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SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

EMERGENCY ORDINANCE NO. 08-157

EXTENDING AN INTERIM OFFICIAL CONTROL ENACTED BY EMERGENCY ORDINANCE  
NO. 08-090 REGULATING RESIDENTIAL DEVELOPMENT OF SUBSTANDARD LOTS,  
AMENDING SCC 30.23.240 AND DECLARING AN EMERGENCY

WHEREAS, RCW 36.70A.390 provides that the county council may adopt an interim official control; and

WHEREAS, an interim official control 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; and

WHEREAS, on June 16, 2008, the county council adopted Emergency Ordinance No. 08-090, enacting an interim official control pursuant to RCW 36.70A.390; and

WHEREAS, pursuant to RCW 36.70A.390, the county council held a public hearing on Emergency Ordinance No. 08-090 on July 30, 2008; and

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

49 WHEREAS, the county is undertaking a comprehensive review of its land use policies and  
50 regulations for development in rural areas, where the use of substandard lots has been  
51 controversial, in order to better protect and enhance the character of our rural areas; and  
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53 WHEREAS, the county council is interested in revisiting the regulations for use of substandard  
54 lots as early as possible in the update of the rural policies and codes so that the community can  
55 have substantial input into the appropriate amount of development to allow in these areas; and  
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57 WHEREAS, a complete update of SCC 30.23.240 would be useful to make it clearer and more  
58 aligned with the GPP and the community's preferences for rural development; and  
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60 WHEREAS, such an update may take a period of several months, during which confusion about  
61 the application of the current code could lead to unnecessary conflicts and disagreements  
62 between owners and neighbors of substandard lots; and  
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64 WHEREAS, clarifying the code immediately to reduce confusion while engaging the community  
65 in discussions about the best long term solution is in the best interest of the community; and  
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67 WHEREAS, RCW 36.70A.390 provides that the county council may adopt a moratorium, interim  
68 zoning ordinance, interim zoning map, and/or interim official control; and  
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70 WHEREAS, moratoria, interim zoning ordinances, and interim official controls enacted under  
71 RCW 36.70A.390 are methods by which local governments may preserve the status quo so that  
72 new plans and regulations will not be rendered moot by intervening development; and  
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74 WHEREAS, the county has undertaken efforts to draft a set of development regulations to  
75 replace Emergency Ordinance No. 08-090; and  
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77 WHEREAS, additional time is necessary for the planning commission to review the proposed  
78 development regulations, hold a hearing and make a recommendation to the county council;  
79 and  
80

81 WHEREAS, accordingly, it is in the best interests of the county that the county council extend  
82 the provisions of Emergency Ordinance No. 08-090 until development regulations can be  
83 adopted on this matter.  
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85 NOW, THEREFORE, BE IT ORDAINED:  
86

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

- 88 A. The county council adopts and incorporates the foregoing recitals as findings as if set forth  
89 fully herein.
- 90 B. The county has undertaken efforts to draft a set of development regulations to replace  
91 Ordinance No. 08-090
- 92 C. Additional time is necessary for the planning commission to review the proposed code  
93 amendments, hold a public hearing and make a recommendation to the County Council

