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NPDES Phase 1 Permit [Ordinance 21-025](#) (ECAF 2021-0182)

Hearing Date: Wednesday, June 16, 2021 @ 10:30 a.m.

Council Staff: Ryan Countryman DPA: Jessica Kraft-Klehm PDS Staff:Terri Strandberg

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SNOHOMISH COUNTY COUNCIL

EXHIBIT # 3.1.2

FILE ORD 21-025

1 Adopted _____, 2021

2 Effective: July 1, 2021

3
4 SNOHOMISH COUNTY COUNCIL
5 SNOHOMISH COUNTY, WASHINGTON

6
7 ORDINANCE NO. 21-____

8
9 RELATING TO REGULATION OF STORMWATER; AMENDING CHAPTERS 7.53, 7.54,
10 30.63A, 30.63B AND SUBTITLE 30.91 OF THE SNOHOMISH COUNTY CODE (SCC) IN
11 RESPONSE TO THE COUNTY'S 2019 NPDES PHASE I PERMIT

12
13 WHEREAS, the Federal Water Pollution Control Act ("Clean Water Act" or CWA) requires
14 states and their local governments to take steps to implement the National Pollutant Discharge
15 Elimination System (NPDES) permit program; and

16
17 WHEREAS, under its administration of the CWA, the Environmental Protection Agency
18 (EPA) promulgated regulations to control stormwater discharges from municipal separate storm
19 sewer systems (MS4s) in two groups called Phase I and Phase II; and

20
21 WHEREAS, Snohomish County ("the county") is a Phase I municipal stormwater
22 permittee for the purpose of regulating discharge from MS4s under the NPDES permit program
23 and Washington State's Waste Discharge General Permit program; and

24
25 WHEREAS, chapter 90.48 RCW, the Washington State Water Pollution Control Act,
26 authorizes the Washington State Department of Ecology ("Ecology") to implement the NPDES
27 permit program at the state level; and

28
29 WHEREAS, Ecology issued the county's first Phase I Municipal Stormwater Permit
30 ("NPDES Permit") on July 5, 1995; and

31
32 WHEREAS, the Snohomish County Council ("county council") adopted Amended
33 Ordinance No. 98-055 on August 3, 1998, enacting drainage development regulations consistent
34 with the 1995 NPDES Permit and the goals and policies of the Snohomish County Growth
35 Management Act Comprehensive Plan (GMACP) General Policy Plan (GPP); and

36
37 WHEREAS, Ecology re-issued the county's NPDES Permit on January 17, 2007, under
38 Phase I Municipal Stormwater Permit No. WAR04-4502; and

39
40 WHEREAS, the county council adopted Amended Ordinance Nos. 10-023 and 10-026
41 and Ordinance No. 10-024 on June 9, 2010, enacting revised development regulations
42 consistent with the 2007 NPDES Permit and the goals and policies of the GPP; and

43
44 WHEREAS, Ecology re-issued the county's NPDES Permit on August 1, 2012, which
45 became effective on August 1, 2013; and

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1 WHEREAS, Ecology modified and re-issued the county's NPDES Permit on December
2 17, 2014, which became effective on January 16, 2015; and
3

4 WHEREAS, the county council adopted Ordinance Nos.15-102 and 15-103 on January
5 11, 2016, enacting revised development regulations consistent with the 2014 NPDES Permit and
6 the goals and policies of the GMACP GPP; and
7

8 WHEREAS, the county council adopted Amended Ordinance No.17-070 on November 1,
9 2017, which became effective on December 1, 2017, to further promote the use of low impact
10 development (LID) best management practices (BMPs), provide incentives for or remove barriers
11 to the use of LID BMPs, and provide clarity regarding LID feasibility requirements; and
12

13 WHEREAS, Ecology re-issued the county's NPDES Permit on July 1, 2019, which
14 became effective on August 1, 2019; and
15

16 WHEREAS, the 2019 NPDES Permit regulates stormwater that enters into large and
17 medium MS4s in unincorporated Snohomish County that are owned or operated by the county
18 and that discharges from such MS4s to surface waters and groundwaters of the state, as set
19 forth in special condition S2; and
20

