

Additional Council exhibits  
added after close of hearing

1 Adopted:  
2 Effective:

3 SNOHOMISH COUNTY COUNCIL  
4 Snohomish County, Washington

5  
6 ORDINANCE NO. 21-043  
7

8 RELATING TO GROWTH MANAGEMENT; AMENDING DEVELOPMENT REGULATIONS IN  
9 CHAPTER 30.32D OF THE SNOHOMISH COUNTY CODE PERTAINING TO ARCHAEOLOGICAL  
10 RESOURCES

11  
12 WHEREAS, the Growth Management Act (GMA), chapter 36.70A RCW, requires Snohomish  
13 County (the “County”) to identify and encourage the preservation of lands, sites, and structures that have  
14 historical or archaeological significance; and  
15

16 WHEREAS, the Snohomish County GMA Comprehensive Plan (GMA CP) General Policy Plan  
17 (GPP) directs Snohomish County to preserve, protect, and enhance archaeological, cultural, and historic  
18 resources, and to efficiently and effectively meet its archaeological resource management obligations  
19 under federal, state, and local regulations; and  
20

21 WHEREAS, in 2008 the Washington State Legislature revised state law concerning the  
22 inadvertent discovery of skeletal human remains, abandoned and historic cemeteries, and historic graves  
23 in chapters 68.50 and 68.60 RCW; and  
24

25 WHEREAS, chapter 30.32D of the Snohomish County Code (SCC) establishes the regulations  
26 for historic and archaeological resources in the County; and  
27

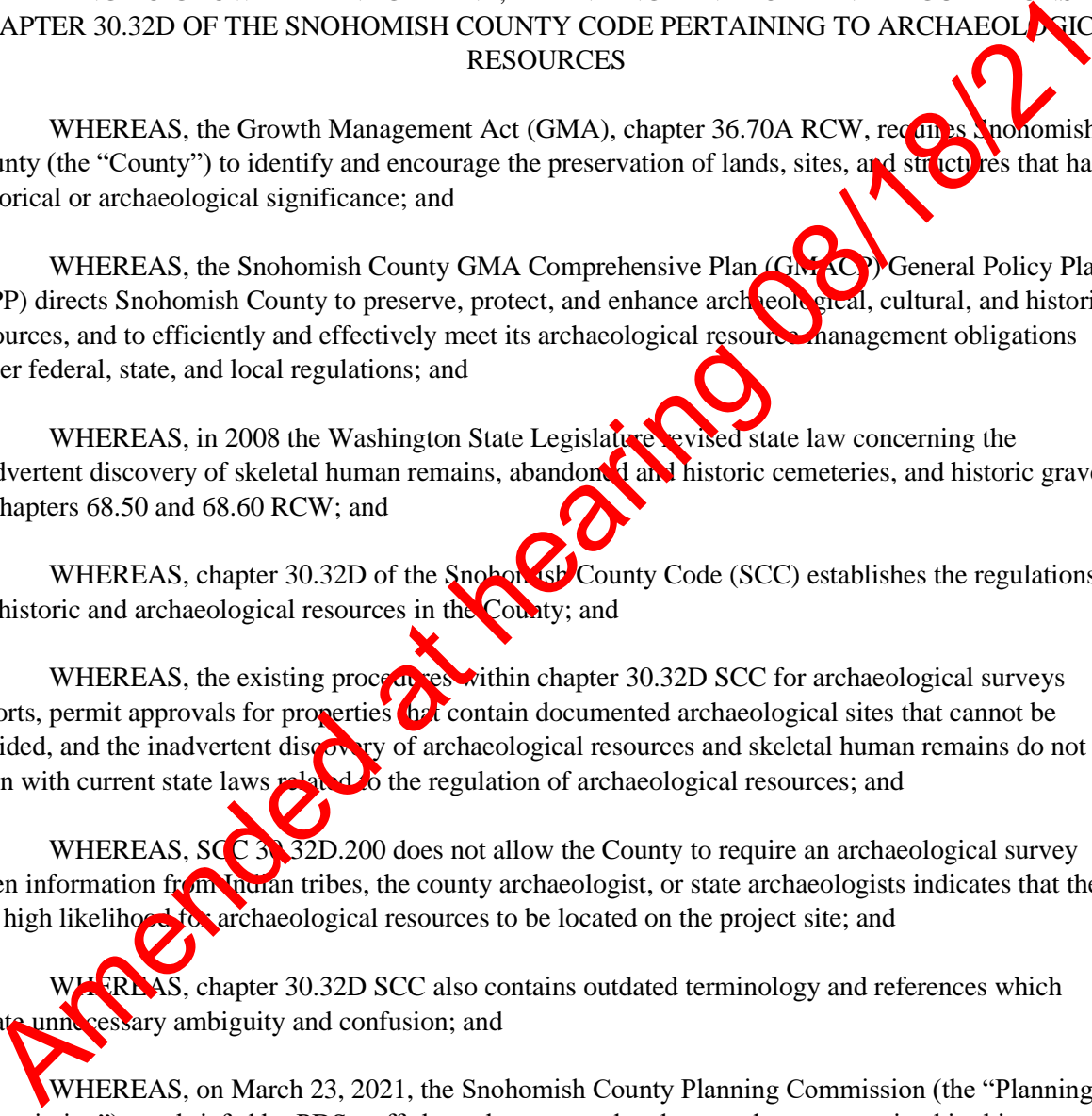
28 WHEREAS, the existing procedures within chapter 30.32D SCC for archaeological surveys  
29 reports, permit approvals for properties that contain documented archaeological sites that cannot be  
30 avoided, and the inadvertent discovery of archaeological resources and skeletal human remains do not  
31 align with current state laws related to the regulation of archaeological resources; and  
32

33 WHEREAS, SCC 30.32D.200 does not allow the County to require an archaeological survey  
34 when information from Indian tribes, the county archaeologist, or state archaeologists indicates that there  
35 is a high likelihood for archaeological resources to be located on the project site; and  
36

37 WHEREAS, chapter 30.32D SCC also contains outdated terminology and references which  
38 create unnecessary ambiguity and confusion; and  
39

40 WHEREAS, on March 23, 2021, the Snohomish County Planning Commission (the “Planning  
41 Commission”) was briefed by PDS staff about the proposed code amendments contained in this  
42 ordinance; and  
43

44 WHEREAS, the Planning Commission held a public hearing on April 27, 2021, to receive public  
45 testimony concerning the code amendments contained in this ordinance, and at the conclusion of that  
46 hearing continued deliberations; and



1  
2 WHEREAS, on May 25, 2021, the Planning Commission deliberated on the proposed code  
3 amendments contained in this ordinance and voted to recommend amendments to the County code  
4 relating to archaeological resources as shown in its recommendation letter dated May 27, 2021; and  
5

6 WHEREAS, on \_\_\_\_\_, 2021, the County Council held a public hearing after proper  
7 notice, and considered public comment and the entire record related to the code amendments contained in  
8 this ordinance; and  
9

10 WHEREAS, following the public hearing, the County Council deliberated on the code  
11 amendments contained in this ordinance.  
12

13 NOW, THEREFORE, BE IT ORDAINED:  
14

15 Section 1. The County Council adopts the following findings in support of this ordinance:  
16

- 17 A. The foregoing recitals are adopted as findings as if set forth in full herein.  
18
- 19 B. This ordinance amends chapter 30.32D SCC in the following manner:  
20
- 21 1. This ordinance amends SCC 30.32D.010 to update references to relevant state laws, to add that  
22 compliance with applicable state laws relating to the regulation of archaeological and cultural  
23 sites is a purpose of the section, to include that this chapter applies to properties that have a high  
24 probability of containing archaeological resources, and to resolve a code inconsistency regarding  
25 the applicability of this section for non-tribally owned, fee simple properties designated  
26 Residential Commercial on the Snohomish County Future Land Use Map.  
27
  - 28 2. This ordinance amends SCC 30.32D.200 to update the requirements for archaeological survey  
29 reports to meet state and professional standards for cultural resources reporting. The amendments  
30 also create a new circumstance in which archaeological survey reports may be required, when an  
31 Indian tribe, the county archaeologist, or a state archaeologist determines that the project site has  
32 a high probability of containing archaeological resources.  
33
  - 34 3. This ordinance amends SCC 30.32D.210 to clarify that this section applies to project or permit  
35 approval for properties that contain a documented archaeological site that cannot be avoided and  
36 to require that permits or project approval will be conditioned to comply with any permitting or  
37 additional archaeological work required under state laws for the protection of archaeological  
38 resources.  
39
  - 40 4. This ordinance amends SCC 30.32D.220 to specify that this section applies to the inadvertent  
41 discovery of archaeological resources, to remove language regarding the discovery of human  
42 remains from this section, and to add clarifying language to align the procedure for the  
43 inadvertent discovery of archaeological resources with requirements under state law.  
44
  - 45 5. This ordinance adds a new section SCC 30.32D.225 to conform to state law for the inadvertent  
46 discovery of skeletal human remains.

1  
2 C. In developing the proposed amendments, the County considered the GMA goals related to historic  
3 preservation. In particular, the proposed amendments are consistent with and promote:

4  
5 GMA Goal 13 – “Identify and encourage the preservation of lands, sites, and structures, that have  
6 historical or archaeological significance.”  
7

8 The proposed amendments support the identification and preservation of archaeological resources  
9 by allowing the County to require archaeological survey reports when information provided by an  
10 Indian tribe, the county archaeologist, or a state archaeologist indicates that the project location  
11 has a high probability of containing archaeological resources.  
12

13 D. The proposed amendments will better achieve, comply with, and implement goals and policies from  
14 the Puget Sound Regional Council’s Multicounty Planning Policies (MPPs), including the following  
15 Development Patterns (DP) policy:

16  
17 MPP-DP-34 – “Preserve significant regional historic, visual and cultural resources including  
18 public views, landmarks, archaeological sites, historic and cultural landscapes and areas of  
19 special character.”  
20

21 The proposed amendments are consistent with this policy. Allowing that an archaeological survey  
22 report may be required for a project that an Indian tribe, the county archaeologist, or a state  
23 archaeologist has determined to have a high probability to contain archaeological resources would  
24 increase the likelihood that previously unrecorded archaeological resources are identified prior to  
25 construction. With the proposed changes, projects that would have potentially damaged or  
26 destroyed archaeological resources can be modified to preserve them.  
27

28 E. The proposed amendments will better achieve, comply with, and implement the following goals,  
29 objectives, and policies contained in the County’s GMACP GPP:

30  
31 GPP Policy LU 11.B.2 “The county shall meet its historic and archaeological resource  
32 management obligations under federal, state and local regulations in an efficient and effective  
33 manner.”  
34

