

1 Adopted:
2 Effective:

3
4 SNOHOMISH COUNTY COUNCIL
5 SNOHOMISH COUNTY, WASHINGTON

6
7 ORDINANCE NO. 24-028

8
9 RELATING TO THE GROWTH MANAGEMENT ACT, CONCERNING MAXIMUM
10 BUILDING HEIGHTS; AMENDING SECTION 30.23.040 OF THE SNOHOMISH
11 COUNTY CODE (SW12 – MIETZNER)
12

13 WHEREAS, Revised Code of Washington (RCW) 36.70A.130 and .470 direct
14 counties planning under the Growth Management Act (GMA), chapter 36.70A RCW, to
15 adopt procedures for interested persons to propose amendments and revisions to the
16 Snohomish County Growth Management Act Comprehensive Plan (GMACP) or
17 development regulations; and
18

19 WHEREAS, the Snohomish County Council (“County Council”) adopted chapter
20 30.74 of the Snohomish County Code (SCC), “Growth Management Act Public
21 Participation Program Docketing,” to comply with the requirements of RCW 36.70A.130
22 and .470; and
23

24 WHEREAS, the Department of Planning and Development Services (PDS)
25 compiled a list of non-county initiated amendments and revisions received by the
26 October 31, 2020, deadline for Docket XXI applications and evaluated these proposed
27 amendments, including the SW12 – Mietzner docket proposal, for consistency with the
28 initial docket review criteria in SCC 30.74.030(1) and 30.74.040; and
29

30 WHEREAS, on March 9, 2022, the County Council approved, by Amended
31 Motion No. 21-147, a list of proposed non-county initiated comprehensive plan
32 amendments, including SW12 – Mietzner, to be included on Final Docket XXI and
33 authorized the County Executive, through PDS, to further process the proposed major
34 docket amendments consistent with chapters 30.73 and 30.74 SCC, including
35 environmental review under the State Environmental Policy Act (SEPA), for final
36 consideration in 2024; and
37

38 WHEREAS, the Snohomish County Planning Commission (“Planning
39 Commission”) was briefed on the SW12 – Mietzner docket proposal on September 12,
40 2023; and
41

42 WHEREAS, pursuant to chapter 30.74 SCC, PDS completed a final review and
43 evaluation of the SW12 – Mietzner docket proposal and forwarded a recommendation to
44 approve the proposal to the Planning Commission; and

1 WHEREAS, the Planning Commission held a public hearing on October 24,
2 2023, to receive public testimony on the SW12 – Mietzner docket proposal; and
3

4 WHEREAS, after the conclusion of its public hearing, the Planning Commission
5 deliberated on November 14 and 15, 2023, and voted to recommend adoption of the
6 amendments contained in this ordinance, as shown in its recommendation letter dated
7 January 16, 2024; and
8

9 WHEREAS, on _____, 2024, the County Council held a public
10 hearing, after proper notice, to receive public testimony and consider the entire record
11 related to the SW12 – Mietzner proposed amendments contained in this ordinance; and
12

13 WHEREAS, following the public hearing, the County Council deliberated on the
14 proposed amendments contained in this ordinance;
15

