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2 Adopted: September 25, 2013  
3 Effective: Oct 11, 2013  
4

5 SNOHOMISH COUNTY COUNCIL  
6 Snohomish County, Washington  
7

8 ORDINANCE NO. 13-067  
9

10 RELATING TO GROWTH MANAGEMENT; ADOPTING DEVELOPMENT  
11 REGULATIONS PROVIDING FOR IDENTIFICATION, DESIGNATION, SITING AND  
12 REGULATION OF ESSENTIAL PUBLIC FACILITIES (EPF); AMENDING CHAPTERS  
13 30.22 AND 30.75 OF THE SNOHOMISH COUNTY CODE (SCC); ADDING A NEW  
14 SECTION TO CHAPTER 30.91E SCC; AND ADDING A NEW CHAPTER 30.42D SCC  
15

16 WHEREAS, the Growth Management Act, chapter 36.70A RCW ("GMA"), requires  
17 Snohomish County (the "County") to regulate land use and development within the County's  
18 jurisdiction; and  
19

20 WHEREAS, RCW 36.70A.200(1) requires the County to have a "process for identifying  
21 and siting essential public facilities;" and  
22

23 WHEREAS, RCW 36.70A.200(1) states that, "Essential public facilities include those  
24 facilities that are typically difficult to site, such as airports, state education facilities and state or  
25 regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities  
26 as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling  
27 facilities, and inpatient facilities including substance abuse facilities, mental health facilities,  
28 group homes, and secure community transition facilities as defined in RCW 71.09.020;" and  
29

30 WHEREAS, RCW 36.70A.200 (5) states that, "No local comprehensive plan or  
31 development regulation may preclude the siting of essential public facilities;" and  
32

33 WHEREAS, on June 1, 2011, the County Council held a public hearing and through  
34 Amended Ordinance No. 11-011 approved revisions to the Countywide Planning Policies (CPP)  
35 relating to siting EPFs; and  
36

37 WHEREAS, on September 28, 2011, the County Council held a public hearing and  
38 through Amended Ordinance No. 11-051 approved revisions to the General Policy Plan (GPP) of  
39 the Snohomish County Growth Management Act Comprehensive Plan (GMACP) including  
40 goals, objectives, and policies relating to the siting of EPFs; and  
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42 WHEREAS, this ordinance adopts regulations that implement and are consistent with the  
43 GPP goals, objectives, and policies relating to the siting of EPFs; and  
44

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1 WHEREAS, the Snohomish County Planning Commission ("Planning Commission")  
2 held a public hearing on June 25, 2013, to receive public testimony concerning the code  
3 amendments contained in this ordinance; and  
4

5 WHEREAS, at the conclusion of the Planning Commission's public hearing, the  
6 Planning Commission voted to recommend approval of the code amendments contained in this  
7 ordinance, as set forth in its recommendation letter dated July 1, 2013; and  
8

9 WHEREAS, on September 25, 2013, the County Council held a public hearing after  
10 proper notice, and considered public comments and the entire record related to the proposal  
11 contained in this ordinance; and  
12

13 WHEREAS, following the public hearing, the County Council deliberated on the code  
14 amendments contained in this ordinance;  
15

16 NOW, THEREFORE, BE IT ORDAINED:  
17

18 Section 1. The County Council adopts the following findings in support of this  
19 ordinance:  
20

21 A. The foregoing recitals are adopted as findings as if set forth in full herein.  
22

23 B. This ordinance will amend Title 30 SCC by adding a new chapter 30.42D Essential  
24 Public Facilities, which establishes a process, regulations and criteria for identifying, designating  
25 and siting EPFs. The remaining proposed amendments are necessary for consistency and  
26 compatibility with the new chapter 30.42D SCC.  
27

28 C. This ordinance is consistent with the requirements of RCW 36.70A.200 (Siting of  
29 essential public facilities – Limitation on liability) and maintains consistency with the following  
30 GMA goals:  
31

