

1 ADOPTED: 12/05/18  
2 EFFECTIVE: 12/17/18

3  
4 SNOHOMISH COUNTY COUNCIL  
5 Snohomish County, Washington

6  
7 AMENDED ORDINANCE NO. 18-070

8  
9 RELATING TO GROWTH MANAGEMENT, REVISING  
10 TRANSFER OF DEVELOPMENT RIGHTS REGULATIONS, AMENDING CHAPTERS 4.14  
11 AND 30.35A OF THE SNOHOMISH COUNTY CODE  
12

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

16  
17 WHEREAS, the Snohomish County Council ("county council") has determined that the  
18 consideration of proposed amendments and revisions to development regulations in the  
19 Snohomish County Code (SCC) would promote a county purpose as established under RCW  
20 36.70A.130; and

21  
22 WHEREAS, the county council adopted Amended Ordinance No. 17-050 on September  
23 27, 2017, approving technical amendments to the General Policy Plan (GPP) and implementing  
24 development regulations including amendments to delete references to the terminated Transfer  
25 of Development Rights (TDR) pilot program in policies, text and Map 1 of the GPP and in  
26 chapters 30.35A and 30.91T SCC; and

27  
28 WHEREAS, the county was the only entity that purchased TDR credits under the pilot  
29 program, such credits being purchased in 2006; and

30  
31 WHEREAS, while preparing to sell these credits, the county identified inconsistent and  
32 conflicting regulations related to the terminated TDR pilot program; and

33  
34 WHEREAS, the county council intends to facilitate the sale of these credits by  
35 eliminating code inconsistencies and unnecessary procedural hurdles; and

36  
37 WHEREAS, the Department of Planning and Development Services (PDS) briefed the  
38 Snohomish County Planning Commission ("planning commission") on May 22, 2018, on  
39 proposed amendments to chapters 4.14 and 30.35A SCC relating to the terminated TDR pilot  
40 program; and

41  
42 WHEREAS, the planning commission held a public hearing on June 26, 2018, and  
43 received public testimony concerning the proposed TDR code amendments and recommended  
44 adoption of the amendments contained in this ordinance, as described in the planning  
45 commission's recommendation letter of July 10, 2018; and

46  
47 WHEREAS, on December 5, 2018, the county council held a public hearing, after proper  
48 notice, and considered public comment and the entire record related to the code amendments  
49 contained in this ordinance; and

1           WHEREAS, following the public hearing, the county council deliberated on the code  
2 amendments contained in this ordinance;

3  
4 NOW, THEREFORE, BE IT ORDAINED:

5  
6 Section 1. The County Council adopts the following findings in support of this ordinance:

