish GPP policies which reserve a portion of the OFM population forecast for allocation to UGA expansions associated with TDR receiving areas.

2. The amendment to the UGA section of the Land Use chapter is necessary to provide for the expansion of an individual UGA when a significant public benefit will result from the use of TDR pursuant to Objective LU 14.A, CPP UG-14(d), and the TDR population reserve established in Appendix D.
3. The amendments adding a new Transfer and Purchase of Development Rights section to the Land Use chapter are necessary to complete the mandatory update of the comprehensive plan because of the following additional considerations:
 - a. Allowing the transfer or purchase of development rights is a significant step in the conservation of important natural resource lands in Snohomish County. The update of the GMACP provides an excellent opportunity to establish the fundamental policy direction that will allow both TDR and Purchase of Development Rights (PDR) programs to be successful.
 - b. The county council has expressed its intent over the last several years to establish TDR and PDR programs through resolutions, motions, ordinances, and GPP amendments. Key actions include: Resolution No. 02-007 expressing the shared intent of the county council and County Executive to assess the feasibility of a TDR pilot program; Motion No. 02-473 authorizing the County Executive to establish a TDR pilot program and early action strategy; Ordinance No. 03-100 amending the GPP to provide general parameters for the TDR program and designating a sending area; Amended Ordinance No. 04-123 establishing code provisions for the sending area component of the TDR program and authorizing the county to purchase, hold and sell development rights; and Motion No. 04-461 authorizing the County Executive to establish a PDR program.
 - c. Establishment of a new TDR/PDR subsection in the Land Use element provides a central location for policies related to these programs, which are not limited to urban, rural, or natural resource lands, but rather cross several policy areas contained in the GPP. Policies previously contained within the Agricultural Lands subsection have been carried forward and revised, as appropriate, in the new TDR/PDR subsection.
 - d. The amendments related to TDR/PDR provide innovative mechanisms for conserving important natural resource and encouraging urban growth within UGAs by establishing policies for TDR sending areas, policies for TDR receiving areas, policies for promoting, monitoring and expanding the TDR program, and policies for a PDR program.

4. The amendment to the FLUM section of the Land Use chapter is necessary to reflect the inclusion of TDR sending and receiving area designations on the FLUM.
 5. The amendments to Appendix E are necessary to define key terms associated with the TDR policies and designations.
 6. Establishment of a minimum percentage of TDR certificates required as a condition of development approval ensures that there will be sufficient demand for TDR certificates in the TDR sending area while providing flexibility to vary requirements based on local circumstances and market conditions.
- E. The county council adopts the following additional specific findings of fact concerning the TDR-related amendments to the FLUM:
1. These revisions to the FLUM accompany the TDR policy changes by reflecting the inclusion of 337 acres just east of the Arlington UGA within the Arlington UGA, as conditioned by Amended Ordinance No. 05-142, and by designating such land a Transfer of Development Rights Receiving Area Overlay. This designation includes the area known as the Brekhus and Beach (upland portion) properties, which were included in a previous docket request and deferred to the 10-Year Update.
 2. These revisions to the FLUM will help ensure the capability of the land to accommodate the forecasted population and employment growth for the succeeding 20-year period, consistent with the forecast promulgated by the state Office of Financial Management.
 3. These revisions to the FLUM were prepared with input from city staff, service providers and other stakeholders obtained through meetings, letters and other means. The entire county area within all UGA boundaries was considered in the analysis of land capacity and in the development of the amendments to the FLUM.
 4. These revisions to the FLUM help accommodate the forecast population growth through an expanded UGA.
 5. These revisions to the FLUM were prepared utilizing the latest available information regarding land capacity and city preferences regarding 2025 population growth targets for the incorporated areas, which generally assume some increases in density within the cities.
 6. These revisions to the FLUM enable the county to accommodate the forecast population growth, as tested and confirmed by methods compatible with the GMA review and evaluation requirements found in RCW 36.70A.215.

7. These revisions to the FLUM implement revisions to the Arlington UGA boundary adopted by companion Amended Ordinance No. 05-142, and the specific findings and conclusions in that ordinance are incorporated as if fully set forth herein.

