

1 ADOPTED: 01/08/20  
2 EFFECTIVE: 01/19/20

3 SNOHOMISH COUNTY COUNCIL  
4 Snohomish County, Washington

5  
6 ORDINANCE NO. 19-085

7  
8 RELATING TO GROWTH MANAGEMENT; AMENDING NOTICE REQUIREMENTS IN  
9 CHAPTER 30.73 SCC FOR TYPE 3 LEGISLATION

10  
11 WHEREAS, section 36.70A.035(1) Revised Code of Washington (RCW) requires the  
12 County to have noticing requirements that are reasonably calculated to provide notice to property  
13 owners and other affected and interested individuals, tribes, government agencies, businesses,  
14 school districts, group A water systems, and organizations of any proposed amendments to  
15 comprehensive plans and development regulations; and

16  
17 WHEREAS, according to section 30.73.010(3) Snohomish County Code (SCC), the  
18 following decisions are classified as Type 3 under the SCC: (i) adoption or amendment of the  
19 comprehensive plan; (ii) adoption or amendment of the shoreline management program (SMP);  
20 (iii) county-initiated rezones to implement the comprehensive plan; (iv) docketing proposals  
21 submitted pursuant to chapter 30.74 SCC; and (v) new GMA development regulations or  
22 amendment of existing regulations; and

23  
24 WHEREAS, chapter 30.73 SCC contains procedural requirements for Type 3 legislative  
25 decisions, which include noticing standards for Snohomish County Planning Commission  
26 (“Planning Commission”) and Snohomish County Council (“County Council”) public hearings;  
27 and

28  
29 WHEREAS, the Planning Commission shall review and hold a public hearing for Type 3  
30 proposals, unless a public hearing and review is not required pursuant to SCC 30.73.040(2); and

31  
32 WHEREAS, SCC 30.73.050 requires that notice of the Planning Commission public  
33 hearing be provided in the following manner: (i) publication in the official county newspaper; (ii)  
34 publication on the official county website; and (iii) mailed notice sent to surrounding properties  
35 for site specific proposals; and

36  
37 WHEREAS, pursuant to SCC 30.73.070, if the County Council wishes to consider action  
38 on a Type 3 proposal, it shall hold at least one public hearing and provide notice of that hearing;  
39 and

40  
41 WHEREAS, public notice requirements for County Council public hearings for Type 3  
42 proposed legislative actions could be modernized to improve clarity of noticing procedures,

1 assist internal consistency, and increase predictability for the public, other jurisdictions, and  
2 agencies; and

3  
4 WHEREAS, this ordinance is a procedural action and pursuant to SCC 30.73.040(2)(b)  
5 does not require Planning Commission review; and

6  
7 WHEREAS, on January 8, 2020, the County Council held a public hearing after proper  
8 notice, and considered public comment and the entire record related to the code amendments  
9 contained in this ordinance; and

10  
11 WHEREAS, following the public hearing, the County Council deliberated on the code  
12 amendments contained in this ordinance.

13  
14 NOW, THEREFORE, BE IT ORDAINED:

15  
16 Section 1. The County Council adopts the following findings in support of this ordinance:

- 17  
18 A. The foregoing recitals are adopted as findings as if set forth in full herein.  
19  
20 B. This ordinance amends SCC 30.73.070 to allow electronic delivery of notices of public  
21 hearing for County Council consideration of a Type 3 legislative action and clarifies the  
22 parties to whom the Clerk of the Council is required to send notice.  
23  
24 C. This ordinance provides clarity in identifying the parties that shall be sent notice, by  
25 providing a clear framework for interested and other parties to be sent notice of public  
26 hearings.  
27  
28 D. This ordinance maintains consistency with the Growth Management Act (GMA), and  
29 specifically RCW 36.70A.035(1), by establishing noticing procedures that are reasonably  
30 calculated to provide notice by clarifying the methods for property owners, affected parties,  
31 and interested parties to guarantee themselves notice of County Council public hearings and  
32 consideration of a Type 3 proposal.  
33  
34 E. In developing the proposed amendments, the County considered the GMA goals related to  
35 citizen participation. In particular, the proposed amendments are consistent with and  
36 promotes:

37  
38 GMA Goal 11 – “Citizen participation and coordination. Encourage the involvement of  
39 citizens in the planning process and ensure coordination between communities and  
40 jurisdictions to reconcile conflicts.”

