

**CITY OF SNOHOMISH  
Snohomish, Washington**

**ORDINANCE 2385**

**AN ORDINANCE OF THE CITY OF SNOHOMISH, WASHINGTON, RELATING TO SUBDIVISIONS BY CREATING A NEW SECTION IN CHAPTER 14.215, SNOHOMISH MUNICIPAL CODE, "SUBDIVISIONS", AS PROVIDED FOR BY RCW 58.17.035, TO BE TITLED "BINDING SITE PLANS"; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the City has the authority under Title 35A and Chapter 58.17 RCW to adopt regulations related to zoning and land uses and the processing of land use development permits; and

**WHEREAS**, RCW Chapter 58.17.035 provides for binding site plans as an alternative land use division process provided the municipality adopts procedures for the review and approval of binding site plans; and

**WHEREAS**, the City has adopted a Land Use Development Code under Title 14 of the Snohomish Municipal Code ("Development Code") to implement the Comprehensive Plan and to ensure compatible and rational land development and land use in all portions of the City; and

**WHEREAS**, Title 14 SMC includes Chapter 14.215, "Subdivisions", but the Chapter does not include any provisions for the review and approval of binding site plans; and

**WHEREAS**, pursuant to the State Environmental Policy Act (SEPA), the City of Snohomish, as the designated lead agency for review of the proposed amendment, issued a Determination of Non Significance on January 3, 2020 pursuant to WAC 197-11-340(2). No appeals were filed so the determination stands as issued; and

**WHEREAS**, on October 24, 2019, the proposed amendments contained herein were transmitted to the State Department of Commerce as required by RCW 36.70A.106; and

**WHEREAS**, on December 4, 2019, following notice as required by law, the Planning Commission held a duly-noticed public hearing to receive staff and citizen input concerning the proposed code amendments and all persons who wished to be heard on the matter were heard; and

**WHEREAS**, the Planning Commission adopted Findings of Facts & Conclusions and recommended City Council approval of the proposed code amendments, which are attached hereto as Exhibit A and incorporated by this reference; and

**WHEREAS**, on February 4, 2020, at a duly-noticed public meeting, the City Council received staff and citizen input and considered the recommendation of the Planning Commission, and all persons who wished to be heard on the matter were heard; and

**WHEREAS**, the City Council has determined that it is in the public interest to provide for the alternative binding site plan land use division process;

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

**Section 1. Adoption of recitals as findings.** The City Council hereby adopts each of the recital paragraphs above as findings and hereby incorporates them by reference as though fully stated herein.

**Section 2. Adoption of Planning Commission findings.** The Planning Commission findings as set forth in "Exhibit A" are hereby adopted and incorporated by reference, including but not limited to the findings that the Development Code regulations and amendments adopted by this Ordinance are:

- a. Internally consistent with the City of Snohomish Comprehensive Plan;
- b. Consistent with the Washington State Growth Management Act;
- c. Consistent with the Washington State Environmental Policy Act (Chapter 43.21C RCW); and
- d. In the interest of the public health, safety, and welfare of Snohomish residents.

**Section 3. New Section 14.215.140. SMC adopted.** A new Section 14.215.140 SMC entitled "Binding Site Plans" is hereby adopted to read as set forth in attached "Exhibit B" which is hereby incorporated by this reference as though fully contained herein.

**Section 4. Severability.** If any section, subsection, sentence, clause, phrase, or word of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase, or word of this ordinance.

**Section 5. Authority to make necessary corrections.** The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance and attachments including, but not limited to, the correction of scrivener's clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

**Section 6. Effective date.** This Ordinance shall be effective five days after adoption and publication by summary.

**ADOPTED** by the City Council and **APPROVED** by the Mayor this 4<sup>th</sup> day of February, 2020.

CITY OF SNOHOMISH

By John T. Kartak  
John T. Kartak, Mayor

ATTEST:  
By Pat Adams  
Pat Adams, City Clerk

APPROVED AS TO FORM:  
By Grant K. Weed  
Grant K. Weed, City Attorney

Date of Publication: 2/8/2020

Effective Date: 2/13/2020

## EXHIBIT A

### Snohomish Planning Commission Findings of Fact & Conclusions

Based on the review of the proposed amendment to Title 14 Snohomish Municipal Code related to creating a Binding Site Plans section, the Planning Commission of the City of Snohomish makes the following Findings of Fact:

