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Permitted Use in Floodways <a href="#">Ordinance 22-065</a> (ECAF 2022-1149)					
Hearing Date: Wednesday, January 11, 2023 @ 10:30 a.m.					
Council Staff: Ryan Countryman		PDS Staff: Hillary McGowan		DPA: Justin Kasting	
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**Project Name**      **Flood Hazard Code**

<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>	<b># of Pages</b>
1.0002	Project Administration	3/29/2022	PDS Staff	Request for PA Assistance	
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2.0002	Public Outreach	6/18/2022	The Herald	Affidavit of Agenda publication in The Herald (Briefing)	3
2.0003	Legislative Documents	6/28/2022	PDS Staff	Staff Report (Briefing)	13
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2.0005	Public Outreach	6/28/2022	Planning Commission	Planning Commission Written Meeting Minutes (Briefing)	4
2.0006	Public Outreach	6/28/2022	Planning Commission	Planning Commission Recording of Meeting (Briefing)	NA
2.0007	Public Outreach	7/26/2022	Planning Commission	Planning Commission Agenda (Hearing)	3
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2.0011	Public Outreach	7/26/2022	Planning Commission	Planning Commission Meeting Recording (Hearing)	NA
2.0012	Public Outreach	8/11/2022	Planning Commission	Recommendation Letter to Council	2
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1 Adopted:  
2 Effective:

3  
4 SNOHOMISH COUNTY COUNCIL  
5 Snohomish County, Washington

6  
7 ORDINANCE NO. 22-065

8  
9 RELATING TO GROWTH MANAGEMENT; AMENDING SCC 30.65.220 PERTAINING TO PERMITTED USES IN  
10 FLOODWAYS

11  
12 WHEREAS, counties and cities that are required to plan under the Growth Management Act  
13 (GMA), chapter 36.70A RCW, must ensure their comprehensive plans and development regulations plan  
14 for and accommodate affordable housing, while protecting both the environment and property rights;  
15 and

16  
17 WHEREAS, the Snohomish County (“County”) GMA Comprehensive Plan (GMACP) – General  
18 Policy Plan (GPP) has an objective to balance the protection of the natural environment with economic  
19 growth, housing needs, and the protection of property rights; and

20  
21 WHEREAS, the Snohomish County Council (“County Council”) adopted Ordinance No. 20-076 on  
22 November 4, 2020, to permanently adopt the Flood Insurance Study (FIS) for Snohomish County  
23 required by the Department of Homeland Security’s Federal Emergency Management Agency for  
24 compliance with the National Flood Insurance Program (NFIP) as well as to add clarity to the County’s  
25 flood regulations; and

26  
27 WHEREAS, Ordinance No. 20-076 also adopted the federal Flood Insurance Rate Maps and  
28 updated County special flood hazard regulations under chapters 30.43C and 30.65 and title 30.9 of the  
29 Snohomish County Code (SCC); and

30  
31 WHEREAS, Ordinance No. 20-076 amended SCC 30.65.220(8) addressing the repair,  
32 replacement, and improvement of substantially damaged residences in the floodway for consistency  
33 with state and federal regulations; and

34  
35 WHEREAS, changes to SCC 30.65.220(8) were a result of the NFIP Flood Damage Prevention  
36 Ordinance Washington Model, Revised December 9, 2019, (“Model Ordinance”) Section 5.4-2 titled:  
37 “Residential Construction in Floodways” and RCW 86.16.041 which addresses rules for the repair or  
38 replacement of existing residential structures; and

39  
40 WHEREAS, the intent of Model Ordinance Section 5.4-2 is to prohibit construction or  
41 reconstruction of residential structures in floodways, except for repairs, reconstruction, or  
42 improvements to a residential structure that are not substantial improvements and that do not increase  
43 the ground floor area; and

44  
45 WHEREAS, Model Ordinance Section 5.4-2 was implemented through the addition of SCC  
46 30.65.220(8) recognizing that repairs, replacement, or relocation of substantially damaged residences in  
47 the floodway, other than farmhouses can be permitted in floodways when certain criteria are met; and

1  
2 WHEREAS, Ordinance No. 20-076 unintentionally deleted SCC 30.65.220(9) which stated  
3 “Repair, reconstruction, or improvement of residential structures, where repair, reconstruction, or  
4 improvement of a structure does not increase the ground floor area, and is not a substantial  
5 improvement” when permitted by the applicable zone under chapter 30.22 SCC; and  
6

7 WHEREAS, the unintentional deletion of SCC 30.65.220(9) by Ordinance No. 20-076 resulted in  
8 the prohibition of repairs, reconstruction, or improvements to residential structures in the floodway  
9 that have not been substantially damaged; and  
10

11 WHEREAS, due to the deletion of SCC 30.65.220(9) and the lack of other code provisions  
12 allowing for repairs, reconstruction, or improvements to residential structures in the floodway,  
13 homeowners cannot currently perform repairs, reconstruction, or improvements even when such work  
14 does not increase ground floor area and is not a substantial improvement, despite such work being  
15 contemplated and allowed by the Model Ordinance Section 5.4-2; and  
16

17 WHEREAS, as of May 31, 2022, there are over 6,000 homes within the floodway in  
18 unincorporated Snohomish County subject to these codes and potentially impacted by the unintentional  
19 prohibition of repairs, reconstruction, and improvement of these homes due to amendments found in  
20 Ordinance No. 20-076; and  
21

22 WHEREAS, this ordinance will re-adopt the language of SCC 30.65.220(9) exactly as it existed  
23 prior to the adoption of Ordinance No. 20-076 to again allow the repair, reconstruction, and  
24 improvement of residences located in the floodway, making the code consistent with Model Ordinance  
25 Section 5.4-2; and  
26

27 WHEREAS, on June 28, 2022, the Snohomish County Planning Commission (the “Planning  
28 Commission”) was briefed by Snohomish County Planning and Development Services (PDS) staff about  
29 the proposed code amendments contained in this ordinance; and  
30

31 WHEREAS, the Planning Commission held a public hearing on July 26, 2022, to receive public  
32 testimony concerning the proposed code amendments contained in this ordinance; and  
33

34 WHEREAS, at the conclusion of the Planning Commission’s public hearing, the Planning  
35 Commission deliberated on the proposed code amendments and voted to recommend approval of code  
36 amendments relating to flood hazard areas code correction as shown in its approval letter dated August  
37 10, 2022; and  
38

39 WHEREAS, on \_\_\_\_\_, 2022, the County Council held a public hearing after proper  
40 notice, and considered public comment and the entire record related to the code amendments  
41 contained in this ordinance; and  
42

43 WHEREAS, following the public hearing, the County Council deliberated on the code  
44 amendments contained in this ordinance;  
45

46 NOW, THEREFORE, BE IT ORDAINED:  
47

1 Section 1. The County Council adopts the following findings in support of this ordinance:  
2

- 3 A. The foregoing recitals are adopted as findings as if set forth in full herein.  
4  
5 B. This ordinance amends SCC 30.65.220 to re-adopt the former SCC 30.65.220(9) allowing the repair,  
6 reconstruction, and improvement of residential structures located within the floodway so long as  
7 the repairs, reconstruction, and improvements do not increase ground floor area and are not  
8 substantial improvements.  
9  
10 C. This ordinance ensures consistency with state and federal flood regulations and re-adopts a code  
11 provision that was unintentionally deleted by Ordinance No. 20-076.  
12

