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Adopted: August 14, 2024
Effective: August 26, 2024

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

ORDINANCE NO. 24-056

RELATING TO GROWTH MANAGEMENT; AMENDING CHAPTER 30.65 SCC AND CHAPTER 30.86
SCC; CONCERNING DENSITY FRINGE EXCEPTIONS

WHEREAS, counties and cities that are required to plan under the Growth Management Act (GMA), chapter 36.70A RCW, must encourage economic development that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, promote the retention and expansion of existing businesses and recruitment of new businesses, all within the capacities of the state’s natural resources, public services, and public facilities; and

WHEREAS, the Snohomish County (“County”) GMA Comprehensive Plan (GMACP) - General Policy Plan (GPP) includes policies that encourage land use activities and development intensities that minimize impacts upon critical areas; and

WHEREAS, the County became a member of the Federal Emergency Management Agency (FEMA) National Flood Insurance Program (NFIP) in 1984 and adopted flood hazard regulations and Flood Insurance Rate Maps (FIRMs) that determine how much more development can occur in the floodplain without increasing the base flood level elevation by more than one foot; and

WHEREAS, the FIRMs were initially produced by FEMA in a Flood Insurance Study for unincorporated Snohomish County published on September 15, 1983 (“1983 Flood Insurance Study”), which investigated the existence and severity of flood hazards, analyzing data from existing conditions of development within the identified floodplains; and

WHEREAS, data for the 1983 Flood Insurance Study was initially solicited from Snohomish County jurisdictions in 1975, and the study results were reviewed by FEMA in 1981; and

WHEREAS, the County revised the Title 18 Snohomish County Zoning Code in 1984 to establish floodplain development regulations and a special flood hazard area; and

WHEREAS, the density fringe area was included as a classification within the special flood hazard area, and identified areas of high flood damage potential where conventional floodway areas could not be established; and

1 WHEREAS, the “density fringe area” is defined in Snohomish County Code (SCC) 30.91D.100 as
2 “that portion of special flood hazard area of the lower Snohomish and Stillaguamish rivers in which
3 floodway areas cannot reasonably be established and in which development is regulated by maximum
4 development density criteria”; and
5

6 WHEREAS, under the Snohomish County Zoning Code Chapter 27.36 in effect in 1984, the
7 density fringe area development regulations specified maximum allowable density (SCC 27.36.030) and
8 maximum allowable obstruction of development (SCC 27.36.040) in a parcel; and
9

10 WHEREAS, maximum allowable density and obstruction limitations for the density fringe are
11 now found in SCC 30.65.250 and 30.65.255 and are colloquially referred to as the “two and fifteen”
12 development regulations because the maximum allowable density is limited to two percent of the land
13 area of the portion of the lot in the density fringe area and the maximum allowable obstruction is
14 limited to 15 percent of the length of a line perpendicular to floodwater flow direction at the point
15 where the development is located; and
16

17 WHEREAS, the density fringe area regulations in chapter 30.65 SCC (Special Flood Hazard Areas)
18 have been updated several times as new FEMA Flood Insurance Studies have been published, the most
19 recent of which was published on June 19, 2020; and
20

21 WHEREAS, Ordinance No. 20-076 adopted the 2020 FEMA Flood Insurance Study and updated
22 the County’s special flood hazard regulations, amending chapters 30.43C and 30.65 and subtitle 30.9 of
23 the SCC; and
24

25 WHEREAS, Ordinance No. 20-076 revised density fringe area permitted uses in SCC 30.65.280 to
26 expand the permitted and conditionally permitted uses in portions of the density fringe area that
27 coincide with an urban growth area to allow certain uses that would be allowed in the underlying zone;
28 and
29

30 WHEREAS, these additional permitted uses are specified in SCC 30.65.280(14) and include
31 permitted or conditionally permitted uses in the underlying zones under SCC 30.22.100 as long as the
32 “two and fifteen” development regulations in SCC 30.65.250 and 30.65.255 are met; and
33

34 WHEREAS, the changes to chapter 30.65 SCC made in Ordinance No. 20-076 prompted a request
35 from the community to have the flexibility to redevelop and modify certain properties within the density
36 fringe area; and
37

