1 ADOPTED: September 17, 2025 2 EFFECTIVE: September 28, 2025 3 4 SNOHOMISH COUNTY COUNCIL 5 Snohomish County, Washington 6 7 ORDINANCE NO. 25-052 8 RELATING TO GROWTH MANAGEMENT: CONCERNING RURAL CLUSTER 9 SUBDIVISIONS AND SHORT SUBDIVISIONS; AMENDING CHAPTER 30.41C OF 10 11 THE SNOHOMISH COUNTY CODE 12 13 WHEREAS, counties are required to adopt development regulations that are 14 consistent with and implement the comprehensive plan under the Growth Management Act (GMA), chapter 36.70A RCW; and 15 16 17 WHEREAS, RCW 36.70A.070(5) of the GMA requires counties to include a rural element in the comprehensive plan for lands that are not designated for urban growth, 18 19 agriculture, forestry, or mineral resources; and 20 21 WHEREAS, RCW 36.70A.070(5)(b) of the GMA requires that the rural element 22 provide for a variety of rural densities with clustering and design guidelines as two of the 23 innovative techniques that can be used to accommodate appropriate rural densities and 24 uses that are consistent with rural character; and 25 26 WHEREAS, chapter 30.41C of Snohomish County Code (SCC) provides 27 regulations and standards for rural cluster subdivisions and short subdivisions that are an alternative method for developing rural residential property. Landowners and 28 29 developers are given incentives to cluster lots on the most buildable and least 30 environmentally sensitive portions of a site while retaining a substantial portion of each 31 site, including resource lands and critical areas, in open space tracts; and 32 33 WHEREAS, on August 28, 2024, the Snohomish County Council ("County Council") unanimously passed second substitute Amended Ordinance No. 24-021; and 34 35 36 WHEREAS, Amended Ordinance No. 24-021 included a new provision within SCC 30.41C.030(6) requiring third-party certification of the environmental efficiency of 37 proposed structures; and 38 39 WHEREAS, SCC 30.41C.030(6) requires the applicant to obtain certification prior 40 to issuance of building permits and preliminary approval of the rural cluster subdivision 41 42 or short subdivision, and this timing does not align with the requirements of the Built 43 Green Program that requires construction to be underway before it certifies the work; 44

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for dwellings.

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WHEREAS, the code amendments contained in this ordinance will amend the timeline for the provision of third party certification for rural cluster subdivisions, short subdivisions, and building permits within such subdivisions to correct the discrepancy in timelines that make current code as adopted not feasible; and

WHEREAS, the Snohomish County Planning Commission ("Planning Commission") held a briefing on June 24, 2025, concerning the proposed code amendments; and

WHEREAS, the Planning Commission held a public hearing on July 22, 2025, to receive public testimony concerning proposed code amendments; and

WHEREAS, at the conclusion of the Planning Commission's public hearing, the Planning Commission voted to recommend approval of the proposed code amendments, as set forth in its recommendation letter dated July 23, 2025; and

WHEREAS, on September 17, 2025, the County Council held a public hearing, after proper notice, to receive public testimony and consider the entire record related to the proposed code amendments contained in this ordinance; and

WHEREAS, following the public hearing, the County Council deliberated on the proposed amendments contained in this ordinance.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The County Council makes the following findings:

- A. The County Council adopts and incorporates the foregoing recitals as findings as if set forth in full herein.
- B. This ordinance will amend regulations related to rural cluster subdivision and short subdivision requirements in chapter 30.41C SCC. The code amendments remove the requirement that rural cluster subdivisions receive third-party certification and clarify the timing of requirements for enrollment in third-party certification programs
- C. Implementation of SCC 30.41C.030 as adopted is not feasible. Third-party certification of the rural cluster subdivision or short subdivision cannot be obtained until the subdivision process has been completed. As adopted, SCC 30.41C.030 specifies that evidence of third-party certification must be provided before a subdivision or short subdivision receives preliminary approval. Therefore, the change to SCC 30.41C.030 is necessary to reduce the scope of third-party certification to just individual dwellings, and to amend adopted code to require provision of proof of enrollment in a third-party certification program prior to building

permit issuance. This change balances the third-party certification timelines with building permit review timelines by only requiring proof of enrollment in a third-party certification program for dwellings, not entire subdivisions.

D. In developing the proposed code amendments, the county considered the goals of the GMA identified in RCW 36.70A.020, specifically the goal related to permitting. The proposed amendments are reasonably related to and necessary for the efficient review of permit applications to advance the GMA planning goal.

E. The proposed code amendments will allow chapter 30.41C SCC to achieve, comply with, and implement the goals, objectives, and policies of the Multi-County Planning Policies (MPPs), Countywide Planning Policies (CPPs), and the Snohomish County Comprehensive Plan. In particular, the amendments will ensure consistent and efficient review of permits. Additionally, the removal of neighborhood certification, many of the requirements of which are also contained in the individual certification of dwellings, helps minimize additional cost to housing while increasing sustainability and helping to reduce environmental impact. The proposed amendments are consistent with:

1. MPP-H-10: "Encourage jurisdictions to review and streamline development standards and regulations to advance their public benefit, provide flexibility, and minimize additional costs to housing."

CPP HO-11: "The county and cities should consider the economic implications of proposed building and land use regulations so that the broader public benefit they serve is achieved with the least additional cost to housing."

 Objective ED 2.A: "Develop and maintain a regulatory system that is fair, understandable, coordinated, and timely."

The proposal is a Type 3 legislative action under SCC 30.73.010.

F. Procedural requirements:

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2. As required by RCW 30.70A.106(1), a 60-day notice of intent to adopt the proposed code amendments was transmitted to the Washington State Department of Commerce for distribution to state agencies on July 1, 2025.

