



CO00032860

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

EMERGENCY ORDINANCE NO. 08-090

RELATING TO GROWTH MANAGEMENT, ADOPTING AN INTERIM OFFICIAL CONTROL
REGULATING RESIDENTIAL DEVELOPMENT OF SUBSTANDARD LOTS, AMENDING SCC
30.23.240, DECLARING AN EMERGENCY, AND SETTING A HEARING DATE

WHEREAS, the county council adopted regulations in SCC 30.23.240 to allow residential development on existing legal lots that do not meet the minimum size required by current zoning regulations, provided that certain conditions are met; and

WHEREAS, SCC 30.23.240, and the conditions in its subsections, were established to balance the desire to protect the character and quality of existing residential communities as envisioned in the Snohomish County General Policy Plan (GPP) and current zoning code with the desire to allow residential development on legally existing lots that were created before the current zoning was in place; and

WHEREAS, the intent of SCC 30.23.240 is and always has been to regulate all residential development on substandard lots, including the development of duplexes and multi-family structures as well as single family dwellings; and

WHEREAS, the wording and structure of SCC 30.23.240 is complex and potentially confusing, raising questions about whether it applies to all residential development or only to the construction of single family dwellings; and

WHEREAS, the county has received a number of applications for building permits for duplexes on substandard lots; and

WHEREAS, allowing the development of duplexes at densities higher than allowed for single family residences in rural areas would be in conflict with the code and would negatively affect the character of rural communities; and

WHEREAS, the county is undertaking a comprehensive review of its land use policies and regulations for development in rural areas, where the use of substandard lots has been controversial, in order to better protect and enhance the character of our rural areas; and

WHEREAS, the county council is interested in revisiting the regulations for use of substandard lots as early as possible in the update of the rural policies and codes so that the community can have substantial input into the appropriate amount of development to allow in these areas; and

WHEREAS, a complete update of SCC 30.23.240 would be useful to make it clearer and more aligned with the GPP and the community's preferences for rural development; and

WHEREAS, such an update may take a period of several months, during which confusion about the application of the current code could lead to unnecessary conflicts and disagreements between owners and neighbors of substandard lots; and

WHEREAS, clarifying the code immediately to reduce confusion while engaging the community in discussions about the best long term solution is in the best interest of the community; and

WHEREAS, RCW 36.70A.390 provides that the county council may adopt a moratorium, interim zoning ordinance, interim zoning map, and/or interim official control; and

WHEREAS, moratoria, interim zoning ordinances, and interim official controls enacted under RCW 36.70A.390 are methods by which local governments may preserve the status quo so that new plans and regulations will not be rendered moot by intervening development;

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The county council makes the following findings of fact and conclusions:

- A. The county council adopts and incorporates the foregoing recitals as findings as if set forth fully herein.
- B. A large number of legally existing lots were created prior to the adoption of the current zoning map and code, and many of them are smaller than allowed by the current code.
- C. SCC 30.23.240 provides that lots that have substandard area for their present zone may be used only in the manner and upon the conditions set forth in that section.
- D. The structure and wording of SCC 30.23.240 is complex and confusing.
- E. The county has received applications to build duplexes on substandard lots from applicants who believe that the provisions of SCC 30.23.240 do not apply to duplexes.
- F. The county will work with affected communities and stakeholders to update the regulations for development on substandard lots as part of the review of the Rural element of the GPP.
- G. It is in the best interest of the community to immediately clarify that SCC 30.23.240 applies to all residential development while the review and update of the Rural element is proceeding.
- H. The amendment to SCC 30.23.240 adopted by this ordinance implements the Growth Management Act (GMA) Goal 2 (RCW 36.70A.020(2)), "Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development."
- I. The amendment to SCC 30.23.240 adopted by this ordinance implements the GMA requirements for planning for rural areas, including RCW 36.70A.070(5), by controlling rural development in a manner that protects rural character.
- J. The amendment to SCC 30.23.240 adopted by this ordinance implements GPP Goal LU 6, "Protect and enhance the character, quality, and identity of rural areas."
- K. The amendment to SCC 30.23.240 adopted by this ordinance complies with the GMA requirement to adopt development regulations that are consistent with and implement the GPP.
- L. The amendment to SCC 30.23.240 adopted by this ordinance satisfies the procedural and substantive requirements of and is consistent with the GMA.
- M. The amendment to SCC 30.23.240 adopted by this ordinance bears a substantial relationship to the public health, safety and welfare.