38 WHEREAS, SCC 30.65.260 provides a list of exceptions from the maximum allowable density and
39 obstruction limitations; and
40

41 WHEREAS, this ordinance amends SCC 30.65.260 to add an exception from the maximum
42 allowable density and obstruction limitations of SCC 30.65.250 and 30.65.255 for proposed
43 development in special flood hazard areas when the square footage and width of the proposed

1 development is offset by the square footage and width of the uses or development on the site that were
2 accounted for in the 1983 Flood Insurance Study but no longer exist or will not exist prior to
3 commencing construction of the proposed development; and
4

5 WHEREAS, under the amendments in this ordinance any further development beyond what was
6 accounted for in the 1983 Flood Insurance Study will continue to be subject to density fringe area
7 regulations, and all development, including development relying on the square footage and width credit,
8 is subject to density fringe development regulations in SCC 30.65.270; and
9

10 WHEREAS, the square footage and width credit may only be used one time per site regardless of
11 the number of uses or development that may be eligible; and
12

13 WHEREAS, the square footage and width credit allows property owners greater flexibility while
14 sustaining the allowance in the original 1983 Flood Insurance Study and subsequent Flood Insurance
15 Studies for a one-foot rise from the base flood level elevation; and
16

17 WHEREAS, utilizing the square footage and width credit to redevelop or replace existing
18 structures promotes the replacement of older structures with redeveloped structures that are subject to
19 all current building standards, which provide for additional flood protection measures and more
20 stringent restrictions on environmental impacts from building materials; and
21

22 WHEREAS, on December 13, 2022, the Snohomish County Planning Commission (the “Planning
23 Commission”) was briefed by PDS staff about the proposed code amendments contained in this
24 ordinance; and
25

26 WHEREAS, the Planning Commission held a public hearing on January 24, 2023, and on February
27 28, 2023, to receive public testimony concerning the proposed code amendments contained in this
28 ordinance; and
29

30 WHEREAS, at the conclusion of the Planning Commission’s public hearing, the Planning
31 Commission deliberated on the proposed ordinance and voted to recommend approval of code
32 amendments relating to density fringe as shown in its approval letter dated March 10, 2023; and
33

34 WHEREAS, on August 14, 2024, the Snohomish County Council (“County Council”) held a public
35 hearing after proper notice, and considered public comment and the entire record related to the code
36 amendments contained in this ordinance; and
37