3. State Environmental Policy Act (SEPA), 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 of a determination of non-significance on July 1, 2025.

4. The public participation process used in the adoption of the proposed code amendments has complied with all applicable requirements of the GMA and SCC.

5. The Washington State Attorney General last issued an advisory memorandum, as required by RCW 36.70A.370, in October of 2024 entitled *Advisory Memorandum and Recommended Process for Evaluating Proposed Regulatory and Administrative Actions to Avoid the 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 2024 advisory memorandum was used by the County in objectively evaluating the regulatory changes proposed by this ordinance.

G. This ordinance is consistent with the record:

1. The proposed changes to SCC 30.41C.030 are necessary because the timing for certification under the third-party certification programs specified in adopted code does not align with the timing adopted in SCC 30.41C.030.

 2. The proposed changes to SCC 30.41C.030 clarify the timing of when proof of enrollment in third-party certification must be provided. As adopted, SCC 30.41C.030 cannot be implemented due to a discrepancy between when third-party certification can be obtained and when adopted code specifies that evidence of third-party certification must be provided.

3. Implementation of SCC 30.41C.030 as adopted is not feasible. Third-party certification of the rural cluster subdivision or short subdivision cannot be obtained until the subdivision process has been completed. As adopted, SCC 30.41C.030 specifies that evidence of third-party certification must be provided before a subdivision or short subdivision receives preliminary approval. Therefore, the change to SCC 30.41C.030 is necessary to reduce the scope of third-party certification to just review of individual dwellings. This change balances the third-party certification timelines with building permit approval timelines by only requiring proof of enrollment in a third-party certification program for dwellings, not entire subdivisions.

 4. As adopted, SCC 30.41C.030 puts forth conditions of approval dictating that third-party certification of structures in a subdivision be obtained prior to building permit issuance. Third party certification of a structure cannot be obtained until after building occupancy. Therefore, the proposed changes to SCC 30.41C.030 are necessary to correct the discrepancy between the timing of certification and the timing of building permit issuance.

H. The proposed code amendments are consistent with the record, including PDS's staff report to the County Council.

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Section 2. The County Council makes the following conclusions:

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A. The amendments proposed by this ordinance are consistent with the GMA.

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B. The amendments proposed by this ordinance are consistent with the goals, objectives, and policies of the MPPs, CPPs, and the Comprehensive Plan.

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C. The County has complied with all SEPA requirements with respect to this nonproject proposal.

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D. The amendments proposed by this ordinance do not result in an unconstitutional taking of private property for a public purpose.

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E. The public participation process used in the adoption of this ordinance complies with all applicable requirements of the GMA and chapter 30.73 SCC.

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

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Section 4. Snohomish County Code Section 30.41C.030, last amended by Amended Ordinance No. 24-021 on September 19, 2024, is amended to read:

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30.41C.030 Approval procedure.

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31 32 (1) Rural cluster subdivisions or short subdivisions are subject to the same procedures. requirements, and approval criteria as any standard subdivision or short subdivision as set forth in chapters 30.41A and 30.41B SCC, except when the procedures. requirements, and approval criteria are specifically modified or added to by the provisions of this chapter.

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> (2) Rural cluster subdivisions and short subdivisions are subject to the landscaping 35 36 provisions of chapter 30.25 SCC.

- (3) Rural cluster subdivisions and short subdivisions shall meet applicable rural concurrency standards and traffic impact mitigation requirements in accordance with 38
- chapter 30.66B SCC. 39
- 40 (4) Rural cluster subdivisions and short subdivisions shall be located in a rural fire
- district and are required to provide adequate fire flow in accordance with SCC 41 30.53A.514 through 30.53A.520 or to provide other means of fire protection as 42
- 43 approved by the Snohomish County fire marshal, unless exempt pursuant to SCC
- 30.53A.514. 44

- 1 (5) At the time of application, the site shall not be subject to any pending county enforcement action or in violation of federal, state, or county regulations.
 - (6) ((Rural cluster subdivisions and short subdivisions must provide documentation of third party certification prior to receiving preliminary approval.)) Conditions of approval for the subdivision or short subdivision shall require that all lots containing new buildings ((receive)) provide proof of enrollment in a third party certification program prior to issuance of individual building permits. Options for third-party certification are:
 - (a) ((Built Green Community certification for the preliminary approval and)) Built Green Single Family/Townhome certification for building permits;
 - (b) ((LEED Neighborhood Development certification for the preliminary approval and)) LEED Home certification for building permits; or
 - (c) Additional third party certification as approved by the director and adopted through administrative rule.

Section 5. Severability and savings. If any section, sentence, clause, or phrase of this ordinance shall be held to be invalid or unconstitutional by the Growth Management Hearings Board, or a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance. Provided, however, that if any section, sentence, clause, or phrase of this ordinance is held to be invalid by the Board or court of competent jurisdiction, then the section, sentence, clause, or phrase in effect prior to the 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.

Section 6. This ordinance is curative, remedial, and retroactive and applies to all applications subject to chapter 30.41C SCC that were submitted on or after September 19, 2024 (the effective date of Amended Ordinance No. 24-021).

PASSED this 17th day of September 2025.

SNOHOMISH COUNTY COUNCIL Snohomish County, Washington

Council Chair

ATTEST:

Asst Clerk of the Council

AMENDED ORDINANCE NO. 25-052

1 2 3 4 **APPROVED** (X) 5 **EMERGENCY** 6 **VETOED** DATE: September 18, 2025 7 8 9 10 11 **County Executive** ATTEST: 12 13 Melissa Geraghty 14 15 16 Approved as to form only: 17 18 19 Deputy Prosecuting Attorney 20