Section 2. The county council makes the following conclusions regarding the amendments adopted by this ordinance necessary to complete the mandatory updates:

- A. The amendments represent an appropriate response to the population growth targets for Snohomish County for the year 2025 as adopted by county council and as reflected in Appendix B to the CPPs.
- B. The amendments maintain the GMACP's consistency with the multi-county policies adopted by the Puget Sound Regional Council and with the CPPs for Snohomish County.
- C. The amendments accommodate projected growth for the succeeding 20-year period, as required by the GMA requirements for the 10-Year Update.
- D. The amendments retain the overall direction and growth management strategy of the original GMACP, as adopted in 1995 and subsequently amended in response to changing conditions and to decisions of the Central Puget Sound Growth Management Hearings Board regarding the plan's consistency with the GMA.
- E. The amendments to the GPP are consistent with the following review and evaluation criteria codified at chapter 30.73 SCC:
 1. The amendments maintain consistency with other elements of the GMACP;
 2. All applicable elements of the GMACP support the amendments; and
 3. The amendments meet the goals, objectives and policies of the GMACP as discussed in the specific findings.
- F. The scoping, environmental analysis and public involvement activities associated with the DEIS issued on May 5, 2004 and the FEIS issued on December 13, 2005, satisfy the requirements of the State Environmental Policy Act (SEPA), codified at chapter 43.21C RCW.
- G. The amendments adopted by this ordinance are within the range of the alternatives analyzed in the DEIS and the scope of additional analysis contained within the FEIS and related environmental documents adopted by the county.

- H. There has been early and continuous public participation in the review of the proposed amendments, as required by the GMA and consistent with chapters 30.73 and 30.74 SCC.
- I. The proposal has been broadly disseminated and opportunities have been provided for written comments and public hearing after effective notice.
- J. The GPP amendments related to the TDR policies and land use designations are consistent with the GMA and achieve the following:
 - 1. The TDR sending area designation is an overlay that can be applied to important agricultural or forest lands designated as natural resource lands pursuant to RCW 36.70A.170. Landowners within designated sending areas can obtain TDR certificates, which are freely transferable, in exchange for recording a conservation easement that provides greater protection of the natural resource functions than the underlying zoning.
 - 2. The TDR receiving area designation also operates as a planning overlay that does not alter the underlying land use designation or zoning. However, pursuant to Amended Ordinance No. 05-142, the area included within the receiving area designation will be added to the UGA if the conditions set forth in LU Policy 14.A.9 are satisfied through execution of an interlocal agreement by Snohomish County and the City of Arlington.
 - 3. The GPP policy amendments provide direction for the designation of sending area lands, designation of receiving areas, use of incorporated lands as receiving areas, establishment of implementing regulations, evaluation and refinement of the program, research of other transfer opportunities, and outreach, education, and promotion efforts of the county.
 - 4. The GPP text amendments establish a policy basis for a PDR program in Snohomish County. Specifically, a new objective and policies provide direction to the: establishment of a PDR program, determination of eligible lands, consideration of landowner proposals, evaluation and refinement of the program, selection of funding sources, and outreach, education, and promotion efforts of the county.

Section 3. The county council bases its findings and conclusions on the entire record of the planning commission and the county council, including all testimony and exhibits. Any finding, which should be deemed a conclusion, and any conclusion which should be deemed a finding, is hereby adopted as such.

Section 4. Based on the foregoing findings and conclusions, the Snohomish County GMA Comprehensive Plan – General Policy Plan, adopted as Exhibit A in Section 4 of Amended Ordinance 94-125 on June 28, 1995, and last amended by Amended Ordinance No. 04-118 on November 23, 2004, is amended as indicated in Exhibit A to this ordinance (New PE Policy 1.A.6 in the General Policy Plan).

Section 5. Based on the foregoing findings and conclusions, the Snohomish County GMA Comprehensive Plan – General Policy Plan, adopted as Exhibit A in Section 4 of Amended Ordinance 94-125 on June 28, 1995, and last amended by Amended Ordinance No. 04-118 on November 23, 2004, is amended as indicated in Exhibit B to this ordinance (Amendment to LU Policy 1.A.11.6 in the General Policy Plan).

