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2 Adopted: 12/05/18  
3 Effective: 12/17/18  
4

5 SNOHOMISH COUNTY COUNCIL  
6 Snohomish County, Washington  
7

8 ORDINANCE NO. 18-061  
9

10 RELATING TO NOTICE AND DISCLOSURE REQUIREMENTS FOR REAL PROPERTY  
11 IN OR NEAR DESIGNATED RESOURCE LAND, AMENDING SECTIONS 30.32A.210,  
12 30.32B.210 AND 30.32C.200 OF THE SNOHOMISH COUNTY CODE  
13

14 WHEREAS, the Washington State Growth Management Act (GMA) requires counties to  
15 adopt regulations to assure the conservation of agricultural, forest and mineral resource lands  
16 designated under RCW 36.70A.170; and  
17

18 WHEREAS, the GMA states that development regulations shall assure that the use of the  
19 lands adjacent to agricultural, forest, or mineral resource lands shall not interfere with the  
20 continued use of these designated lands for the production of food, agricultural products, or  
21 timber, or for the extraction of minerals; and  
22

23 WHEREAS, RCW 36.70A.060(1)(b) requires that all plats, short plats, development  
24 permits and building permits issued for development activities on or within 500 feet of lands  
25 designated as agricultural lands, forest lands, or mineral resource lands, contain a notice that the  
26 subject property is within or near designated agricultural lands, forest lands, or mineral resource  
27 lands on which a variety of commercial activities may occur that are not compatible with  
28 residential development for certain periods of limited duration; and  
29

30 WHEREAS, RCW 64.06.022 requires that a seller of residential real property shall make  
31 available to the buyer the following statement: "This notice is to inform you that the real  
32 property you are considering for purchase may lie in close proximity to a farm. The operation of  
33 a farm involves usual and customary agricultural practices, which are protected under  
34 RCW 7.48.305, the Washington right to farm act"; and  
35

36 WHEREAS, the County's current notice and disclosure requirements for real property in  
37 or near designated resource lands, which exceed state law requirements, have proven to be costly  
38 to the County and confusing for some property owners who receive notice; and  
39

40 WHEREAS, the County desires to modify its notice and disclosure requirements for real  
41 property in or near designated resource lands to address these concerns; and  
42

1 WHEREAS, on April 10, 2018, the Agricultural Advisory Board held a meeting and  
2 voted to recommend approval of the code amendments contained in this ordinance; and  
3

4 WHEREAS, the Snohomish County Planning Commission (“Planning Commission”)  
5 held a briefing on May 22, 2018, concerning the code amendments contained in this ordinance;  
6 and  
7

8 WHEREAS, the Planning Commission held a public hearing after proper notice on June  
9 26, 2018, to receive public testimony concerning the code amendments contained in this  
10 ordinance; and  
11

12 WHEREAS, at the conclusion of the Planning Commission’s public hearing, the  
13 Planning Commission deliberated and voted to recommend approval of the code amendments  
14 contained in this ordinance, as set forth in its recommendation letter dated July 10, 2018; and  
15

16 WHEREAS, on December 5, 2018, the County Council held a public hearing after proper  
17 notice, and considered public comments and the entire record related to the proposal contained in  
18 this ordinance; and  
19

20 WHEREAS, following the public hearing, the County Council deliberated on the code  
21 amendments contained in this ordinance; and  
22

23 NOW, THEREFORE, BE IT ORDAINED:  
24

25 **Section 1.** The County Council adopts the following findings in support of this  
26 ordinance:  
27

- 28 A. The foregoing recitals are adopted as findings as if set forth in full herein.  
29
  - 30 B. This ordinance amends the notice and disclosure requirements in title 30 SCC, for land on or  
31 adjacent to land designated as agricultural land, forest lands or mineral resource land on the  
32 Snohomish County Future Land Use Map.  
33
  - 34 C. This ordinance is consistent with the record.  
35
- 36 1. Snohomish County requires disclosure notices be sent out on a reoccurring basis (3-5  
37 years) to property owners that own real property on or within a certain radius of  
38 designated resource lands in conjunction with other disclosure requirements.  
39
  - 40 2. The extent to which Snohomish County requires noticing is not required by state law, can  
41 be time consuming for staff, and expends county resources with little to no benefit.  
42

