

CITY OF SNOHOMISH
Snohomish, Washington

ORDINANCE 2092

AN ORDINANCE OF THE CITY OF SNOHOMISH, WASHINGTON, AMENDING THE CITY'S DEVELOPMENT CODE, AS SET FORTH IN TITLE 14 OF THE SNOHOMISH MUNICIPAL CODE, BY AMENDING SMC 14.15.020 RELATING TO TIMELINES FOR REQUESTING AN AMENDMENT TO THE COMPREHENSIVE PLAN, SMC 14.45.010 RELATING TO TYPE 5 PERMITS, SMC 14.95.100 RELATING TO THE MAILING OF HEARING EXAMINER DECISIONS, SMC 14.207.075 REGARDING ACCESSORY DWELLING UNITS, SMC 14.207.125 RELATING TO MAJOR COMMUNICATIONS FACILITIES, SMC 14.240.060 RELATING TO PERMITS FOR FENCES, AND SMC 14.280.060 RELATING TO HABITAT CONSERVATION BUFFER WIDTHS.

WHEREAS, the City's Development Code, as set forth in Title 14 SMC, was substantially revised and subsequently adopted by the City Council on May 3, 2005; and

WHEREAS, in the normal day-to-day administration of the Development Code, a number of clarifications and corrections have been identified that will facilitate orderly, uniform, and efficient application of land use regulations within the City of Snohomish; and

WHEREAS, the various clarifications and corrections to Title 14 SMC can be effectively processed and considered together in one omnibus ordinance; and

WHEREAS, the City of Snohomish SEPA Responsible Official has reviewed this Ordinance and determined that it contains no substantive standards and is procedural in nature and therefore exempt from SEPA threshold determination and environmental impact statement requirements in accordance with WAC 197-11-800(19); and

WHEREAS, as allowed by SMC 14.15.080.C, the City Council may elect to conduct a public hearing on an amendment to the Development Code in lieu of a hearing before the Planning Commission; and

WHEREAS, following public notice as required by applicable law, the City of Snohomish City Council, held a public hearing on this ordinance and all persons wishing to be heard were heard; and

WHEREAS, the City is complying with the requirements of RCW 36.70A.106, regarding submission of the proposed and adopted Development Code amendments to the Washington State Department of Community, Trade, and Economic Development; and

WHEREAS, the City Council finds that it is in the public interest to enact the various amendments to the Development Code as set forth herein; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SNOHOMISH, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Chapter 14.15 of the Snohomish Municipal Code is hereby amended by amending SMC 14.15.020 to read as follows:

14.15.020 Initiation of Amendments

- A. The City or someone with ownership interest in at least a portion of a site may, in the latter case upon payment of the application fee, initiate a Comprehensive Plan or Development Code amendment such as a change of land use designation.
- B. Comprehensive Plan amendments shall be processed annually. Complete applications received by March 31st shall be processed in the following calendar year as Type 6 permits. The City Planner shall docket such applications in accordance with RCW 36.70A.470(2).
- C. Property owner initiated, site-specific amendments to the Development Code's Land Use Designation Map shall be processed as Type 6 permits without frequency restriction.
- D. All individuals and organizations are encouraged to suggest amendments to the Comprehensive Plan or Development Code which are not specific to any site, such as text amendments or area-wide map amendments. Such suggestions shall be made in writing to the City Planner, who shall docket them in accordance with RCW 36.70A.130 and 36.70A.470(2). Also, the Planning Commission and City Council may initiate amendments to the Comprehensive Plan or Development Code for inclusion in the preliminary docket, which are not specific to any site.

Section 2. Chapter 14.45 of the Snohomish Municipal Code is hereby amended by amending SMC 14.45.010 to read as follows:

14.45.010 Purpose

This Chapter sets forth the procedural requirements for Type 5 Permits, which include conditional use permits, recorded development plans, and variances which are exempt from SEPA.

Section 3. Chapter 14.95 of the Snohomish Municipal Code is hereby amended by amending SMC 14.95.100 to read as follows:

14.95.100 Decision

- A. The Hearing Examiner's written decision shall include:

1. The nature and background of the proceeding.
 2. Concise findings of fact addressing contested issues of fact, based exclusively on the record.
 3. Conclusions referencing permit criteria and other specific provisions of the law, together with reasons and precedents relied upon.
 4. The Hearing Examiner's determination of the appropriate rule, order, or relief, based upon a consideration of the whole record and supported by reliable, probative and substantial evidence.
 5. The time frames for reconsideration and appeal.
- B. The Hearing Examiner shall deliver the written decision to the City Planner, who then shall mail copies of the decision to all parties of record.

