

1 APPROVED:
2 EFFECTIVE:

3
4 SNOHOMISH COUNTY COUNCIL
5 Snohomish County, Washington

6
7 ORDINANCE NO. 25-013

8
9 REENACTING AND AMENDING CHAPTER 7.54 SCC PERTAINING TO INSPECTION
10 AND MAINTENANCE OF CONSTRUCTED STORMWATER CONTROL FACILITIES

11
12 WHEREAS, the county is regulated by a Phase I Municipal Stormwater Permit
13 (the "NPDES Permit") issued by the Washington Department of Ecology pursuant to the
14 National Pollutant Discharge Elimination System permit program established by the
15 federal Water Pollution Control Act, codified at 33 U.S.C. § 1251 et seq. ("the Clean
16 Water Act"); and

17
18 WHEREAS, the NPDES Permit requires the county to take certain actions to
19 eliminate the unauthorized discharge of pollutants into the county's storm sewer system
20 from both public and private property; and

21
22 WHEREAS, in furtherance of this objective, the NPDES Permit requires the
23 county to (i) implement regulations requiring that certain types of stormwater control
24 facilities be regularly inspected and maintained, and (ii) enforce those regulations; and

25
26 WHEREAS, chapter 7.54 of the Snohomish County Code (SCC), known as the
27 Snohomish County Stormwater Facility Maintenance Code, establishes such
28 regulations governing the requirement for the regular inspection and maintenance of
29 constructed stormwater control facilities and procedures pursuant to which the county
30 may enforce compliance with those requirements; and

31
32 WHEREAS, pursuant to SCC 7.54.600, chapter 7.54 SCC shall be automatically
33 repealed on April 21, 2025, unless the chapter is reenacted prior to that date; and

34
35 WHEREAS, chapter 7.54 SCC, as a regulation that is important to the County's
36 compliance with its NPDES Permit, should be retained on a permanent basis; and

37
38 WHEREAS, the county council held a public hearing on _____,
39 2025, to solicit comments from the public and to consider whether to reenact and
40 amend chapter 7.54 SCC as set forth in this ordinance; and

41
42 WHEREAS, the county council concludes that chapter 7.54 SCC should be
43 reenacted and amended as set forth herein.

44
45 NOW, THEREFORE, BE IT ORDAINED:

1 Section 1. The county council hereby adopts the foregoing recitals as findings of
2 fact and conclusions as if set forth in full herein.

3
4 Section 2. Chapter 7.54 of the Snohomish County Code, adopted by Amended
5 Ordinance No. 13-022, on April 17, 2013, and reenacted and amended by Ordinance
6 No. 19-009 on April 10, 2019, and last amended by Amended Ordinance No. 21-025 on
7 June 16, 2021, is reenacted and amended to read:

8
9 **Chapter 7.54**
10 **Maintenance of Constructed Stormwater Control Facilities**

11
12 Sections:

13	7.54.010	Title.
14	7.54.020	Purposes and objectives.
15	7.54.030	Applicability.
16	7.54.040	Public nuisance.
17	7.54.050	Administration - Authority of directors.
18	7.54.060	Snohomish County Drainage Manual.
19	7.54.070	Definitions.
20	7.54.080	Maintenance and repair of constructed stormwater control facilities.
21	7.54.090	Inspections.
22	7.54.100	Notice and order to cease violation.
23	7.54.110	Warning notice as alternative to notice and order.
24	7.54.120	Monetary penalties and costs.
25	7.54.130	Response to a notice and order.
26	7.54.140	Revised notice and order.
27	7.54.150	Hearing examiner process for appeal of notice and order.
28	7.54.160	Appeal under LUPA.
29	7.54.170	Final order.
30	7.54.180	Failure to comply with final order.
31	7.54.190	Criminal prosecution.
32	7.54.200	Reduction of monetary penalties.
33	7.54.210	No county liability.
34	7.54.220	Immunity from suit.
35	7.54.230	Compliance with other laws.
36	((7.54.600	Sunset.))

37
38 **7.54.010 Title.**

39
40 This chapter shall be known as the Snohomish County Stormwater Facility Maintenance
41 Code.