- 13 D. Model Ordinance Section 5.4-2 provides in part:

14  
15 Construction or reconstruction of residential structures is prohibited within designated  
16 floodways, except for (i) repairs, reconstruction, or improvements to a structure that do not  
17 increase the ground floor area; and (ii) repairs, reconstruction, or improvements to a structure,  
18 the cost of which does not exceed 50 percent of the market value of the structure either, (A)  
19 before the repair or reconstruction is started, or (B) if the structure has been damaged, and is  
20 being restored, before the damage occurred. Any project for improvement of a structure to  
21 correct existing violations of state or local health, sanitary, or safety code specifications that  
22 have been identified by the local code enforcement official and that are the minimum necessary  
23 to assure safe living conditions, or to structures identified as historic places, may be excluded in  
24 the 50 percent.  
25

- 26 E. In developing the proposed amendment, the County considered the GMA goals identified in RCW  
27 36.70A.020. In particular, the proposed amendment is consistent with and promotes:

28  
29 GMA Goal 4 – “Housing. Plan for and accommodate housing affordable to all economic  
30 segments of the population of this state, promote a variety of residential densities and housing  
31 types, and encourage preservation of existing housing stock.”  
32

33 GMA Goal 10 – “Environment. Protect the environment and enhance the state's high quality of  
34 life, including air and water quality, and the availability of water.”  
35

36 The proposed amendment supports the housing and environmental goals because it will allow  
37 homeowners to preserve their existing homes through repair, reconstruction, and improvement.  
38 This permitted work would not negatively impact the environment because the home could not be  
39 substantially improved and the footprint could not be expanded.  
40

- 41 F. The proposed amendment maintains consistency with the following Multicounty Planning Policy  
42 (MPP) from the Puget Sound Regional Council VISION 2050:  
43

44 MPP-H-3 – Achieve and sustain – through preservation, rehabilitation, and new development – a  
45 sufficient supply of housing to meet the needs of low-income, moderate-income, middle-  
46 income, and special needs individuals and households that is equitably and rationally distributed  
47 throughout the region.



1  
2 The proposed changes would support the preservation and rehabilitation efforts of this housing  
3 goal. Existing residential housing in the floodway can be preserved with this code correction which  
4 allows existing housing supply to be maintained.  
5

- 6 G. The proposed amendment maintains consistency with the following MPP from the Puget Sound  
7 Regional Council VISION 2050:

8  
9 MPP-En-5 – Locate development in a manner that minimizes impacts to natural features.  
10 Promote the use of innovative environmentally sensitive development practices, including  
11 design, materials, construction, and on-going maintenance.  
12

13 The proposed amendment supports this MPP by minimizing new impacts to natural features  
14 through restricting major improvements and ground floor area expansion of existing homes located  
15 in the floodway.  
16

- 17 H. The proposed amendment is consistent with Countywide Planning Policy (CPP) HO-6 that provides:

18  
19 The county and cities should implement policies and programs that encourage the rehabilitation  
20 and preservation of existing legally established, affordable housing for residents of all income  
21 levels, including but not limited to mobile/manufactured housing and single-room occupancy  
22 (SRO) housing.

23 The proposed code amendment encourages the rehabilitation and preservation of existing housing  
24 supply in the floodway. Affordable existing housing in the floodway will further be preserved.  
25

- 26 I. The proposed amendment maintains consistency with the GPP Housing Chapter, including HO Policy  
27 2.A.2, which provides:

28  
29 The county shall continue programs to repair and maintain existing housing in neighborhoods to  
30 reduce blight and deterioration and preserve and enhance the housing stock.  
31

- 32 J. Procedural requirements.

- 33  
34 1. This is a Type 3 legislative action under SCC 30.73.010.  
35  
36 2. As required by RCW 30.70A.106(1), a notice of intent to adopt the proposed code amendments  
37 was transmitted to the Washington State Department of Commerce for distribution to state  
38 agencies on June 8, 2022.  
39  
40 3. State Environmental Policy Act (SEPA), chapter 43.21C RCW, requirements with respect to this  
41 non-project action have been satisfied through the completion of an environmental checklist  
42 and the issuance of a determination of non-significance on June 8, 2022.  
43  
44 4. The public participation process used in the adoption of this ordinance complies with all  
45 applicable requirements of the GMA and the SCC, including but not limited to, RCW 36.70A.035,  
46 RCW 36.70A.140, and chapter 30.73 SCC.

- 1  
2 5. The Planning Commission was briefed on the proposed amendments at its June 28, 2022,  
3 meeting and conducted a public hearing on the proposed amendments at its July 26, 2022,  
4 meeting resulting in its letter of August 10, 2022, recommending approval of the code  
5 amendments contained in this ordinance.  
6  
7 6. The Washington State Attorney General last issued an advisory memorandum, as required by  
8 RCW 36.70A.370, in September of 2018 entitled “Advisory Memorandum and Recommended  
9 Process for Evaluating Proposed Regulatory and Administrative Actions to Avoid  
10 Unconstitutional Takings of Private Property” to help local governments avoid the  
11 unconstitutional taking of private property. The process outlined in the State Attorney  
12 General’s 2018 advisory memorandum was used by Snohomish County in objectively evaluating  
13 the regulatory changes proposed by this ordinance.  
14

15 K. This ordinance is consistent with the record.  
16

- 17 1. Due to Ordinance No. 20-076, homeowners are restricted from repairing, reconstructing, or  
18 improving their homes located in the floodways when no substantial flood damage has  
19 occurred. The proposed code amendments reinstate the ability of homeowners to repair,  
20 reconstruct, or improve their homes to make necessary maintenance and preserve existing  
21 housing.  
22  
23 2. The Model Ordinance allows for repair, reconstruction, and improvement of homes in the  
24 floodways that have not been substantially damaged and when such repair, reconstruction, or  
25 improvement will not increase the ground floor area.  
26  
27 3. The code amendments proposed by this ordinance will correct an unintentional deletion and re-  
28 insert code that existed prior to 2020.  
29

30 Section 2. The County Council makes the following conclusions:  
31

- 32 A. The amendments proposed by this ordinance comply and are consistent with the GMA.  
33  
34 B. The amendments proposed by this ordinance comply and are consistent with the GMACP.  
35  
36 C. The County has complied with all SEPA requirements with respect to this non-project action.  
37  
38 D. The public participation process used in the adoption of this ordinance complies with all applicable  
39 requirements of the GMA and title 30 SCC.  
40  
41 E. The amendments proposed by this ordinance does not result in an unconstitutional taking of private  
42 property for a public purpose.  
43

44 Section 3. The Snohomish County Council bases its findings and conclusions on the entire record  
45 of the County Council, including all testimony and exhibits. Any finding, which should be deemed a  
46 conclusion, and any conclusion which should be deemed a finding, is hereby adopted as such.  
47

1 Section 4. Snohomish County Code Section 30.65.220, last amended by Amended Ordinance No.  
2 21-060 on October 6, 2021, is amended to read:

3  
4 SCC 30.65.220 Floodways: permitted uses.

