

1 ADOPTED: 11/29/17
2 EFFECTIVE: 12/24/17

3
4 SNOHOMISH COUNTY COUNCIL
5 Snohomish County, Washington

6
7 ORDINANCE NO. 17-100

8
9 RELATING TO GROWTH MANAGEMENT, AMENDING THE
10 PROCESS FOR COUNTY REVIEW OF PROPOSED AMENDMENTS TO
11 THE COMPREHENSIVE PLAN AND DEVELOPMENT REGULATIONS
12 THROUGH PUBLIC PARTICIPATION PROGRAM DOCKETING
13 PROCEDURES, AND AMENDING CHAPTER 30.74 SCC
14

15
16 WHEREAS, RCW 36.70A.130 and .470 direct counties planning under the Growth
17 Management Act (GMA) to adopt procedures for interested persons to propose amendments
18 and revisions to the comprehensive plan or development regulations; and
19

20 WHEREAS, the County Council adopted chapter 30.74 SCC, "Growth Management Act
21 Public Participation Program Docketing," (docket procedures) to comply with the requirements
22 of RCW 36.70A.130 and .470; and
23

24 WHEREAS, the County Council last made substantial revisions to the county's public
25 participation docket procedures (chapter 30.74 SCC) in 2010 via Amended Ordinance No. 10-
26 022; and
27

28 WHEREAS, the County Council wishes to provide the county additional flexibility to
29 provide modified or alternative docket proposals after the Department of Planning and
30 Development Services provides an initial evaluation and recommendation; and
31

32 WHEREAS, the County Council has determined that the proposed amendments and
33 revisions to the docket process would promote the public participation and procedural
34 requirements set forth in RCW 36.70A.035, .130, .140, .470 and chapter 30.74 SCC; and
35

36 WHEREAS, on November 29, 2017, the County Council held a public hearing, after
37 proper notice, and considered public comment and the entire record related to the code
38 amendments contained in this ordinance;
39

40 NOW, THEREFORE, BE IT ORDAINED:

41
42 Section 1. The County Council adopts the foregoing recitals as findings of fact as if set
43 forth in full herein.
44

45 Section 2. The County Council makes the following additional findings of fact:

- 46
47 A. RCW 36.70A.035, .130, .140 and .470 require the county to establish a public participation
48 program that identifies procedures and schedules for the review, evaluation and possible
49 revision of the county's comprehensive plan and development regulations. The GMA

1 provides that the county determine the appropriate level of review of proposed amendments
2 to the comprehensive plan and development regulations.
3

4 B. The amendments to Title 30 SCC will amend the county's procedures for persons to
5 propose amendments and revisions to the county's comprehensive plan and development
6 regulations (also known as docket procedures) to provide an opportunity for the County
7 Council to modify a docket proposal or provide an alternative docket proposal when a major
8 docket proposal has been forwarded to the County Council by the Department of Planning
9 and Development Services with a recommendation that the proposal should not be further
10 processed.
11

12 C. Procedural Requirements.
13

- 14 1. This ordinance is consistent with state law and chapter 30.73 SCC.
- 15 2. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance was
16 transmitted to the Washington State Department of Commerce for distribution to
17 state agencies on _____, 2017. **(not required – code amendments are procedural)**
18
19
- 20 3. This code revision is considered procedural legislation and is exempt from Planning
21 Commission review under SCC 30.73.040(2)(b).
22
- 23 4. This action is considered procedural and is exempt from the State Environmental
24 Policy Act (SEPA), chapter 43.21C RCW, review pursuant to WAC 197-11-
25 800(19)(b) and SCC 30.61.030.
26
- 27 5. The public participation process used in the adoption of this ordinance has complied
28 with all applicable requirements of the GMA and the SCC.
29
- 30 6. As required by RCW 36.70A.370, the Washington State Attorney General last issued
31 an advisory memorandum in December 2015, entitled "Advisory Memorandum and
32 Recommended Process for Evaluating Proposed Regulatory or Administrative
33 Actions to Avoid Unconstitutional Takings of Private Property" to help local
34 governments avoid the unconstitutional taking of private property. The process
35 outlined in the State Attorney General's 2015 advisory memorandum was used by
36 the County in objectively evaluating the regulatory changes proposed by this
37 ordinance.
38

