

SNOHOMISH COUNTY COUNCIL  
SNOHOMISH COUNTY, WASHINGTON



CO00016487

AMENDED ORDINANCE NO. 06-037

RELATING TO DEVELOPMENT REGULATIONS PERTAINING TO  
ARCHAEOLOGICAL AND HISTORIC RESOURCES; AMENDING  
SNOHOMISH COUNTY CODE CHAPTER 30.32D TO CORRECT AND  
CLARIFY CERTAIN HISTORIC PRESERVATION REGULATIONS,  
SPECIFICALLY AMENDING SNOHOMISH COUNTY CODE SECTIONS  
30.32D.010, 30.32D.080, 30.32D.200, 30.32D.210 AND 30.91R.095; AND  
ADDING NEW SECTIONS 30.91C.063, 30.91C.064, 30.91C.325,  
30.91E.102, 30.91H.116, 30.91H.117, 30.91L.108, 30.91O.035, AND  
30.91W.003 TO THE SNOHOMISH COUNTY CODE

WHEREAS, on April 3, 2002, the county council adopted Amended Ordinance No. 02-007, which was placed in the Snohomish County Code as Title 33 SCC, Protection and Preservation of Snohomish County Archaeological and Historic Resources, Sites, and Districts; and

WHEREAS, on December 9, 2002, the county council 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, portions of Title 33 SCC were placed in the UDC as chapter 30.32D SCC, Historic and Archaeological Resources; and

WHEREAS, certain definitions were retained in Title 33 SCC for terms used in chapter 30.32D SCC; and

WHEREAS, the desire of the council is to unify and update codes as appropriate and to make the Snohomish County Code more understandable; and

WHEREAS, this ordinance makes modifications to existing development regulations in chapter 30.32D SCC to update references and add definitions to subtitle 30.9 SCC, Definitions, for terms used in chapter 30.32D SCC; and

WHEREAS, the planning commission was briefed, conducted a hearing and forwarded a recommendation to the county council on March 28, 2006; and

WHEREAS, the county council conducted a public hearing on June 21, 2006, continued to August 23, 2006 and December 13, 2006, to consider the entire record and hear public testimony on Ordinance No. 06-037 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. Chapter 30.32D SCC, Historic and Archaeological Resources, was transferred to the Unified Development Code (UDC) from portions of Title 33 SCC, Protection and Preservation of Snohomish County Archaeological and Historic Resources, Sites, and Districts, shortly after enactment in 2002. Certain terms used within this chapter are not specific and need to be updated.
- B. Chapter 30.32D SCC uses and relies on terms currently defined in Title 33 SCC and the UDC contains a subtitle dedicated to definitions.
- C. Construction and planning permits are to be decided within 120 days pursuant to SCC 30.70.110.
- D. The SEPA Determination of Non-significance was issued February 23, 2006, for the proposed amendments.
- E. 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 county council makes the following conclusions:

- A. These amendments clarify language in chapter 30.32D SCC and are consistent with state regulations concerning archaeology and historic preservation.
- B. Terms used within chapter 30.32D SCC should be defined in the Unified Development Code (UDC) subtitle 30.9 SCC, Definitions.
- C. A reasonable deadline for receiving comments from agencies and interested parties on development proposals within an area designated on the Washington State Archaeological Site Inventory should be provided to ensure the county's ability to meet its permit processing deadlines.

D. These amendments satisfy the procedural and substantive requirements of and are consistent with the Growth Management Act.

E. The county broadly disseminated the proposed amendments and provided opportunities for the public to provide written comments and testimony at public hearings after effective notice.

**Section 4.** Snohomish County Code Section 30.32D.010, last amended by Amended Ordinance No. 02-064, on December 9, 2002, is amended to read:

**30.32D.010 Purpose and applicability.**

(1) The purpose of this chapter is to identify, evaluate, and protect archaeological and historic resources within Snohomish County and to preserve and rehabilitate eligible historic properties for future generations, in order to:

(a) Safeguard the heritage of the county as represented by those buildings, sites, structures, objects and districts which reflect significant elements of county history;

(b) Foster civic pride in the beauty and accomplishments of the past, and a sense of identity with county history;

(c) Assist, encourage and provide incentives to private owners for preservation, restoration, rehabilitation and use of outstanding historic buildings, sites, structures, objects, and districts;

(d) Promote and facilitate the early identification and resolution of conflicts between preservation of archaeological and historic resources and land uses; and

(e) Stabilize and improve the aesthetic and economic vitality and values of such sites improvements and objects.

