

Adopted: January 9, 2013
Effective: Jan 25, 2013

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

AMENDED ORDINANCE NO. 12-108

REGULATING REVISIONS AFTER PRELIMINARY SUBDIVISION AND SHORT
SUBDIVISION APPROVAL AND AMENDING SCC 30.41A.330 AND 30.41B.310

WHEREAS, pursuant to the Growth Management Act (GMA), chapter 36.70A RCW, the Snohomish County Council (County Council) has adopted the Snohomish County GMA Comprehensive Plan (GMACP) – General Policy Plan (GPP) for the unincorporated areas of Snohomish County (County); and

WHEREAS, on December 9, 2002, the County Council adopted title 30 of the SCC, entitled the Unified Development Code (UDC), containing regulations that guide development within the unincorporated areas of the County; and

WHEREAS, a recent land use appeal raised questions about the amount and kind of changes that can be approved as revisions to an approved preliminary subdivision while retaining the original vesting date; and

WHEREAS, the County Council discussed options for improving the regulations for revisions after preliminary subdivision approval to reduce the risk of future confusion for applicants and the public; and

WHEREAS, the County Council directed staff to consult with stakeholders about possible legislative changes that would either allow major revisions to approved preliminary subdivisions to retain the original vesting date if they meet specific criteria, or require a new vesting date for all revisions that do not meet the existing criteria for administrative approval; and

WHEREAS, the County Council discussed the policy issues raised by stakeholders in the outreach meetings and considered stakeholder input when deciding which option to forward to the planning commission for consideration.

WHEREAS, the Planning and Development Services Department (PDS) conducted early and continuous public participation and the proposed amendments have been broadly disseminated, and opportunities have been provided for written comments after effective notice; and

WHEREAS, pursuant to RCW 36.70A.106, a notice of intent to adopt this code amendment was transmitted to the Washington State Department of Commerce on August 15, 2012; and

WHEREAS, PDS briefed the Snohomish County Planning Commission (planning commission) on July 24, 2012; and

WHEREAS, the planning commission held a public hearing on August 28, 2012, to receive public testimony concerning the proposed code amendments; and

1 WHEREAS, on August 28, 2012, the planning commission deliberated on the
2 proposed development regulations at an advertised public meeting; and
3

4 WHEREAS, at the conclusion of its deliberations the planning commission voted to
5 recommend that the County Council approve the proposed development regulations, with
6 amendments as enumerated in its recommendation letter dated September 17, 2012; and
7

8 WHEREAS, after proper notice, the County Council held a public hearing on January
9 9, 2013, to consider the entire record, including the planning commission's recommendations
10 on the full package of development regulations, and to hear public testimony on Ordinance
11 No. 12-108; and
12

13 WHEREAS, the County Council deliberated on the planning commission
14 recommendations on January 9, 2013.
15

16 NOW, THEREFORE, BE IT ORDAINED:
17

18 Section 1. The County Council makes the following findings:
19

- 20 A. The foregoing recitals are incorporated herein as findings as if set forth in full.
21
22 B. There are many approved preliminary subdivisions that have been inactive for years and
23 that could potentially become active again.
24
25 C. Requests for substantial revisions to approved preliminary subdivisions may become
26 more common due to changes in ownership and other factors.
27
28 D. In addition to state laws and county codes, permitting practices and standards have
29 changed over the past several years. This complicates the County's ability to
30 consistently determine which standards should be applied when processing revisions to
31 projects that were approved under regulations that have been changed.
32
33 E. Revisions to approved projects have the potential to impact communities and the
34 environment in ways that are different from the original projects.
35
36 F. Applicants have a right to have permit applications processed under all the standards to
37 which they are vested, but that right does not extend to subsequent applications for
38 revisions.
39
40 G. The County Council expressly intends to apply these regulations to all requests for
41 revisions, regardless of the dates of the original applications.
42
43 H. An application for a revision must be processed under the regulations for such a revision
44 in effect on the date the completed application for a revision is received, not the date
45 when the preliminary subdivision or short subdivision application was received. An
46 application for a revision will retain the original vesting date only when it meets the
47 applicable code requirements for a minor revision or a major revision. Any proposed
48 change that does not meet the criteria for a minor or major revision would require a

1 completely new preliminary subdivision or short subdivision application and would be
2 assigned a new vesting date.
3

