

EXECUTIVE/COUNCIL APPROVAL FORM

MANAGEMENT ROUTING:		TO:	COUNCIL CHAIRPERSON:
EXECUTIVE	Dave Somers		SNOHOMISH COUNTY COUNCIL
EXEC. DIR.	Ken Klein <i>KK</i>		
DIRECTOR/ELECTED	Barbara Mock, Director <i>MM</i>		EXECUTIVE RECOMMENDATION:
DEPARTMENT	Planning & Dev Services	<input checked="" type="checkbox"/>	Approve <input type="checkbox"/> No Recommendation
DIV. MGR.	Ikuno Masterson	<input type="checkbox"/>	Further Processing
DIVISION	Long-Range Planning	<input type="checkbox"/>	Requested By _____
ORIGINATOR	Stephen Fesler <i>SF</i>		<i>KK</i> KEN KLEIN Executive Director <i>2/5/18</i>
DATE	1/29/2018	EXT.	2053
			Executive Office Signature _____
			CEO Staff Review <i>Cep</i> _____
			Received at Council Office <i>RT 3:45 pm</i> _____
			FEB 01 2018

DOCUMENT TYPE:

<input type="checkbox"/> BUDGET ACTION:	<input type="checkbox"/> GRANT APPLICATION
<input type="checkbox"/> Emergency Appropriation	<input checked="" type="checkbox"/> ORDINANCE
<input type="checkbox"/> Supplemental Appropriation	<input checked="" type="checkbox"/> Code Amendment Chapters 30.66B and 30.84 SCC
<input type="checkbox"/> Budget Transfer	<input type="checkbox"/> PLAN
<input type="checkbox"/> CONTRACT:	<input type="checkbox"/> OTHER
<input type="checkbox"/> New	
<input type="checkbox"/> Amendment	

DOCUMENT / AGENDA TITLE:
 Ordinance / ORDINANCE No. 18-___ RELATING TO GROWTH MANAGEMENT; REVISING GENERAL REQUIREMENTS FOR THE PROVISION OF SECURITY DEVICES AND ALLOWING FOR THE DELAY OF THE INSTALLATION OF CERTAIN PRIVATE IMPROVEMENTS ASSOCIATED WITH DEVELOPMENT; AMENDING CHAPTERS 30.66B AND 30.84 OF THE SNOHOMISH COUNTY CODE

APPROVAL AUTHORITY: EXECUTIVE _____ COUNCIL

CITE BASIS Chapters 1.02, 2.48, and 30.73 SCC

HANDLING: NORMAL EXPEDITE _____ URGENT _____ DEADLINE DATE _____

PURPOSE: To adopt amendments to Title 30 of the Snohomish County Code relating to security devices.

- BACKGROUND:**
- The proposed code amendments would update Snohomish County's regulations relating to security devices under Chapters 30.66B and 30.84. Specifically, the proposed ordinance would: (1) expand options to delay installation of certain improvements (such as landscaping, wetland mitigating plantings, and final placement of hot mixed asphalt paving of private road elements) in residential and non-residential developments through security device guarantee, (2) add a requirement to provide a temporary construction easement to the County for private improvements guaranteed under a security device, (3) clarify the relationship of the County Engineer in administering security device provisions under Title 30 SCC, and (4) make related housekeeping changes.
 - PDS briefed the Planning Commission on the proposed code amendments on November 28, 2017. The Planning Commission held a public hearing on December 19, 2017 and recommended approval of the code amendments.
 - A SEPA Determination of Nonsignificant was issued on November 8, 2017.
 - Notification to the Washington State Department of Commerce was completed on November 8, 2017.

FISCAL IMPLICATIONS:

EXPEND: FUND, AGY, ORG, ACTY, OBJ, AU	CURRENT YR	2ND YR	1ST 6 YRS
TOTAL	N/A	N/A	N/A

REVENUE: FUND, AGY, ORG, REV, SOURCE	CURRENT YR	2ND YR	1ST 6 YRS
TOTAL	N/A	N/A	N/A

DEPARTMENT FISCAL IMPACT NOTES:

No fiscal impacts anticipated.

BUDGET REVIEW: [Signature] Analyst [Signature] Administrator [Signature] Recommend Approval

CONTRACT INFORMATION:

ORIGINAL _____ CONTRACT # _____ AMOUNT _____
 AMENDMENT _____ CONTRACT # _____ AMOUNT \$ _____

CONTRACT PERIOD:

ORIGINAL Start _____ End _____
 AMENDMENT Start _____ End _____

CONTRACT / PROJECT TITLE:

CONTRACTOR NAME & ADDRESS (City/State only):

APPROVED:

RISK MANAGEMENT Yes n/a No _____

COMMENTS _____

PROSECUTING ATTORNEY - AS TO FORM: Yes No _____

OTHER DEPARTMENTAL REVIEW / COMMENTS:

ELECTRONIC ATTACHMENTS: Council 120066521
 G:\ECAF\Dept\05_PDS\2018\Security Devices_ECAF.doc
 G:\ECAF\Dept\05_PDS\2018\Security Devices_Staff Report.docx
 G:\ECAF\Dept\05_PDS\2018\Security Devices_Ordinance.docx
 G:\ECAF\Dept\05_PDS\2018\Security Devices_Planning Commission Recommendation Letter.pdf
 G:\ECAF\Dept\05_PDS\2018\Security Devices_Summary Notice.docx
 G:\ECAF\Dept\05_PDS\2018\Security Devices_Capital Facility Development Cost Analysis Summary.docx
 G:\ECAF\Dept\05_PDS\2018\Security Devices_Housing Job Matrix.docx
 G:\ECAF\Dept\05_PDS\2018\Security Devices_Index of Records

NON-ELECTRONIC ATTACHMENTS:

- Planning Commission Letter
- Staff Report
- Ordinance
- Summary Notice
- Capital Facility Development Cost Analysis Summary
- Housing Job Matrix
- Index of Records (A CD will be delivered to Council staff separately)

