



SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

AMENDED ORDINANCE NO. 04-119

AMENDING CHAPTER 30.32A SCC PERTAINING TO FOREST LANDS AND 30.32C
SCC PERTAINING TO MINERAL RESOURCE LANDS NOTICE AND DISCLOSURE
REQUIREMENTS REGULATED BY THE STATE GROWTH MANAGEMENT ACT

WHEREAS, Snohomish County is required by the Growth Management Act (GMA) to designate and conserve forest lands and mineral resource lands that are not already characterized by urban growth and that have long-term resource significance; and

WHEREAS, Snohomish County has developed a forest lands conservation program and mineral resource lands conservation program that consist of comprehensive plan policies, land use designations, development regulations, and administrative guidelines; and

WHEREAS, in accordance with the GMA, Snohomish County development regulations codified in the Unified Development Code (UDC) applying to forest and mineral lands require that permit applicants and landowners on and nearby to forest lands and mineral resource lands designated by the comprehensive plan be notified that such natural resource uses may, on a temporary basis, be incompatible with residential development and uses; and

WHEREAS, in 1998, subsequent to adoption of the County's notice and disclosure regulations currently codified in chapters 30.32A and 30.32C SCC, the state legislature amended RCW 36.70A.060(1) to revise the notice provisions for forest lands and mineral resource lands to expand the required notice distance and to include in the notice related to designated mineral resource lands that applications may be made for mining-related activities.; and

WHEREAS, the UDC regulations regarding forest lands and mineral lands should be revised to ensure consistency with the GMA; and

WHEREAS, the proposed amendments help ensure that notice of forest resource lands and mineral resource lands and activities carry out the requirements of the GMA.

WHEREAS, the planning commission was briefed on July 27, 2004, held a public hearing on the proposed UDC amendments in Ordinance 04-119 on August 24, 2004, and forwarded a recommendation to the county council, dated August 24, 2004; and

WHEREAS, the county council held a public hearing on November 17, 2004, to consider the entire record and hear public testimony on Ordinance 04-119.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The county council bases its findings and conclusions on the entire record of testimony and exhibits, including all written and oral testimony before the planning commission and the county council. The county council makes the following findings of fact and conclusions:

- A. The council hereby incorporates the foregoing recitals as findings of fact.
- B. The state revised RCW 36.70A.060(1) related to notice provisions of property near forest lands and/or mineral lands subsequent to Snohomish County's adoption of correlating requirements in chapters 30.32A and 30.32C SCC.
- C. This amendment is consistent with the 1998 revisions to RCW 36.70A.060(1).
- D. The review of mineral lands notice provisions pursuant to RCW 36.70A.060(1) revealed that no change to the mineral lands noticing distance of 2000 feet is necessary since SCC 30.32C.200(1) is more restrictive than the 500 feet required by state law.
- E. The review of forest lands and mineral lands notice provisions pursuant to RCW 36.70A.060(1) revealed the need for changes to the notice provisions that include:
 - 1. Amending SCC 30.32A.210 to expand the notice of disclosure of potential forestry activities to properties within 500 feet of forest lands from the current required 300 feet and amending the disclosure notice content in SCC 30.32A.220.
 - 2. Amending SCC 30.32C.210, the mineral lands disclosure text, to indicate that an application may be made on designated mineral resource lands for mining-related activities.
- F. The amendments to Chapters 30.32A relating to forest lands notice provisions and 30.32C SCC relating to mineral land notice provisions satisfy the procedural requirements of, and are consistent with, the GMA.
- G. The amendments to Chapters 30.32A forest lands and 30.32C SCC relating to the mineral land notice provisions are consistent with the county GMA comprehensive plan.
- H. Addendum No. 40 to the Final Environmental Impact Statement (FEIS) was issued on August 11, 2004. This Addendum adds information and analysis of previously identified significant impacts and alternatives to the county's GMA Comprehensive Plan/General Policy Plan EIS dated April 11, 1994 (DEIS), and June 21, 1995 (FEIS). The information in Addendum No. 40 expanded on previously identified alternatives but did not substantially change the analysis of significant impacts and alternatives analyzed in the county's existing adopted environmental documents. No additional significant impacts beyond those identified in the original EIS are expected to occur.

- I. The recommended amendments to the development regulations are within the scope of analysis contained in the FEIS (dated June 21, 1995) and associated adopted environmental documents, as well as the other relevant environmental documents. The addendum performs the function of keeping the public apprised of the refinement of the original GMA .
- J. The State Environmental Policy Act requirements with respect to this proposed action have been satisfied by this addendum.
- K. The public was notified of the public hearings held by the planning commission and the county council by means of published legal notices in The (Everett) Herald, local newspapers and letters to interested parties.
- L. The proposal has been broadly disseminated and opportunities have been provided for written comments and public hearing after effective notice.

Section 2. Snohomish County Code Section 30.32A.210, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is amended to read:

30.32A.210 Notice and disclosure required.