32 1. GMA Planning Goal 7 (RCW 36.70A.020(7)): Permits. Applications for both state  
33 and local government permits should be processed in a timely and fair manner to ensure  
34 predictability.  
35

36 2. GMA Planning Goal 11 (RCW 36.70A.020(11)): Citizen participation and  
37 coordination. Encourage the involvement of citizens in the planning process and ensure  
38 coordination between communities and jurisdictions to reconcile conflicts.  
39

40 3. GMA Planning Goal 12 (RCW 36.70A.020(12)): Public facilities and services.  
41 Ensure that those public facilities and services necessary to support development shall be  
42 adequate to serve the development at the time the development is available for occupancy  
43 and use without decreasing current service levels below locally established minimum  
44 standards.

ORDINANCE NO. 13-067  
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1 D. This proposal is consistent with the following goals, objectives and policies contained in  
2 the County's GMA Comprehensive Plan:

3  
4 1. GOAL CF 12 "Ensure that the county does not preclude the siting of essential public  
5 facilities."

6  
7 2. Objective CF 12.A "Develop and implement a process for siting essential public  
8 facilities of a local nature."

9  
10 3. Policy CF 12.A.1 "The county shall establish a process through its development  
11 regulations to identify and site local essential public facilities, consistent with the provisions of  
12 the GMA. This process should include:

- 13 a. A definition of these facilities;  
14 b. An inventory of existing and future facilities;  
15 c. Economic and other incentives to jurisdictions receiving facilities;  
16 d. A public involvement strategy;  
17 e. Assurance that the environment and public health and safety are protected; and  
18 f. A consideration of alternatives to the facility."

19  
20 4. Policy CF 12.A.2 "Local essential public facilities shall be sited to support the countywide  
21 land use pattern, support economic activities, reduce environmental impacts, provide amenities  
22 or incentives, and minimize public costs."

23  
24 5. Policy CF 12.A.3 "Local essential public facilities shall first be considered for location  
25 inside Urban Growth Areas unless it is demonstrated that a non-urban site is the most  
26 appropriate location for such a facility. Local essential public facilities located outside of an  
27 Urban Growth Area shall be self-contained or be served by urban governmental services in a  
28 manner that shall not promote sprawl."

29  
30 6. Policy CF 12.A.4 "The county shall collaborate with public agencies and special districts  
31 to identify opportunities for the co-location of local essential public facilities."

32  
33 7. Policy CF 12.A.5 "The county may impose reasonable conditions and/or mitigation  
34 of adverse environmental impacts on approval of a development agreement or other land  
35 use approvals as a result of the siting of local, regional, statewide, or federal essential  
36 public facilities."

37  
38 E. Procedural requirements.

39  
40 1. State Environmental Policy Act (SEPA) requirements with respect to this non-project  
41 action have been satisfied through the completion of an environmental checklist and the  
42 issuance of a determination of non-significance on June 14, 2013.  
43

1           2. The proposal is a Type 3 legislative action pursuant to SCC 30.73.010.

2  
3           3. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance was  
4 transmitted to the Washington State Department of Commerce for distribution to state  
5 agencies on June 4, 2013.

6  
7           4. The public participation process used in the adoption of this ordinance has complied  
8 with all applicable requirements of the GMA and the SCC.

9  
10          5. As required by RCW 36.70A.370, the Washington State Attorney General last issued  
11 an advisory memorandum 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 the County in objectively  
15 evaluating the regulatory changes proposed by this ordinance.

16  
17       F.     This ordinance is consistent with the record.

18  
19           1. This ordinance ensures that EPFs, as needed to support orderly growth and delivery  
20 of public services, are identified, sited and regulated for the public health, safety and  
21 welfare in a timely and efficient manner.

22  
23           2. This ordinance provides the county with regulatory authority to require mitigation of  
24 impacts that may occur as a result of siting, operating or expanding an EPF but not  
25 preclude the siting of an EPF.

