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SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

AMENDED ORDINANCE NO. 06-138

RELATING TO ACCESSORY APARTMENTS, RESTRICTING THE USE OF MOBILE HOMES AS DETACHED ACCESSORY APARTMENTS TO RURAL LOTS TEN ACRES IN SIZE OR LARGER, AMENDING SECTION 30.91A.050 OF THE SNOHOMISH COUNTY CODE

WHEREAS, the Unified Development Code, Title 30 of the Snohomish County Code (UDC), contains regulations concerning Accessory Apartments; and

WHEREAS, in response to citizen request for increased affordable housing options, the county council adopted Ordinance No. 04-021 on March 31, 2004, which authorized the use of mobile homes as detached accessory apartments in limited circumstances; and

WHEREAS, Ordinance No. 04-021 amended SCC 30.91A.050, authorizing the use of mobile homes as detached accessory apartments on rural lots 200,000 square feet or larger when the accessory apartment remains subordinate to the existing owner-occupied home; and

WHEREAS, on June 14, 2004, 1000 Friends of Washington (now known as Futurewise) appealed the County's adoption of Ordinance No. 04-021 to the Central Puget Sound Growth Management Hearings Board (Board), alleging that the ordinance violates the Growth Management Act, chapter 36.70A RCW, by impermissibly increasing the County's rural density; and

WHEREAS, the appeal is known as *1000 Friends of Washington v. Snohomish County*, CPSGMHB Case No. 04-3-0018 (*1000 Friends IV*); and

WHEREAS, on December 13, 2004, the Board issued its Final Decision and Order in *1000 Friends IV*, which remanded Ordinance No. 04-021 on the grounds that allowing the use of mobile homes as detached accessory apartments on rural lots smaller than 10 acres promotes "dwelling unit density that fails to protect rural lands and rural character" and is noncompliant with the GMA; and

WHEREAS, on January 11, 2005, Snohomish County appealed the Board's Final Decision and Order to the Snohomish County Superior Court; and

WHEREAS, the parties agreed to a stay of both the appeal and the Board's Final Decision and Order on three occasions; and

WHEREAS, the current stay of the Board's Final Decision and Order expires on December 29, 2006; and

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WHEREAS, it is in the best interests of the citizens of Snohomish County that the County take action to comply with the Board's Final Decision and Order in *1000 Friends IV*.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The county council adopts and incorporates the foregoing recitals as findings and conclusions.

Section 2. The county council makes the following additional findings and conclusions:

- A. The Board specifically found that the legislation adopted by Ordinance No. 04-021 failed "to comply with the Growth Management Act's requirements to protect rural lands and rural character [RCW 36.70A.070(5)], so far as the amendments add manufactured homes as allowable freestanding [accessory apartments] *on lots smaller than 10 acres.*" *1000 Friends IV*, CPSGMHB Case No. 04-3-0018 (Final Decision and Order, December 13, 2004) at 13 (Emphasis added).
- B. This ordinance amends SCC 30.91A.050 to restrict the use of mobile homes as detached accessory apartments to rural lots 10 acres or larger.
- C. The amendments adopted by this ordinance are consistent with the GMA and the Board's Final Decision and Order in *1000 Friends IV*.
- D. A public hearing was held before the county council on December 13, 2006, which meets state and local public participation requirements for an ordinance adopted in response to a Board remand.
- E. Pursuant to the State Environmental Policy Act (SEPA), chapter 43.21C RCW, and chapter 30.61 SCC, the Snohomish County Environmental Review Ordinance, the County issued an Addendum to the SEPA Threshold Determination of Nonsignificance issued for Ordinance No. 04-021 on November 30, 2006, which satisfies the requirements of SEPA.
- F. This ordinance is adopted pursuant to the GMA, chapter 36.70A RCW, the Snohomish County Charter, and the Washington State Constitution, art. XI, sec. 11.

Section 3. The county council bases its findings of facts and conclusions on the entire record before the county council, including all testimony and exhibits relating to these amendments, as well as the entire record before the county council and planning commission for the adoption of Ordinance No. 04-021.

Section 4. Snohomish County Code Section 30.91A.050, last amended by Ordinance No. 04-021 on March 31, 2004, is amended to read:

30.91A.050 "Accessory apartment-detached" means a dwelling unit other than a mobile home, which is located on the same lot and under the same ownership as, and subordinate to, an owner-occupied single-family dwelling unit, except that a mobile home may be allowed as a detached accessory apartment on lots (~~((200,000 square feet))~~) ten acres or larger located outside of a UGA

when the accessory apartment remains subordinate to the existing owner occupied home and meets the requirements of chapter 30.28 SCC. A detached accessory apartment is intended for use as a complete, independent living facility, and does not substantially alter the single-family character and appearance of the structure or its conformity with the character of the neighborhood. A detached accessory apartment must include facilities for living, sleeping, eating, cooking, and sanitation for not more than one family in accordance with state and local law.


Section 5. 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 13th day of December, 2006.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Chairperson

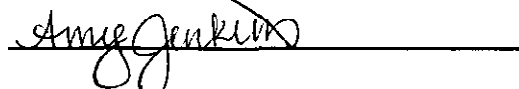
ATTEST:


Sheila McCallister
Asst. Clerk of the Council

APPROVED
 EMERGENCY
 VETOED

DATE: 12/26/06

ATTEST:


Approved as to form only:

 for
Snohomish County Executive

MARK SOINE
Deputy Executive

Jason Cummings
Deputy Prosecuting Attorney

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