1. The City has the authority under RCW Title 35A to adopt regulations related to land use development.
2. RCW 58.17.035 provides for binding site plans as an alternative land use division process but requires municipalities to procedures and regulations for their review and approval and currently Snohomish Municipal Code does not include those procedures and regulations.
3. The proposed amendment implements the following goal contained in the Snohomish Comprehensive Plan:

**Goal LU 2:** Manage growth and community change in accordance with the values and vision of the Snohomish community of residents, land owners, and business people, and consistent with the Growth Management Act.
4. Procedural requirements.
  - a. The proposed amendment is consistent with state law.
  - b. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt the proposed amendments was transmitted to the Washington State Department of Commerce for distribution to state agencies on October 24, 2019.
  - c. The public process used in the adoption of the proposed amendments has complied with all applicable requirements of the GMA and the SMC.
5. The Planning Commission held a public hearing on December 4, 2019, to receive public testimony concerning the proposed amendment.
6. At the conclusion of the public hearing, the Planning Commission voted to recommend City Council approval of the proposed amendment.

**Based on the foregoing Findings of Fact, the Snohomish Planning Commission hereby makes the following conclusions.**

1. The proposed amendment satisfies the requirements of RCW 58.17.035.
2. The proposed amendment will provide property owners an additional tool that can facilitate the development of their commercial and industrial properties.
3. The proposed amendment is consistent with Washington State law and the SMC.

4. The proposed amendment implements and is consistent with the goals and policies of the Comprehensive Plan.
5. The proposed amendment protects the public health, safety, and general welfare.
6. The proposed amendment does not result in an unconstitutional taking of private property for public purpose and it does not violate substantive due process guarantees.

Date: 12/4/19

By: Terry Lippincott  
Terry Lippincott, Planning Commission Chair

## **EXHIBIT B**

### **14.215.140 Binding Site Plans**

- A. Binding site plans are a Type 2 permit under Chapter 14.20 SMC. They are an alternative to the subdivision procedures set forth in this Chapter for the following divisions of land:
1. Division of commercially or industrially designated land; and
  2. Divisions of land into lots or tracts as provided for in RCW 58.17.040(7).
- B. Application and approval procedures.
1. The binding site plan application shall include, at a minimum, the following:
    - a. A title certificate;
    - b. The required fees related to the review of the binding site plan;
    - c. If the property is within the NE Sewer Area, an affirmation of the obligation of the property owners binding the properties to the payment of all present or future charges for the Cemetery Creek Special Project, and a preliminary description of developer proposed sewer extensions and capacity improvements; and
    - d. Submittal materials listed in SMC 14.20.060(C).
  2. Binding site plans may only be approved by the Planning Director if, at a minimum, all of the following criteria are met:
    - a. The requirements of RCW 58.17.035 are met as well as those of RCW 58.17.040(4, 5, 7) as applicable to the specific project;
    - b. The requirements in SMC 15.04.047 are satisfied if the property is in the NE Sewer Area;
    - c. The proposal is found consistent with the Comprehensive Plan;
    - d. Appropriate provisions are made for protecting the public health, safety, and general welfare;
    - e. No nonconforming lot or structure shall be created nor shall the intensity of an existing nonconformance be increased; and
    - f. Lots that do not qualify as a building site pursuant to this title shall not be created.
  3. In the event that the Planning Director determines that the criteria set forth in subsection 2 above are not met, the Planning Director may approve the binding site plan with conditions which, if complied with, will cause the plan to meet the criteria.
  4. The signature on the record of survey of the binding site plan by the City Engineer and City Planner shall serve as approval of the binding site plan.
- C. Recording - Binding effect.
1. All binding site plans, after approval, shall be recorded with the County Auditor's Office with a record of survey.
  2. The record of survey shall include, at a minimum, the following information:
    - a. The name of the binding site plan;
    - b. Legal description of existing lots;
    - c. The date, north arrow and appropriate engineering scale as approved by the Planning Director;
    - d. Boundary lines, right-of-way for streets, easements, and property lines of lots and other sites with accurate bearings, dimensions or angles and arcs, and of all curve data;

