



## Snohomish County Council

**Committee:** Committee of the Whole

**Analyst:** Ryan Countryman

**ECAF:** 2023-0926

**Proposal:** Motion 23-342

**Date:** August 15, 2023

### **Consideration**

Proposed Motion 23-342 would refer proposed code amendments relating to Accessory Dwelling Units (ADUs) to the Department of Planning and Development Services (PDS) and Snohomish County Planning Commission (Planning Commission).

### **Background and Analysis**

Motion 23-342 is in response to a Final Decision and Order (Order) issued by the Growth Management Hearings Board (GMHB) on June 20, 2023, in *Futurewise v. Snohomish County*, Case No. 22-3-0003.

On March 9, 2022, the Snohomish County Council adopted Amended Ordinance 22-006 (Ord 22-006). Among other changes, Ord 22-006 allowed expanded use of detached ADUs outside of Urban Growth Areas. Prior to Ord 22-006, code prohibited detached ADUs on lots that did not meet the standard lot size minimum in rural and resource zones. Ord 22-006 changed that by allowing detached ADUs on substandard lots in rural and resource zones. Futurewise filed a petition for review with the GMHB challenging Ord 22-006. In its June 30, 2023, Order, the GMHB remanded Ord 22-006 to Snohomish County to bring it into compliance with the Growth Management Act (GMA), RCW 36.70A.

The Order found two issues of non-compliance. First, the GMHB found that detached ADUs on substandard lots with agriculture zoning “fails to project designated agricultural lands of long-term commercial significance in violation of [RCW 36.70A.177](#)”. Under Snohomish County Code (SCC), Agriculture 10-Acre zoning (A-10) is subset of resource zones which includes Forestry and Forestry & Recreation (F&R) zoning ([SCC 30.21.020](#)). The first issue of non-compliance in the Order implies that allowing detached ADUs on lots less than 10-acres in A-10 zoning is a violation of GMA regulations on accessory uses on agricultural lands.

Second, the GMHB found that Ord 22-006 is “inconsistent with achievement of the growth targets in the County’s adopted Multicounty Planning Policies and Countywide Planning Policies, in violation of [RCW 36.70A.130\(1\)\(d\)](#)<sup>1</sup> and [RCW 36.70A.210\(1\) and \(7\)](#).” Snohomish County is experiencing growth in rural and resource areas that exceeds adopted targets. By allowing detached ADUs on substandard lots in rural zones, Ord 22-006 made additional growth in rural areas possible without taking other action to offset the effect on overall rural

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<sup>1</sup> [Senate Bill 5457](#) added a new subsection to RCW 36.70A.130(1) effective July 23, 2023. What the GMHB Order referred to as (1)(d) is now (1)(e).

growth. The GMHB did not find detached ADUs on substandard lots in rural zones to be a GMA compliance issue specifically, rather the non-compliance was the resulting addition to growth outside urban areas.

In the Order, the GMHB gave Snohomish County a due date for compliance of December 13, 2023. By that date, Snohomish County needs to: 1) amend [SCC 30.28.010](#) so that detached ADUs are no longer allowed on substandard lots in A-10 zoning; and 2) take action to negate the impact to rural growth of allowing detached ADUs on substandard lots in rural zones. This could include amendments to SCC 30.28.010 or other actions to offset the resulting rural growth.

Amending SCC 30.28.010 takes a Type 3 Legislative Decision. This requires that the Planning Commission hold a public hearing and provide a recommendation to the County Council first ([Chapter 30.73 SCC](#)). Type 3 proposals referred to the Planning Commission by the County Council typically require a public hearing within 90 days of the referral unless the County Council specifies a different schedule ([SCC 30.73.070\(3\)](#)). Motion 23-342 specifies October 16, 2023, as a date by which the County Council requests a recommendation.<sup>2</sup> This timing would allow the County Council to act on an ordinance amending SCC 30.28.010 to address both issues of non-compliance by the December 13, 2023, compliance deadline.

The proposed ordinance attached to Motion 23-342 undoes the provision that allowed detached ADUs on substandard lots in rural and resource zones. This addresses both compliance issues found by the GMHB. Options to address rural growth in a manner that re-allows detached ADUs on substandard lots in non-agricultural zones could be part of the ongoing 2024 update to the comprehensive plan or considered later. However, the complexity of other approaches, which would include meeting GMA public participation requirements, does not seem feasible before the December 13 compliance deadline.

**Current Proposal:** Motion 23-342 would refer an ordinance amending SCC 30.28.010 to address the GMHB Order to the Planning Commission for a public hearing and recommendation back to the County Council.

**Handling:** Expedited

**Executive Recommendation:** Transmit the motion to Planning Commission, recommendation on the ordinance attached to the motion is TBD.<sup>3</sup>

**Request:** Consideration during Committee of the Whole on August 15.

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<sup>2</sup> Council staff has worked with PDS in its capacity as staff for the Planning Commission to arrange for a briefing to the Planning Commission on August 22 and a public hearing on September 26, 2023.

<sup>3</sup> The Planning Commission is an advisory body to both the County Council and County Executive ([SCC 2.08.005](#)). The Executive does not typically make its recommendation on an ordinance Council is referring to the Planning Commission until after receiving and considering the Planning Commission's recommendation first.