

1 Adopted: October 14, 2015
2 Effective: October 30, 2015

3
4 SNOHOMISH COUNTY COUNCIL
5 Snohomish County, Washington

6
7 ORDINANCE NO. 15-065

8
9 RELATING TO GROWTH MANAGEMENT, AMENDING
10 SECTION 30.23.210 OF THE SNOHOMISH COUNTY CODE
11 TO REVISE LOT SIZE AVERAGING REQUIREMENTS

12
13 WHEREAS, counties and cities that are required to plan under the Growth Management
14 Act (GMA), chapter 36.70A RCW, must ensure that their comprehensive plans and
15 development regulations provide sufficient capacity of land suitable for development within their
16 jurisdictions to accommodate allocated housing and employment growth; and

17
18 WHEREAS, the Vision 2040 Multicounty Planning Policies (MPP) adopted by the Puget
19 Sound Regional Council encourage the efficient use of land to prevent urbanization of rural and
20 resource lands; and

21
22 WHEREAS, the Countywide Planning Policies (CPP) for Snohomish County encourage
23 the county and cities to use innovative development standards to provide compact, high quality
24 communities; and

25
26 WHEREAS, the Snohomish County GMA Comprehensive Plan (GMACP) - General
27 Policy Plan (GPP) encourages the establishment of development patterns that use urban land
28 more efficiently; and

29
30 WHEREAS, adopting amendments to the lot size averaging requirements would provide
31 the opportunity to develop more of the underlying maximum zoned density allowed in a
32 subdivision or short subdivision and, therefore, encourage a more efficient use of land; and

33
34 WHEREAS, the Snohomish County Planning Commission ("Planning Commission") held
35 a briefing on May 26, 2015, on the code amendments proposed by this ordinance; and

36
37 WHEREAS, the Planning Commission held a public hearing on June 23, 2015, and
38 received public testimony on the proposed code amendments contained in this ordinance; and

39
40 WHEREAS, at the conclusion of the Planning Commission's public hearing, the Planning
41 Commission deliberated and voted to recommend approval of the code amendments contained
42 in this ordinance, as set forth in its recommendation letter dated July 24, 2015; and

43
44 WHEREAS, on October 14, 2015, the Snohomish County Council ("County Council")
45 held a public hearing, after proper notice, and considered public comment and the entire record
46 related to the code amendments contained in this ordinance; and

47
48 WHEREAS, following the public hearing, the County Council deliberated on the code
49 amendments contained in this ordinance;

1 NOW, THEREFORE, BE IT ORDAINED:
2

3 Section 1. The County Council adopts the following findings in support of this ordinance:
4

5 A. The foregoing recitals are adopted as findings as if set forth in full herein.
6

7 B. This ordinance will amend Title 30 SCC. The proposal revises the requirements in SCC
8 30.23.210 to reinstate the use of all critical areas and their buffers that must be permanently
9 protected under chapter 30.62A SCC, instead of only half the area, when calculating lot size
10 averaging for a subdivision or short subdivision. The reduction to half of critical areas and
11 their buffers occurred in Amended Ord. 08-101 without any indication that it was new or
12 modified language. The proposal also deletes the Code Reviser note for SCC 30.23.210(1).
13 The Code Reviser note indicates that the text in SCC 30.23.210(1) shown in italic, underline
14 and strikeout format was amended by Amended Ord. 08-101 but was not indicated with
15 deletion and/or addition marks.
16

17 C. This ordinance is consistent with RCW 36.70A.090, which recommends that cities and
18 counties planning under the GMA provide for innovative land use management techniques.
19 This ordinance is also consistent with RCW 36.70A.115, which requires counties and cities
20 planning under the GMA to adopt development regulations that provide sufficient land
21 capacity suitable for development to accommodate their allocated housing growth. Lot size
22 averaging is a development regulation technique that allows the average size of all lots in a
23 subdivision or short subdivision be equal to or greater than a specified minimum lot size
24 threshold, as opposed to the conventional approach of requiring each lot to be equal to or
25 greater than a prescribed minimum lot size, in order to achieve more of the maximum
26 density permitted on a residentially zoned site.
27