42
43 **7.54.020 Purposes and objectives.**

44
45 (1) The purposes of this chapter are to:
46

1 (a) Protect the quality of the county’s aquatic resources, including receiving
2 waters, groundwater, and aquatic sediments, from the discharge of contaminants and
3 the adverse impacts of stormwater runoff;
4

5 (b) Ensure the function and integrity of public infrastructure related to stormwater
6 control, including county roads, associated rights-of-way, and stormwater control
7 facilities;
8

9 (c) Reduce, prevent and ameliorate the adverse impacts of contaminated
10 discharges on public health, safety and welfare; and
11

12 (d) Protect, maintain and improve the quality of the county’s water resources for
13 fish and wildlife habitat, human recreation and other ecological and aesthetic purposes
14 and beneficial uses.
15

16 (2) The objectives of this chapter are to:
17

18 (a) Establish minimum requirements for the regular inspection and maintenance
19 of constructed stormwater control facilities, pursuant to which the owners, occupants
20 and operators of real property on which such facilities are located must keep such
21 facilities in good condition and repair so that such facilities perform their intended
22 function, thereby controlling, reducing and preventing the discharge of pollutants to the
23 waters of the state as required by chapter 90.48 RCW, the Clean Water Act, the
24 county’s Drainage Manual and the county’s Phase I NPDES municipal stormwater
25 permit; and
26

27 (b) Establish procedures pursuant to which the county may enforce compliance
28 with the requirements described above.
29

30 **7.54.030 Applicability.**
31

32 Unless specifically exempted herein, this chapter applies to all constructed stormwater
33 control facilities located in the unincorporated areas of the county.
34

35 **7.54.040 Public nuisance.**
36

37 Each and every violation of this chapter constitutes a public nuisance subject to
38 enforcement action under this chapter or to such other remediation as is authorized by
39 law. The remedies set forth in this chapter are not exclusive, and do not limit or restrict
40 the authority of the county to cure, abate, ameliorate or remediate violations in any other
41 lawful manner.
42

43 **7.54.050 Administration – Authority of directors.**
44

45 The directors of the department of conservation and natural resources and the
46 department of planning and development services shall be responsible for implementing

1 this chapter. The directors are each authorized to adopt and amend procedural rules
2 pertaining to the implementation and enforcement of this chapter; provided, that the
3 directors shall coordinate with one another to avoid adopting conflicting or duplicative
4 procedural rules under this section. Copies of all procedural rules and amendments
5 thereto shall be available to the public at the respective departments.

6
7 **7.54.060 Snohomish County Drainage Manual.**

8
9 The technical guidelines and best management practices contained in the most recent
10 version of the Drainage Manual adopted by rule pursuant to chapter 30.63A SCC shall
11 be used in implementing the requirements of this chapter. A copy of the Drainage
12 Manual shall be available to the public at the department of conservation and natural
13 resources.

14
15 **7.54.070 Definitions.**

16
17 In this chapter, unless the context clearly requires otherwise, the following terms shall
18 have the meanings specified below:

19
20 (1) "Aquatic sediment" means a surface sediment overlain by an aquatic environment;
21 a solid, fragmented, particulate material transported and deposited by wind, water, ice
22 or chemically precipitated from solution and/or secreted by organisms; forming deposits
23 of loose, unconsolidated layers in which the void spaces are occupied by fresh, marine
24 or brackish water.

25
26 (2) "Best management practices" or "BMPs" means physical objects, structures,
27 managerial practices, or behaviors, that when used singly or in combination, eliminate
28 or reduce the introduction of contaminants to stormwater, receiving waters, or
29 groundwater.

30
31 (3) "Clean Water Act" means the federal Water Pollution Control Act, codified at 33
32 U.S.C. 1251 et seq., as now existing or hereafter amended.

33
34 (4) "Constructed stormwater control facility" means any type of catch basin or drainage
35 facility for which maintenance standards are set forth in Volume VI of the Drainage
36 Manual.

37
38 (5) "Constructed stormwater control facilities regulated by the county's Phase I NPDES
39 municipal stormwater permit" means those constructed stormwater control facilities that
40 discharge into the county's storm sewer system and are thereby subject to the operation
41 and maintenance program mandated by Special Condition S5.C.10 of the county's
42 Phase I NPDES municipal stormwater permit.