Section 2. Findings and effective date. Pursuant to section 2.120 of the Snohomish County Charter, the county council finds and concludes that preventing a potentially large number of applications for dense clusters of duplexes in rural areas that are zoned for lower density rural uses from being filed and processed is necessary for the immediate preservation of the public peace, health or safety. Non-emergency options for amending the substandard lot regulations would not prevent such applications from being filed. Based on the foregoing, the county council declares that an emergency exists and this ordinance shall take effect immediately.

Section 3. SEPA. Pursuant to WAC 197-11-880 and SCC 30.61.020, the adoption of this ordinance is exempt from the requirements for a threshold determination under the State Environmental Policy Act (SEPA).

Section 4. The county council hereby adopts the following interim official control:

A. Snohomish County Code Section 30.23.240, last amended by Ordinance No. 02-064 on December 9, 2002, is amended to read:

30.23.240 Residential use of substandard lots.

Use of lots (~~(in residential zones for single family dwellings)~~) for residential development when such lots have substandard area for their present zone is permitted if the lot was legally created and satisfied the lot area and lot width requirements applicable at the time of lot creation; but such lots may be used only in the manner and upon the conditions set forth below:

(1) A person, who owns a single substandard lot or two or more substandard lots which were not contiguous and under single ownership on December 31, 1989, may use such lot or lots, either individually or in combination, for building sites, one dwelling per building site if the building sites meet the setbacks and lot coverage requirements and the Snohomish Health District's standards for the zone in which they are located;

(2) A person who owns two or more substandard lots which were contiguous and under single ownership on December 31, 1989, may use such lots, either individually or in combination, for up to two building sites, one dwelling per building site if the building sites meet the setbacks and lot coverage requirements and the Snohomish Health District's standards for the zone in which they are located. Additional contiguous substandard lots owned by the same person may be used for additional building sites, one dwelling per building site if the additional building sites contain at least one acre (43,560 square feet) or 50 percent of the lot area required for the zone in which such building sites are located, whichever is less and if the building sites meet the setbacks and lot coverage requirements and the Snohomish Health District's standards for the zone in which they are located; and

(3) Notwithstanding the provisions of SCC 30.23.240(2), a person who owns two or more substandard lots which were established on or after April 15, 1957, and which were contiguous and under single ownership on December 31, 1989, may use such lots, either individually or in combination, for building sites, one dwelling per building site if the building sites meet the setbacks and lot coverage requirements and the Snohomish Health District's standards for the zone in which they are located.

B. This amendment shall be effective for six months.

Section 5. Public hearing. The county council will hold a public hearing on this matter on July 30, 2008, at the hour of 10:30 a.m. in the Henry M. Jackson Board Room, 8th Floor, Robert J. Drewel Building, 3000 Rockefeller, Everett, Washington, for the purpose of hearing public testimony on this matter in accordance with RCW 36.70A.390. The notice for the public hearing

shall specifically indicate that this ordinance may be renewed for one or more six month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

Section 6. The county council requests that the county executive engage affected stakeholders and communities in the review of the regulations for development of substandard lots in rural areas and propose any policies and regulations deemed appropriate to serve the public health, safety, and welfare in Snohomish County.

Section 7. Severability and savings. If any section, sentence, clause, or phrase of this ordinance shall be ruled to be invalid or unconstitutional by the Growth Management Hearings Board or a court of competent jurisdiction, such ruling shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance, and 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 16th day of June, 2008.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Dave S.
Chairperson

ATTEST:

Sheila McCallister
Clerk of the Council, *asst.*

- () APPROVED
- () VETOED
- (X) EMERGENCY

DATE: _____

County Executive

ATTEST:

Approved as to form only:

John R. Wiggan
Deputy Prosecuting Attorney
6-16-08

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