1 Adopted:
2 Effective:

3
4 SNOHOMISH COUNTY COUNCIL
5 Snohomish County, Washington

6
7 ORDINANCE NO. 18-____
8

9 RELATING TO GROWTH MANAGEMENT; REVISING GENERAL REQUIREMENTS FOR THE
10 PROVISION OF SECURITY DEVICES AND ALLOWING FOR THE DELAY OF THE
11 INSTALLATION OF CERTAIN PRIVATE IMPROVEMENTS ASSOCIATED WITH
12 DEVELOPMENT; AMENDING CHAPTERS 30.66B AND 30.84 OF THE SNOHOMISH
13 COUNTY CODE
14

15 WHEREAS, counties and cities that are required to plan under the Growth Management
16 Act (GMA), chapter 36.70A of the Revised Code of Washington (RCW), must ensure that their
17 comprehensive plans and development regulations encourage economic development and
18 encourage timely and fair processing of development permits; and
19

20 WHEREAS, the Snohomish County GMA Comprehensive Plan (“GMACP”) – General
21 Policy Plan (GPP) directs Snohomish County to provide for expeditious and efficient
22 development, land use practices that reduce housing costs, and a regulatory environment that
23 facilitates growth of the local economy; and
24

25 WHEREAS, chapter 30.84 of the Snohomish County Code (the “County Code” or SCC)
26 establishes requirements and procedures for administering security devices required for
27 development in unincorporated Snohomish County; and
28

29 WHEREAS, Snohomish County (the “County”) authorizes the delay of certain public
30 improvements in subdivisions, short subdivisions, commercial developments, multifamily
31 developments; and
32

33 WHEREAS, the County authorizes the delay of the final paving lift on public roads in
34 subdivisions and short subdivisions; and
35

36 WHEREAS, currently the County authorizes the Director of the Department of Planning
37 and Development Services (PDS) to declare a need for emergency work to be completed under
38 a security device held by the County; and
39

40 WHEREAS, the Snohomish County Council (the “County Council”) has the authority to
41 amend provisions of County code relating to security devices for development; and
42

43 WHEREAS, authorizing the delay of certain public and private improvements, subject to
44 appropriate financial assurances and conditions, in residential and nonresidential developments
45 will promote more expeditious and efficient development; and
46

1 WHEREAS, authorizing the delay of hot asphalt mix paving on private road elements,
2 subject to appropriate financial assurances and conditions, in residential developments will
3 reduce housing and development costs; and
4

5 WHEREAS, the Snohomish County Engineer has an interest in safeguarding the health,
6 safety, and general welfare of communities when emergency work is necessary to be completed
7 under a security device held by the County; and
8

9 WHEREAS, the County seeks to promote the delivery of more affordable housing
10 throughout Snohomish County; and
11

12 WHEREAS, the County seeks to safeguard the health, safety, and general welfare of all
13 communities in the County; and
14

15 WHEREAS, PDS has conducted early and continuous public participation in developing
16 the proposed amendments to title 30 SCC that are contained in this ordinance; and
17

18 WHEREAS, on November 28, 2017, the Snohomish County Planning Commission (the
19 "Planning Commission") was briefed by PDS staff about the code amendments contained in this
20 ordinance; and
21

22 WHEREAS, the Planning Commission held a public hearing on December 19, 2017, to
23 receive public testimony concerning the code amendments contained in this ordinance; and
24

25 WHEREAS, at the conclusion of the Planning Commission's public hearing, the Planning
26 Commission deliberated on the proposed ordinance and voted to recommend amendments to
27 the County Code relating to security devices as shown in its recommendation letter dated
28 December 21, 2017; and
29

30 WHEREAS, on _____, 2017, the County Council held a public hearing after
31 public notice and considered public comments and the entire record related to the code
32 amendments contained in this ordinance; and
33

34 WHEREAS, following the public hearing, the County Council deliberated on the code
35 amendments contained in this ordinance;
36

37 NOW, THEREFORE, BE IT ORDAINED:
38

39 **Section 1.** The County Council adopts the following findings in support of this ordinance:
40

- 41 A. The foregoing recitals are adopted as findings as if set forth in full herein.
42
43 B. This ordinance will amend title 30 SCC to update regulations related to security devices.
44
45 C. Procedural requirements:
46
47 1. The proposal is a Type 3 legislative action under SCC 30.73.010 and 30.73.020.
48

- 1 2. A notice of intent to adopt proposed code amendments was transmitted to the
2 Washington State Department of Commerce for distribution to state agencies on
3 November 8, 2017 as RCW 30.70A.106(1) requires.
4
- 5 3. State Environmental Policy Act (SEPA), chapter 43.21C RCW, requirements with
6 respect to this non-project action have been satisfied through the completion of an
7 environmental checklist and the issuance of a determination of non-significance on
8 November 8, 2017.
9
- 10 4. The public participation process used in the adoption of the proposed code amendments
11 complies with all applicable requirements of the GMA and SCC.
12
- 13 5. As required by RCW 30.70A.370, the Washington State Attorney General last issued an
14 advisory memorandum in December 2015 entitled “Advisory Memorandum: Avoiding
15 Unconstitutional Takings of Private Property” to help local governments avoid
16 unconstitutional takings of private property. The process outlined in the State Attorney
17 General’s 2015 advisory memorandum was used by the County in objectively evaluating
18 the regulatory changes in this ordinance.
19
- 20 D. In developing the code amendments, the County considered the goals of the GMA found in
21 RCW 36.70A.020, specifically those goals related to economic development and permits.
22 The code amendments are consistent with:
23
- 24 1. GMA Goal 5: “Economic development. Encourage economic development throughout
25 the state that is consistent with adopted comprehensive plans, promote economic
26 opportunity for all citizens of this state, especially for unemployed and for disadvantaged
27 persons, promote the retention and expansion of existing businesses and recruitment of
28 new businesses, recognize regional differences impacting economic development
29 opportunities, and encourage growth in areas experiencing insufficient economic growth,
30 all within the capacities of the state’s natural resources, public services, and public
31 facilities.” The code amendments will provide for more efficient development practices
32 and facilitate improved financial security by reforming permitting processes.
33
- 34 2. GMA Goal 7: “Permits. Applications for both state and local government permits should
35 be processed in a timely and fair manner to ensure predictability.” The code
36 amendments will provide for improved processing of development permits and provide
37 predictability in completion of project requirements.
38
- 39 E. The code amendments will better achieve, comply with, and implement the following goals,
40 objectives, and policies contained in the County’s GMACP – GPP by providing regulations
41 that are predictable, encourage business and jobs, and facilitate economic growth:
42
- 43 1. Goal ED 1: “Maintain and enhance a healthy economy.”
44
- 45 2. Goal ED 2: “Provide a planning and regulatory environment that facilitates growth of the
46 local economy.”
47

- 1 3. Objective ED 2.A: “Develop and maintain a regulatory system that is fair,
2 understandable, coordinated and timely.”
3
- 4 4. ED Policy 2.A.1: “Snohomish County shall work to ensure that the Snohomish County
5 Code is an understandable, accessible, and user friendly document.”
6
- 7 5. ED Policy 2.A.2: “Snohomish County should stress predictability but maintain enough
8 flexibility in the Comprehensive Plan and development codes to allow for timely
9 response to unanticipated and desirable developments.”