- 4 I. The amendments to SCC 30.41A.330 and 30.41B.310 are in the best interest of the
5 public health, safety, and welfare because they clarify the extent to which approved
6 preliminary subdivisions and short subdivisions can be administratively revised and the
7 extent to which they can be revised through the same process as, and under the same
8 regulations as, the original applications. The amendments and revisions are consistent
9 with and fulfill GPP Goal ED 2, Objective ED 2.A and Policy ED 2.A.1 because they
10 provide increased fairness, clarity, coordination and understandability to the regulations,
11 which will facilitate growth.
12
- 13 J. The Washington State Attorney General is directed under RCW 36.70A.370 to advise
14 state agencies and local governments on an orderly, consistent process that better
15 enables government to evaluate proposed regulatory actions to assure that the actions
16 do not result in the unconstitutional taking of private property or violate substantive due
17 process guarantees.
18
- 19 K. The Washington State Attorney General issued an advisory memorandum in December
20 of 2006 entitled Advisory Memorandum: Avoiding Unconstitutional Takings of Private
21 Property (the "2006 advisory memorandum") to help local governments avoid the
22 unconstitutional taking of private property.
23
- 24 L. The 2006 advisory memorandum was used by the County in objectively evaluating the
25 regulatory changes proposed in this ordinance.
26
- 27 M. The County Council considered and assessed potential constitutional issues related to
28 the regulations proposed in this ordinance. These include, but are not limited to, the
29 following questions: whether the proposed regulations would result in a permanent or
30 temporary physical occupation of private property; whether the proposed regulations
31 would deprive affected property owners of all economically viable uses of their
32 properties; whether the proposed regulations would deny or substantially diminish a
33 fundamental attribute of property ownership; whether the proposed regulations require a
34 property owner to dedicate a portion of property or to grant an easement; and whether
35 the proposed regulations would have a severe impact on the property owners' economic
36 interests.
37
- 38 N. The regulations proposed by this ordinance are reasonably related to and necessary for
39 the advancement of the GMA's goal that applications for local government permits be
40 processed in a timely and fair manner to ensure predictability.
41
- 42 O. The requirements of the State Environmental Policy Act (SEPA), chapter 43.21C RCW,
43 with respect to this non-project action have been satisfied through the completion of an
44 environmental checklist and the issuance of a Determination of Non-significance (DNS)
45 on August 16, 2012.
46
- 47 P. This ordinance is adopted pursuant to the Snohomish County Charter and the
48 Washington State Constitution, Article XI, Section 11.
49

1 Section 2. Based on the foregoing findings, the County Council makes the following
2 conclusions:

- 3
- 4 A. The adoption of this ordinance complies with all procedural and substantive
5 requirements of the GMA, SEPA and chapter 30.73 SCC.
6
- 7 B. The code amendments and revisions adopted by this ordinance are consistent with the
8 goals and requirements of the GPP.
9
- 10 C. The regulations proposed by this ordinance do not result in an unconstitutional taking of
11 private property for a public purpose.
12

13 Section 3. Snohomish County Code Section 30.41A.330, added by Amended
14 Ordinance 02-064 on December 9, 2002, is amended to read:

15
16 **30.41A.330 Revisions after preliminary subdivision approval.**

17
18 (1) Approved preliminary subdivisions may be revised prior to installation of improvements
19 and recording of the final subdivision. The provisions in subsections (2) and (3) apply to all
20 applications for revisions to approved preliminary subdivisions, regardless of the date of
21 preliminary subdivision application completeness and date of preliminary subdivision
22 approval.

23 ~~(2) ((Revisions that are generally consistent with the approved preliminary subdivision,~~
24 ~~which do not alter conditions of preliminary approval and do not adversely affect public~~
25 ~~health, safety, and welfare))~~ Minor revisions may be administratively approved by the
26 department using the date of the preliminary subdivision approval; provided that any
27 ~~((increase in trip generation or))~~ change in access points shall be reviewed pursuant to SCC
28 30.66B.075. ~~((Any other change shall require processing as a new preliminary subdivision.))~~
29 Relevant county departments and agencies shall be notified of any ~~((administrative))~~ minor
30 revision. A minor revision does not extend the life or term of the preliminary subdivision
31 approval, which shall run from the original date of preliminary approval. A minor revision
32 must meet all of the following criteria when compared to the original preliminary subdivision
33 application:

- 34 (a) No more than a ten percent increase in the number lots or units;
35 (b) No change in the boundary that increases the area of the project;
36 (c) No more than a ten percent increase in trip generation;
37 (d) No change in access points that results in a change in trip distribution;
38 (e) No more than a ten percent reduction in designated open space; and
39 (f) No change in proposed types of uses.

