



CO00020772

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

ORDINANCE NO. *97-031*

AMENDING SNOHOMISH COUNTY CODE,
CHAPTERS 23.12 AND 23.16,
RELATING TO MITIGATION FOR ADVERSE ENVIRONMENTAL IMPACTS

WHEREAS, the county executive and county council have identified regulatory reform of land use regulations as a high priority for county government; and

WHEREAS, with the assistance of the county council, the county executive and prosecuting attorney have established a regulatory reform process to make land use regulations more understandable to the public and more easily implemented by the county; and

WHEREAS, this ordinance is a result of that process;

THEREFORE, BE IT ORDAINED:

SECTION 1. Snohomish County Code Section 23.12.200, last amended by Ordinance Number 94-037 on May 4, 1994 is **AMENDED** to read:

23.12.200 Mitigated determinations of nonsignificance.

(1) As provided in this section and in WAC 197-11-350, the responsible official may issue a determination of nonsignificance (DNS) based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.

(2) An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must:

(a) Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and

(b) Precede the county's actual threshold determination for the proposal.

(3) The responsible official shall respond to the request for early notice within 60 days of receipt of a complete application as defined in SCC 23.16.163. The response shall:

(a) Be written;

(b) State whether the county currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that are leading the county to consider a DS; and

(c) State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.

(4) As much as possible, the county should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

(5) When an applicant submits a changed or clarified proposal, along with a revised environmental checklist, the county shall base its threshold determination on the changed or

clarified proposal and shall make the determination within the time periods established for making a threshold determination in SCC 23.16.161(2).

(a) If the county indicated specific mitigation measures which would remove all probable significant adverse environmental impacts in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the county shall issue and circulate a mitigated determination of nonsignificance under WAC 197-11-240(2).

(b) If the county indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the county shall make the threshold determination, issuing a DNS or DS as appropriate.

(c) The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200-foot stormwater retention pond at Y location" are adequate.

(d) Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.

(6) Mitigated DNSs issued under WAC 197-11-340(2) require a 15-day comment period and public notice.

(7) Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit.

(8) A decisionmaker or a reviewing body on an appeal shall not be bound by the designation of mitigation measures contained in a mitigated DNS and may change such mitigation measures or impose additional conditions of approval as authorized by law. If at any time the proposed mitigation measures are withdrawn or substantially changed, the responsible official shall make a new threshold determination and, if necessary may withdraw the mitigated DNS and issue a DS.

(9) The county's written response under subsection (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the county to issue a mitigated DNS.

SECTION 2. Snohomish County Code Section 23.16.163, added by Ordinance Number 94-037 on May 4, 1994 is **AMENDED** to read:

23.16.163 Complete application.

A complete application for purposes of processing and meeting the time periods specified in SCC 23.16.161 shall consist of the following:

(1) A completed application form and any project information otherwise required at the time of application by applicable county land use regulations;

(2) A signed and completed environmental checklist, including written responses to all questions; and

(3) Supporting documentation, including any additional information necessary to comprehensively disclose and evaluate whether the proposal is likely to have any probable significant adverse environmental impacts.

SECTION 3. Effective date.

The effective date of this ordinance shall be June 30, 1997.

PASSED this 14th day of May, 1996/1997.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Kinder Sievers
Chairperson, Vice

ATTEST:

Sheila McCallister

Clerk of the Council

- APPROVED
- VETOED
- EMERGENCY

DATE: 5/16/97
Robert J. Drewel
County Executive

Attest: *Laura Nelson*

M. [Signature] DPA
Approved as to form only on:

8/13/96
(Date)

ROBERT J. DREWEL
County Executive

D-17