Section 4. Chapter 14.207 of the Snohomish Municipal Code is hereby amended by amending SMC 14.207.075 to read as follows:

14.207.075 Residential Land Use: Regulations

1. Related to the operation of a farm, one (1) unit per ten (10) acres.
2. Accessory dwelling units must meet the following conditions:
 - a. One (1) unit must be owner occupied.
 - b. Accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the principal dwelling unit.
 - c. The design of any exterior alteration or new structure necessary for the unit must comply with the City's design standards adopted in Chapters 14.225 and 14.230 SMC.
 - d. One (1) additional on-site parking space must be provided.
 - e. If the accessory unit is in a separate structure, it must be no greater than eight hundred (800) square feet or half the floor area of the existing structure, whichever is less.
3. Home occupations must meet the following conditions:
 - a. The occupation shall be conducted within an enclosed building.
 - b. No indication of the occupation, such as outdoor storage areas, abnormally higher traffic volumes, noise, vibration, dust, smoke or odors, shall be evident from outside the building in which the occupation is located.

- c. The occupation shall not produce ground water pollution or introduce objectionable waste into the City sewer system.
 - d. Not more than one (1) person outside the immediate family group residing on the premises shall engage in such occupation.
 - e. Signing must comply with Chapter 14.245 SMC.
 - f. The occupation cannot exceed twenty-five percent (25%) of the home square footage.
 - g. The occupation must have a City business license.
 - h. The premises must be occupied by the occupation owner.
4. Bed & Breakfast (B&B) establishments must meet the following conditions:
- a. The residence must be owner-occupied.
 - b. The Design Review Board must review the plan for off-street parking and, if the property is located within the Historic District, the design of the sign.
 - c. No more than four B&B rooms per residence.
 - d. One (1) on-premise parking space must be provided per B&B room, in addition to parking required for the residence.
 - e. B&B rooms must be located in the structure of the principal residence.
 - f. No meals other than breakfast shall be provided, and no meals shall be sold to non-renters.
 - g. No room shall be rented to the same person or persons for more than thirty (30) days per year.
 - h. No rooms shall be rented on a permanent basis, and no other business activity may be conducted on the premises.
 - i. The B&B must maintain a City business license.
5. Employee living quarters as an accessory use shall meet the following conditions:
- a. Living quarters shall be restricted to the use of caretakers, watchmen, and special employees in training.
 - b. Living quarters may be a separate building, manufactured home, or a portion of another building.

- c. Only two (2) dwelling units shall be used for employee living quarters.
6. Multi-family housing is allowed in conjunction with commercial use as a mixed use.
 - a. The gross square footage of multi-family housing must not exceed the gross square footage of commercial use.
 - b. Multiple family density may not exceed eighteen (18) units/acre, in accordance with Chapter 14.210 SMC.
 7. Requires an approved recorded development plan.
 8. In conjunction with specialized school.
 9. Must meet mobile home park design requirements set forth in SMC 14.210.220.
 10. May not exceed eighteen (18) units per acre, in accordance with SMC 14.210.210.
 11. Signs, fences, landscaping and screening in compliance with Title 14 SMC.
 12. Agricultural uses shall be limited in accordance with SMC 14.210.320.
 13. Recreational Vehicle Parks must meet the following conditions:
 - a. Maximum of fifteen (15) dwelling units per acre.
 - b. Type III landscaping as defined in SMC 14.240.040(F)(3) shall be required along all property lines.
 - c. An emergency flood evacuation plan must be submitted to the City and be approved by the City Planner and City Fire Official. The City Planner and City Fire Official shall develop minimum requirements for the contents of flood evacuation plans.
 - d. Must comply with the requirements of Chapter 20.04 SMC relating to the establishment of trailer camps.
 - e. Length of stay shall be a total of not more than ninety (90) days in any calendar year.
 - f. Recreational trailer camps shall be only permitted south of the Snohomish River.
 14. Employee and/or accessory living quarters as an accessory use shall meet the following conditions:
 - a. Living quarters must be on the second floor above the primary commercial use on the site.

- b. The density of the employee and/or accessory living quarters shall not exceed the density of the highest density adjacent residential designation.
15. A Bed and Breakfast Inn must be located less than 300 feet from and have access to a street designated as a collector or arterial.
16. The property must be in some form of public ownership.

Section 5. Chapter 14.207 of the Snohomish Municipal Code is hereby amended by amending SMC 14.207.125 to read as follows:

14.207.125 Regional Land Uses: Regulations

- 1. For arboretum -- see Recreational/ Cultural Land Use Table.
- 2. Except outdoor shooting ranges.
- 3. Twenty-four (24) hour holding cells as part of City Police Department.
- 4. Major communication facilities are permitted on existing utility towers where the new facility will not exceed the height of the existing tower. In all other instances, a conditional use permit is required.

