

1 Adopted: February 27, 2013  
2 Effective: *March 15, 2013*

3  
4 SNOHOMISH COUNTY COUNCIL  
5 Snohomish County, Washington

6  
7 AMENDED ORDINANCE NO. 13-006

8  
9 RELATING TO GENERAL DEVELOPMENT STANDARDS - ROADS AND ACCESS;  
10 AMENDING SNOHOMISH COUNTY CODE SECTION 30.24.055

11  
12 WHEREAS, on October 3, 2012, the Snohomish County Council adopted Amended  
13 Ordinance No. 12-049 relating to roads and access requirements in title 30 of the Snohomish  
14 County Code ( also "SCC"); and

15  
16 WHEREAS, subsequent to the adoption of Amended Ordinance No. 12-049, the  
17 Departments of Public Works (DPW) and Planning and Development Services (PDS) identified  
18 consequences affecting development applications, which resulted from the adoption of certain  
19 amendments to Amended Ordinance No. 12-049 that may have not been considered or  
20 intended by the County Council; and

21  
22 WHEREAS, the amendments proposed in this ordinance revise the review process and  
23 decision criteria associated with the application of the access and road network requirements to  
24 certain developments; and

25  
26 WHEREAS, early and continuous public participation was conducted and the proposed  
27 amendments have been broadly disseminated, and opportunities have been provided for written  
28 comments after effective notice; and

29  
30 WHEREAS, pursuant to RCW 36.70A.106, a notice of intent to adopt this code  
31 amendment was transmitted to the Washington State Department of Commerce on October 29,  
32 2012; and

33  
34 WHEREAS, the Snohomish County Planning Commission (the "planning commission")  
35 was briefed at a public meeting on November 27, 2012; and

36  
37 WHEREAS, the planning commission held a public hearing on November 27, 2012 to  
38 receive public testimony concerning, and deliberate on ,the proposed code amendments; and

39  
40 WHEREAS, at the conclusion of its deliberations the planning commission voted to  
41 recommend that the County Council approve the proposed code amendments as enumerated in  
42 its recommendation letter dated December 3, 2012; and

43  
44 WHEREAS, after proper notice, the County Council held a public hearing on February  
45 27, 2013 to consider the entire record, including the planning commission's recommendations  
46 on the proposed code amendments and the staff report dated November 15, 2012 which  
47 provides a detailed summary of the proposed code amendments, and to hear public testimony  
48 on Ordinance No. 13-006; and

49  
50 WHEREAS, the County Council deliberated on the planning commission  
51 recommendations on February 27, 2013;

1  
2 NOW, THEREFORE, BE IT ORDAINED:  
3

4 Section 1. The County Council adopts the following findings:  
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- 6 A. The foregoing recitals are incorporated as findings as if set forth in full herein.  
7  
8 B. The public participation process related to the adoption of this ordinance has been early and  
9 continuous and complies with all applicable requirements including, but not limited to, the  
10 Growth Management Act (GMA), chapter 30.73 SCC, and the Snohomish County Charter.  
11  
12 C. The proposed code amendments are necessary to address consequences affecting  
13 development applications that occurred with the adoption of certain amendments to  
14 Ordinance No. 12-049 that were not considered or intended by the County Council.  
15  
16 D. The proposed code amendments will better achieve, comply with, and implement the  
17 Snohomish County General Policy Plan ("GPP") which sets forth the following goals,  
18 objectives, and policies related to the proposed regulations:  
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- |    |                   |  |
|----|-------------------|--|
| 20 | Goal TR 1         | Develop transportation systems that complement the land use<br>21 element, natural environment element, and the economic<br>22 development element of the county comprehensive plan.   |
| 23 | Objective TR 1.D  | Regulate the design, location and public access of private access<br>24 ways and roads that impact the public roadway.   |
| 25 | Policy 1.D.1      | A private road or access way shall not be permitted where a public<br>26 road is required to meet public road access and circulation<br>27 standards.  |
| 28 | Policy 1.D.2      | When a public road is not required, as per TR 1.D.1, a private<br>29 road or access way shall be permitted where:<br>30 (a) a public benefit is evident that outweighs potential liabilities,<br>31 (b) it is clearly established that the private road would not attract<br>32 public use,<br>33 (c) it would not obstruct or undermine the safety of any existing or<br>34 planned public roadway, or become part of a public road, and<br>35 (d) in lieu of a public road, construction of a private road would<br>36 not landlock any existing or future parcel of land. |
| 37 | Goal ED 2         | Provide a planning and regulatory environment which facilitates<br>38 growth of the local economy.   |
| 39 | Objective ED 2.A. | Develop and maintain a regulatory system that is fair,<br>40 understandable, coordinated and timely.   |
| 41 | Policy ED 2.A.2   | Snohomish County should stress predictability but maintain<br>42 enough flexibility in the Comprehensive Plan and development<br>43 codes to allow for timely response to unanticipated and desirable<br>44 developments.  |
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- 1 E. The proposal complies with the following procedural requirements:
- 2 1. Pursuant to RCW 36.70A.106, a notice of intent to amend SCC 30.24.050 and SCC
- 3 30.24.055 was transmitted to the Washington State Department of Commerce on
- 4 October 29, 2012 for distribution to state agencies.
- 5 2. The public participation process used in the adoption of this proposal has complied with
- 6 all applicable requirements of the GMA and the Snohomish County Code.
- 7 3. State Environmental Policy Act (SEPA) requirements with respect to this non-project
- 8 action have been satisfied through the completion of an environmental checklist and the
- 9 issuance of an addendum on November 25, 2012.
- 10 4. The Washington State Attorney General last issued an advisory memorandum, as
- 11 required by RCW 36.70A.370, in December of 2006 entitled "Advisory Memorandum:
- 12 Avoiding Unconstitutional Takings of Private Property" to help local governments avoid
- 13 the unconstitutional taking of private property. The process outlined in the State
- 14 Attorney General's 2006 advisory memorandum was used by Snohomish County in
- 15 objectively evaluating the regulatory changes proposed by this proposal.

