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Nonconforming Structures Ordinance 25-047 (ECAF 2025-2504)					
Hearing Date: Wednesday, October 1, 2025 @ 10:30 a.m.					
Council Staff: Ryan Hembree		PDS Staff: Henry Jennings		DPA: Justin Kasting	
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MEMORANDUM

TO: Snohomish County Planning Commission

Dave Somers
County Executive

FROM: Sarah Titcomb, PDS

SUBJECT: Staff Report: Proposed Code Amendments Relating to Nonconforming Structures and Uses

DATE: April 22, 2025

INTRODUCTION

The purpose of this staff report is to provide information on a non-project proposal to amend Snohomish County Code (SCC) sections 30.28.070, 30.28.72, and 30.28.075 relating to nonconforming structures and uses. The code amendments will increase consistency between the sections and clarify the criteria for expanding nonconforming structures and uses. Attachment A presents the staff recommended draft findings.

PROPOSAL BACKGROUND

A nonconforming structure is defined within SCC 30.91N.050 as a structure that met all the required development regulations, such as building height and setbacks when it was first established, although it no longer does. Similarly, a nonconforming use is defined with SCC 30.91N.070 as a use that was allowed when established, although is no longer allowed. Nonconforming structures and uses are most often created when areawide rezones or changes in development regulations are adopted. These changes can create situations where what once was allowed could no longer be permitted under the new code. The provisions within chapter 30.28 SCC allow structures and uses already in place when the codes change to remain, and in some cases even expand.

State law does not regulate nonconforming uses and structures, so there is diversity in how the jurisdictions of the state address the issue. Nonconforming provisions have been included in Snohomish County Code since the code's creation in 1966. SCC 30.28.070 focuses on the requirements for continuing, improving, and restoring existing nonconforming structures. SCC 30.28.072 focuses instead on continuance, changes, abandonment, and expansion of nonconforming uses, and SCC 30.29.075 looks at structures that house nonconforming uses. The three provisions have only been amended twice since they were incorporated into the unified development code in 2003. The only amendment to SCC 30.28.072 occurred in 2013 within Amended Ordinance 13-007, effective October 3, 2013, that created Urban Center zone specific expansion limits for nonconforming use. The only amendment to SCC 30.28.070 occurred recently through Ordinance 25-014 and incorporated recent state legislation surrounding accessory dwelling units.

The central reasons for the proposed code amendments described in this staff report are inconsistencies between the three nonconforming provisions in code, issues with implementation, and ensuring compliance with the rest of title 30 SCC. The primary inconsistency is between SCC 30.28.075 and SCC 30.28.072. SCC 30.28.075 states that no structure containing a nonconforming use can be expanded, although SCC 30.28.072 provides the criteria to allow for expansion of a nonconforming use in or outside of a structure. Snohomish County Planning and Development Services (PDS) staff as well as the Hearing Examiner have also identified several issues with implementing the criteria for expanding nonconforming uses. Many criteria lack examples or quantitative measures that can help staff consistently implement the code. Finally, as the provisions for nonconforming uses and structures have primarily not been updated since the unified development code was created in 2003, they lack important references to other sections of code such as the shoreline management program.

The proposed amendments in this staff report aim to reduce inconsistencies by repealing SCC 30.28.075, clarify criteria by amending SCC 30.28.072(4), and detail that any expansions of nonconforming structures or uses must comply with all development regulations. This means that, for instance, any expanded area must comply with critical area regulations, ADA requirements, the fire code, and all other development regulations. The fundamental policy that will remain within these proposed amendments is that a nonconforming structure is allowed to remain for the life of the structure. This includes normal maintenance and repairs, although any expansions need to comply with all current code. Further, if the use or structure could become conforming with a conditional use permit, a conditional use permit is required for any expansion. A project cannot create or expand a nonconformity.

PROPOSED CODE AMENDMENTS

Table 1 outlines the proposed code amendments, as well as the findings in support of the proposed code amendments by subsection.

Table 1. Summary of proposed code changes and findings

Proposed Change	Finding
30.28.070 Nonconforming structures. The following requirements apply to nonconforming structures: (1) Continuance. Any legally established nonconforming structure is permitted to remain in the form and location in which it existed on the effective date of the nonconformance <u>for the life of the structure</u>; (2) <u>Improvements and repairs.</u> (a) Nonconforming structures may be structurally altered or enlarged <u>with the required permits</u> only if the ((setback, height, lot coverage, and open space)) <u>altered or enlarged portion of the structure complies with all title 30 SCC requirements of the zone in which the structure is located ((are met; except when to:)), including but not limited to compliance with ADA requirements, fire code, critical area regulations, and all other safety requirements mandated by local, state, or federal standards; and</u> ((a)) (b) Repair to the existing nonconforming structure including ordinary maintenance or replacement of <u>up to</u>	A nonconforming structure may continue for the life of the structure. This means that a nonconforming structure cannot be demolished and rebuilt, although normal maintenance of a nonconforming structure is allowed along with expansions to the structure. Proposed amendments help clarify this intent for the continuation and improvement of nonconforming structures. The proposed amendments more clearly indicate that all improvements, repairs, or restoration must be done in compliance with all of title 30 SCC. A 50 percent limit on replacement of the total number of exterior walls is proposed to be added to (2) because staff and the public are often confused about how many walls can be repaired or replaced and still be considered ordinary maintenance. With this proposed amendment, if a nonconforming structure had, for instance, 6

Table 1. Summary of proposed code changes and findings

Proposed Change	Finding
<u>50 percent of the total number of exterior walls, fixtures, or plumbing shall be permitted so long as the exterior dimensions of the structure, as it existed on the effective date of the nonconformance, are not increased((;or)). Structures may not be demolished and rebuilt, this is not considered ordinary maintenance.</u> ((b) Convert an existing nonconforming structure)) <u>((c) Nonconforming structures may be converted into an accessory dwelling unit pursuant to SCC 30.28.010(2)(d)(iv)((;)) .</u> (3) Restoration. A structure that is accidentally destroyed may be fully restored only if ((the setback and yard)) <u>all applicable title 30 SCC requirements ((of chapter 30.23 SCC))</u> are met ((unless)) . If the structure is listed on the National Register of Historic Places, Washington State Cultural Resource Inventory, or Snohomish County Cultural Resource Inventory, ((in which case,)) the structure may be restored and located in its former location despite noncompliance with the bulk regulations: (a) <u>Regardless of historical status, a building permit, compliance with subtitle 30.5 SCC, and compliance with the ADA are required;</u> <u>(b) To restore a destroyed nonconforming structure, a building permit must be submitted to the department within one year of the destruction; and</u> ((b)) <u>((c) A structure shall be considered destroyed for purposes of this section if the restoration costs exceed 75 percent of assessed value of record when the damage occurred.</u> <u>(4) If the nonconforming structure would be conforming with either a conditional use permit or an administrative conditional use permit, this permit shall be required to structurally alter, enlarge, or restore the nonconforming structure. The conditional use permit or administrative conditional use permit is required in addition to any other required permit, such as a building permit and land disturbing activity permit.</u> <u>(5) Structures nonconforming to the shoreline regulations shall comply with SCC 30.67.450.</u>	exterior walls, 3 of them could be replaced. This proposed amendment helps define ordinary maintenance. Further clarifying ordinary maintenance, the proposed amendments state that all exterior walls cannot be removed, and the entire structure cannot be replaced or rebuilt, even in the same footprint. This would not be consistent with the intent of allowing a nonconforming structure to remain for the life of the structure, whereas normal repair and maintenance is a part of the life of a structure. Amendments from Ordinance 25-014 included an allowance for nonconforming structures to be converted into accessory dwelling units with criteria included in a newly added SCC 30.28010(2)d(iv). The proposed amendments in this staff report are housekeeping to ensure the tense and sentence structure follow the other proposed amendments within (a) and (b) above. Improvements and repairs cannot create or expand a nonconformity, an expansion must be done in compliance with the development code. While nonconforming structures are allowed to be maintained, proposed amendments make it clear that any proposed expansion must comply with all applicable codes so that new nonconformities are not created. For instance, an expansion of an existing building could not be proposed within a critical area without compliance with critical area regulations, like any other newly proposed structure in unincorporated Snohomish County. Proposed language also clarifies that if a structure were accidentally destroyed, it can only be rebuilt if it complies with all of title 30 SCC, unless it was a historic building. Even if the nonconforming structure were historic and could be rebuilt in the same footprint, the restoration must be in compliance with the building and fire codes and receive an approved building permit. There are some nonconforming structures, such as larger garages or accessory structures, that could be conforming with a conditional use permit. The

Table 1. Summary of proposed code changes and findings

Proposed Change	Finding
	proposed amendments would require a conditional use permit in these situations if an applicant was also applying for a building permit to do an improvement or repair. The intent is to require structures to become conforming to current code if possible. Finally, this code section has not been updated since the nonconforming uses and structures section within the Shoreline Management Plan (SCC 30.67.450) was created in 2006 that supersedes this section within chapter 30.28 SCC. Proposed amendments add this reference to SCC 30.28.070 so that staff and the public know the requirements.
30.28.072 Nonconforming uses. (1) Continuance. Any legally established nonconforming use may be continued subject to the provisions of this section. (2) Changes. Nonconforming uses may only be changed to other uses that are allowed by ((this title)) <u>chapter 30.22 SCC</u> in the zone within which the nonconforming use is located. (3) Abandonment. If a nonconforming use is abandoned or discontinued for a period of 12 consecutive months or more, the nonconforming status of the use is terminated, and any future use of the land or structures shall be in conformity with the provisions of ((this title)) <u>Title 30 SCC</u>. The mere presence of a structure, equipment, or material shall not be deemed to constitute the continuance of a nonconforming use unless the structure, equipment, or material is actually being occupied or employed in maintaining such use. (4) Expansion. A nonconforming use may be expanded upon approval of the required permits, including but not limited to, an administrative conditional use permit ((or)) <u>or a conditional use permit, if the use would be conforming with a conditional use permit.</u> The department may impose conditions upon the expansion of the use to minimize impacts and ensure compatibility with nearby existing and potential uses. A nonconforming use may be expanded if the department determines that the following criteria are met: (a) The area proposed for expansion is contiguous to the nonconforming use; (b) The area is held under the same ownership as the land with the nonconforming use and has been so owned since	Proposed housekeeping amendments to spell out the use matrix chapter within (2) and that the title in question is title 30 SCC within (3). Further proposed amendments in (4) specify that any expansion of a nonconforming use must obtain any required permits. For instance, if there is clearing necessary to expand the amount of ground area utilized for a nonconforming use, a land disturbing activity permit may be required, or a building permit for a new or expanded structure. An ACUP is already required within code for an expansion of a nonconforming use, and this is not proposed to change. Similar to newly proposed next within SCC 30.29.070 (4), there is also proposed language within SCC 30.28.072(4) to require a conditional use permit if the use would be conforming with such a permit. While nonconforming uses are permitted to continue and even expand in some cases, this is a proposed amendment with the intent to make as many uses conforming as possible. Without quantitative and clear criteria in place for when a use can be expanded, it is difficult to ensure consistent review and application. The proposed amendments add clarity to existing criteria by adding examples of how the criteria could be measured, and in some cases further defining the criteria. For instance, an expansion cannot be approved if it is “detrimental to surrounding properties” within existing code,

Table 1. Summary of proposed code changes and findings

Proposed Change	Finding
immediately prior to the time the use has become nonconforming; (c) The area for expansion is an area where the use would have been allowed immediately prior to the time the use became nonconforming; (d) <u>For a nonconforming use located outside of a structure, the ((The)) expansion shall not increase the ground area devoted to the nonconforming use by more than 100 percent of that in use at the effective date of the nonconformance((, except that within)) . Within the UC ((zone)) and MUC zones the allowed expansion shall ((not increase the ground area devoted to the nonconforming use by more than)) be limited to a maximum increase of 10 percent of ((that existing)) ground area from what existed at the effective date of the nonconformance. The increase in ground area must comply with all applicable development regulations within title 30 SCC such as, but not limited to, compliance with drainage requirements and critical area regulations;</u> (e) <u>For a nonconforming use located inside of a structure, the ((The)) expansion shall not increase the ((ground area covered by the structural portion)) building footprint of the structure or portion of the structure housing the nonconforming use by more than 100 percent of that existing at the effective date of the nonconformance((, except that within)) . Expansion of the building footprint can include utilizing more of an existing building than the nonconforming use previously occupied, new additions to existing buildings, and construction of new building(s) that house the nonconforming use. Within the UC ((zone)) and MUC zones the expansion shall not increase the ((ground area covered by the structural portion)) building footprint of the structure or portion of the structure housing the nonconforming use by more than 10 percent of that existing at the effective date of the nonconformance. New and expanded buildings that house an expanded nonconforming use must comply with all of title 30 SCC, such as setbacks, building height, lot coverage, and critical area regulations, and obtain required permit approval(s);</u> <u>(f) Any expansion in ground area or building footprint shall not create a new nonconforming use or structure. If the structure housing the nonconforming use is a</u>	although to help staff implement this consistently and efficiently (g) the proposed amendments provide examples of what could be considered detrimental. Similarly, existing (h) states that expansions cannot “result in a significant increase in the intensity of the use of the nonconformity” and proposed amendments provide quantitative measures for what could be considered significant including a 10 percent increase in average daily trips to the site. These proposed amendments could provide backstops for staff to implement the code. These amendments are also in line with the type of language found in other jurisdictions’ nonconforming codes across the state such as King County, City of Tacoma, and Kitsap County. Proposed amendments also aim to clarify that expansions in ground area and building area for nonconforming uses are limited to 100 percent of what existed when the use became nonconforming. This is to prevent multiple permit applications that result in a beyond doubling of the space utilized by the use. Newly proposed text also confirms that any expansion to a ground area or building area must comply with all of title 30 SCC. Finally proposed amendments add the restoration subsections from SCC 30.28.075 into SCC 30.28.072 as SCC 30.28.075 is proposed for repeal.