- 7  
8 A. The foregoing recitals are adopted as findings as if set forth in full herein.  
9
- 10 B. This ordinance deletes remaining references to the TDR pilot program in SCC 30.35A as a  
11 result of the termination of an interlocal agreement between the City of Arlington and the  
12 county which authorized the mutual participation of the two jurisdictions in the TDR pilot  
13 program. These code amendments are considered technical corrections as the City of  
14 Arlington and the county mutually agreed to terminate the TDR pilot program in 2015 and  
15 there is no continued regulatory basis for the program.  
16
- 17 C. The proposed code amendments would facilitate the sale of county-owned TDR credits  
18 under the countywide and regional TDR programs. The county holds 49 TDR credits that  
19 were certified under the terminated TDR pilot program. While preparing to sell these credits,  
20 the county became aware of inconsistent and conflicting code requirements that could  
21 constrain the county's ability to sell all 49 credits. Particularly, remnant code provisions  
22 would require the conversion of TDR credits from the pilot program to the countywide  
23 program, and would require the extinguishment of the existing conservation easement  
24 negotiated when the credits originally were purchased by the county. These procedures  
25 would potentially devalue the 49 credits purchased under the terminated TDR pilot program  
26 and cause county staff to spend time attempting to obtain a new conservation easement  
27 with fewer conservation protections. The intent of these amendments is to remove these  
28 barriers to selling the 49 credits at fair market value. The county was the only purchaser of  
29 credits under the terminated TDR pilot program, and purchasers of credits under the  
30 countywide TDR program will not be affected by the amendments adopted by this  
31 ordinance.  
32
- 33 D. The proposed code amendments are consistent with the record:
- 34
- 35       1. This ordinance will amend SCC 30.35A.020 to delete subsection (4) which states that  
36 any certified development rights purchased by the county under the terminated pilot  
37 program may be held by the county for subsequent resale. This statement is  
38 redundant as SCC 30.35A.130(1) is proposed to contain essentially the same  
39 statement and is a logical location for language regarding authorization for the county  
40 to purchase, hold and sell TDR credits including credits certified under the terminated  
41 TDR pilot program.  
42
  - 43       2. This ordinance will amend SCC 30.35A.040 to delete subsection (3) to remove the  
44 requirement that the county must convert its county-owned TDR credits from the  
45 terminated pilot program to the countywide program. Removing this requirement will  
46 allow the county the opportunity to sell all 49 county-owned TDR credits. Converting  
47 the TDR credits certified under the pilot program to countywide TDR credits  
48 unintentionally may result in a substantial reduction of the number of county-owned  
49 TDR credits. This amendment clarifies that result is not intended. This subsection  
50 also deletes the requirement to vacate the existing TDR pilot program easement and

1 establish a new countywide TDR program easement since the requirement to  
2 exchange pilot program credits for countywide credits would be deleted.  
3

4 3. This ordinance will amend SCC 30.35A.050 to delete requirements to vacate an  
5 existing TDR pilot program easement and establish a new countywide TDR program  
6 easement since the county will no longer be required to exchange TDR credits issued  
7 under the terminated TDR pilot program for TDR credits that can be used in the  
8 countywide program.  
9

10 4. This ordinance will amend SCC 30.35A.130 to apply this code section to the  
11 authorization and procedures for the purchase, holding and sale of certified  
12 development rights by the county, including certified development rights purchased by  
13 the county under the terminated TDR pilot program.  
14

15 5. This ordinance deletes requirements in chapter 4.14 SCC related to TDR advisory  
16 committee requirements. The deletion of these requirements is considered  
17 housekeeping, as the provisions for a TDR advisory committee were previously  
18 repealed in chapter 30.35A SCC by Amended Ordinance No. 13-064.  
19

20 E. This ordinance is consistent with the requirements of chapter 43.362 RCW (Regional  
21 transfer of development rights program) including RCW 43.362.005(4) which states that  
22 "Participation in a regional transfer of development rights program by counties, cities, and  
23 towns should be as simple as possible." The proposed code amendments would eliminate  
24 remaining references to the terminated TDR pilot program and would facilitate the resale of  
25 county-owned TDR credits under the county-wide and regional TDR programs.  
26

27 F. This ordinance is consistent with the Countywide Planning Policies (CPP), including CPP  
28 DP-30, which encourages the use of TDR and the coordination of efforts to establish a  
29 regional TDR program.  
30

31 G. This ordinance is consistent with the GPP including Objective LU 14.A which directs the  
32 county to develop and implement a countywide TDR program based on free market  
33 principles for the purpose of permanently conserving specified natural resource lands.  
34

35 H. Procedural requirements.  
36

37 1. State Environmental Policy Act (SEPA), chapter 43.21C RCW, requirements with  
38 respect to this non-project action, have been satisfied through the completion of an  
39 environmental checklist and the issuance of a determination of non-significance on July  
40 20, 2018.  
41

42 2. The proposal is a Type 3 legislative action pursuant to SCC 30.73.010(3).  
43

44 3. Pursuant to RCW 36.70A.06(1), a notice of intent to adopt this ordinance was  
45 transmitted to the Washington State Department of Commerce for distribution to state  
46 agencies on May 10, 2018.  
47