5  
6 The following uses are allowed in the floodway when permitted by the applicable zone under chapter  
7 30.22 SCC, provided the use is in compliance with the applicable general and specific floodproofing  
8 standards of SCC 30.65.110 and 30.65.120, and other applicable provisions of this chapter:

9  
10 (1) Agriculture;

11  
12 (2) Forestry, including processing of forest products with portable equipment;

13  
14 (3) Preserves and reservations;

15  
16 (4) Park and recreational activities;

17  
18 (5) Removal of rock, sand and gravel, when the applicant can provide clear and convincing evidence  
19 that such uses will not divert flood flows causing channel shift or erosion, accelerate or amplify the  
20 flooding of downstream flood hazard areas, increase the flooding threat to upstream flood hazard areas,  
21 or in any other way threaten public or private properties. When allowed, such removal shall comply with  
22 the provisions of chapter 30.32C SCC and the county shoreline management program;

23  
24 (6) Utility transmission lines when allowed in underlying zones unless otherwise prohibited by this  
25 chapter. When the primary purpose of such a transmission line is to transfer bulk products or energy  
26 through a floodway en route to another destination, as opposed to serving customers within a  
27 floodway, such transmission lines shall conform to the following:

28  
29 (a) All utility transmission lines shall cross floodways by the most direct route feasible as  
30 opposed to paralleling floodways;

31  
32 (b) Electric transmission lines shall span the floodway with support towers located in flood  
33 fringe areas or beyond. Where floodway areas cannot be spanned due to excessive width,  
34 support towers shall be located to avoid high flood water velocity and/or depth areas, and shall  
35 be adequately floodproofed;

36  
37 (c) Buried utility transmission lines transporting hazardous materials, including but not limited  
38 to crude and refined petroleum products and natural gas, shall be buried a minimum of four  
39 feet below the maximum established scour of the waterway, as calculated on the basis of  
40 hydrologic analyses. Such burial depth shall be maintained horizontally within the hydraulic  
41 floodway to the maximum extent of potential channel migration as determined by hydrologic  
42 analyses. In the event potential channel migration extends beyond the hydraulic floodway,  
43 conditions imposed upon floodway fringe and special flood hazard areas shall also govern  
44 placement. All hydrologic analyses are subject to acceptance by the county, shall assume the  
45 conditions of a 100-year frequency flood as verified by the U.S. Army Corps of Engineers, and  
46 shall include on-site investigations and consideration of historical meander characteristics in  
47 addition to other pertinent facts and data. The use of riprap as a meander containment

1 mechanism within the hydraulic floodway shall be consistent with the county shoreline  
2 management program;

3  
4 (d) Buried utility transmission lines transporting non-hazardous materials including water and  
5 sewage shall be buried a minimum of four feet below the maximum established scour of the  
6 waterway as calculated on the basis of hydrologic analyses. Such burial depth shall be  
7 maintained horizontally within the hydraulic floodway to the maximum extent of potential  
8 channel migration as determined by hydrologic analyses. All hydrologic analyses shall conform  
9 to requirements in subsection (6)(c) of this section. The use of riprap as a meander containment  
10 mechanism within the hydraulic floodway shall be consistent with the county shoreline  
11 management program;

12  
13 (e) Beyond the maximum extent of potential channel migration, utility transmission lines  
14 transporting hazardous and non-hazardous materials shall be buried below existing natural and  
15 artificial drainage features. Burial depth in all agricultural areas requiring or potentially requiring  
16 subsurface drainage shall be a minimum of six feet as measured from ground surface to the top  
17 of the transmission line, or at other such depth as deemed necessary by on-site investigations  
18 performed by a qualified soils expert familiar with county soils. Burial depth in all other  
19 agricultural and non-agricultural floodway areas shall be determined on the basis of accepted  
20 engineering practice and in consideration of soil conditions and the need to avoid conflict with  
21 agricultural tillage;

22  
23 (f) All buried utility transmission lines shall achieve sufficient negative buoyancy so that any  
24 potential for flotation or upward migration is eliminated;

25  
26 (g) Above ground utility transmission lines, not including electric transmission lines, shall only  
27 be allowed for the transportation of non-hazardous materials where an existing or new bridge  
28 or other structure is available and capable of supporting the line. When located on existing or  
29 new bridges or other structures with elevations below the level of the 100-year flood, the  
30 transmission line shall be placed on the down-stream side and protected from flood debris. In  
31 such instances, site specific conditions and flood damage potential shall dictate placement,  
32 design and protection throughout the floodway. Applicants must demonstrate that such above  
33 ground lines will have no appreciable effect upon flood depth, velocity or passage, and shall be  
34 adequately protected from flood damage. If the transmission line is to be buried except at the  
35 waterway crossing, burial specifications shall be determined as in subsection (6)(d) of this  
36 section;

37  
38 (h) All floodway crossings by utility transmission lines transporting hazardous materials shall be  
39 equipped with valves capable of blocking flow within the pipeline in the event of leakage or  
40 rupture. All floodway crossings shall have valves unless otherwise indicated by standard  
41 engineering review of the site and type of transmission line as acceptable to the county with  
42 locations determined by other provisions of this chapter;

43  
44 (i) Above ground utility transmission line appurtenant structures including valves, pumping  
45 stations, or other control facilities shall not be permitted in the floodway; and  
46

1 (j) Where a floodway has not been determined by preliminary Corps of Engineers'  
2 investigations or official designation, a floodway shall be defined by qualified engineering work  
3 by the applicant on the basis of a verified 100-year flood event.  
4

5 (7) Repairs, reconstruction, replacement, or improvements to existing farmhouse structures which are  
6 located on lands designated as agricultural lands of long-term commercial significance under RCW  
7 36.70A.170, subject to the following:  
8

9 (a) The new farmhouse is a replacement for an existing farmhouse on the same farm site;

10  
11 (b) There is no potential building site for a replacement farmhouse on the same farm outside  
12 the designated floodway;

13  
14 (c) The farmhouse being replaced shall be removed, in its entirety, including foundation, from  
15 the floodway within 90 days after occupancy of the new farmhouse;

16  
17 (d) For substantial improvements, and replacement farmhouses, the elevation of the lowest  
18 floor of the improvement and farmhouse respectively, including basement, is one foot higher  
19 than the base flood elevation;

20  
21 (e) New and replacement water supply systems, are designed to eliminate or minimize  
22 infiltration of flood waters into the system;

23 (f) New and replacement sanitary sewerage systems are designed and located to eliminate or  
24 minimize infiltration of flood waters into the system and discharge from the system into the  
25 flood waters;

26  
27 (g) All other utilities and connections to public utilities are designed, constructed, and located  
28 to eliminate or minimize flood damage;

29  
30 (h) The replacement farmhouse shall not exceed the total square footage of encroachment of  
31 the structure which it is replacing; and

32  
33 (i) Repairs, reconstruction, or improvements to a farmhouse shall not increase the total square  
34 footage of encroachment of the existing farmhouse.  
35

36 (8) Repairs, replacement, or relocation of substantially damaged residences in the floodway, other than  
37 farmhouses, are subject to the following:  
38

39 (a) When residences other than farmhouses are substantially damaged in the floodway, the  
40 floodplain administrator may make a written request to the Department of Ecology under RCW  
41 86.16.041(4) to assess the risk of harm to life and property posed by the specific conditions of  
42 the floodway. Based on analysis of depth, velocity, flood-related erosion, channel migration,  
43 debris load potential, and flood warning capability, the Department of Ecology may exercise  
44 best professional judgment in recommending to the floodplain administrator authority to  
45 permit repair, replacement, or relocation of the substantially damaged structure. The property  
46 owner shall submit any information necessary to complete the assessment to the county and  
47 the Department of Ecology. Without a favorable recommendation from the Department of

1 Ecology for the repair or replacement of a substantially damaged residential structure located in  
2 the regulatory floodway, no repair or replacement is allowed under WAC 173-158-076(1).