Section 6. Chapter 14.240 of the Snohomish Municipal Code is hereby amended by amending SMC 14.240.060 to read as follows:

14.240.060 Fence and Wall Regulations

- A. General regulations. Installation of fences and walls, except for public utility purposes, shall comply with the following general requirements:
- 1. The two sets of Design Standards adopted by the City of Snohomish: the *Design Standards and Guidelines for the City's Historic District* and the *Design Standards and Guidelines for Areas Outside of the Historic District* will apply.
 - 2. Except for property designated Single Family outside of the Historic District, a building permit issued by the Building Official is required for installation. Plans and specifications may also be required for permit approval.
 - 3. All fences and walls must meet the requirements for height, setback, sight obstruction, maintenance, and special location provisions as set forth in this section. The type, size, location and height of fencing proposed for tennis courts, parks, or athletic fields shall be categorically exempt from the requirements outlined in this chapter and will be reviewed and approved by the Planning and Development Services Department on a project-by-project basis.

4. No fence shall create a safety hazard or sight obstruction in accordance with SMC 14.210.160.
5. Fence height is based on elevation from ground level.
6. No fences or walls shall be allowed in the public right-of-way except under the following conditions:
 - a. The proposed fence is in a residential land use designation.
 - b. The right-of-way is in excess of sixty (60) feet.
 - c. No safety or vision problem is created for vehicular or pedestrian traffic.
 - d. There will be no obstruction to the operation of utility equipment and the maintenance of utility lines.
 - e. The fence will be located on the non-street side of the sidewalk.
 - f. The property owner shall execute and record an agreement to maintain and remove the fence at the owner's expense if required by the City or other public utility in order to work in the right-of-way.
7. Electric fences shall be a minimum of two (2) feet from the property line.

B. Electrical fences. Electrical fences shall comply with the following:

1. Use an interrupted flow of current at intervals of one second on and two seconds off.
2. Be limited to two thousand (2,000) volts at seventeen (17) mill amperes current.
3. Require an "U.L. Approved" seal.
4. Be posted with permanent signs with a minimum area of thirty-six (36) square inches at intervals of fifty (50) feet stating that the fence is electrified.

C. Residential and public land use designation area regulations. Fences constructed in residential and public land use designation areas shall comply with the following requirements:

1. Barbed wire is prohibited.
2. Within Front Setback.
 - a. Solid Fence. No higher than three (3) feet unless it connects side fences to the structure.

- b. Open Fence. Up to five (5) feet if it does not create a sight obstruction.
- 3. Within Rear Yard Setback. Any type fence no higher than six (6) feet.
- 4. Within Side Yard Setback. Any type fence no higher than six (6) feet except on the street side of a corner lot where a fence must meet the sight clearance for intersections set forth in SMC 14.210.160.
- D. Commercial and industry land use designation area regulations. Fences constructed in commercial and industry land use designation areas shall comply with the adopted Design Standards which apply in these areas.
- E. Urban horticulture land use designation area. Fences constructed in urban horticulture land use designation areas may be of any suitable material no higher than seven (7) feet on any part of the lot.
- F. Historic District. Fences constructed in the Historic District shall comply with the *Design Standards and Guidelines for the City's Historic District*.
- G. Retaining walls.
 - 1. Retaining wall installations in all land use designation areas must comply with the adopted City of Snohomish Design Standards which apply within said areas.
 - a. Except as otherwise provided below, retaining wall permits shall be required for all retaining walls. The permit application must include a site plan, drawn to scale which shows:
 - i. The whole property and the property lines;
 - ii. At least 50 feet of all adjacent properties, as measured from the proposed retaining wall;
 - iii. All structures, including existing retaining walls, within 50 (fifty) feet of the proposed wall;
 - iv. Existing topography with contour lines at 2-foot vertical intervals. Topographical data obtained from public records is acceptable.
 - v. The materials proposed for use in construction;
 - vi. The location of the proposed wall with all dimensions necessary to describe its location;
 - vii. A cross-section showing the wall and provisions for drainage.