Table 1. Summary of proposed code changes and findings

Proposed Change	Finding
<u>nonconforming structure, any expansions shall also comply within SCC 30.28.070;</u> ((f)) <u>(g) The expansion shall not be approved if it is found to be detrimental to surrounding properties</u>((, or to the implementation of the adopted comprehensive land use plan for the area;)). <u>Detrimental in this section is defined as, but is not limited to, increased hours of operation, increased light, glare, or noise production, or introduction of new hazards;</u> ((g)) <u>(h) The expansion shall not be</u> ((granted)) <u>approved if it would result in a significant increase in the intensity of the use of the nonconformity. A significant increase is equal, but not limited, to a 10 percent increase in average daily trips to the site, or an increase of 10 percent in required minimum parking spaces. If multiple expansions are proposed over time, the aggregate increase related to criterion (h) shall not exceed the 10 percent limit as calculated from when the use became nonconforming;</u> ((h) Within the UC zone reconstruction of a destroyed nonconforming use is not permitted unless it complies with the requirements of chapter 30.34A SCC; and)) ((i) For purposes of this section "ground area" includes, but is not limited to, building footprint, paved surface parking, enclosed outdoor storage area, and enclosed outdoor service areas;)) <u>(i) The expansion shall not be approved if it would result in a net loss of critical area functions or values as demonstrated by a critical area study if required pursuant to chapter 30.62A SCC;</u> <u>(j) To be approved, the applicant must demonstrate that the expansion shall further the goals, objectives, and policies of the Snohomish County Comprehensive Plan, including the Land Use Element; and</u> <u>(k) To be approved, the expansion must include compliance with ADA requirements, fire code, and all other safety requirements mandated by local, state, or federal standards in the areas of expansion.</u> <u>(5) Uses nonconforming to the shoreline regulations shall comply with SCC 30.67.450.</u> <u>(6) Restoration of a structure housing a nonconforming use. A structure housing a nonconforming use that is accidentally destroyed may be fully restored only if all applicable title 30 SCC</u>	

Table 1. Summary of proposed code changes and findings

Proposed Change	Finding
<u>requirements are met. If the structure is listed on the National Register of Historic Places, Washington State Cultural Resource Inventory, or Snohomish County Cultural Resource Inventory, the structure housing the nonconforming use may be restored and located in its former location despite noncompliance with the bulk regulations:</u> <u>(a) Regardless of historical status, a building permit, compliance with subtitle 30.5 SCC, and compliance with the ADA are required to restore a destroyed structure housing a nonconforming use;</u> <u>(b) To restore a destroyed structure housing a nonconforming use, a building permit must be submitted to the department within one year of the destruction; and</u> <u>(c) A structure shall be considered destroyed for purposes of this section if the restoration costs exceed 75 percent of assessed value of record when the damage occurred.</u>	
((30.28.075 Nonconforming uses—structures. The following requirements apply to structures, whether conforming or nonconforming, that house or contain nonconforming uses: (1) Improvements. No structure containing a nonconforming use shall be enlarged, extended or structurally altered, whether the structural alterations meet the bulk requirements of this code or not, unless the nonconforming use is changed to a use permitted by this code; except that repair to the existing structure including ordinary maintenance or replacement of walls, fixtures, or plumbing shall be permitted so long as the exterior dimensions of the structure, as it existed on the effective date of the nonconformance are not increased; (2) Restoration. A structure housing a nonconforming use that is accidentally destroyed may be fully restored only if the setback and yard requirements of chapter 30.23 SCC are met unless the structure is listed on the National Register of Historic Places, Washington State Cultural Resource Inventory, or Snohomish County Cultural Resource Inventory, in which case, the structure housing the nonconforming use may be restored and located in its former location despite noncompliance with the bulk regulations: (a) To restore a destroyed structure housing a nonconforming use, a building permit must be submitted to the department within one year of the destruction; and	Proposed for repeal because the section is not consistent with the allowance for expansion within SCC 30.28.072. This disallowance is proposed for repeal as it does not align with Snohomish County’s long term policy of allowing for nonconforming structures and uses to continue and even be expanded in some cases. Nonconforming uses often provide uniqueness to a neighborhood and can be economic drivers. The intent of the code is to ensure these uses can remain and expand as needed to meet business demands. Although this expansion cannot be to the detriment of the users or the neighboring properties, and the long term goal is to have as many uses as possible become conforming. The subsection on restoration of nonconforming uses is a proposed to be added to SCC 30.28.072 as that is not currently enumerated there and is important for staff and applicants to understand the requirements for restoration.

Table 1. Summary of proposed code changes and findings

Proposed Change	Finding
(b) A structure shall be considered destroyed for purposes of this section if the restoration costs exceed 75 percent of assessed value of record when the damage occurred.))	
30.91N.050 Nonconforming structure. "Nonconforming structure" means a structure which was lawful when established <u>and</u> which does not now conform to ((the setback, height, or lot coverage requirements of the)) <u>all development regulations within title 30 SCC for the zone in which it is located under current code.</u>	Proposed amendments to the definition of a nonconforming structure to clarify that a structure is considered nonconforming when it no longer meets any of the requirements within title 30 SCC, not just certain bulk regulations.

The following analysis provides a summary of the proposed code amendments' compliance with state law, as well as regional, countywide, and county Comprehensive Plan policies.

Compliance with State Law

The GMA planning goals adopted in RCW 36.70A.020 guide the development and adoption of comprehensive plans and development regulations. The goals are not priority-listed. In particular, the GMA goals guide the policies in the Snohomish County's GMA Comprehensive Plan (GMACP) and require consistency between the GMACP and implementing development regulations. Table 2 identifies the reasonably related GMA planning goals listed in RCW 36.70A.020, and describes how the proposed code amendments are consistent with and advance those goals.

Table 2 Compliance with GMA Planning Goals

GMA Planning Goal	Finding
GMA Goal 5: Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.	Many nonconforming uses are business related, and these proposed amendments enshrine the ability to expand a nonconforming use to ensure business viability without compromising the welfare of neighboring properties.
GMA Goal 6: Property rights. Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.	Proposed amendments state that nonconforming uses and structures are permitted to be maintained and clarifies how expansions can occur to ensure that the private property rights of the nonconforming use or structure owner as well as neighboring properties can be maintained.

GMA Goal 7: Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.	Better defining ordinary maintenance, clarifying expansion criteria, and increasing consistency across Title 30 SCC will allow for more predictability and efficiency in permit processing.
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Compliance with the Multi-County Planning Policies

Multi-County Planning Policies (MPPs) within Vision 2050 “provide for coordination and consistency among the metropolitan counties sharing common borders and related regional issues as required by RCW 36.70A.100, and, in order to ensure consistency, the directive policies of the MPPs need to have a binding effect.” (Summit-Waller Community Association, et al, v Pierce County). Table 3 identifies the reasonably related MPPs within Vision 2050, and describes how the proposed code amendments are consistent with and advance those goals.

Table 3 Compliance with MPPs

MPP	Finding
MPP-DP-47: Streamline development standards and regulations for residential and commercial development and public projects, especially in centers and high-capacity transit station areas, to provide flexibility and to accommodate a broader range of project types consistent with the regional vision.	The proposed amendments better define ordinary maintenance, clarify expansion criteria, and increase consistency across Title 30 SCC to allow for more predictability and efficiency in permit processing.
MPP-H-10: Encourage jurisdictions to review and streamline development standards and regulations to advance their public benefit, provide flexibility, and minimize additional costs to housing.	
MPP-Ec-17: Preserve and enhance the region’s unique attributes and each community’s distinctive identity and design as economic assets as the region grows.	Nonconforming uses and structures can contribute to the uniqueness of neighborhoods and communities. Proposed amendments confirm the county’s commitment to the retention of these uses and structures, and their expansion.

Compliance with the Countywide Planning Policies

Countywide Planning Policies (CPPs) establish a countywide framework for developing and adopting county, city, and town comprehensive plans. The role of the CPPs is to coordinate comprehensive plans of jurisdictions in the same county in regard to regional issues and issues affecting common borders (RCW 36.70A.100). Table 4 identifies the reasonably related CPPs, and describes how the proposed code amendments are consistent with and advance those goals.

Table 4 Compliance with CPPs

CPP	Finding
CPP-ED-16: The expeditious processing of development applications shall not result in the reduction of environmental and land use standards.	The proposed amendments better define normal maintenance, clarify expansion criteria, and increase consistency across Title 30 SCC to allow for more predictability and efficiency in permit processing.

Compliance with the Snohomish County Comprehensive Plan

The proposed code amendments will better achieve, comply with, and implement the policies identified in Table 5 contained in the County's GMACP.

Table 5 Compliance with the Comprehensive Plan

GMACP Policy	Finding
HO Policy 3.A.2: Development standards and building permit requirements shall be reviewed every five years to ensure clarity and consistency while providing for a timely, fair, and predictable application processing outcome.	The proposed amendments better define normal maintenance, clarify expansion criteria, and increase consistency across Title 30 SCC to allow for more predictability and efficiency in permit processing.
ED Policy 2.A.3: To ensure timeliness, responsiveness, and increased efficiency, the county shall develop and maintain a program of periodic review of the permitting process to eliminate unnecessary administrative procedures that do not respond to legal requirements for public review and citizen input.	

Public Participation

The GMA requires early and continuous public participation (GOAL 11). Public participation on the proposed code amendments has been provided to date through:

- A 21-day public comment period on the preliminary draft amendments from January 22 through February 12, 2025;
- Email distributions to key parties about the comment period and updates to the code development webpage on the PDS website; and
- Virtual meetings with key parties.

The county received several comments from internal county staff as well as outside jurisdictions such as the Washington Department of Ecology (Ecology), Washington Department of Fish and Wildlife (WDFW), and The Tulalip Tribes. The internal staff were mainly concerned with a lack of clarity on how SCC 30.28.070(2) defined ordinary maintenance. Whereas the state agencies were concerned with the fate of critical areas if nonconforming structures and uses could be expanded. Staff in particular called out that code allows "replacement of walls, fixtures, or plumbing" and noted that some members of the public interpreted this to allow for removing all or all but one exterior wall before a rebuild. After discussions with staff, the proposed amendments included in this staff report were edited from those that went out for preliminary public comment to propose that up to 50 percent of exterior walls could be removed and replaced. Newly proposed text also states that ordinary maintenance does not include the demolition and rebuild of a nonconforming structure. The intent of the nonconforming code is to allow for the maintenance of a nonconforming structure for the life of said structure. Demolishing all but one wall of a nonconforming structure to rebuild from nearly scratch does not align with this intent, although the County believes that repair or replacing up to half of the exterior walls could be considered ordinary.

The existing code within SCC 30.28.070 and SCC 30.28.072 calls out that expanded areas must comply with specific bulk regulations such as setback and height requirements, and does not mention the rest of title 30 SCC. The preliminary draft amendments that went out for public comment added that any expanded building or use must comply with all title 30 SCC requirements, and gave a few examples such

as ADA compliance. The state agencies who provided comment were concerned that if there was not a specific reference to highlight critical areas, they could be negatively impacted from expansion. The WDFW also suggested that the County create specific nonconforming provisions for critical areas similar to other jurisdictions like the City of Kirkland. To make it clear that any enlargement of a nonconforming structure or use must be in compliance with the entirety of title 30 SCC including the critical area regulations of chapters 30.62A, 30.62B, 30.62C, and 30.65 SCC, the proposed amendments in this staff report call out compliance with critical area regulations in particular. Newly added provisions also call out the shoreline regulations in chapter 30.67 SCC as they supersede the nonconforming provisions in chapter 30.28 SCC for areas in the shoreline. Staff agree that a cross reference will help staff and the public understand this during reviews. The proposed code amendments do not allow for expansion into critical areas unless it complies with the avoidance, minimization, and mitigation requirements of the critical area regulations. While the nonconforming code does not call out methods that applicants could take to reduce their impacts, it does require no net loss of ecological function and value. Public comments received during the early comment period have directly influenced the proposed amendments within this staff report.

Environmental Review

A State Environmental Policy Act (SEPA) Determination is required for the proposed code amendments. A SEPA Determination of Non-Significance will be issued prior to the Planning Commission public hearing.

Notification of State Agencies

Pursuant to RCW 36.70A.106, a notice of intent to adopt the proposed regulations and standards will be transmitted to the Washington State Department of Commerce prior to the Planning Commission public hearing.

Staff Recommendation:

Staff recommends approval of the proposed code amendments and findings contained in this staff report.

