



CO00045527

1 Adopted: October 3, 2012
2 Effective: Sections 5, 6 & 7 10/28/12
3 Sections 8 & 9 1/1/15

4 SNOHOMISH COUNTY COUNCIL
5 Snohomish County, Washington

6
7 AMENDED ORDINANCE NO. 12-075
8

9
10 RELATING TO THE TIME PERIOD AND EXTENSION OF
11 PRELIMINARY APPROVAL OF SUBDIVISIONS AND SHORT SUBDIVISIONS;
12 AMENDING 30.41A.300 AND 30.41B.300 OF THE SNOHOMISH COUNTY CODE;
13 REPEALING SECTIONS OF AMENDED ORDINANCE NO. 11-075; AND PROVIDING
14 EFFECTIVE DATES
15

16 WHEREAS, this is a non-project proposal to amend the one-year extension of
17 preliminary subdivision and short subdivision approval set forth in sections 30.41A.300 and
18 30.41B.300 of the Snohomish County Code (the "SCC" or the "County Code") and allow up to a
19 two-year extension of preliminary approval, not to exceed nine years total when combined with
20 the current seven-year preliminary approval period, and not to exceed seven years total when
21 combined with the five-year preliminary approval period that becomes effective on January 1,
22 2015; and
23

24 WHEREAS, during the 2010 legislative session, the Washington State Legislature passed
25 Substitute Senate Bill 6544 (SSB 6544), which amended RCW 58.17.140 to provide for a seven-
26 year preliminary subdivision and short subdivision approval period that will sunset on December
27 31, 2014, and revert to a five-year preliminary approval period; and
28

29 WHEREAS, consistent with SSB 6544, on January 11, 2012, the Snohomish County
30 Council ("County Council") adopted Amended Ordinance No. 11-075, which provides for a
31 seven-year preliminary approval period for subdivisions and short subdivisions; and
32

33 WHEREAS, Amended Ordinance No. 11-075 also provides that the seven-year
34 preliminary approval period will sunset on December 31, 2014, and revert to a five-year
35 preliminary approval period, again consistent with SSB 6544; and
36

37 WHEREAS, RCW 58.17.140 authorizes local jurisdictions to adopt by ordinance
38 procedures which would allow extensions of time that may contain additional or altered
39 conditions and requirements; and
40

41 WHEREAS, the County Council previously adopted provisions in SCC 30.41A.300 and
42 30.41B.300 that include procedures for allowing a one-year extension of preliminary approval
43 for subdivisions and short subdivisions if the applicant can demonstrate a good faith effort was
44 exerted in the initial preliminary approval period and upon payment of an extension fee pursuant
45 to SCC 30.86.100 or 30.86.110; and
46

1 WHEREAS, this proposal will repeal sections of Amended Ordinance No. 11-075 and as
2 of January 1, 2015, provide for a five-year preliminary approval period for subdivisions and
3 short subdivisions and allow up to a two-year extension of preliminary approval, not to exceed
4 seven years total; and
5

6 WHEREAS, the County Council finds that it is in the best interest of citizens of
7 Snohomish County and the local economy to provide an additional extension of the preliminary
8 subdivision or short subdivision approval period to allow applicants sufficient time to complete
9 construction and file for final subdivision and short subdivision approval; and
10

11 WHEREAS, on October 3, 2012, the County Council held a public hearing after proper
12 notice, and considered public comments and the entire record related to the proposal contained in
13 this ordinance; and
14

15 NOW, THEREFORE, BE IT ORDAINED:
16

17 Section 1. The County Council adopts the following findings in support of this
18 ordinance:
19

- 20 A. The foregoing recitals are adopted as findings as if set forth in full herein.
21
22 B. The preliminary subdivision and short subdivision approval periods set forth in this proposal
23 are consistent with RCW 58.17.140.
24
25 C. The procedures set forth in SCC 30.41A.300 and SCC 30.41B.300 by which applicants may
26 request an extension beyond the initial preliminary approval period and the extensions
27 provided by this proposal are authorized by RCW 58.17.140.
28
29 D. The proposal should help retain lot availability and development opportunities which could
30 help reduce costs associated with applying for and processing subdivision extension requests,
31 avoid expiration of subdivision approvals and help maintain certainty for applicants.
32
33 E. The proposal complies with and implements the Snohomish County General Policy Plan
34 (GPP) which sets forth the following goals, objectives, and policies related to the proposed
35 regulations:
36

Goal ED 1 Promote the maintenance and enhancement of a healthy economy.