16 NOW, THEREFORE, BE IT ORDAINED:
17

18 Section 1. The County Council adopts the following findings to support this
19 ordinance:
20

- 21 A. The foregoing recitals are adopted as findings as if set forth in full herein.
22
- 23 B. Currently under SCC 30.23.040(14) the maximum building height is 75 feet for
24 multifamily structures on sites zoned MR, NB, PCB, CB and GC that are in the
25 Southwest UGA when the site is east of State Route (SR) 525 and when either:
26 (1) any portion of the site is within 2,000 feet of the western edge of the right-of-way
27 of SR 99; or (2) any portion of the site is within 800 feet of the eastern edge of the
28 right-of-way of SR 99. The SW12 – Mietzner docket proposal amends
29 SCC 30.23.040(14) to expand the area east of SR 99 right-of-way from 800 feet to
30 2,000 feet. The amendments also correct a grammatical error by inserting a missing
31 word in the existing subsection.
32
- 33 C. The SW12 proposal furthers the GMA goals in RCW 36.70A.020, particularly RCW
34 36.70A.020(1) (Urban Growth), RCW 36.70A.020(2) (Reduce Sprawl), RCW
35 36.70A.020(3) (Transportation), RCW 36.70A.020(4) (Housing), RCW 36.70A.020(5)
36 (Economic Development), and RCW 36.70A.020(9) (Open Space and Recreation),
37 by encouraging multifamily development within the existing boundaries of the
38 Southwest Urban Growth Area (UGA) along a corridor that is served by high-
39 capacity transit, while providing more efficient use of urban land and reducing the
40 need to convert open space and wildlife habitat to housing and related infrastructure.
41
42
43

1 D. The SW12 proposal is consistent with the Multicounty Planning Policies (MPP),
2 including RGS-6, HO-2, HO-7, and HO-8, by encouraging multifamily development
3 within the existing boundaries of the Southwest UGA along a corridor that is served
4 by high-capacity transit.

5
6 E. The SW12 proposal is consistent with Countywide Planning Policy (CPP) DP-11 by
7 encouraging multifamily development within the existing boundaries of the
8 Southwest UGA along a corridor that is served by high-capacity transit.

9
10 F. The SW12 proposal is consistent with Snohomish County GMA Comprehensive
11 Plan policies LU 2.B.2 and 2.B.3 by encouraging multifamily development along a
12 corridor that is served by high-capacity transit.

13
14 G. Procedural requirements.

15
16 1. SEPA requirements with respect to this non-project action have been satisfied
17 through the completion of a Draft Environmental Impact Statement (EIS)
18 issued on September 6, 2023, and a Final EIS issued on _____, 2024.

19
20 2. This proposal is a Type 3 legislative action pursuant to SCC 30.73.010.

21
22 3. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance
23 was transmitted to the Washington State Department of Commerce for
24 distribution to state agencies on _____, 2024.

25
26 4. The public participation process used in the adoption of this ordinance
27 complied with all applicable requirements of the GMA and the SCC.
28 Notification was provided in accordance with SCC 30.73.050.

29
30 5. The Washington State Attorney General last issued an advisory
31 memorandum, as required by RCW 36.70A.370, in September of 2018
32 entitled "Advisory Memorandum: Avoiding Unconstitutional Takings of Private
33 Property" to help local governments avoid the unconstitutional taking of
34 private property. The process outlined in the State Attorney General's 2018
35 advisory memorandum was used by Snohomish County in objectively
36 evaluating the amendments proposed by this ordinance.

37
38 H. The ordinance is consistent with the record, including the PDS staff report to the
39 Planning Commission dated September 11, 2023. In its staff report, PDS concluded
40 the proposal met the criteria found in SCC 30.74.060 and, therefore, recommended
41 the proposal be approved.

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

- 2
- 3 A. This proposal complies with all requirements of Washington State law and county
- 4 code.
- 5
- 6 B. This proposal is consistent with the MPPs.
- 7
- 8 C. This proposal is consistent with the CPPs.
- 9
- 10 D. This proposal is consistent with the goals, objectives, and policies of the GMACP.
- 11
- 12 E. All SEPA requirements with respect to this non-project action have been satisfied.
- 13
- 14 F. This proposal does not result in an unconstitutional taking of private property for a
- 15 public purpose and does not violate substantive due process guarantees.
- 16

17 Section 3. The County Council bases its findings and conclusions on the entire

18 record of the Planning Commission and the County Council, including all testimony and

19 exhibits. Any finding which should be deemed a conclusion, and any conclusion which

20 should be deemed a finding, is hereby adopted as such.

