



Committee of the Whole

Ryan Countryman

Council Initiated:

Yes

No

ECAF: 2023-1333

Ordinance: 23-133

Type:

- Contract
- Board Appt.
- Code Amendment
- Budget Action
- Other

Requested Handling:

- Normal
- Expedite
- Urgent

Fund Source:

- General Fund
- Other
- N/A

Executive Rec:

- Approve
- Do Not Approve
- N/A

Approved as to

Form:

- Yes
- No
- N/A

Subject: Ordinance – Accessory Dwelling Unit Code

Scope: Ordinance 23-133 would restore code provisions in SCC 30.28.010 in response to a Growth Management Hearings Board (GMHB) Decision.

Duration: The proposed ordinance would amend SCC 30.28.010 until the County Council amends that section again for other reasons.¹

Fiscal Impact: Current Year Multi-Year N/A

The proposal would result in a slight decrease in permits and permit revenue to Fund 193 (permitting). Planning and Development Services (PDS) has sufficient fund balance available in Fund 193 for its 2024 budget and operations.

Authority Granted: None

Background: The proposed ordinance would amend Accessory Dwelling Unit (ADU) provisions in SCC 30.28.010 to comply with a Decision issued by the GMHB. The GMHB Decision includes a compliance deadline of December 13, 2023 (see additional background on page 2).

The County Council referred the proposed amendments to the Planning Commission for review and recommendation consistent with Chapter 30.73 SCC by Motion 23-342 on August 15, 2023. At the conclusion of a September 26, 2023, public hearing on the proposed ordinance a 7-4 majority of the voted to recommend that the County Council adopt the proposal to comply with the GMHB Decision. The Planning Commission then discussed and unanimously passed a secondary motion encouraging the County Council to “revisit the equity issue during the 2024 comprehensive plan update.” This second motion expresses concern about creation of a geographically based two-tier system of access to affordable housing and property rights that compliance with the GMHB decision may result in.

This proposal is being expedited through Committee of the Whole to allow for completion of county processes before the December 13 compliance deadline.

Request: Set date and time for a public hearing. Suggested date and time is December 6, 2023, at 10:30 AM.

¹ The State Legislature passed Engrossed House Bill 1337 which became effective on July 23, 2023. It includes a mandate that Snohomish County make unrelated changes to Accessory Dwelling Unit regulations by June 30, 2025. Some of these other changes will need to further amend SCC 30.28.010.

Additional Background

On March 9, 2022, the Snohomish County Council adopted Amended Ordinance 22-006 (Ord 22-006). Among other changes, Ord 22-006 allowed expanded use of detached ADUs outside of Urban Growth Areas. Prior to Ord 22-006, code prohibited detached ADUs on lots that did not meet the standard lot size minimum in rural and resource zones. Ord 22-006 changed that by allowing detached ADUs on substandard lots in rural and resource zones.

Futurewise filed a petition for review with the GMHB challenging Ord 22-006. In its June 30, 2023, Order, the GMHB remanded Ord 22-006 to Snohomish County to bring it into compliance with the Growth Management Act (GMA), RCW 36.70A.

The Order found two issues of non-compliance. First, the GMHB found that detached ADUs on substandard lots with agriculture zoning “fails to project designated agricultural lands of long-term commercial significance in violation of [RCW 36.70A.177](#)”. Under Snohomish County Code (SCC), Agriculture 10-Acre zoning (A-10) is a subset of resource zones which includes Forestry and Forestry & Recreation (F&R) zoning ([SCC 30.21.020](#)). The first issue of non-compliance in the Order implies that allowing detached ADUs on lots less than 10-acres in A-10 zoning is a violation of GMA regulations on accessory uses on agricultural lands.

Second, the GMHB found that Ord 22-006 is “inconsistent with achievement of the growth targets in the County’s adopted Multicounty Planning Policies and Countywide Planning Policies, in violation of [RCW 36.70A.130\(1\)\(d\)](#)² and [RCW 36.70A.210\(1\) and \(7\)](#).” Snohomish County is experiencing growth in rural and resource areas that exceeds adopted targets. By allowing detached ADUs on substandard lots in rural zones, Ord 22-006 made additional growth in rural areas possible without taking other action to offset the effect on overall rural growth. The GMHB did not find detached ADUs on substandard lots in rural zones to be a GMA compliance issue specifically, rather the non-compliance was the resulting addition to growth outside urban areas.

In the Order, the GMHB gave Snohomish County a due date for compliance of December 13, 2023. By that date, Snohomish County needs to:

- 1) Amend [SCC 30.28.010](#) so that it no longer allows detached ADUs on substandard lots in A-10 zoning; and
- 2) Take action to negate the impact to rural growth of allowing detached ADUs on substandard lots in rural zones. This could include amendments to SCC 30.28.010 or other actions to offset the resulting rural growth.

² [Senate Bill 5457](#) added a new subsection to RCW 36.70A.130(1) effective July 23, 2023. What the GMHB Order referred to as (1)(d) is now (1)(e).