- 1 3. The amendments contained in this ordinance maintain the noticing required by law while  
2 reducing redundancy in the County’s noticing requirements, reducing costs in both staff  
3 time and resources, and reducing confusion, documented during the 2015 disclosure  
4 notice cycle, over the intent of the notices sent to property owners.  
5
- 6 4. This ordinance provides for and maintains noticing requirements that protect designated  
7 resource land, discourages incompatible uses and provides notice that there may be  
8 activities conducted on designated resource land that may be incompatible with  
9 residential development. Therefore, this ordinance is consistent with the requirements of,  
10 and implements the following provisions of state law and the following goals, objectives  
11 and policies contained in the County’s GMA Comprehensive Plan:  
12
- 13 a. RCW 36.70A.010 (8) “Natural resource industries. Maintain and enhance natural  
14 resource-based industries, including productive timber, agricultural, and fisheries  
15 industries. Encourage the conservation of productive forestlands and productive  
16 agricultural lands, and discourage incompatible uses.”
  - 17 b. RCW 36.70A.060, titled — Natural resource lands and critical areas –  
18 Development regulations.
  - 19 c. RCW 64.06.022, titled — Disclosure of possible proximity to farm.
  - 20 d. Goal LU 7: “Conserve agriculture and agricultural land through a variety of  
21 planning techniques, regulations, incentives and acquisition methods.”
  - 22 e. Objective LU 7.B: “Conserve designated farmland and limit the intrusion of non-  
23 agricultural uses into designated areas.”
  - 24 f. Goal LU 8: “Identify and designate, conserve and promote sustainable use of  
25 valuable forest resource land in the county.”
  - 26 g. Objective LU 8.D: “Ensure that adjacent land uses do not interfere with  
27 commercial forest management activities.”
  - 28 h. Goal LU 9: “Conserve mineral resource lands for mineral extraction, minimize  
29 the detrimental effects of mineral extraction on the environment and other land  
30 uses, and plan for the eventual post-extractive use of mine sites.”
  - 31 i. Objective LU 9.C: “Ensure that the use of lands adjacent to designated mineral  
32 resource lands does not interfere with the use of these lands for the extraction of  
33 minerals.”

34  
35 D. Procedural requirements.

- 36  
37 1. The proposal is a Type 3 legislative action pursuant to SCC 30.73.010.  
38

- 1       2. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance was  
2       transmitted to the Washington State Department of Commerce for distribution to state  
3       agencies on June 4, 2018, and assigned Material ID No. 24976.  
4
- 5       3. State Environmental Policy Act (SEPA) requirements with respect to this non-project  
6       action have been satisfied through the completion of an environmental checklist and the  
7       issuance of a determination of non-significance on July 30, 2018.  
8
- 9       4. The public participation process used in the adoption of this ordinance has complied with  
10      all applicable requirements of the GMA and the SCC.  
11
- 12     5. As required by RCW 36.70A.370, the Washington State Attorney General last issued an  
13      advisory memorandum in December of 2015 entitled “Advisory Memorandum: Avoiding  
14      Unconstitutional Takings of Private Property” to help local governments avoid the  
15      unconstitutional taking of private property. The process outlined in the State Attorney  
16      General’s 2015 advisory memorandum was used by the County in objectively evaluating  
17      the regulatory changes proposed by this ordinance.  
18

19           **Section 2.** The County Council makes the following conclusions:

- 20
- 21    A. The proposal is consistent with the goals, objectives, and policies of the County’s GMA  
22      Comprehensive Plan.  
23
- 24    B. The proposal is consistent with Washington State law and the County Code.  
25
- 26    C. The County has complied with all SEPA requirements with respect to this non-project action.  
27
- 28    D. The regulations proposed by this ordinance do not result in an unconstitutional taking of  
29      private property for a public purpose.  
30

