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**Started Construction [Ordinance 21-043](#) ( ECAF 21-0420)**

**Hearing Date: Wednesday, August 18, 2021 @ 10:30 a.m.**

**Council Staff: Ryan Countryman**

**DPA: Laura Kisielius**

**PDS Staff: Amber Piona**

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EXHIBIT	RECORD TYPE	TO	FROM/BY	DATE	DATE IN	DESCRIPTION	# OF PAGES
<b>2.0 Planning Commission</b>							
<a href="#">2.0003</a>	Staff Report	Planning Commission	Amber Piona, PDS Staff	03/05/21	07/01/21	Code Update for Archaeological Resources	10
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<b>3.1 ECAF and Materials</b>							
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3.1.4	Analysis	Council	PDS	06/15/21	07/01/21	Capital Facility Development Cost Analysis Summary	2
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<b>3.2 Council Planning Committee Materials</b>							
3.2.1	Staff Report	Council	Ryan Countryman, Council Staff		07/06/21	Council Staff Report	2
3.2.2	PowerPoint	Council	Amber Piona, PDS Staff		07/06/21	Presentation provided at Planning Committee 07/06/21	13 slides
<b>3.3 Correspondence, Comments, Testimony</b>							
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3.6.1	Amendment	Council	PDS Staff		07/01/21	Amendment Sheet 1 - clarify when ground disturbance may proceed	1

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**Project Name      Archaeological Resources Code Project**

<b>Part 1 - DEPARTMENT OF PLANNING AND DEVELOPMENT SERVICES</b>				
<b>Exhibit #</b>	<b>Record Type</b>	<b>Date</b>	<b>Received From</b>	<b>Exhibit Description</b>
1.0001	Public Participation	3/15/2021	Staff	Parties of Record
1.0002	Public Participation	3/1/2021	WA Department of Commerce	Commerce Email Submittal Receipt 2021-S-2394
1.0003	Public Participation	3/2/2021	WA Department of Commerce	Commerce Acknowledgement Letter 2021-S-2394
1.0004	Public Participation	3/8/2021	The Herald	Affidavit of DNS Publication in the Herald
1.0005	Staff Research	6/4/2020	Staff	Archaeological Review Process v5 2008
1.0006	Staff Research	6/4/2020	Staff	PDS Archaeological Review Permit Process
1.0007	Staff Research	6/4/2020	Staff	Chapter 27.44 RCW Indian Graves and Records
1.0008	Staff Research	6/4/2020	Staff	Chapter 27.53 RCW Archaeological Sites and Resources
1.0009	Staff Research	6/4/2020	Staff	Chapter 68.50 RCW Human Remains
1.0010	Staff Research	6/4/2020	Staff	Chapter 68.60 RCW Abandoned and Historic Cemeteries
1.0011	Staff Research	10/2/2020	Staff	Archaeology Code Comparisons
1.0012	Staff Research	10/2/2020	Staff	Archaeology Survey Analysis
1.0013	Staff Research	10/2/2020	Staff	DAHP Recommended Inadvertent Human Remains Discovery Language
1.0014	SEPA Documents	3/8/2021	Staff	DNS_Archaeology Code_signed
1.0015	SEPA Documents	3/8/2021	Staff	DNS for Herald
1.0016	SEPA Documents	3/8/2021	Staff	DNS postcard notice - Archaeology Code
1.0017	Correspondence	1/27/2021	Staff	01-27-2021-PDS to Julia Gold Tulalip Followup
1.0018	Correspondence	1/31/2021	Tulalip Tribes	01-31-2021-Julia Gold email to PDS - Tulalip Followup
1.0019	Correspondence	2/18/2021	Staff	02-18-2021-ME Office to PDS - Inadvertent Discovery of Human Remains
1.0020	Correspondence	4/15/2021	WA Department of Commerce	04-15-2021-Kirsten Larsen to PDS re Draft Letter of Support
1.0021	Correspondence	4/15/2021	WA Department of Commerce	Attachment Draft Comment Letter 2021-S-2394
1.0022	Correspondence	1/4/2021	Staff	01-04-2021-DCNR to Samish Tribe - Snohomish County Code Changes
1.0023	Correspondence	1/4/2021	Staff	Attachment Draft Changes to 30.32D
1.0024	Correspondence	1/5/2021	Samish Indian Nation	01-05-2021-Samish Tribe email re Snohomish County Code Changes
1.0025	Correspondence	1/4/2021	Staff	01-04-2021-DCNR to Snoqualmie Tribe - Snohomish County Code Changes
1.0026	Correspondence	1/4/2021	Staff	Attachment Draft Changes to 30.32D
1.0027	Correspondence	1/4/2021	Staff	01-04-2021-DCNR to Stillaguamish Tribe - Snohomish County Code Changes
1.0028	Correspondence	1/4/2021	Staff	Attachment Draft Changes to 30.32D
1.0029	Correspondence	1/4/2021	Staff	01-04-2021-DCNR to Suquamish Tribe - Snohomish County Code Changes
1.0030	Correspondence	1/4/2021	Staff	Attachment Draft Changes to 30.32D
1.0031	Correspondence	1/4/2021	Staff	01-04-2021-DCNR to Swinomish Tribe - Snohomish County Code Changes
1.0032	Correspondence	1/4/2021	Staff	Attachment Draft Changes to 30.32D
1.0033	Correspondence	1/4/2021	Staff	01-04-2021-DCNR to Tulalip Tribes - Snohomish County Code Changes
1.0034	Correspondence	1/4/2021	Staff	Attachment Draft Changes to 30.32D
1.0035	Correspondence	1/4/2021	Staff	01-04-2021-DCNR to Upper Skagit Tribe - Snohomish County Code Changes
1.0036	Correspondence	1/4/2021	Staff	Attachment Draft Changes to 30.32D
1.0037	Correspondence	1/19/2021	Staff	01-19-2021-DCNR to Sauk-Suiattle Tribe - Snohomish County Code Changes
1.0038	Correspondence	1/19/2021	Staff	Attachment Draft Changes to 30.32D
1.0039	Correspondence	1/4/2021	Sauk-Suiattle Tribe	01-04-2021-Sauk-Suiattle Tribe email re Snohomish County Code Changes
1.0040	Correspondence	4/1/2021	WA Department of Archaeology and Historic Preservation	04-01-2021-DAHP email 2021-S-2394
1.0041	Correspondence	3/15/2021	Lauren Balisky	03-15-2021-Lauren Balisky email Archaeology Code

