WHEREAS, counties and cities that are required to plan under the Growth Management Act (GMA), chapter 36.70A RCW, must ensure that their comprehensive plans and development regulations provide sufficient capacity of land suitable for development within their jurisdictions to accommodate allocated housing and employment growth; and

WHEREAS, the Vision 2040 Multicounty Planning Policies (MPP) adopted by the Puget Sound Regional Council encourage the efficient use of land to prevent urbanization of rural and resource lands; and

WHEREAS, the Countywide Planning Policies (CPP) for Snohomish County encourage the county and cities to use innovative development standards to provide compact, high quality communities; and

WHEREAS, the Snohomish County GMA Comprehensive Plan (GMACP) - General Policy Plan (GPP) encourages the establishment of development patterns that use urban land more efficiently; and

WHEREAS, adopting amendments to the lot size averaging requirements would provide the opportunity to develop more of the underlying maximum zoned density allowed in a subdivision or short subdivision and, therefore, encourage a more efficient use of land; and

WHEREAS, the Snohomish County Planning Commission ("Planning Commission") held a briefing on May 26, 2015, on the code amendments proposed by this ordinance; and

WHEREAS, the Planning Commission held a public hearing on June 23, 2015, and received public testimony on the proposed code amendments contained in this ordinance; and

WHEREAS, at the conclusion of the Planning Commission's public hearing, the Planning Commission deliberated and voted to recommend approval of the code amendments contained in this ordinance, as set forth in its recommendation letter dated July 24, 2015; and

WHEREAS, on October 14, 2015, the Snohomish County Council ("County Council") held a public hearing, after proper notice, and considered public comment and the entire record related to the code amendments contained in this ordinance; and

WHEREAS, following the public hearing, the County Council deliberated on the code amendments contained in this ordinance;
NOW, THEREFORE, BE IT ORDAINED:

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

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

B. This ordinance will amend Title 30 SCC. The proposal revises the requirements in SCC 30.23.210 to reinstate the use of all critical areas and their buffers that must be permanently protected under chapter 30.62A SCC, instead of only half the area, when calculating lot size averaging for a subdivision or short subdivision. The reduction to half of critical areas and their buffers occurred in Amended Ord. 08-101 without any indication that it was new or modified language. The proposal also deletes the Code Reviser note for SCC 30.23.210(1). The Code Reviser note indicates that the text in SCC 30.23.210(1) shown in italic, underline and strikeout format was amended by Amended Ord. 08-101 but was not indicated with deletion and/or addition marks.

C. This ordinance is consistent with RCW 36.70A.090, which recommends that cities and counties planning under the GMA provide for innovative land use management techniques. This ordinance is also consistent with RCW 36.70A.115, which requires counties and cities planning under the GMA to adopt development regulations that provide sufficient land capacity suitable for development to accommodate their allocated housing growth. Lot size averaging is a development regulation technique that allows the average size of all lots in a subdivision or short subdivision be equal to or greater than a specified minimum lot size threshold, as opposed to the conventional approach of requiring each lot to be equal to or greater than a prescribed minimum lot size, in order to achieve more of the maximum density permitted on a residentially zoned site.

D. This ordinance is consistent with the following MPP policy by providing a creative development regulation that furthers the ability to maximize the single family residential development potential of unincorporated urban lands within the county:

1. MPP-DP-2 “Encourage efficient use of urban land by maximizing the development potential of existing urban lands, such as advancing development that achieves zoned density.”

E. This ordinance is consistent with the following CPP policy by providing a creative development regulation that furthers the ability to maximize the single family residential development potential of unincorporated urban lands within the county:

1. DP-16 “Jurisdictions should encourage the use of innovative development standards, design guidelines, regulatory incentives, and applicable low impact development measures to provide compact, high quality communities.”

F. This ordinance is consistent with and implements the following GPP goals, objectives and policies by providing an innovative development regulation that encourages a more efficient use of unincorporated urban land for single family residential development:

1. Goal LU 2 “Establish development patterns that use urban land more efficiently.”
2. Objective LU 2.A “Increase residential densities within UGAs by concentrating and
tensifying development in appropriate locations, particularly within designated centers
and along identified transit emphasis corridors.”

3. Policy LU 2.A.5 “Within UGAs, alternatives to standard single family designs such as
zero lot line housing and cottages on small lots around a central courtyard, shall be
considered in development regulations for residential areas.”

G. Procedural requirements.

1. State Environmental Policy Act (SEPA), chapter 43.21C RCW, requirements with
respect to this non-project action have been satisfied through the completion of an
environmental checklist and the issuance of a determination of non-significance on July
24, 2015.

2. The proposal is a Type 3 legislative action pursuant to SCC 30.73.010.

3. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance was
transmitted to the Washington State Department of Commerce for distribution to state
agencies on November 19, 2014.