Section 6. Based on the foregoing findings and conclusions, the Snohomish County GMA Comprehensive Plan – General Policy Plan, adopted as Exhibit A in Section 4 of Amended Ordinance 94-125 on June 28, 1995, and last amended by Amended Ordinance No. 04-118 on November 23, 2004, is amended as indicated in Exhibit C to this ordinance (New "Transfer and Purchase of Development Rights" Subelement to the General Policy Plan).

Section 7. Based on the foregoing findings and conclusions, the Snohomish County GMA Comprehensive Plan – General Policy Plan, adopted as Exhibit A in Section 4 of Amended Ordinance 94-125 on June 28, 1995, and last amended by Amended Ordinance No. 04-118 on November 23, 2004, is amended as indicated in Exhibit D to this ordinance (Amendments to the Future Land Use Map Section of the General Policy Plan).

Section 8. Based on the foregoing findings and conclusions, the Snohomish County GMA Comprehensive Plan – General Policy Plan, adopted as Exhibit A in Section 4 of Amended Ordinance 94-125 on June 28, 1995, and last amended by Amended Ordinance No. 04-118 on November 23, 2004, is amended as indicated in Exhibit E to this ordinance (Amendments to the Glossary in Appendix E of the General Policy Plan).

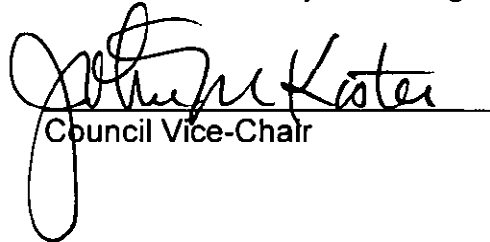
Section 9. Based on the foregoing findings and conclusions, the Snohomish County GMA Comprehensive Plan – General Policy Plan, adopted as Exhibit A in Section 4 of Amended Ordinance 94-125 on June 28, 1995, and last amended by Amended Ordinance No. 04-118 on November 23, 2004, is amended as indicated in Exhibit F to this ordinance (Arlington Area Future Land Use Map Amendments).

Section 10. Effective Date. The provisions of this ordinance shall take effect on February 1, 2006.

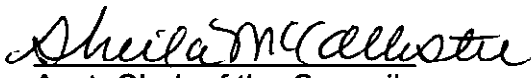
Section 11. Severability. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by the Growth Management Hearings Board, or a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality 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 21st day of Dec, 2005.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Council Vice-Chair

ATTEST:

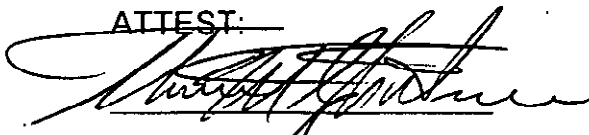

Asst. Clerk of the Council

- APPROVED
- EMERGENCY
- VETOED

DATE: 12/30, 2005


Snohomish County Executive

ATTEST:


Approved as to form only:

Brent D. Lloyd
Deputy Prosecuting Attorney

D-122

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List of Exhibits to Amended Ordinance No. 05-141 Amending the General Policy Plan:

- Exhibit A – Population and Employment / Growth Targets
- Exhibit B – Land Use / Urban Growth Areas
- Exhibit C – Land Use / Transfer and Purchase of Development Rights
- Exhibit D – Land Use / Future Land Use Map
- Exhibit E – Appendix E / Glossary
- Exhibit F – Appendix J / Map 1 (Future Land Use)

Exhibit A
New NE Policy 1.A.6 in the General Policy Plan
(Amend Population and Employment chapter of the General Policy Plan to add new policy under Objective PE 1.A)

General Policy Plan

PE Policy	1.A.6	The population allocation shown in Appendix D shall reserve a portion of the 20-year OFM population forecast for potential allocation to UGA expansions associated with TDR receiving areas designated pursuant to LU Policy 14.A.6.
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Exhibit B
Amendment to LU Policy 1.A.11.6 in the General Policy Plan
(Amend LU Policy 1.A.11.6 in the Land Use chapter)