48 4. The public participation process used in the adoption of this ordinance has complied with  
49 all applicable requirements, including but not limited to, RCW 36.70A.035 and .140,  
50 chapter 30.73 SCC, and the Snohomish County Charter. This process provided for early

1 and continuous public participation in the development of the code amendments  
2 proposed by this ordinance.  
3

- 4 5. The Washington State Attorney General last issued an advisory memorandum, as  
5 required by RCW 36.70A.370, in December 2015, entitled "Advisory Memorandum and  
6 Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to  
7 Avoid Unconstitutional Takings of Private Property" to help local governments avoid the  
8 unconstitutional taking of private property. The process outlined in the State Attorney  
9 General's 2015 advisory memorandum was used by Snohomish County in objectively  
10 evaluating the regulatory changes proposed by this ordinance.  
11

12 Section 2. The county council makes the following conclusions:  
13

- 14 A. The proposal complies with all requirements of Washington State law and the County Code.  
15  
16 B. The proposal is consistent with the CPPs.  
17  
18 C. The proposal is consistent with the goals, objectives, and policies of the GPP.  
19  
20 D. The county complied with all SEPA requirements in respect to this non-project action.  
21  
22 E. The regulations proposed by this ordinance do not result in an unconstitutional taking of  
23 private property for public purposes.  
24  
25 F. The county complied with state and local public participation requirements under the GMA  
26 and chapter 30.73 SCC.  
27

28 Section 3. The county council bases its findings and conclusions on the entire legislative  
29 record, including all testimony and exhibits. Any finding which should be deemed a conclusion,  
30 and any conclusion which should be deemed a finding, is hereby adopted as such.  
31

32 Section 4. Snohomish County Code Section 4.14.080, last amended by Ordinance No. 10-105  
33 on November 22, 2010, is amended to read:  
34

35 **4.14.080 Establishment of a conservation futures program advisory board.**

36 (1) A conservation futures program advisory board is hereby established to implement  
37 Ordinance No. 88-097. The board shall make recommendations to the council for acquisition  
38 projects to be funded as part of the conservation futures program and shall develop strategic,  
39 long-term plans for the program; provided, however, ~~((that:))~~

40 ~~((a) recommendations concerning use of the conservation futures fund to purchase  
41 certified development rights pursuant to SCC 30.35A.130 shall be made solely by the TDR  
42 advisory committee pursuant to SCC 30.35A.140; and))~~

43  
44 ~~((b))~~ that recommendations concerning the use of conservation futures funds to purchase  
45 conservation easements under the Purchase of Development Rights (PDR) program shall  
46 be made solely by the director of the Department of Planning and Development Services, or  
47 his or her designee, consistent with administrative rules adopted pursuant to SCC 4.14.100.  
48

1 (2) The conservation futures program advisory board shall consist of the Snohomish county  
2 executive (or his designee); two members of the Snohomish county council; one elected official  
3 selected by all cities and towns whose population base, independently, is 10,000 or greater; one  
4 elected official selected by all cities and towns whose population base, independently, is less  
5 than 10,000; and two members representing residents of Snohomish county. Terms of board  
6 members shall be limited to four years. A member shall serve a maximum of three consecutive  
7 terms. The two community representative appointments shall be made pursuant to chapter 2.03  
8 SCC, and should represent different geographic areas of the county.

9 (3) Recommendations from the board shall be forwarded to the county executive for transmittal  
10 to the county council for final action.

11  
12 Section 5. Snohomish County Code Section 4.14.100, last amended by Ordinance No. 10-105  
13 on November 22, 2010, is amended to read:

14  
15 **4.14.100 Prioritization of projects.**

16 (1) The conservation futures program advisory board shall use the fund allocation criteria set  
17 forth in subsection (2) below as a preliminary threshold in making its recommendations for  
18 funding for proposed acquisition projects. Such criteria may be used by the board in conjunction  
19 with other considerations developed to help prioritize proposed projects for submittal to the  
20 council for approval; provided, however, that((:))

