

1 Adopted:
2 Effective:

3 SNOHOMISH COUNTY COUNCIL
4 Snohomish County, Washington

5
6 ORDINANCE NO. 21-106
7

8 RELATING TO GROWTH MANAGEMENT; AMENDING DEVELOPMENT REGULATIONS IN
9 CHAPTERS 30.24 AND 30.41 SCC PERTAINING TO ROADS AND ACCESS
10

11 WHEREAS, the Growth Management Act, chapter 36.70 RCW (GMA), requires Snohomish
12 County (the “County”) to both encourage efficient transportation systems that are coordinated with the
13 County’s comprehensive plan and to ensure that permits are processed in a timely and fair manner; and
14

15 WHEREAS, the Snohomish County GMA Comprehensive Plan (GMACP) – General Policy Plan
16 (GPP) directs the County to maintain adequate access within developments for emergency service and
17 public transportation vehicles, establish rural infrastructure standards that are consistent with appropriate
18 rural development patterns, and have development codes that are predictable and flexible to facilitate the
19 growth of the local economy; and
20

21 WHEREAS, the Snohomish County Code (SCC) section 30.24.050 establishes the access and
22 road network requirements to a proposed subdivision, short subdivision, binding site plan, or single-
23 family detached unit development (SFDU) in the urban area; and
24

25 WHEREAS, SCC 30.24.055 establishes the access and road network requirements to individual
26 lots within a proposed subdivision, short subdivision, or binding site plan development or to proposed
27 SFDU units; and
28

29 WHEREAS, private road network elements to proposed subdivisions, short subdivisions, binding
30 site plans, or SFDUs and individual lots within the urban area may be requested only through a variance
31 which can add considerable time, cost, and uncertainty to a residential project; and
32

33 WHEREAS, the decision to make a road private or public is typically within the purview of the
34 County Engineer, although currently SCC 30.24.050 and SCC 30.24.055 require PDS staff to decide if a
35 road may be private through the administrative variance process; and
36

37 WHEREAS, SCC 30.24.100 establishes the fire lane fire apparatus access road requirements; and
38

39 WHEREAS, current fire lane regulations allow for a pedestrian facility on one side of a drive
40 aisle or shared court to be included as part of the minimum driving surface width of a fire lane. This can
41 impede emergency service access when obstructions are placed in the pedestrian facility and does not
42 align with the County’s Engineering Design and Development Standards (EDDS); and
43

44 WHEREAS, SCC 30.41C.080 establishes the site design standards for roads, gates, and
45 pedestrian pathways for rural cluster subdivisions and short subdivisions, including the requirement that
46 pedestrian facilities be physically separate from vehicular roadways; and

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1
2 WHEREAS, the current rural cluster subdivision and short subdivision regulations do not provide
3 for flexibility in allowing pedestrian facilities currently available within the EDDS for rural non-arterial
4 roads; and
5

6 WHEREAS, the Snohomish County Planning Commission held a public hearing on November
7 16, 2021, to receive public testimony concerning the code amendments contained in this ordinance, and
8 voted to recommend amendments to the County Code relating to roads and access as shown in the
9 recommendation letter dated November 17, 2021; and
10

11 WHEREAS, on _____, 2022, the Snohomish County Council ("County Council")
12 held a public hearing after proper notice, and considered public comment and the entire record related to
13 the code amendments contained in this ordinance; and
14

15 WHEREAS, following the public hearing, the County Council deliberated on the code
16 amendments contained in this ordinance.
17

18 NOW, THEREFORE, BE IT ORDAINED:
19

20 Section 1. The County Council adopts the following findings in support of this ordinance:
21

22 A. The foregoing recitals are adopted as findings as if set forth in full herein.
23

24 B. This ordinance amends chapter 30.24 SCC in the following manner:
25

- 26 1. This ordinance amends SCC 30.24.050 to allow the County Engineer to determine whether a
27 public or private road may provide access to a proposed subdivision, short subdivision, binding
28 site plan development, or SFDU in the urban area. The proposed amendment removes the
29 requirement to that an applicant seek a variance if it proposes a private road instead of a public
30 road.
31
- 32 2. This ordinance amends SCC 30.24.055 to allow the County Engineer to determine the type of
33 roadway required to serve individual lots, tracts, or easements within a proposed subdivision or
34 short subdivision. The proposed amendment removes the requirement to seek a variance if an
35 applicant proposes a private road network element instead of a public road to serve individual
36 lots, tracts, or easements within a proposed subdivision and short subdivision in the urban area.
37
- 38 3. This ordinance amends SCC 30.24.055 to also allow private roads to provide access to individual
39 dwelling units within a unit lot subdivision or short subdivision and clarifies that drive aisles may
40 also be utilized to provide access.
41
- 42 4. This ordinance amends SCC 30.24.100 to require that a drive aisle or shared court have a
43 minimum driving surface width of 20 feet, excluding the width of any pedestrian facility to meet
44 fire lane requirements. This code amendment would align the County Code with the EDDS which
45 excludes pedestrian facilities from being used to meet fire lane requirements.
46