10
11 F. The proposed amendments are consistent with the record:

- 12
13 1. This ordinance will amend SCC 30.66B.440 to:
14
 - 15 i. Clarify that the installation of certain public improvements required by chapter 30.66B
16 SCC may be delayed with a performance security device under title 13 SCC; and
17
 - 18 ii. Expand the type of improvements required by chapter 30.66B SCC whose
19 installation may be delayed with a performance security device under Chapter 30.84
20 SCC.
21
- 22 2. This ordinance will amend SCC 30.84.020 to add a new provision requiring a property
23 owner to grant the County a construction easement allowing the County to enter upon
24 the property and complete the work guaranteed by a security device in the event such
25 work is not completed as required.
26
- 27 3. This ordinance will amend SCC 30.84.050 to make housekeeping changes to language.
28
- 29 4. This ordinance will amend SCC 30.84.060 to:
30
 - 31 i. Clarify the relationship of the County Engineer in making certain determinations
32 when emergency work by the County is necessary under a security device held by
33 the County; and
34
 - 35 ii. Make housekeeping corrections to language.
36
- 37 5. This ordinance will amend SCC 30.84.105 to:
38
 - 39 i. Allow the PDS Director, with the County Engineer’s concurrence, to approve the
40 delay of certain public or private improvements in a subdivision, short subdivision,
41 residential, or nonresidential development when certain conditions are met and in
42 accordance with other applicable performance security provisions;
43
 - 44 ii. Prohibit the delay of monument placement when required as part of construction;
45
 - 46 iii. Clarify the language for general delay of construction under subsection (2) and
47 adjust the timing of required completion to two years from the County’s receipt and
48 approval of a performance security device;

- iv. Allow the PDS Director, with the County Engineer's concurrence, to approve a delay in the final placement hot mix asphalt on private road networks in subdivisions, short subdivisions, and residential developments under subsection (3) with a performance security device; provided that the delay may be up to one year from recording the plat or shat plat or receipt and approval of the performance security device;
- v. Remove reference to the delay of final placement of hot mix asphalt on public roads under subsection (3) because it is provided for under SCC 13.10.124(3);
- vi. Clarify the language under subsection (4) and establish the role of the County Engineer in determining performance security devices for private road network elements;
- vii. Move the discretionary extension provision of subsection (6) to subsection (2) for clarity;
- viii. Renumber subsection (7); and
- ix. Make technical corrections and housekeeping changes to language.

6. This ordinance will amend SCC 30.84.150 to make housekeeping changes to language and clarify citations.

G. The proposed code amendments are consistent with the record as set forth in the PDS Staff Report dated November 9, 2017.

Section 2. The County Council makes the following conclusions:

- A. The code amendments are consistent with Washington State law and the County Code.
- B. The code amendments are consistent with the GMACP and with the goals, objectives, and policies of the GPP.
- C. The County has complied with all SEPA requirements in respect to this non-project action.
- D. The regulations contained in this ordinance do not result in an unconstitutional taking of private property for a public purpose.
- E. The County complied with the 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.

1 **Section 4.** Snohomish County Code Section 30.66B.440, last amended by Amended
2 Ordinance 10-086 on October 20, 2010, is amended to read:

3
4 **30.66B.440 Timing of improvements.**

5 Construction of frontage improvements, offsite road improvements, and access and
6 transportation circulation improvements is required prior to approval for occupancy or final
7 inspection, except that ~~((if the development is a subdivision or short subdivision,))~~ construction
8 may be delayed, if allowed, ((is required prior to the recording unless with the approval of the
9 county engineer, construction is assured)) with a performance security in accordance with SCC
10 13.10.124 or 30.84.105. When no building permit will be associated with a conditional or
11 administrative conditional use permit, construction of improvements is required as a
12 precondition to approval, unless some later time of construction is recommended by the
13 ~~((director of public works))~~ county engineer and imposed by the approving authority as a
14 condition of approval.

15
16 **Section 5.** Snohomish County Code Section 30.84.020, added by Amended Ordinance
17 10-086 on October 20, 2010, is amended to read:

18
19 **30.84.020 Security devices((-) = general provisions.**

20 (1) A security device shall be made on the forms as provided by the department or in a form
21 acceptable to the director. The following general types of financial sureties may be used as
22 security devices:

- 23 (a) Bond;
24 (b) Letter of credit;
25 (c) Assignment of funds or account; or
26 (d) Other form of security device as may be specifically approved by the director of finance.

27 (2) All security devices shall provide for:

28 (a) Forfeiture to the county and the right for the county to withdraw funds upon failure of the
29 permittee to construct any or all of the improvements in accordance with the approved plans,
30 specifications, permit or approval requirements or conditions, and time limits.

31 (b) The county's interest in any security device required pursuant to this chapter to be
32 assignable, without obtaining a re-issuance of the security device, to an annexing municipality in
33 the event the real property covered by the security device is annexed prior to either completion
34 of the work secured by a performance security or final acceptance and release of the security
35 device for that work covered by a maintenance or performance monitoring security.

36 (3) The amount of all security devices shall include an inflation factor calculated for the term
37 of the security device together with the term of any allowed extensions.

38 (4) In the event a development completes improvements to existing right-of-way pursuant to a
39 title 13 SCC permit or future right-of-way and drainage facilities pursuant to a title 30 SCC
40 permit, the maintenance securities required in accordance with SCC 13.10.108(1)
41 and 30.84.120 shall be combined into one maintenance security with the same start and end
42 date.

