



CO00036332

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

ORDINANCE NO. 08-136

RELATING TO PROCEDURES FOR CODE INTERPRETATIONS,
AND AMENDING SCC 30.70.050, 30.71.020, AND
SECTIONS IN CHAPTER 30.83 SCC

WHEREAS, chapter 30.83 of the Snohomish County Code ("SCC" or "the code") provides a process for administrative interpretation of the provisions of the Unified Development Code, Title 30 SCC; and

WHEREAS, the code currently allows a code interpretation process without any public involvement and without a means of administrative appeal.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The county council makes the following findings:

- A. The county council adopts and incorporates the foregoing recitals as findings as if set forth fully herein.
- B. Chapter 30.83 SCC establishes procedures for code interpretations.
- C. Providing an opportunity for public review of proposed code interpretations and providing an opportunity for code interpretations to be appealed to the county hearing examiner will provide greater transparency in the administration of development regulations and greater accountability to the public.
- D. The amendments adopted by this ordinance relate solely to governmental procedures and contain no substantive standards respecting use or modification of the environment.

Section 2. The county council makes the following conclusions:

- A. The proposed ordinance is exempt from compliance with the State Environmental Policy Act (SEPA, chapter 43.21C RCW) as provided in WAC 197-11-800(19).
- B. The amendments adopted by this ordinance relate solely to governmental procedures and do not require a planning commission hearing as provided in SCC 30.73.040(2)(b).

1 C. The amendments to 30.70.050, 30.71.020, and sections in chapter 30.83 SCC
2 adopted by this ordinance comply with the public participation requirements of the
3 GMA.
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5 **Section 3.** The county council bases its findings and conclusions on the entire
6 record of the county council, including all testimony and exhibits. Any finding that
7 should be deemed a conclusion, and any conclusion that should be deemed a finding, is
8 hereby adopted as such.
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10 **Section 4.** Snohomish County Code Section 30.70.050, last amended by
11 Amended Ordinance No. 07-005 on February 21, 2007, is amended to read:
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13 **30.70.050 Notice of application - timing and method.**
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15 (1) The department shall provide notice of application within 10 days after a
16 determination that the application is complete as specified in SCC Table 30.70.050(5).
17 Required notice shall be given in accordance with SCC 30.70.045.

18 (2) A notice of application posted or published in the official county newspaper or
19 provided by mail on a letter/legal size publication shall include the following information:

20 (a) Date of application, date of completeness determination, and date of
21 notice of application;

22 (b) Project description, list of permits requested, assigned county file
23 number, and county contact person;

24 (c) Any information or studies requested by the department;

25 (d) Any other required permits not included in the application, to the extent
26 known by the department;

27 (e) Any existing environmental documents that evaluate the proposed
28 project, including where they can be inspected;

29 (f) The date, time, place, and type of public hearing, if applicable and if
30 scheduled at the time of the notice;

31 (g) When notice is for a rezone action or development in a performance
32 standard zone, a statement indicating where the full text and/or map of the rezone
33 action may be inspected;

34 (h) A statement of when the comment period ends and the right of any
35 person to comment on the application, receive notice of and participate in any hearings,
36 request a copy of the decision once made, and any appeal procedures;

37 (i) If determined at the time of notice, those development regulations that
38 will be used for project mitigation or to review consistency; and

39 (j) Any other information determined appropriate by the department.

40 (3) Mailed notice of application may be provided on a post card.

41 (4) A post card notice shall contain the following information:

42 (a) project description;

43 (b) project file number;

44 (c) project location;

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- (d) type of project;
- (e) applicable comment dates and notice of where to submit comments;
- (f) date the notice of application was published in the official county newspaper;
- (g) website address providing access to project information; and
- (h) a department contact.

**SCC Table 30.70.050(5)
Notice of Application Requirements**

Application Type	Post	Publish	Mail
Administrative Conditional Use	X	X	X
Binding Site Plan	X	X	X
Building and grading permits subject to SEPA	X	X	X
Code interpretation ((processed as Type 1) not related to a specific project		X	
Code interpretation related to a specific project	X	X	X
Final Subdivision	[see SCC 30.41A.600 - 30.41A.730]		
Flood Hazard Permit – except as provided in SCC 30.43C.020			X
Flood Hazard Variance	X	X	X
Freeway service zone official site plan in existing zone	X	X	X
Free-standing sign in FS and RFS zone	X	X	X
SEPA threshold determination and EIS adequacy associated with project permit	X	X	X
Shoreline variance, conditional use, or substantial development permit or permit ((recession) <u>rescission</u>)	X	X	X
Short subdivision and rural cluster short subdivision	X	X	X
Variance	X	X	X
Conditional use and major revision	X	X	X
Preliminary subdivision and rural cluster subdivision, and major revision	X	X	X
Planned Residential Development and major revision	X	X	X
Official site plan or preliminary plan approval in performance standard zones (BP, PCB, IP, FS, T, RB, CRC, RFS, and RI)	X	X	X

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Rezone – site specific	X	X	X
Review or revocation of a permit or approval pursuant to SCC 30.71.027	X	X	X
Preapplication Concurrency Decision	X	X	X
Any non-listed Type 1 or Type 2 permit application except Boundary Line Adjustments pursuant to SCC 30.41E.020(1)(c)	X	X	X

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Section 5. Snohomish County Code Section 30.71.020, last amended by Amended Ordinance No. 07-022 on April 23, 2007, is amended to read:

30.71.020 Type 1 permits and decisions.

The following are processed as Type 1 administrative decisions:

