

1 Adopted: June 7, 2023
2 Effective: June 23, 2023

3 SNOHOMISH COUNTY COUNCIL
4 Snohomish County, Washington

5
6 ORDINANCE NO. 23-032
7

8 RELATING TO THE GROWTH MANAGEMENT ACT; CONCERNING BUILDING
9 SEPARATION, AMENDING SECTION 30.23.300 OF THE SNOHOMISH COUNTY CODE
10

11 WHEREAS, Revised Code of Washington (RCW) 36.70A.130 directs counties planning
12 under the Growth Management Act (GMA) to consider amendments and revisions to the GMA
13 Comprehensive Plan (GMACP) or development regulations on a regular basis; and
14

15 WHEREAS, the Snohomish County Council ("County Council") has determined that the
16 consideration of the proposed amendments and revisions to the development regulations in title
17 30 of the Snohomish County Code (SCC) related to building separation would be consistent
18 with the GMA planning goals in RCW 36.70A.020 and the County GMACP.
19

20 WHEREAS, amendments to SCC 30.23.300 to clarify the building separation
21 requirements for one-, two- and three-story single-family and duplex structures in the Multiple
22 Residential (MR) and Low Density Multiple Residential (LDMR) zones will improve fire safety
23 and emergency response to those homes; and
24

25 WHEREAS, on December 13, 2022, the Snohomish County Planning Commission
26 ("Planning Commission") was briefed by Snohomish County Planning and Development
27 Services (PDS) staff about the proposed code amendments contained in this ordinance; and
28

29 WHEREAS, the Planning Commission held a public hearing on January 24, 2023, to
30 receive public testimony concerning the proposed code amendments and recommend adoption
31 of the amendments contained in this ordinance, as shown in its approval letter dated February
32 10, 2023; and
33

34 WHEREAS, on June 7, 2023, the County Council held a public hearing after
35 proper notice to receive public testimony and consider the entire record related to the code
36 amendments contained in this ordinance; and
37

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

41 NOW, THEREFORE, BE IT ORDAINED:
42

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

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

1 B. This ordinance amends SCC 30.23.300 to clarify the building separation requirements in the
2 LDMR and MR zones. In particular, the amendments will:

- 3
- 4 1. Clarify that a minimum building separation of 10 feet is required for one-story and
5 two-story single-family detached, single-family attached, and duplex structures in the
6 LDMR and MR zones through the creation of a new subsection that is inclusive of
7 those structures.
- 8
- 9 2. Describe when a reduction in the 15-foot building separation requirement for three-
10 story single-family detached, single-family attached, and duplex structures in the
11 LDMR and MR zones with side yard ingress/egress is allowed by rearranging the
12 section and repealing one subsection.
- 13
- 14 3. Include an oxford comma separating the list of residential structures in the title and
15 code section to improve readability.
- 16

17 C. This ordinance is consistent with the record.

- 18
- 19 1. Prior to 2012, there was a minimum building separation for developments of all
20 stories. Amended Ordinance No. 12-049 added SCC 30.23.300 to include the
21 building separation requirements for single-family detached, single-family attached,
22 and duplex structures in the LDMR and MR zones, but only for three-story buildings
23 with side yard ingress/egress, which has resulted in unclear building separation
24 requirements for one-story and two-story homes.
- 25
- 26 2. The amendments to SCC 30.23.300 create two sections to clarify that all single-
27 family detached, single-family attached, and duplex structures in the LDMR and MR
28 zones, regardless of story size, will require a minimum building separation of 10 feet
29 except that certain three-story structures require separation of 15 feet under SCC
30 30.23.300(2).
- 31
- 32 3. SCC 30.23.300(2) currently includes an allowance to reduce building separation for
33 three-story buildings if the topography allows firefighters to reach ladders at a safe
34 angle that has proven to be impractical because fences allowed on such lots up to
35 eight feet high without a permit can hinder the safe placement of a fire ladder
36 regardless of site topography.
- 37
- 38 4. The amendment to SCC 30.23.300(2)(b) repeals the reduced building separation
39 allowance for three-story buildings when the site topography can provide the
40 necessary geometric prism for firefighters to set a ladder reaching the third-story side
41 yard window at no greater than a 75-degree angle.
- 42
- 43 5. Clarification on the building height separation requirements for three-story structures
44 in the LDMR and MR zones will increase the ease and safety of window access by
45 firefighters in emergency response and slow the spread of fire during a fire event.
- 46

1 D. The proposed amendments are consistent with and supportive of the following GMA
2 provisions:

- 3
- 4 1. GMA Planning Goal 1 (RCW 36.70A.020(1)): "Urban growth. Encourage
5 development in urban areas where adequate public facilities and services exist or
6 can be provided in an efficient manner." The proposed building separation
7 amendments are supportive of this goal by ensuring better fire safety standards.
8
- 9 2. GMA Planning Goal 7 (RCW 36.70A.020(7)): "Permits. Applications for both state
10 and local government permits should be processed in a timely and fair manner to
11 ensure predictability." The proposed building separation amendments are supportive
12 of this goal by ensuring more cohesive and clear building separation requirements
13 for development applications.
14

