

1 Adopted: 03/02/16  
2 Effective: 03/17/16

3  
4 SNOHOMISH COUNTY COUNCIL  
5 Snohomish County, Washington

6  
7 ORDINANCE NO. 16-015

8  
9 RELATING TO GROWTH MANAGEMENT; REVISING REGULATIONS RELATED TO  
10 TRANSFER OF DEVELOPMENT RIGHTS; REPEALING SECTION 30.21.035,  
11 REPEALING AND REPLACING SECTION 30.35A.015, AND AMENDING SECTION  
12 30.35A.100 OF THE SNOHOMISH COUNTY CODE  
13

14  
15 WHEREAS, counties and cities that are required to plan under the Growth Management  
16 Act (GMA), chapter 36.70A RCW, must ensure that development regulations are consistent with  
17 and implement the comprehensive plan; and  
18

19 WHEREAS, the Snohomish County Council ("County Council") adopted Amended  
20 Ordinance No. 12-046 on October 17, 2012, amending the Land Use (LU) Chapter of the  
21 General Policy Plan (GPP) of the Snohomish County Growth Management Act Comprehensive  
22 Plan (GMACP) to establish policies for a countywide transfer of development rights (TDR)  
23 program; and  
24

25 WHEREAS, the County Council adopted Amended Ordinance No. 13-064 on September  
26 4, 2013, amending the development regulations in title 30 of the Snohomish County Code  
27 (SCC) to implement the TDR policies in the GMACP; and  
28

29 WHEREAS, the County Council adopted Amended Ordinance No. 14-129 on June 10,  
30 2015, which amended and added TDR policies in the LU Chapter of the GPP; and  
31

32 WHEREAS, Amended Ordinance No. 14-129 amended GPP LU Policy 14.A.7 to exempt  
33 single family residential development and townhouse unit lot subdivisions from TDR  
34 requirements and establish that TDR receiving areas shall include all areas where legislative  
35 changes to the comprehensive plan or development regulations after the effective date of the  
36 countywide TDR program increase the maximum allowable number of multi-family residential  
37 units; and  
38

39 WHEREAS, Amended Ordinance No. 14-129 amended GPP LU Policy 14.A.8 to  
40 establish that for TDR receiving areas other than urban centers, if TDR credits are not used  
41 then the maximum number of multi-family units is limited to the number that could have been  
42 permitted under the comprehensive plan and development regulations in effect as of November  
43 10, 2012; and  
44

45 WHEREAS, Amended Ordinance No. 14-129 amended GPP LU Policy 14.A.9 to  
46 establish that for TDR receiving areas other than urban centers, if TDR credits are used then  
47 the maximum number of multi-family units may be increased up to the maximum allowed by the  
48 comprehensive plan and development regulations; and  
49

1 WHEREAS, Amended Ordinance No. 14-129 amended GPP LU Policies 14.A.11 and  
2 14.A.14 to increase TDR incentives by expanding the number of single family units allowed per  
3 TDR credit from four to five units within the Urban Growth Area, and by creating a citizens  
4 advisory committee to recommend additional alternatives for TDR and a timeline for identifying  
5 additional incentives; and  
6

7 WHEREAS, Amended Ordinance No. 14-129 amended GPP LU Policy 14.D.6 and  
8 added GPP LU Policies 14.B.9 and 14.B.10 to establish a county TDR bank, which would have  
9 the authority to buy, hold and resell TDR credits with a focus on selling TDR credits for multi-  
10 family development; and  
11

12 WHEREAS, the County Council adopted Amended Ordinance No. 15-052 on August 12,  
13 2015, an interim official control that exempts single family residential development and  
14 townhouse unit lot subdivisions from TDR requirements to reduce the risk of confusion and  
15 uncertainty that could result from the inconsistency between the TDR policies in the GPP that  
16 were revised by Amended Ordinance No. 14-129 and the existing TDR regulations; and  
17