35 The proposed amendments modify procedures for archaeological surveys reports, permit  
36 approval for properties that contain documented archaeological sites that cannot be avoided, and  
37 the inadvertent discovery of archaeological resources and skeletal human remains to align with  
38 state law. These amendments will support the county meeting its historic and archaeological  
39 resource management obligations in an efficient and effective manner.  
40

41 GPP Policy LU 11 B.4 “The county shall promote preservation of identified archaeological and  
42 historic resources.  
43

44 The proposed amendments are consistent with this policy. Allowing that an archaeological survey  
45 report may be required for a project area that an Indian tribe, the county archaeologist, or a state  
46 archaeologist has determined to have a high probability to contain archaeological resources would

1 increase the likelihood that previously unrecorded archaeological resources are identified prior to  
2 construction. With the proposed changes, projects that would have potentially damaged or  
3 destroyed archaeological resources can be modified to preserve them.  
4

5 F. Procedural requirements.  
6

- 7 1. State Environmental Policy Act (SEPA), chapter 43.21C RCW, requirements with respect to this  
8 non-project action have been satisfied through the completion of an environmental checklist and  
9 the issuance of a determination of non-significance on March 8, 2021.  
10
- 11 2. The proposal is a Type 3 legislative action pursuant to SCC 30.73.010.  
12
- 13 3. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance was transmitted to the  
14 Washington State Department of Commerce on March 1, 2021.  
15
- 16 4. The public participation process used in the adoption of this ordinance complies with all  
17 applicable requirements of the GMA and the SCC, including but not limited to, RCW  
18 36.70A.035, RCW 36.70A.140, and chapter 30.73 SCC.  
19
- 20 5. The Washington State Attorney General last issued an advisory memorandum, as required by  
21 RCW 36.70A.370, in September of 2018 entitled “Advisory Memorandum: Avoiding  
22 Unconstitutional Takings of Private Property” to help local governments avoid the  
23 unconstitutional taking of private property. The process outlined in the State Attorney General’s  
24 2018 advisory memorandum was used by Snohomish County in objectively evaluating the  
25 regulatory changes proposed by this ordinance.  
26

27 G. This ordinance is consistent with the record.  
28

- 29 1. Existing archaeological resource procedures for archaeological surveys reports, permit approvals  
30 for properties that contain documented archaeological sites that cannot be avoided, and the  
31 inadvertent discovery of archaeological resources and skeletal human remains do not align with  
32 current state laws related to the regulation of archaeological resources. The proposed code  
33 amendments modify county regulations to align with state laws.  
34
- 35 2. Existing code language contains outdated references and confusing terminology. The  
36 amendments proposed by this ordinance provide clarity through updating references and  
37 terminology to match current state laws for the protection of archaeological resources.  
38
- 39 3. The code amendments proposed by this ordinance support the increased identification and  
40 protection of archaeological resources. Allowing the County to require an archaeological survey  
41 report when a project location has a high probability of containing archaeological resources  
42 increases the likelihood of archaeological resources being identified early in the life of a project  
43 and allows projects to be modified to avoid impacting resources.  
44

45 H. The proposed amendments are consistent with the PDS Staff Report to the Planning Commission  
46 dated March 5, 2021.

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

- 3  
4 1. The amendments proposed by this ordinance comply with the GMA.  
5  
6 2. The amendments proposed by this ordinance comply with the Snohomish County GMACP.  
7  
8 3. The proposal is consistent with Washington State law and Snohomish County Code.  
9  
10 4. The County has complied with all SEPA requirements in respect to this non-project action.  
11  
12 5. The public participation process used in the adoption of this ordinance complies with all  
13 applicable requirements of the GMA and title 30 SCC.  
14  
15 6. The amendments proposed by this ordinance do not result in an unconstitutional taking of private  
16 property for a public purpose.  
17

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

22 Section 4. Snohomish County Code Section 30.32D.010, last amended by Amended Ordinance  
23 No. 06-037 on December 13, 2006, is amended to read  
24

25 **30.32D.010 Purpose and applicability.**

- 26  
27 (1) The purpose of this chapter is to identify, evaluate, and protect archaeological and historic resources  
28 within Snohomish county and to preserve and rehabilitate eligible historic properties for future  
29 generations, in order to:  
30 (a) Safeguard the heritage of the county as represented by those buildings, sites, structures, objects,  
31 and districts which reflect significant elements of county history;  
32 (b) Foster civic pride in the beauty and accomplishments of the past, and a sense of identity with  
33 county history;  
34 (c) Assist, encourage, and provide incentives to private owners for preservation, restoration,  
35 rehabilitation, and use of outstanding historic buildings, sites, structures, objects, and districts;  
36 (d) Promote and facilitate the early identification and resolution of conflicts between preservation of  
37 archaeological and historic resources and land uses; ~~((and))~~  
38 (e) Stabilize and improve the aesthetic and economic vitality and values of such sites improvements  
39 and objects ~~((-))~~; and  
40 (f) Comply with applicable state laws related to the regulation of archaeological and cultural sites.

41 (2) In Washington State, archaeology sites, historical graves and cemeteries, and Native American grave  
42 sites are protected by ~~((both federal and))~~ state laws on both public and private lands. This chapter does  
43 not repeal, modify, or waive any provision of federal or state law currently enacted, or as enacted in the  
44 future, that regulates archaeological sites including, but not limited to: the Archaeological Resource  
45 Protection Act of 1979 (16 U.S.C. 470aa-mm); the Native American Graves Protection and Repatriation  
46 Act (25 U.S.C. 3001 et seq.); the National Historic Preservation Act (16 U.S.C. 470 et seq.); Chapter

1 27.44 RCW titled “Indian Graves and Records”;~~((and))~~ Chapter 27.53 RCW titled “Archaeological Sites  
2 and Resources~~(-)~~”; Chapter 68.50 RCW titled “Human Remains”; and Chapter 68.60 RCW titled  
3 “Abandoned and Historic Cemeteries and Historic Graves.”

4 (3) This chapter applies to:

- 5 (a) Properties eligible for and on the Snohomish ~~((county))~~ County Register of Historic Places  
6 established pursuant to SCC 30.32D.020; ~~((and;))~~
- 7 (b) Properties ~~((listed))~~ recorded on the Washington ~~((State Archaeological Site Inventory))~~  
8 Information System for Architectural and Archaeological Records Data (WISAARD) ~~((;-))~~ ;
- 9 (c) Non-tribally owned, fee-simple properties designated Reservation Commercial on the Snohomish  
10 County Future Land Use Map; and
- 11 (d) Properties with a high probability of containing archaeological resources as indicated by  
12 information provided by an Indian tribe, or by a Snohomish County or state professional  
13 archaeologist.

14 (4) Regulations concerning the Snohomish County Historic Preservation Commission are in chapter 2.96  
15 SCC; regulations concerning the state tax incentive program for qualifying historic properties are located  
16 in chapter 4.31 SCC.

17  
18 Section 5. Snohomish County Code Section 30.32D.200, last amended by Amended Ordinance  
19 No. 15-027 on May 6, 2015, is amended to read:

20  
21 **30.32D.200 ~~((Archaeology Site))~~ Archaeological survey report.**

22 (1) Known archaeological sites are recorded on ~~(the Washington State Department of Archaeology and~~  
23 ~~Historic Preservation’s Geographic Information System))~~ WISAARD and information from data sharing  
24 agreements between Snohomish County and the Washington State Department of Archaeology and  
25 Historic Preservation (DAHP).

26 (2) An archaeological site may cover only a portion of a property, parcel, or lot and may ~~((be located on))~~  
27 extend onto more than one property, parcel, or lot.

28 (3) Completion of ~~((an archaeology site report))~~ a professional archaeological survey ~~((or relocation of the~~  
29 project to avoid the known archaeological site shall be required for)):

30 (a) ~~((Any))~~ Shall be required for any construction, earth movement, clearing, or other ~~((site))~~ land  
31 disturbance of a known archaeological site; ~~((or))~~

32 (b) ~~((Any))~~ Shall be required for any development application proposed on non-tribally owned, fee-  
33 simple properties designated Reservation Commercial on the Snohomish County Future Land  
34 Use Map ~~((;-))~~ and

35 (c) May be required for any development application when information provided by an Indian tribe  
36 or by a Snohomish County or state professional archaeologist demonstrates that the project  
37 location has a high probability of containing archaeological resources.

38 (4) ~~((An archaeology site report))~~ A professional archaeological survey report required under subsection  
39 (3)~~((;-))~~ of this section shall:

40 (a) Be written by a professional archaeologist as defined in ~~((WAC 25.48.020))~~ RCW 27.53.030(11);

41 (b) Be submitted to the department by the property owner or project proponent;

42 (c) Include the location ~~((;-condition))~~ and extent of the archaeological resources located ~~((on site and~~  
43 any recommendation with respect to conditioning the activity to avoid or minimize impacts on the  
44 known archaeological site)) within a project area; ~~((and))~~

- (d) ~~Include ((the results of consultation with))~~ any comments submitted by any affected Indian tribe ((on proposed actions to avoid or mitigate impacts of the proposed project)) during the review process (-);
- (e) Meet state and professional standards for cultural resources reporting; and
- (f) Include recommendations for avoidance or minimization of impacts on archaeological resources if present, and recommendations for additional archaeological work and permitting to comply with applicable state and federal laws for the protection and preservation of archaeological resources.

~~((5))~~ An archaeological report is required under subsection (3)(b) of this section shall:

- (a) Be written by a professional archaeologist as defined in WAC 25.48.00;
- ~~(b) Be submitted to the department by the property owner or project proponent~~
- ~~(c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid impact; and~~
- ~~(d) Include the results of consultation with any affected Indian tribe on proposed actions to avoid impacts of the proposed project.)~~

~~((6))~~(5) The department shall provide a copy of the ~~((archaeology site))~~ archaeological survey report to any affected Indian tribe and the ~~((Washington State Department of Archaeology and Historic Preservation, at the applicant's expense))~~ DAHP.

Section 6. Snohomish County Code Section 30.32D.210, last amended by Amended Ordinance No. 06-037 on December 13, 2006, is amended to read:

**30.32D.210 Project or permit approval for property ~~((on state register as an archaeological resource.))~~ that contains a documented archaeological site that cannot be avoided.**

(1) The county approving authority shall not issue a permit for any development activity or project approval requiring ~~((an archaeology site))~~ professional archaeological survey report pursuant to SCC 30.32D.200 without considering the ((archaeology site)) professional archaeological survey report, ((and)) any comments on the report submitted by an affected Indian tribe, and any additional archaeological work and permitting required under chapter 27.53 RCW.