General Policy Plan

LU Policy 1.A.11

6. The expansion will result in the realization of a significant public benefit ~~((by requiring))~~ as evidenced by Transfer of Development Rights (TDR) to the ~~((entire))~~ expansion area from Agriculture or Forest ~~((resource))~~ lands designated as TDR sending areas. The expansion area shall not be a designated forest or agricultural land of long-term significance. The expansion area shall be consistent with Objective LU ~~((7-E))~~14.A and the TDR population reserve established in Appendix D pursuant to PE Policy 1.A.6.

Exhibit C
New "Transfer and Purchase of Development Rights" Subelement to the
General Policy Plan
(Amend Land Use chapter to add new TDR subelement following
Airport Compatibility subelement)

General Policy Plan

Transfer and Purchase of Development Rights

The GMA states that cities and counties should assure the conservation of agricultural and forestry lands of long-term commercial significance. The Act further specifies that, in assuring conservation, these jurisdictions should provide for innovative land use management techniques, such as the transfer of development rights. Both the Countywide Planning Policies and General Policy Plan encourage the use of innovative land use techniques for the protection of important resource lands and sensitive areas.

Snohomish County has established complementary Transfer of Development Rights (TDR) and Purchase of Development Rights (PDR) programs which provide resource landowners the opportunity to realize the development value of their lands, while retaining the right to use the land in ways that won't impair its natural resource functions. The central objective of both programs is the conservation of important natural resource lands, while keeping such lands in private ownership and in resource production.

TDR and PDR programs have much in common: 1) permanent protection of important natural resource lands through the use of conservation easements, 2) voluntary participation by landowners, 3) separation and sale of the right to develop land from other property rights, 4) continued land ownership by the resource manager, 5) continued use of the land for resource production, and 6) the ability to fulfill other community goals, such as economic development and open space retention.

The programs differ in how they provide funding for the compensation of landowners. PDR programs are quite straightforward - public monies are used to purchase and extinguish development rights. TDR programs, on the other hand, use market forces to fund the conservation effort by allowing landowners within designated "sending areas" to sell the development rights from their land, which requires recording a protective conservation easement that restricts non-agricultural development. Developers who purchase those rights from sending area landowners can use them to obtain development incentives within designated "receiving areas," where development is encouraged. Thus, TDR programs have the ability to lessen public expenditure while achieving the same resource conservation benefits as PDR.

The establishment of complementary TDR and PDR programs in Snohomish County provides greater flexibility in resource conservation efforts. A "toolbox" of regulatory, incentive and promotional techniques can best address unique locational, landowner, market and funding considerations.

Phased or incremental development of the TDR and PDR programs allows an initial focused conservation effort in Snohomish County. Farmlands are under the most immediate threat of conversion to non-resource uses. Therefore, the initial phases of TDR and PDR will be limited to such lands, although additional land use designations could be added in the future if the initial TDR and PDR efforts prove effective. Completing

Exhibit C

General Policy Plan

periodic program evaluations, making adjustments as necessary, and working with cities are keys to ensuring the county's TDR and PDR programs are successful. In the TDR context, for example, program development requires careful monitoring of market conditions, including the relationship between the supply of development rights within sending areas and the demand for those rights within receiving areas.

TDR and PDR programs in Snohomish County, while complementary, each have unique historical and operational characteristics, which are more fully described below.

Transfer of Development Rights

History of TDR in Snohomish County

Snohomish County has long considered the need for a TDR program to help protect important natural resource lands. The January 1981 *Agricultural Preservation Plan* contained an analysis of TDR and advocated its use to protect important agricultural lands. The May 1993 *Evaluation of the Feasibility of a TDR Program* assessed, from both a regulatory and market perspective, if a TDR program could protect farm and forest resources in Snohomish County. Further analysis was included in the November 1997 *Feasibility Assessment of TDR and/or PDR Programs to Conserve Resource Lands in Snohomish County, Washington*.