26  
27           3. This ordinance promotes public participation that will produce future land use  
28 decisions consistent with the Growth Management Act.

29  
30       Section 2. The County Council makes the following conclusions:

31  
32       A.     The proposal is consistent with the goals, objectives and policies of the County's GMA  
33 Comprehensive Plan.

34  
35       B.     The proposal is consistent with Washington State law and the County Code.

36  
37       C.     The County has complied with all SEPA requirements in respect to this non-project  
38 action.

39  
40       D.     The regulations proposed by this ordinance do not result in an unconstitutional taking of  
41 private property for a public purpose.

42  
43       E.     This ordinance is necessary to comply with RCW 36.70A.200 and to maintain  
44 consistency with GMA.

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

Section 4. Snohomish County Code Section 30.22.020, last amended by Emergency Ordinance No. 06-009 on February 22, 2006, is amended to read:

**30.22.020 Categories of uses.**

(1) SCC 30.22.100, 30.22.110, and 30.22.120 comprise the use matrix. The use matrix lists uses and indicates whether uses are permitted (P), require conditional use (C) or administrative conditional use (A) approval, or are prohibited in a particular zone. (a) Permitted uses (P) are those permitted outright. Certain uses have special requirements indicated by footnotes in the use matrices. (b) Conditional uses (C) are those which require special review in order to ensure compatibility with permitted uses in the same zone. Conditional use permits are granted by the hearing examiner following a review and recommendation from the department and an open record public hearing. (c) Administrative conditional uses (A) also require special review to ensure compatibility with permitted uses in the same zone. Administrative conditional uses are granted by the department. Uses formerly categorized as temporary uses or special uses are now processed as administrative conditional uses. (d) Special use permits (S) require a local, state, or regional land use permit issued for a facility at a particular location subject to conditions placed on the proposed use to ensure compatibility with adjacent land uses. (e) Prohibited uses are those which are not allowed in a zone. A blank box in the use matrix indicates a use is not allowed. (2) Essential public facilities shall be permitted in any zone as a ((in which they are listed as a permitted or)) conditional use or upon the approval of a development agreement under ((SCC)) chapter 30.75 SCC, ((30.75.100 and 30.75.130.)) In the event of a conflict between this chapter and chapter 30.42D SCC, the provisions of chapter 30.42D SCC shall govern.

Section 5. A new Chapter is added to the Snohomish County Code to read:

**Chapter 30.42D  
ESSENTIAL PUBLIC FACILITIES**

Sections:

- 30.42D.010 Purpose.
- 30.42D.020 Affected jurisdictions, agencies and neighborhood meeting.
- 30.42D.030 Local, regional, state, and federal essential public facilities— Determination process, notice, and appeal.
- 30.42D.040 Conditional use permit or development agreement required.
- 30.42D.050 Local essential public facilities--conditional use permit procedure.
- 30.42D.060 Decision criteria for local essential public facilities.
- 30.42D.070 Regional, state, or federal essential public facilities—development agreement procedure.
- 30.42D.080 Decision criteria for regional, state, or federal essential public facilities.

ORDINANCE NO. 13-067

RELATING TO GROWTH MANAGEMENT; ADOPTING DEVELOPMENT REGULATIONS PROVIDING FOR IDENTIFICATION, DESIGNATION, SITING AND REGULATION OF ESSENTIAL PUBLIC FACILITIES (EPF); AMENDING CHAPTERS 30.22 AND 30.75 OF THE SNOHOMISH COUNTY CODE (SCC); ADDING A NEW SECTION TO CHAPTER 30.91E SCC; AND ADDING A NEW CHAPTER 30.42D SCC

1 30.42D.090 Independent consultant review and environmental review.

2 30.42D.100 Building permit application.

3  
4 **30.42D.010 Purpose.**

5  
6 (1) This chapter establishes a process for identifying, siting and regulating essential public  
7 facilities (EPFs).