Action Requested

The Planning Commission is requested to hold a public hearing, consider the proposed code amendments, and provide a recommendation to the County Council. The Planning Commission can recommend approval of the amendments with supporting findings of fact as proposed or modified, deny the proposal with findings, or amend the proposal with appropriate findings.

cc: Ken Klein, Executive Director
Mike McCrary, PDS Director
David Killingstad, PDS Manager
Michael Dobesh, PDS Manager
Ryan Hembree, Legislative Analyst

Attachments

Attachment A: Draft Findings of Fact and Conclusions

Attachment A
Relating to Nonconforming Structures and Uses Proposed Code Amendments
Findings of Fact and Conclusions

Section 1. Snohomish County Council adopts the following findings in support of this ordinance:

- A. The foregoing recitals are adopted as findings as if set forth in full herein.
- B. This ordinance proposes to amend SCC 30.28.070, 30.28.072, and 30.28.075 to increase consistency across Title 30 SCC and clarify criteria for expansion of nonconforming structures and uses.
- C. In developing the proposed code amendments, the County considered the goals of the GMA identified in RCW 36.70A.020, specifically those goals related to economic development, property rights, and permits. The proposed regulations are reasonably related to, and necessary for, the advancement of the before mentioned GMA planning goals.
- D. The proposed code amendments will allow SCC 30.28.070 and 30.29.072 to achieve, comply with, and implement the goals, objectives, and policies of the MPPs, CPPs, and the GMACP. In particular, the amendments will ensure consistent and efficient review of permits.
- E. The proposed code amendments are consistent with the record:
 - 1. SCC 30.28.070 is proposed to be amended to clarify that nonconforming structures may continue for the life of the structure and be improved or repaired if doing so is in full compliance with all requirements within title 30 SCC such as the fire code and critical area regulations.
 - a) Staff and the public are often confused about how many walls can be repaired or replaced and still be considered ordinary maintenance. Proposed amendments help define ordinary repair by specifying that up to 50 percent of the total number of exterior walls can be replaced. Amendments also clarify that all exterior walls cannot be removed and the entire structure cannot be replaced or rebuilt, even in the same footprint, under the banner of ordinary maintenance. This would not be considered consistent with the intent of allowing a nonconforming structure to remain for the life of the structure, whereas ordinary repair and maintenance can be a part of the normal life of a structure.
 - b) Improvements and repairs cannot create or expand a nonconformity, an expansion must be done in compliance with the development code. While nonconforming structures are allowed to be maintained, proposed amendments make it clear that any proposed expansion must comply with all applicable codes so that new nonconformities are not created. For instance, an expansion of an existing building could not be proposed within a critical area without compliance with critical area regulations like any other newly proposed structure in unincorporated Snohomish County.
 - c) If a structure were accidentally destroyed, it can only be rebuilt if it complies with all of title 30 SCC, unless it was a historic building. Even if the nonconforming structure were historic and could be rebuilt in the same footprint, proposed amendments state that the restoration must be in compliance with the building and fire codes and receive an approved building permit.
 - d) There are some nonconforming structures, such as larger garages or accessory structures, that could be conforming with a conditional use permit. The proposed

amendments would require a conditional use permit in these situations if an applicant was also applying for a building permit to do an improvement or repair. The intent is to require structures to become conforming to current code if possible.

- e) This code section has not been updated since the nonconforming uses and structures section within the Shoreline Management Plan (SCC 30.67.450) was created in 2006. SCC 30.67.450 supersedes the nonconforming use and structure provisions within chapter 30.28 SCC, although there is no mention of it within the chapter. Proposed amendments add this reference to SCC 30.28.070 and SCC 30.28.073 so that staff and the public are aware of the requirements.
2. SCC 30.28.072 is proposed to be amended to clarify that all expansions of nonconforming uses must comply with title 30 SCC, and to provide more concrete criteria for said expansions.
- a) Proposed amendments specify that any expansion of a nonconforming use must obtain any required permits. For instance, a land disturbing activity permit would be required for an expansion in ground area if more than 7,000 square feet or more of clearing is necessary or 2,000 square feet or more of new plus replaced hard surfaces are proposed. Similar to newly proposed text within SCC 30.29.070, there is also proposed language within (4) to require a conditional use permit if the use would be conforming with such a permit. While nonconforming uses are permitted, this is a proposed amendment to ensure that as many that can be made conforming should be made conforming.
 - b) Without quantitative and clear criteria in place for when a use can be expanded, it is difficult to ensure consistent review and application. The proposed amendments add clarity to existing criteria through some measurable statements and definitions. For instance, an expansion cannot be approved under existing code if it is “detrimental to surrounding properties,” although existing code does not provide enough detail to allow for consistent application of this criterion. To help staff implement this criterion, (g) is proposed to include examples of what could be considered detrimental. Similarly, an expansion in (h) cannot “result in a significant increase in the intensity of the use of the nonconformity” and proposed amendments provide quantitative measures for what could be considered significant. These proposed amendments provide backstops for staff to implement the code, while still allowing for some flexibility. These proposed amendments are also in line with the type of language found in other jurisdictions’ nonconforming codes across the state such as King County, City of Tacoma, and Kitsap County.
 - c) Proposed amendments also aim to clarify that expansions in ground area and building area for nonconforming uses are limited to 100 percent of what existed when the use became nonconforming. This is to prevent multiple permit applications over time that result in a more than doubling of the nonconforming use. Newly proposed text also confirms that any expansion to a ground area or building area must comply with all of title 30 SCC.
 - d) Amendments add the restoration subsections from SCC 30.28.075 into SCC 30.28.072 as SCC 30.28.075 is proposed for repeal.
3. SCC 30.28.075 is repealed as it does not allow for expansion of nonconforming uses whereas existing practice and SCC 30.28.072 does.

4. SCC 30.91N.050 is amended to clarify that a nonconforming structure can be nonconforming to more than just bulk regulations. A nonconforming structure is created when it does not comply with any of the requirements within title 30 SCC.

F. Procedural requirements:

1. The proposal is a Type 3 legislative action under SCC 30.73.010 and 30.73.020.
2. As required by RCW 30.70A.106(1), a notice of intent to adopt the proposed code amendments will be transmitted to the Washington State Department of Commerce for distribution to state agencies in the coming months.
3. State Environmental Policy Act (SEPA), chapter 43.21C RCW, requirements with respect to this non-project action will be satisfied through the completion of an environmental checklist and the issuance of a determination of non-significance in the coming months.
4. The public participation process used in the adoption of the proposed code amendments has complied with all applicable requirements of the GMA and SCC.
5. As required by RCW 30.70A.370, the Washington State Attorney General last issued an advisory memorandum in October 2024 entitled "Advisory Memorandum and Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property" to help local governments avoid unconstitutional takings of private property. The process outlined in the State Attorney General's 2024 advisory memorandum was used by the County in objectively evaluating the regulatory changes in this ordinance.

Section 2. The County Council makes the following conclusions:

- A. The proposal is consistent with Washington State law and Snohomish County Code.
- B. The proposal is consistent with the GMACP and with the goals, objectives, and policies of the GMACP.
- C. The County has complied with all SEPA requirements with respect to this non-project action.
- D. The regulations proposed by this ordinance do not result in an unconstitutional taking of private property for a public purpose.
- E. The County complied with the state and local public participation requirements under the GMA and chapter 30.73 SCC.

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



Snohomish County

SNOHOMISH COUNTY PLANNING COMMISSION

May 28, 2025

Snohomish County Council
County Administration Building
3000 Rockefeller Avenue, M/S 609
Everett, WA 98201-4046

SUBJECT: Planning Commission recommendation on proposed code amendments to
Nonconforming Uses and Structures provisions

Dear Snohomish County Council:

On behalf of the Snohomish County Planning Commission, I am forwarding our recommendation to amend the nonconforming uses and structures provisions within Chapter 30.28 of the Snohomish County Code (SCC). The Planning Commission had a briefing on this topic on April 22, 2025, and conducted a public hearing on May 27, 2025.

The proposed amendments aim to reduce inconsistencies within the three provisions of code, clarify criteria for expanding nonconforming uses, and detail that any expansions of nonconforming structures or uses must comply with all development regulations. The proposed amendments also provide detail on what is considered ordinary maintenance of nonconforming structures.

There were no written comments received by the Planning Commission from the public prior to the May 27th hearing, although two members of the public provided comments during the hearing mainly focused if there was the opportunity to extend building permits related to nonconforming structures. Staff provided contact information for the permitting division of PDS.

PLANNING COMMISSION RECOMMENDATION

At the May 27, 2025, Planning Commission meeting, Commissioner Sheldon made a motion, seconded by Commissioner Sievers, recommending APPROVAL of the proposed nonconforming use and structure amendments contained in the staff report dated April 22, 2025, and presented by county staff within the May 27, 2025, Planning Commission public hearing.

Vote (Motion):

7 in favor (*Bush, Busteed, Chandler, Larsen, Niemela, Sheldon, Sievers*)

0 opposed

Motion passed

The recommendation presented to the County Council within this motion was made following the close of the deliberations and after due consideration of information presented and is based on the findings and conclusions presented in the April 22, 2025, staff report.

Nonconforming Uses and Structures Index # - File Name:

Planning Commission Recommendation Letter

Nonconforming Uses and Structures

May 28, 2025

Respectfully submitted,

Robert W Larsen

Robert W Larsen (May 28, 2025 14:44 PDT)

SNOHOMISH COUNTY PLANNING COMMISSION

Robert Larsen, Chairman

cc: Dave Somers, Snohomish County Executive

Michael McCrary, Director, Planning and Development Services

Executive/Council Action Form (ECAF)**ITEM TITLE:****..Title**

Ordinance 25-047, relating to nonconforming structures and uses; amending Sections 30.28.070, 30.28.072, and 30.91n.050, and repealing Section 30.28.075 of the Snohomish County Code

..body**DEPARTMENT:** Planning and Development Services**ORIGINATOR:** Henry Jennings**EXECUTIVE RECOMMENDATION:** Approved by Ken Klein 8/7/25

PURPOSE: This ordinance proposes to amend SCC 30.28.070, 30.28.072, and 30.91N.050 and to repeal SCC 30.28.075 to increase consistency throughout Title 30 SCC and clarify criteria for expansion of nonconforming uses and structures.

BACKGROUND: The proposed amendments clarify that nonconforming structures may remain for the life of the structure and be improved or repaired if doing so is in full compliance with all requirements of Title 30 SCC including the fire code and critical area regulations.

FISCAL IMPLICATIONS:

EXPEND: FUND, AGY, ORG, ACTY, OBJ, AU	CURRENT YR	2ND YR	1ST 6 YRS
TOTAL			

REVENUE: FUND, AGY, ORG, REV, SOURCE	CURRENT YR	2ND YR	1ST 6 YRS
TOTAL			

DEPARTMENT FISCAL IMPACT NOTES: Click or tap here to enter text.**CONTRACT INFORMATION:**

ORIGINAL _____ CONTRACT# _____ AMOUNT _____
 AMENDMENT _____ CONTRACT# _____ AMOUNT _____

Contract Period

ORIGINAL START _____ END _____
 AMENDMENT START _____ END _____

OTHER DEPARTMENTAL REVIEW/COMMENTS: Reviewed/approved by Finance – Nathan Kennedy 8/7/25

1 Adopted:

2 Effective:

3 SNOHOMISH COUNTY COUNCIL
4 Snohomish County, Washington

5
6 ORDINANCE NO. 25-047

7
8 RELATING TO NONCONFORMING STRUCTURES AND USES; AMENDING
9 SECTIONS 30.28.070, 30.28.072, AND 30.91N.050, AND REPEALING SECTION
10 30.28.075 OF THE SNOHOMISH COUNTY CODE
11

12 WHEREAS, a nonconforming structure is defined in Snohomish County Code
13 (SCC) 30.91N.050 as a structure that met all the required development regulations,
14 such as building height and setbacks, when it was first established, although it no longer
15 does; and
16

17 WHEREAS, a nonconforming use is defined in SCC 30.91N.070 as a use of land
18 or a structure that was allowed when established, although is no longer allowed; and
19

20 WHEREAS, the County Code has regulated nonconforming structures and uses
21 since the Code's adoption in 1966; and
22

23 WHEREAS, the intent of such regulations has been and will remain to allow a
24 nonconforming structure to continue for the life of the structure, and to allow for
25 nonconforming uses to remain until abandonment and even expand under certain
26 circumstances; and
27

28 WHEREAS, since the adoption of Title 30 SCC, the Unified Development Code,
29 in 2002, regulations related to nonconforming structures and uses have only been
30 updated twice; and
31

32 WHEREAS, state law does not regulate nonconforming uses and structures, so
33 there is diversity in how local jurisdictions address the issue; and
34

35 WHEREAS, there are inconsistencies between the three nonconforming use
36 provisions, there are issues with implementation of the provisions as identified by staff
37 and the Snohomish County Hearing Examiner, and the current regulations lack
38 important references to other provisions of Title 30 SCC; and
39

40 WHEREAS, the amendments contained in this ordinance reduce inconsistencies
41 by repealing SCC 30.28.075, clarifying criteria for expanding nonconforming uses by

1 amending SCC 30.28.072(4), and expressly requiring that any expansions of
2 nonconforming structures or uses must comply with all development regulations; and
3

4 WHEREAS, a 21-day early public comment period on draft amendments
5 occurred from January 22 through February 12, 2025, where comments received from
6 staff as well as the Washington State Department of Ecology ("Ecology"), Washington
7 Department of Fish and Wildlife (WDFW), and The Tulalip Tribes led to further
8 amendments now contained in this ordinance; and
9

10 WHEREAS, on April 22, 2025, the Snohomish County Planning Commission (the
11 "Planning Commission") was briefed by Snohomish County Planning and Development
12 Services (PDS) staff about the code amendments contained in this ordinance; and
13

14 WHEREAS, the Planning Commission held a public hearing on May 27, 2025, to
15 receive public testimony concerning the proposed code amendments contained in this
16 ordinance; and
17

18 WHEREAS, at the conclusion of the Planning Commission's public hearing, the
19 Planning Commission deliberated on the proposed ordinance and voted to recommend
20 approval of the code amendments relating to nonconforming structures and uses as
21 shown in its May 28, 2025, recommendation letter; and
22

23 WHEREAS, on _____, 2025, the Snohomish County Council
24 ("County Council") held a public hearing after proper notice, and considered public
25 comment and the entire record related to the code amendments contained in this
26 ordinance; and
27

28 WHEREAS, following the public hearing, the County Council deliberated on the
29 amendments contained in this ordinance;
30

31 NOW, THEREFORE, BE IT ORDAINED:
32

33 Section 1. The County Council makes the following findings:
34

- 35 A. The foregoing recitals are adopted as findings as if set forth in full herein.
36
37 B. This ordinance proposes to amend SCC 30.28.070, 30.28.072, and 30.91N.050 and
38 to repeal SCC 30.28.075 to increase consistency throughout Title 30 SCC and
39 clarify criteria for expansion of nonconforming structures and uses.
40

1 C. In developing the proposed code amendments, the County considered the goals of
2 the GMA identified in RCW 36.70A.020, specifically those goals related to economic
3 development, property rights, and permits. The proposed regulations are reasonably
4 related to, and necessary for, the advancement of the GMA planning goals.