A focused effort to develop a TDR pilot program followed the passage of Resolution 02-007, adopted by the county council in March 2002. Funds were reserved for the pilot program and two feasibility studies were completed later in 2002: *TDR Pilot Program Feasibility Study, Preliminary Conclusions* and *TDR Pilot Program Feasibility Study*.

In November 2002 the county council passed Motion No. 02-473 authorizing the county executive to establish a TDR pilot program.

A policy framework for the TDR program, including general parameters and a pilot "sending area" (see definition in Appendix E) designation, was then established in September 2003 with adoption of Ordinance No. 03-100.

The adoption of Amended Ordinance No. 04-123 in December 2004 completed the initial phase of TDR by: 1) creating a new TDR code (Chapter 30.35A SCC); 2) delineating a pilot program sending area land on the zoning map; 3) establishing the methodology for determining the number of rights that can be transferred from a sending site; 4) providing for the certification of development rights and issuance of TDR certificates; 5) requiring a conservation easement; 6) authorizing the conveyance of certified development rights; 7) authorizing the county to purchase, hold and sell certified development rights; and 8) creating a TDR advisory committee to advise the county on the purchase of development rights. Additionally, a TDR population reserve was established in Appendix D of the General Policy Plan to support the expansion of urban growth areas in connection with the creation of future TDR receiving areas.

The 2005 amendments to the GMA Comprehensive Plan: General Policy Plan and its implementing regulations extend beyond the first phase of the TDR program by: 1) creating an initial, pilot TDR receiving area using a comprehensive plan land use designation and an implementing overlay zone within portions of the expanded urban growth area (UGA) for the City of Arlington; and 2) establishing a policy framework and regulatory requirements for use of TDR certificates as a condition to development approval within TDR receiving areas.

Additional receiving areas, as well as further regulatory amendments, may be adopted in the future based on experience gained in the

Exhibit C

General Policy Plan

Arlington pilot TDR receiving area. Similarly, based on the experience of landowners within the TDR sending area, the county may consider designating more natural resource lands as sending areas and/or expanding the sending area designation to include critical areas.

Summary of the County's TDR System

In a nutshell, the County's TDR program conserves vital natural resource lands by conditioning development within urban receiving areas on the use of "TDR certificates" acquired from sending area landowners or, in limited circumstances, directly from the County.

The TDR sending area designation is a legislative planning overlay that is applied to important agricultural or forest lands designated as "natural resource land" pursuant to the GMA. Landowners within designated sending areas can obtain TDR certificates, which are freely transferable, in exchange for recording a conservation easement that provides greater protection of the sending site's natural resource functions than the underlying zoning.

The TDR receiving area designation is a legislative planning overlay designated on the GPP future land use map. The designation is applied in connection with UGA expansions conditioned on the adoption of TDR regulations by the adjacent city and the execution of an interlocal agreement between the county and the city. GPP policies establish minimum requirements for the required TDR regulations and interlocal agreement that must be satisfied in order for the UGA expansion to become effective. These requirements ensure that TDR certificates will be required for development approvals within the receiving area following annexation, while providing cities the

flexibility to adopt TDR regulations that fit their local circumstances.

Consistent with market-based principles inherent to TDR programs, it is envisioned that most transactions will occur directly between sending and receiving area landowners. However, chapter 30.35A SCC authorizes the county to purchase, hold and resell development rights from designated sending areas under limited circumstances. Based on a review of other jurisdictions' TDR programs, this option can be expected to: 1) help jumpstart private sector transfers by demonstrating successful transfers; and 2) respond in a timely manner to development pressures within the sending area. Limited funds have been identified to help with this effort.

Purchase of Development Rights

As with TDR, Snohomish County has long considered the need for a PDR program to help protect important natural resource lands, particularly farmlands. The TDR studies mentioned above often included a comparative analysis of PDR. PDR was typically found to be less complex and with more certain results. However, PDR was also found to require substantial public funding to address county-level conservation needs.

In December 2004 the county council passed Motion No. 04-461 relating to the establishment of a PDR program. The motion authorized the County Executive to implement a PDR program for designated agricultural lands outside of TDR sending areas. A limited amount of county and Federal grant funds were reserved for initial acquisitions.