1  
2 The proposed amendments support citizen participation and coordination by adding clarity to  
3 noticing procedures and expanding options for notice delivery to individual parties. The  
4 updates will help citizens and other interested or affected parties receive reasonable notice of  
5 public hearings for amendments to comprehensive plans and development regulations.  
6

- 7 F. The proposed amendments maintain consistency with the Snohomish County Growth  
8 Management Act Comprehensive Plan (GMACP) General Policy Plan (GPP) by providing  
9 transparent noticing requirements for Type 3 legislative decisions. In particular, the GPP  
10 calls for public engagement in continuing plan development. Page IN-4 of the GPP states:  
11

12 “An effective comprehensive plan cannot be a static document, but must be a dynamic  
13 guide to the future – one that the county monitors and refines in response to changing  
14 circumstances and events. There will certainly be adjustments and refinements over the  
15 coming years for reasons such as . . . Input from citizens and stakeholders.”  
16

17 The proposed amendments maintain consistency with the goals of the GMACP by furthering  
18 the philosophy that input from citizens and stakeholders is central in planning processes.  
19 Clarification of the methods that affected and interested parties and citizens can obtain notice  
20 of public hearings for Type 3 legislation will add transparency to noticing procedures.  
21

- 22 G. Procedural requirements.  
23

- 24 1. The proposed code amendments represent a procedural action that, pursuant to  
25 Washington Administrative Code (WAC) 197-11-800(19) and SCC 30.61.030, is  
26 categorically exempt from compliance with the State Environmental Policy Act (SEPA),  
27 chapter 43.21C RCW.  
28
- 29 2. Under Snohomish County Code, this ordinance is a Type 3 legislative action pursuant to  
30 SCC 30.73.010.  
31
- 32 3. The proposed amendments are procedural and, as provided in SCC 30.73.040(2)(b),  
33 Planning Commission review is not required.  
34
- 35 4. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance was  
36 transmitted to the Washington State Department of Commerce on September 4, 2019.  
37
- 38 5. The public participation process used in the adoption of this ordinance complies with all  
39 applicable requirements of the GMA and the SCC.  
40
- 41 6. The Washington State Attorney General last issued an advisory memorandum, as  
42 required by RCW 36.70A.370, in September of 2018 entitled “Advisory Memorandum:  
43 Avoiding Unconstitutional Takings of Private Property” to help local governments avoid

1 the unconstitutional taking of private property. The process outlined in the State  
2 Attorney General’s 2018 advisory memorandum was used by Snohomish County in  
3 objectively evaluating the regulatory changes proposed by this ordinance.  
4

5 H. This ordinance is consistent with the record.  
6

- 7 1. Modern communication methods include email and other electronic forms. These types  
8 of communication have become a primary means of contact and information sharing  
9 between the County and the public during planning activities. In many of these instances,  
10 email addresses are provided in lieu of mailing addresses. This proposed code  
11 amendment expands the notice delivery options to include electronic means, which  
12 acknowledges modern communication forms.  
13
- 14 2. Existing code language that identifies the parties that should be sent notice is ambiguous,  
15 requires interpretation, and can create inconsistency in code application. The amendments  
16 proposed by this ordinance provide clarity to this process, by explicitly identifying the  
17 actions that require an individual party to be sent notice.  
18
- 19 3. The code amendments proposed by this ordinance provide further clarity to the party  
20 identification process by specifying that notice will not be sent if contact information is  
21 not provided to the County.  
22