1 (5) The combined maintenance security may be divided into separate securities for right-of-
2 way and drainage if special circumstances exist and approval is granted by both the director
3 and the county engineer.

4 (6) When a security device is required or offered by a permittee for a development under this
5 chapter, the property owner shall grant to the county a construction easement allowing the
6 county to enter upon the property to complete the work guaranteed by the security device in the
7 event such work is not completed as required. The easement shall be on a form provided by the
8 county and shall be recorded with the county auditor before any permits may be issued for the
9 development.

10
11 **Section 6.** Snohomish County Code Section 30.84.050, last amended by Amended
12 Ordinance 17-004 on May 10, 2017, is amended to read:

13
14 **30.84.050 Notice of noncompliance and forfeiture of proceeds.**

15 (1) If the director determines that work covered by a security device has not been completed
16 or is not operating in conformance with the approved plans, specifications, permit, or approval
17 requirements or conditions, the director shall notify the permittee(,) and the issuer of the
18 security device of said nonconformance. The notice shall:

19 (a) Describe the work or improvements that must be done to prevent the forfeiture of the
20 security device;

21 (b) Provide a date certain by which the required work or improvements must be completed to
22 the ((directors)) director's satisfaction; and

23 (c) State that if the work or improvements are not completed within the time specified, the
24 county will proceed with forfeiture of the security device and use the funds to complete the
25 required work or improvements.

26 (2) After having given notice pursuant to SCC 30.84.050(1), the director may issue a stop
27 work order prohibiting any additional work until the conditions are corrected.

28 (3) If the work to correct the noncompliance is not completed within the time specified the
29 director may seek forfeiture of the security device, or a portion thereof, to correct the
30 nonconformance. After the county receives payment from a security device, the county will use
31 the funds to complete the required work or improvements. The permittee may not proceed with
32 work until the required amount of the security device has been re-established.

33 (4) In the event the county proceeds with forfeiture of a security device, the issuer of the
34 security device shall, within thirty ((30)) days of demand of the county, make a written
35 commitment to the county that it will either:

36 (a) Remedy the noncompliance itself with reasonable diligence pursuant to a time schedule
37 acceptable to the county; or

38 (b) Tender to the county within fifteen ((15)) days the amount necessary, as determined by
39 the county, to remedy the nonconforming conditions.

40 (5) Upon completion of either of SCC 30.84.050(4)(a) or 30.84.050(4)(b), the issuer of the
41 security device shall then have fulfilled its obligations under the applicable security device for
42 only those improvements identified by the county in its notice. If the issuer of the security device
43 elects to fulfill its obligation pursuant to the requirements of SCC 30.84.050(4)(b), the county,
44 upon completion of the remedy, shall notify the issuer of the actual cost of the remedy. The

1 county shall return, without interest, any overpayment made by the issuer of the security device,
2 and the issuer of the security device shall pay to the county any actual costs which exceeded
3 the county's estimate, limited to the total security device amount.
4

5 **Section 7.** Snohomish County Code Section 30.84.060, added by Amended Ordinance
6 10-086 on October 20, 2010, is amended to read:
7

8 **30.84.060 Emergency work by the county.**

9 (1) The director or county engineer may determine an emergency exists when:

10 (a) ~~((work))~~ Work covered by a security device has not been completed, was not completed in
11 conformance with the approved plans, specifications, or permit requirements, or is not operating
12 as required and the director or county engineer determines an emergency situation has been or
13 may be created that may endanger the public health, safety, and welfare; and

14 (b) The nature or timing of the emergency precludes notification of the applicant and security
15 device issuer as provided in SCC 30.84.050 or the department has attempted to contact the
16 permittee and received no response or the permittee was unable to perform the emergency
17 work required~~((;))~~.

18 (2) When the director or county engineer determines that an emergency exists as provided
19 above, the county may take action to correct the emergency at the permittee's expense.

20 (3) The department shall notify the permittee and security device issuer within four days after
21 commencing emergency work. The notice must state the work that was commenced and the
22 nature or timing of the emergency that necessitated the county to perform emergency work
23 without prior notification.

24 (4) After the county completes any emergency work, the county shall provide the permittee
25 and issuer of the security device with an itemized statement of expenditures.

26 (5) If funds are collected from a security device, the permittee may not proceed with work
27 covered by the security device until the required amount of the security device has been re-
28 established.
29

30 **Section 8.** Snohomish County Code Section 30.84.105, last amended by Amended
31 Ordinance 12-018 on May 2, 2012, is amended to read:
32

33 **30.84.105 Delayed construction – ~~((Performance))~~ performance security.**

34 (1) The director, with the concurrence of the county engineer, may approve the delayed
35 construction of certain public improvements under SCC 13.10.124 and certain private
36 improvements~~((,-including))~~ (such as landscaping, wetland mitigation plantings, and the final
37 placement of hot mix asphalt paving on private road network elements) in a subdivision, short
38 subdivision, ~~((commercial))~~ residential, or ~~((multifamily))~~ nonresidential development, when all of
39 the following are met:

40 (a) The delay will not create adverse operational or safety impacts or create a threat of
41 significant adverse environmental impacts;

42 (b) The permittee provides the department with a performance security in accordance with
43 SCC 30.84.105(4);

1 (c) The request is not to delay the construction of stormwater retention or detention facilities,
2 storm water treatment facilities, stormwater conveyance systems, ~~((or))~~ erosion and
3 sedimentation control facilities~~((;))~~, or the placement of monuments; and

4 (d) The delayed facilities are constructed to a minimum level of construction as determined
5 by, and acceptable to, the director and county engineer.

6 (2) ~~((Except as approved in SCC 30.84.105(3;))~~ Delayed construction ~~((delayed pursuant to~~
7 SCC 30.84.105(1))) shall be completed within two years ~~((of issuance))~~ of the county's receipt
8 and approval of the performance security, except as approved under SCC 30.84.105(3). The
9 director, with the county engineer's concurrence, may grant an extension of the deadline for
10 construction up to one additional year for good cause shown.

