

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

ORDINANCE NO. 23-133

RELATING TO GROWTH MANAGEMENT; ADOPTING AMENDMENTS
REGULATING ACCESSORY DWELLING UNITS OUTSIDE OF URBAN
GROWTH AREAS IN RESPONSE TO A DECISION BY THE GROWTH
MANAGEMENT HEARINGS BOARD; AMENDING SCC 30.28.010

WHEREAS, the Snohomish County Council adopted Amended Ordinance No. 22-006 on March 9, 2022; and

WHEREAS, the ordinance expanded the allowed use of detached accessory dwelling units (ADUs) outside of Urban Growth Areas; and

WHEREAS, a petition for review challenging the ordinance was filed with the Washington State Growth Management Hearings Board (GMHB); and

WHEREAS, the GMHB issued a final decision and order in *Futurewise v. Snohomish County*, Case No. 22-3-0003, on June 20, 2023; and

WHEREAS, the GMHB found Amended Ordinance No. 22-006 “fails to protect designated agricultural lands of long-term commercial significance” and “is inconsistent with achievement of the growth targets in the County’s adopted Multicounty Planning Policies and Countywide Planning Policies”; and

WHEREAS, the GMHB remanded the ordinance to Snohomish County for action to bring it into compliance with the Growth Management Act (GMA), chapter 36.70A RCW; and

WHEREAS, the County Council referred code amendments addressing the GMHB’s final decision and order to the Snohomish County Planning Commission via Motion No. 23-342; and

WHEREAS, after holding a public hearing on September 26, 2023, the Planning Commission considered the referred amendments and recommended approval; and

WHEREAS, on December 6, 2023, the County Council held a public hearing after proper notice, and considered public comment and the entire record related to the code amendments contained in this ordinance.

NOW, THEREFORE, BE IT ORDAINED:

1 Section 1. The Snohomish County Council adopts the following findings of fact
2 and conclusions:

- 3 A. The Snohomish County Council adopts and incorporates the foregoing recitals as
4 findings as if set forth fully herein.
- 5 B. The ordinance addresses the two findings of non-compliance made by the GMHB
6 by reinstating a prohibition on the construction of detached ADUs on lots that do
7 not meet the minimum required lot area pursuant to SCC 30.23.030 in rural and
8 resource zones.
- 9 C. Amended Ordinance No. 22-006 removed a requirement that a detached ADU be
10 located within 100 feet of the primary dwelling in rural and resource zones. The
11 GMHB did not find the removal of this requirement violated any provision of the
12 GMA. This ordinance does not restore the 100-foot requirement.
- 13 D. It is in the best interest of Snohomish County to reinstate a prohibition on the
14 construction of detached ADUs on lots that do not meet the minimum required lot
15 area pursuant to SCC 30.23.030 in rural and resource zones.
- 16 E. The amendments contained in this ordinance restore the exact code language in
17 place immediately prior to the adoption of Amended Ordinance No. 22-006; except
18 language requiring a maximum distance of 100 feet between primary and
19 detached accessory dwellings is not restored.
- 20 F. State Environmental Policy Act (chapter 43.21C RCW) requirements with respect
21 to this non-project action have been satisfied through the completion of an
22 environmental checklist and the issuance on October 19, 2023, of Addendum
23 Number 3 to the Determination of Non-Significance Issued March 29, 2021.
- 24 G. The proposal is a Type 3 legislative action pursuant to SCC 30.73.010.
- 25 H. Pursuant to RCW 36.70A.106, a notice of intent to adopt this ordinance was
26 transmitted to the Washington State Department of Commerce for distribution to
27 state agencies on October 6, 2023.
- 28 I. The public participation process used in the adoption of this ordinance complies
29 with all applicable requirements of the GMA and the SCC.
- 30 J. The Washington State Attorney General last issued an advisory memorandum, as
31 required by RCW 36.70A.370, in September of 2018 entitled "Advisory
32 Memorandum: Avoiding Unconstitutional Takings of Private Property" to help local
33 governments avoid the unconstitutional taking of private property. The process
34 outlined in the State Attorney General's 2018 advisory memorandum was used by
35 the County in objectively evaluating the regulatory changes proposed by this
36 ordinance.

37
38 Section 2. The County Council makes the following conclusions:
39

- 40 1. The proposed amendments are consistent with the goals, policies, and objectives
41 of the MPPs, CPPs, and GPPs.

2. The proposed amendments are consistent with applicable federal, state, and local laws and regulations.
3. The County has complied with all SEPA requirements with respect to this non-project action.
4. The regulations proposed by this ordinance do not result in an unconstitutional taking of private property for a public purpose.