23 Section 2. The County Council makes the following conclusions:  
24

- 25 A. The amendments proposed by this ordinance comply with the GMA.  
26
- 27 B. The amendments proposed by this ordinance comply with the Snohomish County GMACP.  
28
- 29 C. The amendments proposed by this ordinance are procedural actions and are categorically  
30 exempt from the requirements of SEPA.  
31
- 32 D. The public participation process used in the adoption of this ordinance complies with all  
33 applicable requirements of the GMA and title 30 SCC.  
34
- 35 E. The amendments proposed by this ordinance do not result in an unconstitutional taking of  
36 private property for a public purpose.  
37

38 Section 3. The Snohomish County Council bases its findings and conclusions on the  
39 entire record of the County Council, including all testimony and exhibits. Any finding, which  
40 should be deemed a conclusion, and any conclusion which should be deemed a finding, is hereby  
41 adopted as such.  
42

1 Section 4. Snohomish County Code Section 30.73.070, last amended by Amended  
2 Ordinance No. 12-056 on August 22, 2012, is amended to read:

3  
4 **30.73.070 Council consideration of Type 3 proposal.**

5  
6 (1) The council is not required to take action on a Type 3 proposal. If the council wishes to  
7 consider action on a Type 3 proposal, the council shall hold at least one public hearing.

8  
9 (2) The council shall set the date of the public hearing and the clerk of the council shall provide  
10 notice at least 10 days before the hearing as follows: in the same manner as set forth in SCC  
11 30.73.050(1)(a); provided, that mailed notice of the public hearing shall also be provided to those  
12 parties that submitted written comments or provided oral testimony during the department's  
13 review or planning commission hearing.

14  
15 (a) Publication in the official county newspaper;

16  
17 (b) On the official county website; and

18  
19 (c) Mailed or electronically sent:

20  
21 (i) For proposals that require planning commission review, to those parties that  
22 provide contact information and either provide oral or written testimony at the  
23 planning commission hearing or request notice in writing at or before the planning  
24 commission hearing; or

25  
26 (ii) For proposals that do not require planning commission review, to those parties  
27 that provide contact information and request notice in writing at least 30 days in  
28 advance of the council hearing.

29  
30 (3) The council may, in its discretion, direct the clerk to use additional methods for providing  
31 notice and obtaining public participation.

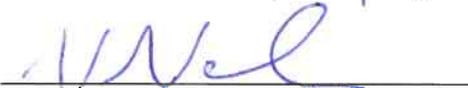
32  
33 (4) At its public hearing, the council may concurrently consider additional proposals relating to  
34 the same subject matter, whether or not considered by the planning commission, in accordance  
35 with RCW 36.70A.035(2).

36  
37 Section 5. Severability and Savings. If any section, sentence, clause or phrase of this  
38 ordinance shall be held to be invalid by the Growth Management Hearings Board (Board), or  
39 unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall  
40 not affect the validity or constitutionality of any other section, sentence, clause or phrase of this  
41 ordinance. Provided, however, that if any section, sentence, clause or phrase of this ordinance is  
42 held to be invalid by the Board or court of competent jurisdiction, then the section, sentence,  
43

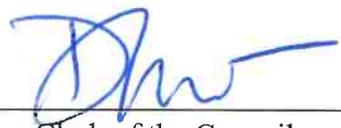
1 clause or phrase in effect prior to the effective date of this ordinance shall be in full force and  
2 effect for that individual section, sentence, clause or phrase as if this ordinance had never been  
3 adopted.

4  
5 PASSED this 8th day of JANUARY, 2020.

6  
7 SNOHOMISH COUNTY COUNCIL  
8 Snohomish County, Washington

9  
10   
11 \_\_\_\_\_  
12 Council Chair

13 ATTEST:

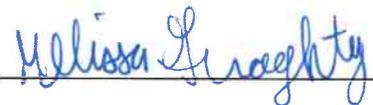
14   
15 \_\_\_\_\_  
16 Clerk of the Council

- 17  
18  
19  APPROVED  
20  EMERGENCY  
21  VETOED

22 DATE: 1/9/2020

23   
24 \_\_\_\_\_  
25 County Executive

26 ATTEST:

27   
28 \_\_\_\_\_  
29

30 Approved as to form only:

31  11/22/19  
32 \_\_\_\_\_  
33 Deputy Prosecuting Attorney

D-5