39 D. These amendments are consistent with the record.
40

41 E. The code amendments are consistent with the requirements of the GMA and are guided by
42 and supportive of the GMA planning goals found in RCW 36.70A.020 including: "(11) Citizen
43 participation and coordination. Encourage the involvement of citizens in the planning
44 process and ensure coordination between communities and jurisdictions to reconcile
45 conflicts."
46

47 Section 3. Based on the foregoing findings of fact, the County Council makes the
48 following conclusions:
49

- 1 A. The code amendments are consistent with the goals, objectives and policies of the county's
2 comprehensive plan.
3
4 B. The code amendments are consistent with and comply with the procedural and substantive
5 requirements of the GMA.
6
7 C. The code amendments area consistent with Washington State law and the Snohomish
8 County Code.
9
10 D. The county has complied with all SEPA requirements in respect to this non-project action.
11
12 E. The actions of the ordinance would not result in an unconstitutional taking of private property
13 for a public purpose.
14

15 Section 4. The County Council bases its findings and conclusions on the entire record of
16 the County Council, including all testimony and exhibits. Any finding, which should be deemed
17 a conclusion, and any conclusion which should be deemed a finding, is hereby adopted as
18 such.
19

20 Section 5. Snohomish County Code Section 30.74.015, last amended by Amended
21 Ordinance No. 10-022 on September 8, 2010, is amended to read:
22

23 **30.74.015 Annual Docket Process**

24 (1) The department shall give initial consideration to proposed amendments every year
25 according to the procedures and criteria in SCC 30.74.030 and SCC 30.74.040.
26

27 (2) The county council shall ~~((determine))~~ consider which amendments should be processed
28 further according to the procedures in SCC 30.74.050 and the following schedule:
29

30 (a) In the first year and fifth year following a ten-year update of the comprehensive plan
31 as required by RCW 36.70A.130(3)(a), the county council shall ~~((determine))~~ consider
32 which amendments should be processed further on a docket of minor amendments.
33

34 (b) In the second year and sixth year following a ten-year update of the comprehensive
35 plan as required by RCW 36.70A.130(3)(a), the county council shall ~~((determine))~~
36 consider which amendments should be processed further on a docket that may include
37 major and minor amendments.
38

39 (c) In the eighth year following a ten-year update of the comprehensive plan as required
40 by RCW 36.70A.130(3)(a), the county council shall ~~((determine))~~ consider which
41 amendments should be processed further concurrently with the next ten-year update
42 and may include major and minor amendments.
43

44 (3) The county council has the legislative discretion to place a proposed amendment on the final
45 docket for further consideration ~~((or))~~, to direct that the proposed amendment not be processed
46 further, or to address a proposal pursuant to one of the options set forth in SCC 30.74.050(3)
47 when the recommendation from the department is that the proposal not be further processed.
48

1 (4) The department shall process the final docket of proposed amendments according to the
2 procedures and the criteria in SCC 30.74.060.

3
4 (5) An applicant may withdraw their proposed amendment at any time during the docket
5 process.

