



CO00042608

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

AMENDED ORDINANCE NO. 11-048

AN ORDINANCE CREATING EXEMPTIONS FROM CERTAIN  
REGULATORY AND PERMITTING REQUIREMENTS FOR THE  
CONSTRUCTION AND MAINTENANCE OF RECREATIONAL TRAILS;  
AMENDING SCC 30.63A.200 AND 30.63B.070

WHEREAS, there are numerous recreational trails in Snohomish County (the "County"); and

WHEREAS, specialized recreational trails in the County serve various user groups, including but not limited to hikers, walkers, bicyclists, mountain bikers, roller-bladers, and off-road motorized vehicle users; and

WHEREAS, recreational trails in the County have historically been and are currently being constructed, operated and maintained by a number of different entities and agencies including, but not limited to, the County, the Washington State Department of Natural Resources, the U.S. Forest Service, the Washington Department of Fish and Wildlife, various municipalities, and the Washington State Parks and Recreation Commission; and

WHEREAS, it is in the public interest to encourage and support the construction, operation and maintenance of recreational trails; and

WHEREAS, the county council desires to facilitate the construction, operation and maintenance of recreational trails by eliminating unnecessary regulatory and permitting requirements pertaining to the construction and maintenance of recreational trails; and

WHEREAS, chapter 30.63A SCC generally imposes on land development projects certain regulatory and permitting requirements related to stormwater management, as required by the Phase I Municipal Stormwater Permit issued to the County pursuant to the National Pollutant Discharge Elimination System program established by the federal Clean Water Act, 33 U.S.C. § 1251 et seq. (the "NPDES Permit"); and

WHEREAS, chapter 30.63B SCC generally imposes on land development projects certain regulatory and permitting requirements related to land disturbing activities, as required by the NPDES Permit; and

1 WHEREAS, the requirements of the NPDES Permit do not apply to activities  
2 occurring on land that does not drain into the County's municipal separate storm sewer  
3 system, as that term is defined in SCC 30.91M.225; and  
4

5 WHEREAS, the county council therefore has discretion to exempt from the  
6 regulatory and permitting requirements of chapter 30.63A SCC and chapter 30.63B  
7 SCC land development activities occurring on land that does not drain into the County's  
8 municipal separate storm sewer system; and  
9

10 WHEREAS, the county council has determined that, where possible, it is in the  
11 public interest to exempt from the regulatory and permitting requirements of  
12 chapter 30.63A SCC and chapter 30.63B SCC the construction and maintenance of  
13 recreational trails; and  
14

15 WHEREAS, the amendments to SCC 30.63A.200 and 30.63B.070 proposed by  
16 this ordinance will achieve that objective; and  
17

18 WHEREAS, the County complied with RCW 36.70A.106, providing advanced  
19 notice to the Washington State Department of Commerce on June 6, 2011; and  
20

21 WHEREAS, a State Environmental Policy Act ("SEPA") threshold Determination  
22 of Nonsignificance ("DNS") for the code amendments proposed herein was issued on  
23 June 13, 2011; and  
24

25 WHEREAS, the planning commission held a public hearing on June 28, 2011, to  
26 receive public testimony concerning the code amendments contained herein; and  
27

28 WHEREAS, at the conclusion of the public hearing the planning commission  
29 voted to recommend adoption of the code amendments contained in this ordinance with  
30 an amendment that exempts trails located in private parks from the regulatory and  
31 permitting requirements of chapter 30.63A SCC and chapter 30.63B SCC, in addition to  
32 exempting trails located in public parks from such requirements, as stated in the  
33 planning commission's recommendation letter dated July 7, 2011; and  
34

35 WHEREAS, on August 24 and August 31, 2011, the county council held a public  
36 hearing after proper notice, heard public testimony related to the code amendments  
37 contained in this ordinance, and considered the entire record, including the planning  
38 commission's recommendations on the code amendments contained in this ordinance;  
39 and  
40

41 WHEREAS, immediately following the public hearing, the county council  
42 deliberated on the code amendments contained in this ordinance;  
43

44 NOW, THEREFORE, BE IT ORDAINED:  
45

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1 Section 1. The county council adopts the foregoing recitals as findings and  
2 conclusions as if set forth in full herein.