1 C. This ordinance amends SCC 30.41C.080 to remove the specific requirement to provide physically
2 separated pedestrian facilities in rural cluster subdivisions and short subdivisions and adds language
3 that the pedestrian facilities shall be designed in accordance with the EDDS.
4

5 D. In developing the proposed amendments, the County considered the GMA goals related to
6 transportation. In particular, the proposed amendments are consistent with and promote:
7

8 GMA Goal 3 – “Transportation. Encourage efficient multimodal transportation systems that are
9 based on regional priorities and coordinated with county and city comprehensive plans.”
10

11 The proposed code amendments for roads and access regulations are aligned with the County’s
12 GMACP to promote flexibility within development regulations and provide for public safety. Access
13 for fire apparatus is important for public health and safety, and this code amendment which excludes
14 pedestrian facilities from the required fire lane width, where various obstructions may be located,
15 helps to promote public safety.
16

17 GMA Goal 7 – “Permits. Applications for both state and local permits should be processed in a
18 timely and fair manner to ensure predictability”
19

20 The proposed code amendment to remove the requirement to seek a variance for a proposed private
21 road network element is supportive of this goal to promote timely and fair review of permit
22 applications. This proposed change allows the County Engineer, who is considered the final authority
23 on decisions concerning county roads, to decide whether a proposed private road network element
24 within or to a subdivision and short subdivision meets applicable standards. This proposed code
25 amendment is consistent with this GMA planning goal.
26

27 E. The proposed amendments will better achieve, comply with, and implement goals and policies from
28 the Puget Sound Regional Council’s Vision 2050 Multicounty Planning Policies (MPPs), including
29 the following Housing Policy:
30

31 MPP-H-10 “Encourage jurisdictions to review and streamline development standards and
32 regulations to advance their public benefit, provide flexibility, and minimize additional costs to
33 housing.”
34

35 The proposed amendments would promote flexibility in development standards and regulations by
36 authorizing the County Engineer to review and approve a proposed private road network element to
37 and within subdivisions and short subdivisions in accordance with chapter 30.66B SCC. These
38 proposed amendments to remove the requirement for a variance request when a private road network
39 element is proposed would likely result in reduced costs and permit review times. The proposed
40 changes will authorize the County Engineer to determine if a private road or drive aisle meets public
41 health, safety, and welfare requirements for access to developments or individual dwelling units
42 within a development, or if a public road is required.
43

44 F. The proposed amendments will better achieve, comply with, and implement the goals, objectives, and
45 policies contained in the Countywide Planning Policies, including the following Housing Policy:
46

1 HO-11 “The county and cities should consider the economic implications of proposed building
2 and land use regulations, so that the broader public benefit they serve is achieved with the least
3 additional cost to housing.”
4

5 The proposed code amendments will promote flexibility in development standards and regulations by
6 authorizing the County Engineer to review and approve a proposed private road network to
7 subdivisions and short subdivisions in accordance with chapter 30.66 SCCB. This proposed
8 amendment to remove the requirement for a variance request when a private road network is proposed
9 will likely result in reduced costs and permit review times. Additionally, the proposed change would
10 authorize the County Engineer to determine if a private road or drive aisle meets public health, safety,
11 and welfare for access to a development, or individual dwelling units within a development, or if a
12 public road is required.
13

- 14 G. The proposed amendments will better achieve, comply with, and implement the following goals,
15 objectives, and policies contained in the County’s GMACP, including the following GPP goals,
16 objectives, and policies:
17

18 Goal HO 3 “Land use policies and regulations should contribute as little as possible to the cost of
19 housing.”
20

21 Objective HO 3.A- “Encourage land use practices, development standards, and building permit
22 requirements that reduce housing production costs.”
23

24 The proposed code amendments include greater flexibility for design of pedestrian facilities within
25 rural subdivisions and additionally the reduction of regulatory costs and barriers by removing the
26 requirement for a variance.
27

28 TR Policy 1.C.2 – “Adequate access to and circulation within all developments shall be
29 maintained for emergency service and public transportation vehicles.”
30

31 The proposed code amendments to SCC 30.24.100 to remove inclusion of pedestrian facilities for a
32 fire lane will improve access for fire apparatus and public safety.
33