**\*Contact the Clerk of the Council for copies of Part 1 Exhibits - 425-388-3494 or contact.council@snoco.org**

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Project Name		Archaeological Resources Code Project		
Part 2 - PLANNING COMMISSION				
Exhibit #	Record Type	Date	Received From	Exhibit Description
2.0001	Public Participation	3/23/2021	Planning Commission	Planning Commission Agenda (Briefing)
2.0002	Public Participation	3/23/2021	The Herald	Affidavit of Agenda publication in The Herald (Briefing)
2.0003	Legislative Documents	3/23/2021	PDS Staff	Staff Report (Briefing)
2.0004	Public Participation	3/23/2021	PDS Staff	Presentation (Briefing)
2.0005	Public Participation	3/23/2021	Planning Commission	Planning Commission Written Meeting Minutes (Briefing)
2.0006	Public Participation	4/27/2021	Planning Commission	Planning Commission Agenda (Hearing)
2.0007	Public Participation	4/27/2021	The Herald	Affidavit of Agenda publication in The Herald (Hearing)
2.0008	Legislative Documents	4/27/2021	PDS Staff	Staff Report (Hearing)
2.0009	Public Participation	4/27/2021	PDS Staff	Presentation (Hearing)
2.0010	Correspondence	4/9/2021	Nicholas Vann	Department of Archeology and Historic Preservation comment letter
2.0011	Correspondence	4/15/2021	Kristen Larsen	Department of Commerce comment letter
2.0012	Public Participation	4/27/2021	Planning Commission	Planning Commission Written Meeting Minutes (Hearing)
2.0013	Public Participation	4/27/2021	Planning Commission	Planning Commission Meeting Recording (Hearing)
2.0014	Public Participation	5/25/2021	Planning Commission	Planning Commission Agenda (Deliberation)
2.0015	Public Participation	5/25/2021	PDS Staff	Staff Report (Deliberation)
2.0016	Public Participation	5/25/2021	Planning Commission	Planning Commission Written Meeting Minutes (Deliberation)
2.0017	Public Participation	5/25/2021	Planning Commission	Planning Commission Recording of Meeting (Deliberation)
2.0018	Public Participation	5/15/2021	The Herald	Affidavit of Agenda publication in The Herald (Deliberation)
2.0019	Public Participation	6/4/2021	Planning Commission	Planning Commission Recommendation Letter

***\*Contact the Clerk of the Council for copies of Part 2 Exhibits - 425-388-3494 or [contact.council@snoco.org](mailto:contact.council@snoco.org)***

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 (GMACP) 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 approvals 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)~~((a))~~ 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 impacts; 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))~~ a 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 archaeology 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

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10 \_\_\_\_\_  
11 Council Chair

12 ATTEST:

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

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

DATE:

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24 County Executive

25 ATTEST:

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29 Approved as to form only:

30  6/22/21

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

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:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**SNOHOMISH COUNTY COUNCIL**



**EXHIBIT #** 2.0003

**Snohomish County**

**FILE** ORD 21-043

**Planning and Development Services**

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

**MEMORANDUM**

TO: Snohomish County Planning Commission

**Dave Somers**  
*County Executive*

FROM: Amber Piona, Planner  
Planning and Development Services

SUBJECT: Code Update for Archaeological Resources

DATE: March 5, 2021

**INTRODUCTION**

The purpose of this staff report is to outline and provide information regarding a non-project proposal to amend a portion of the Snohomish County Code (SCC) that addresses archaeological resources. PDS is providing this staff report and recommendation to the planning commission for a briefing on March 23, 2021, and a public hearing is requested to be scheduled for April 27, 2021.

**BACKGROUND**

In 2008 Washington State laws were updated as to how the treatment of inadvertent discoveries of human remains and the protection of graves on private and public lands are to be handled. As a result of these changes in state law, Chapter 30.32D of the Snohomish County Code (Historic and Archeological Resources requires updating.

The current code contains outdated terminology for the protection of archaeological resources. In addition, current code limits requirements for an archaeological survey to areas that contain recorded archaeological sites or are within a prescribed distance from a recorded archaeological site. Under the current code, the director is not able to require an archaeological survey for a project even when the Tribes, the county archaeologist, or the state archaeologists provide information that the site has a high probability to contain archaeological resources. The inadvertent discovery of archaeological resources during construction is costly to mitigate, results in project delays, and can irreparably damage archaeological resources. The ability to require an archaeological survey to be completed on a site with a high probability to contain archaeological resources would reduce the likelihood of inadvertent discovery.

Updates to existing code would bring Snohomish County in line with state laws for the inadvertent discovery of skeletal human remains and protection of graves on private and public lands, as well as update obsolete language and allow Snohomish County to require surveys for projects based on information provided by the Tribes, the county archaeologist, and state archaeologists. These updates would promote the protection of archaeological resources, protect constituents, and help foster good relationships with Tribal partners.



The following is summary of the proposed amendments to Chapter 30.32D SCC; the complete list of proposed amendments may be found in Attachment A:

#### *Compliance with HB 2624*

In 2008 the Washington state legislature passed HB 2624 which establishes that Native American grave sites are protected on both public and private lands and outlines the procedure for the treatment for the inadvertent discovery of skeletal human remains. The proposed code changes would strike references to human remains in SCC 30.32D.220 (Human remains or archaeological resources found on a site) and create a new section SCC 30.32D.225 (Inadvertent discovery of skeletal human remains) that reflects the procedure established by state law. Additionally, the changes replace references to old state law with the current references. Changes to SCC 30.32D.210 (Project or permit approval for property on state register as an archaeological resource) removes the 30-day limit for the Tribes to comment on mitigation measures for permits that would impact archaeological resources. New language has been added to SCC 30.32D.010 (Purpose and Applicability) to reflect that one of the purposes of the code is to comply with applicable federal and state law for the treatment of cultural resources.

