



CO00045519

1 Adopted: *Aug 22, 2012*
2 Effective: *Nov. 20, 2012*

3
4 SNOHOMISH COUNTY COUNCIL
5 Snohomish County, Washington

6
7 AMENDED ORDINANCE NO. 12-056

8
9 RELATING TO PUBLIC NOTICE FOR TYPE 3 LEGISLATIVE DECISIONS UNDER THE
10 UNIFIED DEVELOPMENT CODE; AMENDING SNOHOMISH COUNTY CODE
11 SECTIONS 30.73.050 AND 30.73.070
12
13

14 WHEREAS, as stated in Section 30.70.010(1) of the Snohomish County Code (the
15 "SCC" or the "County Code"), the purpose of Subtitle 30.7 SCC is to establish procedures for
16 processing development project permit applications and for adopting and amending
17 comprehensive plans and development regulations in accordance with the Growth Management
18 Act, Chapter 36.70A RCW (the "GMA"); and
19

20 WHEREAS, Subtitle 30.7 SCC establishes three distinct categories of decisions, each of
21 which has its own procedural requirements: Type 1 decisions are administrative decisions for
22 which applicable procedures are contained in Chapter 30.71 SCC; Type 2 decisions are quasi-
23 judicial decisions for which applicable procedures are contained in Chapter 30.72 SCC; Type 3
24 decisions are legislative decisions for which applicable procedures are contained in Chapter
25 30.73 SCC; and
26

27 WHEREAS, a full and complete list of Type 3 decisions is contained in
28 SCC 30.73.010(3), as follows: (i) adoption or amendment of the comprehensive plan,
29 (ii) county-initiated rezones to implement the comprehensive plan, (iii) docketing proposals
30 submitted pursuant to Chapter 30.74 SCC, and (iv) new GMA development regulations or
31 amendment of existing development regulations; and
32

33 WHEREAS, one of the procedures addressed in Chapter 30.73 SCC is the process for
34 providing public notice of proposed Type 3 decisions; and
35

36 WHEREAS, RCW 36.70A.035(1) requires the County to provide public notice of
37 proposed amendments to the county's comprehensive plan and/or development regulations that
38 is reasonably calculated to apprise property owners and other affected and interested
39 individuals, tribes, government agencies, businesses, school districts and organizations of the
40 proposed amendments; and
41

42 WHEREAS, RCW 36.70A.035(1) provides examples of methods for providing public
43 notice that the Washington legislature deems reasonable; and
44

45 WHEREAS, the current provisions of Chapter 30.73 SCC require the County to employ
46 multiple methods and/or provide multiple instances of public notice prior to a Type 3 decision;
47 and
48

49 WHEREAS, the current public notice requirements of Chapter 30.73 SCC exceed the
50 requirements of RCW 36.70A.035; and

1 WHEREAS, the costs of providing notice for Type 3 decisions under the current,
2 excessive public notice provisions of chapter 30.73 SCC have increased substantially over the
3 past several years; and
4

5 WHEREAS, it is desirable to reduce the costs of providing notice for Type 3 decisions
6 while continuing to ensure the notice provided remains reasonably calculated to inform
7 interested persons of Type 3 proposals as required by RCW 36.70A.035; and
8

9 WHEREAS, the amendments proposed by this ordinance will achieve those objectives;
10 and
11

12 WHEREAS, the County's Department of Planning and Development Services has
13 broadly disseminated the amendments proposed by this ordinance and opportunities have been
14 provided for written comments after effective notice; and
15

16 WHEREAS, pursuant to RCW 36.70A.106, a notice of intent to adopt this code
17 amendment was transmitted to the Washington State Department of Commerce on June 19,
18 2012; and
19

20 WHEREAS, after proper notice, the County Council held a public hearing on August 22,
21 2012, to consider the entire record and to hear public testimony on Ordinance No. 12-056.
22

23 NOW, THEREFORE, BE IT ORDAINED:
24

25 Section 1. The County Council adopts the following findings in support of this ordinance:
26

- 27 A. The foregoing recitals are adopted as findings as if set forth fully herein.
28
29 B. Chapter 30.73 SCC establishes noticing requirements for Type 3 legislative decisions.
30
31 C. Pursuant to RCW 36.70A.020(11), encouraging citizen involvement in the planning
32 process is an enumerated goal of the GMA.
33
34 D. Under RCW 36.70A.035(1), the County is required to establish procedures that are
35 reasonably calculated to provide notice to property owners and other affected or interested
36 individuals, tribes, governmental agencies, businesses, school districts, and organizations of
37 proposed amendments to the County's comprehensive plan and the development regulations
38 that implement that comprehensive plan.
39
40 E. RCW 36.70A.035(1)(b) lists publication of the notice in a newspaper of general
41 circulation as an example of reasonable notice.
42
43 F. Under the RCW 30.70A.140, the County's public participation procedures must provide
44 for broad dissemination of proposals and alternatives and identify procedures providing for early
45 and continuous public participation in the development and amendment of comprehensive land
46 use plans and development regulations implementing those plans.
47
48 G. Amending SCC 30.73.040 as proposed by this ordinance will reduce costs associated
49 with providing notice of Type 3 legislative decisions.
50