34 TR Policy 1.D.1 – “A private road or access way shall not be permitted where a public road is
35 required to meet public road access and circulation standards.”
36

37 The proposed code amendments authorize the County Engineer to determine when a private road
38 network element to or within a subdivision or short subdivision meets applicable regulations.
39 Additionally, the code amendments specifically allow a private road or drive aisle to provide access
40 to individual dwelling units within a unit lot subdivision and unit lot short subdivision unless the
41 County Engineer determines that a public road is required.
42

43 LU Policy 6.A.2 – “Establish rural infrastructure standards that are consistent with appropriate
44 rural development patterns and densities.”
45

1 The proposed code amendment to SCC 30.41C.080 allows for flexibility in design of pedestrian
2 facilities for rural cluster subdivisions. This change will help facilitate consistency with rural
3 infrastructure standards.

4
5 Goal ED 2 – “Provide a planning and regulatory environment which facilitates growth of the local
6 economy.”

7
8 Objective ED 2.A - “Develop and maintain a regulatory system that is fair, understandable,
9 coordinated and timely.”

10
11 ED Policy 2.A.1 - “Snohomish County shall work to ensure that the Snohomish County Code is
12 an understandable, accessible, and user friendly document.”

13
14 ED Policy 2.A.2 - “Snohomish County should stress predictability but maintain enough flexibility
15 in the Comprehensive Plan and development codes to allow for timely response to unanticipated
16 and desirable developments.”

17
18 The proposed code amendments will provide greater flexibility for the provision of access roads for
19 subdivisions, short subdivisions, and unit lot subdivisions and also pedestrian facilities for rural
20 cluster subdivisions. This flexibility is similar to what is allowed for other types of land use
21 applications.

22 23 H. Procedural requirements.

- 24
- 25 1. State Environmental Policy Act (SEPA), chapter 43.21C RCW, requirements with respect to this
26 non-project action have been satisfied through the completion of an environmental checklist and
27 the issuance of a determination of non-significance on October 6, 2021.
 - 28
29 2. The proposal is a Type 3 legislative action pursuant to SCC 30.73.010.
 - 30
31 3. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance was transmitted to the
32 Washington State Department of Commerce on October 6, 2021.
 - 33
34 4. The public participation process used in the adoption of this ordinance complies with all
35 applicable requirements of the GMA and the SCC, including but not limited to, RCW
36 36.70A.035, RCW 36.70A.140, and chapter 30.73 SCC.
 - 37
38 5. The Washington State Attorney General last issued an advisory memorandum, as required by
39 RCW 36.70A.370, in September of 2018 entitled “Advisory Memorandum: Avoiding
40 Unconstitutional Takings of Private Property” to help local governments avoid the
41 unconstitutional taking of private property. The process outlined in the State Attorney General’s
42 2018 advisory memorandum was used by Snohomish County in objectively evaluating the
43 regulatory changes proposed by this ordinance.

44 45 I. This ordinance is consistent with the record.

1. Existing regulations allow for the inclusion of a pedestrian facility on one side of a drive aisle or shared court to be included as part of the minimum 20-foot driving surface width necessary to be classified as a fire lane. County fire officials have encountered objects placed in or on pedestrian facilities such as sidewalks that block or impede fire access. These objects often include garbage cans and portable basketball hoops which impede access for fire vehicles when the sidewalk width is included in the fire lane width. Consistent with the EDDS, he proposed amendment will prohibit pedestrian facilities being used to meet the minimum driving surface width to qualify as a fire lane.
2. Existing code language in SCC 30.24.050 states access to a subdivision, short subdivision, binding site plan development, or SFDU in urban areas shall be provided by a public road unless a variance is approved to allow a private road. The requirement to seek a variance for a proposed private road can add considerable time, cost, and uncertainty to a residential project. The proposed code amendments authorize the County Engineer to determine if a proposed private road meets public health, safety, and welfare and would not negatively impact connectivity needs of the public road system. The proposed amendments remove the need for an applicant to seek a variance. Allowing this decision to be made by the County Engineer will help to expedite permit review for subdivisions, short subdivisions, binding site plan development, and SFDUs in urban areas.
3. Existing code language in SCC 30.24.055 requires access to individual lots, tracts, or easements within urban subdivisions to be by a public road unless a variance is requested by the applicant. Code amendments would specifically allow a private road or drive aisle for access to individual dwelling units within a unit lot subdivision or unit lot short subdivision in urban areas unless the County Engineer determines that a public road is required.
4. The standards for road design in a rural cluster subdivision or short subdivision require pedestrian facilities to be physically separated from the vehicular roadway. This requirement for a specific design for pedestrian facilities in rural cluster subdivisions and short subdivisions does not provide any flexibility. This code amendment proposes to remove this specific design requirement and add language that the pedestrian facilities shall be designed in accordance with the EDDS. The EDDS establish the construction standard for building roads and is the more appropriate place to define pedestrian facilities required in rural cluster subdivisions and short subdivisions.