#### *Updated terminology and clarifying language*

The current code includes outdated and confusing language. The proposed code replaces the term “archaeology site report” with “professional archaeological survey report,” a term that is more widely recognized by professional archaeologists and states that such work must be performed by a qualified archaeologist and that the resulting report must meet the state standards for cultural resource reporting. References to the Washington State Department of Archaeology and Historic Preservation’s geographic information system would be replaced with the current name the Washington Information System for Architectural and Archaeological Records Data (WISAARD).

#### *Expanded Archaeological Surveys*

Current code only allows for archaeological site reports to be required for projects on sites with known archaeological sites and on non-tribally owned fee-simple sites designated Reservation Commercial on the FLU map (this applies to a small number of sites located within the Tulalip Reservation). Projects that are subject to SEPA must consider their potential impacts to historic and archaeological resources, which may include a requiring an archaeological site report if it was determined that a project included a site that had a high probability of containing archaeological resources. Early identification of archaeological resources on a site allows for a potential project to be modified to avoid impacting archaeological resources. The code currently does not allow the director to require an archaeological survey report for a project on a site that information provided by the Tribes, county archaeologist or state archaeologist has determined to have a high probability of containing archaeological resources if the project is exempt from SEPA. Inadvertent discovery of archaeological resources during construction is costly, can cause significant delays to a project and can damage or destroy archaeological resources. The proposed changes to SCC 30.32D.200 (Archaeology Site Reports, which would be changed to Archaeological Survey Reports per the above language discussion) would give the director the flexibility to use the information provided by the Tribes, the county archaeologist, or the state archaeologists to require an archaeology survey report for those sites.

## **ANALYSIS**

### **Compliance with State Law**

The Growth Management Act (GMA) planning goals, contained in Revised Code of Washington (RCW) 36.70A.020, guide the development of local comprehensive plans and development regulations.

*GMA Goal 13 - "Historic Preservation. Identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance."*

Analysis: The proposed changes will allow the PDS director to require archaeological surveys to be completed for potential projects in locations that the Tribes, or the state or county archaeologist has determined to have a high probability of containing archaeological resources. This will increase the identification of archaeological resources which will in turn prevent those resources from being inadvertently damaged or destroyed during construction.

### **Compliance with the Multi-County Planning Policies**

The proposed amendments are consistent with and will help to implement the goals, objectives and policies contained within the Snohomish County Growth Management Act Comprehensive Plan.

*MPP-DP-34: Preserve significant regional historic, visual and cultural resources including public views, landmarks, archaeological sites, historic and cultural landscapes and areas of special character.*

Analysis: The proposed amendments are consistent with this policy. Requiring an archaeological survey to be completed on a site that either the Tribes, the county archaeologist, or state archaeologists have determined to have a high probability to contain archaeological resources would increase the likelihood that previously unrecorded archaeological resources are identified prior to construction. With the proposed changes, projects that would have potentially damaged or destroyed archaeological resources can be modified to preserve them.

### **Compliance with the Countywide Planning Policies**

*CPP-DP-34 The County and cities are encouraged to protect and preserve historical, cultural and archaeological resources in a manner consistent with state law and local policies and in collaboration with state agencies.*

Analysis: The proposed amendments are consistent with this policy. The proposed amendments include changes to bring the code into compliance with state law with regards to the inadvertent discovery of skeletal human remains and the protection of graves on public and private property, ensuring that the county meets its archaeological resource management obligations under state law. Requiring an archaeological survey to be completed on a site that either the Tribes, the county archaeologist, or state archaeologists have determined to have a high probability to contain archaeological resources would increase the likelihood that previously unrecorded archaeological resources are identified prior to construction. With the proposed changes, projects that would have potentially damaged or destroyed archaeological resources can be modified to preserve and protect them.

### **Compliance with the Snohomish County Comprehensive Plan**

The proposed amendments are consistent with and will help to implement the goals, objectives and policies contained within the Snohomish County Growth Management Act Comprehensive Plan

*Objective LU 11.B Preserve, protect, and enhance archaeological, cultural, and historic resources.*

*GPP LU 11.B.2 The county shall meet its historic and archaeological resource management obligations under federal, state and local regulations in an efficient and effective manner.*

*GPP LU 11.B.4 The county shall promote preservation of identified archaeological and historic resources.*

Analysis: The proposed amendments are consistent with the Snohomish County Comprehensive Plan. The proposed amendments include changes to bring the code into compliance with state law with regards to the inadvertent discovery of skeletal human remains and the protection of graves on public and private property, ensuring that the county meets its archaeological resource management obligations under state law.

### **Environmental Review**

Staff is in the process of completing a State Environmental Policy Act Checklist and will issue a Determination of Nonsignificance on March 8, 2021. The fourteen-day public comment period will conclude on March 22<sup>st</sup>, prior to the Planning Commission briefing requested for March 23, 2021.

### **Notification of State Agencies**

Pursuant to RCW 36.70A.106, a notice of intent to adopt the proposed regulations and standards was transmitted to the Washington State Department of Commerce on March 1, 2021.

### **Staff Recommendation:**

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

### **Action Requested**

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

cc: Ken Klein, Executive Director  
Barbara Mock, PDS Director  
Mike McCrary, PDS Assistant Director  
David Killingstad, PDS Manager  
Michael Dobesh, PDS Manager  
Yorik Stevens-Wajda, Legislative Analyst  
Gretchen Kaehler, Archaeologist - Cultural Resource Coordinator