3  
4 Section 2. The county council makes the following additional findings and  
5 conclusions in support of this ordinance:

- 6  
7 A. The code amendments proposed in this ordinance are consistent with the goals  
8 and requirements of Snohomish County's Growth Management Act  
9 Comprehensive Plan.  
10  
11 B. The code amendments proposed in this ordinance are consistent with the  
12 Countywide Planning Policies for Snohomish County and with the multi-county  
13 policies adopted by the Puget Sound Regional Council.  
14  
15 C. The code amendments proposed in this ordinance are consistent with the goals  
16 and requirements of the Growth Management Act, chapter 36.70A RCW.  
17  
18 D. SEPA requirements with respect to this non-project action have been satisfied  
19 through the completion of an environmental checklist and the issuance of a DNS  
20 on June 13, 2011.  
21  
22 E. The public participation process related to the adoption of this ordinance has  
23 complied with all applicable requirements, including but not limited to,  
24 RCW 36.70A.140, chapter 30.73 SCC, and the Snohomish County Charter.  
25

26 Section 3. Snohomish County Code Section 30.63A.200, adopted by Amended  
27 Ordinance No. 10-026 on June 9, 2010, is amended to read:

28  
29 **30.63A.200 General exemptions.**

30  
31 The following new development and redevelopment activities shall be exempt from all  
32 stormwater management requirements of this chapter except as otherwise specified  
33 below:

34 (1) Repair or installation of underground or overhead facilities performed by a utility.  
35 For this exemption to apply, the repair or installation shall only replace ground surfaces  
36 with in-kind materials or materials with similar runoff characteristics and the  
37 development activities must occur outside all critical areas, together with the buffers of  
38 and setbacks from these critical areas, except that such activities may occur within  
39 floodplains and aquifer recharge areas of low or moderate sensitivity to groundwater  
40 contamination.

41 (2) Utility facility maintenance and repairs performed by a utility that replace ground  
42 surfaces with in-kind materials or materials with similar runoff characteristics, that do not  
43 add impervious surface, and that do not adversely impact any critical areas, critical area  
44 buffers or upstream or downstream properties, except that such activities shall comply  
45 with minimum requirement 2 (SCC 30.63A.445 through 30.63A.510).

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1 (3) Remodeling or tenant improvements that do not meet the definitions of new  
2 development, redevelopment or land disturbing activity.

3 (4) Development activities that result in less than 2,000 square feet of new, replaced  
4 or new plus replaced impervious surface, except that such activities shall comply with  
5 minimum requirement 2 (SCC 30.63A.445 through 30.63A.510). For this exemption to  
6 apply, development activities must occur outside all critical areas, together with the  
7 buffers of and setbacks from these critical areas, except that such activities may occur  
8 within floodplains and aquifer recharge areas of low or moderate sensitivity to  
9 groundwater contamination.

10 (5) Forest practice Classes I, II, III and Class IV special non-conversion forest  
11 practices regulated by Title 222 WAC.

12 (6) Oil and gas field activities or operations, including the construction of drilling sites,  
13 waste management pits, access roads and transportation and treatment infrastructure  
14 (such as pipelines, natural gas treatment plants, natural gas pipeline compressor  
15 stations and crude oil pumping stations).

16 (7) The following road maintenance activities: pothole and square cut patching,  
17 overlaying existing asphalt or concrete pavement with asphalt or concrete without  
18 expanding the coverage area, shoulder grading, reshaping and/or re-grading drainage  
19 systems, crack sealing, resurfacing with in-kind material without expanding the road  
20 prism and vegetation maintenance.