31           **Section 3.** The County Council bases its findings and conclusions on the entire record of  
32      the County Council, including all testimony and exhibits. Any finding which should be deemed  
33      a conclusion, and any conclusion which should be deemed a finding, is hereby adopted as such.  
34

35           **Section 4.** Snohomish County Code Section 30.32A.210, last amended by Amended Ord.  
36      No. 04-119 on Nov. 17, 2004, is amended to read:

37

38      30.32A.210 Notice and disclosure required.  
39      The disclosure text set forth in SCC 30.32A.220 shall be used under the following circumstances  
40      and in the following manners:

1 ~~((1) Within 90 days of December 22, 1993 (the original effective date of this requirement), and~~  
2 ~~each three years thereafter, Snohomish County shall mail a copy of the disclosure text in SCC~~  
3 ~~30.32A.220, with an explanatory informational attachment to owners of designated forest land~~  
4 ~~and real property within 500 feet of designated forest land;))~~

5 (1) Snohomish County shall mail a copy of the disclosure text in SCC 30.32A.220, with an  
6 explanatory informational attachment, to owners of real property within 500 feet of any real  
7 property redesignated to commercial forest land by amendment to the comprehensive plan future  
8 land use map within 90 days from the date the commercial forest land designation becomes  
9 effective.

10 (2) Development permits and building permits for land designated forest land or land adjacent  
11 to or within 500 feet of designated forest land shall include or have attached the disclosure text in  
12 SCC 30.32A.220 on the final development or building permit in a location determined by the  
13 director of the department. The disclosure notice shall apply to the real property upon  
14 development or building permit approval, and may not be applicable thereafter if areas  
15 designated forest land are changed from designated forest land;

16 (3) Prior to the closing of a transfer of real property designated forest land or real property  
17 adjacent to or within 500 feet of designated forest land, by sale, exchange, gift, real estate  
18 contract, lease with option to purchase, any other option to purchase, or any other means of  
19 transfer (except transfers made by testamentary provisions or the laws of descent), the transferor  
20 shall provide the transferee a copy of the disclosure text in SCC 30.32A.220 and shall record  
21 with the county auditor a copy of the same showing an acknowledgment of receipt executed by  
22 the transferee in a form prescribed by the director of the department. The form of the  
23 acknowledged disclosure text shall include a statement that the disclosure notice applies to the  
24 subject real property as of the date of the transfer, and may not be applicable thereafter if areas  
25 designated forest land are changed from designated forest land; and

26 (4) In no case shall liability attach to Snohomish County for any actions, errors or omissions of  
27 any person subject to the requirements of this section.

28  
29 **Section 5.** Snohomish County Code Section 30.32B.210, adopted by Amended Ord. No.  
30 02-064 on Dec. 9, 2002, is amended to read:

31  
32 30.32B.210 Notice and disclosure required.

33 The disclosure text set forth in SCC 30.32B.220 shall be used under the following circumstances  
34 and in the following manners:

35 ~~((1) Within 90 days of October 15, 1993 (the effective date of this requirement), and each three~~  
36 ~~years after the effective date, Snohomish County shall mail a copy of the disclosure text in SCC~~  
37 ~~30.32B.220, with an explanatory informational attachment to owners of designated farmland and~~  
38 ~~real property within approximately 1,300 feet of designated farmland;))~~

39 (1) Snohomish County shall mail a copy of the disclosure text in SCC 30.32B.220, with an  
40 explanatory informational attachment, to owners of real property within 1,300 feet of any real

1 property redesignated to local commercial farmland, upland commercial farmland or riverway  
2 commercial farmland by amendment to the comprehensive plan future land use map within 90  
3 days from the date the farmland designation becomes effective.