15 E. The proposed amendments maintain consistency with the Snohomish County Growth
16 Management Act Comprehensive Plan (GMACP) General Policy Plan (GPP), specifically
17 with the following goals, objectives, and policies within the Economic Development (ED)
18 chapter by encouraging predictable and consistent development regulations:

- 19
- 20 1. GPP Goal ED 1 "Maintain and enhance a healthy economy."
- 21
- 22 2. GPP Goal ED 2 "Provide a planning and regulatory environment which facilitates
23 growth of the local economy."
- 24
- 25 3. GPP Objective ED 2.A "develop and maintain a regulatory system that is fair,
26 understandable, coordinated and timely."
- 27
- 28 4. GPP ED Policy 2.A.1 "Snohomish County shall work to ensure that the Snohomish
29 County Code is an understandable, accessible, and user friendly document."
30
- 31 5. GPP ED Policy 2.A.2 "Snohomish County should stress predictability but maintain
32 enough flexibility in the Comprehensive Plan and development codes to allow for
33 timely response to unanticipated and desirable developments."
34

35 F. Procedural requirements.

- 36
- 37 1. This proposal is a Type 3 legislative action under SCC 30.73.010.
38
- 39 2. As required by RCW 30.70A.106(1), a notice of intent to adopt the proposed code
40 amendments was transmitted to the Washington State Department of Commerce for
41 distribution to state agencies on December 6, 2022.
42
- 43 3. State Environmental Policy Act (SEPA), chapter 43.21C RCW, requirements with
44 respect to this non-project action have been satisfied through the completion of an
45 environmental checklist and the issuance of a determination of non-significance on
46 December 5, 2022.

- 1
2 4. The public participation process used in the adoption of this ordinance complies with
3 all applicable requirements of the GMA and the SCC.
4
5 5. The Washington State Attorney General last issued an advisory memorandum, as
6 required by RCW 36.70A.370, in September of 2018 entitled Advisory Memorandum
7 and Recommended Process for Evaluating Proposed Regulatory and Administrative
8 Actions to Avoid the Unconstitutional Takings of Private Property to help local
9 governments avoid the unconstitutional taking of private property. The process
10 outlined in the State Attorney General's 2018 advisory memorandum was used by
11 the County in objectively evaluating the regulatory changes proposed by this
12 ordinance.

13
14 Section 2. The County Council makes the following conclusions:

- 15
16 A. The amendments proposed by this ordinance comply with the GMA.
17
18 B. The amendments proposed by this ordinance comply with the GMACP.
19
20 C. The County has complied with all SEPA requirements with respect to this non-project action.
21
22 D. The public participation process used in the adoption of this ordinance complies with all
23 applicable requirements of the GMA and title 30 SCC.
24
25 E. The amendments proposed by this ordinance do not result in an unconstitutional taking of
26 private property for a public purpose.
27

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

33 Section 4. Snohomish County Code Section 30.23.300, added by Amended Ordinance
34 No. 12-049 on October 3, 2012, is amended to read:

35
36 **30.23.300 Building separation for single-family detached, single-family attached, and**
37 **duplex structures constructed in the LDMR and MR zones.**
38

39 (1) Single-family detached, single-family attached, and duplex structures in the LDMR and MR
40 zones shall have a minimum building separation of 10 feet except as otherwise required by SCC
41 30.23.300(2).
42

43 ~~((4))~~ (2) Single-family detached, single-family attached, and duplex structures in the LDMR
44 and MR zones with a third-story side yard ingress/egress window ((in the MR and LDMR
45 zones)) shall have a minimum of 15 feet building separation ((-)), provided that building
46 separation may be reduced to 10 feet when:
47

1 ~~((2) Building separation may be reduced to 10 feet when:))~~

2
3 (a) The dwelling units are equipped with approved NFPA 13D automatic sprinkler
4 systems; or

5
6 (b) ~~((The topography of the particular site can provide the necessary geometric prism for
7 firefighters to set a ladder reaching the third-story side yard ingress/egress window at no greater
8 than a 75-degree angle; or))~~

9
10 ~~((c))~~ The dwelling unit boundaries are drawn with a "zero lot line" on one side of the
11 unit.

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

22
23 PASSED this 7th day of June, 2023.

24
25 SNOHOMISH COUNTY COUNCIL
26 Snohomish County, Washington

27
28 Jared Mead
29 Council Chair

30 ATTEST:

31
32 Lisa Campfield
33 Asst. Clerk of the Council

34
35 APPROVED
36 EMERGENCY
37 VETOED

DATE: June 13, 2023

38
39 Dan S.
40 County Executive

41 ATTEST:

42
43 Melissa Geraghty

44 Approved as to form only:

45
46 [Signature] 03/23/2023
47 Deputy Prosecuting Attorney