The 2005 amendments to the GMA Comprehensive Plan: General Policy Plan establish a policy basis for a PDR program in Snohomish County.

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General Policy Plan

GOAL LU 14 **Conserve important natural resource lands through the use of complementary Transfer of Development Rights (TDR) and Purchase of Development Rights (PDR) programs.**

Objective LU 14.A **Develop and implement a TDR program based on free market principles for the purpose of permanently conserving specified natural resource lands.**

Policies for TDR Sending Areas

- LU Policies**
- 14.A.1 Natural resource lands targeted for conservation through the TDR program shall be referred to as “sending areas” and shall be: (a) designated as Transfer of Development Rights Sending Area Overlay on the Future Land Use Map, which shall also retain the underlying natural resource designation; and (b) depicted on the official zoning maps with a “SA” suffix.
 - 14.A.2 Agricultural and forest lands as defined in RCW 36.70A.170 shall be eligible for designation as TDR sending areas, subject to the overlay established pursuant to LU Policy 14.A.1, based on consideration of the following factors: (a) the extent to which the area has historically been used for commercial agricultural or forest production; (b) the extent to which future residential or commercial development is likely to occur in or near the area, as evidenced by overall market trends; and (c) the extent to which conservation of the area would further the natural resource goals of the General Policy Plan.
 - 14.A.3 TDR implementing regulations shall allow the transfer of development rights only from sites that are located within TDR sending areas and comply with additional substantive requirements, to be established by regulation, which help to further the natural resource goals of the General Policy Plan.
 - 14.A.4 TDR implementing regulations shall establish a clear, orderly process for landowners within designated TDR sending areas to obtain TDR certificates in exchange for recording a conservation easement restricting non-agricultural development on the sending site. The number of TDR certificates issued shall be based on the approximate development potential of the sending site, multiplied by a “transfer ratio” established by the county in order to facilitate the creation of a market for TDR certificates. TDR certificates shall be valid for transfer purposes only and shall not entitle the sending area landowner to development approvals.
 - 14.A.5 Requirements for TDR conservation easements shall be established by regulation and shall specify the substantive terms and

Exhibit C

conditions applicable to the sending site, including: (a) the prohibition of new residential development on all portions of the sending site for which TDR certificates are issued; (b) the prohibition of all development within the sending site that would impair or diminish the natural resource values of the land; and (c) provisions for the administration, enforcement, recording, and acceptance of TDR conservation easements.

Policies for TDR Receiving Areas

- 14.A.6 Lands where development rights from TDR sending areas may be used shall be referred to as TDR receiving areas and shall be (a) designated as Transfer of Development Rights Receiving Area Overlay on the Future Land Use Map; and (b) depicted on the official zoning maps with an "RA" suffix applied to the underlying zoning classification.
- 14.A.7 In identifying potential TDR receiving areas, the county council shall give priority to areas where: (a) market pressures favor increased development; (b) existing or planned urban services will be available to accommodate new growth and development; (c) the adjacent city and surrounding community support the proposed TDR receiving; and (d) a designated TDR sending area is located in the same area or region as the proposed TDR receiving area.
- 14.A.8 The TDR Receiving Area Overlay may only be applied to areas located within the Rural Urban Transition Area concurrent with the addition of such areas to an adjacent urban growth area (UGA). Expansions of a UGA to include a TDR receiving area must be conditioned by the county council on compliance with the requirements set forth in LU Policy 14.A.9 and will become effective only if those conditions are satisfied within a time period specified by ordinance. In the event that those conditions are not satisfied within the required time period, the population allocated to support the UGA expansion pursuant to PE Policy 1.A.6 shall revert back to the TDR population reserve set forth in Appendix D.
- 14.A.9 UGA expansions to include a TDR receiving area shall be conditioned by the county council on execution of an interlocal agreement between the county and a city adjacent to the UGA expansion area. The agreement, which may be included as an addendum to an existing interlocal agreement, shall be approved by ordinance and executed by the county only if the following provisions are included:
1. An agreement by the city to annex the TDR receiving area in a timely manner following expansion of the UGA.
 2. An agreement by the city to adopt TDR regulations prior to annexation and to apply those regulations to the TDR