6
7 Section 6. Snohomish County Code Section 30.74.030, last amended by Amended
8 Ordinance No. 10-022 on September 8, 2010, is amended to read:

9
10 **30.74.030 Initial review and evaluation.**

11
12 (1) The department shall conduct an initial review and evaluation of proposed amendments and
13 assess the extent of review that would be required under the State Environmental Policy Act
14 (SEPA). The initial review and evaluation shall include any review by other county departments
15 deemed necessary by the department, and shall be made in writing. The department shall
16 recommend to the county council that an amendment be further processed only if all of the
17 following criteria are met, except as provided in SCC 30.74.040:

18
19 (a) The proposed amendment is consistent with the countywide planning policies, the
20 multicounty planning policies, the GMA, and other applicable state and federal laws;

21
22 (b) Any proposed change in the designation of agricultural lands, forest lands, and
23 mineral resource lands is consistent with the designation criteria of the GMA and the
24 comprehensive plan;

25
26 (c) If the proposed amendment has been reviewed by the planning commission or
27 county council as part of a previous proposal, circumstances related to the current
28 proposal have significantly changed and support a plan or regulation change at this time;
29 and

30
31 (d) If the next docket cycle to be set is limited to minor amendments by SCC
32 30.74.015(2)(a), the proposal satisfies all of the following conditions:

33
34 (i) The time required to analyze environmental impacts of the proposed
35 amendment is available within the time frame for processing minor amendments;

36
37 (ii) The time required for additional analysis to determine the need for additional
38 capital improvements and revenues to maintain level of service, when applicable
39 to the proposal, is available within the time frame for processing minor
40 amendments;

41
42 (iii) The time required for processing any required additional amendments not
43 anticipated by the proponent is available within the time frame for processing
44 minor amendments;

45
46 (iv) The proposed amendment does not alter the urban growth area boundary;

47
48 (v) The proposed amendment does not make or require substantial changes to
49 comprehensive plan policy language; and

1
2 (vi) The proposed amendment does not change land capacity to an extent that
3 would require compensating changes in other areas in order to maintain
4 consistency with policies and growth allocations established at the county and
5 regional level.
6

7 (2) If the department finds that a proposal does not meet initial evaluation criteria, the
8 department will, if appropriate, make recommendations to the applicant of the proposal
9 regarding possible modifications to the proposal in order to meet the criteria.
10

11 (3) Any person may resubmit a proposal to the department at any time, subject to the timelines
12 contained in this chapter.
13

14 Section 7. Snohomish County Code Section 30.74.050, last amended by Amended
15 Ordinance No. 10-022 on September 8, 2010, is amended to read:
16

17 **30.74.050 Council setting of final docket.**
18

19 (1) The following timelines for department recommendations on amendment proposals apply:
20

21 (a) On or before the last business day of March of each year the department shall
22 prepare its recommendation on each of the amendments proposed for consideration
23 under SCC 30.74.030, and forward the recommendations to the county council.
24

25 (b) Within three months from the date a modified amendment proposal is submitted to
26 the department under SCC 30.74.050(3)(c), the department shall forward a
27 recommendation on the modified amendment proposal to the county council.
28

29 (c) Within three months from the date an alternative amendment proposal is submitted to
30 the department under SCC 30.74.050(3)(d), the department shall conduct an initial
31 review and evaluation under SCC 30.74.030 and forward a recommendation on the
32 alternative amendment proposal to the county council.
33

34 (2) The county council will review the recommendations according to the schedule established
35 in SCC 30.74.015(2) and determine in a public hearing which of the proposed amendments
36 should be further processed as minor amendments, which should be further processed as major
37 amendments, and which amendments should not be processed further. If a proposed
38 amendment is not placed on the final docket within 18 months of county council receipt of a
39 recommendation from the department on the proposal or a recommendation from the
40 department on a modified or alternative proposal under SCC 30.74.050(3), the proposed
41 amendment shall be removed from consideration and not further processed.
42

43 (3) For major docket proposals that have been forwarded to the county council by the
44 department with a recommendation that the proposal should not be further processed, any of
45 the following options may be pursued:
46

47 (a) The county council may determine that the proposal should be placed on the final
48 docket and further processed.
49

1 (b) The county council may determine that the proposal should not be placed on the final
2 docket or further processed.