21 ~~((a) recommendations concerning proposals to purchase certified development rights  
22 pursuant to SCC 30.35A.130 shall be made solely by the TDR advisory committee pursuant  
23 to separate review criteria set forth in SCC 30.35A.140(3)(b);))~~

24 ~~((b))~~ recommendations concerning proposals to purchase conservation easements under  
25 the Purchase of Development Rights (PDR) program shall be made solely by the director of  
26 the Department of Planning and Development Services, or his or her designee, consistent  
27 with separate review criteria adopted by the director of the Department of Planning and  
28 Development Services by administrative rule pursuant to the requirements of SCC 30.82.  
29 Rules adopted pursuant to this section shall contain ranking criteria intended to focus  
30 expenditures on productive agricultural properties that are at risk of conversion to non-  
31 agricultural uses.

32 (2) *Fund Allocation Criteria.* To identify and select projects for acquisition by the county, each  
33 proposal shall be evaluated to determine whether it:

- 34 (a) Has regional or community-wide significance;
- 35 (b) Provides multi-jurisdictional benefit;
- 36 (c) Enhances or complements an ongoing conservation or preservation program;
- 37 (d) Conserves opportunities which are otherwise threatened by development;
- 38 (e) Comprises a portion of a continuum of projects which collectively implement a complete  
39 project or objective;
- 40 (f) Complies with one or more open space program policies and criteria;
- 41 (g) Comprises an entire project;
- 42 (h) Establishes a trail corridor and/or natural area linkage.

1 (3) Recommendations for funding made pursuant to this section shall comply with the  
2 requirements of RCW 84.34.230 and 84.34.240, if applicable, and include an analysis of  
3 whether the projects promote or inhibit the goal of distributing the tax levied under this chapter,  
4 over time, throughout the county.  
5

6 Section 6. Snohomish County Code Section 30.35A.020, last amended by Ordinance No. 17-  
7 050 on September 27, 2017, is amended to read:  
8

9 **30.35A.020 TDR overview.**

10 (1) *Issuance and conveyance of TDR certificates.* Subject to the requirements of this chapter,  
11 sending site owners may obtain from the department serially numbered TDR certificates  
12 reflecting the number of certified development rights that may be transferred from the sending  
13 site owner to a purchaser, and which may thereafter be freely transferred from purchaser to  
14 purchaser until ultimately applied to a receiving site located within a receiving area. The number  
15 of certified development rights that can be transferred from a sending site is determined based  
16 on the size, zoning, and current development of the sending site. TDR certificates may be  
17 applied to receiving sites pursuant to the requirements of this chapter or pursuant to an  
18 interlocal agreement.

19 (2) *Grant of TDR conservation easement.* TDR certificates may be issued in exchange for a  
20 conservation easement granted to the county pursuant to the requirements of this chapter. The  
21 TDR conservation easement is used to conserve the sending site for which TDR certificates are  
22 certified by removing the potential for future dwelling units, subdivision, short subdivision, or  
23 boundary line adjustments. For the purposes of this section, accessory apartments, farm worker  
24 dwellings and temporary dwellings are not considered dwellings units.

25 (3) *Application of certified development rights to receiving areas.* Subject to the requirements of  
26 this chapter or applicable city regulations, certified development rights, as reflected by properly  
27 issued TDR certificates, may be used to obtain development incentives within designated TDR  
28 receiving areas.

29 ~~(4) Any certified development rights purchased by the county under the terminated TDR pilot  
30 program may be held by the county for subsequent resale.~~  
31

32 Section 7. Snohomish County Code Section 30.35A.040, last amended by Ordinance No. 17-  
33 050 on September 27, 2017, is amended to read:  
34

35 **30.35A.040 TDR sending site calculations.**

36 (1) *Calculation for transfer purposes only.* The determination of the number of certified  
37 development rights that a sending site is eligible to transfer shall be valid for transfer purposes  
38 only and shall not entitle the sending site landowner to building permits or other development  
39 approvals.