16  
17 Section 2. Based on the foregoing findings, the County Council makes the following

18 conclusions:

- 19
- 20 A. The proposal is consistent with the goals and requirements of the GMA.
- 21
- 22 B. The proposal is consistent with the goals, objectives and policies of the GPP.
- 23
- 24 C. The proposal is consistent with Washington state law and the Snohomish County Code.
- 25
- 26 D. The County has complied with all SEPA requirements with respect to this non-project action.
- 27
- 28 E. The regulations proposed in this ordinance do not result in an unconstitutional taking of
- 29 private property for a public purpose.
- 30
- 31 F. This ordinance is adopted pursuant to the Snohomish County Charter and the Washington
- 32 State Constitution, Article XI, Section 11.
- 33

34 Section 3. The County Council bases its findings and conclusions on the entire record of

35 the planning commission and the County Council, including all testimony and exhibits. Any

36 finding which should be deemed a conclusion, and any conclusion which should be deemed a

37 finding, is adopted as such.

38

39 Section 4. Snohomish County Code Section 30.24.055, adopted by Amended

40 Ordinance No. 12-049 on October 3, 2012, is amended to read:

41

42 **30.24.055 Access and road network requirements to individual lots within a proposed**

43 **subdivision, short subdivision or binding site plan development or to proposed SFDU**

44 **units.**

45

46 Access to lots within a proposed subdivision, short subdivision or binding site plan development

47 or to proposed SFDU units shall meet the requirements of this section.

1 (1) Access to individual lots, tracts or easements within a proposed subdivision or short  
2 subdivision in the urban area shall be by a public road, except a private road network element;  
3 (a) may be allowed if serving nine lots or fewer with traffic generation of 90 average daily trips or  
4 less, except when the county engineer, in accordance with chapter 30.66B SCC, determines  
5 that a public road is required to provide for the public health, safety and welfare or connectivity  
6 of the public road system; and  
7 (b) may be requested as a variance pursuant to chapter 30.43B SCC if unique circumstances of  
8 the site, such as topography, the surrounding road network, soils, hydrology or maintenance  
9 requirements make the extension of the public road ((tø)) within the development impractical or  
10 infeasible.

11 (2) Access to individual lots, tracts or easements, within a proposed subdivision, short  
12 subdivision, or binding site plan development in the rural area may be provided by a private  
13 road network element as provided for in this chapter, except when the county engineer, in  
14 accordance with chapter 30.66B SCC, determines that a public road is required to provide for  
15 the public health, safety and welfare or connectivity of the public road system.

16 (3) Access to individual dwelling units within a SFDU shall be provided by a drive aisle,  
17 unless the county engineer, in accordance with chapter 30.66B SCC, determines a public road  
18 is required to provide for the public health, safety and welfare or connectivity of the public road  
19 system.


20 (4) Where access by a private road network element is permitted, and the private road  
21 network element has the potential for serving more than nine lots or 90 average daily trips, the  
22 county engineer may require the private road to be designed to enable future conversion to a  
23 public road and the final subdivision, short plat or binding site plan shall contain a provision that  
24 the conversion to a public road may not be protested  
25

26 Section 5. Severability and Savings. If any section, sentence, clause or phrase of this  
27 ordinance is held 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  
31 is held to be invalid by the Board or unconstitutional by a court of competent jurisdiction, then  
32 the section, sentence, clause or phrase in effect prior to the effective date of this ordinance shall  
33 be in full force and effect for that individual section, sentence, clause or phrase as if this  
34 ordinance had never been adopted.  
35

36  
37 PASSED this 27<sup>th</sup> day of February, 2013.  
38

39 SNOHOMISH COUNCIL

40 Snohomish, Washington

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43 Council Vice-Chair  
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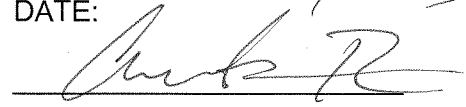
45 ATTEST:

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48 Asst. Clerk of the Council  
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- APPROVED
- EMERGENCY
- VETOED

DATE: 3/5/13



County Executive

ATTEST:



Approved as to form only:

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Deputy Prosecuting Attorney

D-12