1 H. Amending SCC 30.73.070 as proposed by this ordinance is necessary to both clarify that
2 the County Council sets the time and date for its public hearing on the Type 3 legislative action
3 and to require mailed notice of the County Council's public hearing only be provided only to
4 those parties that submitted written comments or gave oral testimony during departmental
5 review or the Planning Commission's public hearing process.
6

7 I. As amended by this ordinance, SCC 30.73.040 and SCC 30.73.070 will remain
8 reasonably calculated to provide notice to property owners and other affected and interested
9 individuals, tribes, government agencies, businesses, school districts, and organizations and will
10 provide for early and continuous public participation.
11

12 J. The proposed ordinance is a procedural action and is exempt from compliance with the
13 State Environmental Policy Act ("SEPA"), Chapter 43.21C RCW, as provided in WAC 197-11-
14 800(19).
15

16 K. The amendments proposed by this ordinance are procedural and do not require a
17 Planning Commission hearing as provided in SCC 30.73.040(2)(b).
18

19 L. The public participation process related to the adoption of this ordinance complies with
20 all applicable requirements including, but not limited to, RCW 36.70A.035, RCW 36.70A.140,
21 Chapter 30.73 SCC, and the Snohomish County Charter.
22

23 M. The Washington State Attorney General is directed under RCW 36.70A.370 to advise
24 state agencies and local governments on an orderly, consistent process that better enables
25 government to evaluate proposed regulatory actions to assure that the actions do not result in
26 the unconstitutional taking of private property or violate substantive due process guarantees.
27

28 N. The Washington State Attorney General issued an advisory memorandum in December
29 of 2006 entitled Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property
30 to help local governments avoid the unconstitutional taking of private property. The 2006
31 advisory memorandum was used by the County in objectively evaluating the regulatory changes
32 proposed in this ordinance.
33

34 O. The amendments are consistent with the goals and requirements of the GMA.
35

36 P. This ordinance is adopted pursuant to the Snohomish County Charter and the
37 Washington State Constitution, Article XI, Section 11.
38

39 Section 2. The County Council makes the following conclusions:
40

41 A. The code amendments proposed by this ordinance comply with the GMA.
42

43 B. The code amendments proposed by this ordinance relate to procedural actions and are
44 categorically exempt from SEPA.
45

46 C. The public participation process used in the adoption of this ordinance complies with all
47 applicable requirements of the GMA and Title 30 SCC.
48

49 D. The amendments proposed by this ordinance do not result in an unconstitutional taking
50 of private property for a public purpose.

1
2 Section 3. The County Council bases its findings and conclusions on the entire record of
3 the County Council, including all testimony and exhibits. Any finding that should be deemed a
4 conclusion, and any conclusion that should be deemed a finding, is hereby adopted as such.
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6 Section 4. Snohomish County Code Section 30.73.050, added by Amended Ordinance
7 No. 02-064 on December 9, 2002, is amended to read:
8

9 **30.73.050 Notice of planning commission hearing Type 3 proposal.**

10
11 (1) The planning commission shall set a public hearing and the department shall provide notice
12 for Type 3 actions at least 10 days before the hearing as follows:

13 (a) ~~((Notice of public hearing shall be given by one publication at least 10 days before the
14 hearing in the official county newspaper and, if the proposal is site specific, in a newspaper of
15 general circulation in the area affected;))~~ For text changes to either the comprehensive plan or
16 to development regulations implementing the comprehensive plan:

- 17 (i) by one publication in the official county newspaper; and
- 18 (ii) on the official county website.

19 (b) ~~((For public hearings involving a change to a comprehensive plan future land use map
20 designation or a Type 3 rezone action, the planning commission shall also provide the following
21 notice at least 10 days prior to the hearing:~~

22 (i) ~~a mailed notice of hearing to each taxpayer of record and known site address within the
23 area proposed for a Type 3 action and to each taxpayer of record and known site address within
24 500 feet of any boundary of the area; provided that notice of the hearing shall be mailed to all
25 taxpayers of record and known site addresses within 1,000 feet of said boundaries when the
26 existing zoning of the parcel subject to the Type 3 action is resource, rural, R-20,000, or Rural
27 Use; and~~

28 (ii) ~~conspicuously post two or more signs at least 10 days before the first hearing. Such
29 posting shall be evidenced by a verified statement regarding the date and location of posting;
30 and~~) For area wide changes to the comprehensive plan future land use map designation or
31 area wide rezones:

- 32 (i) by one publication in the official county newspaper;
- 33 (ii) on the official county website; and
- 34 (iii) by mail to each taxpayer of record and known site address within the area proposed for
35 the Type 3 action and to each taxpayer of record and known site address within 500 feet of any
36 boundary of the area; provided that notice of the hearing shall be mailed to all taxpayers of
37 record and known site addresses within 1,000 feet of said boundaries when the existing zoning
38 of the parcel subject to the Type 3 action is resource, rural, R-20,000, or Rural Use.