### **Attachments**

- Attachment A – Proposed Changes to SCC 30.32D

**Attachment A Proposed Changes 30.32D**

Code Section	Proposed Change	Explanation of change
<p>30.32D.010 Purpose and Applicability</p>	<p>30.32.D.010 Purpose and applicability. (1) The purpose of this chapter is to identify, evaluate, and protect archaeological and historic resources within Snohomish County and to preserve and rehabilitate eligible historic properties for future generations, in order to: (a) Safeguard the heritage of the county as represented by those buildings, sites, structures, objects and districts which reflect significant elements of county history; (b) Foster civic pride in the beauty and accomplishments of the past, and a sense of identity with county history; (c) Assist, encourage and provide incentives to private owners for preservation, restoration, rehabilitation and use of outstanding historic buildings, sites, structures, objects, and districts; (d) Promote and facilitate the early identification and resolution of conflicts between preservation of archaeological and historic resources and land uses; <del>((and))</del> (e) Stabilize and improve the aesthetic and economic vitality and values of such sites improvements and objects; <u>and</u> (f) <u>Comply with applicable federal and state laws related to regulation of archaeological and cultural sites.</u></p>	<p>Language proposed to be added to clarify that one of the purposes of this section is to comply with all applicable federal and state law for archaeological and cultural sites.</p>
	<p>(2) In Washington State, archaeology sites and Native American grave sites are protected by both federal and state laws <u>on both public and private lands</u>. This chapter does not repeal, modify, or waive any provision of federal or state law currently enacted, or as enacted in the future, that regulates archaeological sites including, but not limited to: the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-mm); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); the National Historic Preservation Act (16 U.S.C. 470 et seq.); Chapter 27.44 RCW titled "Indian Graves and Records"; <del>((and))</del> Chapter 27.53 RCW titled "Archaeological Sites and Resources"; <u>Chapter 68.50 RCW titled "Human Remains"; and Chapter 68.60 RCW titled "Abandoned and Historic Cemeteries and Historic Graves."</u></p>	<p>HB 2624 (2008) establishes that Native American grave sites are protected on both public and private lands. Proposed change to reflect state regulation. Additionally, HB 2624 changed several sections of the Revised Code of Washington, and SCC 30.32D(2) now includes references to the RCW sections on Human Remains and Abandoned and Historic Cemeteries and Historic Graves.</p>

Attachment A Proposed Changes 30.32D

	<p>(3) This chapter applies to:</p> <p>(a) Properties eligible for and on the Snohomish (<del>county</del>) <u>County</u> Register of Historic Places established pursuant to SCC30.32D.020; and</p> <p>(b) Properties (<del>listed</del>)<u>recorded</u> on the Washington (<del>State Archaeological Site Inventory</del>) <u>Information System for Architectural and Archaeological Records Data (WISAARD).</u></p>	<p>Proposed change to include the current name of the Washington State Department of Archaeology Historic Preservation (DAHP)'s database and language changed to clarify that information is recorded, not listed in the database.</p>
<p>30.32D.200 (<del>Archaeology Site</del>)<u>Archaeological Survey Report</u></p>	<p>30.32D.200 (<del>Archaeology site</del>)<u>Archaeological Survey report.</u></p> <p>(1) Known archaeological sites are recorded on (<del>the Washington State Department of Archaeology and Historic Preservation's Geographic Information System</del>) <u>WISAARD and information from data sharing agreements between Snohomish County and DAHP.</u></p> <p>(2) An archaeological site may cover only a portion of a property, parcel, or lot and may (<del>be located on</del>)<u>extend onto</u> more than one property, parcel or lot.</p> <p>(3) Completion of(<del> an archaeology site report</del>) <u>a professional archaeological survey</u> (<del>or relocation of the property to avoid the known archaeological site shall be required for</del>):</p> <p>(a) (<del>Any</del>)<u>Shall be required</u> for any construction, earth movement, clearing or other (<del>site</del>) <u>land</u> disturbance of a known archaeological site;</p> <p>(b) (<del>Any</del>) <u>Shall be</u> required for any development application proposed on non-tribally owned, fee-simple properties designated Reservation Commercial on the Snohomish County Future Land Use Map(-);</p> <p>(c) <u>May be required</u> for any development application when information provided by Tribes or <u>County or State professional archaeologists determines that the project location has a high probability for containing archaeological resources.</u></p>	<p>Proposed change to include the current name of the Washington State Department of Archaeology Historic Preservation (DAHP)'s database and to reference the data sharing agreement that the county has with DAHP.</p> <p>Proposed change for clarity.</p> <p>Proposed change to introduce a third situation in which archaeological survey reports may be required, based on information provided by the Tribes, or the County or State professional archaeologists that the location has a high probability for containing archaeological resources.</p>

Attachment A Proposed Changes 30.32D

	<p><del>(4) ((An archaeology site report)) A professional archaeological survey required under subsection (3) of this section shall:</del></p> <p><del>(a) Be written by a professional archaeologist as defined in ((WAC 25.48.020))RCW 27.53.030(11);</del></p> <p><del>(b) Be submitted to the department by the property owner or project proponent;</del></p> <p><del>(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 or minimize impacts on the known archaeological site; and))</del></p> <p><del>(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; and</del></p> <p><del>(e) Meet state and professional standards for cultural resources reporting; and</del></p> <p><del>(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.</del></p>	<p>Proposed change to update the reference to state law, consolidate the requirements for surveys in one section, and to ensure that archaeological survey reports for projects on known archaeological sites meet state and professional standards for cultural resource reporting.</p>
	<p><del>((5) An archaeological site report is required under subsection (3)(b) of this section shall:</del></p> <p><del>(a) Be written by a professional archaeologist as defined in WAC 25.48.020;</del></p> <p><del>(b) Be submitted to the department by the property owner or project proponent;</del></p> <p><del>(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 or minimize impacts on the known archaeological site; and</del></p> <p><del>(d) Include the results of consultation with any affected Indian tribe on proposed actions to avoid or mitigate impacts of the proposed project.))</del></p>	<p>Proposed removal of this section to consolidate the requirements for surveys into subsection (4) above.</p>
	<p><del>((6))</del>(5) The department shall provide a copy of the ((archaeology site)) <u>archaeological survey report</u> to any affected Indian tribes and ((Washington State Department of Archaeology and Historic Preservation, at the applicant's expense)) <u>DAHP</u>.</p>	<p>Proposed change to update language and to remove text that put the expense of providing copies of the archaeological survey report on the applicant. Submittal of reports is done electronically and does not incur an expense.</p>