(2) In Washington State, archaeology sites and Native American grave sites are protected by both federal and state laws. This chapter does not repeal, modify, or waive any provision of federal or state law currently enacted, or as enacted in the future, that regulates archaeological sites including, but not limited to: the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-mm); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); the National Historic Preservation Act (16 U.S.C. 470 et seq.); Chapter 27.44 RCW titled "Indian Graves and Records"; and Chapter 27.53 RCW titled "Archaeological Sites and Resources."

(23) This chapter applies to:

(a) Properties eligible for and on the Snohomish County (~~register of historic places~~) Register of Historic Places established pursuant to SCC 30.32D.020; and

(b) Properties listed on the (~~state register of archaeological sites~~) Washington State Archaeological Site Inventory.

(3) Regulations concerning the Snohomish County Historic Preservation Commission are in chapter 2.96 SCC; regulations concerning the state tax incentive program for qualifying historic properties are located in chapter 4.31 SCC.

**Section 5.** Snohomish County Code Section 30.32D.080, last amended by Amended Ordinance No. 02-064, on December 9, 2002, is amended to read:

**30.32D.080 Review process for request for certificate of appropriateness.**

(1) An applicant must include within a request for a certificate of appropriateness any information required by the historic preservation commission as set out by administrative rule. Information required by the commission will include information responding to the (~~Washington state advisory council standards for the rehabilitation and maintenance of historic properties established~~ ) Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, referred to in WAC 254-20-100 and used by the Washington State Advisory Council on Historic Preservation and by the commission. A copy of the standards is available at the department front counter.

(2) When responding to a request for a certificate of appropriateness, the commission shall review all features of the property that are proposed for alteration and that are listed as contributing to the property's designation on the local register nomination form.

(3) The commission shall meet with the applicant and review the proposed work according to the design review criteria established by administrative rule.

(4) The commission shall complete its review and make its recommendation within forty-five days of the date of receipt of the application. If necessary, the commission may extend the review period for up to an additional twenty days. If no recommendation has been made within sixty-five days, the commission is considered to have recommended approval.

(5) The commission will provide the applicant with its written recommendation, stating the findings of fact and conclusions leading to the recommendation. Any conditions agreed to by the applicant in the review process and accepted by the commission shall become conditions of approval for any relevant permit granted and be incorporated in the commission's decision to grant a certificate of appropriateness.

(6) If the applicant agrees to the commission's recommendation, the commission shall issue a certificate of appropriateness, which shall be transmitted to the building official by the applicant.

(7) If the applicant does not agree to the commission's recommendation and any alteration to the property is determined to be inappropriate by the commission, the property may be removed by the commission from the local register. Once the property is removed from the local register, the requirement of SCC 30.32D.060(1) shall no longer apply.

**Section 6.** Snohomish County Code Section 30.32D.200, last amended by Amended Ordinance No. 02-064, on December 9, 2002, is amended to read:

**30.32D.200 Archaeology site report.**

(1) Known archaeological sites are recorded on the Washington State Department of Archaeology and Historic Preservation's Geographic Information System.

(2) An archaeological site may cover only a portion of a property, parcel, or lot and may be located on more than one property, parcel, or lot.

(3) ~~((If-a))~~ Any construction, earth movement, clearing, or other site disturbance of a known archaeological site shall require either:

(a) relocation of the project to avoid the known archaeological site; or

(b) completion of an archaeological site report. The written report must be submitted to the department by the property owner or project proponent and include ~~((is proposed on a property designated on the state register as an archaeological resource, the property owner or project proponent must submit a written report to the department regarding))~~ the location, condition, and extent of the archaeological resources located on site, and any recommendations with respect to conditioning the activity to avoid or minimize impacts on the known archaeological site.

(4) The archaeological site report shall be written by a (( qualified )) professional archaeologist as defined in WAC 25-48-020, and include the results of consultation with any affected Indian tribe on proposed actions to avoid, protect, or mitigate impacts of the proposed project.

(5) The department shall provide a copy of the archaeological site ~~((archaeologist's))~~ report to any affected Indian tribe and the state office of archaeology and historic preservation, at the applicant's expense.

**Section 7.** Snohomish County Code Section 30.32D.210, last amended by Amended Ordinance No. 02-064, on December 9, 2002, is amended to read:

**30.32D.210 Project or permit approval for a property, parcel, or lot containing a known archaeological site documented on the Washington State Department of Archaeology and Historic Preservation's Geographic Information System ~~(( on state register as an archaeological resource))~~.**

(1) The county approving authority shall not issue a permit for any development activity or project approval requiring an archaeology site report pursuant to SCC 30.32D.200 without considering the archaeology site report and any comments on the report submitted by an affected Indian tribe.