The disclosure text set forth in SCC 30.32A.220 shall be used under the following circumstances and in the following manners:

- (1) Within 90 days of December 22, 1993 (the original effective date of this requirement), and each three years thereafter, Snohomish County shall mail a copy of the disclosure text in SCC 30.32A.220, with an explanatory informational attachment to owners of designated forest land and real property within approximately ~~300~~ 500 feet of designated forest land;
- (2) Development permits and building permits for land designated forest land or land adjacent to or within 300 500 feet of designated forest land shall include or have attached the disclosure text in SCC 30.32A.220 on the final development or building permit in a location determined by the director of the department. The disclosure notice shall apply to the real property upon development or building permit approval, and may not be applicable thereafter if areas designated forest land are changed from designated forest land;
- (3) Prior to the closing of a transfer of real property designated forest land or real property adjacent to or within 300 500 feet of designated forest land, by sale, exchange, gift, real estate contract, lease with option to purchase, any other option to purchase, or any other means of transfer (except transfers made by testamentary provisions or the laws of descent), the transferor shall provide the transferee a copy of the disclosure text in SCC 30.32A.220 and shall record with the county auditor a copy of the same showing an acknowledgment of receipt executed by the transferee in a form prescribed by the director of the department. The form of the acknowledged disclosure text shall include a statement that the disclosure notice applies to the subject real property as of the date of the transfer, and may not be applicable thereafter if areas designated forest land are changed from designated forest land; and

(4) In no case shall liability attach to Snohomish County for any actions, errors or omissions of any person subject to the requirements of this section.

Section 3. Snohomish County Code Section 30.32A.220, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is amended to read:

30.32A.220 Disclosure text.

The following shall constitute the required forest management disclosure:

Your real property is on, adjacent to, or within ~~300~~ 500 feet of designated forest land, on which a variety of forest management activities could occur that may not be compatible with residential development for certain periods of limited duration. These forest management activities include, but are not limited to, timber harvest, road and trail construction, the operation of machinery, trucks and aircraft, brush control, slash burning, the application by spraying of forest chemicals, and other forest management activities, which activities are lawful if conducted in compliance with Title 222 WAC.

In addition, forest management activities may cause physical and aesthetic risks to residences and other structures within 200 feet of forest lands including falling timber and increased fire hazard. Due to these risks, Snohomish County encourages landowners to locate structures at least 200 feet from adjacent forest land boundaries.

Snohomish County has adopted Forest Lands Regulations (chapter 30.32A SCC) which may affect you and your land. You may obtain a copy of chapter 30.32A SCC from Snohomish County.

A provision of chapter 30.32A SCC provides that "forest management activities conducted on the designated forest land in compliance with best management practices as defined by the current Washington Forest Practices Rules and Regulations (Title 222 WAC), and Washington's pesticide regulations (WAC 16-228-1220(5)), and established prior to surrounding non-forestry activities, are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on the public health, safety, or environment."

This disclosure applies to real property upon any development or building permit approval; or, in the case of real property transfers, the disclosure applies to the subject property as of the date of the transfer. This disclosure may not be applicable thereafter if areas designated forest land are changed from designated forest land.

Nothing in chapter 30.32A SCC shall affect or impair any right to sue for damages.

Section 4. Snohomish County Code Section 30.32C.210, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is amended to read:

30.32C.210 Disclosure text.

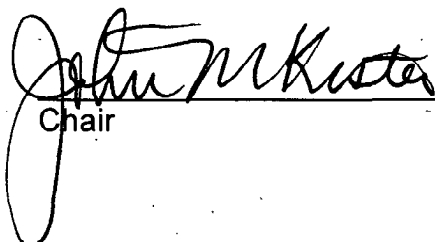
The following shall constitute the disclosure required by SCC 30.32C.200:

Your real property is on or within 2,000 feet of designated mineral resource land, on which mineral extraction, or a variety of activities related to mineral extraction, may occur that are not compatible with residential development for certain periods of limited duration. An application might be made on the designated mineral resource land for mining-related activities; including mining, extraction, washing, crushing, stockpiling, blasting, transporting, and recycling of minerals.

Section 5. Severability. If any provision of this ordinance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remainder of this ordinance. Provided, however, that if any provision of this ordinance is held invalid or unconstitutional, then the provision in effect prior to the effective date of this ordinance shall be in full force and effect for that individual provision as if this ordinance had never been adopted.

PASSED this 17th day of November, 2004.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Chair

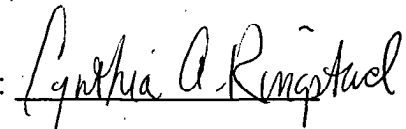
ATTEST:


Clerk of the Council, *asst*

- APPROVED
- EMERGENCY
- VETOED

DATE: 11/30/04


Snohomish County Executive

ATTEST: 

Approved as to form only:

Deputy Prosecuting Attorney

D-16