21

22 Section 4. Snohomish County Code Section 30.23.040, last amended by

23 Amended Ordinance No. 23-033 on June 7, 2023, is amended to read:

24 **30.23.040 Reference notes for SCC Tables 30.23.030 and 30.23.032.**

25

- 26 (1) MR bulk requirements shall apply for all residential development permitted in the
- 27 NB, PCB, CB, GC and BP zones.
- 28 (2) When subdivisionally described, the minimum lot area shall be 1/128th of a section.
- 29 (3) When subdivisionally described, the minimum lot area shall be 1/32nd of a section.
- 30 (4) In the LDMR zone, the maximum density shall be calculated based on 4,000
- 31 square feet of land per dwelling unit, except that existing dwelling units may be retained
- 32 as part of new development in the LDMR zone without counting towards the maximum
- 33 density.
- 34 (5) In the MR zone the maximum density shall be calculated based on 2,000 square
- 35 feet of land per dwelling unit, except that:
- 36 (a) Existing dwelling units may be retained as part of new development in the MR
- 37 zone without counting towards the maximum density.
- 38 (b) For sites zoned MR, NB, PCB, CB, or GC in the Southwest UGA where any
- 39 portion of the site is within 2,000 feet of the western edge of the right-of-way of
- 40 State Route 99 or within 800 feet of the eastern edge of the right-of-way of State
- 41 Route 99, and the site is east of State Route 525, the maximum density shall be
- 42 calculated based on 750 square feet of land per dwelling unit, provided that either:

- (i) One or more transfer of development rights (TDR) credits must be used to realize the additional density under subsection (5)(b) of this section according to the requirements of chapter 30.35A SCC; or
- (ii) After June 11, 2020, developments for which the applicant provides documentation to the director showing that the entire project has been granted a property tax exemption by the Washington State Department of Revenue under RCW 84.36.041, 84.36.042, 84.36.043, or 84.36.560 shall be exempt from the requirements of chapter 30.35A SCC and development may be permitted up to a maximum density of 750 square feet of land per dwelling unit without using TDR credits.
- (6) Commercial forestry structures shall not exceed 65 feet in height.
- (7) Non-residential structures shall not exceed 45 feet in height.
- (8) Lot coverage includes all buildings on the given lot.
- (9) Sites zoned MR, NB, PCB, CB, or GC in the Southwest UGA where any portion of the site is within 2,000 feet of the western edge of the right-of-way of State Route 99 or within 800 feet of the eastern edge of the right-of-way of State Route 99; and the site is east of State Route 525, are exempt from minimum lot area, minimum lot width, and maximum lot coverage requirements.
- (10) RESERVED for future use.
- (11) These setbacks shall be measured from the property line.
- (12) Greater setbacks than those listed may apply to areas subject to Shoreline Management Program jurisdiction or critical areas regulations in chapters 30.62A, 30.62B, 30.62C and 30.67 SCC. Some uses have special setbacks identified in SCC 30.23.110.
- (13) The listed setbacks apply where the adjacent property is zoned F. In all other cases, setbacks are the same as in the R-8,400 zone. In the F zone, the setbacks for residential structures on 10 acres or less which were legally created prior to being zoned to F shall be the same as in the R-8,400 zone.
- (14) The maximum building height is 75 feet for multifamily structures on sites zoned MR, NB, PCB, CB and GC that are in the Southwest UGA where any portion of the site is within 2,000 feet of the western edge of the right-of-way of State Route 99 or within ~~((800))~~ 2,000 feet of the eastern edge of the right-of-way of State Route 99, and the site is east of State Route 525. Subject to the requirements in SCC 30.22.100, non-residential uses are allowed on the first floor of multifamily structures on sites zoned NB, PCB, CB, and GC that are in the Southwest UGA where any portion of the site is within 2,000 feet of the edge of the right-of-way of State Route 99 and the site is east of State Route 525.
- (15) See SCC 30.23.300.
- (16) The maximum building height is increased an additional five feet when the building includes a daylight basement, except under conditions that would violate any other applicable requirements of Title 30 SCC, including the height limit requirements of the Shoreline Management Program (SCC 30.67.460), airport compatibility regulations (SCC 30.32E.060), and urban residential design standards (chapter 30.23A SCC).

