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**SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON**

ORDINANCE NO. 06-013

**RELATING TO THE UNIFIED DEVELOPMENT CODE CONCERNING
MINIMUM ACCESS PROVISIONS, AMENDING CHAPTER 30.24
SNOHOMISH COUNTY CODE (SCC) TO CORRECT UNINTENDED
CONSEQUENCES RESULTING FROM THE TRANSFER OF FORMER SCC
18.41.010(1), SCC 18.41.010(2), AND SCC 18.41.010(3) TO THE UNIFIED
DEVELOPMENT CODE SCC 30.24.050 AND SCC 30.24.052 AND TO
CLARIFY ACCESS REQUIREMENTS FOR PRE-EXISTING LOTS; AND
AMENDING SCC 30. 41A.030 AND SCC 30.41B.020 TO REFLECT
CHANGES TO CHAPTER 30.24 SCC**

WHEREAS, on December 9, 2002, the county adopted the Unified Development Code (UDC) in Title 30 SCC, as Amended Ordinance No. 02-064, to consolidate and streamline county land use and development codes to eliminate duplication, inconsistency, and ambiguity; and

WHEREAS, the adopted UDC became effective on February 1, 2003; and

WHEREAS, the UDC combined 15 titles including former Title 18 into one title, Title 30, also known as the UDC; and

WHEREAS, the drafting of former Title 18 into the UDC occurred over approximately two years and the review and adoption process took almost another year, requiring numerous draft documents; and

WHEREAS, in the time after adoption of the UDC and during its implementation, staff discovered errors and unintended consequences in the access provisions that were adopted; and

WHEREAS, staff noted access requirements in SCC 30.24.050 and SCC 30.24.052 allowed new construction on pre-existing landlocked lots to use easement widths that were allowed before 1957 (for example, less than eight feet), which produced potentially unsafe situations and inadequate access widths; and

WHEREAS, the consequences can be remedied by restoring the former access language; and

**RELATING TO THE UNIFIED DEVELOPMENT CODE CONCERNING MINIMUM ACCESS PROVISIONS, AMENDING
CHAPTER 30.24 SNOHOMISH COUNTY CODE (SCC) TO CORRECT UNINTENDED CONSEQUENCES RESULTING FROM
THE TRANSFER OF FORMER SCC 18.41.010(1), SCC 18.41.010(2), AND SCC 18.41.010(3) TO THE UNIFIED
DEVELOPMENT CODE SCC 30.24.050 AND SCC 30.24.052 AND TO CLARIFY ACCESS REQUIREMENTS FOR PRE-
EXISTING LOTS; AND AMENDING SCC 30. 41A.030 AND SCC 30.41B.020 TO REFLECT CHANGES TO
CHAPTER 30.24 SCC**

WHEREAS, this ordinance restores the access language in use prior to UDC adoption with minor revisions to improve clarity and interpretation; and

WHEREAS, on January 24, 2006, the Snohomish County Planning Commission was briefed, conducted a public hearing for the development code amendments and forwarded a recommendation of approval with modification of the proposal to the exact language from former chapter 18.41 SCC to the Snohomish County Council; and

WHEREAS, the Snohomish County Council held a public hearing on April 5, 2006, to consider the entire record and hear public testimony on Ordinance 06-013, 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 Snohomish County Council makes the following findings of fact:

- A. During the transfer of former SCC 18.41.010(1), SCC 18.41.010(2), and SCC 18.41.010(3) into the Unified Development Code as SCC 30.24.050 and 30.24.052, the code authors restructured the subsections into sections, added reference to the Engineering Design and Development Standards, added regulation concerning vehicular ingress and egress, added a qualification for "buildable lot," and relied on when the lot was created rather than when access to the lot was created.
- B. The qualification for "buildable lot" relied on access availability. The revisions of language from former SCC 18.41.010(1), 18.41.010(2), and 18.41.010(3) to the Unified Development Code SCC 30.24.050 and 30.24.052, created uncertainty in the interpretation of code regarding the classification of a lot being buildable because the new language created a "buildable lot" classification based on access, rather than relying on any ability to obtain potable water, sewage treatment, or the existence of critical areas or floodways on the lot.
- C. The reliance on when a lot was created rather than when the access to the lot was created resulted in uncertainty in the interpretation of code regarding easement widths, particularly for lots created prior to 1957.
- D. During planning commission discussions, the planning commissioners identified the differences between the newly proposed code language regarding easement widths based on the creation date of both lots and lot