3  
4 (b) Before the repair, replacement, or relocation is started, all applicable requirements of the  
5 National Flood Insurance Program, chapter 86.16 RCW, chapter 30.43C SCC, and this chapter  
6 must be satisfied. In addition, the following conditions must be met:

7  
8 (i) There is no potential building location for the replacement residential structure on  
9 the same property outside the regulatory floodway;

10  
11 (ii) The replacement residential structure is equivalent in use and size to the  
12 substantially damaged residential structure;

13 (iii) The structure being repaired, replaced, or reconstructed was legally constructed;

14  
15 (iv) Repairs, reconstruction, or replacement do not result in an increase of the total  
16 square footage of floodway encroachment;

17  
18 (v) The elevation of the lowest floor of the substantially damaged or replacement  
19 residential structure is a minimum of one foot higher than the base flood elevation;

20  
21 (vi) New and replacement water supply systems are designed to eliminate or minimize  
22 infiltration of floodwater into the system;

23  
24 (vii) New and replacement sanitary sewerage systems are designed and located to  
25 eliminate or minimize infiltration of floodwater into the system and discharge from the  
26 system into the floodwaters; and

27  
28 (viii) All other utilities and connections to public utilities are elevated a minimum of one  
29 foot above the base flood elevation and are designed, constructed, and located to  
30 eliminate or minimize flood damage.

31  
32 (9) Repair, reconstruction, or improvement of residential structures, where repair, reconstruction, or  
33 improvement of a structure does not increase the ground floor area, and is not a substantial  
34 improvement.

35  
36 ~~((9))~~ (10) Water-dependent utilities and other installations which by their very nature must be in the  
37 floodway. Examples of such uses are: Dams for domestic/industrial water supply, flood control and/or  
38 hydroelectric production; water diversion structures and facilities for water supply, irrigation and/or  
39 fisheries enhancement; flood water and drainage pumping plants and facilities; hydroelectric generating  
40 facilities and appurtenant structures; structural and nonstructural flood damage reduction facilities, and  
41 stream bank stabilization structures and practices. The applicant shall supply convincing evidence that a  
42 floodway location is necessary in view of the objectives of the proposal and that the proposal is  
43 consistent with other provisions of this chapter and the county shoreline management program. In all  
44 instances of locating utilities and other installations in floodway locations, project design must  
45 incorporate floodproofing.

1 ((10)) (11) Dikes, when the applicant can provide clear and convincing evidence that:

2  
3 (a) Adverse effects upon adjacent properties will not result relative to increased floodwater  
4 depths and velocities during the base flood or other more frequent flood occurrences;

5  
6 (b) Natural drainage ways are minimally affected in that their ability to adequately drain  
7 floodwaters after a flooding event is not impaired; and

8  
9 (c) The proposal has been coordinated through the appropriate diking district where applicable,  
10 and that potential adverse effects upon other affected diking districts have been documented.

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12 ((11)) (12) Public works, limited to roads and bridges.

13  
14 Section 5. Severability and Savings. If any section, sentence, clause or phrase of this ordinance  
15 shall be held to be invalid by the Growth Management Hearings Board ("Board"), or unconstitutional by  
16 a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or  
17 constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided, however,  
18 that if any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional  
19 by the Board or court of competent jurisdiction, then the section, sentence, clause or phrase in effect  
20 prior to the effective date of this ordinance shall be in full force and effect for that individual section,  
21 sentence, clause or phrase as if this ordinance had never been adopted.

22  
23 PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

24  
25 SNOHOMISH COUNCIL  
26 Snohomish, Washington

27  
28 \_\_\_\_\_  
29 Council Chairperson

30 ATTEST:

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32 \_\_\_\_\_  
33 Clerk of the Council

34  
35 ( ) APPROVED

36  
37 ( ) EMERGENCY

38  
39 ( ) VETOED

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

41  
42 \_\_\_\_\_  
43 County Executive

44  
45 ATTEST:

1 Approved as to form only:

2  10/19/22

3 \_\_\_\_\_  
4 Deputy Prosecuting Attorney

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Snohomish County

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

FROM: Hilary McGowan, Planner

SUBJECT: Proposed Code Amendments Relating to  
Flood Hazard Areas Code Correction

DATE: May 31, 2022

**Dave Somers**  
*County Executive*

**INTRODUCTION**

The purpose of this memo is to provide information on a draft non-project proposal to re-insert code related to flood hazard areas that was stricken in error in 2020 via Ordinance No. 20-029. The stricken code allowed single-family residences located within floodways to do repairs or improvements that did not increase the ground floor area and were not substantial improvements. Since this code was removed, residential homeowners are unable to do necessary home repairs and reconstruction when their homes are located within floodways, which is beyond the intent of the Ordinance No. 20-029. The proposed code amendment would re-insert the stricken code while maintaining the intent of Ordinance No. 20-029 within Title 30 chapters and complying with the National Flood Insurance Program (NFIP).

**BACKGROUND**

In 2020, Ordinance No. 20-029 adopted flood insurance rate maps and updated special flood hazard regulations in Chapters 30.43C and 30.65 of the Snohomish County Code (SCC). Some of the proposed changes were required for compliance with the NFIP, and others added policies to aid in code clarity. As a part of this ordinance, a general subsection regarding development standards in the floodway was added to SCC 30.65.220, and the provisions related to repair of substantially damaged residences in the floodway was revised within SCC 30.65.220(8). These amendments updated regulations related to the repair or reconstruction of non-farmhouse residences that are substantially damaged during a flood event. The changes were necessary to ensure the County's regulations were consistent with state and federal regulations.

The 2020 changes to SCC 30.65.220 were more specifically a result of the NFIP Flood Damage Prevention Ordinance Washington Model Section 5.4-2 'Residential Construction in Floodways' and RCW 86.16.041. RCW 86.16.041 addresses floodplain management ordinances and amendments for the repair or replacement of existing residential structures (Attachment A). The intent of the NFIP Washington Model 5.4-2 is to prohibit construction or reconstruction of residential structures within designated floodways, except for repairs, reconstruction, or improvements to a residential structure that do not increase the ground floor area. This provision in section 5.4-2 was implemented through the addition of SCC 30.65.220(8), that specifies "Repairs, replacement, or relocation of substantially damaged residences in the floodway, other than farmhouses" can be permitted in floodways when certain criteria are met. SCC 30.65.220(8) includes regulations that specify conditions for repair, replacement, or relocation, but lacks

language that allows for residential improvements for residential structures that are not impacted by flood damage.