8 (2) Nothing in this chapter shall be construed as precluding or delaying the siting of EPFs in  
9 contravention of applicable state law. This chapter shall be interpreted in a manner consistent  
10 with the requirements of the Growth Management Act and other applicable statutes and  
11 regulations.

12 (3) This chapter is intended to ensure that EPFs, as needed to support orderly growth and  
13 delivery of public services, are identified, sited and regulated for the public health, safety and  
14 welfare in a timely and efficient manner. It is also intended to provide the county with  
15 regulatory authority to require mitigation of impacts that may occur as a result of siting,  
16 operating or expanding an EPF but not preclude the siting of an EPF. This chapter is also  
17 intended to promote public participation that will produce future land use decisions consistent  
18 with the Growth Management Act.

19  
20 **30.42D.020 Affected jurisdictions, agencies and neighborhood meeting.**

21 (1) The applicant shall conduct at least one neighborhood meeting to discuss the proposed EPF  
22 development. The meeting shall be held at least 30 days before submitting the EPF determination  
23 application pursuant to SCC 30.42D.030.

24 (2) The purpose of the neighborhood meeting is to:

25 (a) Ensure that an applicant pursues early public participation in conjunction with and prior  
26 to the application, giving the applicant an opportunity to understand and mitigate any impacts  
27 that the proposed development might have; and

28 (b) Ensure that neighborhood residents, tribes, cities, towns, special purpose districts, fire  
29 and police agencies, water and sewer providers, federal, state and local governments and  
30 business owners have an opportunity at an early stage to learn about how the proposed  
31 development might affect them and to work with the applicant to resolve concerns prior to  
32 submitting an application.

33 (3) The applicant is responsible for notifying, facilitating and summarizing the neighborhood  
34 meeting pursuant to the following requirements:

35 (a) Public notice for the neighborhood meeting shall include:

36 (i) Date, start time, and location of the meeting;

37 (ii) Proposed development name;

38 (iii) Map showing the location of the proposed development and the location of the  
39 meeting;

40 (iv) Description of proposed development; and

41 (v) Name, address and phone number of the applicant or representative of the applicant to  
42 contact for additional information.

ORDINANCE NO. 13-067

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- (b) The public notice must be mailed to the department at least 10 days prior to the neighborhood meeting. The public notice also shall, at a minimum, be mailed to:
- (i) Each taxpayer of record and each known site address within 1,000 feet of any portion of the boundary of the property on which the EPF is proposed to be located and any contiguous property owned by the applicant;
  - (ii) Any city or town whose boundaries are within one mile of the property on which the EPF is proposed to be located and any contiguous property owned by the applicant; and
  - (iii) Any affected special purpose districts, fire and police agencies, water and sewer providers, federal, state and local governments.
- (c) The department, upon request, shall provide the applicant with necessary names and addresses or mailing labels. The applicant shall reimburse the department for any costs associated with this request consistent with department procedures.
- (d) The neighborhood meeting shall be held at a location accessible to the public and within a reasonable distance from the boundary of the proposed development.
- (e) At a minimum the applicant shall provide at the neighborhood meeting:
- (i) Conceptual graphic presentation depicting the layout and design of the proposed development;
  - (ii) Size of the proposed development;
  - (iii) The proposed uses including the square footage;
  - (iv) Project narrative and description;
  - (v) Site plan;
  - (vi) Potential expansion areas; and
  - (vii) Potential impacts and how those impacts will be addressed by the applicant.
- (f) The applicant shall prepare a written summary of the neighborhood meeting to be included with the EPF determination notice required in SCC 30.42D.030, including:
- (i) A copy of the notice of the neighborhood meeting along with a list of persons to whom it was mailed;
  - (ii) A signed affidavit listing the persons who attended the meeting and their addresses if provided; and
  - (iii) A signed affidavit providing a summary of concerns, issues, problems and mitigation expressed during the neighborhood meeting.
- (4) County staff is not required to attend the neighborhood meeting.
- (5) If no one attends the meeting within 30 minutes of the start time indicated on the notice provided under this section, the applicant shall have satisfied the requirements of this section.