28 D. This ordinance is consistent with the following MPP policy by providing a creative
29 development regulation that furthers the ability to maximize the single family residential
30 development potential of unincorporated urban lands within the county:
31

- 32 1. MPP-DP-2 "Encourage efficient use of urban land by maximizing the development
33 potential of existing urban lands, such as advancing development that achieves zoned
34 density."
35

36 E. This ordinance is consistent with the following CPP policy by providing a creative
37 development regulation that furthers the ability to maximize the single family residential
38 development potential of unincorporated urban lands within the county:
39

- 40 1. DP-16 "Jurisdictions should encourage the use of innovative development standards,
41 design guidelines, regulatory incentives, and applicable low impact development
42 measures to provide compact, high quality communities."
43

44 F. This ordinance is consistent with and implements the following GPP goals, objectives and
45 policies by providing an innovative development regulation that encourages a more efficient
46 use of unincorporated urban land for single family residential development:
47

- 48 1. Goal LU 2 "Establish development patterns that use urban land more efficiently."
49

- 1 2. Objective LU 2.A "Increase residential densities within UGAs by concentrating and
2 intensifying development in appropriate locations, particularly within designated centers
3 and along identified transit emphasis corridors."
4
- 5 3. Policy LU 2.A.5 "Within UGAs, alternatives to standard single family designs such as
6 zero lot line housing and cottages on small lots around a central courtyard, shall be
7 considered in development regulations for residential areas."
8

9 G. Procedural requirements.

- 10 1. State Environmental Policy Act (SEPA), chapter 43.21C RCW, requirements with
11 respect to this non-project action have been satisfied through the completion of an
12 environmental checklist and the issuance of a determination of non-significance on July
13 24, 2015.
14
- 15 2. The proposal is a Type 3 legislative action pursuant to SCC 30.73.010.
16
- 17 3. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance was
18 transmitted to the Washington State Department of Commerce for distribution to state
19 agencies on November 19, 2014.
20
- 21 4. The public participation process used in the adoption of this ordinance has complied with
22 all applicable requirements, including but not limited to, RCW 36.70A.035, chapter 30.73
23 SCC, and the Snohomish County Charter.
24
- 25 5. The Washington State Attorney General last issued an advisory memorandum, as
26 required by RCW 36.70A.370, in December 2006, entitled "Advisory Memorandum:
27 Avoiding Unconstitutional Takings of Private Property" to help local governments avoid
28 the unconstitutional taking of private property. The process outlined in the State
29 Attorney General's 2006 advisory memorandum was used by Snohomish County in
30 objectively evaluating the regulatory changes proposed by this ordinance.
31

32
33 H. This ordinance is consistent with the record as set forth in the Planning and Development
34 Services (PDS) staff reports dated May 11, 2015, and June 10, 2015.
35

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

- 38 A. The proposal complies with all requirements of Washington State law and county code.
39
- 40 B. The proposal is consistent with the MPP.
41
- 42 C. The proposal is consistent with the CPP.
43
- 44 D. The proposal is consistent with the goals, objectives and policies of the GPP.
45
- 46 E. The county complied with all SEPA requirements in respect to this non-project action.
47
- 48 F. The regulations proposed by this ordinance do not result in an unconstitutional taking of
49 private property for public purposes.
50

1 G. The county complied with state and local public participation requirements under the GMA
2 and chapter 30.73 SCC.
3

4 Section 3. The County Council bases its findings and conclusions on the entire record of the
5 County Council, including all testimony and exhibits. Any finding which should be deemed a
6 conclusion, and any conclusion which should be deemed a finding, is hereby adopted as such.
7

8 Section 4. Snohomish County Code Section 30.23.210, last amended by Amended Ordinance
9 No. 14-073 on October 8, 2014, is amended to read:
10