- (17) In the IP zone there shall be an additional one foot setback for every one foot of building height over 45 feet.
- (18) RESERVED for future use.
- (19) See SCC 30.31A.020(1) and (2) which specify the minimum area of a tract of land necessary for PCB or BP zoning.
- (20) See additional setback provisions for dwellings located along the boundaries of designated farmland contained in SCC 30.32B.130.
- (21) See additional setback provisions for structures located adjacent to forest lands, and/or on lands designated local forest or commercial forest contained in SCC 30.32A.110.
- (22) The minimum lot size for properties designated Rural Residential (RR)--10 (Resource Transition) on the comprehensive plan shall be 10 acres.
- (23) Minimum lot area requirements may be modified within UGAs in accordance with SCC 30.23.020.
- (24) In rural cluster subdivisions approved in accordance with the provisions of chapter 30.41C SCC, the minimum lot area shall be as provided in SCC 30.23.220. The maximum lot area shall be 20,000 square feet or less when located in rural/urban transition areas.
- (25) RESERVED for future use.
- (26) RESERVED for future use.
- (27) See SCC 30.23.050 for height limit exceptions. See also SCC 30.67.460 for height limit requirements within shoreline jurisdiction.
- (28) RESERVED for future use.
- (29) See SCC 30.23.200 et seq. for additional lot area requirements and exceptions.
- (30) SCC 30.32A.120 (Siting of new structures: Commercial forest land) requires an application for a new structure on parcels designated commercial forest, but not within a designated commercial forest--forest transition area, to provide a minimum 500-foot setback, which shall be a resource protection area, from the property boundaries of adjacent commercial forest lands except that if the size, shape, and/or physical site constraints of an existing legal lot do not allow a setback of 500 feet, the new structure shall maintain the maximum setback possible, as determined by the department.
- (31) Setback requirements for mineral excavation and processing are in SCC 30.23.110(27). Performance standards and permit requirements are in chapter 30.32C SCC.
- (32) For mineral excavation and processing: The site shall be a contiguous geographic area and have a size of not less than 10 acres, except in the case of subsurface shaft excavations, no minimum acreage is required, pursuant to SCC 30.32C.020(1).
- (33) See SCC Table 30.28.050(4)(i) for setback requirements for structures containing a home occupation.
- (34) RESERVED for future use.
- (35) See chapter 30.31E SCC, for more complete information on the Townhouse Zone height, setback, and lot coverage requirements.
- (36) RESERVED for future use (MR and LDMR setbacks--DELETED by Ord. 05-094, effective September 29, 2005).

1 (37) *Agriculture*. All structures used for housing or feeding animals, not including
2 household pets, shall be located at least 30 feet from all property lines.

3 (38) There shall be no subdivision of land designated commercial forest in the
4 comprehensive plan except to allow installation of communication and utility facilities if
5 all the following requirements are met:

6 (a) The facility cannot suitably be located on undesignated land;

7 (b) The installation cannot be accomplished without subdivision;

8 (c) The facility is to be located on the lowest feasible grade of forest land; and

9 (d) The facility removes as little land as possible from timber production.

10 (39) On parcels designated commercial forest, but not within a designated commercial
11 forest--forest transition area, establish and maintain a minimum 500-foot setback, which
12 shall be a resource protection area, from the property boundaries of adjacent
13 commercial forest lands except when the size, shape, and/or physical site constraints of
14 an existing legal lot do not allow a setback of 500 feet, the new structure shall maintain
15 the maximum setback possible as provided in SCC 30.32A.120.