This is a problem because as a part of the SCC 30.65.220(8) addition, SCC 30.65.220(9) was removed. Prior to adoption of Ordinance 20-029, the former SCC 30.65.220(9) stated that the following use was allowed in the floodway when permitted by the applicable zone under chapter 30.22 SCC:

*“Repair, reconstruction, or improvement of residential structures, where repair, reconstruction, or improvement of a structure does not increase the ground floor area, and is not a substantial improvement.”*

The likely justification for the removal was that the newly added SCC 30.65.220(8) covered repair and reconstruction and could replace SCC 30.65.220(9). The intent was not to reduce the ability of homeowners to perform repairs when the damage is not due to floods, although that is the impact. There are currently 6,392 homes within the floodway in Unincorporated Snohomish County that are subject to these codes, and potentially negatively impacted by the 2020 changes. PDS staff have reported that applicants are finding this restriction on doing home repairs, such as replacing a roof, to be an issue that could lead to residential homes being unable to make necessary maintenance and improvement to preserve existing housing.

This proposed code amendment seeks to re-insert the language of SCC 30.65.220(9) that was mistakenly removed in Ordinance No. 20-029. Its removal is currently restricting improvement of homes within the floodway. Re-inserting the code provision would not increase development within the floodway, as the provision only applies to existing residential structures, and residential structures in the floodways are still held to the standards in SCC 30.65.220(8) when substantially damaged. Re-inserting the pre-2020 language of SCC 30.65.220(9) allows for residential structures that are not substantially damaged to once again be maintained in a way that does not increase overall ground floor area and is in line with state regulations.

**PROPOSED CODE AMENDMENTS**

<b>TABLE 1: SUMMARY OF PROPOSED CODE CHANGES</b>	
<b>Proposed Language</b>	<b>Finding</b>
<p><b>SCC 30.65.220 Floodways: permitted uses.</b></p> <p>The following uses are allowed in the floodway when permitted by the applicable zone under chapter 30.22 SCC, provided the use is in compliance with the applicable general and specific floodproofing standards of SCC 30.65.110 and 30.65.120, and other applicable provisions of this chapter:</p> <ul style="list-style-type: none"> <li>(1) Agriculture;</li> <li>(2) Forestry, including processing of forest products with portable equipment;</li> <li>(3) Preserves and reservations;</li> <li>(4) Park and recreational activities;</li> </ul>	<p>This amendment would re-insert the original language of SCC 30.65.220(9), which was removed via Ordinance 20-209. The removal of SCC 30.65.220(9) was an error, as it inadvertently prevents repair and reconstruction of residential structures in the floodway that were not damaged by flood. The intent was for the new language within SCC 30.65.220(8) to replace SCC 30.65.220(9), although this does not cover repairs, reconstruction, or improvement of residential structures in cases</p>

<p>(5) Removal of rock, sand and gravel, when the applicant can provide clear and convincing evidence that such uses will not divert flood flows causing channel shift or erosion, accelerate or amplify the flooding of downstream flood hazard areas, increase the flooding threat to upstream flood hazard areas, or in any other way threaten public or private properties. When allowed, such removal shall comply with the provisions of chapter 30.32C SCC and the county shoreline management program;</p> <p>(6) Utility transmission lines when allowed in underlying zones unless otherwise prohibited by this chapter. When the primary purpose of such a transmission line is to transfer bulk products or energy through a floodway en route to another destination, as opposed to serving customers within a floodway, such transmission lines shall conform to the following:</p> <p>(a) All utility transmission lines shall cross floodways by the most direct route feasible as opposed to paralleling floodways;</p> <p>(b) Electric transmission lines shall span the floodway with support towers located in flood fringe areas or beyond. Where floodway areas cannot be spanned due to excessive width, support towers shall be located to avoid high flood water velocity and/or depth areas, and shall be adequately floodproofed;</p> <p>(c) Buried utility transmission lines transporting hazardous materials, including but not limited to crude and refined petroleum products and natural gas, shall be buried a minimum of four feet below the maximum established scour of the waterway, as calculated on the basis of hydrologic analyses. Such burial depth shall be maintained horizontally within the hydraulic floodway to the maximum extent of potential channel migration as determined by hydrologic analyses. In the event potential channel migration extends beyond the hydraulic floodway, conditions imposed upon floodway fringe and special flood hazard areas shall also govern placement. All hydrologic analyses are subject to acceptance by the county, shall assume the conditions of a 100-year frequency flood as verified by the U.S. Army Corps of Engineers, and shall include on-site investigations and consideration of historical meander characteristics in addition to other pertinent facts and data. The use of riprap as a meander containment mechanism within the hydraulic floodway shall be consistent with the county shoreline management program;</p>	<p>where they were not impacted by substantial flood damage.</p> <p>The proposed re-inserted SCC 30.65.220(9) would allow the over 6,000 homes within the floodway in Unincorporated Snohomish County to allow homeowners to do home repairs. Under current code, homeowners are restricted from doing home repairs. The re-insertion of this language is consistent with state and federal regulations.</p>
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(d) Buried utility transmission lines transporting non-hazardous materials including water and sewage shall be buried a minimum of four feet below the maximum established scour of the waterway as calculated on the basis of hydrologic analyses. Such burial depth shall be maintained horizontally within the hydraulic floodway to the maximum extent of potential channel migration as determined by hydrologic analyses. All hydrologic analyses shall conform to requirements in subsection (6)(c) of this section. The use of riprap as a meander containment mechanism within the hydraulic floodway shall be consistent with the county shoreline management program;

(e) Beyond the maximum extent of potential channel migration, utility transmission lines transporting hazardous and non-hazardous materials shall be buried below existing natural and artificial drainage features. Burial depth in all agricultural areas requiring or potentially requiring subsurface drainage shall be a minimum of six feet as measured from ground surface to the top of the transmission line, or at other such depth as deemed necessary by on-site investigations performed by a qualified soils expert familiar with county soils. Burial depth in all other agricultural and non-agricultural floodway areas shall be determined on the basis of accepted engineering practice and in consideration of soil conditions and the need to avoid conflict with agricultural tillage;

(f) All buried utility transmission lines shall achieve sufficient negative buoyancy so that any potential for flotation or upward migration is eliminated;

(g) Above ground utility transmission lines, not including electric transmission lines, shall only be allowed for the transportation of non-hazardous materials where an existing or new bridge or other structure is available and capable of supporting the line. When located on existing or new bridges or other structures with elevations below the level of the 100-year flood, the transmission line shall be placed on the down-stream side and protected from flood debris. In such instances, site specific conditions and flood damage potential shall dictate placement, design and protection throughout the floodway. Applicants must demonstrate that such above ground lines will have no appreciable effect upon flood depth, velocity or passage, and shall be adequately protected from flood damage. If the transmission line is to be buried except at

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the waterway crossing, burial specifications shall be determined as in subsection (6)(d) of this section;

(h) All floodway crossings by utility transmission lines transporting hazardous materials shall be equipped with valves capable of blocking flow within the pipeline in the event of leakage or rupture. All floodway crossings shall have valves unless otherwise indicated by standard engineering review of the site and type of transmission line as acceptable to the county with locations determined by other provisions of this chapter;

(i) Above ground utility transmission line appurtenant structures including valves, pumping stations, or other control facilities shall not be permitted in the floodway; and

(j) Where a floodway has not been determined by preliminary Corps of Engineers' investigations or official designation, a floodway shall be defined by qualified engineering work by the applicant on the basis of a verified 100-year flood event.