**30.42D.030 Local, regional, state, and federal essential public facilities— Determination process, notice, and appeal.**

- (1) Any public or private entity proposing to site an EPF in the unincorporated area of the county shall provide a written determination notice to the director of its intent to site the EPF at least 90 days prior to submittal of an application.
- (2) A pre-application conference fee as listed in Table 30.86.210 SCC shall accompany the notice.
- (3) The determination notice shall contain a detailed description of the proposal including:

ORDINANCE NO. 13-067

RELATING TO GROWTH MANAGEMENT; ADOPTING DEVELOPMENT  
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- (a) An explanation of the operations and the need for the proposed facility, why the facility is difficult to site and why it qualifies as a local, regional, state or federal EPF;
- (b) Documentation that affected jurisdictions and the public have been notified and given an opportunity to comment pursuant to SCC 30.42D.020;
- (c) Proof of a published notice regarding the proposed EPF in the county's official newspaper describing the proposal and soliciting comments, together with any written comments received on the proposed EPF;
- (d) An analysis of the facility siting criteria, including size, physical characteristics, support facilities, access, future expansion needs and analysis of alternative sites;
- (e) A description of general environmental, traffic and social impacts and proposed mitigation measures;
- (f) The site's relationship to the projected service area and distribution of similar facilities within that service area;
- (g) An analysis of the proposal's consistency with the county's comprehensive plan and applicable development regulations, and an identification of any inconsistencies; and
- (h) A proposed site plan and vicinity map with current zoning designations.
- (4) The director shall issue a determination that the proposal is designated as a local, regional, state or federal EPF consistent with the definition of EPFs in SCC 30.91E.170 or provide in writing why the proposal is not an EPF. The director shall provide written notice of his or her decision within 90 days from the filing of the determination notice to the applicant and council and publish notice of the decision in the official county newspaper.
- (5) The director's decision shall be appealable to the county council by the applicant or by any affected person. Appeals shall be filed in writing with the department within 14 days following publication of the director's decision. An appeal filing fee is required as listed in Table 30.86.600 SCC. The council shall hold a public hearing on the appeal within 30 days of the filing of the appeal. At the hearing, any interested person may provide oral or written comment on matters relevant to the appeal. The council shall issue a decision on the appeal within 14 days of the close of the hearing. The council's decision shall be a final decision subject to appeal under chapter 36.70C RCW.

#### **30.42D.040 Conditional use permit or development agreement required.**

- (1) A local EPF shall be permitted as a conditional use in all zones. In the event of a conflict between this chapter and chapter 30.22 SCC, the provisions of chapter 30.42D SCC shall govern.
- (2) A regional, state or federal EPF shall be permitted in any zone upon the approval of a development agreement under chapter 30.75 SCC. In the event of a conflict between this chapter and chapter 30.22 SCC, the provisions of chapter 30.42D SCC shall govern.
- (3) A local EPF must satisfy the requirements of this chapter and chapter 30.42C SCC.
- (4) A regional, state or federal EPF must satisfy the requirements of this chapter and chapter 30.75 SCC.



1   **30.42D.050 Local essential public facilities--conditional use permit procedure.**

2  
3   (1) The approval process for a local EPF is a standard conditional use permit and is a Type 2  
4   process as described in chapter 30.72 SCC.

5   (2) A standard conditional use permit fee as listed in Table 30.86.210 SCC is required.