43
44 (6) "Contaminant" means a solid, liquid, or gaseous substance that, if discharged to a
45 drainage facility, natural drainage system, receiving waters or groundwater, will alter the
46 physical, chemical, or biological properties thereof to the extent that the discharge will

1 render the facility, system, or water harmful, detrimental, or injurious to the public
2 health, safety, or welfare, or to domestic, commercial, industrial, agricultural,
3 recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish,
4 or other aquatic life.

5
6 (7) "Department" means the department of conservation and natural resources or the
7 department of planning and development services, unless otherwise specified.

8
9 (8) "Director" means the director of the department of conservation and natural
10 resources or the department of planning and development services, unless otherwise
11 specified.

12
13 (9) "Drainage facility" means any part of a manmade physical system designed or
14 constructed to collect, treat, convey, store, or control the flow of stormwater. Drainage
15 facilities include, but are not limited to, stormwater conveyance and containment
16 facilities, including pipelines, constructed channels and ditches, infiltration facilities,
17 retention and detention facilities, stormwater treatment facilities, erosion and
18 sedimentation control facilities, and all other drainage structures and appurtenances.

19
20 (10) "Ecology" means the Washington State Department of Ecology.

21
22 (11) "EPA" means the United States Environmental Protection Agency.

23
24 (12) "Groundwater" means all waters that exist beneath the land surface or beneath the
25 bed of any stream, lake, or reservoir, or other body of surface water, whatever may be
26 the geological formation or structure in which such water stands, flows, percolates or
27 otherwise moves.

28
29 (13) "National Pollutant Discharge Elimination System" or "NPDES" means the national
30 program authorized under the Clean Water Act for controlling pollutants from point and
31 nonpoint source discharges into waters of the United States.

32
33 (14) "National Pollutant Discharge Elimination System permit" or "NPDES permit"
34 means a permit issued by Ecology or the EPA to implement the requirements of the
35 Clean Water Act.

36
37 (15) "Natural drainage system" means the physical beds and boundaries of receiving
38 waters, including those natural drainage systems that have been altered by human
39 actions.

40
41 (16) "Person" means any natural person, corporation, nonprofit corporation, municipal
42 corporation, government agency, limited liability company, partnership, limited
43 partnership, limited liability partnership, professional services corporation, or any other
44 legally recognized entity.

1 (17) "Person(s) responsible" or "responsible person(s)" means the person(s) obligated
2 to remediate a particular violation, and includes all of the following persons:

3
4 (a) The fee owner(s) of the real property on which the violation exists or
5 occurred;

6
7 (b) The tenant(s), licensee(s) or other person(s) entitled to use, occupy or
8 otherwise control the real property on which the violation exists or occurred;

9
10 (c) The person(s) who performed or committed the acts or omissions causing or
11 leading to the violation (if applicable); and

12
13 (d) Any other person(s) responsible for the violation under applicable law.
14

15 (18) "Receiving waters" means lakes, rivers, ponds, streams, wetlands, brackish or salt
16 waters, portions of Puget Sound, and any other naturally occurring surface waters or
17 watercourses located within the unincorporated county, including those for which the
18 physical beds and boundaries have been altered by human actions.
19

20 (19) "Snohomish County Drainage Manual" or "Drainage Manual" means the manual
21 adopted by rule pursuant to chapter 30.63A SCC, and any amendments thereto, as
22 described in SCC 7.54.060.
23

24 (20) "Stormwater" means surface water runoff resulting from rainfall, snowmelt, or other
25 precipitation, prior to discharge to a receiving water or groundwater.
26

27 (21) "Violation" means the occurrence of any of the following:
28

29 (a) Failure to properly inspect or maintain a constructed stormwater control
30 facility as required by SCC 7.54.080;

31
32 (b) Failure to comply with any other requirement established in this chapter; or
33

34 (c) Performing or allowing the performance of any act prohibited by this chapter.
35

36 **7.54.080 Maintenance and repair of constructed stormwater control facilities.**
37

38 (1) The person(s) responsible for one or more constructed stormwater control facilities
39 regulated by the county's Phase I NPDES municipal stormwater permit must inspect
40 and maintain those facilities in accordance with the standards and timelines set forth in
41 Volume V, Chapter 4, and Volume VI of the Drainage Manual.
42

43 (2) For all constructed stormwater control facilities not described in subsection (1) of
44 this section, the person(s) responsible for such facilities must inspect and maintain the
45 facilities in accordance with the standards set forth in Volume VI of the Drainage
46 Manual.