Objective ED 1.C Snohomish County shall recognize and address the needs of small and minority owned businesses as well as larger, established enterprises.

Goal ED 2 Provide a planning and regulatory environment which facilitates growth of the local economy.

Objective ED 2.A Develop and maintain a regulatory system that is fair, understandable, coordinated and timely.

Policy ED 2.A.2 Snohomish County should stress predictability but maintain enough flexibility in the Comprehensive Plan and development codes to allow for timely response to unanticipated and desirable developments.

Goal ED 3 Encourage the retention and expansion of existing businesses and jobs to attract new businesses and jobs.

1
2 **F. Procedural requirements.**
3

- 4 1. The proposal is considered procedural and is exempt from the State Environmental
5 Policy Act (SEPA) review pursuant to Washington Administrative Code (WAC) 197-
6 11-800(19) and SCC 30.61.020.
- 7 2. The proposal is a Type 3 procedural legislative action pursuant to SCC
8 30.73.040(2)(b) and is exempt from Planning Commission hearing requirements.
- 9 3. Pursuant to RCW 36.70A.106, a notice of intent to amend SCC 30.41A.300 and
10 30.41B.300 was transmitted to the Washington State Department of Commerce for
11 distribution to state agencies.
- 12 4. The public participation process used in the adoption of this proposal has complied
13 with all applicable requirements of the GMA and the SCC.
- 14 5. The Washington State Attorney General last issued an advisory memorandum, as
15 required by RCW 36.70A.370, in December of 2006 entitled "Advisory
16 Memorandum: Avoiding Unconstitutional Takings of Private Property" to help local
17 governments avoid the unconstitutional taking of private property. The process
18 outlined in the State Attorney General's 2006 advisory memorandum was used by
19 Snohomish County in objectively evaluating the regulatory changes proposed by this
20 proposal.

21 **G. The proposal is consistent with the record for this proposal.**

- 22 1. Adoption of the proposal addresses the economic difficulty that the homebuilding
23 industry is experiencing in completing construction of subdivisions and short
24 subdivisions.
- 25 2. Granting an extension of preliminary subdivision approval may avoid additional costs
26 associated with applying for and processing new preliminary subdivisions and short
27 subdivisions.
- 28 3. Adoption of the this proposal may assist homebuilders in the process of achieving
29 final subdivision and short subdivision approval and may help the county meet future
30 housing needs.
- 31 4. Adoption of this proposal will stimulate the local economy by assisting with the
32 prevention of foreclosures, unemployment, bankruptcies, and burdened financial
33 institutions.

1 H. Additional analysis supporting this ordinance is contained in the PDS Staff Report dated
2 August 1, 2012.

3 Section 2. The County Council makes the following conclusions:

- 4
- 5 A. The proposal is consistent with the goals, objectives and policies of the GPP.
- 6
- 7 B. The proposal is consistent with Washington state law and the SCC.
- 8
- 9 C. The County has complied with all SEPA requirements in respect to this non-project action.
- 10
- 11 D. The proposal is needed to address the economic difficulty that the homebuilding industry is
12 experiencing in completing construction of subdivisions and short subdivisions.
- 13

14 Section 3. The County Council bases its findings and conclusions on the entire record of
15 the County Council, including all testimony and exhibits. Any finding which should be deemed
16 a conclusion, and any conclusion which should be deemed a finding, is hereby adopted as such.

17

18 Section 4. Effective Dates. Sections 5, 6, and 7 of this ordinance shall take effect ten days
19 after they are signed by the county executive or otherwise enacted as provided in Snohomish
20 County Charter Section 2.110. Sections 8 and 9 of this ordinance shall take effect January 1,
21 2015.

22

23 Section 5. Snohomish County Code Section 30.41A.300, last amended by Amended
24 Ordinance No. 11-075 on January 11, 2012, is amended to read:

25

26 **30.41A.300 Preliminary subdivision approval - term.**

27

28 (1) The standard term of approval for a preliminary subdivision is seven years. An
29 applicant must file for and complete final subdivision approval within the seven year period,
30 running from the date of preliminary subdivision approval, or the approval will expire. However,
31 preliminary subdivision approval may be extended beyond the seven year period as provided for
32 in SCC 30.41A.300(2), (3), and (4).