40 (3) Major revisions shall require processing through the same process as a new
41 preliminary subdivision using the date of preliminary subdivision approval. A major revision
42 does not extend the life or term of the preliminary subdivision approval, which shall run from
43 the original date of preliminary approval. A major revision must meet all of the following
44 criteria when compared to the original preliminary subdivision application:

- 45 (a) No more than a twenty percent increase in the number of lots or units;
46 (b) No change in the boundary that increases the area of the project;
47 (c) No more than a twenty percent increase in trip generation;
48 (d) No more than a twenty percent reduction in designated open space; and
49 (e) No change in proposed types of uses.

1 (4) Any proposed change that does not meet the criteria for a minor revision or a major
2 revision cannot be processed as a revision. Such a change requires a new application for a
3 preliminary subdivision and a new completeness determination.

4
5 Section 4. Snohomish County Code Section 30.41B.310, added by Amended
6 Ordinance 02-064 on December 9, 2002, is amended to read:

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8 **30.41B.310 Revisions after preliminary short subdivision approval.**

9
10 (1) Approved preliminary short subdivisions may be revised prior to installation of
11 improvements and recording of the final short subdivision. The provisions in subsections (2)
12 and (3) apply to all applications for revisions to approved short subdivisions, regardless of
13 the date of preliminary short subdivision application completeness and date of preliminary
14 short subdivision approval.

15 (2) ((Revisions that are generally consistent with the approved preliminary short
16 subdivision, which do not alter conditions of preliminary approval and do not adversely affect
17 public health, safety, and welfare)) Minor revisions may be administratively approved by the
18 department using the date of preliminary short subdivision approval. ((Any other change shall
19 require processing as a new preliminary short subdivision application.)) Relevant county
20 departments and agencies shall be notified of any ((administrative)) minor revision. A minor
21 revision does not extend the life or term of the preliminary short subdivision approval, which
22 shall run from the original date of preliminary approval. A minor revision must meet all of the
23 following criteria when compared to the original preliminary short subdivision application:

24 (a) No more than a ten percent increase in the number lots or units;

25 (b) No change in the boundary that increases the area of the project;

26 (c) No more than a ten percent increase in trip generation;

27 (d) No change in access points that results in a change in trip distribution;

28 (e) No more than a ten percent reduction in designated open space; and

29 (f) No change in proposed types of uses.

30 (3) Major revisions shall require processing through the same process as a new
31 preliminary short subdivision using the date of preliminary short subdivision approval. A
32 major revision does not extend the life or term of the preliminary short subdivision approval,
33 which shall run from the original date of preliminary approval. A major revision must meet all
34 of the following criteria when compared to the original preliminary short subdivision
35 application:

36 (a) No more than one additional lot or unit;

37 (b) No change in the boundary that increases the area of the project;

38 (c) No more than a twenty percent reduction in designated open space; and

39 (d) No change in proposed types of uses;

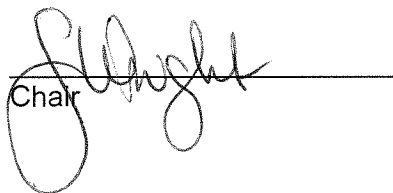
40 (4) Any proposed change that does not meet the criteria for a minor revision or a major
41 revision cannot be processed as a revision. Such a change requires a new application for a
42 preliminary short subdivision and a new completeness determination.

43
44 Section 5. Severability and savings. If any section, sentence, clause or phrase of
45 this ordinance shall be held to be invalid by the Growth Management Hearings Board (Board)
46 or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality
47 shall not affect the validity or constitutionality of any other section, sentence, clause, or
48 phrase of this ordinance. Provided, however, that if any section, sentence, clause, or phrase
49 of this ordinance is held to be invalid by the Board or unconstitutional by a court of competent
50 jurisdiction, then the section, sentence, clause or phrase in effect prior to the effective date of

1 this ordinance shall be in full force and effect for that individual section, sentence, clause, or
2 phrase as if this ordinance had never been adopted.

3
4 PASSED this 9th day of January, 2013.


SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

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6
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8
9
10 
Chair


11 ATTEST:

12
13 
14 _____
15 Asst. Clerk of the Council

- 16
17 () APPROVED
18 () EMERGENCY
19 () VETOED
20

21
22 DATE: 1/15/13
23
24 
25 _____
26 County Executive

27 ATTEST:

28
29 
30 _____
31 1/15/13

32 Approved as to form only:

33
34
35 _____
36 Deputy Prosecuting Attorney

D-19