

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

MOTION NO. 23-342

REFERRING PROPOSED CODE REVISIONS RELATING TO ACCESSORY DWELLING  
UNITS TO THE DEPARTMENT OF PLANNING AND DEVELOPMENT SERVICES AND  
SNOHOMISH COUNTY PLANNING COMMISSION

WHEREAS, the County Council wishes to obtain a recommendation from the Snohomish County Planning Commission regarding proposed code amendments that would revise regulations for Detached Accessory Dwelling Units (DADUs) in rural and resource areas in response to a decision by the Growth Management Hearings Board (GMHB); and

WHEREAS, the code revisions are Type 3 legislative actions pursuant to Chapter 30.73 SCC; and

WHEREAS, SCC 30.73.040 provides that the Planning Commission shall hold a public hearing on a Type 3 proposal referred to it by the county council within 90 days or within a time specified by the County Council; and

WHEREAS, the GMHB decision includes a compliance deadline of December 13, 2023; and

WHEREAS, the County Council requests a prompt review of the proposed code amendments by the Planning Commission to provide time for the Council to take action based on the Planning Commission recommendation before the compliance deadline;

NOW, THEREFORE ON MOTION, the County Council hereby refers the potential code revisions, attached as "Exhibit A", to the Department of Planning and Development Services (PDS) for action as follows:


1. Pursuant to chapters 2.08 and 30.73 SCC, the County Council refers the potential code revisions to the Director of PDS acting in the capacity of Secretary to the Snohomish County Planning Commission for its review, consideration, and a recommendation to the Council.
2. The County Council requests that a public hearing be held before the Planning Commission and a recommendation be provided to the County Council by October 16, 2023.

DATED this 15<sup>th</sup> day of August 2023.

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

  
Council Chair

ATTEST:

  
Deputy Clerk of the Council

**EXHIBIT A – PROPOSED CODE REVISIONS RELATED TO  
ACCESSORY DWELLING UNITS**

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

ORDINANCE NO. 23-\_\_\_\_

RELATING TO GROWTH MANAGEMENT; ADOPTING AMENDMENTS  
REGULATING ACCESSORY DWELLING UNITS OUTSIDE OF URBAN  
GROWTH AREAS IN RESPONSE TO A DECISION BY THE GROWTH  
MANAGEMENT HEARINGS BOARD; AMENDING SCC 30.28.010

WHEREAS, the Snohomish County Council adopted Amended Ordinance No. 22-006 on March 9, 2022; and

WHEREAS, the ordinance expanded the allowed use of detached accessory dwelling units (ADUs) outside of Urban Growth Areas; and

WHEREAS, a petition for review challenging the ordinance was filed with the Washington State Growth Management Hearings Board (GMHB); and

WHEREAS, the GMHB issued a final decision and order in *Futurewise v. Snohomish County*, Case No. 22-3-0003, on June 20, 2023; and

WHEREAS, the GMHB found Amended Ordinance No. 22-006 “fails to protect designated agricultural lands of long-term commercial significance” and “is inconsistent with achievement of the growth targets in the County’s adopted Multicounty Planning Policies and Countywide Planning Policies”; and

WHEREAS, the GMHB remanded the ordinance to Snohomish County for action to bring it into compliance with the Growth Management Act (GMA), chapter 36.70A RCW; and

WHEREAS, the County Council referred code amendments addressing the GMHB’s final decision and order to the Snohomish County Planning Commission via Motion No. 23-\_\_\_\_; and

WHEREAS, after holding a public hearing, the Planning Commission considered the referred amendments and recommended \_\_\_\_\_; and

WHEREAS, on \_\_\_\_\_, 2023, the County Council held a public hearing after proper notice, and considered public comment and the entire record related to the code amendments contained in this ordinance.

NOW, THEREFORE, BE IT ORDAINED:

## **EXHIBIT A – PROPOSED CODE REVISIONS RELATED TO ACCESSORY DWELLING UNITS**

Section 1. The Snohomish County Council adopts the following findings of fact and conclusions:

- A. The Snohomish County Council adopts and incorporates the foregoing recitals as findings as if set forth fully herein.
- B. The ordinance addresses the two findings of non-compliance made by the GMHB by reinstating a prohibition on the construction of detached ADUs on lots that do not meet the minimum required lot area pursuant to SCC 30.23.030 in rural and resource zones.
- C. Amended Ordinance No. 22-006 removed a requirement that a detached ADU be located within 100 feet of the primary dwelling in rural and resource zones. The GMHB did not find the removal of this requirement violated any provision of the GMA. This ordinance does not restore the 100-foot requirement.
- D. It is in the best interest of Snohomish County to reinstate a prohibition on the construction of detached ADUs on lots that do not meet the minimum required lot area pursuant to SCC 30.23.030 in rural and resource zones.
- E. State Environmental Policy Act (chapter 43.21C RCW) requirements with respect to this non-project action have been satisfied through the completion of an environmental checklist and the issuance on \_\_\_\_\_, 2023, of \_\_\_\_\_.
- F. The proposal is a Type 3 legislative action pursuant to SCC 30.73.010.
- G. Pursuant to RCW 36.70A.106, a notice of intent to adopt this ordinance was transmitted to the Washington State Department of Commerce for distribution to state agencies on \_\_\_\_\_, 2023.
- H. The public participation process used in the adoption of this ordinance complies with all applicable requirements of the GMA and the SCC.
- I. The Washington State Attorney General last issued an advisory memorandum, as required by RCW 36.70A.370, in September of 2018 entitled “Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property” to help local governments avoid the unconstitutional taking of private property. The process outlined in the State Attorney General’s 2018 advisory memorandum was used by the County in objectively evaluating the regulatory changes proposed by this ordinance.