6   (3) Application shall be made according to the submittal requirements checklist provided by the  
7   department pursuant to SCC 30.70.030 and must include the submittal items required in SCC  
8   30.42D.030(3).  
9

10   **30.42D.060 Decision criteria for local essential public facilities.**

11  
12   (1) The hearing examiner may impose reasonable conditions (including mitigation measures) on  
13   a proposal for a local EPF. As a condition of approval the hearing examiner may:

14       (a) Increase requirements in the standards, criteria, or policies established by this title;

15       (b) Stipulate the exact location of a local EPF as a means of minimizing hazards to life or  
16       limb, property damage, impacts to the environment, erosion, underground collapse,  
17       landslides, and transportation systems;

18       (c) Impose reasonable conditions necessary to avoid, minimize or mitigate any adverse  
19       impacts identified as a result of the project; and

20       (d) Require the posting of construction and maintenance bonds or other security as provided  
21       in chapter 30.84 SCC, sufficient to secure to the county the estimated cost of construction,  
22       installation and maintenance of required improvements.

23   (2) The hearing examiner may approve or approve with conditions, a conditional use permit for a  
24   local EPF when the proposal complies with the applicable requirements of chapters 30.42C and  
25   30.42D SCC. The hearing examiner also may consider whether the proposal is consistent with  
26   the following factors:

27       (a) The proposal is consistent with the objectives and policies under Goal 12 in the Capital  
28       Facilities chapter of the General Policy Plan;

29       (b) The project applicant has demonstrated a need for the project, as supported by an analysis  
30       of the projected service population, an inventory of existing and planned comparable  
31       facilities, and the projected demand for the type of facility proposed;

32       (c) If applicable, the project would serve a significant share of the county's population, and  
33       the proposed site will reasonably serve the project's overall service population;

34       (d) The applicant has reasonably investigated alternative sites, as evidenced by a detailed  
35       explanation of site selection methodology;

36       (e) The project is consistent with the applicant's own long-range plans for facilities and  
37       operations;

38       (f) The project will not result in a disproportionate burden on a particular geographic area;

39       (g) The applicant has provided an opportunity for public participation in the siting decision  
40       and development of mitigation measures that is appropriate in light of the project's scope,  
41       applicable requirements of the county code, and state or federal law;

42       (h) The project site meets the facility's minimum physical site requirements, including  
43       projected expansion needs. Site requirements shall be determined by the minimum size of  
44       the facility, setbacks, access, support facilities, topography, geology, and on-site mitigation;

ORDINANCE NO. 13-067

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- (i) The proposal, as conditioned, adequately mitigates adverse impacts to life, limb, property, the environment, public health and safety, transportation systems, economic development and other identified impacts;
- (j) The proposal incorporates specific features to ensure it responds appropriately to the existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding property; and
- (k) The applicant has proposed mitigation measures that provide assistance to displaced or impacted businesses including assistance in relocating within the county.
- (3) The conditional use permit application for a proposed EPF may be denied if the hearing examiner finds that the denial does not preclude the local EPF from being sited within the county, and either:

- (a) The proposal does not comply with the requirements of chapters 30.42C or 30.42D of this code, or
- (b) The proposal is not consistent with the factors listed in SCC 30.42D.060(2) with the imposition of mitigation measures; or
- (c) The imposition of reasonable mitigation measures does not adequately mitigate detrimental effects on uses or properties within the immediate vicinity of the proposal site.

**30.42D.070 Regional, state or federal essential public facilities—development agreement procedure.**

- (1) The approval process for a regional, state or federal EPF is a development agreement process as described in chapter 30.75 SCC.
- (2) Application shall be made according to the submittal requirements checklist provided by the department pursuant to SCC 30.70.030 and include the submittal items required in 30.42D.030.

**30.42D.080 Decision criteria for regional, state or federal essential public facilities.**

The county council must approve or approve with conditions, a development agreement for a regional, state or federal EPF after considering whether the proposal meets the following criteria:

- (1) The applicant has provided opportunity for public participation in the siting decision and development of mitigation measures;
- (2) The proposal complies with applicable requirements of Title 30, SCC and all other applicable provisions of the county code except as modified pursuant to chapter 30.75 SCC;
- (3) The proposal, as conditioned, adequately mitigates adverse impacts to life, limb, property, the environment, public health and safety, transportation systems, economic development and other identified impacts;
- (4) The proposal incorporates specific features to ensure it responds to the existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding property;
- (5) If applicable, the applicant agrees to posting of construction and maintenance bonds or other security as provided in chapter 30.84 SCC, sufficient to secure to the county the estimated cost of construction, installation and maintenance of required improvements;

ORDINANCE NO. 13-067

RELATING TO GROWTH MANAGEMENT; ADOPTING DEVELOPMENT  
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- (6) If applicable, the applicant has proposed mitigation measures that provide assistance to displaced or impacted businesses, including assistance in relocating within Snohomish County; and
- (7) The applicant and the County have agreed to a review, processing and staffing fee.