11 (3) The director, with the county engineer's concurrence, may allow construction approval of a
12 subdivision, ~~((or))~~ short subdivision, or residential development without the final placement of
13 hot mix asphalt paving on new ~~((public))~~ private road network elements~~((roads))~~. The placement
14 of hot mix asphalt paving shall be completed within one year of ~~((recording of the subdivision or~~
15 short subdivision)) the county's receipt and approval of the performance security or earlier, as
16 determined by the director, except that hot mix asphalt paving within a subdivision or short
17 subdivision shall be completed within one year of recording the subdivision or short subdivision.

18 (4) ~~((The))~~ Delayed construction of improvements approved under this section shall require a
19 performance security ~~((required by SCC 30.84.105(1) shall be))~~ in the amount of 150 percent of
20 the estimated cost of all delayed improvements~~((;))~~. The county engineer shall determine the
21 estimate for the costs of the final placement of hot mix asphalt paving for private road network
22 elements when delayed installation is approved. ((as determined in good faith by the)) The
23 director shall determine the estimate for the costs of any other improvements where delayed
24 installation is approved. When making such estimates, the county engineer and the director
25 shall consider ~~((taking into account))~~ the following:

26 (a) The costs of constructing all facilities as specified in the approved plan;

27 (b) The costs of monitoring the facilities' performance;

28 (c) The costs of designing and constructing any corrective work including other mitigation
29 measures which may be necessary to correct the effects on-site and off-site of inadequate or
30 failed workmanship, materials or design; and

31 (d) Any related incidental and consequential costs, inflation, and the cost of inspection of the
32 work by the department.

33 (5) The performance security shall remain in effect until final inspection and construction
34 acceptance by the county of all facilities specified by the plans whose construction is secured
35 with the performance security.

36 ~~((6))~~ ~~For good cause shown, the director, with concurrence from the county engineer, may~~
37 ~~grant an extension of the deadline for completion of construction imposed by SCC 30.84.105(2)~~
38 ~~for a time period not to exceed twelve months.))~~

39 ~~((7))~~ (6) The performance security required pursuant to this section shall not be released or
40 reduced until a maintenance security or performance monitoring security, if required, is
41 accepted pursuant to this chapter.

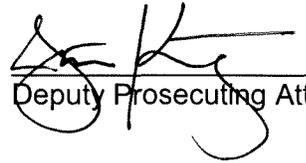
- 1 () APPROVED
- 2 () EMERGENCY
- 3 () VETOED

4
5 DATE: _____

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County Executive

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11
12 ATTEST:

13
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15 _____
16
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18 Approved as to form only:

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20  1/25/18
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22 Deputy Prosecuting Attorney
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Snohomish County: Analysis of Building and Land Use Regulation Effects on Housing and Jobs

Proposed Regulation: Ordinance No. 18-____, RELATING TO GROWTH MANAGEMENT; REVISING GENERAL REQUIREMENTS FOR THE PROVISION OF SECURITY DEVICES AND ALLOWING FOR THE DELAY OF THE INSTALLATION OF CERTAIN PRIVATE IMPROVEMENTS ASSOCIATED WITH DEVELOPMENT; AMENDING CHAPTERS 30.66B AND 30.84 OF THE SNOHOMISH COUNTY CODE

Date: **January 26, 2018**

Staff Contact: **Stephen Fesler, PDS, Ext. 2053**

	Increase	Decrease	Neutral	Uncertain	Comments
Housing					
Capacity/Targets			X		Not impacted by proposal
Cost of housing dvpt:		X			Potential for slight decrease in per unit costs related to construction
• Infrastructure			X		Not impacted by proposal
• Site			X		Not impacted by proposal
• Building const.		X			Potential for slight decrease in per unit costs related to construction
• Fees			X		Not impacted by proposal
• Yield			X		Not impacted by proposal
Timing			X		Not impacted by proposal
Jobs					
Capacity/Targets			X		Not impacted by proposal
Cost of com'l/ind dvpt:			X		Not impacted by proposal
• Infrastructure			X		Not impacted by proposal
• Site			X		Not impacted by proposal
• Building const.			X		Not impacted by proposal
• Fees			X		Not impacted by proposal
• Yield			X		Not impacted by proposal
Time to Create Jobs			X		Not impacted by proposal
# Family Wage Jobs			X		Not impacted by proposal

Discussion:

This is a non-project proposal to amend Title 30 of the Snohomish County Code (SCC) to modify provisions related to security devices. Specifically, the ordinance proposes to expand options to delay installation of certain improvements (such as landscaping, wetland mitigating plantings, and final placement of hot mixed asphalt paving of private road elements) in residential and non-residential developments through security device guarantee, add a requirement to provide a temporary construction easement to the County for private improvements guaranteed under a security device, clarify the relationship of the County Engineer in administering security device provisions under Title 30 SCC, and make related housekeeping changes.

Snohomish County Capital Facility Development Cost Analysis Summary

Project/Document Title: Ordinance No. 18-____, RELATING TO GROWTH MANAGEMENT; REVISING GENERAL REQUIREMENTS FOR THE PROVISION OF SECURITY DEVICES AND ALLOWING FOR THE DELAY OF THE INSTALLATION OF CERTAIN PRIVATE IMPROVEMENTS ASSOCIATED WITH DEVELOPMENT; AMENDING CHAPTERS 30.66B AND 30.84 OF THE SNOHOMISH COUNTY CODE

Date: **January 26, 2018**

Primary Staff Contact: **Stephen Fesler, Ext. 2053**

General Cost Analysis Summary:

This is a non-project proposal to amend Title 30 of the Snohomish County Code (SCC) to modify provisions related to security devices. Specifically, the ordinance proposes to expand options to delay installation of certain improvements (such as landscaping, wetland mitigating plantings, and final placement of hot mixed asphalt paving of private road elements) in residential and non-residential developments through security device guarantee, add a requirement to provide a temporary construction easement to the County for private improvements guaranteed under a security device, clarify the relationship of the County Engineer in administering security device provisions under Title 30 SCC, and make related housekeeping changes.