38 NOW, THEREFORE, BE IT ORDAINED:
39

40 Section 1. The County Council adopts the following findings in support of this ordinance:
41

42 A. The foregoing recitals are adopted as findings as if set forth in full herein.
43

- 1 B. This ordinance amends SCC 30.65.250 to amend the reference to the exceptions list in SCC
2 30.65.260 for consistency with the amendments in SCC 30.65.260.
3
- 4 C. This ordinance amends SCC 30.65.255 to amend the reference to the exceptions list in SCC
5 30.65.260.
6
- 7 D. This ordinance amends SCC 30.65.260 to add an exception to the maximum allowable density and
8 obstruction limitations of SCC 30.65.250 and 30.65.255 that would allow for greater flexibility for
9 development within the density fringe area while sustaining flood mitigation requirements. The
10 code amendment allows the square footage and width of the development that was accounted for
11 in the 1983 Flood Insurance Study to be utilized as a one-time credit for future development. The
12 square footage and width credit is to benefit and provide an exception for proposed future
13 development from the maximum allowable density and obstruction limitations (the “two and
14 fifteen” development regulations in SCC 30.65.250 and 30.65.255), not existing or former structures.
15 This code amendment requires that the applicant demonstrate that their uses or development were
16 accounted for in the 1983 Flood Insurance Study and, if the proposed development is authorized,
17 that the applicant record this one-time credit utilization with the Snohomish County Auditor’s
18 Office. This one-time credit utilization allows property owners greater flexibility while sustaining the
19 allowance in the original 1983 Flood Insurance Study and subsequent Flood Insurance Studies for a
20 one-foot rise from the base flood level elevation. Utilizing the one-time credit to redevelop existing
21 buildings promotes the replacement of existing structures with redeveloped structures that are
22 subject to all current building standards, which provide for additional flood protection measures and
23 more stringent restrictions on environmental impacts from building materials. The code amendment
24 only allows for the credit to be used one time and on one site regardless of the number of uses or
25 development accounted for in the 1983 Flood Insurance Study, and any remaining credit not used
26 with the application is forfeited. Fill is not to be included in the one-time credit calculations and the
27 one-time credit cannot be transferred to another site.
28
- 29 E. This ordinance amends SCC 30.86.300 to add a fee for processing the density fringe exception
30 applications. Applications will be subject to a new “Density Fringe Exception Application” fee of
31 \$500. This fee offsets the costs associated with processing these complex applications. This fee
32 amount was calculated utilizing the same methodology as used for Ordinance No. 21-048 in 2021
33 that updated development permit fees. Staff hourly rates for establishing this Density Fringe
34 Exception Application fee are from 2024, instead of the 2020 fee rates used in Ordinance No. 21-
35 048. The \$500 fee was based off an estimated 3.2 hours of staff time necessary to intake and
36 process each Density Fringe Exception Application.
37
- 38 F. In developing the proposed amendments, the County considered the following GMA goals:
39
- 40 GMA Goal 5 - Economic development. Encourage economic development throughout the state
41 that is consistent with adopted comprehensive plans, promote economic opportunity for all
42 citizens of this state, especially for unemployed and for disadvantaged persons, promote the
43 retention and expansion of existing businesses and recruitment of new businesses, recognize

1 regional differences impacting economic development opportunities, and encourage growth in
2 areas experiencing insufficient economic growth, all within the capacities of the state’s natural
3 resources, public services, and public facilities.
4

5 The proposed amendments support the economic development goal by allowing the redevelopment
6 of certain uses within the density fringe area which were recently expanded through Ordinance No.
7 20-076. Allowing for redevelopment promotes the retention and expansion of businesses while
8 continuing to protect and preserve the natural environment.
9

10 GMA Goal 10 – Environment. Protect the environment and enhance the state’s high quality of
11 life, including air and water quality, and the availability of water.
12

13 The proposed amendments ensure that redevelopment of certain permitted uses would be subject
14 to existing development standards as well as the rigorous environmental protections within chapter
15 30.65 SCC.
16

- 17 G. The proposed amendments are consistent with the following multicounty planning policies (MPPs)
18 from Puget Sound Regional Council VISION 2050:
19

20 MPP-En-5 – Locate development in a manner that minimizes impacts to natural features.
21 Promote the use of innovative environmentally sensitive development practices, including
22 design, materials, construction, and on-going maintenance.
23

24 The proposed changes encourage redevelopment of permitted uses within the density fringe area,
25 allowing for new construction to be held to the current development standards that minimize
26 impacts to natural features and floodways.
27

28 MPP-DP-46 - Support and provide incentives to increase the percentage of new development
29 and redevelopment—both public and private—to be built at higher-performing energy and
30 environmental standards.
31

32 The proposed amendments promote the redevelopment of structures that existed prior to 1984,
33 which would encourage redevelopment in existing building footprints. The proposed changes also
34 encourage certain older buildings to be redeveloped and meet existing permitting and development
35 standards.
36

- 37 H. The proposed amendments are consistent with the following Snohomish County Countywide
38 Planning Policies (CPPs):
39

40 CPP-DP-33 - Jurisdictions should minimize the adverse impacts on resource lands and critical
41 areas from new developments through the use of environmentally sensitive development and
42 land use practices.
43

1 The proposed changes better allow for the redevelopment of buildings that are subject to existing
2 permitting and development standards. These development standards require construction to use
3 more environmentally sensitive materials in addition to standards that better protect the floodways.
4

5 CPP-ED-9 - As appropriate, the County and cities should adopt plans, policies, and regulations
6 that preserve designated industrial, commercial, agricultural, and resource land base for long-
7 term regional economic benefit.
8

9 The proposed amendments support the preservation of existing development of permitted uses,
10 which include businesses that create a regional economic benefit, through encouraging
11 redevelopment of permitted commercial and agricultural structures within the density fringe area.
12