**30.42D.090 Independent consultant review and environmental review.**

- (1) The department may require independent consultant review of an EPF proposal to assess its compliance with the criteria contained in this chapter.
- (2) If independent consultant review is required, the applicant shall bear and secure all consultant and county costs incurred in the preparation of studies or review as determined by the county. The applicant shall make a deposit with the department sufficient to defray the cost of such review. The applicant shall pay all costs prior to issuance of permits. Unexpended funds will be returned to the applicant following the final decision on the application.
- (3) The applicant may, at its expense and to the extent determined by the county, provide additional studies or other information.
- (4) Any applicant submitting an application for an EPF shall pay the cost of environmental review and studies necessary under SEPA, as required under chapter 30.61 SCC. The applicant may, at its expense and to the extent determined by the responsible official, provide additional studies or other information.

**30.42D.100 Building permit application.**

- (1) Any building permit issued for an EPF approved under this chapter shall be consistent with all conditions of approval in the conditional use permit or the development agreement.
- (2) In the event a building permit for an EPF is denied because the building permit application does not comply with construction codes, the department shall submit in writing the reasons for denial to the project applicant.
- (3) No construction permits may be applied for prior to approval of a conditional use permit or approval of a development agreement for an EPF unless the applicant signs a written release acknowledging that such approval is neither guaranteed nor implied by the department's acceptance of the construction permit applications.
- (4) The applicant shall expressly hold the county harmless and accept all financial risk associated with preparing and submitting construction plans before a final decision is made under this chapter.

Section 6. Snohomish County Code Section 30.75.020, last amended by Emergency Ordinance No. 05-126 on December 7, 2005, is amended to read:

**30.75.020 Procedure: development agreements.**

- (1) This section shall not apply to the review of development agreements for projects to site, construct, operate or expand essential public facilities. For those facilities, the development agreement shall be presented to the county council for approval upon the adoption of an ordinance meeting the requirements of chapter 30.42D SCC and SCC 30.75.100. The county

ORDINANCE NO. 13-067

RELATING TO GROWTH MANAGEMENT; ADOPTING DEVELOPMENT REGULATIONS PROVIDING FOR IDENTIFICATION, DESIGNATION, SITING AND REGULATION OF ESSENTIAL PUBLIC FACILITIES (EPF); AMENDING CHAPTERS 30.22 AND 30.75 OF THE SNOHOMISH COUNTY CODE (SCC); ADDING A NEW SECTION TO CHAPTER 30.91E SCC; AND ADDING A NEW CHAPTER 30.42D SCC

1 council may not preclude the siting of an essential public facility. Procedures for the review of  
2 permits applicable to such facilities shall be specified in the development agreement.

3 (2) Development agreements shall be reviewed in the manner and following the procedures  
4 established in chapters 30.70 and 30.72 SCC, except as follows:

5 (a) The hearing examiner's decision, as set forth in SCC 30.72.060, shall be a  
6 recommendation to the county council instead of a decision, provided that any decision on a  
7 Type 1 appeal of a SEPA threshold determination shall be a final decision;

8 (b) Each hearing examiner recommendation shall include a proposed ordinance for council  
9 consideration that would adopt the hearing examiner's recommendation as a final decision;

10 (c) A party of record may request review of the hearing examiner's recommendation by the  
11 county council using the same process as required for appeal of a Type 2 decision; and

12 (d) If no party of record requests review of the hearing examiner's recommendation, the  
13 department shall forward the recommendation to the county council for a closed record  
14 hearing, allowing for a presentation to the council by the applicant and the department  
15 regarding the recommendation and the proposed ordinance.