4 (2) Development permits and building permits for land designated farmland or land adjacent to  
5 or within 1,300 feet of designated farmland shall include the disclosure text in SCC 30.32B.220,  
6 on the final development or building permit in a location determined by the director of the  
7 department. The disclosure notice shall apply to the real property upon development or building  
8 permit approval, and may not be applicable thereafter if areas designated farmland are changed  
9 from the farmland designation;

10 (3) Prior to the closing of a transfer of real property designated farmland, or real property  
11 adjacent to or within 1,300 feet of designated farmland, by sale, exchange, gift, real estate  
12 contract, lease with option to purchase, any other option to purchase, or any other means of  
13 transfer (except transfers made by testamentary provisions or the laws of descent), the transferor  
14 shall provide the transferee a copy of the disclosure text in SCC 30.32B.220 and shall record  
15 with the county auditor a copy of the same showing an acknowledgment of receipt executed by  
16 the transferee in a form prescribed by the director of the department. The form of the  
17 acknowledged disclosure text shall include a statement that the disclosure notice applies to the  
18 subject real property as of the date of the transfer, and may not be applicable thereafter if areas  
19 designated farmland are changed from the farmland designation; and

20 (4) In no case shall liability attach to Snohomish County for any actions, error, or omissions of  
21 any person subject to the requirements of this section.

22  
23 **Section 6.** Snohomish County Code Section 30.32C.200, last amended by Amended Ord.  
24 No. 05-083 on Dec. 21, 2005, is amended to read:

25  
26 30.32C.200 Notice and disclosure required.

27 The disclosure text set forth in SCC 30.32C.210 shall be used under the following circumstances  
28 and in the following manners:

29 ~~((1) Within 90 days of July 10, 1995 (the effective date of this requirement) and each five years~~  
30 ~~after the effective date, Snohomish County shall mail a copy of the notice text in SCC~~  
31 ~~30.32C.210, with an explanatory informational attachment, to owners of designated mineral~~  
32 ~~resource land and to owners of real property within approximately 2,000 feet of designated~~  
33 ~~mineral resource land;))~~

34 (1) Snohomish County shall mail a copy of the disclosure text in SCC 30.32C.210, with an  
35 explanatory informational attachment, to owners of real property within 2,000 feet of any real  
36 property redesignated to mineral resource land by amendment to the comprehensive plan future  
37 land use map within 90 days from the date the mineral resource land designation becomes  
38 effective.

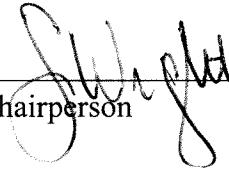
39 (2) Development permits and building permits for land that is designated mineral resource land  
40 or land that is within 2,000 feet of designated mineral resource land shall include the notice

1 contained in SCC 30.32C.210. The notice requirement shall apply to the real property which is  
2 subject to the development or building permit only so long as the subject property is designated  
3 or is within 2,000 feet of land that is designated mineral resource land.  
4

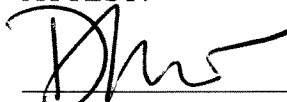
5 **Section 7. Severability and Savings.** If any section, sentence, clause or phrase of this  
6 ordinance shall be held to be invalid or unconstitutional by the Growth Management  
7 Hearings Board, or a court of competent jurisdiction, such invalidity or  
8 unconstitutionality shall not affect the validity or constitutionality of any other section,  
9 sentence, clause or phrase of this ordinance. Provided, however, that if any section,  
10 sentence, clause or phrase of this ordinance is held to be invalid by the Board or court of  
11 competent jurisdiction, then the section, sentence, clause or phrase in effect prior to the  
12 effective date of this ordinance shall be in full force and effect for that individual section,  
13 sentence, clause or phrase as if this ordinance had never been adopted.  
14

15  
16 PASSED this 5<sup>th</sup> day of December, 2018.  
17


18  
19 SNOHOMISH COUNTY COUNCIL  
20 Snohomish County, Washington

21  
22   
23 \_\_\_\_\_  
24 Chairperson

25 ATTEST:

26   
27 \_\_\_\_\_  
28 Clerk of the Council  
29

- 30  
31  APPROVED  
32  EMERGENCY  
33  VETOED  
34

35 DATE: 12/7/18  
36 \_\_\_\_\_  
37   
38 \_\_\_\_\_  
39 County Executive  
40  
41

D-4

1 ATTEST:

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Melissa Sragley

6 Approved as to form only:

7

8

[Signature] 10/15/18

9 Deputy Prosecuting Attorney

10

11