

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON



AMENDED
ORDINANCE NO. 93-083
RIGHT TO PRACTICE FORESTRY; AMENDING
SNOHOMISH COUNTY CODE TITLES 17, 18, 19, 20 AND 32

WHEREAS, the Washington State Growth Management Act (herein after GMA) (36.70A.020 RCW) states in its Planning Goals that local planning efforts should "Maintain and enhance natural resource based industries, including productive timber, agricultural, and fisheries industries" and "Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses"; and

WHEREAS, the GMA (36.70A.060 RCW) requires cities and counties to adopt development regulations which assure the use of lands adjacent to agriculture, forest, or mineral resource lands shall not interfere with the continued use, in the accustomed manner, of these designated lands for the production of food, agricultural products, timber, or for the extraction of minerals; and

WHEREAS, the GMA (36.70A.060 RCW) requires that counties and cities shall require that all plats, short plats, development permits, and building permits issued for development activities on, or within 300 feet of, lands designated as agricultural lands, forest lands or mineral resource lands, contain a notice that the subject property is within or near designated agricultural lands, forest lands or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration; and

WHEREAS, Snohomish County has experienced rapid population growth which has resulted in increased residential use of rural lands near agricultural, forest and mineral resource industries, and a high number of complaints from residents regarding the presence of resource industries; and

WHEREAS, Snohomish County population growth is forecast to continue at a high rate resulting in more residential and non-resource land uses being located adjacent to and near agriculture, forest and mineral resource land; and

WHEREAS, Snohomish County adopted an Interim Forest Land Conservation Plan by County Council Motion No. 92-283 and implementing ordinances 92-101 and 92-102; and

Ordinance 93-083

As amended and adopted by County Council on October 11, 1993

Page 1

WHEREAS, Section 2, Planning Policy 2 in Ordinance No. 92-101, which implements the Interim Forest Land Conservation Plan, states "within six months of the date this ordinance is adopted, the county shall adopt a "Right to Practice Forestry" ordinance that discourages adjacent landowners from filing a nuisance suit against a designated forest land owner who is operating under best management practices as defined by current Washington Forest Practices Rules and Regulations";

NOW, THEREFORE, BE IT ORDAINED:

New Section, Section 1: A new chapter 32.20 Right to Practice Forestry, is added to Snohomish County Code Title 32 as follows:

Chapter 32.20

RIGHT TO PRACTICE FORESTRY

Sections

- 32.20.010 Purpose
- 32.20.020 Definitions
- 32.20.030 Forest management activities - presumed reasonable and not a nuisance
- 32.20.040 Circumstances for notice and disclosure
- 32.20.050 Disclosure text
- 32.20.060 Exemption from special benefit assessments
- 32.20.070 Severability
- 32.20.080 Effective date

32.20.010 Purpose. Forest management activities conducted on forest land near urbanizing areas are often subjected to nuisance complaints, and such complaints encourage requests for premature conversion of those forest lands. The purpose of this chapter is to help assure that the use of lands adjacent to designated forest land does not interfere with the continued use, in the accustomed manner, of the designated forest land for the production of timber and other forest products, as required by the Growth Management Act (36.70A.060 RCW). This is accomplished by recognizing that forest management activities conducted in compliance with current Washington Forest Practice Rules and Regulations (WAC 222) on designated forest land are accepted activities which should be protected from nuisance complaints and lawsuits. A further purpose is to encourage a good neighbor relationship between forest landowners and residential landowners by promoting greater awareness of forest management activities through notification of owners of land in, adjacent to and near designated forest lands of forest management activities.

Ordinance 93-083

As amended and adopted by County Council on October 11, 1993

Page 2

32.20.020 Definitions.

(1) "Designated Forest Land" means any land designated as interim forest land pursuant to RCW 36.70A.070 (1) by the Interim Forest Land Conservation Plan adopted by Snohomish County Council Motion 92-283.