3
4 (c) The county council may modify the proposal to address the reasons provided by the
5 department to recommend not further processing the proposal. The county council may
6 place the modified proposal on the final docket rather than the original proposal. If the
7 applicant objects to the modification, the applicant may withdraw the modified proposal
8 pursuant to SCC 30.74.015(6).

9
10 (d) The county council may provide an alternative proposal to address the reasons
11 provided by the department to recommend not further processing the proposal. The
12 county council may place the original proposal on the final docket, the alternative
13 proposal on the final docket, or both the original and alternative proposals on the final
14 docket. If the applicant objects to the alternative proposal, the applicant may withdraw
15 the alternative proposal under SCC 30.74.015(6).

16
17 (4) Modified or alternative docket proposals shall be processed in the manner prescribed by this
18 chapter, including a recommendation by the department under SCC 30.74.050(1), public notice
19 of the council hearing on the modified or alternative proposal under SCC 30.74.050(4), and
20 responsibility for the costs of environmental studies under SCC 30.74.070.

21
22 ~~((3))~~(5) Notice of the council hearing shall be given as required by SCC 30.73.070. The
23 applicant shall be responsible for the costs associated with printing, publishing, and mailing of
24 notice for any public hearing required for the applicant's docket proposal by chapter 30.73 SCC.

25
26 ~~((4))~~(6) The proposed amendments, including modified or alternative proposals pursuant to
27 SCC 30.74.050(3), approved for further processing by the council shall be known as the final
28 docket.

29
30 Section 8. Snohomish County Code Section 30.74.060, last amended by Amended
31 Ordinance No. 10-022 on September 8, 2010, is amended to read:

32
33 **30.74.060 Processing of final docket.**

34
35 (1) The department shall distribute the final docket to any state or local agency which is required
36 by law to review and evaluate proposed amendments and revisions to the comprehensive plan
37 and implementing development regulations. The department shall also conduct any review
38 required by SEPA of the proposed amendments listed on the final docket.

39
40 (2) The department will process the final docket in accordance with chapter 30.73 SCC, except
41 as provided to the contrary in this section. The department shall prepare a report including a
42 recommendation on each proposed amendment and forward the report to the planning
43 commission. The department will recommend approval if all the following criteria are met:

44
45 (a) The proposed amendment and any related proposals on the current final docket
46 maintain consistency with other plan elements or development regulations;

47
48 (b) All applicable elements of the comprehensive plan, including but not limited to the
49 capital plan and the transportation element, support the proposed amendment;

1
2 (c) The proposed amendment more closely meets the goals, objectives and policies of
3 the comprehensive plan than the relevant existing plan or code provision;

4
5 (d) The proposed amendment is consistent with the countywide planning policies;

6
7 (e) The proposed amendment complies with the GMA; and

8
9 (f) New information is available that was not considered at the time the relevant
10 comprehensive plan or development regulation was adopted that changes underlying
11 assumptions and supports the proposed amendment.

12
13 (3) Unless otherwise directed by the county council, any county department that conducts
14 review and evaluation of the proposed amendments, including any necessary environmental
15 review pursuant to SEPA, shall complete its evaluation prior to action by the planning
16 commission on the proposed amendments, except that a final or final supplemental
17 environmental impact statement must be completed no later than seven days prior to final action
18 by the county council.

19
20 (4) For final dockets that are limited to minor proposals by SCC 30.74.015(2)(a), the department
21 and the planning commission shall complete their processing of the final docket and transmit
22 final recommendations to the county council within twelve months of the date the county council
23 sets the final docket, except as provided by SCC 30.74.060(6).

24
25 (5) For final dockets that may include major or minor proposals under SCC 30.74.015(2)(b), the
26 department and the planning commission shall complete their processing of the final docket and
27 transmit final recommendations to the county council within twenty-four months of the date the
28 county council sets the final docket, except as provided by SCC 30.74.060(6).

29
30 (6) If the department determines that a proposed amendment on the final docket requires
31 additional time for processing, the department shall seek direction from the county council on
32 whether to shift that proposed amendment to a future batch or whether to keep it in its current
33 batch and delay final action on the entire batch.