33 (2) An applicant or his or her successors may request, in writing, ~~((a one-year extension))~~
34 one or more extensions of preliminary approval, not to exceed a total of two years. Such request
35 must be received by the director at least 30 days prior to the expiration of the preliminary
36 subdivision approval or prior extension. The department may grant an extension if the applicant
37 can demonstrate that a good faith effort was exerted to complete the final subdivision within the
38 initial seven-year approval period in accordance with the terms of the preliminary approval, or
39 within the subsequent extension period. Except as provided for in SCC 30.41A.300(3) and (4),
40 the department may not ~~((grant more than one extension or))~~ extend preliminary subdivision
41 approval beyond ~~((an eight))~~ a nine-year period if the date of preliminary approval is on or
42 before December 31, 2014, and the preliminary approval period has not expired. The applicant
43 shall pay ~~((an extension))~~ a fee for each extension pursuant to SCC 30.86.100.

44 (3) In addition to any extension granted by the department, preliminary subdivision
45 approval may be further extended for a period not to exceed four months by the county council if
46 the applicant demonstrates that a continued good faith effort has been exerted to complete the
47 final subdivision and provides justification of the extenuating circumstances as to why the

1 additional four months is required. A request for consideration of the four month extension shall
2 be filed with the Clerk of the Council at any time during the final (~~one year~~) extension granted
3 by the department.

4 (4) The department shall grant an extension in cases where a preliminary approval has
5 been appealed to court, not to exceed the period of time the approval is under judicial review.

6 (5) The applicant may request final subdivision approval in phases, subject to the time
7 restrictions in SCC 30.41A.300(1) and the terms of the preliminary subdivision approval. Open
8 space, amenities, and other requirements of the preliminary approval shall be completed
9 coincident with each phase of the final subdivision on a prorata basis unless otherwise required
10 in the preliminary approval. A revision to the preliminary approval, pursuant to SCC
11 30.41A.330, must be applied for with the request to complete the final subdivision improvements
12 in phases.

13
14 Section 6. Snohomish County Code Section 30.41B.300, last amended by Amended
15 Ordinance No. 11-075 on January 11, 2012, is amended to read:

16
17 **30.41B.300 Preliminary short subdivision approval - term.**

18
19 (1) The standard term of approval for a preliminary short subdivision is seven years. An
20 applicant must file for and complete final short subdivision approval within the seven year
21 period, running from the date of preliminary short subdivision approval, or the approval will
22 expire. However, preliminary short subdivision approval may be extended beyond the seven year
23 period as provided for in SCC 30.41B.300(2) and (3).

24 (2) An applicant or his or her successors may request, in writing, (~~a one year extension~~)
25 one or more extensions of preliminary approval, not to exceed a total of two years. Such request
26 must be received by the director at least 30 days prior to the expiration of the preliminary short
27 subdivision approval or prior extension. The department may grant an extension if the applicant
28 can demonstrate that a good faith effort was exerted to complete the final short subdivision
29 within the initial seven-year approval period in accordance with the terms of the preliminary
30 approval, or within the subsequent extension period. Except as provided for in SCC
31 30.41B.300(3) (~~and (4)~~), the department may not (~~grant more than one extension or~~) extend
32 preliminary short subdivision approval beyond (~~an eight~~) a nine year period if the date of
33 preliminary approval is on or before December 31, 2014, and the preliminary approval period
34 has not expired. The applicant shall pay (~~an extension~~) a fee for each extension pursuant to
35 SCC 30.86.100.

36 (3) The department shall grant an extension in cases where a preliminary approval has
37 been appealed to court, not to exceed the period of time the approval is under judicial review.

38
39 Section 7. The following parts of ordinances are each repealed:

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41 (1) Section 10 of Amended Ordinance No. 11-075, adopted on January 11, 2012;

42
43 (2) Section 12 of Amended Ordinance No. 11-075, adopted on January 11, 2012.
44

1 Section 8. Snohomish County Code Section 30.41A.300, last amended by (this
2 ordinance) Ordinance No. 12-075 on October 3, 2012, is amended to read:

3
4 **30.41A.300 Preliminary subdivision approval - term.**

5
6 (1) The standard term of approval for a preliminary subdivision is ~~((seven))~~ five years.
7 An applicant must file for and complete final subdivision approval within the ~~((seven))~~ five-year
8 period, running from the date of preliminary subdivision approval, or the approval will expire.
9 However, preliminary subdivision approval may be extended beyond the ~~((seven))~~ five-year
10 period as provided for in SCC 30.41A.300(2), (3), and (4).