18 WHEREAS, the interim official control, codified at SCC 30.35A.015, was adopted as a  
19 temporary measure to align the appropriate TDR development regulations with the amended  
20 TDR policies in the GPP and allow the opportunity for adoption of permanent TDR development  
21 regulations under the GMA and chapter 30.73 SCC; and  
22

23 WHEREAS, the Snohomish County Department of Planning Services (PDS) briefed the  
24 Snohomish County Planning Commission ("Planning Commission") on October 27, 2015, on  
25 proposed amendments to chapters 30.21 and 30.35A SCC relating to TDR regulations; and  
26

27 WHEREAS, the Planning Commission held a public hearing on December 15, 2015, and  
28 received public testimony concerning the proposed code amendments; and  
29

30 WHEREAS, at the conclusion of the Planning Commission's public hearing, the Planning  
31 Commission deliberated and voted to recommend approval of the proposed code amendments  
32 presented by PDS, as set forth in the Planning Commission's recommendation letter dated  
33 December 23, 2015; and  
34

35 WHEREAS, on March 2, 2016, the County Council held a public hearing, after proper  
36 notice, and considered public comment and the entire record related to the code amendments  
37 contained in this ordinance; and  
38

39 WHEREAS, following the public hearing, the County Council deliberated on the code  
40 amendments contained in this ordinance;  
41

42 NOW, THEREFORE, BE IT ORDAINED:  
43

44 Section 1. The County Council adopts the following findings in support of this ordinance:  
45

46 A. The foregoing recitals are adopted as findings as if set forth in full herein.  
47

48 B. This ordinance replaces interim regulations in SCC 30.35A.015 with permanent regulations  
49 that exempt the following types of uses and development from TDR requirements: 1) single  
50 family, duplex or townhouse unit lot subdivisions submitted under chapters 30.41A SCC  
51 (Subdivisions) or 30.42B SCC (Planned Residential Development); 2) single family, duplex

1 or townhouse unit lot short subdivisions submitted under chapters 30.41B SCC (Short  
2 Subdivisions) or 30.42B SCC; and 3) single family detached units and duplexes submitted  
3 under chapter 30.41F SCC (Single Family Detached Units); and cottage housing submitted  
4 under chapter 30.41G SCC (Cottage Housing).  
5

6 C. This ordinance amends SCC 30.35A.100, which identifies the maximum amount of  
7 development allowed in unincorporated county TDR receiving areas for each TDR credit  
8 from farmland and non-farmland TDR sending areas. The proposed amendment to SCC  
9 30.35A.100 increases the number of single family residential units allowed, from four to five  
10 units, for each TDR credit from farmland.  
11

12 D. This ordinance repeals the requirement in SCC 30.21.035 that the zoning designation for  
13 newly created TDR receiving areas, except for areas zoned Urban Center, be identified on  
14 the official zoning map as a TDR receiving area overlay by adding “-RA” as a suffix to the  
15 zoning designation. Adding additional regulatory layers such as the RA suffix overlay  
16 increases the complexity of the official zoning map. The county’s automated permit tracking  
17 system, coupled with the county’s geographical information system mapping, provides a  
18 more efficient method of informing the public and county permitting staff of any TDR  
19 requirements on a property.  
20

21 E. This ordinance is consistent with and implements the following policies contained in the  
22 GMACP:  
23

24 1. LU 14.A.7 “Receiving areas shall include:

- 25 a. all cities, consistent with the regional program and interlocal agreements;
- 26 b. all county-designated urban centers;
- 27 c. all rural areas where changes in zoning after the effective date of the  
28 countywide TDR program increase the maximum allowable number of  
29 residential lots or units; and
- 30 d. all areas where legislative changes to the comprehensive plan or  
31 development regulations after the effective date of the countywide TDR  
32 program increase the maximum allowable number of multi-family  
33 residential units or provide other incentives for the use of TDR. Property  
34 designated or zoned for single family residential development and  
35 townhouse unit lot subdivisions are exempt from TDR requirements.”  
36