(7) Repairs, reconstruction, replacement, or improvements to existing farmhouse structures which are located on lands designated as agricultural lands of long-term commercial significance under RCW 36.70A.170, subject to the following:

(a) The new farmhouse is a replacement for an existing farmhouse on the same farm site;

(b) There is no potential building site for a replacement farmhouse on the same farm outside the designated floodway;

(c) The farmhouse being replaced shall be removed, in its entirety, including foundation, from the floodway within 90 days after occupancy of the new farmhouse;

(d) For substantial improvements, and replacement farmhouses, the elevation of the lowest floor of the improvement and farmhouse respectively, including basement, is one foot higher than the base flood elevation;

(e) New and replacement water supply systems, are designed to eliminate or minimize infiltration of flood waters into the system;

(f) New and replacement sanitary sewerage systems are designed and located to eliminate or minimize

<p>infiltration of flood waters into the system and discharge from the system into the flood waters;</p> <p>(g) All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage;</p> <p>(h) The replacement farmhouse shall not exceed the total square footage of encroachment of the structure which it is replacing; and</p> <p>(i) Repairs, reconstruction, or improvements to a farmhouse shall not increase the total square footage of encroachment of the existing farmhouse.</p> <p>(8) Repairs, replacement, or relocation of substantially damaged residences in the floodway, other than farmhouses, are subject to the following:</p> <p>(a) When residences other than farmhouses are substantially damaged in the floodway, the floodplain administrator may make a written request to the Department of Ecology under RCW 86.16.041(4) to assess the risk of harm to life and property posed by the specific conditions of the floodway. Based on analysis of depth, velocity, flood-related erosion, channel migration, debris load potential, and flood warning capability, the Department of Ecology may exercise best professional judgment in recommending to the floodplain administrator authority to permit repair, replacement, or relocation of the substantially damaged structure. The property owner shall submit any information necessary to complete the assessment to the county and the Department of Ecology. Without a favorable recommendation from the Department of Ecology for the repair or replacement of a substantially damaged residential structure located in the regulatory floodway, no repair or replacement is allowed under WAC 173-158-076(1).</p> <p>(b) Before the repair, replacement, or relocation is started, all applicable requirements of the National Flood Insurance Program, chapter 86.16 RCW, chapter 30.43C SCC, and this chapter must be satisfied. In addition, the following conditions must be met:</p> <p>(i) There is no potential building location for the replacement residential structure on the same property outside the regulatory floodway;</p>	
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- (ii) The replacement residential structure is equivalent in use and size to the substantially damaged residential structure;
- (iii) The structure being repaired, replaced, or reconstructed was legally constructed;
- (iv) Repairs, reconstruction, or replacement do not result in an increase of the total square footage of floodway encroachment;
- (v) The elevation of the lowest floor of the substantially damaged or replacement residential structure is a minimum of one foot higher than the base flood elevation;
- (vi) New and replacement water supply systems are designed to eliminate or minimize infiltration of floodwater into the system;
- (vii) New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of floodwater into the system and discharge from the system into the floodwaters; and
- (viii) All other utilities and connections to public utilities are elevated a minimum of one foot above the base flood elevation and are designed, constructed, and located to eliminate or minimize flood damage.

(9) Repair, reconstruction, or improvement of residential structures, where repair, reconstruction, or improvement of a structure does not increase the ground floor area, and is not a substantial improvement.

~~(9)~~(10) Water-dependent utilities and other installations which by their very nature must be in the floodway. Examples of such uses are: Dams for domestic/industrial water supply, flood control and/or hydroelectric production; water diversion structures and facilities for water supply, irrigation and/or fisheries enhancement; flood water and drainage pumping plants and facilities; hydroelectric generating facilities and appurtenant structures; structural and nonstructural flood damage reduction facilities, and stream bank stabilization structures and practices. The applicant shall supply convincing evidence that a floodway location is necessary in view of the objectives of the proposal and that the proposal is consistent with other provisions of this chapter and the county shoreline management program. In all instances of locating utilities and

<p>other installations in floodway locations, project design must incorporate floodproofing.</p> <p><del>(10)</del>(11) Dikes, when the applicant can provide clear and convincing evidence that:</p> <ul style="list-style-type: none"><li>(a) Adverse effects upon adjacent properties will not result relative to increased floodwater depths and velocities during the base flood or other more frequent flood occurrences;</li><li>(b) Natural drainage ways are minimally affected in that their ability to adequately drain floodwaters after a flooding event is not impaired; and</li><li>(c) The proposal has been coordinated through the appropriate diking district where applicable, and that potential adverse effects upon other affected diking districts have been documented.</li></ul> <p><del>(11)</del>(12) Public works, limited to roads and bridges.</p>	
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**ANALYSIS**

The following analysis provides a summary of the proposed code amendments compliance with state law, regional, and countywide planning policies, and county comprehensive plan policies.

**Compliance with State Law**

The Growth Management Act (GMA) contains planning goals, contained in RCW 36.70A.020, which guide the development of local comprehensive plans and development regulations. The following planning goal applies to the proposed code change:

*GMA Goal 4 – Housing. Plan for and accommodate housing affordable to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.*

Analysis: The proposed amendments would support the housing goal, as it would allow homeowners to preserve their existing homes through repair and reconstruction. This permitted work would not negatively impact the environment because the home could not be substantially improved or expanded.

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

The proposed amendments are consistent with the following multicounty planning policy (MPP) from the Puget Sound Regional Council VISION 2050:

*MPP-H-3 – Achieve and sustain – through preservation, rehabilitation, and new development – a sufficient supply of housing to meet the needs of low-income, moderate-income, middle-income, and special needs individuals and households that is equitably and rationally distributed throughout the region.*



Analysis: The proposed changes would support the preservation and rehabilitation efforts of this housing goal. Existing residential housing in the floodway can be preserved with this code correction allowing for the current applicable housing supply to be maintained in these areas.

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

Analysis: The proposed changes would support development that minimizes impacts to natural features through restricting major improvements or ground floor area of on-going housing maintenance.

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

The proposed amendments are consistent with the following countywide planning policy (CPP):

*HO-6 The county and cities should implement policies and programs that encourage the rehabilitation and preservation of existing legally established, affordable housing for residents of all income levels, including but not limited to mobile/manufactured housing and single-room occupancy (SRO) housing.*

Analysis: The proposed code amendment would encourage the rehabilitation and preservation of existing housing supply in the floodway. Existing housing in the floodway that is deemed affordable would further be preserved.

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

The proposed amendments would be consistent with and help implement the Snohomish County Growth Management Act Comprehensive Plan (GMACP) – General Policy Plan (GPP). The following policy applies to the code amendments as proposed in this report.

*HO Policies 2.A.2 The county shall continue programs to repair and maintain existing housing in neighborhoods to reduce blight and deterioration and preserve and enhance the housing stock .*

Analysis: The proposed changes would allow homeowners to maintain and repair their existing housing in floodways, with restrictions on not impacting the floodway through increased development footprints.