16 (40) Land designated local commercial farmland shall not be divided into lots of less
17 than 10 acres unless a properly executed deed restriction which runs with the land and
18 which provides that the land divided is to be used exclusively for agricultural purposes
19 and specifically not for a dwelling(s) is recorded with the Snohomish County auditor.

20 (41) Minimum lot area in the rural use zone shall be the minimum allowed by the zone
21 identified as the implementing zone by the comprehensive plan for the plan designation
22 applied to the subject property. Where more than one implementing zone is identified
23 for the same designation, the minimum lot size shall be that of the zone allowing the
24 smallest lot size.

25 (42) RESERVED for future use.

26 (43) Additional bulk requirements may apply. Refer to SCC 30.31F.100 and
27 30.31F.140.

28 (44) The 50 percent maximum lot coverage limitation applies solely to the portion of
29 the area within the CRC comprehensive plan designation and zone that is centered at
30 180th Street SE and SR 9, generally extending between the intersection of 172nd
31 Street/SR 9 to just south of 184th Street/SR 9, as indicated on the county's FLUM and
32 zoning map.

33 (45) The 30 percent maximum lot coverage limitation applies solely to the portion area
34 located within the CRC comprehensive plan designation and zone that is centered at
35 State Route (SR) 9 and 164th Street SE, as indicated on the county's Future Land Use
36 Map (FLUM) and zoning map.

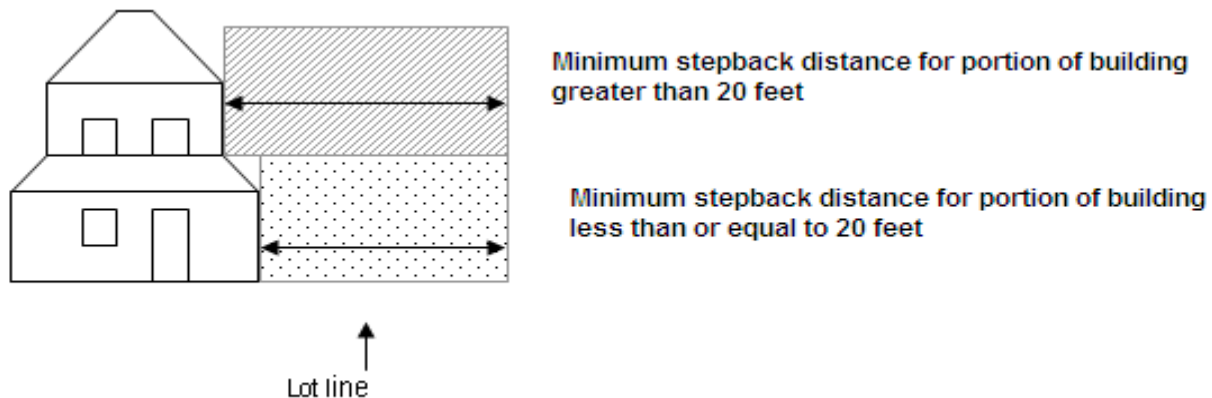
37 (46) Additional setbacks may apply to development within a rural cluster subdivision.
38 Refer to chapter 30.41C SCC. Residential subdivision is restricted pursuant to SCC
39 30.32C.050. Uses are restricted where the R-5 zone coincides with the Mineral
40 Resource Overlay (MRO) to prevent development which would preclude future access
41 to the mineral resources.

42 (47) RESERVED for future use.

43 (48) RESERVED for future use.

44 (49) RESERVED for future use.

