

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON



AMENDED ORDINANCE NO. 06-042

AN ORDINANCE,
RELATING TO OPEN SPACE CLASSIFICATION AND RE-
CLASSIFICATION PROCEDURES AND ADDING SECTION 4.28.085 SCC

WHEREAS, in 1970 the State of Washington Legislature declared that maintenance, preservation and conservation of open space lands were in the best interests of the state and established a procedure to modify the assessed value of lands classified as open space, agricultural, and timberland and adopted chapter 84.34 RCW; and

WHEREAS, on July 23, 1992, Snohomish County adopted chapter 4.28 Snohomish County Code (SCC), Open Space, Agricultural, and Timberland Policies and Procedures, which includes additional direction and application standards for an open space or timberland classification or re-classification; and

WHEREAS, in 1996, Snohomish County streamlined its open space classification procedures by eliminating planning commission review from open space classification review procedures; and

WHEREAS, in communities subject to comprehensive plan requirements, RCW 84.34.037(1) requires applications for classification or reclassification of land to open space for the purposes of modifying assessed value to be acted upon in the same manner which comprehensive plan amendments are approved; and

WHEREAS, in order to comply with RCW 84.34.037(1), the County must ensure all open space classification or re-classification applications are acted upon in the same manner as comprehensive plan amendments including requiring departmental reports and options for council consideration and action; and

WHEREAS, the County currently outlines procedures for all Type 3 (legislative) decisions including adoption of or amendment to the comprehensive plan provisions and development regulations in chapter 30.73 SCC; and

WHEREAS, currently chapter 30.73 SCC does not clearly identify which provisions of that chapter apply to open space classification or re-classification applications, and

WHEREAS, the current language of chapter 30.73 SCC contains numerous provisions which apply to legislative actions that are not appropriate for open space classification or re-classification applications;

WHEREAS, the County has decided to place all relevant open space classification or re-classification application procedures that mirror the manner in which comprehensive plan amendments are processed in chapter 4.28 SCC to avoid confusion that may arise if such provisions are simply placed in chapter 30.73 SCC; and

WHEREAS, by stating procedural requirements for open space classification applications in chapter 4.28 SCC rather than in chapter 30.73 SCC, this ordinance clarifies that open space tax reclassification applications are not reviewed by the planning commission, are not subject to an annual review cycle, are not appealed to the growth management hearings board and can be initiated by property owners; and

WHEREAS, this ordinance eliminates potential conflicts between county code and chapter 84.34 RCW concerning open space classification applications; and

WHEREAS, the County Council held a public hearing on July 26, 2006, to consider the entire record and hear public testimony on Ordinance 06-042, 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. In order to comply with RCW 84.34.037(1), open space classification and re-classification applications must be acted upon in the same manner in which comprehensive plan amendments are approved.
- B. The County currently has placed review and appeal procedures for all Type 3 (legislative) decisions including comprehensive plan amendments in chapter 30.73 SCC.
- C. However, numerous Type 3 procedures contained in chapter 30.73 SCC are unnecessary and inappropriate for open space classification applications procedures. For example, chapter 30.73 SCC currently requires many of the Type 3 legislative decisions to be reviewed by the Planning Commission. It also prohibits the Council from acting on Type 3 decisions more than once per year, it requires review of all Type 3

decisions by the state growth management hearings board rather than the state board of tax appeals, and Type 3 decisions may not be initiated by landowners. The Council may adopt a Type 3 action as an emergency action under the GMA.

- D. Chapter 4.28 SCC currently contains policies and provisions for open space classification or re-classification applications.
- E. For the above-mentioned reasons, open space tax classification or re-classification applications review and appeal procedures are most appropriate in chapter 4.28 SCC.
- F. The relevant portions of chapter 30.73 SCC, which ensure that open space applications are reviewed in the same manner as comprehensive plan amendments, shall be referenced in chapter 4.28 SCC including requirements for departmental reports on the proposal, procedures for council consideration and options for council action, which are currently located at SCC 30.73.045, 30.73.070 and 30.73.080.
- G. The county finds it is in the best interest of the public to clarify the open space tax reclassification review and decision procedures consistent with chapter 84.34 RCW.
- H. The County published legal notice in The (Everett) Herald notifying the public of public hearings held by the County Council.

Section 3. The County Council makes the following conclusions:

- A. This amendment to chapter 4.28 SCC provides for open space tax application review and decision procedures, which satisfies the procedural and substantive requirements of and is consistent with chapter 84.34 RCW.
- B. The proposed amendment complies with the Snohomish County comprehensive plan.
- C. 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. A new section is added to chapter 4.28 of the Snohomish County Code to read:

4.28.085 Procedure

Applications for open space classifications or re-classifications shall comply with the procedural requirements of SCC 30.73.045(1), 30.73.070, and 30.73.080. No other sections of that chapter shall apply to such decisions.


Section 7. Severability and Savings. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by 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 a 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 26th day of July, 2006.

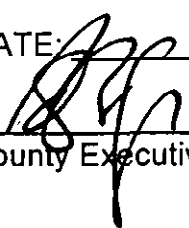
SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Chairperson

ATTEST:


Asst. Clerk of the Council

- APPROVED
- EMERGENCY
- VETOED

DATE: 1 AUG 2006

PETER B. CAMP
County Executive Executive Director

ATTEST:



Approved as to form only:

Deputy Prosecuting Attorney

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