- 13 I. The proposed amendments are consistent with and help implement a number of policies contained
14 within the County’s GMACP GPP. The code amendments in this ordinance are consistent with the
15 following objectives and policies:
16

17 Objective LU 6.B - Encourage land use activities and development intensities that protect the
18 character of rural areas, avoid interference with resource land uses, minimize impacts upon
19 critical areas, and allow for future expansion of UGAs. (See the resource sections of the land use
20 element for protection of resource lands and the natural environment element for protection of
21 critical areas.)
22

23 The proposed code changes better serve the density fringe area by minimizing impacts on the
24 floodway and other critical areas. Redevelopment would also reduce pressure for future UGA
25 expansion.
26

27 Objective NE 1.A - Balance the protection of the natural environment with economic growth,
28 housing needs, and the protection of property rights.
29

30 The proposed amendments allow for redevelopment that enhances economic growth while
31 ensuring the protection and maintenance of the floodway within the density fringe area.
32

33 Objective NE 3.A.1 – The county shall designate and protect critical areas including fish and
34 wildlife habitat conservation areas, wetlands, critical aquifer recharge areas, frequently flooded
35 areas, and geologically hazardous areas and include best available science in the development of
36 programs, policies, and regulations relating to critical areas.
37

38 Policy NE 3.D.2 - The county shall allow only those developments and land uses in floodplains
39 that are compatible with floodplain processes.
40

41 The proposed changes promote redevelopment within the floodplains, which would update
42 buildings to reflect existing development regulations that are more environmentally rigorous and

1 protect critical areas. The building footprints were accounted for in the 1983 Flood Insurance Study
2 that measured the 100-year floodplain and would not additionally impact floodplain processes.

3
4 J. Procedural requirements.

- 5
6 1. Under Snohomish County Code, this ordinance is a Type 3 legislative action pursuant to SCC
7 30.73.010.
8
9 2. As required by RCW 30.70A.106(1), a notice of intent to adopt the proposed code amendments
10 was transmitted to the Washington State Department of Commerce for distribution to state
11 agencies on November 30, 2022.
12
13 3. State Environmental Policy Act (SEPA), chapter 43.21C RCW, requirements with respect to this
14 non-project action have been satisfied through the completion of an environmental checklist
15 and the issuance of a determination of non-significance on November 30, 2022.
16
17 4. The public participation process used in the adoption of this ordinance complies with all
18 applicable requirements of the GMA and the SCC, including but not limited to, RCW 36.70A.035,
19 RCW 36.70A.140, and chapter 30.73 SCC.
20
21 5. The Planning Commission was briefed on the proposed amendments at its December 13, 2022,
22 meeting and conducted a public hearing on the proposed amendments at its January 24, 2023,
23 and February 28, 2023, meetings, resulting in its letter of March 10, 2023, recommending
24 approval of the code amendments contained in this ordinance.
25
26 6. The Washington State Attorney General last issued an advisory memorandum, as required by
27 RCW 36.70A.370, in September of 2018 entitled "Advisory Memorandum: Avoiding
28 Unconstitutional Takings of Private Property" to help local governments avoid the
29 unconstitutional taking of private property. The process outlined in the State Attorney
30 General's 2018 advisory memorandum was used by Snohomish County in objectively evaluating
31 the regulatory changes proposed by this ordinance.
32

33 K. This ordinance is consistent with the record.

- 34
35 1. FEMA produced a Flood Insurance Study (FIS) for Snohomish County, Washington
36 Unincorporated Areas, dated September 15, 1983. The 1983 Flood Insurance Study investigated
37 the existence and severity of flood hazards, analyzing data from the existing conditions of
38 development within the identified floodplains, and established the base flood elevation.
39 Floodplain development regulations were created to prevent a cumulative increase in the base
40 flood elevation of more than one foot. The density fringe area was created as a component of
41 the Special Flood Hazard Areas when Snohomish County became a member of the National
42 Flood Insurance Program (NFIP) administered by FEMA and adopted flood hazard regulations
43 and mapping in 1984.
44