### **Environmental Review**

Staff has completed a SEPA checklist for this proposed code amendment and will be issuing a Determination of Nonsignificance on June 8, 2022. The fourteen-day public comment period will conclude prior to the Planning Commission briefing on June 28, 2022.

### **Notification of State Agencies**

Pursuant to RCW 36.70A.106, a notice of intent to adopt the proposed regulations and standards will be transmitted to the Washington State Department of Commerce in 2022.

### **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: David Killingstad, PDS Manager  
Michael Dobesh, PDS Manager

## ATTACHMENTS

## ATTACHMENT A

### Excerpt from: National Flood Insurance Program Flood Damage Prevention Ordinance Washington Model (Revised 12/09/2019)

#### 5.4-2 Residential Construction in Floodways

Construction or reconstruction of residential structures is prohibited within designated floodways, except for (i) repairs, reconstruction, or improvements to a structure that do not increase the ground floor area; and (ii) repairs, reconstruction, or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either, (A) before the repair or reconstruction is started, or (B) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded in the 50 percent.

- 1) Repairs, reconstruction, replacement, or improvements to existing farmhouse structures located in designated floodways and that are located on lands designated as agricultural lands of long-term commercial significance under RCW 36.70A.170 may be permitted subject to the following:
  - a) The new farmhouse is a replacement for an existing farmhouse on the same farm site;
  - b) There is no potential building site for a replacement farmhouse on the same farm outside the designated floodway;
  - c) Repairs, reconstruction, or improvements to a farmhouse shall not increase the total square footage of encroachment of the existing farmhouse;
  - d) A replacement farmhouse shall not exceed the total square footage of encroachment of the farmhouse it is replacing;
  - e) A farmhouse being replaced shall be removed, in its entirety, including foundation, from the floodway within ninety days after occupancy of a new farmhouse;
  - f) For substantial improvements and replacement farmhouses, the elevation of the lowest floor of the improvement and farmhouse respectively, including basement, is a minimum of one foot higher than the BFE;
  - g) New and replacement water supply systems are designed to eliminate or minimize infiltration of flood waters into the system;
  - h) New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the flood waters; and
  - i) All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

#### 2) Substantially Damaged Residences in Floodway

- a) For all substantially damaged residential structures, other than farmhouses, located in a designated floodway, the Floodplain Administrator may make a written request that the Department of Ecology assess the risk of harm to life and property posed by the specific conditions of the floodway. Based on analysis of depth, velocity, flood-related erosion, channel migration, debris load potential, and flood warning capability, the Department of Ecology may exercise best professional judgment in recommending to the local permitting authority repair, replacement, or relocation of a substantially

## Flood Hazard Improvements

Index # - File Name: 1.0006\_WA Model Ordinance 2019\_12092019.pdf

damaged structure consistent with WAC 173-158-076. The property owner shall be responsible for submitting to the local government and the Department of Ecology any information DFIRM Index # - File Name: 1.0006\_WA Model Ordinance 2019\_12092019.pdf necessary to complete the assessment. Without a favorable recommendation from the department for the repair or replacement of a substantially damaged residential structure located in the regulatory floodway, no repair or replacement is allowed per WAC 173-158- 070(1).

- b) Before the repair, replacement, or reconstruction is started, all requirements of the NFIP, the state requirements adopted pursuant to 86.16 RCW, and all applicable local regulations must be satisfied. In addition, the following conditions must be met:
  - i) There is no potential safe building location for the replacement residential structure on the same property outside the regulatory floodway.
  - ii) A replacement residential structure is a residential structure built as a substitute for a legally existing residential structure of equivalent use and size.
  - iii) Repairs, reconstruction, or replacement of a residential structure shall not increase the total square footage of floodway encroachment.
  - iv) The elevation of the lowest floor of the substantially damaged or replacement residential structure is a minimum of one foot higher than the BFE.
  - v) New and replacement water supply systems are designed to eliminate or minimize infiltration of flood water into the system.
  - vi) New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the flood waters.
  - vii) All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.



**SNOHOMISH COUNTY PLANNING COMMISSION**

August 10, 2022

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

SUBJECT: Planning Commission recommendation on proposed code amendments to  
Flood Hazard Areas Code Correction

Dear Snohomish County Council:

On behalf of the Snohomish County Planning Commission, I am forwarding our recommendation to amend Snohomish County Code (SCC) 30.65.220 relating to flood hazard areas. The Planning Commission had a briefing on this topic on June 28, 2022 and conducted a public hearing on July 26, 2022.

The proposed code amendments would correct an error in a 2020 Ordinance, code that allowed single-family residences located within floodways to do repairs or improvements that did not increase the ground floor area and were not substantial improvements was stricken. Since this code was removed, residential homeowners are unable to do necessary home repairs and reconstruction when their homes are located within floodways. The proposed code amendment would re-insert the stricken code while maintaining the intent of Ordinance No. 20-029 within Title 30 chapters and complying with the National Flood Insurance Program (NFIP).

There were no written comments received by the Planning Commission from the public prior to the July 26th hearing, and no members of the public commented at the public hearing.

**PLANNING COMMISSION RECOMMENDATION**

At the July 26, 2022 Planning Commission meeting, Commissioner Norcott made a motion, seconded by Commissioner Campbell, recommending APPROVAL of the proposed code amendments relating to Flood Hazard Areas Code Correction as submitted by staff.

**Vote (Amendment):**

10 in favor (*Ash, Brown, Campbell, Eck, Everett, James, Larsen, Norcott, Pederson, Sheldon*)

0 opposed

0 abstentions

**Amendment 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 May 31, 2022 staff report, with which the Commission concurred.

During the deliberations, there were questions from the commissioners about defining substantial development, farmhouse exemptions, allowable improvements, and the level of impact due to the oversight in the 2020 Flood Maps ordinance.

## Flood Hazard Improvements

Index # - File Name:

Planning Commission Recommendation Letter  
Code Amendments to Chapter 30.65 SCC  
August 5, 2022

Respectfully submitted,



[Robert Larsen \(Aug 11, 2022 10:08 PDT\)](#)

SNOHOMISH COUNTY PLANNING COMMISSION  
Robert Larsen, Chairman

cc: Dave Somers, Snohomish County Executive  
Mike McCrary, Director, Planning and Development Services

Executive/Council Action Form (ECAF)

**ITEM TITLE:**

**..Title**

Ordinance 22-065, relating to growth management; amending SCC 30.65.220 pertaining to permitted uses in floodways

**..body**

**DEPARTMENT:** Snohomish County Planning and Development Services

**ORIGINATOR:** Hilary McGowan

**EXECUTIVE RECOMMENDATION:** Approved by Ken Klein 11/01/22

**PURPOSE:** This ordinance adopts amendments to Snohomish County Code relating to flood hazard code correction.

**BACKGROUND:** This ordinance would amend SCC 30.65.220 to re-insert code related to the repair, reconstruction, and improvement of residential structures in flood hazard areas that was deleted in error by Ordinance No. 20-076.