~~((2) If an applicant requests comments regarding mitigation from a potentially affected Indian tribe and the tribe fails to respond within 30 days of the request, the department may proceed with permit issuance based on the archaeological site report if the applicant provides documentation of the request for tribal comments to the department.)~~

~~((3))~~(2) Based on the information contained in the ~~((archaeology site))~~ professional archaeological survey report and any comments submitted by ((the)) any affected Indian ((tribe(s))) tribes obtained during the ((consultation)) review process, the county approving authority will condition the permit or project approval ((in a manner that will avoid or minimize impacts to the archaeological resource consistent with federal and state law)) to comply with any permitting and additional archaeological work required under federal and state laws for the protection of archaeological resources.

Section 7. Snohomish County Code Section 30.32D.220, added by Amended Ordinance No. 02-064 on December 9, 2002, is amended to read:

**30.32D.220 ~~((Human remains or))~~ Inadvertent discovery of archaeological resources ((found on a site)).**



- 1  
2 (1) If, during the course of construction, earth movement, clearing or other ~~((site disturbance))~~ land  
3 disturbing activity, ~~((human remains or))~~ archaeological resources are encountered, all work shall cease  
4 immediately. Under these circumstances, the ~~((department))~~ director may issue a stop work order  
5 pursuant to chapter 30.85 SCC.
- 6 (2) The applicant shall immediately notify the director and promptly notify any affected Indian tribe and  
7 the ~~((state office of archaeology and historic preservation))~~ Washington State Department of Archaeology  
8 and Historic Preservation (DAHP).
- 9 (3) ~~((After))~~ Ground disturbance may not proceed until consultation with any affected Indian tribe and  
10 ~~((the state office of archaeology and historic preservation))~~ DAHP is complete. ~~((, the state shall~~  
11 ~~determine whether the site contains archaeological resources that should be preserved. The department~~  
12 ~~will designate the appropriate area within the site as a preservation area. No ground disturbance is~~  
13 ~~permitted within a preservation area. This designation shall not affect underlying zoning.))~~
- 14 (4) ~~((The preservation area designation shall remain on the appropriate area within a site until~~  
15 ~~(a) The human remains or archaeological resources have been completely removed from the site; or~~  
16 ~~(b) The department and the applicant have otherwise reached an agreement, in consultation with the~~  
17 ~~state and any affected Indian tribe, that provides for the preservation of the human remains or~~  
18 ~~archaeological resources.))~~
- 19 Ground disturbance may not proceed until the director and the applicant have reached an agreement in  
20 consultation with DAHP and any affected Indian tribe regarding a plan for mitigation or preservation of  
21 archaeological resources.

22  
23 Section 8. A new section is added to Snohomish County Code Chapter 30.32D to read:

24  
25 **30.32D.225 Inadvertent discovery of human remains.**

- 26  
27 (1) If, during the course of construction, earth movement, clearing or other land disturbing activity,  
28 human remains are encountered, all work shall cease immediately in an area large enough to protect the  
29 find.
- 30 (2) The finding of human skeletal remains shall be reported to the county medical examiner and local law  
31 enforcement by the applicant or property owner in the most expeditious manner possible.
- 32 (3) The remains shall not be touched, moved, or further disturbed. The county medical examiner shall  
33 assume jurisdiction over the human skeletal remains and make a determination of whether those remains  
34 are forensic or non-forensic. If the county medical examiner determines the remains are non-forensic,  
35 they shall report that finding to DAHP.
- 36 (4) The applicant or property owner shall also promptly notify DAHP and the director of the finding of  
37 human skeletal remains. The director may issue a stop work order pursuant to chapter 30.85 SCC.
- 38 (5) Construction, earth movement, clearing, or other land disturbing activity may not proceed without  
39 DAHP approval.

40  
41 Section 9. Severability and Savings. If any section, sentence, clause or phrase of this ordinance  
42 shall be held to be invalid by the Growth Management Hearings Board (Board), or unconstitutional by a  
43 court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or  
44 constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided, however,  
45 that if any section, sentence, clause or phrase of this ordinance is held to be invalid by the Board or court  
46 of competent jurisdiction, then the section, sentence, clause or phrase in effect prior to the effective date

1 of this ordinance shall be in full force and effect for that individual section, sentence, clause or phrase as  
2 if this ordinance had never been adopted.

3  
4 PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

5  
6 SNOHOMISH COUNCIL  
7 Snohomish, Washington

8  
9  
10 \_\_\_\_\_  
11 Council Chair

12 ATTEST:

13  
14  
15 \_\_\_\_\_  
16 Asst. Clerk of the Council

- 17  
18 ( ) APPROVED  
19 ( ) EMERGENCY  
20 ( ) VETOED

21 DATE:

22  
23 \_\_\_\_\_  
24 County Executive

25 ATTEST:

26  
27 \_\_\_\_\_  
28  
29 Approved as to form only:

30  5/22/21

31 \_\_\_\_\_  
32 Deputy Prosecuting Attorney

Amended at hearing 08/18/21

SNOHOMISH COUNTY COUNCIL  
Snohomish County, WashingtonNOTICE OF INTRODUCTION OF ORDINANCE  
AND  
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, that the Snohomish County Council will hold a public hearing on Wednesday, August 18, 2021, at the hour of 10:30 a.m. in the Henry M. Jackson Board Room, 8<sup>th</sup> Floor, Robert J. Drewel Building, 3000 Rockefeller, Everett, Washington, in conjunction with a remote meeting platform via the following Zoom link: to consider proposed Ordinance No. 21-043, titled: RELATING TO GROWTH MANAGEMENT; AMENDING DEVELOPMENT REGULATIONS IN CHAPTER 30.32D OF THE SNOHOMISH COUNTY CODE PERTAINING TO ARCHAEOLOGICAL RESOURCES

**Zoom Webinar Information:**

Join online at <https://zoom.us/j/94846850772>  
or by telephone call 1-253-215-8782 or 1-301-715-8592

**Background:** This ordinance adopts amendments to Snohomish County Code (SCC) relating to the regulation of archaeological and cultural sites. A summary of the proposed ordinance is as follows:

## PROPOSED ORDINANCE NO. 21-043

Sections 1, 2, and 3. Adopt recitals, findings, and conclusions, and states that the Snohomish County Council bases its decision on the entire record.

Section 4. Amends SCC 30.32D.010 to update references to relevant state laws, to add that compliance with applicable state laws relating to the regulation of archaeological and cultural sites is a purpose of the section, to include that this chapter applies to properties that have a high probability of containing archaeological resources, and to resolve a code inconsistency regarding the applicability of this section for non-tribally owned, fee simple properties designated Residential Commercial on the Snohomish County Future Land Use Map.

Section 5. Amends SCC 30.32D.200 to update the requirements for archaeological survey reports to meet state and professional standards for cultural resources reporting. Amendments also create a new circumstance in which archaeological survey reports may be required, when information provided by an Indian tribe, the county archaeologist, or a state archaeologist demonstrates that a project area has a high probability of containing archaeological resources.

Section 6. Amends SCC 30.32D.210 to clarify that this section applies to project or permit approval for properties that contain a documented archaeological site that cannot be avoided and to require that permits or project approval will be conditioned to comply

with any permitting or additional archaeological work required under state laws for the protection of archaeological resources.

Section 7. Amends SCC 30.32D.220 to specify that this section applies to the inadvertent discovery of archaeological resources, to remove language regarding the discovery of human remains from this section, and to add clarifying language to align the procedure for the inadvertent discovery of archaeological resources with requirements under state law.

Section 8. Adds a new section SCC 30.32D.225 to conform to state law for the inadvertent discovery of skeletal human remains.

Section 9. Includes a severability and savings clause.

The County Council may also consider other amendments, including but not limited to the following:

Amendment 1. Removes redundant language regarding when ground disturbance may proceed after the inadvertent discovery of archaeological resources. SCC 30.32D.220(3) states that ground disturbance may proceed after consultation with affected Indian Tribes and DAHP, and SCC 30.32D.220(4) restates much of the same information.

=====

**State Environmental Policy Act:** Requirements with respect to this non-project action have been satisfied through the completion of an environmental checklist and the issuance of a determination of non-significance on March 8, 2021.

**Where to Get Copies of the Proposed Ordinance:** Copies of the full ordinance and other documentation are available upon request by calling the Snohomish County Council Office at (425) 388-3494, 1-(800) 562-4367x3494, TDD (425) 877-8339 or by e-mailing [contact.council@snoco.org](mailto:contact.council@snoco.org).

**Website Access:** This ordinance can be accessed through the Council website at: <http://www.snohomishcountywa.gov/2134/County-Hearings-Calendar>.

**Range of Possible Actions the County Council May Take on This Proposal:** At the conclusion of its public hearing(s), the County Council may make one of the following decisions regarding the proposed actions: (1) adopt the proposed ordinance; (2) adopt an amended version of the proposed ordinance; (3) decline to adopt the proposed ordinance; (4) adopt such other proposals or modification of such proposals as were considered by the council at its own hearing; or (5) take any other action permitted by law.

**Public Testimony:** Anyone interested may testify concerning the above described matter at the time and place indicated above or by remote participation in the meeting. The County Council may continue the hearing to another date to allow additional public testimony thereafter, if deemed necessary. Written testimony is encouraged and may be

sent to the office of the Snohomish County Council at 3000 Rockefeller Ave M/S 609, Everett, WA 98201; faxed to (425) 388-3496 or e-mailed to [Contact.Council@snoco.org](mailto:Contact.Council@snoco.org). Submitting public comments 24 hours prior to the hearing will ensure that comments are provided to the Council and appropriate staff in advance of the hearing.

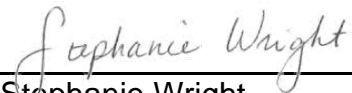
**Party of Record:** You may become a party of record on this matter by sending a written request to the Clerk of the County Council at the above address, testifying at the public hearing, or entering your name and address on a register provided for that purpose at the public hearing.

**Americans with Disabilities Act Notice:** Accommodations for persons with disabilities will be provided upon request. Please make arrangements one week prior to the hearing by calling Debbie Eco at 425-388-3494, 1-800-562-4367 x3494, or TDD #1-800-877-8339.

QUESTIONS: For additional information or specific questions on the proposed ordinance, please call Amber Piona in Planning and Development Services at 425-262-2375.