- (1) Administrative conditional use permit;
- (2) Binding site plan approval;
- (3) Boundary line adjustment, except as provided in 30.41E.020 SCC;
- (4) Building and grading permits subject to SEPA review pursuant to chapter 30.61 SCC, or subject to conditions imposed pursuant to chapter 30.32D;
- (5) Free standing signs in the FS and RFS zones;
- (6) Code interpretations (~~issued pursuant to SCC 30.83.030(2))~~);
- (7) Flood hazard permit, except as provided in SCC 30.43C.020;
- (8) Flood hazard variance;
- (9) Freeway service zone official site plan (existing FS zone);
- (10) Shoreline substantial development permit, shoreline conditional use, and shoreline variance, except when processed as a Type 2 decision pursuant to SCC 30.44.240;
- (11) Short subdivision approval with no dedication of a new public road right-of-way;
- (12) Urban centers project decision pursuant to chapter 30.34A SCC;
- (13) Variance; and
- (14) Single family detached units applications pursuant to chapter 30.41F SCC.

Section 6. Snohomish County Code Section 30.83.030, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is amended to read:

30.83.030 Interpretation procedure.

- (1) The applicable director for making the interpretation is determined pursuant to SCC 30.81.010.

1 (2) ~~((The director may choose to process the interpretation request))~~ A request
2 for a code interpretation shall be treated as a Type 1 decision, providing public notice
3 and an opportunity to comment before making an administrative decision pursuant to
4 SCC 30.70.050. ~~((The Type 1 process would typically be used for issues of high~~
5 ~~significance or precedent setting value, or where the outcome of the interpretation is~~
6 ~~likely to affect specific or controversial projects. An applicant or any interested person~~
7 ~~may request use of the Type 1 process.))~~

8 (3) The director shall mail a written response to any person filing a request for a
9 code interpretation within 14 days of receiving the request. The response shall indicate
10 ~~((whether a Type 1 process will be followed,))~~ when the interpretation is expected to be
11 issued ~~((, or if the request is denied, shall provide the reasons why)).~~

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13 **Section 7.** Snohomish County Code Section 30.83.040, adopted by Amended
14 Ordinance No. 02-064 on December 9, 2002, is amended to read:

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16 **30.83.040 Code interpretations specific to a project.**

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18 ~~((Notice of the interpretation request shall be provided in accordance with SCC~~
19 ~~30.70.050.))~~

20 (1) Only an applicant for a project may request an interpretation relating to a
21 specific project ~~((as a Type 1 decision))~~. At the time of making the request, the applicant
22 shall elect to have the request processed as a separate Type 1 application or in
23 conjunction with the underlying application. If processed in conjunction with the
24 underlying application, the applicant shall waive the processing timeline of SCC
25 30.70.110 for the time necessary to process the code interpretation, not to exceed 60
26 days.

27 (2) Persons other than the applicant may not request a project-related
28 interpretation pursuant to this chapter, but may submit comments as a party of record.

29 (a) If the project that is the subject of the code interpretation is a Type 1
30 application, the underlying permit must be appealed to challenge the department's
31 interpretation of the code.

32 (b) If the project that is the subject of the code interpretation is a Type 2
33 application, the challenge to the department's interpretation of the code may be raised
34 at the open record hearing.

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36 **Section 8.** Snohomish County Code Section 30.83.050, adopted by Amended
37 Ordinance No. 02-064 on December 9, 2002, is amended to read:

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39 **30.83.050 Code interpretation - decision of the director.**

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41 (1) Only one interpretation per issue shall be rendered by the director. In the
42 event an interpretation is requested on an issue previously addressed, the director shall
43 provide a copy of the previous interpretation to satisfy the request.

1 (2) ~~((The director may deny a request for interpretation if the director finds there~~
2 ~~is no ambiguity or that the need for an interpretation has not been demonstrated. A~~
3 ~~decision to deny shall be final and not subject to an administrative appeal.~~

4 (3)) An interpretation issued pursuant to this chapter shall have the same effect
5 and be enforceable as a provision of this title.
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7 **Section 9.** Snohomish County Code Section 30.83.060, adopted by Amended
8 Ordinance No. 02-064 on December 9, 2002, is amended to read:
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10 **30.83.060 Appeal.**
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12 In any appeal of a code interpretation ~~((issued as a Type 1 decision))~~, the
13 interpretation of the director shall be given substantial weight.
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15 **Section 10. Severability and savings.** If any section, sentence, clause, or
16 phrase of this ordinance shall be held to be invalid or unconstitutional by the Growth
17 Management Hearings Board or a court of competent jurisdiction, such invalidity or
18 unconstitutionality shall not affect the validity or constitutionality of any other section,
19 sentence, clause, or phrase of this ordinance. Provided, however, that if any section,
20 sentence, clause or phrase of this ordinance is held to be invalid by the Board or court
21 of competent jurisdiction, then the section, sentence, clause or phrase in effect prior to
22 the effective date of this ordinance shall be in full force and effect for that individual
23 section, sentence, clause or phrase as if this ordinance had never been adopted.
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1 PASSED this 29th day of October, 2008.

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3 SNOHOMISH COUNTY COUNCIL
4 Snohomish County, Washington


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8 Chairperson

9 ATTEST:

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12 Clerk of the Council, ASST.

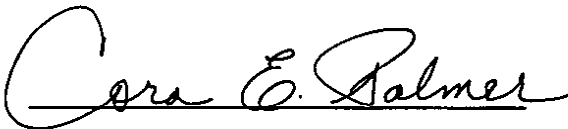
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15 APPROVED
16 VETOED
17 EMERGENCY

18 DATE: 11/14/08

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22 County Executive

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24 MARK SOINE
25 Deputy Executive

26 ATTEST:

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28 Approved as to form only:

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31  10/1/08
32 Deputy Prosecuting Attorney
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