Section 2. The County Council makes the following conclusions:

- 1. The proposed amendments are consistent with the goals, policies, and objectives of the MPPs, CPPs, and GPPs.
- 2. The proposed amendments are consistent with applicable federal, state, and local laws and regulations.

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3. The County has complied with all SEPA requirements with respect to this non-project action.
4. The regulations proposed by this ordinance do not result in an unconstitutional taking of private property for a public purpose.

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

Section 4. Snohomish County Code Section 30.28.010, last amended by Ordinance No. 22-006 on March 9, 2022, is amended to read:

### **30.28.010 Accessory dwelling units.**

Accessory dwelling units are allowed subordinate to a single-family dwelling in zones where single-family dwellings are permitted under SCC 30.22.100, 30.22.110, and 30.22.120.

(1) *General standards.* All accessory dwelling units shall comply with the following standards:

(a) Development of accessory dwelling units shall be subject to compliance with all other applicable provisions of this title;

(b) Development of accessory dwelling units shall be subject to physical and legal availability of water and the applicant providing documentation that the water supply is potable and of adequate flow;

(c) Applicants must provide documentation that the existing or proposed sewage or septic system is capable of handling the additional demand placed upon it by the attached or detached accessory dwelling unit;

(d) The floor area of an accessory dwelling unit shall not exceed 1,200 square feet. Floor areas shall be exclusive of garages, porches, and unfinished basements;

(e) Accessory dwelling units shall meet the off-street parking requirements in chapter 30.26 SCC;

(f) Attached accessory dwelling units shall be designed such that the architectural character of the primary dwelling is preserved. Exterior materials, roof form, window spacing, and proportions shall match that of the primary dwelling; and

## EXHIBIT A – PROPOSED CODE REVISIONS RELATED TO ACCESSORY DWELLING UNITS

(g) Detached accessory dwelling units shall be constructed such that exterior materials, roof form, window spacing, and proportions approximate those of the single-family dwelling. A detached accessory dwelling unit proposed for location within an existing accessory structure is not required to approximate the exterior features of the existing single family dwelling. A mobile home, where allowed as a detached accessory dwelling unit pursuant to subsection ~~((3)(c)))~~ (3)(a)(ii) of this section, is not required to approximate the exterior features of the existing single-family dwelling.

(2) *Urban zones.* Accessory dwelling units are permitted uses in the urban zones on lots with a single-family dwelling pursuant to SCC 30.22.100. One attached accessory dwelling unit and one detached accessory dwelling unit may be established on lots that contain a legally-established single-family dwelling.

(3) *Rural, resource, and other zones.* Accessory dwelling units are permitted uses in the rural, resource, and other zones on lots with a single-family dwelling pursuant to SCC 30.22.110 and 30.22.120 and the following standards:

(a) One accessory dwelling unit may be established on lots that contain a legally-established single-family dwelling ~~((:))~~ pursuant to the following:

(i) Detached accessory dwelling units are prohibited on lots that do not meet the minimum required lot area, pursuant to SCC 30.23.030, in the zone in which they are located. The following prohibitions also apply:

(A) Detached accessory dwelling units are prohibited on lots in the R-5 zone that are less than five acres in size; and

(B) Detached accessory dwelling units are prohibited on lots in the RC zone that are less than 100,000 square feet in size.

(ii) A mobile home that is subordinate to the single-family dwelling may be allowed as a detached accessory dwelling unit on lots equal to or greater than 10 acres.

(b) Accessory dwelling units shall utilize the same driveway as the primary single-family dwelling ~~((; and~~

~~(c) A mobile home is allowed as a detached accessory dwelling unit only on lots equal to or greater than 10 acres and only when the manufactured home is subordinate to the existing single-family dwelling)).~~

Section 5. Severability and savings. If any section, sentence, clause, or phrase of this ordinance shall be ruled to be invalid or unconstitutional by the Growth Management Hearings Board or a court of competent jurisdiction, such ruling shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance, and the section, sentence, clause, or phrase in effect prior to the

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

PASSED this \_\_\_\_ day of \_\_\_\_\_, 2023.

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

\_\_\_\_\_  
Chairperson

ATTEST:

\_\_\_\_\_  
Clerk of the Council

( ) APPROVED  
( ) EMERGENCY  
( ) VETOED

DATE: \_\_\_\_\_

\_\_\_\_\_  
County Executive

ATTEST:

\_\_\_\_\_  
Approved as to form only:

\_\_\_\_\_  
Deputy Prosecuting Attorney