DATED this 27<sup>th</sup> day of July, 2021

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Council

  
\_\_\_\_\_  
Stephanie Wright  
Council Chair

ATTEST:

  
\_\_\_\_\_  
Debbie Eco, CMC  
Clerk of the Council

PUBLISH: August 4, 2021

Send Affidavit to: Council  
Send Invoice to: Planning #107010

1.0001 Parties of Record-Archeology\_Code\_Project  
 Archeology Code Project

Non-Proprietary - File Name	Organization	Email Address	Street Address	City	State	Zip Code	Notes
1	Lauren Balisky	City of Mukilteo	<a href="mailto:lbalsky@mukilteo.wa.gov">lbalsky@mukilteo.wa.gov</a>	11930 Cyrus Way	Mukilteo	WA	98275
2	Julia Gold	Tulalip Tribes of Washington	<a href="mailto:jgold@tulaliptribes-nsn.gov">jgold@tulaliptribes-nsn.gov</a>	6406 Marine Drive	Tulalip	WA	98271
3	Tom Wooten	Samish Indian Nation	<a href="mailto:tomwooten@samishtribe.nsn.us">tomwooten@samishtribe.nsn.us</a>	P.O. Box 217,	Anacortes	WA	98221-0217
4	Jackie Ferry	Samish Indian Nation	<a href="mailto:jferry@samishtribe.nsn.us">jferry@samishtribe.nsn.us</a>	8327 Summit Park Rd	Anacortes	WA	98221-2738
5	Bob de los Angeles	Snoqualmie Indian Tribe	<a href="mailto:bobde@snoqualmieltribe.us">bobde@snoqualmieltribe.us</a>	P.O. Box 969	Snoqualmie	WA	98065-0969
6	Steven Mullen Moses	Snoqualmie Indian Tribe	<a href="mailto:steve@snoqualmieltribe.us">steve@snoqualmieltribe.us</a>	P.O. Box 969	Snoqualmie	WA	98065-0969
7	Adam Osbekoff	Snoqualmie Indian Tribe	<a href="mailto:adam@snoqualmieltribe.us">adam@snoqualmieltribe.us</a>	P.O. Box 969	Snoqualmie	WA	98065-0969
8	Jaime Martin	Snoqualmie Indian Tribe	<a href="mailto:jaime.martin@snoqualmieltribe.us">jaime.martin@snoqualmieltribe.us</a>	P.O. Box 969	Snoqualmie	WA	98065-0969
9	Shawn Yanity	Stillaguamish Tribe of Indians of Washington	<a href="mailto:syanity@stillaguamish.com">syanity@stillaguamish.com</a>	P.O. Box 277	Arlington	WA	98223-0277
10	Kerry Lyste	Stillaguamish Tribe of Indians of Washington	<a href="mailto:klyste@stillaguamish.com">klyste@stillaguamish.com</a>	P.O. Box 277	Arlington	WA	98223-0277
11	Sam Barr	Stillaguamish Tribe of Indians of Washington	<a href="mailto:sbarr@stillaguamish.com">sbarr@stillaguamish.com</a>	P.O. Box 277	Arlington	WA	98223-0277
12	Tracey Boser	Stillaguamish Tribe of Indians of Washington	<a href="mailto:traceyboser@stillaguamish.com">traceyboser@stillaguamish.com</a>	P.O. Box 277	Arlington	WA	98223-0277
13	Leonard Forsman	Suquamish Indian Tribe of the Port Madison Reservation	<a href="mailto:lforsman@suquamish.nsn.us">lforsman@suquamish.nsn.us</a>	P.O. Box 498	Suquamish	WA	98392-0498
14	Dennis Lewarch	Suquamish Indian Tribe of the Port Madison Reservation	<a href="mailto:dlewarch@suquamish.nsn.us">dlewarch@suquamish.nsn.us</a>	P.O. Box 498	Suquamish	WA	98392-0498
15	Steve Edwards	Swinomish Indian Tribal Community	<a href="mailto:sedwards@swinomish.nsn.us">sedwards@swinomish.nsn.us</a>	11404 Moorage Way	LaConner	WA	98257-9450
16	Josephine Jefferson	Swinomish Indian Tribal Community	<a href="mailto:jjefferson@swinomish.nsn.us">jjefferson@swinomish.nsn.us</a>	11404 Moorage Way	LaConner	WA	98257-9450
17	Teri Gobin	Tulalip Tribes of Washington	<a href="mailto:trgobin@tulaliptribes-nsn.gov">trgobin@tulaliptribes-nsn.gov</a>	6406 Marine Drive	Tulalip	WA	98271
18	Gene Enick	Tulalip Tribes of Washington	<a href="mailto:genick@tulaliptribes-nsn.gov">genick@tulaliptribes-nsn.gov</a>	6406 Marine Drive	Tulalip	WA	98271
19	Richard Young	Tulalip Tribes of Washington	<a href="mailto:ryoung@tulaliptribes-nsn.gov">ryoung@tulaliptribes-nsn.gov</a>	6410 23rd Avenue N.E.	Tulalip	WA	98271
20	Jennifer Washington	Upper Skagit Indian Tribe	<a href="mailto:jenniferw@upperskagit.com">jenniferw@upperskagit.com</a>	25944 Community Plaza Way	Sedro Woolley	WA	98284-9739
21	Scott Schuyler	Upper Skagit Indian Tribe	<a href="mailto:sschuyler@upperskagit.com">sschuyler@upperskagit.com</a>	25944 Community Plaza Way	Sedro Woolley	WA	98284-9739
22	Nino Maltos	Sauk-Suiattle Indian Tribe	<a href="mailto:chairman@sauk-suiattle.com">chairman@sauk-suiattle.com</a>	5318 Chief Brown Lane	Darrington	WA	98241-9421
23	Slobodan Mitrovic	Sauk-Suiattle Indian Tribe	<a href="mailto:smitrovic@sauk-suiattle.com">smitrovic@sauk-suiattle.com</a>	5318 Chief Brown Lane	Darrington	WA	98241-9421
24	Kevin Joseph	Sauk-Suiattle Indian Tribe	<a href="mailto:kjoseph@sauk-suiattle.com">kjoseph@sauk-suiattle.com</a>	5318 Chief Brown Lane	Darrington	WA	98241-9421
25	Kirsten Larsen	Washington State Department of Commerce	<a href="mailto:kirsten.larsen@commerce.wa.gov">kirsten.larsen@commerce.wa.gov</a>	1011 Plum Street SE	Olympia	WA	98504
26	Nicholas Vann	Washington State Department of Archaeology and Historic Preservation	<a href="mailto:nicholas.vann@dahp.wa.gov">nicholas.vann@dahp.wa.gov</a>	1110 Capitol Way S #30	Olympia	WA	98504
27	Mike Pattison	Master Builders Association	<a href="mailto:mpattison@MBAKS.com">mpattison@MBAKS.com</a>	335 116th Avenue SE	Bellevue	WA	98004
28	Stephanie Jolivet	Washington State Department of Archaeology and Historic Preservation	<a href="mailto:stephanie.jolivet@dahp.wa.gov">stephanie.jolivet@dahp.wa.gov</a>	1110 Capitol Way S #30	Olympia	WA	98504
29							
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31	August 18th public hearing notice sent by e-mail and U.S. mail on July 30, 2021, dle						
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**SNOHOMISH COUNTY COUNCIL**  
**EXHIBIT # 3.5.2**  
**FILE ORD 21-043**

# Everett Daily Herald

SNOHOMISH COUNTY COUNCIL  
RECEIVED     TIME    

## Affidavit of Publication

AUG 11 2021

State of Washington }  
County of Snohomish } ss

CC'D TO	CF	
JLM	DIST 1	GOT
JDG	DIST 2	DLE
YSW	DIST 3	ALC
HCB	DIST 4	ELL
NAG	DIST 5	CMF

Dicy Sheppard being first duly sworn, upon oath deposes and says: that he/she is the legal representative of the Everett Daily Herald a daily newspaper. The said newspaper is a legal newspaper by order of the superior court in the county in which it is published and is now and has been for more than six months prior to the date of the first publication of the Notice hereinafter referred to, published in the English language continually as a daily newspaper in Snohomish County, Washington and is and always has been printed in whole or part in the Everett Daily Herald and is of general circulation in said County, and is a legal newspaper, in accordance with the Chapter 99 of the Laws of 1921, as amended by Chapter 213, Laws of 1941, and approved as a legal newspaper by order of the Superior Court of Snohomish County, State of Washington, by order dated June 16, 1941, and that the annexed is a true copy of EDH934621 ORDINANCE 21-043 as it was published in the regular and entire issue of said paper and not as a supplement form thereof for a period of 1 issue(s), such publication commencing on 08/04/2021 and ending on 08/04/2021 and that said newspaper was regularly distributed to its subscribers during all of said period.

The amount of the fee for such publication is \$161.04.

     
*[Signature]*

Subscribed and sworn before me on this 4<sup>th</sup> day of August, 2021.

     
*[Signature]*

Notary Public in and for the State of Washington.



SNOHOMISH COUNTY COUNCIL  
SNOHOMISH COUNTY, WASHINGTON  
NOTICE OF INTRODUCTION OF ORDINANCE  
AND

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, that the Snohomish County Council will hold a public hearing on Wednesday, August 18, 2021, at the hour of 10:30 a.m. in the Henry M. Jackson Board Room, 8th Floor, Robert J. Drewel Building, 3000 Rockefeller, Everett, Washington, in conjunction with a remote meeting platform via the following Zoom link to consider proposed Ordinance No. 21-043, titled: RELATING TO GROWTH MANAGEMENT; AMENDING DEVELOPMENT REGULATIONS IN CHAPTER 30.32D OF THE SNOHOMISH COUNTY CODE PERTAINING TO ARCHAEOLOGICAL RESOURCES.

Zoom Webinar Information:

Join online at <https://zoom.us/j/94846850772>

or by telephone call 1-253-215-8782 or 1-301-715-8592

**Background:** This ordinance adopts amendments to Snohomish County Code (SCC) relating to the regulation of archaeological and cultural sites. A summary of the proposed ordinance is as follows:

**PROPOSED ORDINANCE NO. 21-043**

**Sections 1, 2, and 3.** Adopt recitals, findings, and conclusions, and states that the Snohomish County Council bases its decision on the entire record.

**Section 4.** Amends SCC 30.32D.010 to update references to relevant state laws, to add that compliance with applicable state laws relating to the regulation of archaeological and cultural sites is a purpose of the section, to include that this chapter applies to properties that have a high probability of containing archaeological resources, and to resolve a code inconsistency regarding the applicability of this section for non-tribally owned, fee simple properties designated Residential Commercial on the Snohomish County Future Land Use Map.

**Section 5.** Amends SCC 30.32D.200 to update the requirements for archaeological survey reports to meet state and professional standards for cultural resources reporting. Amendments also create a new circumstance in which archaeological survey reports may be required, when information provided by an Indian tribe, the county archaeologist, or a state archaeologist demonstrates that a project area has a high probability of containing archaeological resources.