J. The proposed amendments are consistent with the PDS Staff Report to the Planning Commission dated September 27, 2021.

Section 2. The County Council makes the following conclusions:

- A. The amendments proposed by this ordinance comply with the GMA.
- B. The amendments proposed by this ordinance are consistent with the GMACP.
- C. The County has complied with all SEPA requirements in respect to this non-project action.

1 D. The public participation process used in the adoption of this ordinance complies with all applicable
2 requirements of the GMA and title 30 SCC.

3
4 E. The amendments proposed by this ordinance do not result in an unconstitutional taking of private
5 property for a public purpose.
6

7 Section 3. The Snohomish County Council bases its findings and conclusions on the entire record
8 of the County Council, including all testimony and exhibits. Any finding, which should be deemed a
9 conclusion, and any conclusion which should be deemed a finding, is hereby adopted as such.
10

11 Section 4. Snohomish County Code Section 30.24.050, added by Amended Ordinance No. 12-
12 049 on October 3, 2012, is amended to read:
13

14 **30.24.050 Access and road network requirements to a proposed subdivision, short subdivision,**
15 **binding site plan, or single-family detached unit development (SFDU).**
16

17 Access to a proposed subdivision, short subdivision or binding site plan development or to a proposed
18 SFDU shall meet the requirements of this section.
19

20 (1) Access to a proposed subdivision, short subdivision, or binding site plan development or to a
21 proposed SFDU in the urban area shall be provided by a public road, except a private road (~~((network~~
22 ~~element may be requested as a variance pursuant to chapter 30.43B SCC if unique circumstances of the~~
23 ~~site, such as topography, the surrounding road network, soils, hydrology or maintenance requirements~~
24 ~~make the extension of the public road to the development impractical or infeasible))~~ may be allowed by
25 the county engineer under chapter 30.66B SCC unless the county engineer determines that a public road
26 is required to provide for the public health, safety and welfare or connectivity of the public road system.
27

28 (2) Access to a proposed subdivision, short subdivision, or binding site plan development in the rural
29 area may be provided by a private road network element as provided for in this chapter, except when the
30 county engineer, in accordance with chapter 30.66B SCC, determines that a public road is required to
31 provide for the public health, safety and welfare or connectivity of the public road system.
32

33 (3) Where access by an existing private road network element is permitted, the existing private road
34 network element shall be constructed to a standard acceptable to the county engineer. The standard set by
35 the county engineer shall be based upon existing and the anticipated traffic volumes generated by the
36 proposed development.
37

38 (4) Where access by a private road network element is permitted, and the proposed private road network
39 element has the potential for serving more than nine lots or 90 average daily trips, the county engineer
40 may require that the road be designed to enable future conversion to a public road. The land use approval
41 shall, to the extent possible, include a condition that the conversion to a public road may not be protested.
42
43
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Section 5. Snohomish County Code Section 30.24.055, last amended by Amended Ordinance No. 17-062 on October 18, 2017, is amended to read:

30.24.055 Access and road network requirements to individual lots within a proposed subdivision, short subdivision, or binding site plan or to proposed SFDU units.

Access to lots within a proposed subdivision, short subdivision or binding site plan development or to proposed SFDU units shall meet the requirements of this section.

(1) Access to individual lots, tracts or easements within a proposed subdivision or short subdivision in the urban area shall be by a public road, except a private road ~~((network element:))~~ may be allowed by the county engineer, in accordance with chapter 30.66B SCC unless the county engineer determines that a public road is required to provide for the public health, safety and welfare or connectivity of the public road system.

~~((a) May be allowed for unit lot subdivisions and unit lot short subdivisions, except when the county engineer, in accordance with chapter 30.66B SCC, determines that a public road is required to provide for the public health, safety and welfare or connectivity of the public road system;~~

~~(b) May be allowed if serving nine lots or fewer with traffic generation of 90 average daily trips or less, except when the county engineer, in accordance with chapter 30.66B SCC, determines that a public road is required to provide for the public health, safety and welfare or connectivity of the public road system; and~~

~~(c) May be requested as a variance pursuant to chapter 30.43B SCC if unique circumstances of the site, such as topography, the surrounding road network, soils, hydrology or maintenance requirements make the extension of the public road within the development impractical or infeasible.))~~

(2) Access to individual lots, tracts or easements, within a proposed subdivision, short subdivision, or binding site plan development in the rural area may be provided by a private road network element as provided for in this chapter, ~~((except when))~~ unless the county engineer, in accordance with chapter 30.66B SCC, determines that a public road is required to provide for the public health, safety and welfare or connectivity of the public road system.