11 **30.23.210 Lot size averaging.**
12

- 13 (1) A subdivision or short subdivision will meet the minimum lot area of the zone in which it is
14 located if the area in lots plus ~~((half of the area of all))~~ all critical areas and their buffers ~~((that~~
15 ~~must be permanently protected under chapter 30.62A SCC, if any, plus and¹))~~ that must be
16 permanently protected under chapter 30.62A SCC, if any, plus areas designated as open
17 space or recreational uses, if any, divided by the total number of lots equals or exceeds the
18 minimum lot area of the zone in which the property is located. In no case shall the density
19 achieved be greater than the gross site area divided by the underlying zoning.
20 (2) This section shall only apply to:
21 (a) subdivisions or short subdivisions within zones having a minimum lot area requirement of
22 12,500 square feet or less; and
23 (b) short subdivisions in rural areas within zones having a minimum lot size greater than
24 12,500 square feet but not larger than five acres.
25 (3) Roadways shall not count toward the calculations for lot size averaging.
26 (4) Surface detention/retention facilities may count toward calculations for lot size averaging
27 only if the detention/retention facility:
28 (a) is designed to not require security fencing under the EDDS standards; and
29 (b) the facility is either:
30 (i) designed so as to appear as a natural wetland system, or
31 (ii) provides active or passive recreational benefits in a natural landscaped setting.
32 (5) For subdivisions and short subdivisions within zones having a minimum lot area requirement
33 of 12,500 square feet or less, the following additional criteria apply:
34 (a) Each single lot shall be at least 3,000 square feet in area;
35 (b) Lots in subdivisions and short subdivisions created under the provisions of this section
36 shall have a maximum lot coverage of 55 percent;
37 (c) Lots with less than the prescribed minimum lot area for the zone in which they are
38 located shall have a minimum lot width of at least 40 feet, and right-of-way setbacks of 15
39 feet except that garages must be set back 18 feet from the right-of-way (with the exception
40 of alleys) and corner lots may reduce one right-of-way setback to no less than 10 feet; and
41 (d) Preliminary subdivisions approved utilizing lot averaging shall not be recorded by
42 divisions unless such divisions individually or together as cumulative, contiguous parcels
43 satisfy the requirements of this section.
44 (6) For short subdivisions in rural areas within zones having a minimum lot size greater than
45 12,500 square feet but not larger than five acres, the following additional criteria apply:
46 (a) Each single lot shall be at least 12,500 square feet in area or the minimum area
47 necessary to comply with the Snohomish health district's rules and regulations for on-site
48 sewage disposal and potable water supply, whichever is greater;
49 (b) Lots in short subdivisions created under the provisions of this section shall have a
50 maximum lot coverage of 35 percent; and


1 (c) Lots with less than the prescribed minimum lot area for the zone in which they are
2 located shall have a minimum lot width of at least 75 feet, and right-of-way setbacks of 50
3 feet except corner lots may reduce one right-of-way setback to no less than 20 feet.
4

5 (~~*Code Reviser Note: The text shown in italic, underline and strikeout format in 30.23.210~~
6 ~~subsection (1) above was amended by Amended Ord. 08-101 but was not indicated with~~
7 ~~deletion and/or addition marks.:~~)
8

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

19 PASSED this 14th day of October, 2015
20


21 SNOHOMISH COUNTY COUNCIL
22 Snohomish County, Washington
23

24 
25 _____
26 Dave Somers
27 Council Chair

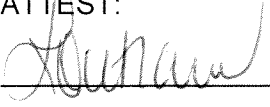
28 ATTEST:

29 
30 _____
31 Debbie Eco
32 Clerk of the Council
33

- 34
35
36 APPROVED
37 EMERGENCY
38 VETOED
39

40 DATE: 
41 _____
42 County Executive 10/20/15

42 ATTEST:

43 
44 _____
45
46 Approved as to form only:
47
48 _____
49 Deputy Prosecuting Attorney
50