40 (2) *Calculation for countywide and regional certified development rights.* The number of  
41 certified development rights that a sending site is eligible to transfer through the countywide  
42 TDR program or the regional TDR program shall be:

- 43 (a) the number of legal, existing, unimproved lots larger than 5,000 square feet and not  
44 counted in subsection (2)(b) of this section;

1 (b) plus the sum of:

2 (i) the area in acres of lots not counted in subsection (2)(a) of this section and designated  
3 as Commercial Forest, Local Forest, or Commercial Forest - Forest Transition Area on the  
4 Comprehensive Plan Future Land Use Map, minus any area already subject to a  
5 conservation easement or similar encumbrance, divided by 80 acres, rounded down to the  
6 nearest whole number; plus

7 (ii) the area in acres of lots not counted in subsection (2)(a) of this section and designated  
8 as Low Density Rural Residential on the Comprehensive Plan Future Land Use Map,  
9 minus any area already subject to a conservation easement or similar encumbrance,  
10 divided by 20 acres, rounded down to the nearest whole number; plus

11 (iii) the area in acres of lots not counted in subsection (2)(a) of this section and  
12 designated as Local Commercial Farmland, Upland Commercial Farmland, Riverway  
13 Commercial Farmland, Rural Residential-10, or Rural Residential-10 (Resource  
14 Transition) on the Comprehensive Plan Future Land Use Map, minus any area already  
15 subject to a conservation easement or similar encumbrance, divided by 10 acres, rounded  
16 down to the nearest whole number; plus

17 (iv) the area in square feet of lots not counted in subsection (2)(a) of this section and  
18 designated as Rural Residential-5, Rural Residential, or Rural Residential RD on the  
19 Comprehensive Plan Future Land Use Map, minus any area already subject to a  
20 conservation easement or similar encumbrance, divided by 200,000 square feet, rounded  
21 down to the nearest whole number;

22 (v) minus the number of existing dwelling units on all lots in the sending site. For the  
23 purposes of this section, accessory apartments, farm worker dwellings and temporary  
24 dwellings are not considered dwellings units.

25 ~~((3) Limited ability to exchange certified development rights. Certified development rights  
26 issued for the terminated TDR pilot program can be converted to certified development rights for  
27 the countywide and regional TDR programs by applying and paying the fees to obtain certified  
28 development rights under the countywide TDR program. In addition to all other application  
29 requirements, the original TDR certificates issued under the terminated TDR pilot program must  
30 be provided to and extinguished by Snohomish County when the new TDR certificates are  
31 issued, and the original conservation easement must be vacated and replaced with a  
32 conservation easement pursuant to SCC 30.35A.060.))~~

33 ~~((4))~~ (3) *TDR calculation final*. Except as otherwise provided by SCC 30.35A.050(4)(c), the  
34 final determination of the number of certified development rights that a sending site is eligible to  
35 transfer is the administrative authority of the director in accordance with chapter 30.81 SCC and  
36 shall not be revised due to subsequent rezones or other changes to the sending site.

37  
38 Section 8. Snohomish County Code Section 30.35A.050, last amended by Ordinance No. 17-050  
39 on September 27, 2017, is amended to read:

40  
41 **30.35A.050 Certification of development rights and issuance of TDR certificates.**

42 (1) Subject to the requirements of this section, sending site landowners may obtain TDR  
43 certificates which can be transferred pursuant to SCC 30.35A.070 and used by receiving area  
44 landowners to obtain density bonuses or other incentives established in this chapter. The  
45 required process for obtaining TDR certificates includes the application process in subsection (2)  
46 of this section, the certification process in subsection (3) of this section, and the issuance  
47 process in subsection (4) of this section.

1 (2) *Application for TDR certificates.* In order to obtain TDR certificates, the sending site  
2 owner(s) must submit an application for TDR certificates. The department shall use the  
3 application to determine whether the sending site meets the requirements of SCC 30.35A.030  
4 and, if so, the number of certified development rights that the sending site is eligible to transfer  
5 pursuant to SCC 30.35A.040. The application shall include all of the following:

6 (a) Legal description and parcel numbers of the sending site for which TDR certificates are  
7 sought.