access and the original former chapter 18.41 SCC language regarding the creation date for lot access. After additional research, staff proposed to amend the proposed language to reinstate the exact language inadvertently modified during the transfer to the UDC.

- E. The SEPA Determination of Non-significance was issued December 30, 2005, for these amendments.
- F. The county published legal notices in The (Everett) Herald notifying the public of public hearings held by the planning commission and the county council.

Section 3. The Snohomish County Council makes the following conclusions:

- A. The transfer of minimum access requirements from former SCC 18.41.010(1), 18.41.010(2), and 18.41.010(3) to the Unified Development Code, SCC 30.24.050 and 30.14.052, unintentionally resulted in potentially unsafe situations and inadequate access widths. Reinstating minimum access language in place prior to adoption of the UDC is required to eliminate these unintended consequences.
- B. Relying on a combination of when a lot was created and when the access for that lot was created restores the prior understanding and interpretation of the section. Language in the original ordinance (passed in 1975) placed an emphasis on when the access was created rather than when the lot was created. An emphasis on when the access was created is desired.
- C. This amendment to restore the previous language satisfies the procedural and substantive requirements of and is consistent with the GMA.
- D. Based on additional staff research and commissioner deliberations at the January 24, 2006, planning commission hearing, the language regarding easement widths based on both the creation dates of the lot and the lot access was changed to the original chapter 18.41 SCC language only referencing the creation for the lot access to determine access easement width.
- E. The State Environmental Policy Act requirements for this code amendment are satisfied by issuance of the Determination of Non-significance.
- F. 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. Snohomish County Code Section 30.24.052, adopted by Ordinance No. 02-064, on December 9, 2002, is repealed.

Section 5. Snohomish County Code Section 30.24.050, adopted by Ordinance No. 02-064, on December 9, 2002, is amended to read:

30.24.050 Minimum access requirements (~~for certain pre-existing lots~~).

~~((In order to qualify as a buildable lot, access to lots created prior to August 9, 1969, shall be as provided herein:))~~

Access to lots shall be as follows:

- (1) ~~((Lots))~~ Lots whose access was created prior to April 15, 1957, shall abut upon a public road or be served by a private road or access easement of any width. (~~and~~)
- (2) ~~((Lots))~~ Lots whose access was created on or after April 15, 1957, but prior to August 9, 1969, shall abut by not less than 15 feet upon and have direct access to a public road or be served by a private road or access easement having a minimum right-of-way width of 15 feet.
- (3) Except as set forth in SCC 30.24.050(4), Lots whose access was created on or after August 9, 1969, shall abut by not less than 20 feet upon and have direct access to:
 - (a) An opened, constructed, and maintained public road;
 - (b) A private road in a subdivision, short subdivision, large tract segregation, or binding site plan with record of survey approved by Snohomish County; or
 - (c) An exclusive, unshared, unobstructed, permanent access easement at least 20 feet wide where a subdivision or short subdivision is not required.
- (4) Where a lot is 1/128th of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land, it may abut by not less than 60 feet and have direct access to a private road having:
 - (a) A right-of-way width of not less than 60 feet;
 - (b) Sufficient improvements for automotive travel from the nearest opened, constructed and maintained county road to the parcel; and
 - (c) A design that would permit reasonable and safe construction of a county road meeting county standards.No parcel qualifying as a lot under this subsection will continue to so qualify if the parcel is re-divided creating any parcel less than 1/128th section in size, or five acres in size if the land is not capable of description as a

fraction of a section of land, unless the parcel qualifies as a lot under SCC 30.24.050(3)(a), (3)(b), or (3)(c).