21 (8) The following commercial agricultural activities:

22 (a) Tilling, soil preparation, fallow rotation, planting, harvesting and other  
23 commercial agricultural activities involving working the land when such activities are  
24 outside of critical areas (except for floodplains and aquifer recharge areas with low or  
25 moderate sensitivity to groundwater contamination), together with the buffers of and  
26 setbacks from these critical areas;

27 (b) Maintenance or repair of existing commercial agricultural facilities including  
28 drainage facilities, ponds, animal stock flood sanctuaries, animal waste management  
29 facilities, agricultural buildings, fences, roads and bridges; and

30 (c) New construction of drainage ditches (including enlargement of existing  
31 drainage ditches) that require less than 500 cubic yards of grading. To qualify under this  
32 exemption, such ditches shall not adversely impact critical areas or upstream or  
33 downstream properties, be located within 100 feet of streams, wetlands, lakes, marine  
34 waters, fish and wildlife habitat conservation areas, or erosion hazard areas, or contain  
35 water on-site for retention, infiltration or evaporation and the development activities  
36 must occur outside all critical areas, together with the buffers of and setbacks from  
37 these critical areas, except that such activities may occur within floodplains and aquifer  
38 recharge areas of low or moderate sensitivity to groundwater contamination.

39 (9) Agricultural activities defined in chapter 30.32B SCC, SCC 30.91A.090 or  
40 30.62.015, provided:

41 (a) The activity occurs on property on which agriculture is a legal use of the  
42 property;

43 (b) The activity requires no other permit or project approval from Snohomish  
44 County except for a flood hazard permit under chapter 30.43 SCC; and

45 (c) The activity does not occur in a wetland as defined under state law, unless:

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1 (i) The activity is exempt from wetlands regulations under section 404(f) of the  
2 federal Clean Water Act;

3 (ii) The activity occurs on designated agricultural or rural lands and the wetland  
4 area is no greater than 5,000 square feet of non-riparian Category 2 or 3 wetlands or  
5 10,000 square feet of non-riparian Category 4 wetlands, pursuant to chapter 30.62  
6 SCC; or

7 (iii) The activity occurs in a UGA or on designated forest lands, and the wetland  
8 is an area of no greater than 5,000 square feet of non-riparian wetland Categories II or  
9 III or 10,000 square feet of non-riparian Category IV wetlands, pursuant to SCC  
10 30.62A.230(2).

11 (10) The construction or maintenance of recreational trails, not including challenge  
12 areas, parking areas, spectator areas, or any other developed or disturbed areas that  
13 are not trails, provided that the following criteria are met:

14 (a) The trail at issue is on land located in a rural or resource zone;

15 (b) The trail at issue is located in a public park or a private park, as those terms are  
16 defined in chapter 30.91P SCC;

17 (c) The area in which the construction or maintenance will be performed does not  
18 drain into the county's municipal separate storm sewer system, as that term is defined  
19 in chapter 30.91M SCC; and

20 (d) Design of the trail conforms to:

21 (i) The standards specified in the United States Forest Service Trail  
22 Construction and Maintenance Notebook and the United States Forest Service  
23 Standard Specifications for Construction and Maintenance of Trails; or

24 (ii) Such other standards for the design and construction of recreational trails  
25 that provide equivalent or greater environmental protection, provided that such  
26 standards are adopted by rule pursuant to SCC 30.82.010.

27  
28 Section 4. Snohomish County Code Section 30.63B.070, adopted by Amended  
29 Ordinance No. 10-023 on June 9, 2010, is amended to read:

30  
31 **30.63B.070 Land disturbing activity permit exemptions.**

32  
33 A land disturbing activity permit is not required for activities exempted in this section.  
34 Exemption from obtaining a land disturbing activity permit is not an exemption from  
35 compliance with this chapter, nor from any other applicable provision in title 30 SCC.  
36 Land disturbing activity exempted in this section shall comply with SCC 30.63A.445  
37 through 30.63A.510, unless specifically exempted from those provisions by SCC  
38 30.63A.200.

39 (1) Land disturbing activities are exempt from obtaining a land disturbing activity  
40 permit when:

41 (a) The land disturbing activity occurs outside all critical areas, together with the  
42 buffers of and setbacks from these critical areas, except that such activities may occur  
43 within floodplains and aquifer recharge areas of low or moderate sensitivity to  
44 groundwater contamination;

45 (b) The land disturbing activity is set back at least two feet from all property lines;