**Section 6.** Amends SCC 30.32D.210 to clarify that this section applies to project or permit approval for properties that contain a documented archaeological site that cannot be avoided and to require that permits or project approval will be conditioned to comply with any permitting or additional archaeological work required under state laws for the protection of archaeological resources.

**Section 7.** Amends SCC 30.32D.220 to specify that this section applies to the inadvertent discovery of archaeological resources, to remove language regarding the discovery of human remains from this section, and to add clarifying language to align the procedure for the inadvertent discovery of archaeological resources with requirements under state law.

**Section 8.** Adds a new section SCC 30.32D.225 to conform to state law for the inadvertent discovery of skeletal human remains.

Section 9 includes a severability and savings clause. The County Council may also consider other amendments, including but not limited to the following:

**Amendment 1.** Removes redundant language regarding when ground disturbance may proceed after the inadvertent discovery of archaeological resources. SCC 30.32D.220(3) states that ground disturbance may proceed after consultation with affected Indian Tribes and DAHP, and SCC 30.32D.220(4) restates much of the same information.

**State Environmental Policy Act.** Requirements with respect to this non-project action have been satisfied through the completion of an environmental checklist and the issuance of a determination of non-significance on March 8, 2021.



Where to Get Copies of the Proposed Ordinance. Copies of the full ordinance and other documentation are available upon request by calling the Snohomish County Council Office at (425) 388-3494, 1-(800) 562-4367 x3494, TDD (425) 877-8339 or by e-mailing [contact.council@snoco.org](mailto:contact.council@snoco.org).

Website Access. This ordinance can be accessed through the Council website at:  
<http://www.snohomishcountywa.gov/2134/County-Hearings-Calendar>

Range of Possible Actions the County Council May Take on This Proposal: At the conclusion of its public hearing(s), the County Council may make one of the following decisions regarding the proposed actions: (1) adopt the proposed ordinance; (2) adopt an amended version of the proposed ordinance; (3) decline to adopt the proposed ordinance; (4) adopt such other proposals or modification of such proposals as were considered by the council at its own hearing; or (5) take any other action permitted by law.

Public Testimony: Anyone interested may testify concerning the above described matter at the time and place indicated above or by remote participation in the meeting. The County Council may continue the hearing to another date to allow additional public testimony thereafter, if deemed necessary. Written testimony is encouraged and may be sent to the office of the Snohomish County Council at 3000 Rockefeller Ave M/S 609, Everett, WA 98201, faxed to (425) 388-3496 or e-mailed to [Contact.Council@snoco.org](mailto:Contact.Council@snoco.org). Submitting public comments 24 hours prior to the hearing will ensure that comments are provided to the Council and appropriate staff in advance of the hearing.

Party of Record: You may become a party of record on this matter by sending a written request to the Clerk of the County Council at the above address, testifying at the public hearing, or entering your name and address on a register provided for that purpose at the public hearing.

Americans with Disabilities Act Notice: Accommodations for persons with disabilities will be provided upon request. Please make arrangements one week prior to the hearing by calling Debbie Eco at 425-388-3494, 1-800-562-4367 x3494, or TDD #1-800-877-8339.

QUESTIONS: For additional information or specific questions on the proposed ordinance, please call Amber Piona in Planning and Development Services at 425-262-2375.

DATED this 27th day of July, 2021

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Council  
/s/ Stephanie Wright  
Council Chair

ATTEST:  
/s/ Debbie Eco, CMC  
Clerk of the Council  
107010  
Published August 4, 2021.

EDH934621

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

NOTICE OF ENACTMENT

NOTICE IS HEREBY GIVEN, that on August 18, 2021, the Snohomish County Council adopted Amended Ordinance No. 21-043, which shall become effective September 2, 2021. A summary of the ordinance is as follows:

AMENDED ORDINANCE NO. 21-043

RELATING TO GROWTH MANAGEMENT; AMENDING DEVELOPMENT REGULATIONS  
IN CHAPTER 30.32D OF THE SNOHOMISH COUNTY CODE PERTAINING TO  
ARCHAEOLOGICAL RESOURCES

Sections 1, 2, and 3. Adopt recitals, findings, and conclusions, and states that the Snohomish County Council bases its decision on the entire record.

Section 4. Amends SCC 30.32D.010 to update references to relevant state laws, to add that compliance with applicable state laws relating to the regulation of archaeological and cultural sites is a purpose of the section, to include that this chapter applies to properties that have a high probability of containing archaeological resources, and to resolve a code inconsistency regarding the applicability of this section for non-tribally owned, fee simple properties designated Residential Commercial on the Snohomish County Future Land Use Map.

Section 5. Amends SCC 30.32D.200 to update the requirements for archaeological survey reports to meet state and professional standards for cultural resources reporting. Amendments also create a new circumstance in which archaeological survey reports may be required, when information provided by an Indian tribe, the county archaeologist, or a state archaeologist demonstrates that a project area has a high probability of containing archaeological resources.

Section 6. Amends SCC 30.32D.210 to clarify that this section applies to project or permit approval for properties that contain a documented archaeological site that cannot be avoided and to require that permits or project approval will be conditioned to comply with any permitting or additional archaeological work required under state laws for the protection of archaeological resources.

Section 7. Amends SCC 30.32D.220 to specify that this section applies to the inadvertent discovery of archaeological resources, to remove language regarding the discovery of human remains from this section, and to add clarifying language to align the procedure for the inadvertent discovery of archaeological resources with requirements under state law.

Section 8. Adds a new section SCC 30.32D.225 to conform to state law for the inadvertent discovery of skeletal human remains.

Section 9. Includes a severability and savings clause.

=====

**State Environmental Policy Act:** Requirements with respect to this non-project action have been satisfied through the completion of an environmental checklist and the issuance of a determination of non-significance on March 8, 2021.

**Where to Get Copies of the Amended Ordinance:** Copies of the full ordinance and other documentation are available upon request by calling the Snohomish County Council Office at (425) 388-3494, 1-(800) 562-4367x3494, TDD (425) 877-8339 or by e-mailing [contact.council@snoco.org](mailto:contact.council@snoco.org).

**Website Access:** This ordinance can be accessed through the Council website at: <http://www.snohomishcountywa.gov/2134/County-Hearings-Calendar>.

DATED this 27<sup>th</sup> day of August, 2021

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington



---

Debbie Eco, CMC  
Clerk of the Council

PUBLISH: September 1, 2021

Send Affidavit to: Council

Send Invoice to: Planning #107010

SNOHOMISH COUNTY COUNCIL  
SNOHOMISH COUNTY, WASHINGTON

EXHIBIT # 3.5.5

FILE ORD 21-043

**NOTICE OF ACTION**

NOTICE IS HEREBY GIVEN under the Growth Management Act, RCW 36.70A.290 that the Snohomish County Council took the action described in (1) below on August 18, 2021.

1. Description of agency action: Approval of Amended Ordinance No. 21-043.
  
2. Description of proposal: RELATING TO GROWTH MANAGEMENT; AMENDING DEVELOPMENT REGULATIONS IN CHAPTER 30.32D OF THE SNOHOMISH COUNTY CODE PERTAINING TO ARCHAEOLOGICAL RESOURCES
  
3. Documentation is available electronically upon request by calling the Snohomish County Council Office at (425) 388-3494, 1-800-562-4367 x3494, TDD 1-800-877-8339 or e-mailing to [Contact.Council@snoco.org](mailto:Contact.Council@snoco.org).
  
4. Name of agency giving notice: Snohomish County Council
  
5. This notice is filed by: Debbie Eco  
Clerk of the Council

Date: August 27, 2021

PUBLISH: September 1, 2021

Send Affidavit to: County Council  
Send Invoice to: Planning #107010



# Department of Commerce

Innovation is in our nature.

SNOHOMISH COUNTY COUNCIL

## Notice of Adopted Amendment

EXHIBIT # 3.5.6

Indicate one (or both, if applicable):

FILE ORD 21-043

- Comprehensive Plan Amendment  
 Development Regulation Amendment

Pursuant to RCW 36.70A.106, the following jurisdiction provides notice of an adopted comprehensive plan amendment and/or development regulation amendment.

*(If needed, you may expand this form and the fields below, but please try to keep the entire form under two pages in length.)*

<b>Jurisdiction:</b>	Snohomish County
<b>Mailing Address:</b>	3000 Rockefeller Avenue, MS 609, Everett, WA 98201
<b>Date:</b>	August 27, 2021
<b>Contact Name:</b>	Debbie Eco
<b>Title/Position:</b>	Clerk of the Council
<b>Phone Number:</b>	425-388-7038
<b>E-mail Address:</b>	<a href="mailto:debbie.eco@snoco.org">debbie.eco@snoco.org</a>
<b>Brief Description of the Adopted Amendment:</b> <i>(40 words or less)</i>	AMENDED ORDINANCE 21-043 RELATING TO GROWTH MANAGEMENT; AMENDING DEVELOPMENT REGULATIONS IN CHAPTER 30.32D OF THE SNOHOMISH COUNTY CODE PERTAINING TO ARCHAEOLOGICAL RESOURCES
<b>Was this action submitted to Commerce for 60-day notice of intent to adopt (or to request expedited review)?</b>	Yes. Material ID# 2021-S-2394
<b>Public Hearing Date:</b>	Planning Commission: April 27, 2021 Council/County Commission: August 18, 2021
<b>Date Adopted:</b>	August 18, 2021

**REQUIRED:** Attach or include a copy the adopted ordinance (signed and dated) and the final amendment text.

1 ADOPTED: 08/18/21  
2 EFFECTIVE: 09/02/21

3 SNOHOMISH COUNTY COUNCIL  
4 Snohomish County, Washington

5  
6 AMENDED ORDINANCE NO. 21-043

7  
8 RELATING TO GROWTH MANAGEMENT; AMENDING DEVELOPMENT REGULATIONS IN  
9 CHAPTER 30.32D OF THE SNOHOMISH COUNTY CODE PERTAINING TO  
10 ARCHAEOLOGICAL RESOURCES

11  
12 WHEREAS, the Growth Management Act (GMA), chapter 36.70A RCW, requires  
13 Snohomish County (the "County") to identify and encourage the preservation of lands, sites, and  
14 structures that have historical or archaeological significance; and

15  
16 WHEREAS, the Snohomish County GMA Comprehensive Plan (GMACP) General Policy  
17 Plan (GPP) directs Snohomish County to preserve, protect, and enhance archaeological,  
18 cultural, and historic resources, and to efficiently and effectively meet its archaeological  
19 resource management obligations under federal, state, and local regulations; and

20  
21 WHEREAS, in 2008 the Washington State Legislature revised state law concerning the  
22 inadvertent discovery of skeletal human remains, abandoned and historic cemeteries, and  
23 historic graves in chapters 68.50 and 68.60 RCW; and