1
2 (3) Inspections required under subsection (1) of this section shall be performed
3 annually. The director of the department of conservation and natural resources may
4 approve a reduced inspection frequency for a particular constructed stormwater control
5 facility if the person(s) responsible for said facility can demonstrate that the reduced
6 frequency is justified on the basis of maintenance records.

7
8 (4) Inspection and maintenance records for all constructed stormwater control facilities
9 shall be retained by the responsible person(s) for a minimum of five years, and shall be
10 made available to the county upon request.

11
12 **7.54.090 Inspections.**

13
14 The county may enter onto real property on which one or more constructed stormwater
15 control facilities is located and inspect said facilities to determine compliance with this
16 chapter if (1) the county has the right to enter onto the real property for purposes of
17 inspection pursuant to an easement, covenant, license, search warrant or other
18 instrument, or (2) the owner, occupant or operator of the real property, or another
19 person having apparent control or authority over the real property grants the county
20 permission to enter and perform an inspection. Such inspections may include the
21 following activities:

22
23 (1) Inspection, sampling, and testing of any constructed stormwater control facility for
24 the purpose of determining compliance with standards for inspection, maintenance, or
25 repair adopted by the director and applicable to the facility;

26
27 (2) Investigation of the integrity of any constructed stormwater control facility
28 components using any appropriate test deemed necessary, including, but not limited to,
29 dye or smoke testing or video surveys;

30
31 (3) Creation of records reasonably necessary to document conditions related to
32 compliance with the standards described above, including but not limited to
33 photographs, video, measurements and drawings; and

34
35 (4) Inspection and copying of nonconfidential records relating to inspection,
36 maintenance, or repair of the constructed stormwater control facilities.

37
38 **7.54.100 Notice and order to cease violation.**

39
40 (1) Whenever any constructed stormwater control facility is found to be in violation of
41 this chapter or standards required hereunder, the director may cause a notice and order
42 to be issued to the responsible person(s), which may include an order to immediately
43 cease the activity causing the violation or take affirmative action to abate the violation.

44
45 (2) The notice and order shall include the following information:
46

1 (a) The name(s) of the person(s) determined to be responsible for the violation;

2
3 (b) The address or legal description of the real property on which the violation
4 exists or occurred;

5
6 (c) A description of the violation, including the specific provision of this chapter,
7 Volume V, Chapter 4 or Volume VI of the Drainage Manual which has been violated;

8
9 (d) If applicable, a brief description of any activity which is causing the violation
10 to exist or occur;

11
12 (e) A description of any required corrective action;

13
14 (f) A deadline by which corrective action, if any, must be completed;

15
16 (g) The amount of monetary penalty imposed due to the violation and the date
17 by which payment must be made;

18
19 (h) The signature and written name of the county official issuing the notice and
20 order;

21
22 (i) The contact information for the county's designated contact person or office to
23 which questions regarding the notice and order may be directed;

24
25 (j) The date of the notice and order; and

26
27 (k) Notice of the right to contest the notice and order as provided in SCC
28 7.54.130(5).

29
30 (3) A notice and order may be amended at any time to correct clerical errors. An
31 amendment made pursuant to this subsection shall not affect the validity or effective
32 date of the original notice and order.

33
34 (4) The notice and order shall be served upon the responsible person(s) by one of the
35 following methods:

36
37 (a) By personal service;

38
39 (b) By certified mail, sent to the last known address of the responsible person(s);

40
41 (c) If the address of the responsible person(s) is unknown, by posting a copy of
42 the notice and order in a conspicuous place at the site of the violation.

43
44 **7.54.110 Warning notice as alternative to notice and order.**

1 (1) As an alternative to issuing a notice and order, the director may issue a warning
2 notice to the person(s) responsible for an apparent violation of this chapter if the
3 apparent violation can be corrected within a reasonable amount of time. A warning
4 notice is a communication by the director containing recommended actions that may be
5 taken by the person(s) responsible for an apparent violation in order to potentially avoid
6 the issuance of a notice and order.