(2) If an applicant requests comments regarding mitigation from a potentially affected Indian tribe and ~~((, but))~~ the tribe fails to respond within 30 days of ~~((to))~~ the request, the department may proceed with permit issuance based on the archaeology site report if the applicant ~~((shall))~~ provides ~~((the~~

department)) documentation of (~~contact with the Indian tribe~~) the request for tribal comments to the department.

(3) Based on the information contained in the archaeology site report and any comments submitted by the affected Indian tribe(s) obtained during the consultation process, the county approving authority will condition the permit or project approval in a manner that will avoid or minimize impacts to the archaeological resource consistent with federal and state law.

**Section 8.** A new section is added to chapter 30.91A of the Snohomish County Code to read:

**30.91A.266 “Archaeological site”** means “a geographic locality in Washington, including but not limited to, submerged and submersible lands and the bed of the sea within the state’s jurisdiction, that contains archaeological objects.” (RCW 27.53.030(3)) An archaeological object “comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, and technological by-products.” (RCW 27.53.030(3)).

**Section 9.** A new section is added to chapter 30.91C of the Snohomish County Code to read:

**30.91C.063 “Certificate of appropriateness”** means that certificate issued by the Snohomish County Historic Preservation Commission after review of the proposed changes to a local register property or to a property certified as contributing to a Snohomish County historic district.

**Section 10.** A new section is added to chapter 30.91C of the Snohomish County Code to read:

**30.91C.064 “Certification of historic structure”** is the process by which a determination is made that a structure within an historic district contributes to the significance of the historic district.

**Section 11.** A new section is added to chapter 30.91C of the Snohomish County Code to read:

**30.91C.325 “County register”** or “local register” means the Snohomish County Register of Historic Places created by chapter 30.32D SCC.

**Section 12.** A new section is added to chapter 30.91E of the Snohomish County Code to read:

**30.91E.102 "Emergency repair"** means work necessary to prevent destruction or disrepair to real property immediately threatened or damaged by fire, flood, earthquake, vandalism or other disaster.

*This definition applies only to "Historic preservation" regulations in chapter 30.32D SCC.*

**Section 13.** A new section is added to chapter 30.91H of the Snohomish County Code to read:

**30.91H.116 "Historic preservation commission"** means the Snohomish County Historic Preservation Commission created by chapter 2.96 SCC.

**Section 14.** A new section is added to chapter 30.91H of the Snohomish County Code to read:

**30.91H.117 "Historic property"** means real property together with any improvements, except property listed in a register primarily for objects buried below ground, which is listed in the local register, certified by the United States Secretary of the Interior as provided in 16 U.S.C. 470, or listed in the National Register of Historic Places.

**Section 15.** A new section is added to chapter 30.91L of the Snohomish County Code to read:

**30.91L.108 "Local register" or "county register"** means the Snohomish County Register of Historic Places created by chapter 30.32D SCC.

**Section 16.** A new section is added to chapter 30.91O of the Snohomish County Code to read:

**30.91O.035 "Ordinary repair and maintenance"** means work for which a permit issued by Snohomish County is not required by law, and where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, the real property or structure appurtenances and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay, or damage.

*This definition applies only to "Historic preservation" regulations in chapter 30.32D SCC.*

**Section 17.** A new section is added to chapter 30.91P of the Snohomish County Code to read:

**30.91P.XXX "Professional archaeologist"** means "a person who has met the educational, training, and experience requirements of the society of professional archaeologists." (RCW 27.53.030(8)).

**Section 18.** Snohomish County Code section 30.91R.095, last amended by Amended Ordinance No. 02-064, on December 9, 2002, is amended to read:

**30.91R.095 "Rehabilitation"** means the process of returning a property to a state of utility through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its architectural and cultural values.

*This definition applies only to "Historic preservation" regulations in chapter (( 30-33A )) 30.32D.*

**Section 19.** A new section is added to chapter 30.91W of the Snohomish County Code to read:

**30.91W.003 "Waiver of a certificate of appropriateness"** means that document which states that the historic preservation commission has reviewed the proposed whole or partial demolition of a local register property or property in a local register historic district and, failing to find alternatives to demolition, has issued a waiver of a certificate of appropriateness which allows the building or zoning official to issue a permit for demolition.

**Section 20. 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 13<sup>th</sup> day of December, 2006.

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

ATTEST:

Sheila McCullister  
Clerk of the Council, asst.

Kim Stevens  
Chair, Snohomish County Council

- APPROVED  
 EMERGENCY  
 VETOED

DATE: 12/26/06

ATTEST:

Amy Jenkins

Aaron G. Reardon for  
County Executive

Approved as to form only:

**MARK SOINE**  
Deputy Executive

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Deputy Prosecuting Attorney

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