24  
25 WHEREAS, chapter 30.32D of the Snohomish County Code (SCC) establishes the  
26 regulations for historic and archaeological resources in the County; and

27  
28 WHEREAS, the existing procedures within chapter 30.32D SCC for archaeological  
29 surveys reports, permit approvals for properties that contain documented archaeological sites  
30 that cannot be avoided, and the inadvertent discovery of archaeological resources and skeletal  
31 human remains do not align with current state laws related to the regulation of archaeological  
32 resources; and

33  
34 WHEREAS, SCC 30.32D.200 does not allow the County to require an archaeological  
35 survey when information from Indian tribes, the county archaeologist, or state archaeologists  
36 indicates that there is a high likelihood for archaeological resources to be located on the project  
37 site; and

38  
39 WHEREAS, chapter 30.32D SCC also contains outdated terminology and references  
40 which create unnecessary ambiguity and confusion; and

41  
42 WHEREAS, on March 23, 2021, the Snohomish County Planning Commission (the  
43 "Planning Commission") was briefed by PDS staff about the proposed code amendments  
44 contained in this ordinance; and

45  
46 WHEREAS, the Planning Commission held a public hearing on April 27, 2021, to receive  
47 public testimony concerning the code amendments contained in this ordinance, and at the  
48 conclusion of that hearing continued deliberations; and

1  
2 WHEREAS, on May 25, 2021, the Planning Commission deliberated on the proposed  
3 code amendments contained in this ordinance and voted to recommend amendments to the  
4 County code relating to archaeological resources as shown in its recommendation letter dated  
5 May 27, 2021; and  
6

7 WHEREAS, on August 18, 2021, the County Council held a public hearing after proper  
8 notice, and considered public comment and the entire record related to the code amendments  
9 contained in this ordinance; and  
10

11 WHEREAS, following the public hearing, the County Council deliberated on the code  
12 amendments contained in this ordinance;  
13

14 NOW, THEREFORE, BE IT ORDAINED:  
15

16 Section 1. The County Council adopts the following findings in support of this ordinance:  
17

18 A. The foregoing recitals are adopted as findings as if set forth in full herein.  
19

20 B. This ordinance amends chapter 30.32D SCC in the following manner:  
21

- 22 1. This ordinance amends SCC 30.32D.010 to update references to relevant state laws, to  
23 add that compliance with applicable state laws relating to the regulation of  
24 archaeological and cultural sites is a purpose of the section, to include that this chapter  
25 applies to properties that have a high probability of containing archaeological resources,  
26 and to resolve a code inconsistency regarding the applicability of this section for non-  
27 tribally owned, fee simple properties designated Residential Commercial on the  
28 Snohomish County Future Land Use Map.  
29
- 30 2. This ordinance amends SCC 30.32D.200 to update the requirements for archaeological  
31 survey reports to meet state and professional standards for cultural resources reporting.  
32 The amendments also create a new circumstance in which archaeological survey  
33 reports may be required, when an Indian tribe, the county archaeologist, or a state  
34 archaeologist determines that the project site has a high probability of containing  
35 archaeological resources.  
36
- 37 3. This ordinance amends SCC 30.32D.210 to clarify that this section applies to project or  
38 permit approval for properties that contain a documented archaeological site that cannot  
39 be avoided and to require that permits or project approval will be conditioned to comply  
40 with any permitting or additional archaeological work required under state laws for the  
41 protection of archaeological resources.  
42
- 43 4. This ordinance amends SCC 30.32D.220 to specify that this section applies to the  
44 inadvertent discovery of archaeological resources, to remove language regarding the  
45 discovery of human remains from this section, and to add clarifying language to align the  
46 procedure for the inadvertent discovery of archaeological resources with requirements  
47 under state law.  
48

1 5. This ordinance adds a new section SCC 30.32D.225 to conform to state law for the  
2 inadvertent discovery of skeletal human remains.  
3

4 C. In developing the proposed amendments, the County considered the GMA goals related to  
5 historic preservation. In particular, the proposed amendments are consistent with and  
6 promote:  
7

8 GMA Goal 13 – “Identify and encourage the preservation of lands, sites, and structures,  
9 that have historical or archaeological significance.”  
10

11 The proposed amendments support the identification and preservation of archaeological  
12 resources by allowing the County to require archaeological survey reports when  
13 information provided by an Indian tribe, the county archaeologist, or a state  
14 archaeologist indicates that the project location has a high probability of containing  
15 archaeological resources.  
16

17 D. The proposed amendments will better achieve, comply with, and implement goals and  
18 policies from the Puget Sound Regional Council’s Multicounty Planning Policies (MPPs),  
19 including the following Development Patterns (DP) policy:  
20

21 MPP-DP-34 – “Preserve significant regional historic, visual and cultural resources  
22 including public views, landmarks, archaeological sites, historic and cultural landscapes  
23 and areas of special character.”  
24

25 The proposed amendments are consistent with this policy. Allowing that an  
26 archaeological survey report may be required for a project that an Indian tribe, the  
27 county archaeologist, or a state archaeologist has determined to have a high probability  
28 to contain archaeological resources would increase the likelihood that previously  
29 unrecorded archaeological resources are identified prior to construction. With the  
30 proposed changes, projects that would have potentially damaged or destroyed  
31 archaeological resources can be modified to preserve them.  
32

33 E. The proposed amendments will better achieve, comply with, and implement the following  
34 goals, objectives, and policies contained in the County’s GMACP GPP:  
35

36 GPP Policy LU 11.B.2 “The county shall meet its historic and archaeological resource  
37 management obligations under federal, state and local regulations in an efficient and  
38 effective manner.”  
39

40 The proposed amendments modify procedures for archaeological surveys reports,  
41 permit approvals for properties that contain documented archaeological sites that cannot  
42 be avoided, and the inadvertent discovery of archaeological resources and skeletal  
43 human remains to align with state law. These amendments will support the county  
44 meeting its historic and archaeological resource management obligations in an efficient  
45 and effective manner.  
46

47 GPP Policy LU 11 B.4 “The county shall promote preservation of identified  
48 archaeological and historic resources.



1  
2 The proposed amendments are consistent with this policy. Allowing that an  
3 archaeological survey report may be required for a project area that an Indian tribe, the  
4 county archaeologist, or a state archaeologist has determined to have a high probability  
5 to contain archaeological resources would increase the likelihood that previously  
6 unrecorded archaeological resources are identified prior to construction. With the  
7 proposed changes, projects that would have potentially damaged or destroyed  
8 archaeological resources can be modified to preserve them.  
9

10 F. Procedural requirements.

- 11  
12 1. State Environmental Policy Act (SEPA), chapter 43.21C RCW, requirements with  
13 respect to this non-project action have been satisfied through the completion of an  
14 environmental checklist and the issuance of a determination of non-significance on  
15 March 8, 2021.  
16
- 17 2. The proposal is a Type 3 legislative action pursuant to SCC 30.73.010.  
18
- 19 3. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance was  
20 transmitted to the Washington State Department of Commerce on March 1, 2021.  
21
- 22 4. The public participation process used in the adoption of this ordinance complies with all  
23 applicable requirements of the GMA and the SCC, including but not limited to, RCW  
24 36.70A.035, RCW 36.70A.140, and chapter 30.73 SCC.  
25
- 26 5. The Washington State Attorney General last issued an advisory memorandum, as  
27 required by RCW 36.70A.370, in September of 2018 entitled “Advisory Memorandum:  
28 Avoiding Unconstitutional Takings of Private Property” to help local governments avoid  
29 the unconstitutional taking of private property. The process outlined in the State  
30 Attorney General’s 2018 advisory memorandum was used by Snohomish County in  
31 objectively evaluating the regulatory changes proposed by this ordinance.  
32

33 G. This ordinance is consistent with the record.

- 34  
35 1. Existing archaeological resource procedures for archaeological surveys reports, permit  
36 approvals for properties that contain documented archaeological sites that cannot be  
37 avoided, and the inadvertent discovery of archaeological resources and skeletal human  
38 remains do not align with current state laws related to the regulation of archaeological  
39 resources. The proposed code amendments modify county regulations to align with state  
40 laws.  
41
- 42 2. Existing code language contains outdated references and confusing terminology. The  
43 amendments proposed by this ordinance provide clarity through updating references and  
44 terminology to match current state laws for the protection of archaeological resources.  
45
- 46 3. The code amendments proposed by this ordinance support the increased identification  
47 and protection of archaeological resources. Allowing the County to require an  
48 archaeological survey report when a project location has a high probability of containing

1 archaeological resources increases the likelihood of archaeological resources being  
2 identified early in the life of a project and allows projects to be modified to avoid  
3 impacting resources.  
4

5 H. The proposed amendments are consistent with the PDS Staff Report to the Planning  
6 Commission dated March 5, 2021.  
7

8 Section 2. The County Council makes the following conclusions:  
9

- 10 1. The amendments proposed by this ordinance comply with the GMA.
- 11 2. The amendments proposed by this ordinance comply with the Snohomish County  
12 GMACP.
- 13 3. The proposal is consistent with Washington State law and Snohomish County Code.  
14
- 15 4. The County has complied with all SEPA requirements in respect to this non-project  
16 action.  
17
- 18 5. The public participation process used in the adoption of this ordinance complies with all  
19 applicable requirements of the GMA and title 30 SCC.  
20
- 21 6. The amendments proposed by this ordinance do not result in an unconstitutional taking  
22 of private property for a public purpose.  
23

24  
25  
26 Section 3. The Snohomish County Council bases its findings and conclusions on the  
27 entire record of the County Council, including all testimony and exhibits. Any finding, which  
28 should be deemed a conclusion, and any conclusion which should be deemed a finding, is  
29 hereby adopted as such.  
30

31 Section 4. Snohomish County Code Section 30.32D.010, last amended by Amended  
32 Ordinance No. 06-037 on December 13, 2006, is amended to read:  
33

34 **30.32D.010 Purpose and applicability.**  
35

36 (1) The purpose of this chapter is to identify, evaluate, and protect archaeological and historic  
37 resources within Snohomish county and to preserve and rehabilitate eligible historic properties  
38 for future generations, in order to:

- 39 (a) Safeguard the heritage of the county as represented by those buildings, sites, structures,  
40 objects, and districts which reflect significant elements of county history;
- 41 (b) Foster civic pride in the beauty and accomplishments of the past, and a sense of identity  
42 with county history;
- 43 (c) Assist, encourage, and provide incentives to private owners for preservation, restoration,  
44 rehabilitation, and use of outstanding historic buildings, sites, structures, objects, and  
45 districts;
- 46 (d) Promote and facilitate the early identification and resolution of conflicts between  
47 preservation of archaeological and historic resources and land uses; ~~((and))~~

- 1 (e) Stabilize and improve the aesthetic and economic vitality and values of such sites  
2 improvements and objects ((-)); and  
3 (f) Comply with applicable state laws related to the regulation of archaeological and cultural  
4 sites.