Necessary Facility	Quantification/Qualification of Anticipated Cost:
Parks	County Funded Impacts – None anticipated. Other Fund Sources Impacts – None.
Roads & Transit	County Funded Impacts – None anticipated. Other Fund Sources Impacts – None.
Surface Water	County Funded Impacts – None anticipated. Other Fund Sources Impacts – None.
Public Schools	County Funded Impacts – None. Funding of schools is the responsibility of the local district. Other Fund Sources Impacts – None.
Electric Power	County Funded Impacts – None. Funding of electric power is the responsibility of the local district or city. Other Fund Sources Impacts – None.
Public Water	County Funded Impacts – None. Funding of public water is the responsibility of the local district or city. Other Fund Sources Impacts – None.
Wastewater	County Funded Impacts – None. Funding of wastewater treatment is the responsibility of the local district or city. Other Fund Sources Impacts – None.



Snohomish County
Planning Commission

3000 Rockefeller Ave., M/S 604
Everett, WA 98201-4046
(425) 388-3311
www.snoco.org

Dave Somers
County Executive

December 21, 2017

The Honorable Dave Somers, County Executive
County Administration Building
3000 Rockefeller Avenue, M/S 407
Everett, WA 98201-4046

SUBJECT: Planning Commission recommendations on proposed amendments related to security devices

Dear Executive Somers:

On behalf of the Snohomish County Planning Commission, I am forwarding our recommendations which would amend the Snohomish County Code (SCC) regarding regulations for security devices. The Planning Commission had a briefing on November 28, 2017 and conducted a public hearing on December 19, 2017 to consider a proposal that would make several changes to security device provisions in Title 30 SCC.

Many of the code amendments would make housekeeping changes. Substantive changes include additional flexibility in timing of certain improvements, such as final lift on private road network elements in residential developments, and establishing a new easement requirement to ensure that the County can effectively carry out work not completed under a security device, in the event that is necessary for the County to do so.

There were no members of the public signed up or present to provide testimony on the proposed code amendments. The Planning Commission closed public testimony and concluded deliberations on December 19, 2017.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission makes the following recommendation to the County Council after considering information presented during the public hearing process:

Main Motion was made by Commissioner Kaufman and seconded by Commissioner Larsen to recommend approval of the proposal as written.

Vote:

6 in favor (*Hannam, Kaufman, Langston, Larsen, Temple, and Strandy*)

0 opposed

0 abstentions

Motion passed

In conclusion, the Planning Commission requests that the County Council schedule a public hearing and adopt the attached amendments to the Snohomish County Code as recommended by the Planning Commission's passed motion.

Planning Commission Recommendation Letter
Security Devices
December 21, 2017

Respectfully submitted,

A handwritten signature in black ink that reads "Dan Strandy". The signature is written in a cursive style with a large, looped initial "D".

SNOHOMISH COUNTY PLANNING COMMISSION
Dan Strandy, Chair

cc: Barbara Mock, Director, Planning and Development Services



Snohomish County

Planning and Development Services

3000 Rockefeller Ave., M/S 604
Everett, WA 98201-4046
(425) 388-3311
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MEMORANDUM

TO: Snohomish County Council

Dave Somers
County Executive

FROM: Stephen Fesler, Senior Planner

SUBJECT: Staff Report: Proposed Code Amendments Related to Security Devices

DATE: January 29, 2018

Introduction

This staff report provides information on a non-project proposal to amend regulations for security devices under Title 30 of the Snohomish County Code (SCC). A security device is an instrument that helps ensure installation and maintenance of public and private improvements as part of new development. There are three types of security devices: maintenance, performance, and performance monitoring. This code project primarily focuses on the second type.

This proposal would amend Chapters 30.66B and 30.84 SCC. Proposed changes include additional flexibility in timing of certain improvements and establishing a new easement requirement to ensure that the County can effectively carry out work not completed under a security device, in the event that is necessary for the County to do so.

On December 19, 2017, the Snohomish County Planning Commission recommended approval of the proposed code amendments. Several non-substantive housekeeping modifications have been made subsequently. Language of the proposed code amendments is shown on pages 2 through 8 of this staff report.

Background

This proposal is an outgrowth of stakeholder interest in modifying and updating the County's security device provisions for new development. The proposal includes the following topics:

- **Delayed installation.** County code allows delayed construction of public improvements and landscaping in subdivisions and multifamily and commercial developments. County code also allows delayed construction of hot asphalt mix paving for public road network elements (referred to as "final lift") in subdivisions. These provisions are recommended to be modified for clarity on private improvements that may be delayed and provide an expedient option to delay installation of hot mix asphalt paving on private road network elements.
- **Emergency work.** County code provides for instances when emergency work should be conducted under a security device. Currently, the PDS Director is responsible for declaring an emergency and authorizing work. However, the Department of Public

Works (DPW) often has an interest in installation and maintenance of improvements. Modified language is recommended to provide a defined role for DPW in administering these provisions as well.

- **Construction easement.** In the event that an applicant fails to perform the duties outlined under a security device, such as installation of improvements, the County may draw upon the security device to complete the work. However, the ability of the County to enter upon the property to complete the work is unclear under current code. A new construction easement requirement is recommended for the bonding of private improvements.

Additionally, the proposal addresses housekeeping issues, such as erroneous citations and general readability. Contingent upon approval of the proposed code amendments, an update of a corresponding rule (PDS Rule 5510) for allowing construction approval without the final placement of hot mix asphalt on road network elements would be necessary for consistency.

Proposal

The following tables outline the proposed code amendments and the rationale for the proposed changes:

Proposed Code Amendments	Rationale for Proposed Changes
<p>30.66B.440 Timing of improvements. Construction of frontage improvements, offsite road improvements, and access and transportation circulation improvements is required prior to approval for occupancy or final inspection, except that ((if the development is a subdivision or short subdivision,)) construction <u>may be delayed, if allowed,</u> ((is required prior to the recording unless with the approval of the county engineer, construction is assured)) with a performance security in accordance with SCC <u>13.10.124 or 30.84.105.</u> When no building permit will be associated with a conditional or administrative conditional use permit, construction of improvements is required as a precondition to approval, unless some later time of construction is recommended by the ((director of public works)) <u>county engineer</u> and imposed by the approving authority as a condition of approval.</p>	<p>The proposed changes in the section would allow certain private improvements required under Chapter 30.66B SCC to be delayed pursuant to SCC 30.84.105. The relationship to the delay of public improvements under SCC 13.10.124 (a section under Title 13 SCC which is administered by DPW for public road facilities) would be clarified by the changes. The specificity of development types that may use the delayed installation exceptions would be removed; the provision therefore would rely upon the cited sections to determine when a development may delay certain improvements. Additionally, a technical housekeeping change from “Director of Public Works” to “County Engineer” would also be made.</p>

Proposed Code Amendments	Rationale for Proposed Changes
<p>30.84.020 Security devices((-)) = general provisions. (1) A security device shall be made on the forms as provided by the department or in a</p>	<p>A new construction easement requirement would be added to the general security devices provision. The construction easement would only be required for private</p>

form acceptable to the director. The following general types of financial sureties may be used as security devices:

- (a) Bond;
- (b) Letter of credit;
- (c) Assignment of funds or account; or
- (d) Other form of security device as may be specifically approved by the director of finance.