Exhibit C

receiving area following annexation. These regulations, as provided for in the agreement, must include:

- a. A requirement that applicants for residential development in connection with a subdivision, short subdivision, binding site plan, planned residential development, or other official site plan provide the city with TDR certificates issued pursuant to chapter 30.35A SCC as a condition to development approval. For the pilot TDR receiving area designated outside the city of Arlington, the number of TDR certificates required must equal or exceed 25% of the number of lots, building sites, or residential units resulting from the proposed development. The minimum TDR percentage required under interlocal agreements for future incorporated TDR receiving areas may vary, based on local circumstances and market conditions.
 - b. A requirement that applicants for commercial developments provide the city with TDR certificates issued pursuant to chapter 30.35A SCC and a provision establishing the number of TDR certificates to be required for approval of commercial development applications.
 - c. Other provisions, if any, that are deemed appropriate by the city, such as requirements for the presentation and extinguishment of TDR certificates.
3. An agreement by the county to retain existing zoning for the receiving area in order to prevent urban development from occurring prior to annexation and thus ensure that urban development within the receiving area will be compatible with the city's development standards and served by adequate facilities.
 4. Other provisions, if any, that are deemed appropriate by the city and the county, such as requirements for zoning, master planning, and permit review within the TDR receiving area.

Purchase and Sale of TDR Certificates by Snohomish County

- 14.A.10 The county intends for TDR transactions to occur predominantly in the private sector, directly between sending area and receiving area landowners. However, to promote and encourage use of the TDR program, the county shall be authorized to buy, hold, and resell TDR certificates issued for sending sites within the TDR pilot program sending area located in the Stillaguamish River Valley. The purchase and sale of TDR certificates shall be subject to a competitive process, pursuant to chapter 30.35A SCC, which ensures that the county receives fair market value for the sale of

Exhibit C

TDR certificates and that decisions concerning potential purchases are based on the goals of this chapter.

Policies for Promoting, Monitoring and Expanding the TDR Program

- 14.A.11 The effectiveness of the TDR program should be evaluated and adjustments made to the program as determined appropriate:
1. Performance indicators or measures of program success should be developed;
 2. The level of development rights transfers between sending and receiving areas should be monitored; and
 3. Based on an assessment of the measures of program success, changes to the sending or receiving area designations, transfer ratios, and other policy and code provisions should be considered and implemented, when appropriate.
- 14.A.12 Opportunities to create “non-residential” receiving areas and transfer options should be evaluated and, where appropriate, be established through amendment of the comprehensive plan and/or implementing code. Examples of such options include increases to commercial floor area, impervious surfaces, parking stalls, or building heights through the use of transferred development rights.
- 14.A.13 Opportunities to designate additional natural resource lands as sending areas should be evaluated and, where appropriate, be established through amendment of the comprehensive plan and implementing code. When 50% or more of the projected number of transferable development rights have been utilized in the designated sending areas, the addition of sending area lands should be considered by the county.
- 14.A.14 A public outreach and education process, focusing on sending and receiving area landowners, should be implemented to inform potential program participants and to encourage participation in the TDR program.
- 14.A.15 The county should consider actions to promote the transfer of development rights including:
1. Helping facilitate the transfer of development rights from sending area to receiving area landowners;
 2. Selective purchase and sale of private development rights to stimulate private sector transfers; and
 3. Funding of public amenities in receiving areas to enhance the livability of the neighborhoods where higher densities are encouraged.