5 (2) In Washington State, archaeology sites, historical graves and cemeteries, and Native  
6 American grave sites are protected by ~~((both federal and))~~ state laws on both public and private  
7 lands. This chapter does not repeal, modify, or waive any provision of federal or state law  
8 currently enacted, or as enacted in the future, that regulates archaeological sites including, but  
9 not limited to: the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-mm); the  
10 Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); the National  
11 Historic Preservation Act (16 U.S.C. 470 et seq.); Chapter 27.44 RCW titled "Indian Graves and  
12 Records";~~((and))~~ Chapter 27.53 RCW titled "Archaeological Sites and Resources((-)"; Chapter  
13 68.50 RCW titled "Human Remains"; and Chapter 68.60 RCW titled "Abandoned and Historic  
14 Cemeteries and Historic Graves."

15 (3) This chapter applies to:

- 16 (a) Properties eligible for and on the Snohomish ~~((county))~~ County Register of Historic  
17 Places established pursuant to SCC 30.32D.020; ~~((and;))~~  
18 (b) Properties ~~((listed))~~ recorded on the Washington ~~((State Archaeological Site Inventory))~~  
19 Information System for Architectural and Archaeological Records Data (WISAARD) ((-)) ;  
20 (c) Non-tribally owned, fee-simple properties designated Reservation Commercial on the  
21 Snohomish County Future Land Use Map; and  
22 (d) Properties with a high probability of containing archaeological resources as indicated by  
23 information provided by an Indian tribe, or by a Snohomish County or state professional  
24 archaeologist.

25 (4) Regulations concerning the Snohomish County Historic Preservation Commission are in  
26 chapter 2.96 SCC; regulations concerning the state tax incentive program for qualifying historic  
27 properties are located in chapter 4.31 SCC.

28  
29 Section 5. Snohomish County Code Section 30.32D.200, last amended by Amended  
30 Ordinance No. 15-027 on May 6, 2015, is amended to read:

31  
32 **30.32D.200 ~~((Archaeology Site))~~ Archaeological survey report.**

33 (1) Known archaeological sites are recorded on ~~((the Washington State Department of~~  
34 ~~Archaeology and Historic Preservation's Geographic Information System))~~ WISAARD and  
35 information from data sharing agreements between Snohomish County and the Washington  
36 State Department of Archaeology and Historic Preservation (DAHP).

37 (2) An archaeological site may cover only a portion of a property, parcel, or lot and may ~~((be~~  
38 ~~located on))~~ extend onto more than one property, parcel, or lot.

39 (3) Completion of ~~((an archaeology site report))~~ a professional archaeological survey ((or  
40 relocation of the project to avoid the known archaeological site shall be required for)):

- 41 (a) ~~((Any))~~ Shall be required for any construction, earth movement, clearing, or other ~~((site))~~  
42 land disturbance of a known archaeological site; ((or))  
43 (b) ~~((Any))~~ Shall be required for any development application proposed on non-tribally  
44 owned, fee-simple properties designated Reservation Commercial on the Snohomish  
45 County Future Land Use Map ~~((-)); and~~  
46 (c) May be required for any development application when information provided by an  
47 Indian tribe or by a Snohomish County or state professional archaeologist demonstrates  
48 that the project location has a high probability of containing archaeological resources.

1 (4) ~~((An archaeology site report))~~ A professional archaeological survey report required under  
2 subsection (3)~~((a))~~ of this section shall:

- 3 (a) Be written by a professional archaeologist as defined in ~~((WAC 25.48.020))~~ RCW  
4 27.53.030(11);
- 5 (b) Be submitted to the department by the property owner or project proponent;
- 6 (c) Include the location ~~((, condition))~~ and extent of the archaeological resources located  
7 ~~((on site and any recommendation with respect to conditioning the activity to avoid or~~  
8 ~~minimize impacts on the known archaeological site))~~ within a project area; ~~((and))~~
- 9 (d) Include ~~((the results of consultation with))~~ any comments submitted by any affected  
10 Indian tribe ~~((on proposed actions to avoid or mitigate impacts of the proposed project))~~  
11 during the review process ~~((:))~~;
- 12 (e) Meet state and professional standards for cultural resources reporting; and
- 13 (f) Include recommendations for avoidance or minimization of impacts on archaeological  
14 resources if present, and recommendations for additional archaeological work and  
15 permitting to comply with applicable state and federal laws for the protection and  
16 preservation of archaeological resources.

17 ~~((5))~~ An archaeological report is required under subsection (3)(b) of this section shall:

- 18 ~~(a) Be written by a professional archaeologist as defined in WAC 25.48.00;~~
- 19 ~~(b) Be submitted to the department by the property owner or project proponent~~
- 20 ~~(c) Include the location, condition, and extent of the archaeological resources located on~~  
21 ~~site and any recommendations with respect to conditioning the activity to avoid impacts;~~  
22 ~~and~~
- 23 ~~(d) Include the results of consultation with any affected Indian tribe on proposed actions to~~  
24 ~~avoid impacts of the proposed project.)~~

25 ~~((6))~~(5) The department shall provide a copy of the ~~((archaeology site))~~ archaeological survey  
26 report to any affected Indian tribe and the ~~((Washington State Department of Archaeology and~~  
27 ~~Historic Preservation, at the applicant's expense))~~ DAHP.

28  
29 Section 6. Snohomish County Code Section 30.32D.210, last amended by Amended  
30 Ordinance No. 06-037 on December 13, 2006, is amended to read:

31  
32 **30.32D.210 Project or permit approval for property ~~((on state register as an~~**  
33 **archaeological resource.) that contains a documented archaeological site that cannot be**  
34 **avoided.**

35  
36 (1) The county approving authority shall not issue a permit for any development activity or  
37 project approval requiring ~~((an archaeology site))~~ a professional archaeological survey report  
38 pursuant to SCC 30.32D.200 without considering the ~~((archaeology site))~~ professional  
39 archaeological survey report, ~~((and))~~ any comments on the report submitted by an affected  
40 Indian tribe, and any additional archaeological work and permitting required under chapter 27.53  
41 RCW.

42 ~~((2) If an applicant requests comments regarding mitigation from a potentially affected Indian~~  
43 ~~tribe and the tribe fails to respond within 30 days of the request, the department may proceed~~  
44 ~~with permit issuance based on the archaeology site report if the applicant provides~~  
45 ~~documentation of the request for tribal comments to the department.)~~

46 ~~((3))~~(2) Based on the information contained in the ~~((archaeology site))~~ professional  
47 archaeological survey report and any comments submitted by ~~((the))~~ any affected Indian  
48 ~~((tribe(s)))~~ tribes obtained during the ~~((consultation))~~ review process, the county approving

1 authority will condition the permit or project approval (~~in a manner that will avoid or minimize~~  
2 ~~impacts to the archaeological resource consistent with federal and state law~~) to comply with  
3 any permitting and additional archaeological work required under federal and state laws for the  
4 protection of archaeological resources.

5  
6 Section 7. Snohomish County Code Section 30.32D.220, added by Amended Ordinance  
7 No. 02-064 on December 9, 2002, is amended to read:

8  
9 **30.32D.220 ((Human remains or)) Inadvertent discovery of archaeological resources**  
10 **((found on a site)).**

11  
12 (1) If, during the course of construction, earth movement, clearing or other (~~site disturbance~~)  
13 land disturbing activity, (~~human remains or~~) archaeological resources are encountered, all  
14 work shall cease immediately. Under these circumstances, the (~~department~~) director may  
15 issue a stop work order pursuant to chapter 30.85 SCC.

16 (2) The applicant shall immediately notify the director and promptly notify any affected Indian  
17 tribe and the (~~state office of archaeology and historic preservation~~) Washington State  
18 Department of Archaeology and Historic Preservation (DAHP).

19 (3) (~~After~~) Ground disturbance may not proceed until consultation with any affected Indian tribe  
20 and (~~the state office of archaeology and historic preservation~~) DAHP is complete. (~~the state~~  
21 ~~shall determine whether the site contains archaeological resources that should be preserved.~~  
22 ~~The department will designate the appropriate area within the site as a preservation area. No~~  
23 ~~ground disturbance is permitted within a preservation area. This designation shall not affect~~  
24 ~~underlying zoning.~~)

25 (4) (~~The preservation area designation shall remain on the appropriate area within a site until~~

26 (a) ~~The human remains or archaeological resources have been completely removed from~~  
27 ~~the site; or~~

28 (b) ~~The department and the applicant have otherwise reached an agreement, in consultation~~  
29 ~~with the state and any affected Indian tribe, that provides for the preservation of the~~  
30 ~~human remains or archaeological resources.)~~

31  
32 Section 8. A new section is added to Snohomish County Code Chapter 30.32D to read:

33  
34 **30.32D.225 Inadvertent discovery of human remains.**

35  
36 (1) If, during the course of construction, earth movement, clearing or other land disturbing  
37 activity, human remains are encountered, all work shall cease immediately in an area large  
38 enough to protect the find.

39 (2) The finding of human skeletal remains shall be reported to the county medical examiner and  
40 local law enforcement by the applicant or property owner in the most expeditious manner  
41 possible.

42 (3) The remains shall not be touched, moved, or further disturbed. The county medical examiner  
43 shall assume jurisdiction over the human skeletal remains and make a determination of whether  
44 those remains are forensic or non-forensic. If the county medical examiner determines the  
45 remains are non-forensic, they shall report that finding to DAHP.

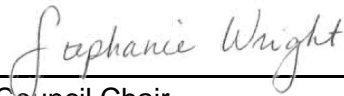
46 (4) The applicant or property owner shall also promptly notify DAHP and the director of the  
47 finding of human skeletal remains. The director may issue a stop work order pursuant to chapter  
48 30.85 SCC.

1 (5) Construction, earth movement, clearing, or other land disturbing activity may not proceed  
2 without DAHP approval.

3  
4 Section 9. Severability and Savings. If any section, sentence, clause or phrase of this  
5 ordinance shall be held to be invalid by the Growth Management Hearings Board (Board), or  
6 unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall  
7 not affect the validity or constitutionality of any other section, sentence, clause or phrase of this  
8 ordinance. Provided, however, that if any section, sentence, clause or phrase of this ordinance  
9 is held to be invalid by the Board or court of competent jurisdiction, then the section, sentence,  
10 clause or phrase in effect prior to the effective date of this ordinance shall be in full force and  
11 effect for that individual section, sentence, clause or phrase as if this ordinance had never been  
12 adopted.