11 (2) An applicant or his or her successors may request, in writing, one or more extensions
12 of preliminary approval, not to exceed a total of two years. Such request must be received by the
13 director at least 30 days prior to the expiration of the preliminary subdivision approval or prior
14 extension. The department may grant an extension if the applicant can demonstrate that a good
15 faith effort was exerted to complete the final subdivision within the initial ~~((seven))~~ five-year
16 approval period in accordance with the terms of the preliminary approval, or within the
17 subsequent extension period. Except as provided for in SCC 30.41A.300(3) and (4), the
18 department may not extend preliminary subdivision approval beyond a ~~((nine-))~~ seven-year
19 period if the date of preliminary approval is on or after January 1, 2015, and the preliminary
20 approval period has not expired. The applicant shall pay a fee for each extension pursuant to
21 SCC 30.86.100.

22 (3) In addition to any extension granted by the department, preliminary subdivision
23 approval may be further extended for a period not to exceed four months by the county council if
24 the applicant demonstrates that a continued good faith effort has been exerted to complete the
25 final subdivision and provides justification of the extenuating circumstances as to why the
26 additional four months is required. A request for consideration of the four month extension shall
27 be filed with the Clerk of the Council at any time during the final extension granted by the
28 department.

29 (4) The department shall grant an extension in cases where a preliminary approval has
30 been appealed to court, not to exceed the period of time the approval is under-judicial review.

31 (5) The applicant may request final subdivision approval in phases, subject to the time
32 restrictions in SCC 30.41A.300(1) and the terms of the preliminary subdivision approval. Open
33 space, amenities, and other requirements of the preliminary approval shall be completed
34 coincident with each phase of the final subdivision on a prorata basis unless otherwise required
35 in the preliminary approval. A revision to the preliminary approval, pursuant to SCC
36 30.41A.330, must be applied for with the request to complete the final subdivision improvements
37 in phases.
38

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2 Section 9. Snohomish County Code Section 30.41B.300, last amended by (this
3 ordinance) Ordinance No. 12-075 on October 3, 2012, is amended to read:
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5 **30.41B.300 Preliminary short subdivision approval - term.**
6

7 (1) The standard term of approval for a preliminary short subdivision is ~~((seven))~~ five
8 years. An applicant must file for and complete final short subdivision approval within the
9 ~~((seven))~~ five-year period, running from the date of preliminary short subdivision approval, or
10 the approval will expire. However, preliminary short subdivision approval may be extended
11 beyond the ~~((seven))~~ five-year period as provided for in SCC 30.41B.300(2) and (3).

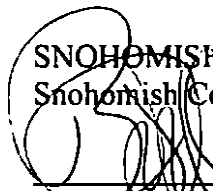
12 (2) An applicant or his or her successors may request, in writing, one or more extensions
13 of preliminary approval, not to exceed a total of two years. Such request must be received by the
14 director at least 30 days prior to the expiration of the preliminary short subdivision approval or
15 prior extension. The department may grant an extension if the applicant can demonstrate that a
16 good faith effort was exerted to complete the final short subdivision within the initial ~~((seven))~~
17 five-year approval period in accordance with the terms of the preliminary short subdivision
18 approval, or within the subsequent extension period. Except as provided for in SCC
19 30.41B.300(3) ~~((and (4)))~~, the department may not extend preliminary short subdivision approval
20 beyond a ~~((nine))~~ seven-year period if the date of preliminary approval is on or after January 1,
21 2015, and the preliminary approval period has not expired. The applicant shall pay a fee for each
22 extension pursuant to SCC 30.86.100.

23 (3) The department shall grant an extension in cases where a preliminary approval has
24 been appealed to court, not to exceed the period of time the approval is under judicial review.
25


26 Section 10. Severability and Savings. If any section, sentence, clause or phrase of this
27 ordinance shall be held to be invalid by the Growth Management Hearings Board (Board), or
28 unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall
29 not affect the validity or constitutionality of any other section, sentence, clause or phrase of this
30 ordinance. Provided, however, that if any section, sentence, clause or phrase of this ordinance is
31 held to be invalid by the Board or court of competent jurisdiction, then the section, sentence,
32 clause or phrase in effect prior to the effective date of this ordinance shall be in full force and
33 effect for that individual section, sentence, clause or phrase as if this ordinance had never been
34 adopted.
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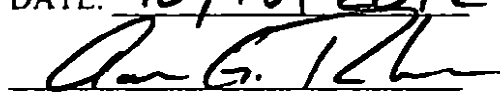
PASSED this 3rd day of October, 2012.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Chairperson

ATTEST:


Clerk of the Council, *asst*

- APPROVED
- EMERGENCY
- VETOED

DATE: 10/18/2012

County Executive

ATTEST:


10/18/12

Approved as to form only:

Deputy Prosecuting Attorney

D-7