- 5
- 6 1. GMA Goal 5 – Economic development. Encourage economic development
7 throughout the state that is consistent with adopted comprehensive plans,
8 promote economic opportunity for all citizens of this state, especially for
9 unemployed and for disadvantaged persons, promote the retention and
10 expansion of existing businesses and recruitment of new businesses, recognize
11 regional differences impacting economic development opportunities, and
12 encourage growth in areas experiencing insufficient economic growth, all within
13 the capacities of the state's natural resources, public services, and public
14 facilities.

15

16 Many nonconforming uses are business related. These proposed amendments
17 protect the ability to maintain and, under certain circumstances, expand
18 nonconforming uses and structures to ensure business viability without
19 compromising the welfare of neighboring properties.

- 20
- 21 2. GMA Goal 6 – Property rights. Private property shall not be taken for public use
22 without just compensation having been made. The property rights of landowners
23 shall be protected from arbitrary and discriminatory actions.

24

25 The proposed amendments state that nonconforming uses and structures are
26 permitted to be maintained and clarify how expansions can occur to ensure that
27 the private property rights of the nonconforming use or structure owner as well as
28 neighboring properties can be maintained.

- 29
- 30 3. GMA Goal 7 – Permits. Applications for both state and local government permits
31 should be processed in a timely and fair manner to ensure predictability.

32

33 The proposed amendments better define ordinary maintenance, clarify expansion
34 criteria, and increase consistency throughout Title 30 SCC allowing for more
35 predictability and efficiency in permit processing.

- 36
- 37 D. The proposed amendments will better achieve, comply with, and implement the
38 goals and policies of the Puget Sound Regional Council's Vision 2050 Multicounty
39 Planning Policies (MPPs), including the following policies:

1. MPP-DP-47: Streamline development standards and regulations for residential and commercial development and public projects, especially in centers and high-capacity transit station areas, to provide flexibility and to accommodate a broader range of project types consistent with the regional vision.

The proposed amendments better define ordinary maintenance, clarify expansion criteria, and increase consistency across Title 30 SCC to allow for more predictability and efficiency in permit processing.

2. MPP-H-10: Encourage jurisdictions to review and streamline development standards and regulations to advance their public benefit, provide flexibility, and minimize additional costs to housing.

The proposed amendments better define ordinary maintenance, clarify expansion criteria, and increase consistency throughout Title 30 SCC to allow for more predictability and efficiency in permit processing.

3. MPP-Ec-17: Preserve and enhance the region's unique attributes and each community's distinctive identity and design as economic assets as the region grows.

Nonconforming uses and structures can contribute to the uniqueness of neighborhoods and communities. Proposed amendments confirm the commitment to the retention of these uses and structures in Snohomish County.

- E. The proposed amendments will better achieve, comply with, and implement the goals and policies contained within the Countywide Planning Policies (CPPs), including the following policy:

1. CPP-ED-16: The expeditious processing of development applications shall not result in the reduction of environmental and land use standards.

The proposed amendments better define normal maintenance, clarify expansion criteria, and increase consistency throughout Title 30 SCC to allow for more predictability and efficiency in permit processing.

- F. The proposed amendments will better achieve, comply with, and implement the goals, objectives, and policies of the Snohomish County GMA Comprehensive Plan (GMACP), including the following:

1. HO Policy 3.A.2: Development standards and building permit requirements shall be reviewed on a continual basis to ensure clarity and consistency while providing for a timely, fair, and predictable application processing outcome.
2. ED Policy 2.A.3: To ensure timeliness, responsiveness, and increased efficiency, the county shall maintain a program of continuous review of the permitting process to eliminate unnecessary procedures that do not respond to legal requirements for public review and citizen input.

The proposed amendments better define normal maintenance, clarify expansion criteria, and increase consistency throughout Title 30 SCC to allow for more predictability and efficiency in permit processing related to nonconforming uses and structures.

G. The proposed code amendments are consistent with the record:

1. SCC 30.28.070 is proposed to be amended to clarify that nonconforming structures may remain for the life of the structure and be improved or repaired if doing so is in full compliance with all requirements within Title 30 SCC including the fire code and critical area regulations.
 - a) Staff and the public are often confused about how many walls can be repaired or replaced and still be considered ordinary maintenance. Proposed amendments help define ordinary repair by specifying that up to 50 percent of the total number of exterior walls can be replaced. Amendments also clarify that all exterior walls cannot be removed and the entire structure cannot be replaced or rebuilt, even in the same footprint, under the banner of ordinary maintenance. This is not consistent with the intent of allowing a nonconforming structure to remain for the life of the structure, whereas ordinary repair and maintenance can be a part of the normal life of a structure.
 - b) Improvements and repairs cannot create or expand a nonconformity and any expansion must be done in compliance with all applicable code requirements. While nonconforming structures are allowed to be maintained, proposed amendments make it clear that any proposed expansion must comply with all applicable codes so that new nonconformities are not created. For instance, an expansion of an existing building could not be proposed within a critical area without compliance with critical area regulations like any other newly proposed structure in unincorporated Snohomish County.

- 1
- 2 c) If a nonconforming structure is accidentally destroyed, it may only be
- 3 rebuilt if it complies with all of Title 30 SCC. An exception to this general
- 4 rule exists if it was a historic building. Even if the destroyed nonconforming
- 5 structure is historic and could be rebuilt in the same footprint, proposed
- 6 amendments require the restoration to be in compliance with the building
- 7 and fire codes and receive an approved building permit.
- 8
- 9 d) Some nonconforming structures, such as larger garages or accessory
- 10 structures, could become conforming with the issuance of a conditional
- 11 use permit. The proposed amendments require a conditional use permit in
- 12 these situations if an applicant also applies for a building permit to do an
- 13 improvement or repair. The intent is to require such structures to become
- 14 conforming to current code when possible.
- 15
- 16 e) This code section has not been updated to incorporate nonconforming
- 17 uses and structures section within the County's Shoreline Management
- 18 Program. SCC 30.67.450 supersedes the nonconforming use and
- 19 structure provisions within Chapter 30.28 SCC, although there is no cross
- 20 reference within Chapter 30.28 SCC. Proposed amendments add this
- 21 reference to SCC 30.28.070 and SCC 30.28.072 to ensure staff and the
- 22 public are aware of the requirements of the Shoreline Management
- 23 Program.
- 24
- 25 2. Proposed amendments to SCC 30.28.072 clarify that all expansions of
- 26 nonconforming uses must comply with Title 30 SCC and provide criteria for such
- 27 expansions.
- 28
- 29 a) Proposed amendments specify that any expansion of a nonconforming
- 30 use must obtain any required permits. For instance, a land disturbing
- 31 activity permit is required for an expansion in ground area if 7,000 square
- 32 feet or more of clearing is necessary or 2,000 square feet or more of new
- 33 plus replaced hard surfaces is proposed. Similar to newly proposed text
- 34 within SCC 30.28.070, there is also proposed language within SCC
- 35 30.28.072(4) to require a conditional use permit if the use would become
- 36 conforming by obtaining such a permit. The intent of this amendment is to
- 37 convert nonconforming structures to conforming structures whenever
- 38 possible.
- 39
- 40 b) Without identifying quantitative and clear criteria for when a use can be
- 41 expanded, it is difficult to ensure consistent review and application of

County Code. The proposed amendments add clarity to existing criteria through measurable statements, illustrative examples, and definitions. For instance, an expansion cannot be approved under existing code if it is “detrimental to surrounding properties,” although existing code does not provide guidance allowing for consistent application of this criterion. To help staff implement this criterion, SCC 30.28.072(g) is proposed to include examples of expansion that are considered detrimental. Similarly, under current code, an expansion under SCC 30.28.072(h) cannot “result in a significant increase in the intensity of the use of the nonconformity” and proposed amendments are intended to provide quantitative measures for what is considered significant. These proposed amendments provide backstops for staff when applying the code to a given proposal, while still allowing for some flexibility. These proposed amendments are also similar to code provisions found in other jurisdictions’ nonconforming codes such as King County, Kitsap County, and the City of Tacoma.

c) Proposed amendments also aim to clarify that the total sum of expansions in ground area and building area for nonconforming uses is limited to 100 percent of what existed when the use became nonconforming. This is to prevent multiple permit applications over time that result in a more than doubling of the nonconforming use. The proposed amendments also require that any expansion to a ground area or building area must comply with all applicable Title 30 SCC requirements.

d) Amendments add the restoration subsections from SCC 30.28.075 into SCC 30.28.072 as SCC 30.28.075 is proposed for repeal.

3. SCC 30.28.075 is repealed to both ensure consistency with SCC 30.28.072 and because requirements currently found in the section have been recodified in SCC 30.28.072.

4. SCC 30.91N.050 is amended to clarify that a nonconforming structure can be nonconforming to more than just bulk regulations. A nonconforming structure exists when the structure no longer complies with any of the requirements in Title 30 SCC.

H. The code amendments are consistent with the record as set forth in the PDS Staff Report dated April 22, 2025.

I. The amendments have been evaluated for the potential to create barriers to the implementation of low impact development (LID) principles and measures for

1 stormwater management. The updates will not impact LID principles or measures as
2 any expansion of any structure must comply with all development regulations including
3 those related to drainage and land disturbing activities. The amendments do not
4 create a barrier to the use of LID techniques for stormwater management.

5
6 J. The amendments will not have an impact on the demand for capital facilities and
7 utilities. County and external service providers maintain long-range plans and
8 financing strategies to meet projected service demands that will not be impacted by
9 the amendments.

10
11 K. The amendments will not negatively impact housing and job creation in the County.
12 Existing nonconforming structures and uses can remain in place, and nonconforming
13 uses that may include businesses may increase under specific circumstances if the
14 business need arose. By allowing modest increases in nonconforming uses, the
15 amendments may result in a net gain in job creation.

16
17 L. Procedural requirements:

18
19 1. The proposal is a Type 3 legislative action under SCC 30.73.010 and 30.73.020.

20
21 2. As required by RCW 30.70A.106(1), a notice of intent to adopt the proposed
22 code amendments was transmitted to the Washington State Department of
23 Commerce for distribution to state agencies on May 13, 2025.

24
25 3. State Environmental Policy Act (SEPA), Chapter 43.21C RCW, requirements
26 with respect to this non-project action was satisfied through the completion of an
27 environmental checklist and the issuance of a determination of non-significance
28 on May 13, 2025.

29
30 4. The public participation process used in the adoption of the proposed code
31 amendments has complied with all applicable requirements of the GMA and
32 SCC.

33
34 5. As required by RCW 30.70A.370, the Washington State Attorney General last
35 issued an advisory memorandum in October 2024 entitled "Advisory
36 Memorandum and Recommended Process for Evaluating Proposed Regulatory
37 or Administrative Actions to Avoid Unconstitutional Takings of Private Property"
38 to help local governments avoid unconstitutional takings of private property. The
39 process outlined in the State Attorney General's 2024 advisory memorandum
40 was used by the County in objectively evaluating the regulatory changes in this
41 ordinance.

1
2 **Section 2.** The County Council makes the following conclusions:

- 3
4 A. The proposal is consistent with Washington State law and the Snohomish County
5 Code.
6
7 B. The proposal is consistent with the GMACP and with the goals, objectives, and
8 policies of the GMACP.
9
10 C. The County has complied with all SEPA requirements with respect to this non-
11 project action.
12
13 D. The regulations proposed by this ordinance do not result in an unconstitutional
14 taking of private property for a public purpose.
15
16 E. The County complied with the state and local public participation requirements under
17 the GMA and Chapter 30.73 SCC.
18

19 **Section 3.** The County Council bases its findings and conclusions on the entire
20 record of the County Council, including all testimony and exhibits. Any finding, which
21 should be deemed a conclusion, and any conclusion which should be deemed a finding,
22 is hereby adopted as such.
23

24 **Section 4.** Snohomish County Code Section 30.28.070, last amended by Amended
25 Ordinance No. 25-014 on March 19, 2025, is amended to read:
26

27 **30.28.070 Nonconforming structures.**

28 The following requirements apply to nonconforming structures:
29

30 (1) *Continuance.* Any legally established nonconforming structure is permitted to
31 remain for the life of the structure in the form and location in which it existed on the
32 effective date of the nonconformance;
33

34 (2) *Improvements and repairs.*
35

36 (a) Nonconforming structures may be structurally altered or enlarged with the
37 required permits only if the ~~((setback, height, lot coverage, and open space))~~
38 altered or enlarged portion of the structure complies with all current and
39 applicable local, state, and federal regulations. ~~((requirements of the zone in~~
40 ~~which the structure is located are met; except when to:))~~
41

1 ~~((a))~~ (b) Repair to the existing nonconforming structure including ordinary
2 maintenance or replacement of up to 50 percent of the total number of exterior
3 walls, fixtures, or plumbing shall be permitted so long as the exterior dimensions
4 of the structure, as it existed on the effective date of the nonconformance, are not
5 increased~~((; or))~~. Demolition and reconstruction of nonconforming structures is
6 not ordinary maintenance.