13  
14 PASSED this 18<sup>th</sup> day of August, 2021.

15  
16 SNOHOMISH COUNTY COUNCIL  
17 Snohomish County, Washington


18  
19   
20 \_\_\_\_\_  
21 Council Chair

22 ATTEST:

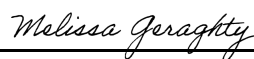
23   
24 \_\_\_\_\_  
25 Clerk of the Council

- 26  
27 (X) APPROVED  
28 ( ) EMERGENCY  
29 ( ) VETOED

30  
31 DATE: 8/23/2021

32  
33   
34 \_\_\_\_\_  
35 County Executive

36  
37 ATTEST:

38   
39 \_\_\_\_\_

40  
41  
42  
43 Approved as to form only:

44  
45 \_\_\_\_\_  
46 Deputy Prosecuting Attorney



STATE OF WASHINGTON  
DEPARTMENT OF COMMERCE  
1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000  
[www.commerce.wa.gov](http://www.commerce.wa.gov)

08/30/2021

Ms. Debbie Eco  
Clerk of the Council  
Snohomish County  
3000 Rockefeller Ave.  
Everett, WA 98201

Sent Via Electronic Mail

Re: Snohomish County--2021-S-3071--Notice of Final Adoption

Dear Ms. Eco:

Thank you for sending the Washington State Department of Commerce the Notice of Final Adoption as required under [RCW 36.70A.106](#). We received your submittal with the following description.

**Adopted Ordinance No. 21-043 amending development regulations in Chapter 30.32D of the county code pertaining to archaeological resources.**

We received your submittal on 08/27/2021 and processed it with the Submittal ID 2021-S-3071. Please keep this letter as documentation that you have met this procedural requirement.

If you have any questions, please contact Growth Management Services at [reviewteam@commerce.wa.gov](mailto:reviewteam@commerce.wa.gov), or call Kirsten Larsen, (360) 280-0320.

Sincerely,

Review Team  
Growth Management Services

Affidavit of Publication

State of Washington }
County of Snohomish } ss

SNOHOMISH COUNTY COUNCIL

RECEIVED TIME

SEP 07 2021

Michael Gates being first duly sworn, upon oath deposes and says: that he/she is the legal representative of the Everett Daily Herald a daily newspaper. The said newspaper is a legal newspaper by order of the superior court in the county in which it is published and is now and has been for more than six months prior to the date of the first publication of the Notice hereinafter referred to, published in the English language continually as a daily newspaper in Snohomish County, Washington and is and always has been printed in whole or part in the Everett Daily Herald and is of general circulation in said County, and is a legal newspaper, in accordance with the Chapter 99 of the Laws of 1921, as amended by Chapter 213, Laws of 1941, and approved as a legal newspaper by order of the Superior Court of Snohomish County, State of Washington, by order dated June 16, 1941, and that the annexed is a true copy of EDH937095 AMENDED ORD 21-043 as it was published in the regular and entire issue of said paper and not as a supplement form thereof for a period of 1 issue(s), such publication commencing on 09/01/2021 and ending on 09/01/2021 and that said newspaper was regularly distributed to its subscribers during all of said period.

CC'D TO CF
JLM DIST 1 GOT
JDG DIST 2 DLE
YSW DIST 3 ALC
HCB DIST 4 ELL
NAG DIST 5 CMF

The amount of the fee for such publication is \$89.76.

[Handwritten signature]

Subscribed and sworn before me on this

15 day of September 2021



[Handwritten signature of Linda Phillips]

Notary Public in and for the State of Washington.



SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

NOTICE OF ENACTMENT

NOTICE IS HEREBY GIVEN, that on August 18, 2021, the Snohomish County Council adopted Amended Ordinance No. 21-043, which shall become effective September 2, 2021. A summary of the ordinance is as follows:

AMENDED ORDINANCE NO. 21-043  
RELATING TO GROWTH MANAGEMENT; AMENDING  
DEVELOPMENT REGULATIONS IN CHAPTER 30.32D OF THE  
SNOHOMISH COUNTY CODE PERTAINING TO  
ARCHAEOLOGICAL RESOURCES

Sections 1, 2, and 3. Adopt recitals, findings, and conclusions; and states that the Snohomish County Council bases its decision on the entire record.

Section 4. Amends SCC 30.32D.010 to update references to relevant state laws, to add that compliance with applicable state laws relating to the regulation of archaeological and cultural sites is a purpose of the section, to include that this chapter applies to properties that have a high probability of containing archaeological resources, and to resolve a code inconsistency regarding the applicability of this section for non-tribally owned, fee simple properties designated Residential Commercial on the Snohomish County Future Land Use Map.

Section 5. Amends SCC 30.32D.200 to update the requirements for archaeological survey reports to meet state and professional standards for cultural resources reporting. Amendments also create a new circumstance in which archaeological survey reports may be required, when information provided by an Indian tribe, the county archaeologist, or a state archaeologist demonstrates that a project area has a high probability of containing archaeological resources.

Section 6. Amends SCC 30.32D.210 to clarify that this section applies to project or permit approval for properties that contain a documented archaeological site that cannot be avoided and to require that permits or project approval will be conditioned to comply with any permitting or additional archaeological work required under state laws for the protection of archaeological resources.

Section 7. Amends SCC 30.32D.220 to specify that this section applies to the inadvertent discovery of archaeological resources, to remove language regarding the discovery of human remains from this section, and to add clarifying language to align the procedure for the inadvertent discovery of archaeological resources with requirements under state law.

Section 8. Adds a new section SCC 30.32D.225 to conform to state law for the inadvertent discovery of skeletal human remains.

Section 9. Includes a severability and savings clause.

State Environmental Policy Act. Requirements with respect to this non-project action have been satisfied through the completion of an environmental checklist and the issuance of a determination of non-significance on March 8, 2021.

Where to Get Copies of the Amended Ordinance. Copies of the full ordinance and other documentation are available upon request by calling the Snohomish County Council Office at (425) 388-3494, 1-(800) 562-4367x3494, TDD (425) 877-8339 or by e-mailing [council@snoce.org](mailto:council@snoce.org).

Website Access. This ordinance can be accessed through the Council website at:

<http://www.snohomishcountywa.gov/2134/County-Hearings-Calendar>

DATED this 27th day of August, 2021

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington  
/s/ Debbie Eco, CMC  
Clerk of the Council

107010

Published: September 1, 2021

EDH937095

Everett Daily Herald

EXHIBIT # 3.5.9

FILE ORD 21-043

Affidavit of Publication

State of Washington }
County of Snohomish } ss

SNOHOMISH COUNTY COUNCIL
RECEIVED TIME

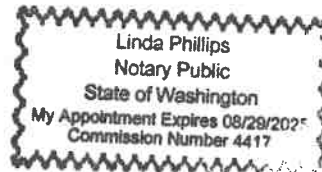
SEP 07 2021

Michael Gates being first duly sworn, upon oath deposes and says: that he/she is the legal representative of the Everett Daily Herald a daily newspaper. The said newspaper is a legal newspaper by order of the superior court in the county in which it is published and is now and has been for more than six months prior to the date of the first publication of the Notice hereinafter referred to, published in the English language continually as a daily newspaper in Snohomish County, Washington and is and always has been printed in whole or part in the Everett Daily Herald and is of general circulation in said County, and is a legal newspaper, in accordance with the Chapter 99 of the Laws of 1921, as amended by Chapter 213, Laws of 1941, and approved as a legal newspaper by order of the Superior Court of Snohomish County, State of Washington, by order dated June 16, 1941, and that the annexed is a true copy of EDH937096 AMENDED ORD 21-043 as it was published in the regular and entire issue of said paper and not as a supplement form thereof for a period of 1 issue(s), such publication commencing on 09/01/2021 and ending on 09/01/2021 and that said newspaper was regularly distributed to its subscribers during all of said period.

CC'D TO CF
JLM DIST 1 GOY
JDG DIST 2 DLE
YSW DIST 3 ALC
HCB DIST 4 ELL
NAG DIST 5 CMF

The amount of the fee for such publication is \$30.36.

Subscribed and sworn before me on this 15th day of September, 2021.



[Handwritten signature of Linda Phillips]

Notary Public in and for the State of Washington.

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

NOTICE OF ACTION

NOTICE IS HEREBY GIVEN under the Growth Management Act, RCW 36.70A.290 that the Snohomish County Council took the action described in (1) below on August 18, 2021.

1. Description of agency action: Approval of Amended Ordinance No. 21-043.
2. Description of proposal: RELATING TO GROWTH MANAGEMENT; AMENDING DEVELOPMENT REGULATIONS IN CHAPTER 30.32D OF THE SNOHOMISH COUNTY CODE PERTAINING TO ARCHAEOLOGICAL RESOURCES
3. Documentation is available electronically upon request by calling the Snohomish County Council Office at (425) 388-3494, 1-800-562-4367 x3494, TDD 1-800-877-8339 or e-mailing to Contact.Council@snoco.org.
4. Name of agency giving notice: Snohomish County Council
5. This notice is filed by: Debbie Eco  
Clerk of the Council

Date: August 27, 2021  
107010

Published: September 1, 2021

EDH937096

**EXECUTIVE RECOMMENDED  
AMENDMENT SHEET  
ORDINANCE NO. 21-043**

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**Amendment Name:** Clarifying when ground disturbance may proceed

**Brief Description:** This amendment removes redundant language regarding when ground disturbance may proceed after the inadvertent discovery of archaeological resources. SCC 30.32D.220(3) states that ground disturbance may proceed after consultation with affected Indian Tribes and DAHP, and SCC 30.32D.220(4) restates much of the same information.

**Affected Code Sections:** SCC 30.32D.220(4)

**Existing Ordinance Recitals, Findings, Conclusions or Sections to Delete or Modify:**

**Beginning on page 8, line 14, delete:**

- (4) (~~The preservation area designation shall remain on the appropriate area within a site until~~
  - (a) ~~The human remains or archaeological resources have been completely removed from the site; or~~
  - (b) ~~The department and the applicant have otherwise reached an agreement, in consultation with the state and any affected Indian tribe, that provides for the preservation of the human remains or archaeological resources.)~~

Ground disturbance may not proceed until the director and the applicant have reached an agreement in consultation with DAHP and any affected Indian tribe regarding a plan for mitigation or preservation of archaeological resources.

**And replace with:**

- ~~((4) The preservation area designation shall remain on the appropriate area within a site until~~
  - (c) ~~The human remains or archaeological resources have been completely removed from the site; or~~
- ~~The department and the applicant have otherwise reached an agreement, in consultation with the state and any affected Indian tribe, that provides for the preservation of the human remains or archaeological resources.)~~

**Council Disposition:** 2-4 u approved Date: 8/18/21