Attachment A Proposed Changes 30.32D

<p>30.32D.210 Project or permit approval for property on state register as an archaeological resource</p>	<p>(1) The <del>((county approving authority))</del> <u>director</u> shall not issue a permit for any development activity or project approval requiring <del>((an archaeology site))</del> <u>a professional archaeological survey report pursuant to SCC 30.32D.200 without considering the <del>((archaeology site))</del> 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 has been completed.</u></p>	<p>Proposed change to comply with updated language for archaeological survey reports, and to include a reference to the requirements of state law.  Language is modified to clarify that the director is the county approving authority</p>
	<p><del>((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 archaeology site report if the applicant provides documentation of the request for tribal comments to the department.))</del></p>	<p>Proposed removal to better align with state law and best tribal coordination practices.</p>
	<p><del>((3))</del> (2) Based on the information contained in the <del>((archaeology site-))</del> <u>professional archaeological survey report and any comments submitted by the affected Indian tribe(s) obtained during the <del>((consultation))</del> review process, the <del>((county approving authority))</del> director will condition the permit or project approval <del>((in a manner that will avoid or minimize impacts to the archaeological resource consistent with federal and state law))</del> <u>to comply with any permitting and additional archaeological work required under federal and state laws for the protection of archaeological resources.</u></u></p>	<p>Proposed change to update language and to include a reference to the requirements of state law.  Language is modified to clarify that the director is the conditioning authority.</p>
<p>30.32D.220 <del>((Human remains or))</del> <u>Inadvertent discovery of archaeological resources-<del>((found on a site))</del>.</u></p>	<p>30.32.D.220 <del>((Human remains or))</del> <u>Inadvertent discovery of archaeological resources <del>((found on a site))</del>.</u>  (1) If, during the course of construction, earth movement, clearing or other <del>((site disturbance))</del> <u>land disturbing activity</u>, <del>((human remains))</del> or archaeological resources are encountered, all work shall cease immediately. Under these circumstances, the <del>((department))</del> <u>director</u> may issue a stop work order pursuant to chapter 30.85 SCC.</p>	<p>Proposed change to replace outdated language and to remove the discovery of human remains from this section to the new 30.32D.225 Inadvertent discovery of skeletal human remains below.  Language is modified to clarify that the director has the discretionary ability to issue a stop work order.</p>

**Attachment A Proposed Changes 30.32D**

	<p>(2) The applicant shall immediately notify the director and promptly notify any affected Indian tribe and the <del>state office of archaeology and historic preservation</del> <u>Washington State Department of Archaeology and Historic Preservation (DAHP)</u>.</p>	<p>Proposed change to replace an outdated reference to DAHP.</p>
	<p>(3) <del>After</del> <u>Ground disturbance may not proceed until</u> consultation with any affected Indian tribe and the <del>state office of archaeology and historic preservation</del> <u>DAHP is completed</u>, the state shall <del>determine whether the site contains archaeological resources that should be preserved. The department will designate the appropriate area within a preservation area. This designation shall not affect underlying zoning.</del></p>	<p>Proposed change to remove the designation of a preservation area and align the procedures for the inadvertent discovery of archaeological resources with state law.</p>
	<p>(4) <u>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.</u> <del>The preservation area designation shall remain on the appropriate area within a site until</del></p> <p>(a) <del>The human remains or archaeological resources have been completely removed from the site; or</del></p> <p>(b) <del>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 resource.</del></p>	<p>Proposed change to remove the designation of a preservation area and align the procedures for the inadvertent discovery of archaeological resources with state law.</p> <p>Language was modified to clarify that the director or designee is a part of the mitigation negotiation.</p>



Attachment A Proposed Changes 30.32D

<p><u>30.32D.225</u> <u>Inadvertent</u> <u>discovery of human</u> <u>remains.</u></p>	<p><u>30.32D.225 Inadvertent discovery of human remains.</u></p> <p><u>(1) If, during the course of construction, earth movement, clearing, or other land disturbing activity, human remains are encountered, all work shall cease immediately in an area large enough to protect the find.</u></p> <p><u>(2) The finding of human skeletal remains shall be reported to the county medical examiner and local law enforcement by the applicant or property owner in the most expeditious manner possible.</u></p> <p><u>3) The remains shall not be touched, moved or further disturbed. The county medical examiner shall assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner determines the remains are non-forensic, they shall report that finding to DAHP.</u></p> <p><u>(4) The applicant or property owner shall also promptly notify DAHP and the director. Under these circumstances, the director may issue a stop work order pursuant to chapter 30.85 SCC.</u></p> <p><u>(5) Ground disturbance may not proceed without DAHP approval.</u></p>	<p>This section has been added to conform to state law for the inadvertent discovery of skeletal human remains. HB 2624 (2008) established the procedure for inadvertent discovery.</p> <p>In addition to the requirements of state law. SCC 32D.225(4) includes a requirement to notify the director and DAHP.</p>
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## Snohomish County

### SNOHOMISH COUNTY PLANNING COMMISSION

May 27, 2021

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

**SUBJECT:** Planning Commission recommendations on proposed code amendments to Historic and Archaeological Resources provisions in Snohomish County Code 30.32D.

Dear Snohomish County Council:

On behalf of the Snohomish County Planning Commission, I am forwarding our recommendation to amend Snohomish County Code (SCC) 30.32D. related to historic and archaeological resources. The Planning Commission had a briefing on this topic on March 23, 2021, conducted a public hearing on April 27, 2021, and deliberated on May 25, 2021.

The proposed amendments: align the code with state laws pertaining to archaeological resources, historic graves and the inadvertent discovery of skeletal human remains; update terminology and clarify language; and allow the County to require archaeological survey reports for projects when information provided by the Tribes, the county archaeologist or the state archaeologists determines that the project location has a high probability for containing archaeological resources. These amendments would support Snohomish County in identifying and encouraging the preservation of archaeological resources.

There were two (2) written comments in favor of the proposed amendments received by the Planning Commission from the public prior to the April 27, 2021 hearing, and one (1) member of the public commented at the public hearing in support of the proposed amendments.

#### **PLANNING COMMISSION RECOMMENDATION**

At the May 25, 2021 Planning Commission meeting, Commissioner Pederson made a motion, seconded by Commissioner Norcott, recommending APPROVAL of the proposed archaeological resources code amendments contained in the staff report with supported findings and conclusions.