- 1 2. Snohomish County made changes in code that allow certain businesses within the density fringe
2 area to have additional uses that are non-agricultural. Ordinance No. 20-076 adopted the most
3 recent Flood Insurance Rate Maps (FIRMs) and revised the density fringe area permitted uses
4 (SCC 30.65.280) to expand the list of permitted and conditionally permitted uses in the portions
5 of the density fringe area that coincide with an urban growth area to allow certain uses that
6 would be allowed in the underlying zone. These changes then led to a request from the
7 community to have the flexibility to redevelop and modify certain properties within the density
8 fringe area.
9
- 10 3. The code amendments proposed by this ordinance allow an exception from the maximum
11 allowable density and obstruction limitations of SCC 30.65.250 and 30.65.255 for development
12 square footage and width that was accounted for in the 1983 Flood Insurance Study.
13
- 14 4. The code amendments proposed by this ordinance create a new “Density Fringe Exception
15 Application” fee of \$500 to be located in Table SCC 30.86.300.
16

17 Section 2. The County Council makes the following conclusions:
18

- 19 A. The proposal complies and is consistent with the GMA, Washington State law, and the SCC.
20
- 21 B. The proposal complies and is consistent with the GMACP.
22
- 23 C. The County has complied with all SEPA requirements with respect to this non-project action.
24
- 25 D. The public participation process used in the adoption of this ordinance complies with all applicable
26 requirements of the GMA and title 30 SCC.
27
- 28 E. The amendments proposed by this ordinance do not result in an unconstitutional taking of private
29 property for a public purpose.
30

31 Section 3. The Snohomish County Council bases its findings and conclusions on the entire record
32 of the County Council, including all testimony and exhibits. Any finding, which should be deemed a
33 conclusion, and any conclusion which should be deemed a finding, is hereby adopted as such.
34

35 Section 4. Snohomish County Code Section 30.65.250, last amended by Amended Ordinance No.
36 02-064 on December 9, 2002, is amended to read:
37

38 **30.65.250 Density fringe area: maximum allowable density.**
39

40 The land area occupied by any use or development permitted by this chapter that will displace
41 floodwaters shall not exceed two percent of the land area of that portion of the lot located in the
42 density fringe area. The limitations of this section shall not apply to (~~those uses~~) the exceptions and
43 exemptions listed in SCC 30.65.260.
44

1 Section 5. Snohomish County Code Section 30.65.255, last amended by Amended Ordinance No.
2 02-064 on December 9, 2002, is amended to read:

3
4 **30.65.255 Density fringe area: maximum allowable obstruction.**

5
6 The maximum width (sum of widths) of all new construction, substantial improvements or other
7 development shall not exceed 15 percent of the length of a line drawn perpendicular to the known
8 floodwater flow direction at the point where the development(s) is located. The length of said line shall
9 not extend beyond the property boundary or the edge of the density fringe area, whichever is less. The
10 limitations of this section shall not apply to ~~((those uses))~~ the exceptions and exemptions listed in SCC
11 30.65.260.

12
13 Section 6. Snohomish County Code Section 30.65.260, last amended by Amended Ordinance No.
14 02-064 on December 9, 2002, is amended to read:

15
16 **30.65.260 Density fringe area: exceptions to maximum allowable density and obstruction limitations.**

17
18 (1) The following uses shall be exempt from the maximum allowable density and obstruction
19 limitations of SCC 30.65.250 and 30.65.255:

20 ~~((1))~~ (a) Water-dependent utilities;

21 ~~((2))~~ (b) Dikes;

22 ~~((3))~~ (c) Utility facilities; and

23 ~~((4))~~ (d) Public works, when the project proponent demonstrates that the floodwater displacement
24 effects of the proposal when considered together with the maximum potential floodwater displacement
25 allowed by SCC 30.65.250 and 30.65.255 shall not cause a cumulative increase in the base flood
26 elevation of more than one foot. Floodwater displacement information shall be obtained and certified
27 by a professional engineer.