(2) All security devices shall provide for:

(a) Forfeiture to the county and the right for the county to withdraw funds upon failure of the permittee to construct any or all of the improvements in accordance with the approved plans, specifications, permit or approval requirements or conditions, and time limits.

(b) The county's interest in any security device required pursuant to this chapter to be assignable, without obtaining a re-issuance of the security device, to an annexing municipality in the event the real property covered by the security device is annexed prior to either completion of the work secured by a performance security or final acceptance and release of the security device for that work covered by a maintenance or performance monitoring security.

(3) The amount of all security devices shall include an inflation factor calculated for the term of the security device together with the term of any allowed extensions.

(4) In the event a development completes improvements to existing right-of-way pursuant to a title 13 SCC permit or future right-of-way and drainage facilities pursuant to a title 30 SCC permit, the maintenance securities required in accordance with SCC 13.10.108(1) and 30.84.120 shall be combined into one maintenance security with the same start and end date.

(5) The combined maintenance security may be divided into separate securities for right-of-way and drainage if special circumstances exist and approval is granted by both the director and the county engineer.

(6) When a security device is required or offered by a permittee for a development under this chapter, the property owner shall grant to the county a construction easement

improvements to be bonded by a permittee. This would allow the County to complete work required under a bond if the permittee fails to complete the work. A construction easement would not be required for work bonded under Title 13 SCC.

<p><u>allowing the county to enter upon the property to complete the work guaranteed by the security device in the event such work is not completed as required. The easement shall be on a form provided by the county and shall be recorded with the county auditor before any permits may be issued for the development.</u></p>	
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Proposed Code Amendments	Rationale for Proposed Changes
<p>30.84.050 Notice of noncompliance and forfeiture of proceeds.</p> <p>(1) If the director determines that work covered by a security device has not been completed or is not operating in conformance with the approved plans, specifications, permit, or approval requirements or conditions, the director shall notify the permittee(,) and the issuer of the security device of said nonconformance. The notice shall:</p> <p>(a) Describe the work or improvements that must be done to prevent the forfeiture of the security device;</p> <p>(b) Provide a date certain by which the required work or improvements must be completed to the ((directors)) <u>director's</u> satisfaction; and</p> <p>(c) State that if the work or improvements are not completed within the time specified, the county will proceed with forfeiture of the security device and use the funds to complete the required work or improvements.</p> <p>(2) After having given notice pursuant to SCC 30.84.050(1), the director may issue a stop work order prohibiting any additional work until the conditions are corrected.</p> <p>(3) If the work to correct the noncompliance is not completed within the time specified the director may seek forfeiture of the security device, or a portion thereof, to correct the nonconformance. After the county receives payment from a security device, the county will use the funds to complete the required work or improvements. The permittee may not proceed with work until the required amount of the security device has been re-established.</p> <p>(4) In the event the county proceeds with</p>	<p>Citations would be corrected in this section. Additionally, other housekeeping changes are proposed.</p>

<p>forfeiture of a security device, the issuer of the security device shall, within thirty ((30)) days of demand of the county, make a written commitment to the county that it will either:</p> <p>(a) Remedy the noncompliance itself with reasonable diligence pursuant to a time schedule acceptable to the county; or</p> <p>(b) Tender to the county within fifteen ((15)) days the amount necessary, as determined by the county, to remedy the nonconforming conditions.</p> <p>(5) Upon completion of either of SCC 30.84.050(4)(a) or 30.84.050(4)(b), the issuer of the security device shall then have fulfilled its obligations under the applicable security device for only those improvements identified by the county in its notice. If the issuer of the security device elects to fulfill its obligation pursuant to the requirements of SCC 30.84.050(4)(b), the county, upon completion of the remedy, shall notify the issuer of the actual cost of the remedy. The county shall return, without interest, any overpayment made by the issuer of the security device, and the issuer of the security device shall pay to the county any actual costs which exceeded the county's estimate, limited to the total security device amount.</p>	
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Proposed Code Amendments	Rationale for Proposed Changes
<p>30.84.060 Emergency work by the county.</p> <p>(1) The director <u>or county engineer</u> may determine an emergency exists when:</p> <p>(a) ((work)) <u>Work</u> covered by a security device has not been completed, was not completed in conformance with the approved plans, specifications, or permit requirements, or is not operating as required and the director <u>or county engineer</u> determines an emergency situation has been or may be created that may endanger the public health, safety, and welfare; and</p> <p>(b) The nature or timing of the emergency precludes notification of the applicant and security device issuer as provided in SCC 30.84.050 or the department has attempted to contact the permittee and received no response or the permittee was unable to perform the emergency work</p>	<p>The "County Engineer" would be added throughout this section to clarify the role of DPW in determining the need for emergency work for certain improvements under Title 30 SCC.</p>