#### **Vote:**

8 in favor (*Ash, Everett, James, Kamp, Larsen, Norcott, Pederson, Sheldon*)

0 opposed

0 abstentions

**Motion passed**

This recommendation was made following the close of the public hearing and after due consideration of information presented and is based on the findings and conclusions presented in the March 5, 2021, staff report, with which the Commission concurred.

Archeology Code Project

Planning Commission Recommendation Letter  
Index # - File Name: 2.0019 PC Recommendation\_\_signed\_20210604.pdf  
Code Amendments to Chapters 30.32D SCC

May 26, 2021

Respectfully submitted,

***Robert Larson***

Robert Larson (Jun 4, 2021 13:22 PDT)

SNOHOMISH COUNTY PLANNING COMMISSION

Robert Larsen, Chairman

cc: Dave Somers, Snohomish County Executive

Mike McCrary, Director, Planning and Development Services






# Planning Commission Recommendation Letter

Final Audit Report

2021-06-04

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## "Planning Commission Recommendation Letter" History

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## Legislation Text

**File #:** 2021-0420, **Version:** 1

### Executive/Council Action Form (ECAF)

**ITEM TITLE:**

Ordinance 21-043, relating to Growth Management; amending development regulations in chapter 30.32D of the Snohomish County Code pertaining to archaeological resources

**DEPARTMENT:** Planning & Development Services

**ORIGINATOR:** Amber Piona

**EXECUTIVE RECOMMENDATION:** Approve

**PURPOSE:** Adopt code amendments amending the development regulations pertaining to archaeological resources to align with state law, clarify terminology and support the increased identification and protection of archaeological resources.

**BACKGROUND:** Click or tap here to enter text.

- The Growth Management Act (GMA) and the Snohomish County Comprehensive Plan direct Snohomish County to identify and encourage the preservation of land, sites, and structures that have historical or archaeological significance.
- Existing archaeological resource procedures for archaeological survey reports, permit approvals for properties that contain documented archaeological sites that cannot be avoided, and the inadvertent discovery of archaeological resources and skeletal human remains do not align with current state laws related to the regulation of archaeological resources. The proposed code amendments modify county regulations to align with state laws.
- Existing code language contains outdated references and confusing terminology. The amendments proposed by this ordinance provide clarity through updating references and terminology to match current archaeological standards.
- The code amendments proposed by this ordinance support the increased identification and protection of archaeological resources. Allowing the County to require an archaeological survey report when a project location has a high probability of containing archaeological resources increases the likelihood of archaeological resources being identified early in the life of a project and allows projects to be modified to avoid impacting resources.
- The Planning Commission held a hearing on this proposal on April 27, 2021 and on May 25, 2021 nine commissioners voted unanimously to recommend the County Council approve the proposed amendments, with a planning commission recommendation letter dated May 27, 2021.

**FISCAL IMPLICATIONS:**

<b>EXPEND:</b> FUND, AGY, ORG, ACTY, OBJ, AU	CURRENT YR	2ND YR	1ST 6 YRS

<b>TOTAL</b>			

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

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

**CONTRACT INFORMATION:**

ORIGINAL \_\_\_\_\_ CONTRACT# \_\_\_\_\_ AMOUNT \_\_\_\_\_  
AMENDMENT \_\_\_\_\_ CONTRACT# \_\_\_\_\_ AMOUNT \_\_\_\_\_

**Contract Period**

ORIGINAL START \_\_\_\_\_ END \_\_\_\_\_  
AMENDMENT START \_\_\_\_\_ END \_\_\_\_\_

**OTHER DEPARTMENTAL REVIEW/COMMENTS:** Approved as to form by PA (Laura Kisielivs)  
Approved/Reviewed by Finance and Risk

**Title** Ordinance No. 21-043, AMENDING DEVELOPMENT REGULATIONS IN CHAPTER 30.32D OF THE SNOHOMISH COUNTY CODE PERTAINING TO ARCHAEOLOGICAL RESOURCES

**Description** This is a non-project proposal to modify the development regulations pertaining to archaeological resources to align with state law, clarify terminology and support the increased identification and protection of archaeological resources.

**Date:** June 15, 2021

**Staff Contact:** Amber Piona, Planner, amber.piona@snoco.org

	Place an "X" in the appropriate box				Comments
	Increase	Decrease	Neutral	Uncertain	
<b>Housing</b>					
Capacity/Targets			X		The proposed amendments relate to archaeological resources and will not impact housing capacity or targets.
Cost of Housing Development:					
• Infrastructure			X		The proposed amendments will not affect the cost of infrastructure.
• Site			X		The proposed amendments will not affect the cost of housing sites.
• Building const.				X	The proposed amendments do include expanding conditions in which an archaeological survey may be required. Requiring an archaeological survey for projects on sites that have a high potential for containing archaeological resources may, in certain circumstances, reduce costs to applicants through preventing expensive and time-consuming mitigation related to the inadvertent discovery of

*This form is intended to provide a summary analysis of the impact changes to development regulation may have on Residential, Commercial or Industrial Development.*

					archaeological resources during construction.
• Fees			X		The proposed amendments will not affect general permit fees.
• Yield			X		The proposed amendments will not affect the yield of housing development.
Timing				X	The proposed amendments do include expanding conditions in which an archaeological survey may be required. Requiring an archaeological survey for projects on sites that have a high potential for containing archaeological resources may, in certain circumstances, positively impact the timing for applicants through preventing expensive and time-consuming mitigation related to the inadvertent discovery of archaeological resources during construction.
<b>Jobs</b>					
Capacity/Targets			X		The proposed amendments relate to school facilities and will not impact housing capacity or targets.
Cost of Commercial or Industrial Development:					
• Infrastructure			X		The proposed amendments will not affect the cost of infrastructure for commercial or industrial sites.
• Site			X		The proposed amendments will not affect the cost of commercial or industrial sites.
• Building const.				X	The proposed amendments do include expanding conditions in which an archaeological survey may be required. Requiring an archaeological survey for projects on sites that have a high potential for containing