7
8 (2) A warning notice shall include the following information:

9
10 (a) The name(s) of the person(s) determined to be responsible for the apparent
11 violation;

12
13 (b) The address or legal description of the real property on which the apparent
14 violation exists or has occurred;

15
16 (c) A description of the apparent violation, including the specific provision of this
17 chapter, Volume V, Chapter 4 or Volume VI of the Drainage Manual which has been
18 violated;

19
20 (d) If applicable, a brief description of any activity which is causing the apparent
21 violation to exist or occur;

22
23 (e) A description of any recommended corrective action;

24
25 (f) A deadline by which corrective action should be completed in order to avoid
26 issuance of a notice and order;

27
28 (g) The signature and written name of the county official issuing the warning
29 notice;

30
31 (h) The contact information for the county's designated contact person or office
32 to which questions regarding the warning notice may be directed; and

33
34 (i) The date of the warning notice.

35
36 (3) The director may issue a notice and order for a violation of this chapter irrespective
37 of any previous issuance of a warning notice regarding the violation.

38
39 **7.54.120 Monetary penalties and costs.**

40
41 (1) Whenever a violation of this chapter occurs, the director may impose a monetary
42 penalty upon the person(s) responsible for the violation. The amount of such monetary
43 penalty shall be calculated pursuant to this section, and set forth in a notice and order
44 issued pursuant to SCC 7.54.100.

1 (2) The base amount of each monetary penalty shall be \$5,000 per violation. If there
2 are multiple problems with the same constructed stormwater facility, said problems shall
3 be treated as a single violation for purposes of calculating the amount of base penalty
4 imposed. If more than one constructed stormwater control facility is located on a
5 particular property, a \$5,000 base penalty shall be imposed for each constructed
6 stormwater facility that is in violation of this chapter.

7
8 (3) In addition to the base penalty amount, the person(s) responsible for a violation may
9 also be required to reimburse the county for the costs incurred by the county in
10 investigating the violation and enforcing remediation of the violation, including any
11 laboratory costs. If the full amount of reimbursable costs incurred by the county due to a
12 particular violation is not known at the time an original notice and order is issued, a
13 revised notice and order including such costs in the monetary penalty may be issued to
14 the responsible person(s) once said costs are known.

15
16 (4) If there is more than one person responsible for a given violation, all responsible
17 persons shall be jointly and severally liable to the county for the entire amount of
18 monetary penalties imposed with respect to the violation.

19
20 **7.54.130 Response to a notice and order.**

21
22 The recipient(s) of a notice and order shall respond to the notice and order within 30
23 calendar days from the date of receiving the notice and order, unless the notice and
24 order specifies a longer time period. The recipient(s) may respond to a notice and order
25 in any of the following ways:

26
27 (1) *Cure the Violation in a Timely Manner.* The recipient(s) of a notice and order may
28 cure the violation described in the notice and order within the time period specified in
29 the notice and order. In such event, the recipient shall promptly notify the county when
30 the violation has been cured, and the county shall promptly inspect the site for
31 compliance. If the county determines the violation has been timely cured, any monetary
32 penalty specified in the notice and order shall be automatically waived in full, as
33 provided in SCC 7.54.200.

34
35 (2) *Request Additional Time.* The recipient(s) of a notice and order may submit a
36 written request to the county requesting additional time to cure the violation. Any such
37 request shall explain why the circumstances surrounding the violation support the
38 request for additional time. The request shall propose a timeline or schedule pursuant to
39 which the responsible person(s) will cure the violation. The director may agree to a
40 reasonable proposal requesting additional time. In connection with approving a request
41 for additional time under this subsection, the director may also agree that if the violation
42 is cured by the new deadline, the amount of the monetary penalty specified in the notice
43 and order shall be reduced by an appropriate amount, consistent with SCC 7.54.200.
44 The director's decision to grant, deny, or partially grant a request for additional time
45 shall be in writing, as shall any associated decision to conditionally reduce the monetary
46 penalty. If the violation is not cured by the new deadline, then any reduction in the

1 amount of monetary penalties granted pursuant to this subsection shall be void and the
2 original amount of monetary penalties specified in the notice and order shall be due and
3 owing.