Exhibit C

General Policy Plan

Objective LU 14.B **Develop and implement a Purchase of Development Rights (PDR) program utilizing available funding sources for the purpose of permanently preserving natural resource lands.**

- LU Policies**
- 14.B.1 A PDR program may, at the option of the county, be used for the purpose of permanently preserving natural resource lands.
 - 14.B.2 The PDR program shall be coordinated with, and be designed to complement, the TDR program.
 - 14.B.3 Agricultural and forest lands as defined in RCW 36.70A.170 shall be eligible for conservation through the PDR program. Other lands having high natural resource, environmental, or open space values may also be determined eligible for conservation.
 - 14.B.4 An application process, application forms and review criteria shall be developed and utilized to consider landowner proposals to sell developments rights.
 - 14.B.5 A public outreach and education process, focusing on sending area landowners, shall be implemented to inform potential program participants and to encourage participation in the PDR program.
 - 14.B.6 Sources of funding for any PDR program shall be identified. The use of county Conservation Futures fund monies, grant, and local bond revenues should be considered. Where appropriate, applications for grant monies should be prepared and submitted.
 - 14.B.7 The effectiveness of the PDR program shall be evaluated and adjustments made to the program as determined appropriate:
 - 1. Indicators or measures of program success shall be developed;
 - 2. The level of development rights sales shall be monitored;
 - 3. Based on an assessment of the measures of program success, changes to the PDR program shall be considered and implemented, when appropriate.

Exhibit D
Amendments to the Future Land Use Map Section of the General Policy Plan
(Amend to add new language to Future Land Use Map section of Land Use chapter
following the “Cetner Designation” subsection)

General Policy Plan

Transfer of Development Rights Designations.

These two designations encompass areas which serve as either sending or receiving areas for the county’s Transfer of Development Rights (TDR) program. The designations “overlay” other Future Land Use Map designations in order to provide clarity on applicable land use policies and regulations beyond the TDR program. Specific sending and receiving area provisions are established by GPP policies and implementing regulations.

Transfer of Development Rights Sending Area Overlay.

This overlay designation includes lands that allow the voluntary sale and transfer of development rights to designated receiving areas pursuant to Policies 14.A.1 through 14.A.5, as implemented by chapter 30.35A SCC. The sending area designation does not limit or otherwise affect development rights or zoning.

Transfer of Development Rights Receiving Area Overlay.

This overlay designation includes lands that may receive development rights transferred from a designated sending area pursuant to GPP Policies 14.A.6 through 14.A.9, as implemented by chapter 30.35A SCC.

Exhibit E
Amendments to the Glossary in Appendix E of the General Policy Plan
(Amend definitions in Glossary – Appendix E)

General Policy Plan

Receiving area: An area that has been zoned as a TDR receiving area pursuant to chapter 30.35A SCC and is eligible to receive certified development rights from TDR sending sites.

~~A parcel of land located within an area identified as a receiving area pursuant to an areawide rezone process governed by implementing regulations. Development rights may be transferred to and used on a receiving site, as allowed through the TDR implementing regulations. A site located within a receiving area that meets the requirements of chapter 30.35A SCC for participation in the TDR program.~~

Sending area: Land designated as a TDR sending area on the future land use map and located within a zone used to implement the sending area designation, as indicated on the official zoning map through the suffix “SA.”




~~A parcel of land that contains development rights as a part of the ownership, and that meets applicable criteria to qualify. Sending sites may transfer their development rights to a receiving site parcel or a TDR bank. When development rights are sold or transferred, a conservation easement is placed on the parcel. A site that is located within a TDR sending area and meets the requirements of SCC 30.35A.030 for participation in the TDR program.~~

~~Transfer of the potential right to develop, expressed in dwelling units per acre, from land in resource or environmentally sensitive area designations to land in an urban area where such density or development is permitted. The process established by chapter 30.35A SCC for transferring certified development rights from a sending site to a receiving site. “TDR” is sometimes used as an adjective to denote relation to the TDR program, as in “TDR certificates,” “TDR program,” “TDR receiving area,” and “TDR sending area.”~~

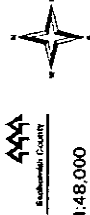
Exhibit F
Snohomish County

GMA Comprehensive Plan
 10 Year Update

**Arlington Area
 Future Land Use Map
 Amendments**

- Legend:
-  Transfer of Development Rights Receiving Area Overlay
 -  Existing UGA Boundary
 -  Incorporated City

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 Date: December 2005

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