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1 (c) The land disturbing activity does not obstruct or alter an existing drainage  
2 course or pattern;  
3 (d) The land disturbing activity disturbs less than 7,000 square feet of land;  
4 (e) The land disturbing activity creates or replaces less than 2,000 square feet of  
5 new, replaced, or new plus replaced impervious surface;  
6 (f) The property on which the land disturbing activity will occur collects or  
7 concentrates stormwater from 5,000 square feet or less of drainage area; and  
8 (g) The amount of land disturbing activity is consistent with one of the following  
9 thresholds:  
10 (i) 100 cubic yards or less of grading on a site in any 18 consecutive months  
11 (except fills and associated compaction intended to support structures or private roads);  
12 (ii) 500 cubic yards or less of excavation in any 18 consecutive months for  
13 basement foundation, or for improvements to a single-family dwelling and/or accessory  
14 structures, provided that excess excavated material shall be disposed of at a permitted  
15 site approved by the director and provided further that the activity shall only commence  
16 after a building permit is secured by the applicant; or  
17 (iii) 500 cubic yards or less of grading in any 18 consecutive months for  
18 construction of underground drainage systems, provided that the construction shall only  
19 commence after a right-of-way use, utility, single-family or commercial building permit is  
20 obtained by the applicant.  
21 (2) The following land disturbing activities are exempt from obtaining a land disturbing  
22 activity permit when the activity is at least two feet from all property boundary lines. For  
23 this exemption to apply, development activities must occur outside all critical areas,  
24 together with the buffers of and setbacks from these critical areas, except that such  
25 activities may occur within floodplains and aquifer recharge areas of low or moderate  
26 sensitivity to groundwater contamination:  
27 (a) Operation of a solid waste disposal site subject to a solid waste permit pursuant  
28 to chapter 70.95 RCW, except that expansion, relocation, closure, or capping of a solid  
29 waste disposal site is not exempt;  
30 (b) Mineral resource operations including commercial mining, quarrying,  
31 excavating, or processing of rock, sand, gravel, aggregate, or clay and associated  
32 stockpiling when such operations are authorized by a conditional use permit or an  
33 administrative conditional use permit for expansion of a nonconforming use as required  
34 by chapters 30.22, 30.42C or 30.43A SCC, except that the following are not exempt:  
35 (i) Reclamation pursuant to SCC 30.63B.170;  
36 (ii) An operation which the director determines may destabilize or undermine  
37 any adjacent or contiguous property; and  
38 (iii) An operation which the director determines may result in an adverse  
39 downstream drainage impact;  
40 (c) Site investigative work necessary for land use application submittals pursuant  
41 to title 30 SCC, such as surveys, soil borings, test pits, percolation tests, non-  
42 mechanical survey monument placement, data collection by non-mechanical means  
43 and other related activities, if performed in accordance with state-approved sampling  
44 protocols or sections 7 and 10 of the Federal Endangered Species Act (ESA) (16 U.S.C.

§§ 1536 and 1539), provided that the land disturbing activity is no greater than is necessary to accomplish the site investigative work;

(d) Drilling or excavation of a well for a single family dwelling;

(e) Digging, excavating, or filling cemetery graves; and

(f) Repair or installation of underground or overhead utility facilities that replace ground surfaces with in-kind materials or materials with similar runoff characteristics.

(3) The following land disturbing activities are exempt from obtaining a land disturbing activity permit:

(a) Repair or installation of underground or overhead facilities performed by a utility that only replaces ground surfaces with in-kind materials or materials with similar runoff characteristics. For this exemption to apply, development activities must occur outside all critical areas, together with the buffers of and setbacks from these critical areas, except that such activities may occur within floodplains and aquifer recharge areas of low or moderate sensitivity to groundwater contamination;

(b) Facility maintenance and repairs performed by a utility that that replace ground surfaces with in-kind materials or materials with similar runoff characteristics, that do not add impervious surface, and that do not adversely impact any critical areas, critical area buffers or upstream or downstream properties;

(c) Remodeling or tenant improvements that do not meet the definitions of new development or redevelopment;

(d) Forest practice Classes I, II, III and Class IV special non-conversion forest practices regulated by title 222 WAC;

(e) Oil and gas field activities or operations, including the construction of drilling sites, waste management pits, access roads, and transportation and treatment infrastructure (such as pipelines, natural gas treatment plants, natural gas pipeline compressor stations and crude oil pumping stations); ~~((and))~~