4
5 (3) *Request a Reduction in the Amount of Monetary Penalty.* The recipient(s) of a
6 notice and order may submit a written request to the county requesting a reduction in
7 the amount of the monetary penalty specified in the notice and order. Any such request
8 shall explain why the circumstances surrounding the violation support the request to
9 reduce the amount of the monetary penalty. The director may agree to reduce the
10 amount of the monetary penalty by an appropriate amount, consistent with SCC
11 7.54.200, on the condition that the violation must be cured by the deadline specified in
12 the notice and order or such other deadline as the director may deem reasonable. The
13 director's decision to grant, deny, or partially grant a request for a reduction in the
14 amount of any monetary penalty shall be in writing. If the director's written decision
15 grants or partially grants a reduction in the amount of a monetary penalty, then the
16 decision shall also specify the deadline by which the violation must be cured in order for
17 the reduction in monetary penalties to be effective. If the violation is not cured by the
18 specified deadline, then any reduction in the amount of monetary penalties granted
19 pursuant to this subsection shall be void and the original amount of monetary penalties
20 specified in the notice and order shall be due and owing.

21
22 (4) *Request Additional Time and a Reduction in the Amount of Monetary Penalty.* The
23 recipient(s) of a notice and order may submit a written request to the county requesting
24 both additional time in which to cure the violation and a reduction in the amount of the
25 monetary penalty specified in the notice and order. Any such request shall explain why
26 the circumstances surrounding the violation support both the request for additional time
27 and the request to reduce the amount of the monetary penalty. The request shall
28 propose a timeline or schedule pursuant to which the recipient of the notice and order
29 will cure the violation. The director may agree to a reasonable proposal (a) requesting
30 additional time, and/or (b) to reduce the monetary penalty by an appropriate amount,
31 consistent with SCC 7.54.200, on the condition that the violation must be cured by the
32 applicable deadline. The director's decision to grant, deny, or partially grant a request
33 for both additional time and a reduction in the amount of monetary penalties shall be in
34 writing. If the director's written decision grants or partially grants a reduction in the
35 amount of a monetary penalty, then the decision shall also specify the deadline by
36 which the violation must be cured in order for the reduction in monetary penalties to be
37 effective. If the violation is not cured by the specified deadline, then any reduction in the
38 amount of monetary penalties granted pursuant to this subsection shall be void and the
39 original amount of monetary penalties specified in the notice and order shall be due and
40 owing.

41
42 (5) *Contest the Notice and Order.* The recipient(s) of a notice and order may contest
43 the accuracy, validity, or appropriateness of the notice and order by appealing the
44 notice and order to the hearing examiner within 30 calendar days from the date of
45 receiving the notice and order. Any such appeal must be made in writing and must
46 contain the elements described in SCC 2.02.125, except that no filing fee shall be

1 required. The appeal documents may be delivered either to the department of planning
2 and development services or directly to the office of the hearing examiner. Any appeal
3 documents delivered to the department of planning and development services shall be
4 transmitted to the office of the hearing examiner within three business days.

5
6 **7.54.140 Revised notice and order.**
7

8 (1) Consistent with SCC 7.54.120(3), a revised notice and order may be issued to the
9 person(s) responsible for a violation for the purpose of adjusting the amount of
10 monetary penalty imposed in the original notice and order to include costs incurred by
11 the county in investigating and enforcing remediation of the violation. A revised notice
12 and order shall clearly reference the original notice and order that is being revised. The
13 issuance of a revised notice and order does not affect the validity or issuance date of
14 the original notice and order.
15

16 (2) The recipient(s) of a revised notice and order shall respond to the revised notice
17 and order in one of the following ways:
18

19 (a) *Pay the Additional Amount of Penalties in a Timely Manner.* The recipient(s)
20 of a revised notice and order may pay the increased amount of monetary penalties to
21 the county within the longest of the following time periods: (i) within 30 calendar days of
22 receiving the revised notice and order, (ii) by the deadline specified in the revised notice
23 and order, if any, (iii) by any extended deadline for payment of the original monetary
24 penalty that has been agreed to by the director pursuant to SCC 7.54.130, or (iv) if the
25 original notice and order was timely appealed, then by the deadline for payment of the
26 original monetary penalty that is specified in the final order resulting from the appeal, as
27 described in SCC 7.54.170.
28