(3) Access to individual dwelling units within a SFDU shall be provided by a drive aisle, unless the county engineer, in accordance with chapter 30.66B SCC, determines a public road is required to provide for the public health, safety and welfare or connectivity of the public road system.

(4) Where access by a private road network element is permitted, and the private road network element has the potential for serving more than nine lots or 90 average daily trips, the county engineer may require the private road to be designed to enable future conversion to a public road and the final subdivision, short plat or binding site plan shall contain a provision that the conversion to a public road may not be protested.

(5) Access to individual dwelling units within a unit lot subdivision or unit lot short subdivision may be provided by a private road or drive aisle, except when the county engineer, in accordance with chapter

1 30.66B SCC, determines a public road is required to provide for the public health, safety and welfare or
2 connectivity of the public road system.

3
4 Section 6. Snohomish County Code Section 30.24.100, last amended by Amended Ordinance No.
5 17-061 on March 28, 2018, is amended to read:

6
7 **30.24.100 Fire lane (fire apparatus access road) requirements.**
8

9 In addition to the fire lane requirements in SCC 30.53A.512, the following requirements shall apply to all
10 development:

11
12 (1) All elements of a road network shall be designated a fire lane, except:

13
14 (a) A driveway;

15
16 (b) A shared driveway that provides primary access to no more than two dwelling units, or two Group U
17 occupancies;

18
19 (c) An alley that does not provide the only vehicular access to the structure, lot, or use; and

20
21 (d) A road network element that is not needed or required to provide fire apparatus access to buildings
22 and facilities within a proposed development according to SCC 30.53A.512.

23
24 (2) Fire lanes shall be designed according to SCC 30.53A.512 to provide fire apparatus access to
25 buildings and facilities within proposed development.

26
27 (3) When pedestrian facilities are required, the minimum driving surface width for a drive aisle or shared
28 court that is a fire lane ~~((may))~~ shall not include a pedestrian facility ~~((on one side that meets emergency~~
29 ~~vehicle load specifications))~~.

30
31 (4) Parking facilities shall be prohibited within the minimum driving surface width.

32
33 (5) When a parking lane is provided on only one side of a fire lane, fire hydrants shall be located on the
34 opposite side.

35
36 Section 7. Snohomish County Code Section 30.41C.080, last amended by Amended Ordinance
37 No. 17-070 on November 1, 2017, is amended to read:

38
39 **30.41C.080 Site design standards – roads, gates and pedestrian pathways.**
40

41 The following standards shall apply to the design of roads in a rural cluster subdivision or short
42 subdivision.

43
44 (1) All roads, whether public or private, shall be designed and constructed in accordance with county
45 engineering design and development standards (EDDS). Minimum required pavement dimensions
46 consistent with the EDDS shall be used to minimize stormwater runoff.

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(2) Access to the internal roads of a rural cluster subdivision by a private road may be permitted pursuant to SCC 30.41A.210.

(3) Access to the existing public roadway system shall be limited to no more than two points per cluster unless specifically approved or required by the county engineer.

(4) Internal roads shall be provided in accordance with the EDDS and with chapter 30.24 SCC.

(5) Connect clusters with pedestrian trails or pathways when feasible.

(6) Pedestrian facilities shall be ~~((physically separate from vehicular roadways))~~ designed and constructed in accordance with the EDDS. Use of pervious materials for pedestrian facilities is encouraged where conditions allow.

(7) If entrance gates are used, they shall be constructed to accommodate emergency vehicle access in accordance with SCC 30.53A.512. Gate locations and width shall be approved by the fire marshal and the county engineer. Gates serving two or fewer dwelling units may be exempt from these requirements if approved by the local fire district.

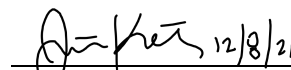
Section 8. Severability and Savings. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid by the Growth Management Hearings Board (Board), or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity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

PASSED this _____ day of _____, 2022.

SNOHOMISH COUNTY COUNCIL
Snohomish, Washington

Council Chair

ATTEST:

 12/8/21

Asst. Clerk of the Council

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() APPROVED
() EMERGENCY
() VETOED

DATE:

County Executive

ATTEST:

Approved as to form only:

Deputy Prosecuting Attorney