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

Section 4. Snohomish County Code Section 30.28.010, last amended by Ordinance No. 22-006 on March 9, 2022, is amended to read:

30.28.010 Accessory dwelling units.

Accessory dwelling units are allowed subordinate to a single-family dwelling in zones where single-family dwellings are permitted under SCC 30.22.100, 30.22.110, and 30.22.120.

(1) *General standards.* All accessory dwelling units shall comply with the following standards:

(a) Development of accessory dwelling units shall be subject to compliance with all other applicable provisions of this title;

(b) Development of accessory dwelling units shall be subject to physical and legal availability of water and the applicant providing documentation that the water supply is potable and of adequate flow;

(c) Applicants must provide documentation that the existing or proposed sewage or septic system is capable of handling the additional demand placed upon it by the attached or detached accessory dwelling unit;

(d) The floor area of an accessory dwelling unit shall not exceed 1,200 square feet. Floor areas shall be exclusive of garages, porches, and unfinished basements;

(e) Accessory dwelling units shall meet the off-street parking requirements in chapter 30.26 SCC;

1 (f) Attached accessory dwelling units shall be designed such that the
2 architectural character of the primary dwelling is preserved. Exterior materials, roof
3 form, window spacing, and proportions shall match that of the primary dwelling; and
4

5 (g) Detached accessory dwelling units shall be constructed such that exterior
6 materials, roof form, window spacing, and proportions approximate those of the single-
7 family dwelling. A detached accessory dwelling unit proposed for location within an
8 existing accessory structure is not required to approximate the exterior features of the
9 existing single family dwelling. A mobile home, where allowed as a detached accessory
10 dwelling unit pursuant to subsection ~~((3)(c))~~ (3)(a)(ii) of this section, is not required to
11 approximate the exterior features of the existing single-family dwelling.
12

13 (2) *Urban zones.* Accessory dwelling units are permitted uses in the urban zones on
14 lots with a single-family dwelling pursuant to SCC 30.22.100. One attached accessory
15 dwelling unit and one detached accessory dwelling unit may be established on lots that
16 contain a legally-established single-family dwelling.
17

18 (3) *Rural, resource, and other zones.* Accessory dwelling units are permitted uses in
19 the rural, resource, and other zones on lots with a single-family dwelling pursuant to
20 SCC 30.22.110 and 30.22.120 and the following standards:
21

22 (a) One accessory dwelling unit may be established on lots that contain a
23 legally-established single-family dwelling ~~((;))~~ pursuant to the following:
24

25 (i) Detached accessory dwelling units are prohibited on lots that do not meet
26 the minimum required lot area, pursuant to SCC 30.23.030, in the zone in which they
27 are located. The following prohibitions also apply:
28

29 (A) Detached accessory dwelling units are prohibited on lots in the R-5 zone
30 that are less than five acres in size; and
31

32 (B) Detached accessory dwelling units are prohibited on lots in the RC zone
33 that are less than 100,000 square feet in size.
34

35 (ii) A mobile home that is subordinate to the single-family dwelling may be
36 allowed as a detached accessory dwelling unit on lots equal to or greater than 10 acres.
37

38 (b) Accessory dwelling units shall utilize the same driveway as the primary
39 single-family dwelling ~~((; and~~
40

41 ~~(c) A mobile home is allowed as a detached accessory dwelling unit only on lots~~
42 ~~equal to or greater than 10 acres and only when the manufactured home is subordinate~~
43 ~~to the existing single-family dwelling)).~~
44

45 Section 5. Severability and savings. If any section, sentence, clause, or phrase
46 of this ordinance shall be ruled to be invalid or unconstitutional by the Growth

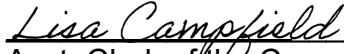
1 Management Hearings Board or a court of competent jurisdiction, such ruling shall not
2 affect the validity or constitutionality of any other section, sentence, clause, or phrase of
3 this ordinance, and the section, sentence, clause, or phrase in effect prior to the
4 effective date of this ordinance shall be in full force and effect for that individual section,
5 sentence, clause, or phrase as if this ordinance had never been adopted.
6

7 PASSED this 12th day of December 2023.
8

9 SNOHOMISH COUNTY COUNCIL
10 Snohomish County, Washington
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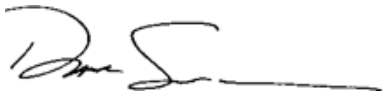
12 
13 _____
14 Chairperson
15

16 ATTEST:
17

18 
19 _____
20 Asst. Clerk of the Council
21

22 (X) APPROVED
23 () EMERGENCY
24 () VETOED
25

26 DATE: December 27, 2023
27

28 
29 _____
30 County Executive
31

32 ATTEST:
33

34 
35 _____
36

Approved as to form only:

34 
35 _____ 10/18/23
36 Deputy Prosecuting Attorney