29 (b) *Contest the Revised Notice and Order.* The recipient(s) of a revised notice
30 and order may contest the accuracy, validity, or appropriateness of the increased
31 amount of monetary penalties imposed by the revised notice and order by appealing the
32 revised notice and order to the hearing examiner within 30 calendar days of receiving
33 the revised notice and order. The scope of such appeal shall be strictly limited to the
34 accuracy, validity, and appropriateness of the increased amount of monetary penalties
35 imposed by the revised notice and order. Any such appeal must be made in writing and
36 must contain the elements described in SCC 2.02.125, except that no filing fee shall be
37 required. Any appeal documents delivered to the department of planning and
38 development services shall be transmitted to the office of the hearing examiner within
39 three business days. If an appeal of the original notice and order is pending with the
40 hearing examiner, the hearing examiner shall have discretion to consolidate the
41 appeals.
42

43 (3) To the extent applicable, the provisions of SCC 7.54.150, 7.54.160, 7.54.170 and
44 7.54.180 shall each apply to a revised notice and order, just as they apply to an original
45 notice and order.
46

1 **7.54.150 Hearing examiner process for appeal of notice and order.**

2
3 (1) Except as expressly provided to the contrary in this chapter, the provisions of
4 chapter 2.02 SCC and any applicable rules adopted by the hearing examiner shall
5 govern the appeal of a notice and order.

6
7 (2) Unless an appeal of a notice and order is summarily dismissed by the hearing
8 examiner, the hearing examiner shall hold a public hearing regarding the appeal within
9 30 business days of the date on which the hearing examiner received the appeal.

10
11 (3) The hearing examiner shall issue a decision regarding the notice and order
12 promptly after the conclusion of the hearing, consistent with timelines established by
13 chapter 2.02 SCC.

14
15 (4) Should the appellant(s) of a notice and order fail to appear at the public hearing
16 regarding the notice and order, the hearing examiner shall issue a decision dismissing
17 the appeal. In that event, the notice and order shall become a final determination of the
18 following: (a) that the violation described in the notice and order occurred; (b) that the
19 person(s) identified in the notice and order as being responsible for the violation are the
20 responsible person(s); and (c) that the amount of any monetary penalty set forth in the
21 notice and order is reasonable and affirmed. For good cause shown, the hearing
22 examiner may set aside a decision entered upon an appellant's failure to appear.

23
24 **7.54.160 Appeal under LUPA.**

25
26 A notice and order constitutes a "land use decision" as that term is defined in the Land
27 Use Petition Act, chapter 36.70C RCW ("LUPA"). An appeal of a notice and order to the
28 hearing examiner under SCC 7.54.130(5) constitutes an administrative appeal of the
29 department's land use decision. The hearing examiner's final decision regarding appeal
30 of a notice and order is the final decision of the county regarding the violation described
31 in the notice and order, and is appealable to superior court under LUPA. Appeals under
32 LUPA must be filed within 21 days of the date on which the challenged decision is
33 issued.

34
35 **7.54.170 Final order.**

36
37 A final order constitutes a conclusive determination that a violation occurred, that the
38 specified person(s) are responsible for the violation, that any monetary penalty imposed
39 is valid and must be paid to the county, and that administrative and judicial options to
40 appeal the determination are exhausted. Unless a different timeline is set forth in the
41 final order or agreed to in writing by the director, the responsible person(s) must comply
42 with a final order within 30 calendar days of the date on which the order becomes final.