- b. Building permits, in addition to retaining wall permits, are required for all retaining walls greater than four feet in height.
 - c. No private retaining wall may be located in City rights of way except as may be otherwise provided in the Snohomish Municipal Code.
 - d. The height of a retaining wall shall be measured from the lowest part of the wall or wall footing to the highest part of the wall at every location along the wall.
 - e. Except as otherwise provided below, retaining walls greater than two feet and less than or equal to four feet in height must be setback a minimum of two feet from all property lines, measured from the nearest part of the wall excluding the footing, provided that no part of the footing may extend beyond the property line of the lot on which it is located.
 - f. A retaining wall, located in a side yard adjacent to another lot, and over four feet in height at any point along the wall, must meet the setback requirements for structures in the land use designation in which it is located.
 - g. Guardrails placed at the top of retaining walls, pursuant to the Uniform Building Code, shall be permitted as part of the wall, and shall not be considered to be a fence or part of the wall height.
 - h. A retaining wall may terminate at a property line, provided that it must abut a retaining wall on the adjacent property and is structurally independent from such wall.
2. Additional regulation applicable to retaining walls in land use designations other than single family. Retaining walls greater than two feet and less than or equal to four feet in height may be located at the property line if both retaining wall permits and building permits have been obtained.
3. Exemptions.
- a. No permits shall be required for walls two feet or less in height.
 - b. The City may waive the requirement for a retaining wall permit when:
 - i. Every part of the wall is set back at least five feet from all property lines;
 - ii. The wall is no greater than four feet in height;
 - iii. The wall does not affect the structural integrity of adjacent structures;
 - iv. Such waiver is made in writing by the City Planner or designee.

c. No permits shall be required for retaining walls within new plats that are reviewed and approved by the City as part of the plat improvements. No setbacks shall be required for such walls.

4. Variances. The provisions of Chapter 14.70 SMC shall apply to requests for variances from the requirements of this chapter.

Section 7. Chapter 14.280 of the Snohomish Municipal Code is hereby amended by amending SMC 14.280.060 to read as follows:

14.280.060 Habitat Conservation Area Buffers

A. The following table establishes the standard width of required stream buffers (also known as riparian habitat areas):

1. Table of habitat conservation area buffer widths for particular streams.

Stream type	Habitat buffer width
<ul style="list-style-type: none"> • Snohomish River • Pilchuck River 	100 feet, provided that 1) limited public access is allowed in the 50 feet nearer the river, and 2) water-dependent and water-related uses are allowed in the 50 feet further from the river, if mitigation measures result in the uses contributing toward projects that enhance salmonid rearing habitat as identified in the Snohomish ESA Strategy and if, as further mitigation, public access is permitted across the waterfront portion of the site when such a mitigation measure is supported by the particular circumstances and the purposes of the Critical Areas Code.
<ul style="list-style-type: none"> • Cemetery Creek downstream of Fobes Road, Bunk Foss Creek, and any tributaries thereof containing salmonids • All streams flowing into Blackman’s Lake, including that part of Swifty Creek above Blackman’s Lake 	100 feet, provided that limited public access is allowed in the first 50 feet of buffer. 50 feet.
<ul style="list-style-type: none"> • Swifty Creek below Blackman’s Lake • Myrick’s Fork in the Cemetery Creek basin • Collins Creek in the Bunk Foss Creek basin (upstream of salmon spawning and rearing areas) 	50 feet, provided that limited public access is allowed in the first 25 feet of buffer.

2. If the above table does not cover a particular stream, the following table shall apply:

Stream type	Standard buffer width
Type S (shorelines of the state per Shorelines Management Act)	100 feet
Type F (fish-bearing other than S)	75 feet
Type Np (non-fish, perennial)	50 feet
Type Ns (non-fish, seasonal)	35 feet

- B. Widths shall be measured outward in each direction, on the horizontal plane, from the ordinary high water mark, or from the top of bank if the ordinary high water mark cannot be identified, or from the outer edge of the channel migration zone when present.
- C. The City Planner may modify the buffer widths in the above tables in accordance with the following:
1. Buffer widths may be increased as necessary to fully protect riparian functions. For example, the buffer may be extended to the outer edge of the floodplain or windward into an area of high tree blow-down potential.
 2. Buffer widths may be reduced in exchange for restoration of degraded areas in accordance with an approved plan, or for buffer averaging in accordance with SMC 14.255.120.(G).
 3. If the stream enters an underground culvert or pipe, and is unlikely to ever be restored aboveground, the City Planner may waive the buffer along the under grounded stream, provided that where the stream enters and emerges from the pipe the opposite outer edges of the buffer shall be joined by a radius equal to the buffer width, with said radius projecting over the piped stream.
- D. The shoreline master program, not the Critical Areas Code, shall determine allowable uses along and setbacks from lakes, provided that the Critical Areas Code shall govern wetlands, streams, and other critical areas lying within areas of shoreline management jurisdiction.

Section 8. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such a decision or preemption shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other persons or circumstances.

Section 9. Effective Date. This Ordinance shall be effective five days after publication and Pursuant to RCW 35A.13.200 may be published in summary fashion.

PASSED by the City Council and APPROVED by the Mayor this 17th day of January, 2006.

CITY OF SNOHOMISH

By _____
Randy Hamlin, Mayor

Attest:

By _____
Torchie Corey, City Clerk

Approved as to form:

By _____
Grant K. Weed, City Attorney