7
8 ~~((b) Convert an existing nonconforming structure))~~ (c) Nonconforming structures
9 may be converted into an accessory dwelling unit pursuant to SCC
10 30.28.010(2)(d)(iv)~~((;))~~.

11
12 (3) *Restoration.* A structure that is accidentally destroyed may be fully restored only if
13 ~~((the setback and yard))~~ all applicable title 30 SCC requirements ~~((of chapter 30.23~~
14 ~~SCC))~~ are met ~~((unless))~~ . If the structure is listed on the National Register of Historic
15 Places, Washington State Cultural Resource Inventory, or Snohomish County Cultural
16 Resource Inventory, ~~((in which case,))~~ the structure may be restored and located in its
17 former location despite noncompliance with the bulk regulations:

18
19 (a) Regardless of historical status, a building permit, compliance with subtitle
20 30.5 SCC, and compliance with the Americans with Disabilities Act are required
21 to restore a structure that is accidentally destroyed;

22
23 (b) To restore a destroyed nonconforming structure, a building permit application
24 must be submitted to the department within one year of the destruction; and

25
26 ~~((b))~~ (c) A structure shall be considered destroyed for purposes of this section if
27 the restoration costs exceed 75 percent of assessed value of record when the
28 damage occurred.

29
30 (4) If a nonconforming structure would become conforming by obtaining either a
31 conditional use permit or an administrative conditional use permit, such permit shall be
32 required to structurally alter, enlarge, or restore the nonconforming structure. The
33 conditional use permit or administrative conditional use permit is required in addition to
34 any other required permit, such as a building permit and land disturbing activity permit.

35
36 (5) Structures that do not conform to the Snohomish County Shoreline Management
37 Program or the policies of the Shoreline Management Act shall comply with SCC
38 30.67.450.

39
40 **Section 5.** Snohomish County Code Section 30.28.072, last amended by Amended
41 Ordinance No. 13-007 on September 11, 2013, is amended to read:

1
2 **30.28.072 Nonconforming uses.**

3 (1) *Continuance.* Any legally established nonconforming use may be continued subject
4 to the provisions of this section.

5
6 (2) *Changes.* Nonconforming uses may only be changed to other uses that are allowed
7 by ~~((this title))~~ chapter 30.22 SCC in the zone within which the nonconforming use is
8 located.

9
10 (3) *Abandonment.* If a nonconforming use is abandoned or discontinued for a period of
11 12 consecutive months or more, the nonconforming status of the use is terminated, and
12 any future use of the land or structures shall be in conformity with the provisions of
13 ~~((this))~~ title 30 SCC. The mere presence of a structure, equipment, or material shall not
14 be deemed to constitute the continuance of a nonconforming use unless the structure,
15 equipment, or material is actually being occupied or employed in maintaining such use.

16
17 (4) *Expansion.* A nonconforming use may be expanded upon approval of required
18 permits. ~~((an))~~ An administrative conditional use permit ((-)) shall be required whenever
19 an expansion of a nonconforming use is proposed; provided, however, if obtaining a
20 conditional use permit would make such use conforming, a conditional use permit shall
21 be required instead. The department may impose conditions upon the expansion of the
22 use to minimize impacts and ensure compatibility with nearby existing and potential
23 uses. A nonconforming use may be expanded if the department determines that the
24 following criteria are met:

25
26 (a) The area proposed for expansion is contiguous to the nonconforming use;

27
28 (b) The area is held under the same ownership as the land with the
29 nonconforming use and has been so owned since immediately prior to the time
30 the use ~~((has become))~~ became nonconforming;

31
32 (c) The area for expansion is an area where the use would have been allowed
33 immediately prior to the time the use became nonconforming;

34
35 (d) ~~((The expansion))~~ For a nonconforming use located outside of a structure,
36 the cumulative total of all expansions shall not increase the ground area devoted
37 to the nonconforming use by more than 100 percent of that in use at the effective
38 date of the nonconformance~~((, except that within))~~ . Within the UC ((zone)) and
39 MUC zones the ((expansion)) cumulative total of all expansions shall ((not
40 increase the ground area devoted to the nonconforming use by more than)) be
41 limited to a maximum increase of 10 percent of ((that existing)) ground area from

1 what existed at the effective date of the nonconformance. The increase in ground
2 area must comply with all current and applicable title 30 SCC provisions;
3

4 (e) ~~((The expansion))~~ For a nonconforming use located inside of a structure, the
5 cumulative total of all expansions shall not increase the ((ground area covered by
6 the structural portion)) building footprint of the structure or portion of the structure
7 housing the nonconforming use by more than 100 percent of that existing at the
8 effective date of the nonconformance((, except that within)) . Under this
9 subsection, expansion of the building footprint can include utilizing more of an
10 existing building than the nonconforming use previously occupied, additions to
11 existing buildings, and construction of new building(s) that house the
12 nonconforming use. Within the UC ((zone)) and MUC zones the ((expansion))
13 cumulative total of all expansions shall not increase the ((ground area covered by
14 the structural portion)) building footprint of the structure or portion of the structure
15 housing the nonconforming use by more than 10 percent of that existing at the
16 effective date of the nonconformance. New and expanded buildings that house
17 an expanded nonconforming use must comply with all current and applicable title
18 30 SCC provisions;
19

20 (f) Any expansion in ground area or building footprint shall not create a new
21 nonconforming use or structure. If the structure housing the nonconforming use
22 is a nonconforming structure, any expansions shall also comply within SCC
23 30.28.070;
24

25 ~~((f))~~ (g) The expansion shall not be approved if it is found to be detrimental to
26 surrounding properties((, or to the implementation of the adopted comprehensive
27 land use plan for the area;)). Detrimental in this section is defined as, but is not
28 limited to, increased hours of operation or increased light, glare, or noise;
29

30 ~~((g))~~ (h) The expansion shall not be ((granted)) approved if it would result in a
31 significant increase in the intensity of the use of the nonconformity. A significant
32 increase is a 10 percent or greater increase in average daily trips to the site, or
33 an increase of 10 percent or greater required minimum parking spaces. If
34 multiple expansions are proposed over time, the aggregate increase related to
35 criterion (h) shall not exceed the 10 percent limit as calculated from when the use
36 became nonconforming;
37

38 ~~((h))~~ Within the UC zone reconstruction of a destroyed nonconforming use is not
39 permitted unless it complies with the requirements of chapter 30.34A SCC; and))
40

1 (i) ~~((For purposes of this section "ground area" includes, but is not limited to,~~
2 ~~building footprint, paved surface parking, enclosed outdoor storage area, and~~
3 ~~enclosed outdoor service areas.))~~
4

5 The expansion shall not be approved if it would result in a net loss of critical area
6 functions or values as demonstrated by a critical area study if required pursuant
7 to chapter 30.62A SCC; and
8

9 (j) To be approved, the applicant must demonstrate that the expansion will further
10 the goals, objectives, and policies of the Snohomish County Comprehensive
11 Plan, including the Land Use Element.
12

13 (5) Uses that do not conform to the Snohomish County Shoreline Management Program
14 or the policies of the Shoreline Management Act shall comply with SCC 30.67.450.
15

16 (6) A structure housing a nonconforming use that is accidentally destroyed may be
17 restored under SCC 30.28.070(3).
18

19 **Section 6.** Snohomish County Code Section 30.28.075, added by Amended
20 Ordinance No. 02-064 on December 9, 2002, is repealed.
21

22 **Section 7.** Snohomish County Code Section 30.91N.050, last amended by
23 Amended Ordinance No. 13-007 on September 11, 2013, is amended to read:
24

25 **30.91N.050 Nonconforming structure.**

26 "Nonconforming structure" means a structure which was lawful when established and
27 which no longer conforms to the ~~((setback, height, or lot coverage requirements of the~~
28 ~~zone in which it is located))~~ provisions of title 30 SCC.
29

30 **Section 8.** Severability and Savings. If any section, sentence, clause, or phrase
31 of this ordinance shall be held to be invalid by the Growth Management Hearings Board
32 (Board), or unconstitutional by a court of competent jurisdiction, such invalidity or
33 unconstitutionality shall not affect the validity or constitutionality of any other section,
34 sentence, clause, or phrase of this ordinance. Provided, however, that if any section,
35 sentence, clause, or phrase of this ordinance is held to be invalid by the Board or court
36 of competent jurisdiction, then the section, sentence, clause, or phrase in effect prior to
37 the effective date of this ordinance shall be in full force and effect for that individual
38 section, sentence, clause, or phrase as if this ordinance had never been adopted.
39
40
41

1 PASSED this _____ day of _____, 20__.

2
3 SNOHOMISH COUNTY COUNCIL
4 Snohomish County, Washington
5

6 _____
7 Council Chair

8 ATTEST:
9

10 _____
11 Asst. Clerk of the Council
12

13 () APPROVED
14 () EMERGENCY
15 () VETOED

DATE:
16
17

18 _____
19 County Executive

20 ATTEST:
21

22 _____
23 Approved as to form only:

24
25  7/23/25
26 _____
27 Deputy Prosecuting Attorney
28
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Snohomish County

Planning and Development Services

3000 Rockefeller Ave., M/S 604
Everett, WA 98201-4046
(425) 388-3311
www.snoco.org

MEMORANDUM

Dave Somers
County Executive

TO: Snohomish County Planning Commission

FROM: Henry Jennings, PDS

SUBJECT: Staff Report: Proposed Code Amendments Relating to Nonconforming Structures and Uses

DATE: July 23, 2025

INTRODUCTION

The purpose of this staff report is to provide information on a non-project proposal to amend Snohomish County Code (SCC) sections 30.28.070, 30.28.72, and 30.28.075 relating to nonconforming structures and uses. The code amendments will increase consistency between the sections and clarify the criteria for expanding nonconforming structures and uses. Attachment A presents the staff recommended draft findings.

PROPOSAL BACKGROUND

A nonconforming structure is defined within SCC 30.91N.050 as a structure that met all the required development regulations, such as building height and setbacks when it was first established, although it no longer does. Similarly, a nonconforming use is defined with SCC 30.91N.070 as a use that was allowed when established, although is no longer allowed. Nonconforming structures and uses are most often created when areawide rezones or changes in development regulations are adopted. These changes can create situations where what once was allowed could no longer be permitted under the new code. The provisions within chapter 30.28 SCC allow structures and uses already in place when the codes change to remain, and in some cases even expand.

State law does not regulate nonconforming uses and structures, so there is diversity in how the jurisdictions of the state address the issue. Nonconforming provisions have been included in Snohomish County Code since the code's creation in 1966. SCC 30.28.070 focuses on the requirements for continuing, improving, and restoring existing nonconforming structures. SCC 30.28.072 focuses instead on continuance, changes, abandonment, and expansion of nonconforming uses, and SCC 30.29.075 looks at structures that house nonconforming uses. The three provisions have only been amended twice since they were incorporated into the unified development code in 2003. The only amendment to SCC 30.28.072 occurred in 2013 within Amended Ordinance 13-007, effective October 3, 2013, that created Urban Center zone specific expansion limits for nonconforming use. The only amendment to SCC

30.28.070 occurred recently through Ordinance 25-014 and incorporated recent state legislation surrounding accessory dwelling units.

The central reasons for the proposed code amendments described in this staff report are inconsistencies between the three nonconforming provisions in code, issues with implementation, and ensuring compliance with the rest of title 30 SCC. The primary inconsistency is between SCC 30.28.075 and SCC 30.28.072. SCC 30.28.075 states that no structure containing a nonconforming use can be expanded, although SCC 30.28.072 provides the criteria to allow for expansion of a nonconforming use in or outside of a structure. Snohomish County Planning and Development Services (PDS) staff as well as the Hearing Examiner have also identified several issues with implementing the criteria for expanding nonconforming uses. Many criteria lack examples or quantitative measures that can help staff consistently implement the code. Finally, as the provisions for nonconforming uses and structures have primarily not been updated since the unified development code was created in 2003, they lack important references to other sections of code such as the shoreline management program.

The proposed amendments in this staff report aim to reduce inconsistencies by repealing SCC 30.28.075, clarify criteria by amending SCC 30.28.072(4), and detail that any expansions of nonconforming structures or uses must comply with all development regulations. This means that, for instance, any expanded area must comply with critical area regulations, ADA requirements, the fire code, and all other development regulations. The fundamental policy that will remain within these proposed amendments is that a nonconforming structure is allowed to remain for the life of the structure. This includes normal maintenance and repairs, although any expansions need to comply with all current code. Further, if the use or structure could become conforming with a conditional use permit, a conditional use permit is required for any expansion. A project cannot create or expand a nonconformity.