43
44 **7.54.180 Failure to comply with final order.**

1 If the person(s) responsible for a violation under a final order do not fully comply with
2 the final order within the required time period, the county may take any one or more of
3 the following actions to cause the responsible person(s) to comply:

4
5 (1) Institute a civil action in any court of competent jurisdiction to enforce the final order,
6 to collect the monetary penalties imposed pursuant to this chapter, or both;

7
8 (2) Engage a collection agency, as defined in chapter 19.16 RCW, to collect the
9 monetary penalties imposed pursuant to this chapter, in which event the reasonable
10 costs of collection shall be added to the amount of monetary penalty due;

11
12 (3) Abate and remediate the violation in accordance with the provisions of this chapter
13 and other applicable law and charge the costs of such abatement to the responsible
14 person(s) as additional monetary penalties owing under SCC 7.54.120(3);

15
16 (4) Cause the responsible person(s) to be criminally prosecuted as provided in SCC
17 7.54.190; or

18
19 (5) Pursue other remedies allowed by law.
20

21 **7.54.190 Criminal prosecution.**

22
23 Any person who willfully or knowingly causes or maintains a violation under this chapter
24 or who willfully or knowingly fails or refuses to remediate a violation under this chapter is
25 guilty of a misdemeanor and upon conviction shall be punished in the manner provided
26 for in RCW 9A.20.021, as it now exists or is hereafter amended.
27

28 **7.54.200 Reduction of monetary penalties.**

29
30 Monetary penalties imposed pursuant to this chapter may be reduced or waived under
31 the circumstances and in the amounts specified below:

32
33 (1) The director shall waive any monetary penalties, or portions thereof, imposed due to
34 mistake or error of the county.
35

36 (2) As specified in SCC 7.54.130(1), the director shall waive in full any monetary
37 penalties associated with a violation if the responsible person(s) remediate the violation
38 within the time period specified in the notice and order.
39

40 (3) SCC 7.54.130(2), (3) and (4) provide the director with discretion to conditionally
41 reduce the monetary penalties associated with a violation under specified
42 circumstances. The director shall exercise this discretion based on consideration of the
43 facts and circumstances surrounding the violation at issue, including, but not limited to,
44 the severity of the violation, the magnitude of the public interest being protected, and
45 the willingness of the responsible person(s) to correct the violation once made aware of
46 the violation. If the director determines it is appropriate and fair to reduce the monetary

1 penalties associated with a violation, the director shall also have discretion to determine
2 the amount by which monetary penalties should be reduced.

3
4 **7.54.210 No county liability.**

5
6 Administration or enforcement of this chapter shall not be construed to impose or create
7 a basis for any liability on the part of the county, its appointed or elected officials,
8 officers, agents, or employees, nor shall this chapter be construed to create any special
9 relationship with or otherwise protect any specific person or class of persons.

10
11 **7.54.220 Immunity from suit.**

12
13 (1) Any county appointed or elected officials, officers, agents or employees charged
14 with the administration or enforcement of this chapter acting in good faith and without
15 malice on behalf of the county shall not be personally liable for any damage that may
16 accrue to persons or property as a result of any act required by the county, or by any
17 reason of any act or omission in the discharge of those duties.

18
19 (2) Any suit brought against county appointed or elected officials, officers, agents or
20 employees because of an act or omission performed in the administration or
21 enforcement of any provision of this chapter shall be defended by the county subject to
22 the provisions of SCC 2.90.085.

23
24 **7.54.230 Compliance with other laws.**

25
26 Compliance with this chapter does not constitute a waiver of the requirements of any
27 other applicable federal, state or local laws and regulations.

28
29 ~~((7.54.600 Sunset.~~

30
31 ~~This chapter shall be automatically repealed on the date that is six years following~~
32 ~~reenactment unless it is reenacted prior to that date.))~~

33
34 Section 3. Severability and Savings. If any section, sentence, clause or phrase
35 of this ordinance shall be held invalid or unconstitutional by a court of competent
36 jurisdiction, such invalidity or unconstitutionality shall not affect the validity or
37 constitutionality of any other section, sentence, clause or phrase of this ordinance.
38 Provided, however, that if any section, sentence, clause, or phrase of this ordinance is
39 held to be invalid by a court of competent jurisdiction, then the section, sentence,
40 clause, or phrase in effect prior to the effective date of this ordinance shall be in full
41 force and effect for that individual section, sentence, clause, or phrase as if this
42 ordinance had never been adopted.

43
44 PASSED this ___ day of _____, 2025.

45
46 SNOHOMISH COUNTY COUNCIL

Snohomish County, Washington

Chairperson

ATTEST:

Clerk of the Council


- APPROVED
- EMERGENCY
- VETOED

DATE: _____

County Executive

ATTEST:

Approved as to form only:

 2/18/2025
Deputy Prosecuting Attorney