37 This ordinance is consistent with the overall intent of GPP LU Policy 14.A.7, as  
38 amended, to 1) exempt single family residential development and townhouse unit lot  
39 subdivisions from TDR requirements; and 2) require the use of TDR where legislative  
40 changes to the comprehensive plan or development regulations increase the maximum  
41 allowable number of multi-family residential units.  
42

43 This ordinance implements GPP LU Policy 14.A.7(d) by adopting permanent regulations  
44 in SCC 30.35A.015 which exempt from TDR requirements property designated or zoned  
45 for single family residential development and townhouse unit lot subdivisions. According  
46 to SCC 30.21.025, single family residential zones consist of R-7,200, R-8,400 and R-  
47 9,600. This ordinance would permanently exempt from TDR requirements the following  
48 residential uses allowed in single family residential zones according to SCC 30.22.100:  
49 single family, duplex, cottage housing, and attached single family dwellings.

- 1 2. LU 14.A.9 “The maximum number of multi-family units in receiving areas, other than  
2 urban centers, may be increased up to the maximum allowed by the current  
3 or proposed comprehensive plan and development regulations including  
4 bonuses, if TDR credits are used.”  
5

6 This ordinance implements GPP LU Policy 14.A.9, as amended by Amended Ordinance  
7 No. 14-129. According to the proposed code amendments, only the maximum number  
8 of multi-family units in TDR receiving areas, other than urban centers, may be increased  
9 up to the maximum allowed by current or proposed comprehensive plan and  
10 development regulation including bonuses, if TDR credits are used.  
11

- 12 3. LU 14.A.11 “The additional amount of development allowed in unincorporated  
13 Snohomish County receiving areas for each TDR credit from farmland is as follows:  
14  
15 a. 10,000 square feet of floor area in an urban center;  
16 b. Eight units in a multifamily development with a density of 12 or more units per  
17 acre;  
18 c. Five units in a single family residential development inside the Urban Growth  
19 Area, including cottage housing and planned residential developments.”  
20

21 This ordinance implements GPP LU Policy 14.A.11 as amended by Amended Ordinance  
22 No. 14-127. According to the proposed code amendments, the amount of single family  
23 residential development allowed in unincorporated county TDR receiving areas for each  
24 TDR credit from farmland will not exceed five units in a single family development inside  
25 the Urban Growth Area, including cottage housing and planned residential development.  
26

27 F. Procedural requirements.

- 28  
29 1. The proposal is a Type 3 legislative action that is consistent with chapter 30.73 SCC.  
30  
31 2. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance was  
32 transmitted to the Washington State Department of Commerce for distribution to state  
33 agencies on October 29, 2015.  
34  
35 3. The public participation process used in the adoption of this ordinance has complied with  
36 all applicable requirements, including but not limited to, RCW 36.70A.035, chapter 30.73  
37 SCC, and the Snohomish County Charter.  
38  
39 4. The Washington State Attorney General last issued an advisory memorandum, as  
40 required by RCW 36.70A.370, in December 2015, entitled “Advisory Memorandum:  
41 Avoiding Unconstitutional Takings of Private Property” to help local governments avoid  
42 the unconstitutional taking of private property. The process outlined in the State  
43 Attorney General’s 2015 advisory memorandum was used by Snohomish County in  
44 objectively evaluating the regulatory changes proposed by this ordinance.  
45  
46 5. This non-project action is exempt from the State Environmental Policy Act (SEPA)  
47 requirements pursuant to Washington Administrative Code (WAC) 197-11-800(19)(b).  
48

49 G. The ordinance is consistent with the record as set forth in the Planning and Development  
50 Services (PDS) staff reports dated October 14, 2015, and November 4, 2015.  
51

- 1 Section 2. The County Council makes the following conclusions:
- 2 A. The proposal complies with all requirements of county code.
- 3
- 4 B. The proposal is consistent with the goals, objectives and policies of the GMACP.
- 5
- 6 C. The county complied with all SEPA requirements in respect to this non-project action.
- 7
- 8 D. The regulations proposed by this ordinance do not result in an unconstitutional taking of
- 9 private property for public purposes.
- 10
- 11 E. The county complied with state and local public participation requirements under the GMA
- 12 and chapter 30.73 SCC.
- 13

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

15 County Council, including all testimony and exhibits. Any finding which should be deemed a

16 conclusion, and any conclusion which should be deemed a finding, is hereby adopted as such.