- e. Names and right-of-way widths of all streets within the parcel and immediately adjacent to the parcel. Street names shall be consistent with the names of existing adjacent streets;
- f. Number of each lot consecutively;
- g. Reference to covenants and special restrictions either to be filed separately or on the face of the binding site plan;
- h. Location, dimensions and purpose of any easements, noting if the easements are private or public;
- i. Location, physical description, and date visited of monuments and all lot corners set and found;
- j. Existing structures, including any within 50 feet of existing or proposed lot lines, all setbacks, and all encroachments;
- k. Primary control points identified (i.e., calculated, found, established, or reestablished), basis of bearing, and horizontal and vertical datums as required by the Public Works Department. Descriptions and ties to all control points will be shown with dimensions, angles and bearings;
- l. A dedicatory statement acknowledging public and private dedications and grants;
- m. Parking and general vehicle circulation areas when required;
- n. Other restrictions and requirements as deemed necessary by the City;
- o. The applicable requirements of RCW 58.17.040(7) shall be met, including inscription of the following statement on the binding site plan:

*All development and use of the land described herein shall be in accordance with this binding site plan, as it may be amended with the approval of the city, town, or county having jurisdiction over the development of such land, and in accordance with such other governmental permits, approvals, regulations, requirements, and restrictions that may be imposed upon such land and the development and use thereof. If the project is a condominium, upon completion the improvements on the land shall be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest. This binding site plan shall be binding upon all now or hereafter having any interest in the land described herein.*

- 3. Lots, parcels, or tracts created through the binding site plan procedure shall be legal lots of record.
- 4. All provisions, conditions, and requirements of the binding site plan shall be shown on the face of the record of survey or in attachments recorded with the record of survey and shall be legally enforceable on the purchaser or any other person acquiring a lease or other ownership interest of any lot, parcel, or tract created pursuant to the binding site plan.

**D. Alteration or vacation of binding site plans.**

- 1. The Planning Director may allow for modifications to binding site plans, upon application, only if the modification is minor in nature and the original intent of the recorded binding site plan is not changed and if the modification does not impact the public health, safety, or welfare, nor does it adversely impact the environment or the

delivery of services to the site. The proposed modification must be clearly shown on a revised map and be accompanied by a letter of explanation of the proposed modification. Upon administrative approval of such modification, the modification(s) shall become part of the binding site plan and recorded with the County Auditor as applicable. If, in the opinion of the Director, the modification constitutes more than a minor modification, the proposal shall be processed as a new binding site plan.

2. The Planning Director may allow for vacation of an entire binding site plan, upon application, if no permits have been issued. Vacations of this type may be done as a whole only. Vacating a binding site plan releases all conditions and obligations on the parcel associated with such plan. A binding site plan may be vacated with the submission of a letter of intent to vacate with the City of Snohomish Planning Department. The applicant is subject to payment of all outstanding fees for City permit review at the time of vacation submittal.
3. After issuance of any building or site development permits, the vacation of all or part of a binding site plan shall be accomplished by following the same process and applying the same criteria as for an initial application for binding site plan approval. Any vacated portion of a binding site plan shall be considered to be one lot, unless divided by an approved subdivision or short subdivision.

E. Violation.

1. Any sale, transfer, or lease of any lot, tract, or parcel created pursuant to a binding site plan that does not conform to the requirements of the binding site plan or without binding site plan approval, shall be considered a violation of the Snohomish Municipal Code and Chapter 58.17 RCW, and may be restrained by injunctive action.
2. Compliance with the requirements of this code shall be mandatory. The general penalties and remedies established in Chapters 1.14 and 14.85 SMC for such violations shall apply to any violation of this code. The enforcement actions authorized under this code shall be supplemental to those general penalties and remedies of Chapters 1.14 and 14.85 SMC.