PROPOSED CODE AMENDMENTS

Table 1 outlines the proposed code amendments, as well as the findings in support of the proposed code amendments by subsection.

Table 1. Summary of proposed code changes and findings

Proposed Change	Finding
30.28.070 Nonconforming structures. The following requirements apply to nonconforming structures: (1) <i>Continuance.</i> Any legally established nonconforming structure is permitted to remain <u>for the life of the structure</u> in the form and location in which it existed on the effective date of the nonconformance; (2) <i>Improvements and repairs.</i> <u>(a) Nonconforming structures may be structurally altered or enlarged with the required permits only if the ((setback, height, lot coverage, and open space)) altered or enlarged portion of the structure complies with all current and applicable local, state, and federal regulations.</u> <u>((requirements of the zone in which the structure is located are met; except when to:))</u>	A nonconforming structure may continue for the life of the structure. This means that a nonconforming structure cannot be demolished and rebuilt, although normal maintenance of a nonconforming structure is allowed along with expansions to the structure. Proposed amendments help clarify this intent for the continuation and improvement of nonconforming structures. The proposed amendments more clearly indicate that all improvements, repairs, or restoration must be done in compliance with all of title 30 SCC. A 50 percent limit on replacement of the total number of exterior walls is proposed to be added to (2) because staff and the public are often confused about how many walls can be repaired or replaced and still be considered ordinary

Table 1. Summary of proposed code changes and findings

Proposed Change	Finding
((a)) <u>(b) Repair to the existing nonconforming structure including ordinary maintenance or replacement of up to 50 percent of the total number of exterior walls, fixtures, or plumbing shall be permitted so long as the exterior dimensions of the structure, as it existed on the effective date of the nonconformance, are not increased.</u> <u>Demolition and reconstruction of nonconforming structures is not ordinary maintenance.</u> ((b) Convert an existing nonconforming structure) <u>(c) Nonconforming structures may be converted into an accessory dwelling unit pursuant to SCC 30.28.010(2)(d)(iv).</u> (3) <i>Restoration.</i> A structure that is accidentally destroyed may be fully restored only if ((the setback and yard)) <u>all applicable title 30 SCC requirements ((of chapter 30.23 SCC)) are met ((unless))</u> . If the structure is listed on the National Register of Historic Places, Washington State Cultural Resource Inventory, or Snohomish County Cultural Resource Inventory, ((in which case,)) the structure may be restored and located in its former location despite noncompliance with the bulk regulations: (a) <u>Regardless of historical status, a building permit, compliance with subtitle 30.5 SCC, and compliance with the Americans with Disabilities Act are required to restore a structure that is accidentally destroyed;</u> (b) <u>To restore a destroyed nonconforming structure, a building permit application must be submitted to the department within one year of the destruction; and</u> ((b)) <u>(c) A structure shall be considered destroyed for purposes of this section if the restoration costs exceed 75 percent of assessed value of record when the damage occurred.</u> (4) <u>If a nonconforming structure would become conforming by obtaining either a conditional use permit or an administrative conditional use permit, such permit shall be required to structurally alter, enlarge, or restore the nonconforming structure. The conditional use permit or administrative conditional use permit is required in addition to any other required permit, such as a building permit and land disturbing activity permit.</u>	maintenance. With this proposed amendment, if a nonconforming structure had, for instance, 6 exterior walls, 3 of them could be replaced. This proposed amendment helps define ordinary maintenance. Further clarifying ordinary maintenance, the proposed amendments state that all exterior walls cannot be removed, and the entire structure cannot be replaced or rebuilt, even in the same footprint. This would not be consistent with the intent of allowing a nonconforming structure to remain for the life of the structure, whereas normal repair and maintenance is a part of the life of a structure. Amendments from Ordinance 25-014 included an allowance for nonconforming structures to be converted into accessory dwelling units with criteria included in a newly added SCC 30.28010(2)d(iv). The proposed amendments in this staff report are housekeeping to ensure the tense and sentence structure follow the other proposed amendments within (a) and (b) above. Improvements and repairs cannot create or expand a nonconformity, an expansion must be done in compliance with the development code. While nonconforming structures are allowed to be maintained, proposed amendments make it clear that any proposed expansion must comply with all applicable codes so that new nonconformities are not created. For instance, an expansion of an existing building could not be proposed within a critical area without compliance with critical area regulations, like any other newly proposed structure in unincorporated Snohomish County. Proposed language also clarifies that if a structure were accidentally destroyed, it can only be rebuilt if it complies with all of title 30 SCC, unless it was a historic building. Even if the nonconforming structure were historic and could be rebuilt in the same footprint, the restoration must be in compliance with the building and fire codes and receive an approved building permit.

Table 1. Summary of proposed code changes and findings

Proposed Change	Finding
<u>(5) Structures that do not conform to the Snohomish County Shoreline Management Program or the policies of the Shoreline Management Act shall comply with SCC 30.67.450.</u>	There are some nonconforming structures, such as larger garages or accessory structures, that could be conforming with a conditional use permit. The proposed amendments would require a conditional use permit in these situations if an applicant was also applying for a building permit to do an improvement or repair. The intent is to require structures to become conforming to current code if possible. Finally, this code section has not been updated since the nonconforming uses and structures section within the Shoreline Management Plan (SCC 30.67.450) was created in 2006 that supersedes this section within chapter 30.28 SCC. Proposed amendments add this reference to SCC 30.28.070 so that staff and the public know the requirements.
30.28.072 Nonconforming uses. (1) <i>Continuance.</i> Any legally established nonconforming use may be continued subject to the provisions of this section. (2) <i>Changes.</i> Nonconforming uses may only be changed to other uses that are allowed by ((this title)) <u>chapter 30.22 SCC</u> in the zone within which the nonconforming use is located. (3) <i>Abandonment.</i> If a nonconforming use is abandoned or discontinued for a period of 12 consecutive months or more, the nonconforming status of the use is terminated, and any future use of the land or structures shall be in conformity with the provisions of ((this)) <u>title 30 SCC</u>. The mere presence of a structure, equipment, or material shall not be deemed to constitute the continuance of a nonconforming use unless the structure, equipment, or material is actually being occupied or employed in maintaining such use. (4) <i>Expansion.</i> A nonconforming use may be expanded upon approval of <u>required permits.</u> ((an)) <u>An</u> administrative conditional use permit ((-)) <u>shall be required whenever an expansion of a nonconforming use is proposed; provided, however, if obtaining a conditional use permit would make such use conforming, a conditional use permit shall be required instead.</u> The department may impose conditions upon the expansion of the use to minimize impacts and ensure compatibility with nearby existing and	Proposed housekeeping amendments to spell out the use matrix chapter within (2) and that the title in question is title 30 SCC within (3). Further proposed amendments in (4) specify that any expansion of a nonconforming use must obtain any required permits. For instance, if there is clearing necessary to expand the amount of ground area utilized for a nonconforming use, a land disturbing activity permit may be required, or a building permit for a new or expanded structure. An ACUP is already required within code for an expansion of a nonconforming use, and this is not proposed to change. Similar to newly proposed next within SCC 30.29.070 (4), there is also proposed language within SCC 30.28.072(4) to require a conditional use permit if the use would be conforming with such a permit. While nonconforming uses are permitted to continue and even expand in some cases, this is a proposed amendment with the intent to make as many uses conforming as possible. Without quantitative and clear criteria in place for when a use can be expanded, it is difficult to ensure consistent review and application. The proposed amendments add clarity to existing criteria by adding examples of how the criteria could be measured, and in some cases further

Table 1. Summary of proposed code changes and findings

Proposed Change	Finding
potential uses. A nonconforming use may be expanded if the department determines that the following criteria are met: (a) The area proposed for expansion is contiguous to the nonconforming use; (b) The area is held under the same ownership as the land with the nonconforming use and has been so owned since immediately prior to the time the use ((has become)) <u>became</u> nonconforming; (c) The area for expansion is an area where the use would have been allowed immediately prior to the time the use became nonconforming; (d) ((The expansion)) <u>For a nonconforming use located outside of a structure, the cumulative total of all expansions shall not increase the ground area devoted to the nonconforming use by more than 100 percent of that in use at the effective date of the nonconformance</u>((, except that within)) <u>. Within the UC ((zone)) and MUC zones the ((expansion)) cumulative total of all expansions shall ((not increase the ground area devoted to the nonconforming use by more than)) be limited to a maximum increase of 10 percent of ((that existing)) ground area from what existed at the effective date of the nonconformance. The increase in ground area must comply with all current and applicable title 30 SCC provisions;</u> (e) ((The expansion)) <u>For a nonconforming use located inside of a structure, the cumulative total of all expansions shall not increase the ((ground area covered by the structural portion)) building footprint of the structure or portion of the structure housing the nonconforming use by more than 100 percent of that existing at the effective date of the nonconformance</u>((, except that within)) <u>. Under this subsection, expansion of the building footprint can include utilizing more of an existing building than the nonconforming use previously occupied, additions to existing buildings, and construction of new building(s) that house the nonconforming use. Within the UC ((zone)) and MUC zones the ((expansion)) cumulative total of all expansions shall not increase the ((ground area covered by the structural portion)) building footprint of the structure or portion of the structure housing the nonconforming use</u>	defining the criteria. For instance, an expansion cannot be approved if it is “detrimental to surrounding properties” within existing code, although to help staff implement this consistently and efficiently (g) the proposed amendments provide examples of what could be considered detrimental. Similarly, existing (h) states that expansions cannot “result in a significant increase in the intensity of the use of the nonconformity” and proposed amendments provide quantitative measures for what could be considered significant including a 10 percent increase in average daily trips to the site. These proposed amendments could provide backstops for staff to implement the code. These amendments are also in line with the type of language found in other jurisdictions’ nonconforming codes across the state such as King County, City of Tacoma, and Kitsap County. Proposed amendments also aim to clarify that expansions in ground area and building area for nonconforming uses are limited to 100 percent of what existed when the use became nonconforming. This is to prevent multiple permit applications that result in a beyond doubling of the space utilized by the use. Newly proposed text also confirms that any expansion to a ground area or building area must comply with all of title 30 SCC. Finally proposed amendments add the restoration subsections from SCC 30.28.075 into SCC 30.28.072 as SCC 30.28.075 is proposed for repeal.

Table 1. Summary of proposed code changes and findings

Proposed Change	Finding
by more than 10 percent of that existing at the effective date of the nonconformance. <u>New and expanded buildings that house an expanded nonconforming use must comply with all current and applicable title 30 SCC provisions;</u> <u>(f) Any expansion in ground area or building footprint shall not create a new nonconforming use or structure. If the structure housing the nonconforming use is a nonconforming structure, any expansions shall also comply within SCC 30.28.070;</u> ((f)) <u>(g) The expansion shall not be approved if it is found to be detrimental to surrounding properties</u>((, or to the implementation of the adopted comprehensive land use plan for the area;)). <u>Detrimental in this section is defined as, but is not limited to, increased hours of operation or increased light, glare, or noise;</u> ((g)) <u>(h) The expansion shall not be</u> ((granted)) <u>approved</u> if it would result in a significant increase in the intensity of the use of the nonconformity. <u>A significant increase is a 10 percent or greater increase in average daily trips to the site, or an increase of 10 percent or greater required minimum parking spaces. If multiple expansions are proposed over time, the aggregate increase related to criterion (h) shall not exceed the 10 percent limit as calculated from when the use became nonconforming;</u> ((h) Within the UC zone reconstruction of a destroyed nonconforming use is not permitted unless it complies with the requirements of chapter 30.34A SCC; and)) (i) ((For purposes of this section "ground area" includes, but is not limited to, building footprint, paved surface parking, enclosed outdoor storage area, and enclosed outdoor service areas.)) <u>The expansion shall not be approved if it would result in a net loss of critical area functions or values as demonstrated by a critical area study if required pursuant to chapter 30.62A SCC; and</u> <u>(j) To be approved, the applicant must demonstrate that the expansion will further the goals, objectives, and policies of the Snohomish County Comprehensive Plan, including the Land Use Element.</u>	

Table 1. Summary of proposed code changes and findings

Proposed Change	Finding
<u>(5) Uses that do not conform to the Snohomish County Shoreline Management Program or the policies of the Shoreline Management Act shall comply with SCC 30.67.450.</u> <u>(6) A structure housing a nonconforming use that is accidentally destroyed may be restored under SCC 30.28.070(3).</u>	
((30.28.075 Nonconforming uses—structures. The following requirements apply to structures, whether conforming or nonconforming, that house or contain nonconforming uses: (1) Improvements. No structure containing a nonconforming use shall be enlarged, extended or structurally altered, whether the structural alterations meet the bulk requirements of this code or not, unless the nonconforming use is changed to a use permitted by this code; except that repair to the existing structure including ordinary maintenance or replacement of walls, fixtures, or plumbing shall be permitted so long as the exterior dimensions of the structure, as it existed on the effective date of the nonconformance are not increased; (2) Restoration. A structure housing a nonconforming use that is accidentally destroyed may be fully restored only if the setback and yard requirements of chapter 30.23 SCC are met unless the structure is listed on the National Register of Historic Places, Washington State Cultural Resource Inventory, or Snohomish County Cultural Resource Inventory, in which case, the structure housing the nonconforming use may be restored and located in its former location despite noncompliance with the bulk regulations: (a) To restore a destroyed structure housing a nonconforming use, a building permit must be submitted to the department within one year of the destruction; and (b) A structure shall be considered destroyed for purposes of this section if the restoration costs exceed 75 percent of assessed value of record when the damage occurred.))	Proposed for repeal because the section is not consistent with the allowance for expansion within SCC 30.28.072. This disallowance is proposed for repeal as it does not align with Snohomish County’s long term policy of allowing for nonconforming structures and uses to continue and even be expanded in some cases. Nonconforming uses often provide uniqueness to a neighborhood and can be economic drivers. The intent of the code is to ensure these uses can remain and expand as needed to meet business demands. Although this expansion cannot be to the detriment of the users or the neighboring properties, and the long term goal is to have as many uses as possible become conforming. The subsection on restoration of nonconforming uses is a proposed to be added to SCC 30.28.072 as that is not currently enumerated there and is important for staff and applicants to understand the requirements for restoration.
30.91N.050 Nonconforming structure. "Nonconforming structure" means a structure which was lawful when established <u>and</u> which no longer conforms to the ((setback, height, or lot coverage requirements of the zone in which it is located)) <u>provisions of title 30 SCC.</u>	Proposed amendments to the definition of a nonconforming structure to clarify that a structure is considered nonconforming when it no longer meets any of the requirements within title 30 SCC, not just certain bulk regulations.