34
35 (7) Consistent with SCC 30.73.070(1), the county council is not required to take action on any
36 proposed amendment on the final docket. The options available to the county council include,
37 but are not limited to:

38
39 (a) Adopting the proposed amendment from the final docket;

40
41 (b) Amending and adopting the proposed amendment consistent with chapter 30.73
42 SCC;

43
44 ~~((a))~~(c) Removing the proposed amendment from the final docket by motion;

45
46 ~~((b))~~(d) Not introducing an ordinance to approve the proposed amendment;

47
48 ~~((e))~~(e) Delaying consideration of the proposed amendment to a future docket; or

1 ~~((d))~~(f) Otherwise not taking action on the proposed amendment.

2
3 (8) If the county council removes a proposed amendment from the final docket by motion under
4 SCC 30.74.060(7)~~((a))~~(c), it shall refund to the applicant the unspent portion of the money the
5 applicant paid to the county for SEPA environmental review and studies in connection with the
6 proposed amendment being on the final docket.

7
8 (9) If the county council does not take action on a proposed amendment within one year of the
9 planning commission hearing on that proposed amendment, the proposed amendment shall be
10 removed from the final docket and not processed further.

11
12 (10) The applicant shall be responsible for the cost of printing, publishing, and mailing of any
13 SEPA notification required for the applicant's final docket proposal by chapter 30.61 SCC.

14
15 (11) The applicant shall be responsible for the cost of printing, publishing, and mailing of notice
16 for any public hearing required for the applicant's final docket proposal by chapter 30.73 SCC.

17
18 Section 9. Snohomish County Code Section 30.74.070, added by Amended Ordinance
19 No. 02-064 on December 9, 2002, is amended to read:

20
21 **30.74.070 Cost of environmental studies.**

22
23 Any person with a proposal on the final docket, including those proposals that result in modified
24 or alternative proposals under SCC 30.74.050(3), shall pay the cost of environmental review
25 and studies under SEPA for proposed amendments with probable significant adverse
26 environmental impacts that have not been previously analyzed, as required under chapter 30.61
27 SCC. The person may contribute to the cost of other studies required by existing plan policies or
28 development regulations in order to facilitate the preparation of these studies in a timely
29 manner. The person may, at his or her own expense and to the extent determined appropriate
30 by the responsible official, provide additional studies or other information.

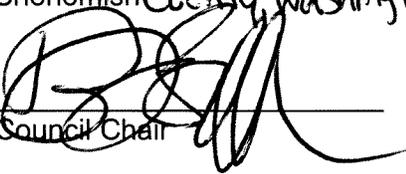
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32 Section 10. It is the intent of the County Council that this ordinance apply to both future
33 and pending applications submitted under chapter 30.74 SCC for amendments to Snohomish
34 County's comprehensive plan or development regulations.

35
36 Section 11. Severability. If any section, sentence, clause or phrase of this ordinance is
37 held to be invalid by the Growth Management Hearings Board ("Board"), or unconstitutional by a
38 court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or
39 constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided,
40 however, that if any section, sentence, clause or phrase of this ordinance is held to be invalid by
41 the Board or a court of competent jurisdiction, then the section, sentence, clause or phrase in
42 effect prior to the effective date of this ordinance shall be in full force and effect for that
43 individual section, sentence, clause or phrase as if this ordinance had never been adopted.

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PASSED this 29th day of November, 2017.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington



Council Chair

ATTEST:

Clerk of the Council

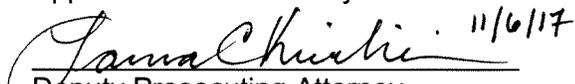
- () APPROVED
- () EMERGENCY
- () VETOED

DATE:

County Executive

ATTEST:

Approved as to form only:

 11/6/17

Deputy Prosecuting Attorney

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