**FISCAL IMPLICATIONS:**

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

REVENUE: 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 DPA Kasting.  
 Reviewed/approved by Finance – Nathan Kennedy 11/01/22



**ANALYSIS OF BUILDING AND LAND USE REGULATION EFFECTS ON HOUSING AND JOBS**

**Title** Ordinance No. 22-065, RELATING TO THE GROWTH MANAGEMENT; AMENDING SCC 30.65.220 PERTAINING TO PERMITTED USES IN FLOODWAYS.

**Description** Proposed Ordinance 22-065 would re-insert code related to flood hazard areas that was stricken in error in 2020 via Ordinance No. 20-076. The stricken code allowed single-family residences located with floodways to do repairs or improvements that did not increase the ground floor area and were not substantial improvements. Re-inserting the code maintains the intent of Ordinance No. 20-076 within Title 30 chapters and complies with the National Flood Insurance Program.

**Date:** December 15, 2022

**Staff Contact:** Hilary McGowan, Planner, [hilary.mcgowan@snoco.org](mailto:hilary.mcgowan@snoco.org)

	Place an "X" in the appropriate box				Comments
	Increase	Decrease	Neutral	Uncertain	
<b>Housing</b>					
Capacity/Targets			x		
Cost of Housing Development:					The cost of housing is not impacted by this code amendment, however the re-inserted code would allow for housing repairs and improvements in the floodway.
• Infrastructure			x		
• Site			x		
• Building const.			x		
• Fees			x		
• Yield			x		
Timing			x		
<b>Jobs</b>					
Capacity/Targets			x		
Cost of Commercial or Industrial Development:			x		
• Infrastructure			x		
• Site			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.*

• Building const.			x		
• Fees			x		
• Yield			x		
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. 22-065, RELATING TO THE GROWTH MANAGEMENT; AMENDING SCC 30.65.220 PERTAINING TO PERMITTED USES IN FLOODWAYS.

**Description** Proposed Ordinance 22-065 would re-insert code related to flood hazard areas that was stricken in error in 2020 via Ordinance No. 20-076. The stricken code allowed single-family residences located with floodways to do repairs or improvements that did not increase the ground floor area and were not substantial improvements. Re-inserting the code maintains the intent of Ordinance No. 20-076 within Title 30 chapters and complies with the National Flood Insurance Program.

**Date:** December 15, 2022

**Staff Contact:** Hilary McGowan, Planner, [hilary.mcgowan@snoco.org](mailto:hilary.mcgowan@snoco.org)

	Place an "X" in the appropriate box			Comments
	Increase	Decrease	Neutral	
<b>County Provided</b>				
• Airport			x	
• General Government			x	
• Law and Justice			x	
• Parks			x	
• Roads			x	
• Solid Waste			x	
• Surface Water			x	The proposed only allow for repairs and improvements that do not increase the ground floor area and are not substantial improvements.
<b>Non-County Provided</b>				
• Electric Power			x	
• Fire Suppression			x	
• Public Water Supply			x	
• Sanitary Sewer			x	
• Telecommunications			x	

*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. 22-065, RELATING TO THE GROWTH MANAGEMENT; AMENDING SCC 30.65.220 PERTAINING TO PERMITTED USES IN FLOODWAYS.

**Description** Proposed Ordinance 22-065 would re-insert code related to flood hazard areas that was stricken in error in 2020 via Ordinance No. 20-076. The stricken code allowed single-family residences located with floodways to do repairs or improvements that did not increase the ground floor area and were not substantial improvements. Re-inserting the code maintains the intent of Ordinance No. 20-076 within Title 30 chapters and complies with the National Flood Insurance Program.

**Date:** December 15, 2022

**Staff Contact:** Hilary McGowan, Planner, [hilary.mcgowan@snoco.org](mailto:hilary.mcgowan@snoco.org)

## LID Evaluation:

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	

<b>Minimal disruption of native soils</b>			X	
<b>Preservation of natural drainage</b>			X	
<b>Minimization of impervious surface area</b>			X	

ECAF NO.:  
ECAF RECEIVED:

**SNOHOMISH COUNTY COUNCIL**

**ORDINANCE  
INTRODUCTION SLIP**

**EXHIBIT #** 3.1.006

**FILE** ORD 22-065

TO: Clerk of the Council

TITLE OF PROPOSED ORDINANCE:

~~~~~

N. Nehring  
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. Nehring  
Committee Chair



## Snohomish County Council

SNOHOMISH COUNTY COUNCIL

EXHIBIT # 3.2.001

FILE ORD 22-065

**Committee:** Planning & Community Development      **Analyst:** Ryan Countryman  
**ECAF:** 2022-1149  
**Proposal:** Ordinance 22-065      **Date:** December 6, 2022

### Consideration

Proposed Ordinance 22-065 would amend Snohomish County Code (SCC) 30.65.220 pertaining to permitted uses in floodways.

### Background and Analysis

SCC 30.65.220 includes provisions for uses allowed in floodways known as special flood hazard areas. County code limits uses in these areas for the purpose of protecting “public health, safety and welfare in those areas subject to periodic inundation due to flooding, and to minimize losses due to flood conditions”.<sup>1</sup>

In 2020, amendments to SCC 30.65.220 in Ordinance 20-076 unintentionally deleted a provision allowed for

Repair, reconstruction, or improvement of residential structures, where repair, reconstruction, or improvement of a structure does not increase the ground floor area, and is not a substantial improvement.

Deletion of the above language potentially affects over 6,000 homes in the floodway, creating an unintentional prohibition of repairs, reconstruction, and other improvements.

Ordinance 22-065 would re-adopt the provision that Ordinance 20-076 unintentionally deleted. This would allow the repair, reconstruction, and improvement of existing homes in the floodway, provided that such work does not meet the definition of a substantial improvement.<sup>2</sup>

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<sup>1</sup> SCC 30.65.010.

<sup>2</sup> SCC 30.91S.750 defines substantial improvement and includes several qualifications. The important part here is the opening. This provides for “any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the structure’s market value before the ‘start of construction.’”

**Current Proposal**

*Summary:* Ordinance 22-065 would re-adopt an unintentionally deleted provision in SCC 30.65.220.

*Fiscal Implications:* None

**Handling:** NORMAL

**Finance:** APPROVE

**Executive Recommendation:** APPROVE

**Request:** Move to General Legislative Session on December 14 to set time and date for a public hearing.



# Proposed Code Amendments Relating to Flood Hazard Areas Code Correction

Snohomish County Council: Planning Committee

December 5, 2022

Hilary McGowan, Planner



# Summary of Proposed Changes

- Re-insert code that was mistakenly removed in 2020 in SCC 30.65.220
- Re-inserted code would allow single-family residences within floodways to do repairs or improvements that do not increase ground floor area and are not substantial improvements

SCC Section  
Headings

SCC 30.65  
Special Flood Hazard  
Areas

SCC 30.65.220  
Floodways: Permitted  
Uses

# Proposed Code Amendment

Re-insert the language of SCC 30.65.220(9):

“Repair, reconstruction, or improvement of residential structures, where repair, reconstruction, or improvement of a structure does not increase the ground floor area, and is not a substantial improvement.”





Questions?

EXHIBIT 3.2.003

Planning and Community Development Committee Meeting Minutes –  
12/06/22

[Minutes](#) and [Video](#)