The following analysis provides a summary of the proposed code amendments' compliance with state law, as well as regional, countywide, and county Comprehensive Plan policies.

Compliance with State Law

The GMA planning goals adopted in RCW 36.70A.020 guide the development and adoption of comprehensive plans and development regulations. The goals are not priority-listed. In particular, the GMA goals guide the policies in the Snohomish County's GMA Comprehensive Plan (GMACP) and require consistency between the GMACP and implementing development regulations. Table 2 identifies the reasonably related GMA planning goals listed in RCW 36.70A.020, and describes how the proposed code amendments are consistent with and advance those goals.

Table 2 Compliance with GMA Planning Goals

GMA Planning Goal	Finding
GMA Goal 5: Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.	Many nonconforming uses are business related, and these proposed amendments enshrine the ability to expand a nonconforming use to ensure business viability without compromising the welfare of neighboring properties.
GMA Goal 6: Property rights. Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.	Proposed amendments state that nonconforming uses and structures are permitted to be maintained and clarifies how expansions can occur to ensure that the private property rights of the nonconforming use or structure owner as well as neighboring properties can be maintained.
GMA Goal 7: Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.	Better defining ordinary maintenance, clarifying expansion criteria, and increasing consistency across Title 30 SCC will allow for more predictability and efficiency in permit processing.

Compliance with the Multi-County Planning Policies

Multi-County Planning Policies (MPPs) within Vision 2050 "provide for coordination and consistency among the metropolitan counties sharing common borders and related regional issues as required by RCW 36.70A.100, and, in order to ensure consistency, the directive policies of the MPPs need to have a binding effect." (Summit-Waller Community Association, et al, v Pierce County). Table 3 identifies the reasonably related MPPs within Vision 2050, and describes how the proposed code amendments are consistent with and advance those goals.

Table 3 Compliance with MPPs

MPP	Finding
MPP-DP-47: Streamline development standards and regulations for residential and commercial development and public projects, especially in centers and high-capacity transit station areas, to provide flexibility and to accommodate a broader range of project types consistent with the regional vision.	The proposed amendments better define ordinary maintenance, clarify expansion criteria, and increase consistency across Title 30 SCC to allow for more predictability and efficiency in permit processing.
MPP-H-10: Encourage jurisdictions to review and streamline development standards and regulations to advance their public benefit, provide flexibility, and minimize additional costs to housing.	
MPP-Ec-17: Preserve and enhance the region's unique attributes and each community's distinctive identity and design as economic assets as the region grows.	Nonconforming uses and structures can contribute to the uniqueness of neighborhoods and communities. Proposed amendments confirm the county's commitment to the retention of these uses and structures, and their expansion.

Compliance with the Countywide Planning Policies

Countywide Planning Policies (CPPs) establish a countywide framework for developing and adopting county, city, and town comprehensive plans. The role of the CPPs is to coordinate comprehensive plans of jurisdictions in the same county in regard to regional issues and issues affecting common borders (RCW 36.70A.100). Table 4 identifies the reasonably related CPPs, and describes how the proposed code amendments are consistent with and advance those goals.

Table 4 Compliance with CPPs

CPP	Finding
CPP-ED-16: The expeditious processing of development applications shall not result in the reduction of environmental and land use standards.	The proposed amendments better define normal maintenance, clarify expansion criteria, and increase consistency across Title 30 SCC to allow for more predictability and efficiency in permit processing.

Compliance with the Snohomish County Comprehensive Plan

The proposed code amendments will better achieve, comply with, and implement the policies identified in Table 5 contained in the County's GMACP.

Table 5 Compliance with the Comprehensive Plan

GMACP Policy	Finding
HO Policy 3.A.2: Development standards and building permit requirements shall be reviewed every five years to ensure clarity and consistency while providing for a timely, fair, and predictable application processing outcome.	The proposed amendments better define normal maintenance, clarify expansion criteria, and increase consistency across Title 30 SCC to allow for more predictability and efficiency in permit processing.

GMACP Policy	Finding
ED Policy 2.A.3: To ensure timeliness, responsiveness, and increased efficiency, the county shall develop and maintain a program of periodic review of the permitting process to eliminate unnecessary administrative procedures that do not respond to legal requirements for public review and citizen input.	

Public Participation

The GMA requires early and continuous public participation (GOAL 11). Public participation on the proposed code amendments has been provided to date through:

- A 21-day public comment period on the preliminary draft amendments from January 22 through February 12, 2025;
- Email distributions to key parties about the comment period and updates to the code development webpage on the PDS website; and
- Virtual meetings with key parties.

The county received several comments from internal county staff as well as outside jurisdictions such as the Washington Department of Ecology (Ecology), Washington Department of Fish and Wildlife (WDFW), and The Tulalip Tribes. The internal staff were mainly concerned with a lack of clarity on how SCC 30.28.070(2) defined ordinary maintenance. Whereas the state agencies were concerned with the fate of critical areas if nonconforming structures and uses could be expanded. Staff in particular called out that code allows “replacement of walls, fixtures, or plumbing” and noted that some members of the public interpreted this to allow for removing all or all but one exterior wall before a rebuild. After discussions with staff, the proposed amendments included in this staff report were edited from those that went out for preliminary public comment to propose that up to 50 percent of exterior walls could be removed and replaced. Newly proposed text also states that ordinary maintenance does not include the demolition and rebuild of a nonconforming structure. The intent of the nonconforming code is to allow for the maintenance of a nonconforming structure for the life of said structure. Demolishing all but one wall of a nonconforming structure to rebuild from nearly scratch does not align with this intent, although the County believes that repair or replacing up to half of the exterior walls could be considered ordinary.

The existing code within SCC 30.28.070 and SCC 30.28.072 calls out that expanded areas must comply with specific bulk regulations such as setback and height requirements, and does not mention the rest of title 30 SCC. The preliminary draft amendments that went out for public comment added that any expanded building or use must comply with all title 30 SCC requirements, and gave a few examples such as ADA compliance. The state agencies who provided comment were concerned that if there was not a specific reference to highlight critical areas, they could be negatively impacted from expansion. The WDFW also suggested that the County create specific nonconforming provisions for critical areas similar to other jurisdictions like the City of Kirkland. To make it clear that any enlargement of a nonconforming structure or use must be in compliance with the entirety of title 30 SCC including the critical area regulations of chapters 30.62A, 30.62B, 30.62C, and 30.65 SCC, the proposed amendments in this staff report call out compliance with critical area regulations in particular. Newly added provisions also call out the shoreline regulations in chapter 30.67 SCC as they supersede the nonconforming provisions in chapter 30.28 SCC for areas in the shoreline. Staff agree that a cross reference will help staff and the public understand this during reviews. The proposed code amendments do not allow for expansion into critical

areas unless it complies with the avoidance, minimization, and mitigation requirements of the critical area regulations. While the nonconforming code does not call out methods that applicants could take to reduce their impacts, it does require no net loss of ecological function and value. Public comments received during the early comment period have directly influenced the proposed amendments within this staff report.

Environmental Review

A State Environmental Policy Act (SEPA) Determination is required for the proposed code amendments. A SEPA Determination of Non-Significance will be issued prior to the Planning Commission public hearing.

Notification of State Agencies

Pursuant to RCW 36.70A.106, a notice of intent to adopt the proposed regulations and standards will be transmitted to the Washington State Department of Commerce prior to the Planning Commission public hearing.

Staff Recommendation:

Staff recommends approval of the proposed code amendments and findings contained in this staff report.

Action Requested

The Planning Commission is requested to hold a public hearing, consider the proposed code amendments, and provide a recommendation to the County Council. The Planning Commission can recommend approval of the amendments with supporting findings of fact as proposed or modified, deny the proposal with findings, or amend the proposal with appropriate findings.

cc: Ken Klein, Executive Director
Mike McCrary, PDS Director
David Killingstad, PDS Manager
Michael Dobesh, PDS Manager
Ryan Hembree, Legislative Analyst

Attachments

Attachment A: Draft Findings of Fact and Conclusions

Attachment A
Relating to Nonconforming Structures and Uses Proposed Code Amendments
Findings of Fact and Conclusions

Section 1. Snohomish County Council adopts the following findings in support of this ordinance:

- A. The foregoing recitals are adopted as findings as if set forth in full herein.
- B. This ordinance proposes to amend SCC 30.28.070, 30.28.072, and 30.28.075 to increase consistency across Title 30 SCC and clarify criteria for expansion of nonconforming structures and uses.
- C. In developing the proposed code amendments, the County considered the goals of the GMA identified in RCW 36.70A.020, specifically those goals related to economic development, property rights, and permits. The proposed regulations are reasonably related to, and necessary for, the advancement of the before mentioned GMA planning goals.
- D. The proposed code amendments will allow SCC 30.28.070 and 30.29.072 to achieve, comply with, and implement the goals, objectives, and policies of the MPPs, CPPs, and the GMACP. In particular, the amendments will ensure consistent and efficient review of permits.
- E. The proposed code amendments are consistent with the record:
 - 1. SCC 30.28.070 is proposed to be amended to clarify that nonconforming structures may continue for the life of the structure and be improved or repaired if doing so is in full compliance with all requirements within title 30 SCC such as the fire code and critical area regulations.
 - a) Staff and the public are often confused about how many walls can be repaired or replaced and still be considered ordinary maintenance. Proposed amendments help define ordinary repair by specifying that up to 50 percent of the total number of exterior walls can be replaced. Amendments also clarify that all exterior walls cannot be removed and the entire structure cannot be replaced or rebuilt, even in the same footprint, under the banner of ordinary maintenance. This would not be considered consistent with the intent of allowing a nonconforming structure to remain for the life of the structure, whereas ordinary repair and maintenance can be a part of the normal life of a structure.
 - b) Improvements and repairs cannot create or expand a nonconformity, an expansion must be done in compliance with the development code. While nonconforming structures are allowed to be maintained, proposed amendments make it clear that any proposed expansion must comply with all applicable codes so that new nonconformities are not created. For instance, an expansion of an existing building could not be proposed within a critical area without compliance with critical area regulations like any other newly proposed structure in unincorporated Snohomish County.
 - c) If a structure were accidentally destroyed, it can only be rebuilt if it complies with all of title 30 SCC, unless it was a historic building. Even if the nonconforming structure were historic and could be rebuilt in the same footprint, proposed amendments state that the restoration must be in compliance with the building and fire codes and receive an approved building permit.
 - d) There are some nonconforming structures, such as larger garages or accessory structures, that could be conforming with a conditional use permit. The proposed

amendments would require a conditional use permit in these situations if an applicant was also applying for a building permit to do an improvement or repair. The intent is to require structures to become conforming to current code if possible.

- e) This code section has not been updated since the nonconforming uses and structures section within the Shoreline Management Plan (SCC 30.67.450) was created in 2006. SCC 30.67.450 supersedes the nonconforming use and structure provisions within chapter 30.28 SCC, although there is no mention of it within the chapter. Proposed amendments add this reference to SCC 30.28.070 and SCC 30.28.073 so that staff and the public are aware of the requirements.
2. SCC 30.28.072 is proposed to be amended to clarify that all expansions of nonconforming uses must comply with title 30 SCC, and to provide more concrete criteria for said expansions.
- a) Proposed amendments specify that any expansion of a nonconforming use must obtain any required permits. For instance, a land disturbing activity permit would be required for an expansion in ground area if more than 7,000 square feet or more of clearing is necessary or 2,000 square feet or more of new plus replaced hard surfaces are proposed. Similar to newly proposed text within SCC 30.29.070, there is also proposed language within (4) to require a conditional use permit if the use would be conforming with such a permit. While nonconforming uses are permitted, this is a proposed amendment to ensure that as many that can be made conforming should be made conforming.
 - b) Without quantitative and clear criteria in place for when a use can be expanded, it is difficult to ensure consistent review and application. The proposed amendments add clarity to existing criteria through some measurable statements and definitions. For instance, an expansion cannot be approved under existing code if it is “detrimental to surrounding properties,” although existing code does not provide enough detail to allow for consistent application of this criterion. To help staff implement this criterion, (g) is proposed to include examples of what could be considered detrimental. Similarly, an expansion in (h) cannot “result in a significant increase in the intensity of the use of the nonconformity” and proposed amendments provide quantitative measures for what could be considered significant. These proposed amendments provide backstops for staff to implement the code, while still allowing for some flexibility. These proposed amendments are also in line with the type of language found in other jurisdictions’ nonconforming codes across the state such as King County, City of Tacoma, and Kitsap County.
 - c) Proposed amendments also aim to clarify that expansions in ground area and building area for nonconforming uses are limited to 100 percent of what existed when the use became nonconforming. This is to prevent multiple permit applications over time that result in a more than doubling of the nonconforming use. Newly proposed text also confirms that any expansion to a ground area or building area must comply with all of title 30 SCC.
 - d) Amendments add the restoration subsections from SCC 30.28.075 into SCC 30.28.072 as SCC 30.28.075 is proposed for repeal.
3. SCC 30.28.075 is repealed as it does not allow for expansion of nonconforming uses whereas existing practice and SCC 30.28.072 does.