(f) The following road maintenance activities: pothole and square cut patching, overlaying existing asphalt or concrete pavement with asphalt or concrete without expanding the coverage area, shoulder grading, reshaping and/or re-grading drainage systems, crack sealing, resurfacing with in-kind material without expanding the road prism and vegetation maintenance~~((-))~~; and

(g) The construction or maintenance of recreational trails, not including challenge areas, parking areas, spectator areas, or any other developed or disturbed areas that are not trails, provided that the following criteria are met:

(i) The trail at issue is on land located in a rural or resource zone;

(ii) The trail at issue is located in a public park or a private park, as those terms are defined in chapter 30.91P SCC;

(iii) The area in which the construction or maintenance will be performed does not drain into the county's municipal separate storm sewer system, as that term is defined in chapter 30.91M SCC; and

(iv) Design of the trail conforms to:

(A) The standards specified in the United States Forest Service Trail Construction and Maintenance Notebook and the United States Forest Service Standard Specifications for Construction and Maintenance of Trails; or

1                   (B) Such other standards for the design and construction of recreational  
2 trails that provide equivalent or greater environmental protection, provided that such  
3 standards are adopted by rule pursuant to SCC 30.82.010.

4       (4) The following commercial agricultural activities that are conducted on land  
5 designated riverway commercial farmland, upland commercial farmland, or local  
6 commercial farmland by the comprehensive plan and future land use map (FLUM) are  
7 exempt from obtaining a land disturbing activity permit:

8           (a) Tilling, soil preparation, fallow rotation, planting, harvesting and other  
9 commercial agricultural activities involving working the land. For this exemption to  
10 apply, development activities must occur outside all critical areas, together with the  
11 buffers of and setbacks from these critical areas, except that such activities may occur  
12 within floodplains and aquifer recharge areas of low or moderate sensitivity to  
13 groundwater contamination;

14          (b) Maintenance or repair of existing commercial agricultural facilities including  
15 drainage facilities, ponds, animal stock flood sanctuaries, animal waste management  
16 facilities, agricultural buildings, fences, roads and bridges; and

17          (c) New construction of drainage ditches (including enlargement of existing  
18 drainage ditches) that requires 500 cubic yards or less of grading. Such ditches shall  
19 not adversely impact critical areas or upstream or downstream properties, be located  
20 within 100 feet of streams, wetlands, lakes, marine waters, fish and wildlife habitat  
21 conservation areas, and erosion hazard areas, or contain water on-site for retention,  
22 infiltration or evaporation. For this exemption to apply, development activities must  
23 occur outside all critical areas, together with the buffers of and setbacks from these  
24 critical areas, except that such activities may occur within floodplains and aquifer  
25 recharge areas of low or moderate sensitivity to groundwater contamination.

26       (5) Agricultural activities defined in chapter 30.32B SCC, SCC 30.91A.090 or  
27 30.62.015 are exempt from obtaining a land disturbing activity permit, provided that:

28           (a) The activity occurs on property on which agriculture is a legal use of the  
29 property;

30           (b) The activity requires no other permit or project approval from Snohomish  
31 County except for a flood hazard permit under chapter 30.43 SCC; and

32           (c) The activity does not occur in a wetland as defined by state law, unless:

33               (i) The activity is exempt from wetlands regulations under section 404(f) of the  
34 federal Clean Water Act;

35               (ii) The activity occurs on designated agricultural or rural lands and the wetland  
36 area is no greater than 5,000 square feet of non-riparian Category 2 or 3 wetlands or  
37 10,000 square feet of non-riparian Category 4 wetlands, pursuant to chapter 30.62  
38 SCC; or

39               (iii) The activity occurs in a UGA or on designated forest lands, and the wetland  
40 is an area of no greater than 5,000 square feet of non-riparian wetland Categories II or  
41 III or 10,000 square feet of non-riparian Category IV wetlands, pursuant to  
42 SCC 30.62A.230(2).

43  
44       Section 5. Severability and Savings. If any section, sentence, clause or phrase  
45 of this ordinance shall be held 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 31st day of August, 2011.

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

  
Chairperson

ATTEST:

  
Clerk of the Council

☒ APPROVED  
☐ EMERGENCY  
☐ VETOED

DATE: 9/12/11

  
County Executive

ATTEST:

  
Approved as to form only:

Deputy Prosecuting Attorney