16  
17 Section 7. Snohomish County Code Section 30.75.130, added by Emergency Ordinance  
18 No. 05-126 on December 7, 2005, is amended to read:

19  
20 **30.75.130 Development Regulations Applicable to Essential Public Facilities**

21 The county council may approve a development agreement that creates exemptions or  
22 modifications to the requirements of Title 30 SCC and is consistent with chapter 30.42D SCC in  
23 order to allow for the siting, development or expansion of an essential public facility.

24  
25 Section 8. A new section is added to Chapter 30.91E of the Snohomish County Code to  
26 read:

27  
28 **30.91E.170 Essential Public Facility**

29  
30 "Essential public facility" or "EPF" means any public facility or facilities owned or operated by  
31 a unit of local, state, or federal government, public or private utility, transportation company, or  
32 any other entity that provides a public service as its primary mission, and is difficult to site.  
33 EPFs include but are not limited to those facilities listed in RCW 36.70A.200 and may also  
34 include facilities such as regional wastewater treatment facilities, hospitals and trails.

35 (1) A "regional, state or federal EPF" means an essential public facility identified and  
36 designated by the director as a facility that is likely or required to be built within six years  
37 and has been evaluated through a state, regional or federal siting process or by a state or  
38 federal agency where state or federal law preempts the exercise of local regulatory authority  
39 over facility siting.

40 (2) A "local EPF" means an essential public facility that is not a regional, state or federal  
41 EPF.

42  
43 Section 9. Severability and Savings. If any section, sentence, clause or phrase of this  
44 ordinance shall be held to be invalid by the Growth Management Hearings Board (Board), or

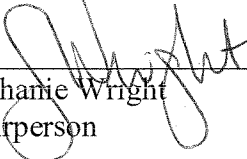
ORDINANCE NO. 13-067

RELATING TO GROWTH MANAGEMENT; ADOPTING DEVELOPMENT  
REGULATIONS PROVIDING FOR IDENTIFICATION, DESIGNATION, SITING  
AND REGULATION OF ESSENTIAL PUBLIC FACILITIES (EPF); AMENDING  
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1 unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall  
2 not affect the validity or constitutionality of any other section, sentence, clause or phrase of this  
3 ordinance. Provided, however, that if any section, sentence, clause or phrase of this ordinance is  
4 held to be invalid by the Board or unconstitutional by a court of competent jurisdiction, then the  
5 section, sentence, clause or phrase in effect prior to the effective date of this ordinance shall be in  
6 full force and effect for that individual section, sentence, clause or phrase as if this ordinance had  
7 never been adopted.

8  
9  
10 PASSED this 25<sup>th</sup> day of September, 2013.

11  
12  
13 SNOHOMISH COUNTY COUNCIL  
14 Snohomish County, Washington


15  
16  
17   
18 Stephanie Wright  
19 Chairperson

20 ATTEST:

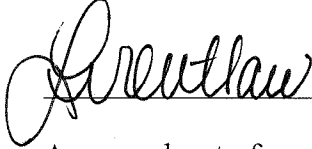
21  
22   
23 Sheila McCallister  
24 Asst. Clerk of the Council

25  
26  
27 ☒ APPROVED  
28 ☐ EMERGENCY  
29 ☐ VETOED

30 DATE: 10/1/13

31  
32   
33 County Executive

34  
35 ATTEST:

36  
37   
38  
39  
40 Approved as to form only:

41  
42  
43 Deputy Prosecuting Attorney  
44

ORDINANCE NO. 13-067  
RELATING TO GROWTH MANAGEMENT; ADOPTING DEVELOPMENT  
REGULATIONS PROVIDING FOR IDENTIFICATION, DESIGNATION, SITING  
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