*This form is intended to provide a summary analysis of the impact changes to development regulation may have on Residential, Commercial or Industrial Development.*



					archaeological resources may, in certain circumstances, reduce costs to applicants through preventing expensive and time-consuming mitigation related to the inadvertent discovery of archaeological resources during construction.
• Fees			X		The proposed amendments will not affect industrial or commercial development fees.
• Yield			X		The proposed amendments will not affect the yield of industrial or commercial development.
Time to Create Jobs			X		
# Family Wage Jobs			X		

*This form is intended to provide a summary analysis of the impact changes to development regulation may have on Residential, Commercial or Industrial Development.*

## ANALYSIS OF BUILDING AND LAND USE REGULATION EFFECTS ON CAPITAL FACILITIES AND UTILITIES

**Title** Ordinance No. 21-043, RELATING TO GROWTH MANAGEMENT; AMENDING DEVELOPMENT REGULATIONS IN CHAPTER 30.32D OF THE SNOHOMISH COUNTY CODE PERTAINING TO ARCHAEOLOGICAL RESOURCES

**Description** This is a non-project proposal to modify the development regulations pertaining to archaeological resources to align with state law, clarify terminology and support the increased identification and protection of archaeological resources.

**Date:** June 15, 2021

**Staff Contact:** Amber Piona, Planner, [amber.piona@snoco.org](mailto:amber.piona@snoco.org)

	Place an "X" in the appropriate box			Comments
	Increase	Decrease	Neutral	
<b>County Provided</b>				
• Airport			X	As a non-project proposal, there are no direct impacts anticipated to airport operations.
• General Government			X	As a non-project proposal, there are no direct impacts anticipated to general government operations.
• Law and Justice			X	As a non-project proposal, there are no direct impacts anticipated to law and justice operations.
• Parks			X	As a non-project proposal, there are no direct impacts anticipated to parks operations.
• Roads			X	As a non-project proposal, there are no direct impacts anticipated to road operations.
• Solid Waste			X	As a non-project proposal, there are no direct impacts anticipated to solid waste operations.
• Surface Water			X	As a non-project proposal, there are no direct impacts anticipated to surface water operations.
<b>Non-County Provided</b>				
• Electric Power			X	As a non-project proposal, there are no direct impacts anticipated to

*This form is intended to provide a summary analysis of the impact changes to development regulation may have on county and non-county provided capital facilities and utilities.*

				electric power operations.
• Fire Suppression			X	As a non-project proposal, there are no direct impacts anticipated to fire suppression operations.
• Public Water Supply			X	As a non-project proposal, there are no direct impacts anticipated to public water supply operations.
• Sanitary Sewer			X	As a non-project proposal, there are no direct impacts anticipated to sanitary sewer operations.
• Telecommunications			X	As a non-project proposal, there are no direct impacts anticipated to telecommunications operations.

*This form is intended to provide a summary analysis of the impact changes to development regulation may have on county and non-county provided capital facilities and utilities.*

**ANALYSIS OF BUILDING AND LAND USE REGULATION EFFECTS ON LOW IMPACT DEVELOPMENT**

**Title** Ordinance No. 21-043, AMENDING DEVELOPMENT REGULATIONS IN CHAPTER 30.32D OF THE SNOHOMISH COUNTY CODE PERTAINING TO ARCHAEOLOGICAL RESOURCES

**Description** This is a non-project proposal to modify the development regulations pertaining to archaeological resources to align with state law, clarify terminology and support the increased identification and protection of archaeological resources.

**Date:** June 15, 2021

**Staff Contact:** Amber Piona, Planner, [amber.piona@snoco.org](mailto:amber.piona@snoco.org)

**LID Evaluation:**

**Directions:** In the following table, describe how the new policies or regulations support LID principles and facilities and prevent creation of barriers to LID implementation.

Low impact development (LID) principles and facilities are required to be the preferred and commonly used approach for stormwater management. **New policies and regulations must not directly or indirectly create barriers to use of LID.**

LID principles include: minimize disruption and removal of native vegetation and soils; utilize natural drainage channels and undisturbed soils to conduct and infiltrate stormwater; minimize impervious surfaces; and utilize LID facilities to replicate natural processes for stormwater management.

LID facilities include: flow dispersion and infiltration systems; rain gardens; soil amendments; bioretention; permeable pavement; tree retention and planting; vegetated roofs and walls; reverse slope sidewalks; minimum excavation foundations; rainwater harvesting; and preservation of native vegetation.

Use of LID principles and facilities requires consideration during site design and construction phases (stormwater pollution prevention plans, aka SWPPP), and special provisions for long term maintenance and inspections.

Does the new policy or regulation support Low Impact Development	Place an "X" in the appropriate box			If "yes" or "no", explain...
	Increase	Decrease	Neutral	
Retention of native vegetation			X	
Minimal disruption of native soils			X	
Preservation of natural drainage			X	
Minimization of impervious surface area			X	
Use of LID facilities			X	
Better site design – using LID principles			X	
Adherence to SWPPP and drainage plan requirements			X	
Provisions for long term maintenance			X	
Retention of native vegetation			X	
Minimal disruption of native soils			X	
Preservation of natural drainage			X	
Minimization of impervious surface area			X	

ECAF NO.:  
ECAF RECEIVED:

**ORDINANCE  
INTRODUCTION SLIP**

**SNOHOMISH COUNTY COUNCIL**

**EXHIBIT #** 3.1.6

**FILE** ORD 21-043

TO: Clerk of the Council

TITLE OF PROPOSED ORDINANCE:

N. Nelson  
\_\_\_\_\_  
Councilmember Date

~~~~~  
Clerk's Action: Proposed Ordinance No. \_\_\_\_\_

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

~~~~~  
**STANDING COMMITTEE RECOMMENDATION FORM**

On \_\_\_\_\_, the Committee considered the item and by \_\_\_\_ Consensus /  
\_\_\_\_ Yeas and \_\_\_\_ Nays, made the following recommendation:

\_\_\_\_ Move to Council to schedule public hearing \_\_\_\_\_

**Public Hearing Date** \_\_\_\_\_ **at** \_\_\_\_\_

\_\_\_\_ Move to Council as amended to schedule public hearing

\_\_\_\_ Move to Council with no recommendation

**This item \_\_\_\_ should/ \_\_\_\_ should not be placed on the Consent Agenda.**

(Consent agenda may be used for routine items that do not require public hearing and do not need discussion at General Legislative Session)

**This item \_\_\_\_ should/ \_\_\_\_ should not be placed on the Administrative Matters Agenda**

(Administrative Matters agenda may be used for routine action to set time and date for public hearings)

N. Nelson  
\_\_\_\_\_  
Committee Chair



**Snohomish County Council**

**SNOHOMISH COUNTY COUNCIL**

**EXHIBIT #** 3.2.1

**FILE** ORD 21-043

**Committee:** Planning & Community Development      **Analyst:** Ryan Countryman  
**ECAF:** 2021-0420  
**Proposal:** Proposed Ordinance 21-043      **Date:** July 6, 2021

**Consideration**

Proposed Ordinance 21-043 would amend regulations on archeological resources to align with state law, clarify terminology and support the increased identification and protection of archaeological resources.