39 (c) For site-specific docketing proposals submitted pursuant to chapter 30.74 or for county
40 initiated site-specific rezones:

- 41 (i) by one publication in the official county newspaper;
- 42 (ii) on the official county website;
- 43 (iii) by conspicuously posting one or more signs at the site. Such posting shall be
44 evidenced by a verified statement regarding the date and location of posting; and
- 45 (iv) by mail to each taxpayer of record and known site address within the area proposed for
46 the Type 3 action and to each taxpayer of record and known site address within 500 feet of any
47 boundary of the area; provided, that notice shall be mailed to each taxpayer of record and
48 known site address within 1,000 feet of the boundary of the area when the area proposed for
49 the Type 3 action is outside an urban growth area.

1 (d) The (~~planning commission~~) department may prescribe additional methods for providing
2 notice and for obtaining public participation.

3 (2) Notice required by this section shall contain the following information:

4 (a) a description of the proposal (~~, including any fundamental policy changes, the assigned
5 county file number and contact person;~~)

6 (b) (~~A description of any studies or documents assessing the environmental impacts of the
7 proposal and the location where the documents or studies can be reviewed;~~) the assigned
8 county file number and contact person;

9 (c) the date, time, and place of the public hearing and how an interested party may submit
10 comments on the proposal;

11 (d) (~~A statement of where the public may obtain the full text of the proposed amendment
12 and, if applicable, a map showing the location of proposed comprehensive plan or official zoning
13 map changes; and~~) either the physical or web locations, or both, where the full text of the
14 proposed amendment and relevant documents or studies may be reviewed; and

15 (e) any other information determined appropriate by the department.

16 (3) Notwithstanding the foregoing, in adopting legislation in response to a growth management
17 hearings board decision declaring part or all of a comprehensive plan or development regulation
18 invalid, the county will provide for such public participation as is appropriate and effective under
19 the circumstances presented by the board's order.

20
21 Section 5. Snohomish County Code Section 30.73.070, added by Amended Ordinance
22 No. 02-064 on December 9, 2002, is amended to read:

23
24 **30.73.070 Council consideration of Type 3 proposal.**

25
26 (1) The council is not required to take action on a Type 3 proposal. If the council wishes to
27 consider action on a Type 3 proposal, the council shall hold at least one public hearing.

28 (2) The (~~clerk of the~~) council shall set the date of the public hearing and the clerk of the
29 council shall provide notice in the same manner as set forth in SCC 30.73.050(1)(a), provided
30 that mailed notice of the public hearing shall also be provided to those parties that submitted
31 written comments or provided oral testimony during the department's review or planning
32 commission hearing.

33 (3) The council may, in its discretion, direct the clerk to use additional methods for providing
34 notice and obtaining public participation.

35 (4) At its public hearing, the council may concurrently consider additional proposals relating to
36 the same subject matter, whether or not considered by the planning commission, in accordance
37 with RCW 36.70A.035(2).

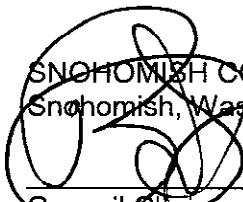
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39 Section 6. Effective date, implementation. This ordinance shall take effect 90 days after
40 the date of adoption or September 4, 2012, whichever is later. PDS is authorized to take such
41 actions as may be necessary to implement this ordinance on its effective date.

42
43 Section 7. Severability and Savings. If any section, sentence, clause or phrase of this
44 ordinance is held invalid or unconstitutional by the Growth Management Hearings Board
45 (Board), or a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect
46 the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.
47 Provided, however, that if any section, sentence, clause or phrase of this ordinance is held to be
48 invalid or unconstitutional by the Board or a court of competent jurisdiction, then the section,
49 sentence, clause or phrase in effect prior to the effective date of this ordinance shall be in full

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force and effect for that individual section, sentence, clause or phrase as if this ordinance had never been adopted.

PASSED this 22nd day of August, 2012.



SNOHOMISH COUNCIL
Snohomish, Washington

Council Chair

ATTEST:

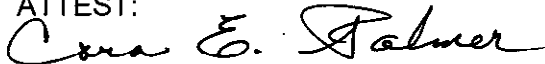

Asst. Clerk of the Council

- APPROVED
- EMERGENCY
- VETOED

DATE: 8/30/12


County Executive

ATTEST:



Approved as to Form

Deputy Prosecuting Attorney

D-11