8 (b) The following documents, shall be used as the basis for determining the number of  
9 certified development rights for which the sending site is eligible pursuant to SCC  
10 30.35A.040:

11 (i) If the sending site consists of one or more undivided tax parcels, the applicant(s) shall  
12 provide either official records from the Snohomish County assessor or a survey that has  
13 been prepared and stamped by a surveyor licensed in the state of Washington.

14 (ii) If the sending site consists of lots within one or more tax parcels, the applicant(s) shall  
15 provide a survey that has been prepared and stamped by a surveyor licensed in the state  
16 of Washington.

17 (iii) If one or more single family dwellings or other residential, commercial, or industrial  
18 structures exist on the sending site, the applicant(s) shall submit a site map showing the  
19 location of each dwelling or structure.

20 (iv) A calculation, on a form provided by the county, of the number of credits that may be  
21 certified. The calculation will be subject to review and approval by the director.

22 (c) A title report issued no longer than 30 days prior to the date of application confirming that  
23 the ownership interest(s) in the sending site are in the name(s) of the person(s) whose  
24 signature(s) appear on the application for TDR certificates and that there are no existing  
25 conservation easements or similar encumbrances on the sending site. ~~((other than an existing  
26 TDR conservation easement that will be vacated if the application is a request to exchange TDR  
27 credits issued under the terminated TDR pilot program for TDR credits that can be used in the  
28 countywide program.))~~

29 (d) A declaration by the applicant(s), pursuant to SCC 30.35A.030(3), stating that the sending  
30 site is not adjacent to any lot that has substandard area under current zoning and is held in  
31 common ownership with the sending site.

32 (e) A declaration by the applicant(s) stating all liens, if any, that are recorded against the  
33 sending site.

34 (f) A review fee pursuant to SCC 30.86.135.

35 (g) When the information required by subsection (2) of this section is inadequate or unavailable,  
36 the department may require additional documentation from the applicant(s) or rely on  
37 information contained in the county geographic information system or other county records.

38 (3) *Certification of TDR certificates.* Following review and approval of an application for TDR  
39 certificates, the department shall issue a TDR certificate letter of intent. The letter shall contain a  
40 determination of the number of development rights calculated for the sending site pursuant to  
41 SCC 30.35A.040, the land use designation and zoning of the sending site, and an agreement by  
42 the department to issue a corresponding number of TDR certificates in exchange for a sending  
43 site conservation easement granted to the county by the sending site owner pursuant to SCC  
44 30.35A.060. The certificate letter of intent shall have no value and cannot be transferred or used  
45 to obtain increased development rights within receiving areas.



1 (4) *Issuance of TDR certificates.*

2 (a) A conservation easement pursuant to SCC 30.35A.060 for the sending site shall be  
3 approved and accepted by the county prior to issuing any TDR certificates. ~~((If the  
4 application is to exchange credits issued under the terminated TDR pilot program for TDR  
5 credits that can be used in the countywide program, the original TDR pilot program  
6 conservation easement shall also be vacated.))~~

7 (b) As provided by the TDR certificate letter of intent, the department shall issue serially  
8 numbered TDR certificates to the sending site owner upon acceptance of a conservation  
9 easement pursuant to the requirements of this section and SCC 30.35A.060.

10 (c) The department shall have 30 days from the date a TDR conservation easement is  
11 offered and an inspection fee is accepted by the department to conduct a review of the  
12 sending site file and perform a site inspection. If, based on such a review, the department  
13 determines that conditions on the sending site are materially different than those  
14 documented in the information provided to the department pursuant to subsection (2) of this  
15 section, the department shall reject the conservation easement and the TDR certificate letter  
16 of intent shall be null and void. Where a TDR certificate has been determined to be null and  
17 void pursuant to this subsection, a sending site owner may reapply for TDR certificates and  
18 such reapplications shall be subject to the requirements of this section. TDR certificates  
19 shall specify the land use designation and zoning of the sending site, which may determine  
20 the exchange rate or receiving area ratio in receiving areas.