4. The public participation process used in the adoption of this ordinance has complied with
all applicable requirements, including but not limited to, RCW 36.70A.035, chapter 30.73
SCC, and the Snohomish County Charter.

5. The Washington State Attorney General last issued an advisory memorandum, as
required by RCW 36.70A.370, in December 2006, entitled “Advisory Memorandum:
Avoiding Unconstitutional Takings of Private Property” to help local governments avoid
the unconstitutional taking of private property. The process outlined in the State
Attorney General’s 2006 advisory memorandum was used by Snohomish County in
objectively evaluating the regulatory changes proposed by this ordinance.

H. This ordinance is consistent with the record as set forth in the Planning and Development
Services (PDS) staff reports dated May 11, 2015, and June 10, 2015.

Section 2. The County Council makes the following conclusions:

A. The proposal complies with all requirements of Washington State law and county code.

B. The proposal is consistent with the MPP.

C. The proposal is consistent with the CPP.

D. The proposal is consistent with the goals, objectives and policies of the GPP.

E. The county complied with all SEPA requirements in respect to this non-project action.

F. The regulations proposed by this ordinance do not result in an unconstitutional taking of
private property for public purposes.
G. The county complied with state and local public participation requirements under the GMA and chapter 30.73 SCC.

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

Section 4. Snohomish County Code Section 30.23.210, last amended by Amended Ordinance No. 14-073 on October 8, 2014, is amended to read:

**30.23.210 Lot size averaging.**

(1) A subdivision or short subdivision will meet the minimum lot area of the zone in which it is located if the area in lots plus \((\text{half of the area of all})\) all critical areas and their buffers \((\text{that must be permanently protected under chapter 30.62A SCC, if any, plus and})\) that must be permanently protected under chapter 30.62A SCC, if any, plus areas designated as open space or recreational uses, if any, divided by the total number of lots equals or exceeds the minimum lot area of the zone in which the property is located. In no case shall the density achieved be greater than the gross site area divided by the underlying zoning.

(2) This section shall only apply to:
   (a) subdivisions or short subdivisions within zones having a minimum lot area requirement of 12,500 square feet or less; and
   (b) short subdivisions in rural areas within zones having a minimum lot size greater than 12,500 square feet but not larger than five acres.

(3) Roadways shall not count toward the calculations for lot size averaging.

(4) Surface detention/retention facilities may count toward calculations for lot size averaging only if the detention/retention facility:
   (a) is designed to not require security fencing under the EDDS standards; and
   (b) the facility is either:
      (i) designed so as to appear as a natural wetland system, or
      (ii) provides active or passive recreational benefits in a natural landscaped setting.

(5) For subdivisions and short subdivisions within zones having a minimum lot area requirement of 12,500 square feet or less, the following additional criteria apply:
   (a) Each single lot shall be at least 3,000 square feet in area;
   (b) Lots in subdivisions and short subdivisions created under the provisions of this section shall have a maximum lot coverage of 55 percent;
   (c) Lots with less than the prescribed minimum lot area for the zone in which they are located shall have a minimum lot width of at least 40 feet, and right-of-way setbacks of 15 feet except that garages must be set back 18 feet from the right-of-way (with the exception of alleys) and corner lots may reduce one right-of-way setback to no less than 10 feet; and
   (d) Preliminary subdivisions approved utilizing lot averaging shall not be recorded by divisions unless such divisions individually or together as cumulative, contiguous parcels satisfy the requirements of this section.

(6) For short subdivisions in rural areas within zones having a minimum lot size greater than 12,500 square feet but not larger than five acres, the following additional criteria apply:
   (a) Each single lot shall be at least 12,500 square feet in area or the minimum area necessary to comply with the Snohomish health district’s rules and regulations for on-site sewage disposal and potable water supply, whichever is greater;
   (b) Lots in short subdivisions created under the provisions of this section shall have a maximum lot coverage of 35 percent; and

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(c) Lots with less than the prescribed minimum lot area for the zone in which they are located shall have a minimum lot width of at least 75 feet, and right-of-way setbacks of 50 feet except corner lots may reduce one right-of-way setback to no less than 20 feet.

((("Code Reviser Note: The text shown in italic, underline and strikeout format in 30.23.210 subsection (1) above was amended by Amended Ord. 08 101 but was not indicated with deletion and/or addition marks.").))

Section 5. Severability and Savings. If any section, sentence, clause or phrase of this ordinance is 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 a 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 14th day of October, 2015

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Dave Somers
Council Chair

ATTEST:

Debbie Eco
Clerk of the Council

APPROVED

EMERGENCY

VETOED

DATE:

County Executive

Approved as to form only:

Deputy Prosecuting Attorney