<p>required(,). (2) When the director or <u>county engineer</u> determines that an emergency exists as provided above, the county may take action to correct the emergency at the permittee's expense. (3) The department shall notify the permittee and security device issuer within four days after commencing emergency work. The notice must state the work that was commenced and the nature or timing of the emergency that necessitated the county to perform emergency work without prior notification. (4) After the county completes any emergency work the county shall provide the permittee and issuer of the security device with an itemized statement of expenditures. (5) If funds are collected from a security device the permittee may not proceed with work covered by the security device until the required amount of the security device has been re-established.</p>	
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Proposed Code Amendments	Rationale for Proposed Changes
<p>30.84.105 Delayed construction – ((Performance)) performance security. (1) The director, with the concurrence of the county engineer, may approve the delayed construction of certain public improvements under SCC 13.10.124 and certain private improvements(, including)) (such as landscaping, wetland mitigation plantings, and the final placement of hot mix asphalt paving) in a subdivision, short subdivision, ((commercial)) or residential or ((multifamily)) nonresidential development, when all of the following are met: (a) The delay will not create adverse operational or safety impacts or create a threat of significant adverse environmental impacts; (b) The permittee provides the department with a performance security in accordance with SCC 30.84.105(4); (c) The request is not to delay the construction of stormwater retention or detention facilities, storm water treatment facilities, stormwater conveyance systems,</p>	<p>A variety of changes would be made to the delayed construction provisions in SCC 30.84.105. These include:</p> <ul style="list-style-type: none"> • Clarifying the relationship with Title 13 SCC for delayed installation of public improvements by referencing SCC 13.10.124; • Clarifying that installation of certain private improvements may be delayed under SCC 30.84.105; • Eliminating terms “commercial” and “multifamily” and replacing them with “residential” and “nonresidential” in SCC 30.84.105(1); • Adjusting the general timing provisions for delayed installation of private improvements under SCC 30.84.105(2) and moving the one-year extension under SCC 30.84.105(6) to the same subsection for clarity; • Allowing residential developments to delay installation of final lift on private

~~((or))~~ erosion and sedimentation control facilities~~((;))~~, or the placement of monuments; and

(d) The delayed facilities are constructed to a minimum level of construction as determined by, and acceptable to, the director and county engineer.

(2) ~~((Except as approved in SCC 30.84.105(3),))~~ Delayed construction ~~((delayed pursuant to SCC 30.84.105(1)))~~ shall be completed within two years ~~((of issuance))~~ of the county's receipt and approval of the performance security, except as approved under SCC 30.84.105(3). The director, with the county engineer's concurrence, may grant an extension of the deadline for construction up to one additional year for good cause shown.

(3) The director, with the county engineer's concurrence, may allow construction approval of a subdivision, ~~((or))~~ short subdivision, or residential development without the final placement of hot mix asphalt paving on new ~~((public))~~ private road network elements~~((roads)).~~ The placement of hot mix asphalt paving shall be completed within one year of ~~((recording of the subdivision or short subdivision))~~ the county's receipt and approval of the performance security or earlier, as determined by the director, except that hot mix asphalt paving within a subdivision or short subdivision shall be completed within one year of recording the subdivision or short subdivision.

(4) ~~((The))~~ Delayed construction approved under this section shall require a performance security ~~((required by SCC 30.84.105(1) shall be))~~ in the amount of 150 percent of the estimated cost of all delayed improvements~~((;))~~. The county engineer shall determine the estimate for the costs of the final placement of hot mix asphalt paving for private road network elements when delayed installation is approved. ~~((as determined in good faith by the))~~ The director shall determine the estimate for the costs of any other improvements where delayed installation is approved. When making such estimates, the county engineer and the director shall consider ~~((taking in to account))~~

road network elements under SCC 30.84.105(3);

- Clarifying the timing for delayed installation of final lift on private road networks based upon the type of development (subdivision or general residential development);
- Moving the extension provision under SCC 30.84.105(6) to SCC 30.84.105(2);
- Clarifying the relationship of the County Engineer in decision-making for certain private improvements;
- Renumbering subsections as necessary; and
- Making other housekeeping changes.

<p>the following:</p> <p>(a) The costs of constructing all facilities as specified in the approved plan;</p> <p>(b) The costs of monitoring the facilities' performance;</p> <p>(c) The costs of designing and constructing any corrective work including other mitigation measures which may be necessary to correct the effects on-site and off-site of inadequate or failed workmanship, materials or design; and</p> <p>(d) Any related incidental and consequential costs, inflation, and the cost of inspection of the work by the department.</p> <p>(5) The performance security shall remain in effect until final inspection and construction acceptance by the county of all facilities specified by the plans whose construction is secured with the performance security.</p> <p>((6) For good cause shown, the director, with concurrence from the county engineer, may grant an extension of the deadline for completion of construction imposed by SCC 30.84.105(2) for a time period not to exceed twelve months.))</p> <p>((7)) (6) The performance security required pursuant to this section shall not be released or reduced until a maintenance security or performance monitoring security, if required, is accepted pursuant to this chapter.</p>	
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Proposed Code Amendments	Rationale for Proposed Changes
<p>30.84.150 General ((Landscaping)) landscaping.</p> <p>(1) If the director approves a planting delay pursuant to SCC 30.25.043(2), a performance security shall be required pursuant to SCC 30.84.105(1), (2), (4), and (5) to ensure that all actions required by chapter 30.25 SCC are satisfactorily performed and completed in accordance with the approved plans, specifications, permit or approval requirements or conditions.</p> <p>(2) The director may require a maintenance security prior to releasing a performance security accepted pursuant to SCC 30.84.150(1).</p>	<p>All proposed changes in this section are housekeeping.</p>

Proposed Findings of Fact and Conclusions

Recommended findings of fact and conclusions for the proposed amendments are contained in Sections 1 and 2 of the proposed ordinance.

Role of the Planning Commission

The code amendments proposed are substantive in nature and therefore were subject to review and recommendation by the Snohomish County Planning Commission in accordance with SCC 30.73.040(1). A public hearing on proposed code amendments was held by the Snohomish County Planning Commission on December 19, 2017. The Snohomish County Planning Commission recommends approval of the attached ordinance, as detailed in its letter dated December 21, 2017.

Procedural Requirements

SEPA 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 Nonsignificance on November 8, 2017.

Additionally, a notice of intent to adopt the proposed regulations and standards was transmitted to the Washington State Department of Commerce (“Commerce”) on November 8, 2017, in accordance with RCW 36.70A.106, for distribution to state agencies.

Legal Review

The Prosecuting Attorney Office has reviewed the proposed ordinance and code amendments. The attached proposed ordinance has been approved as to form.

CC:

Ken Klein, Executive Director
Barbara Mock, PDS Director
Mike McCrary, PDS Deputy Director
Michael Dobesh, PDS Manager
Ikuno Masterson, PDS Manager
Ryan Countryman, PDS Supervisor
Jacqueline Reid, PDS Supervisor
Yorik Stevens-Wajda, Senior Legislative Analyst