28 (2) There shall be an exception for proposed "development in special flood hazard areas" from the
29 maximum allowable density and obstruction limitations of SCC 30.65.250 and 30.65.255 if the square
30 footage and width of proposed development is offset by the square footage and width of the uses or
31 development on the site that were accounted for in the "Flood Insurance Study (FIS) for Snohomish
32 County, Washington Unincorporated Areas" dated September 15, 1983, and such uses or development
33 no longer exists or will not exist prior to commencing construction of the proposed "development in
34 special flood hazard areas." The following apply to any application for the exception under SCC
35 30.65.260(2):

36 ~~—(a) The applicant shall submit an application for the exception under SCC 30.65.260(2) and pay the~~
37 ~~fee for a Density Fringe Exception Application as provided for in SCC 30.86.300;~~

38 ~~—(b) The applicant has the burden to demonstrate in its application that the square footage and width~~
39 ~~of the proposed "development in special flood hazard areas" were accounted for in the "Flood~~
40 ~~Insurance Study (FIS) for Snohomish County, Washington Unincorporated Areas" dated September 15,~~
41 ~~1983;~~

42 ~~—(c) The total "development in special flood hazard area" on a site may equal but never exceed the~~
43 ~~density and obstruction of the uses or development accounted for in the "Flood Insurance Study (FIS) for~~
44 ~~Snohomish County, Washington Unincorporated Areas" dated September 15, 1983;~~

- 1 (d) A site may only use the square footage and width credit one time regardless of the number of
- 2 uses or development that may be eligible;
- 3 (e) If only a portion of the square footage and width credit is used by an applicant any remaining
- 4 credit is forfeited for the site and shall not be utilized at a later date;
- 5 (f) Fill shall not be included in the square footage and width credit;
- 6 (g) The square footage and width credit cannot be transferred to another site; and
- 7 (h) After final approval by the County, the applicant shall record with the Auditor's office a notice in a
- 8 form approved by Planning and Development Services describing the utilization of the square footage
- 9 and width credit.

10
 11 Section 7. Snohomish County Code Section 30.86.300, last amended by Amended Ordinance No.
 12 22-073 on January 11, 2023, is amended to read:

13
 14 **30.86.300 Special flood hazard area permit fees.**

15
 16 **Table 30.86.300 Special Flood Hazard Area Permit Fees**

FLOOD HAZARD AREA PERMIT	\$1,050
FLOOD HAZARD AREA VARIANCE	See Table 30.86.230
PRE-APPLICATION CONFERENCE FEE	\$480
FLOOD HAZARD AREA DETERMINATION	\$300
FLOOD HAZARD PERMIT & FLOOD HAZARD VARIANCE APPLICATION EXTENSION⁽¹⁾	\$500
DENSITY FRINGE EXCEPTION APPLICATION	\$500
(1) This fee applies to Flood Hazard Permit and Flood Hazard Variance application extensions pursuant to SCC Table 30.70.140(1).	

17
 18 Section 8. Severability and Savings. If any section, sentence, clause or phrase of this ordinance
 19 shall be held to be invalid by the Growth Management Hearings Board (Board), or unconstitutional by a
 20 court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or
 21 constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided, however,
 22 that if any section, sentence, clause or phrase of this ordinance is held to be invalid by the Board or
 23 court of competent jurisdiction, then the section, sentence, clause or phrase in effect prior to the
 24 effective date of this ordinance shall be in full force and effect for that individual section, sentence,
 25 clause or phrase as if this ordinance had never been adopted.

26
 27 PASSED this 14th day of August 2024.

28
 29 SNOHOMISH COUNTY COUNCIL
 30 Snohomish County, Washington

31
 32 
 33 _____
 34 Council Chair

1 ATTEST:

2

3

4 *Lisa Hickey*

5 Asst. Clerk of the Council

6

7 (X) APPROVED

8 () EMERGENCY

9 () VETOED

DATE: August 16, 2024

10

11

12

13

[Handwritten Signature]

County Executive

14 ATTEST:

15

16 *Melissa Geraghty*

17

18 Approved as to form only:

19 Richmond,

20 Christina

Digitally signed by Richmond,
Christina
Date: 2024.06.07 08:14:00 -07'00'

21 Deputy Prosecuting Attorney