21  
22 Section 9. Snohomish County Code Section 30.35A.130, last amended by Ordinance No. 17-050  
23 on September 27, 2017, is amended to read:

24  
25 **30.35A.130 ~~((TDR purchase))~~ Purchase, holding, and sale of certified development rights**  
26 **by the county.**

27  
28 (1) *Authorization.* The county may from time to time buy, hold, and sell certified development  
29 rights in accordance with the requirements of this chapter. Certified development rights  
30 purchased by the county under the terminated TDR pilot program also may be held and sold in  
31 accordance with the requirements of this chapter.

32  
33 (2) *Holding certified development rights.* Certified development rights acquired by the county  
34 shall be deposited into and held in a TDR fund, established by ordinance.

35  
36 (3) *Sale of certified development rights.* The sale of certified development rights owned by the  
37 county shall be conducted by the county executive, or his or her designee, and shall be subject  
38 to the following requirements:

39  
40 (a) The sale price shall equal or exceed the fair market value of the certified  
41 development rights, as determined based on prevailing market conditions.

42  
43 (b) Sales shall occur through a competitive process, which shall be subject to the  
44 following requirements:

45  
46 (i) A request for proposal to purchase certified development rights from the county  
47 shall be published in a newspaper of general circulation at least 14 days before the  
48 last day upon which proposals shall be received. The request for proposal shall  
49 identify the number of certified development rights to be sold and the evaluation

1 factors, including a minimum sale price, which shall be established by the county  
2 executive to evaluate proposals.

3  
4 (ii) The request for proposal shall require that all proposals be in writing and state  
5 the number of certified development rights to be purchased.

6  
7 (iii) All sales shall be made to the highest qualified bidder, provided that no offers  
8 below fair market value shall be accepted. The county may reject any and all  
9 proposals for good cause and request new proposals.

10  
11 (c) Payment for purchase of certified development rights from the county shall be made  
12 in full at the time the certified development rights are sold, unless, at the discretion  
13 of the administrator of the property management division, payment is secured by an  
14 irrevocable letter of credit or other security.

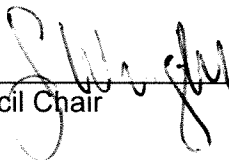
15  
16 (d) The proceeds from sales of certified development rights shall be deposited into a  
17 TDR fund established by ordinance.

18  
19 (4) The sale of certified development rights by Snohomish County may be completed consistent  
20 with its needs and in accordance with the requirements of this chapter. Such sales are exempt  
21 from the real and personal property provisions of chapter 4.46 SCC relating to surplus property.

22  
23 Section 10. Severability. If any section, sentence, clause or phrase of this ordinance is held to  
24 be invalid by the Growth Management Hearings Board ("Board"), or unconstitutional by a court  
25 of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or  
26 constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided,  
27 however, that if any section, sentence, clause or phrase of this ordinance is held to be invalid by  
28 the Board or a court of competent jurisdiction, then the section, sentence, clause or phrase in  
29 effect prior to the effective date of this ordinance shall be in full force and effect for that  
30 individual section, sentence, clause or phrase as if this ordinance had never been adopted.

31  
32 PASSED this 5<sup>th</sup> day of December, 2018

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34  
35 SNOHOMISH COUNTY COUNCIL  
36 Snohomish County, Washington

37  
38  
39   
40 \_\_\_\_\_  
41 Council Chair

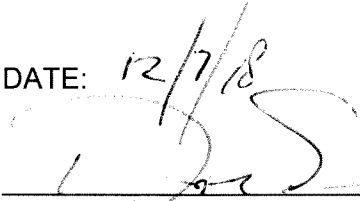
42 ATTEST:

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44 \_\_\_\_\_  
45 Clerk of the Council

46 D-5  
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APPROVED  
 EMERGENCY  
 VETOED

DATE: 12/7/18  
  
\_\_\_\_\_  
County Executive

ATTEST:

  
\_\_\_\_\_

Approved as to form only:

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