- (50) RESERVED for future use.
- (51) RESERVED for future use.
- (52) RESERVED for future use.
- (53) RESERVED for future use.
- (54) A split parcel may be subdivided along the UGA boundary line using one of three methods. First, a split parcel may be subdivided along the UGA boundary line into two lots, whereby one lot remains within the UGA and the other lot remains outside the UGA, pursuant to SCC 30.41B.010(5). Second, a split parcel may be subdivided as part of a short plat application, pursuant to SCC 30.41B.010(8). Finally, a split parcel may be subdivided as part of a plat application, pursuant to SCC 30.41A.010(3).
- (55) See SCC 30.42E.100(9)(c).
- (56) RESERVED for future use.
- (57) RESERVED for future use.
- (58) RESERVED for future use.
- (59) Relationship of setback to building height:
The minimum setback requirements are dependent on the heights of the building as specified in this column. To meet the setback requirements, buildings over 20 feet in height must either:
- (a) Set the entire building back the minimum setback distance; or
 - (b) Stepback those portions of the building exceeding 20 feet in height to the minimum setback distance, as illustrated in Figure 30.23.040(59).



- (60) Stepback those portions of the building exceeding 45 feet in height from the minimum side and rear yard setbacks by one additional foot for each additional two feet of building height.
- (61) Single-family detached, single-family attached and duplex structures shall comply with the minimum setbacks required in the R-8,400 zone.

- 1 (62) Fencing between single-family detached, single-family attached and duplex
2 structures shall be:
- 3 (a) Prohibited in the area that is within five feet of a third story ingress/egress
4 window so ladder access to the third floor window is not impeded; or
- 5 (b) Limited to either vegetative, wood, block, concrete or metal that does not
6 exceed 42 inches in height.
- 7 (63) Additional building height up to a maximum of 125 feet may be allowed under
8 certain circumstances as provided for in SCC 30.34A.040(1).
- 9 (64) If located within an airport compatibility area, building height is subject to the
10 requirements of SCC 30.32E.060.
- 11 (65) Townhouse and mixed townhouse development may achieve the following
12 density:
- 13 (a) For the R-7,200 zone, the maximum density shall be calculated based on 7,200
14 square feet of land per dwelling unit, but the maximum density may be increased up
15 to 50 percent. Existing dwelling units may be retained as part of new development
16 without counting towards the maximum density.
- 17 (b) For the LDMR and MR zones, the maximum density established under
18 subsections (4) and (5) of this section may be increased up to 50 percent.
- 19 (c) Maximum density shall be determined by rounding up to the next whole unit
20 when a fraction of a unit is equal to five-tenths or greater.
- 21 (66) The maximum lot coverage in townhouse and mixed townhouse developments is
22 50 percent in the LDMR zone and 50 percent in the MR zone except sites zoned MR
23 where any portion of the site is within 2,000 feet of the western edge of the right-of-way
24 of State Route 99 or within 800 feet of the eastern edge of the right-of-way of State
25 Route 99, and the site is east of State Route 525 are exempt from maximum lot
26 coverage requirements consistent with SCC 30.23.040(9).
- 27 (67) See SCC 30.23.310.

28
29 Section 5. Severability and Savings. If any section, sentence, clause, or phrase
30 of this ordinance shall be held to be invalid by the Growth Management Hearings Board
31 ("Board"), or unconstitutional by a court of competent jurisdiction, such invalidity or
32 unconstitutionality shall not affect the validity or constitutionality of any other section,
33 sentence, clause, or phrase of this ordinance. Provided, however, that if any section,
34 sentence, clause, or phrase of this ordinance is held to be invalid by the Board or court
35 of competent jurisdiction, then the section, sentence, clause, or phrase in effect prior to
36 the effective date of this ordinance shall be in full force and effect for that individual
37 section, sentence, clause, or phrase as if this ordinance had never been adopted.

1 PASSED this _____ day of _____, 2024.

2
3 SNOHOMISH COUNTY COUNCIL
4 Snohomish County, Washington
5

6 _____
7 Council Chair
8

9 ATTEST:

10 _____
11
12

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

DATE: _____
17
18

19 _____
20 County Executive
21

22 ATTEST:

23 _____
24
25

26 Approved as to form only:

27
28  3/18/24
29 Deputy Prosecuting Attorney