4. SCC 30.91N.050 is amended to clarify that a nonconforming structure can be nonconforming to more than just bulk regulations. A nonconforming structure is created when it does not comply with any of the requirements within title 30 SCC.

F. Procedural requirements:

1. The proposal is a Type 3 legislative action under SCC 30.73.010 and 30.73.020.
2. As required by RCW 30.70A.106(1), a notice of intent to adopt the proposed code amendments will be transmitted to the Washington State Department of Commerce for distribution to state agencies in the coming months.
3. State Environmental Policy Act (SEPA), chapter 43.21C RCW, requirements with respect to this non-project action will be satisfied through the completion of an environmental checklist and the issuance of a determination of non-significance in the coming months.
4. The public participation process used in the adoption of the proposed code amendments has complied with all applicable requirements of the GMA and SCC.
5. As required by RCW 30.70A.370, the Washington State Attorney General last issued an advisory memorandum in October 2024 entitled “Advisory Memorandum and Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property” to help local governments avoid unconstitutional takings of private property. The process outlined in the State Attorney General’s 2024 advisory memorandum was used by the County in objectively evaluating the regulatory changes in this ordinance.

Section 2. The County Council makes the following conclusions:

- A. The proposal is consistent with Washington State law and Snohomish County Code.
- B. The proposal is consistent with the GMACP and with the goals, objectives, and policies of the GMACP.
- C. The County has complied with all SEPA requirements with respect to this non-project action.
- D. The regulations proposed by this ordinance do not result in an unconstitutional taking of private property for a public purpose.
- E. The County complied with the state and local public participation requirements under the GMA and chapter 30.73 SCC.

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

ECAF:
RECEIVED:

ORDINANCE INTRODUCTION SLIP

SNOHOMISH COUNTY COUNCIL

EXHIBIT # 3.1.004

FILE ORD 25-047

TO: Clerk of the Council

TITLE OF PROPOSED ORDINANCE:

Introduced By: _____

N. Nehring
Councilmember

Date

~~~~~  
Clerk's Action:

Proposed Ordinance No. \_\_\_\_\_

Assigned to: \_\_\_\_\_ Date: \_\_\_\_\_

~~~~~  
STANDING COMMITTEE RECOMMENDATION FORM

On _____, the Committee considered the Ordinance by ____ Consensus /
____ Yeas and ____ Nays and made the following recommendation:

____ Move to Council to schedule public hearing on: _____

____ Other _____

Regular Agenda _____ Administrative Matters _____

Public Hearing Date _____ at _____

N. Nehring
Committee Chair



Planning and Community Development

Ryan Hembree

Council Initiated:

☐ Yes

☒ No

SNOHOMISH COUNTY COUNCIL

EXHIBIT # 3.2.001

ECAF: 2025-2504

Ordinance: 25-047

Type:

☐ Contract

☐ Board Appt.

☒ **Code Amendment**

☐ Budget Action

☐ Other

Requested Handling:

☒ **Normal**

☐ Expedite

☐ Urgent

Fund Source:

☐ General Fund

☐ Other

☒ **N/A**

Executive Rec:

☒ **Approve**

☐ Do Not Approve

☐ N/A

Approved as to

Form:

☒ **Yes**

☐ No

☐ N/A

Subject:

Nonconforming Uses

FILE ORD 25-047

Scope:

Proposes to amend SCC 30.28.070, 30.28.072, and 30.91N.050 and to repeal SCC 30.28.075 to increase consistency throughout Title 30 SCC and clarify criteria for expansion of nonconforming uses and structures.

Duration:

N/A

Fiscal Impact:

☐ Current Year

☐ Multi-Year

☒ **N/A**

Authority Granted:

Ordinance 25-047 would authorize the Executive to approve and execute amendments that relate to nonconforming structures and uses; amending Sections 30.28.070, 30.28.072, and 30.91n.050, and repealing Section 30.28.075 of the Snohomish County Code

Background:

The proposed amendments clarify that legally established nonconforming structures may remain for the life of the structure and that repairs, alterations, and enlargements may be performed with the required permits in compliance with all applicable state, local, and federal regulation through changes to SCC 30.28.070.

Improvements and repairs need to be in full compliance of all requirements of Title 30 SCC including the fire code and critical area regulations.

Request: Move Ordinance 25-047 to GLS on September 10th to set a time and date for a public hearing.

Exhibit 3.2.002

Planning and Community Development Committee – 09/02/25

[Video](#)



Snohomish County Council

Planning and Community Development Committee

Agenda

Nate Nehring, Committee Chair
Strom Peterson, Committee Vice-Chair
Committee Members: Sam Low, Megan Dunn, Jared Mead

Ryan Hembree, Legislative Analyst
Russell Wiita, Legislative Aide
Lisa Hickey, Assistant Clerk of the Council

Tuesday, September 2, 2025	11:00 AM	Jackson Board Room - 8th Floor
		Robert J. Drewel Building
		& Remote Meeting

Webinar Link: <https://zoom.us/j/94846850772>

Attend in person at 3000 Rockefeller Ave, Jackson Board Room, 8th Floor, Everett, WA
Join remotely using the Zoom link above or call 1-253-215-8782 or 1-206-337-9723
and enter Meeting ID 948-4685 0772

CALL TO ORDER

ROLL CALL

PUBLIC COMMENT

ACTION ITEMS

1. Motion 25-330, authorizing the County Executive to execute [2025-2147](#)
Amendment No. 1 to the Interlocal Agreement between Snohomish
County and the City of Everett for the Lion's Park Skate DOT
Project

Proposed Action: Move to General Legislative Session September 10th for consideration.

2. Motion 25-363, convening Board of Equalization [2025-2457](#)

Proposed Action: Move to General Legislative Session September 10th for consideration.

3. Ordinance 25-047, relating to nonconforming structures and uses; [2025-2504](#)
amending Sections 30.28.070, 30.28.072, and 30.91n.050, and
repealing Section 30.28.075 of the Snohomish County Code

Proposed Action: Move to General Legislative Session on September 10th to set time and date for a public hearing.

4. Ordinance 25-051, relating to Growth Management; amending the [2025-2735](#)
Snohomish County Official Zoning Map to more fully implement the
Urban Medium Density Residential and Urban High Density
Residential Designations on the Snohomish County Growth
Management Act Comprehensive Plan Future Land Use Map

Proposed Action: Move to General Legislative Session on September 10th to set time and date for a public hearing.

5. Motion 25-405, referring a proposed ordinance relating to Growth [2025-2896](#)
Management; allowing reduced setbacks for covered parking
structures from road elements in the Rural Village Housing
Demonstration Program; adding New Section 30.41h.105 of the
Snohomish County Code to Planning and Development Services
(PDS), Department of Public Works and the Snohomish County
Planning Commission

****Pending assignment to Committee***

Proposed Action: Move to General Legislative Session September 3rd for consideration.

6. Motion 25-337, accepting contract funds awarded to Snohomish [2025-2289](#)
County from the Washington State Department of Agriculture for
the control of the noxious weed Spartina along the shores and in
the estuaries of Snohomish County

Proposed Action: Move to General Legislative Session September 10th for consideration.

7. Motion 25-364, authorizing the County Executive to execute [2025-2381](#) Amendment No. 1 to the Interlocal Agreement between Snohomish County and the City of Lake Stevens for the Frontier Heights Park Project

Proposed Action: Move to General Legislative Session September 10th for consideration.

8. Motion 25-382, approving Agreement Amendment No. 2 with [2025-2594](#) Lautenbach Recycling for year-round hauling services

Proposed Action: Move to General Legislative Session September 10th for consideration.

9. Motion 25-395, accepting contract funds awarded from the [2025-2702](#) Washington State Department of Ecology Stormwater Strategic Initiative Lead Grant Program for the purposes of designing a surface water project for the Evergreen State Fairgrounds Park

Proposed Action: Move to General Legislative Session September 10th for consideration.

DISCUSSION ITEMS

1. WSU Promotores Program [2025-2858](#)



Snohomish County Council
Planning and Community Development Committee
Meeting Minutes

Nate Nehring, Committee Chair
Strom Peterson, Committee Vice-Chair
Committee Members: Sam Low, Megan Dunn, Jared Mead

Ryan Hembree, Legislative Analyst
Russell Wiita, Legislative Aide
Lisa Hickey, Assistant Clerk of the Council

Tuesday, September 2, 2025

11:00 AM

**Jackson Board Room - 8th Floor
Robert J. Drewel Building
& Remote Meeting**

PRESENT:

Committee Chair Nehring
Committee Vice-Chair Dunn
Committee Member Low (*remote*)
Committee Member Mead (*not present*)
Committee Member Peterson
Ryan Hembree, Council Staff
Frank Slusser, Planning and Development Services
Henry Jennings, Planning and Development Services
Anthony Gromko, WSU Promotores
Jessica Gardenia, WSU Promotores
Patricia Townsend, WSU Promotores
Lisa Hickey, Assistant Clerk of the Council

CALL TO ORDER

Committee Chair Nehring called the meeting to order at 11:00 a.m.

ROLL CALL

The clerk called the roll and stated that four members were present.

PUBLIC COMMENT

There were no persons present wishing to provide public comment.

ACTION ITEMS

Deb Bell, Sr. Legislative Analyst, provided a staff report for Items 1 and 2.

1. Motion 25-330, authorizing the County Executive to execute Amendment No. 1 to the Interlocal Agreement between Snohomish County and the City of Everett for the Lion's Park Skate DOT Project [2025-2147](#)

ACTION: Move to Consent Agenda, General Legislative Session September 10th for consideration.

2. Motion 25-363, convening Board of Equalization [2025-2457](#)

ACTION: Move to Consent Agenda, General Legislative Session September 10th for consideration.

Ryan Hembree, Legislative Analyst, provided a staff report for Items 3 through 10.

3. Ordinance 25-047, relating to nonconforming structures and uses; amending Sections 30.28.070, 30.28.072, and 30.91n.050, and repealing Section 30.28.075 of the Snohomish County Code [2025-2504](#)

ACTION: Move to Administrative Matters, General Legislative Session September 10th to set time and date for a public hearing.

4. Ordinance 25-051, relating to Growth Management; amending the Snohomish County Official Zoning Map to more fully implement the Urban Medium Density Residential and Urban High Density Residential Designations on the Snohomish County Growth Management Act Comprehensive Plan Future Land Use Map [2025-2735](#)

Frank Slusser, Planning and Development Services, responded to Committee Member Dunn's questions.

ACTION: Move to Administrative Matters, General Legislative Session September 10th to set time and date for a public hearing.

Item 5 walked on

5. Ordinance 25-052, relating to Growth Management; concerning rural cluster subdivisions and short subdivisions; amending Chapter 30.41C of the Snohomish County Code [2025-2799](#)

Henry Jennings, Planning and Development Services, provided a PowerPoint presentation and responded to questions.

ACTION: Move to Regular Agenda, General Legislative Session September 3rd to set time and date for a public hearing.

6. Motion 25-405, referring a proposed ordinance relating to Growth Management; allowing reduced setbacks for covered parking structures from road elements in the Rural Village Housing Demonstration Program; adding New Section 30.41h.105 of the Snohomish County Code to Planning and Development Services (PDS), Department of Public Works and the Snohomish County Planning Commission [2025-2896](#)

ACTION: Move to Consent Agenda, General Legislative Session September 3rd for consideration.

7. Motion 25-337, accepting contract funds awarded to Snohomish County from the Washington State Department of Agriculture for the control of the noxious weed Spartina along the shores and in the estuaries of Snohomish County [2025-2289](#)

ACTION: Move to Consent Agenda, General Legislative Session September 10th for consideration.

8. Motion 25-364, authorizing the County Executive to execute Amendment No. 1 to the Interlocal Agreement between Snohomish County and the City of Lake Stevens for the Frontier Heights Park Project [2025-2381](#)

ACTION: Move to Consent Agenda, General Legislative Session September 10th for consideration.

9. Motion 25-382, approving Agreement Amendment No. 2 with Lautenbach Recycling for year-round hauling services [2025-2594](#)

ACTION: Move to Consent Agenda, General Legislative Session September 10th for consideration.

10. Motion 25-395, accepting contract funds awarded from the Washington State Department of Ecology Stormwater Strategic Initiative Lead Grant Program for the purposes of designing a surface water project for the Evergreen State Fairgrounds Park [2025-2702](#)

ACTION: Move to Consent Agenda, General Legislative Session September 10th for consideration.

DISCUSSION ITEM

1. WSU Promotores Program [2025-2858](#)

Anthony Gromko, Jessica Gardenia, and Patricia Townsend, WSU Promotores Program, provided a PowerPoint presentation and responded to questions.

Meeting adjourned at 11:38 a.m.