(2) "Forest Management Activities" means the growing and harvesting of trees, including all forest practices, as defined and regulated under the authority provided by Chapter 76.09 RCW, associated with continued management of forest lands for forest products and excluding those forest practices associated with the conversion of forest land to a non-forest use except for those areas that are reforested to acceptable stocking levels as defined by WAC 222-34. Municipal sewage sludge application to forest lands shall not be considered a forest management activity under this chapter.

(3) "Building Permit" means a permit issued under Title 17 SCC, except permits for Group M Occupancies, plumbing and mechanical.

(4) "Development Permit" means a permit requiring discretionary review, including but not limited to subdivision approval, short plat approval, planned residential development approval, special use permit, shoreline substantial development permit, and a conditional use permit.

(5) "Person" means an individual, corporation, partnership, association, or other legal entity.

32.20.030 Forest management activities - presumed reasonable and not a nuisance.

Forest management activities conducted on designated forest land in compliance with best management practices as defined by the current Washington Forest Practices Rules and Regulations (WAC 222) and in compliance with Washington's Pesticides Regulations (WAC 16-228-185(5)), and established prior to surrounding non-forestry activities, are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on the public health, safety and/or environment.

Nothing in this section shall affect or impair any right to sue for damages.

32.20.040 Circumstances for notice and disclosure.

(1) The disclosure text set forth in section 32.20.050 shall be used under the following circumstances and in the following manners:

(a) Within 90 days of the effective date of this chapter and each three years after the effective date, Snohomish County shall mail a copy of the disclosure text in 32.20.050 SCC, with an explanatory informational attachment to owners of designated forest land and real property within approximately 300 feet of designated forest land. Seven years after the effective date of this chapter, the Planning Commission shall evaluate the effectiveness of this notification method and recommend to the County Council its retention, modification or deletion.

(b) Development permits and building permits for land designated forest land or land adjacent to or within 300 feet of designated forest land shall include or have attached the disclosure text in 32.20.050 SCC on the final development or building permit in a location determined by the community development director. Said disclosure notice shall apply to the real property which is subject to the development or building permit as of the date of development or building permit approval and may not be applicable thereafter if areas designated forest land are changed from designated forest land.

(c) Prior to the closing of a transfer of real property designated forest land or real property adjacent to or within 300 feet of designated forest land, by sale, exchange, gift, real estate contract, lease with option to purchase, any other option to purchase or any other means of transfer (except transfers made by testamentary provisions or the laws of descent), the transferor shall provide the transferee a copy of the disclosure text in 32.20.050 SCC and shall record with the county auditor a copy of the same showing an acknowledgement of receipt executed by the transferee in a form prescribed by the director of community development. The form of the acknowledged disclosure text shall include a statement that the disclosure notice applies to the subject real property as of the date of the transfer and may not be applicable thereafter if areas designated forest land are changed from designated forest land.

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

32.20.050 Disclosure text. The following shall constitute the Disclosure required by this section:

"The real property subject to this notice is designated forest land or land adjacent to or within 300 feet of designated forest land on which a variety of forest management activities could occur that may not be compatible with residential development for certain periods of limited duration. These forest management activities include, but are not limited to, TIMBER HARVEST, ROAD AND TRAIL CONSTRUCTION, THE OPERATION OF MACHINERY, TRUCKS AND AIRCRAFT, BRUSH CONTROL, SLASH BURNING, THE APPLICATION BY SPRAYING OF FOREST CHEMICALS AND OTHER FOREST MANAGEMENT ACTIVITIES, which activities are lawful if conducted in compliance with Title 222 WAC.

In addition, forest management activities may cause physical and aesthetic risks to residences and other structures within 200 feet of forest lands including FALLING TIMBER AND INCREASED FIRE HAZARD. Due to these risks, Snohomish County encourages landowners to locate structures at least 200 feet from adjacent forest land boundaries.