17

18 Section 4. Snohomish County Code Section 30.21.035, added by Amended Ordinance No. 13-

19 064 on September 4, 2013, is repealed.

20

21 Section 5. Snohomish County Code Section 30.35A.015, added by Amended Ordinance No.

22 15-052 on August 12, 2015, is repealed.

23

24 Section 6. A new section is added to chapter 30.35A of the Snohomish County Code to read:

25

26 **30.35A.015 Exemptions.**

27 The following types of development are exempt from the provisions of this chapter when located

28 in a TDR receiving area:

29

- 30 (1) Single family, duplex, or townhouse unit lot subdivisions submitted under chapters 30.41A
- 31 or 30.42B SCC;
- 32
- 33 (2) Single family, duplex, or townhouse unit lot short subdivisions submitted under chapters
- 34 30.41B or 30.42B SCC;
- 35
- 36 (3) Single family detached units or duplexes submitted under chapter 30.41F SCC; and
- 37
- 38 (4) Cottage housing submitted under chapter 30.41G SCC.

39 Section 7. Snohomish County Code Section 30.35A.100, added by Amended Ordinance No.

40 13-064 on September 4, 2013, is amended to read:

41

42 **30.35A.100 Development allowed in TDR receiving areas with TDR credits.**

- 43 (1) The maximum number of lots or units permitted in unincorporated receiving areas other than
- 44 urban centers may be increased up to the maximum allowed by the current or proposed
- 45 comprehensive plan and development regulations, including bonuses, if TDR credits are used.
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(2) The amount of development allowed in unincorporated Snohomish County TDR receiving areas for each TDR credit from farmland shall not exceed:

- (a) Ten thousand square feet of floor area in an urban center.
- (b) Eight units in a multiple residential development with a density of 12 or more units per acre.
- (c) Six units in a multiple residential development with a density of less than 12 units per acre.
- (d) ~~((Four))~~ five units in a single family residential development, including cottage housing and planned residential developments, that is inside an Urban Growth Area.

(3) The amount of development allowed in unincorporated Snohomish County TDR receiving areas for each TDR credit from land use designations that are not currently designated farmland, including land that is proposed for redesignation as farmland, shall not exceed:

- (a) Five thousand square feet of floor area in an urban center.
- (b) Four units in a multiple residential development with a density of 12 or more units per acre.
- (c) Three units in a multiple residential development with a density of less than 12 units per acre.
- (d) Two units in a single family residential development, including cottage housing and planned residential developments, that is inside an Urban Growth Area.


Section 8. Severability and Savings. If any section, sentence, clause or phrase of this ordinance is held to be invalid by the Growth Management Hearings Board ("Board"), or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided, however, that if any section, sentence, clause or phrase of this ordinance is held to be invalid by the Board or a court of competent jurisdiction, then the section, sentence, clause or phrase in effect prior to the effective date of this ordinance shall be in full force and effect for that individual section, sentence, clause or phrase as if this ordinance had never been adopted.

PASSED this 2<sup>nd</sup> day of March, 2016

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

  
\_\_\_\_\_  
Terry Ryan  
Council Chair

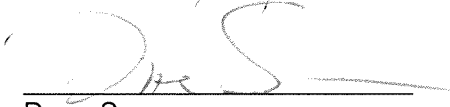
ATTEST:

  
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Debbie Eco, CMC  
Clerk of the Council

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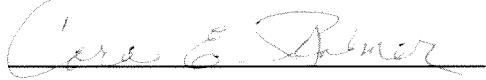
- APPROVED
- EMERGENCY
- VETOED

DATE: 3/7/16



Dave Somers  
County Executive

ATTEST:



Approved as to form only:

\_\_\_\_\_  
Deputy Prosecuting Attorney