- 94 D. It is estimated that the time necessary for the completion of the planning commission and  
95 county council processes will require an additional six-month time period from the  
96 expiration date of the interim official control enacted by Emergency Ordinance No. 08-090.
- 97 E. The emergency that existed at the time of adoption of Emergency Ordinance No. 08-090,  
98 and as documented in Emergency Ordinance No. 08-090 continues to exist within the  
99 County, and a renewal of the interim official control provisions is necessary for the  
100 continued preservation of the public peace, health, and safety and for the support of  
101 county government and its existing institutions.
- 102 F. An interim official control may be renewed for one or more six-month periods if a public  
103 hearing is held and findings of fact are made prior to each renewal, pursuant to RCW  
104 36.70A.390.
- 105 G. A large number of legally existing lots were created prior to the adoption of the current  
106 zoning map and code, and many of them are smaller than allowed by the current code.
- 107 H. SCC 30.23.240 provides that lots that have substandard area for their present zone may  
108 be used only in the manner and upon the conditions set forth in that section.
- 109 I. The structure and wording of SCC 30.23.240 is complex and confusing.
- 110 J. The county has received applications to build duplexes on substandard lots from  
111 applicants who believe that the provisions of SCC 30.23.240 do not apply to duplexes.
- 112 K. The county will work with affected communities and stakeholders to update the regulations  
113 for development on substandard lots as part of the review of the Rural element of the  
114 GPP.
- 115 L. It is in the best interest of the community to immediately clarify that SCC 30.23.240 applies  
116 to all residential development while the review and update of the Rural element is  
117 proceeding.
- 118 M. The amendment to SCC 30.23.240 adopted by this ordinance implements the Growth  
119 Management Act (GMA) Goal 2 (RCW 36.70A.020(2)), "Reduce sprawl. Reduce the  
120 inappropriate conversion of undeveloped land into sprawling, low-density development."
- 121 N. The amendment to SCC 30.23.240 adopted by this ordinance implements the GMA  
122 requirements for planning for rural areas, including RCW 36.70A.070(5), by controlling  
123 rural development in a manner that protects rural character.
- 124 O. The amendment to SCC 30.23.240 adopted by this ordinance implements GPP Goal LU 6,  
125 "Protect and enhance the character, quality, and identity of rural areas."
- 126 P. The amendment to SCC 30.23.240 adopted by this ordinance complies with the GMA  
127 requirement to adopt development regulations that are consistent with and implement the  
128 GPP.
- 129 Q. The amendment to SCC 30.23.240 adopted by this ordinance satisfies the procedural and  
130 substantive requirements of and is consistent with the GMA.
- 131 R. The amendment to SCC 30.23.240 adopted by this ordinance bears a substantial  
132 relationship to the public health, safety and welfare.
- 133 S. A determination of nonsignificance (DNS) was issued on November 14, 2008, for the  
134 adoption of Emergency Ordinance No. 08-157.
- 135 T. The requirements of SEPA and chapter 30.61 SCC have been satisfied.

136 U. The County Council held a public hearing on December 10, 2008 on this ordinance in  
137 accordance with SCC 30.73.090.

138 **Section 2. Findings relating to declaration of emergency and effective date.** Pursuant to  
139 section 2.120 of the Snohomish County Charter, the county council finds and concludes that  
140 preventing a potentially large number of applications for dense clusters of duplexes in rural  
141 areas that are zoned for lower density rural uses from being filed and processed is necessary  
142 for the immediate preservation of the public peace, health or safety. Non-emergency options for  
143 amending the substandard lot regulations would not prevent such applications from being filed.  
144 Based on the foregoing, the county council declares that an emergency exists and this  
145 ordinance shall take effect on December 16, 2008, upon the expiration of Emergency Ordinance  
146 No. 08-090.

147  
148 **Section 3.** The county council hereby adopts the following interim official control:  
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150 A. Snohomish County Code Section 30.23.240, last amended by Ordinance No. 02-064  
151 on December 9, 2002, is amended to read:  
152

153 **30.23.240 Residential use of substandard lots.**

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

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

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

173 (3) Notwithstanding the provisions of SCC 30.23.240(2), a person who owns two or more  
174 substandard lots which were established on or after April 15, 1957, and which were contiguous  
175 and under single ownership on December 31, 1989, may use such lots, either individually or in  
176 combination, for building sites, one dwelling per building site if the building sites meet the  
177 setbacks and lot coverage requirements and the Snohomish Health District's standards for the  
178 zone in which they are located.  
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180 B. This amendment shall take effect on December 16, 2008, and be effective for six  
181 months.  
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184 **Section 4. Severability and savings.** If any section, sentence, clause, or phrase of this .  
185 ordinance shall be ruled to be invalid or unconstitutional by the Growth Management Hearings  
186 Board or a court of competent jurisdiction, such ruling shall not affect the validity or  
187 constitutionality of any other section, sentence, clause, or phrase of this ordinance, and the  
188 section, sentence, clause, or phrase in effect prior to the effective date of this ordinance shall be  
189 in full force and effect for that individual section, sentence, clause, or phrase as if this ordinance  
190 had never been adopted.  
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194 PASSED this 10<sup>th</sup> day of December, 2008.

197 SNOHOMISH COUNTY COUNCIL  
198 Snohomish County, Washington

199 Dave J.  
200  
201 Chairperson  
202

203 ATTEST:

204  
205 Sheela McCallister  
206  
207 Asst. Clerk of the Council  
208

- 209 ( ) APPROVED  
210 ( ) VETOED  
211 ( ) EMERGENCY

212 DATE: \_\_\_\_\_

213  
214 \_\_\_\_\_  
215 County Executive  
216

217 ATTEST:

218 \_\_\_\_\_  
219

220  
221 Approved as to form only:

222 John R. Muttart  
223  
224 Deputy Prosecuting Attorney

11-17-08

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