**Background**

The Growth Management Act requires Snohomish County to identify and encourage the preservation of land, sites and structures that have historic or archeological significance. Snohomish County has such regulations in place. The current format was part of the adoption of the Unified Development Code, or Title 30, in 2002. There have been updates since that time. However, Washington State made several important revisions in 2008 to Chapters 68.50 and 68.60 RCW concerning inadvertent discovery of skeletal human remains, abandoned and historic cemeteries, and historic graves that Title 30 does not yet fully reflect. Other changes have taken place in the Multi-County Planning Policies to encourage preservation of historic and archeologic resources.

**Current Proposal**

*Summary:* Portions of this ordinance are necessary to align with changed requirements. Other proposed changes would increase protections of historic and archeologic resources.

*Fiscal Implications:* None

*Scope:* The proposed amendments are all in Chapter 30.32D SCC which is related to archeological resources. The proposed ordinance would update Snohomish County Code to align with state law, make changes for housekeeping and consistency reasons. Current

code does not provide a mechanism to require an archeological survey outside of a recorded archeological area. The proposed ordinance would authorize the Planning and Development Services to require an archeological survey for sites with a high probability of containing resources. The discussion below describes sections with more significant policy changes.

Section 4 (see pages 5-6): Includes revisions adding new language saying that Snohomish County may consider information provided by “an Indian Tribe, or by a Snohomish County or state professional archeologist.

Section 5 (see pages 6-7): Makes changes that allow use of information from the sources in Section 4 as a basis for requiring an archeological survey.

**Handling:** NORMAL

**Approved-as-to-form:** YES

**Risk Management:** APPROVE.

**Executive Recommendation:** APPROVE.

### **Analysis**

Most of the proposed changes in the ordinance are housekeeping. The important exception is that new sources of information could become the basis for requiring an archeological survey of a site before development approval. The proposed new sources are all authorities with the appropriate expertise. Project applicants would bear the cost of performing an archeological survey. While the changes may result in performance of slightly more such surveys, completion of a survey is akin to holding an insurance policy. Most projects do not accidentally discover artifacts or human remains during construction. Those that do can experience costly delays. This ordinance would authorize Planning and Development Services to consider expert information and require applicants proposing development on sites deemed as having a high probability of discovery to protect themselves by performing a survey. It also helps to fulfill new regional policies calling for the protection of archeological resources.

### **Request**

Move to GLS July 14, 2021 to set time and date for a public hearing.



# Historic and Archaeological Resources Code Update

Snohomish County  
Planning Committee

July 6, 2021

Department of Planning & Development Services  
Department of Conservation and Natural Resources



# Protecting Archaeological Resources Regulatory Framework

- GMA and State Laws on Archaeological Resources
- Multi-County Planning Policies
- Countywide Planning Policies
- General Policy Plan
- Shoreline Master Program
- Snohomish County Code



# Chapter 30.32D Historic and Archaeological Resources

- Identify, evaluate, and protect archaeological and historic resources in Snohomish County
- Promote and facilitate the early identification and resolution of conflicts between preservation of archaeological and historic resources and land uses



*Image courtesy of DAHP*

# Proposed Changes to 30.32D

- Align with state laws
- Update terminology and clarify language
- Increase protection for archaeological resources



*Image courtesy of DAHP*



# State Laws

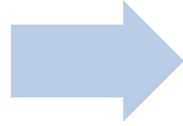
- Establish that human remains, abandoned cemeteries and grave sites are protected on public and private lands
- Outline the process for the inadvertent discovery of skeletal human remains



# 30.32D.225 Inadvertent discovery of human remains

## Discovery of human remains

- Work stops in an area large enough to protect the find
- Applicant or property owner informs law enforcement, Medical examiner (ME) and PDS Director
- PDS Director may issue stop work order



## ME Determination

- Medical examiner makes a determination if remains are forensic or not
- If non-forensic, ME informs DAHP who assumes jurisdiction of remains
- If forensic, law enforcement takes over



## DAHP Process

- DAHP will conduct all Tribal notification and the consultation process
- Ground disturbance at site may not continue without DAHP approval



# Updating Terminology and Clarifying Language

- We are proposing to update our terminology to be clearer and better align with current language.



*Image courtesy of DAHP*

# Increasing Protection for Archaeological Resources

- The County cannot currently require an archaeological survey outside of a recorded archaeological area, even when the site has a high probability of containing resources.
- This significantly increases the likelihood of the **inadvertent discovery** of archaeological resources.





# Risks of Inadvertent Discovery

- Damages archaeological resources
- Expensive to mitigate
- Causes project delays
- May result in state violations, including fines and/or criminal and civil penalties



**SCC30.32D.200 – ~~Archaeology site~~ Archaeological survey report.**

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

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

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

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

# Executive Recommended Amendment

Removes proposed text for 30.32D.220(4)

30.32D.220 Inadvertent discovery of archaeological resources.

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

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

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.

# Benefits

- Gives the County the authority to require a survey when a project has a high probability of containing archaeological resources, and flexibility for when a survey is not the right tool
- Facilitates early identification of archaeological resources
- Allows projects near archaeological resources to be modified to avoid impacting those resources
- Promotes the protection of archaeological resources and compliance with state laws regarding their protection
- Protects constituents and fosters good relationships with Tribal partners



# Comments or Questions?

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