Snohomish County has adopted a Right to Practice Forestry Ordinance (Chapter 32.20 SCC) which provides in part, that "Forest management activities conducted on designated forest land in compliance with best management practices as defined by the current Washington Forest Practices Rules and Regulations (Title 222 WAC), and Washington's Pesticide Regulations (WAC 16-228-185(5)), are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on the public health, safety and/or environment." A copy of Chapter 32.20 SCC may be obtained from Snohomish County.

This disclosure applies to the real property which is subject to a development or building permit as of the date of the development or building permit approval or, in the case of real property transfers, the disclosure applies to the subject property as of the date of the transfer. This disclosure may not be applicable thereafter if areas designated forest land are changed from designated forest land."

Nothing in chapter 32.20 SCC shall affect or impair any right to sue for damages.

32.20.060 Exemption from special benefit assessments. Forest land designated and classified pursuant to chapter 84.33 RCW shall be entitled to the exemption from special benefit assessments provided by RCW 84.33.210.

32.20.070 Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of the chapter.

32.20.080 Effective Date. This chapter shall be effective on December 22, 1993.

The disclosure provisions of 32.20.040 and 32.20.050 SCC shall apply to all building and development permit applications and real property transfer transactions which occur on or after April 1, 1994.

Section 2. Section 17.04.035 last amended by Ordinance 93-040 on August 4, 1993 is hereby amended to read as follows:

17.04.035 Interim Resource Lands. The provisions of this title are subject to the requirements of chapters 32.13, 32.14, ~~((and))~~, 32.15 and 32.20 SCC. In the event of a conflict between a provision of this title and chapters 32.13, 32.14 ~~((and))~~, 32.15 and 32.20 SCC, the requirements of chapters 32.13, 32.14 ~~((and))~~, 32.15 and 32.20 SCC shall control.

Section 3. Section 18.11.035 last amended by Ordinance 93-040 on August 4, 1993 is hereby amended to read as follows:

18.11.035 Interim Resource Lands. The provisions of this title are subject to the requirements of chapters 32.13, 32.14, ~~((and))~~, 32.15 and 32.20 SCC. In the event of a conflict between a provision of this title and chapters 32.13, 32.14 ~~((and))~~, 32.15 and 32.20 SCC, the requirements of chapters 32.13, 32.14 ~~((and))~~, 32.15 and 32.20 SCC shall control.

Section 4. Section 19.08.015 last amended by Ordinance 93-040 on August 4, 1993 is hereby amended to read as follows:

19.08.015 Interim Resource Lands. The provisions of this title are subject to the requirements of chapters 32.13, 32.14, ~~((and))~~, 32.15 and 32.20 SCC. In the event of a conflict between a provision of this title and chapters 32.13, 32.14 ~~((and))~~, 32.15 and 32.20 SCC, the requirements of chapters 32.13, 32.14 ~~((and))~~, 32.15 and 32.20 SCC shall control.

Ordinance 93-083

As amended and adopted by County Council on October 11, 1993

Page 6

Section 5. Section 20.12.035 last amended by Ordinance 93-040 on August 4, 1993 is hereby amended to read as follows:

20.12.035 Interim Resource Lands. The provisions of this title are subject to the requirements of chapters 32.13, 32.14, ~~((and))~~, 32.15 and 32.20 SCC. In the event of a conflict between a provision of this title and chapters 32.13, 32.14 ~~((and))~~, 32.15 and 32.20 SCC, the requirements of chapters 32.13, 32.14 ~~((and))~~, 32.15 and 32.20 SCC shall control.

PASSED this 11th day of October, 1993.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Liz McLaughlin
Chairperson

ATTEST:

Sheila McCauley
Clerk of the Council

- APPROVED
- VETOED
- EMERGENCY

DATE:

10/15/93
[Signature]
County Executive

ATTEST:

Marilyn B. Abel

Ordinance 93-083

As amended and adopted by County Council on October 11, 1993

Page 7

D-21