Section 6. Snohomish County Code Section 30.41A.030, adopted by Ordinance No. 02-064, on December 9, 2002, is amended to read:

30.41A.030 Prior divisions of land.

A legal division of land shall be recognized as having occurred in the following circumstances, provided that lots, tracts, or parcels shall be recognized only if the division of land complied, at the time, with all minimum requirements of applicable state law and zoning and access requirements of this code or if no legal access was created at the time of the division, the requirements of SCC ~~((30.24.052(2)))~~ 30.24.050(4) must be met:

- (1) Land was divided into lots, tracts or parcels five acres or larger if the land is not capable of subdivisional description, or 1/128th of a section in size or larger prior to September 16, 1986, where actual subdivision or short subdivision occurred or intent to subdivide was demonstrated through one or more of the following actions:
 - (a) There was filed with the department a large lot subdivision map of lots;
 - (b) There was filed with the Snohomish County Auditor a record of survey of tracts to be subdivided;
 - (c) There was filed with the Snohomish County Assessor a tax segregation of the tracts to be subdivided; or
 - (d) There were sales and/or transfers of interest in tracts or parcels;
- (2) Land was divided into lots, tracts, or parcels 20 acres or larger if the land is not capable of subdivisional description, or 1/32nd of a section in size or larger prior to May 16, 1991, where actual subdivision or short subdivision occurred or intent to subdivide was demonstrated through one or more of the following actions:
 - (a) There was filed with the department a large lot subdivision map of lots;
 - (b) There was filed with the Snohomish County Auditor a record of survey of tracts to be subdivided; or
 - (c) There were sales and/or transfers of interest in tracts or parcels.

Section 7. Snohomish County Code Section 30.41B.020, last amended by Amended Ordinance No. 05-038, on November 30, 2005, is amended to read:

30.41B.020 Exemptions.

The provisions of this chapter shall not apply to:

- (1) Cemeteries and other burial plots while used for that purpose;
- (2) Divisions made by testamentary provisions or the laws of descent;
- (3) Any division of land regulated by chapter 30.41A SCC;
- (4) Boundary line adjustments completed pursuant to chapter 30.41E SCC;
- (5) Condominiums when prepared and filed in accordance with the Horizontal Property Regimes Act, chapter 64.32 RCW or the Condominium Act, chapter 64.34 RCW;
- (6) Assessor's plats, when prepared and filed in accordance with the provisions of RCW 58.18.010 and when the lot size requirements of this code have been met;
- (7) Division of land into lots, tracts, or parcels each of which is at least one-eighth of a section of land or larger, or 80 acres or larger in size if the land is not capable of subdivisional description;
- (8) Divisions of land pursuant to the binding site plan provisions of chapter 30.41D SCC;
- (9) Divisions of land due to condemnation or sale under threat thereof, by an agency or division of government vested with the power of condemnation;
- (10) Any division where no permanent road may be constructed and where restrictive covenants or lease provisions prohibit construction of buildings of a type that permits human occupancy, overnight camping, or other human habitation;
- (11) Transfers of land to the county for open space, conservation, or park purposes. Any remaining area must meet the minimum requirements of SCC 30.23.030(1). The land remaining must meet the minimum access requirements of SCC ~~((30.24.052;))~~ 30.24.050(3) and SCC 30.24.050(4); ~~((and))~~
- (12) Sales of tax title property to an adjoining property owner by the county pursuant to SCC 4.46.160(5) ~~((;-))~~ ; and
- (13) A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose.

Section 8. Severability and Savings. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by the Growth Management Hearings Board (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 5th day of April, 2006.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

ATTEST:

Barbara Sitorst
Clerk of the Council, *Asst.*

Dave Harsett
Vice Chair, Snohomish County Council

- APPROVED
- EMERGENCY
- VETOED

DATE: 4/12/06

ATTEST:

Lyntha A. Ringstad

Aaron G. Reardon
Aaron G. Reardon
County Executive

Approved as to form only:

Lana Chinnici 2/2/06
Deputy Prosecuting Attorney

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