21 WHEREAS, MS4s include roads with drainage systems, county roads, catch basins,
22 curbs, gutters, ditches, manmade channels and storm drains that are owned or operated by the
23 county; and
24

25 WHEREAS, special condition S4.C of the 2019 NPDES Permit requires the county to
26 reduce the discharge of pollutants to the maximum extent practicable (MEP); and
27

28 WHEREAS, special condition S4.D of the 2019 NPDES Permit requires the county to use
29 all known, available and reasonable methods of prevention, control and treatment (AKART) to
30 prevent and control pollution to the waters of the State of Washington; and
31

32 WHEREAS, special condition S5.C.5 of the 2019 NPDES Permit requires the county to
33 design a program to prevent and control the impacts of runoff from new development,
34 redevelopment, and construction activities applicable to both public and private development,
35 including roads; and
36

37 WHEREAS, the program to prevent and control the impacts of runoff from new
38 development, redevelopment and construction activities shall be enforceable; and
39

40 WHEREAS, special condition S5.C.5.a of the 2019 NPDES Permit requires that the
41 county continue to implement the existing stormwater program under the 2014 NPDES Permit
42 until new provisions are adopted under the 2019 NPDES Permit. The stormwater program
43 adopted under the 2019 NPDES Permit will apply to all applications submitted prior to July 1,
44 2021, which have not started construction by July 1, 2026, and to all applications submitted prior
45 to January 22, 2016, which have not started construction by July 1, 2021; and
46

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1 WHEREAS, special condition S5.C.5.b.i of the 2019 NPDES Permit requires that the
2 county's stormwater management regulations comply with the minimum requirements,
3 thresholds, definitions, and adjustment and variance criteria in *Appendix 1 Minimum Technical*
4 *Requirements for New Development and Redevelopment* ("Appendix 1") of the 2019 NPDES
5 Permit, or provide minimum requirements, thresholds and definitions determined by Ecology to
6 provide equal or similar protection of receiving waters and equal or similar levels of pollution
7 control to those required in Appendix 1; and
8

9 WHEREAS, special condition S5.C.5.b.ii of the 2019 NPDES Permit requires that the
10 county's stormwater management regulations include a site planning process, BMP selection
11 and design criteria, BMP infeasibility criteria, LID competing needs criteria, and BMP limitations
12 to implement the minimum requirements of Appendix 1 of the 2019 NPDES Permit. The county
13 may use either the Washington State Department of Ecology's *2019 Stormwater Management*
14 *Manual for Western Washington* ("2019 SWMMWW"), or an equivalent manual approved by
15 Ecology to meet this requirement; and
16

17 WHEREAS, Appendix 10, Part 2 of the 2019 NPDES Permit identifies nine significant
18 changes made to the 2019 NPDES Permit and the 2019 SWMMWW, which are required to be
19 included in the county's stormwater management regulations; and
20

21 WHEREAS, special condition S5.C.5.b.iii of the 2019 NPDES Permit requires that the
22 county amend its stormwater management regulations as needed to reflect the nine significant
23 changes made to the 2019 NPDES Permit and the 2019 SWMMWW identified in Appendix 10,
24 Part 2, as well as any other significant changes the county proposes to its stormwater
25 management regulations; and
26

27 WHEREAS, the county's updated stormwater regulations that meet the standards in
28 special condition S5.C.5.b.i through ii must be adopted and made effective by July 1, 2021, to
29 comply with the 2019 NPDES Permit; and
30

31 WHEREAS, it is necessary to amend portions of chapters 7.53, 7.54, 30.63A, 30.63B,
32 30.70, and subtitle 30.91 SCC to reflect the significant changes identified in Appendix 10, Part 2,
33 and comply with the 2019 NPDES Permit; and
34

35 WHEREAS, it is necessary to update the Snohomish County Drainage Manual
36 ("Drainage Manual") to reflect the significant changes identified in Appendix 10, Part 2, and
37 comply with the 2019 NPDES Permit; and
38

39 WHEREAS, the Drainage Manual is an administrative rule promulgated by the
40 Snohomish County Department of Conservation and Natural Resources and provides the
41 standards and design details necessary to implement the requirements of chapters 30.63A,
42 30.63B, 7.53 and 7.54 SCC; and
43

44 WHEREAS, the updated Drainage Manual is proposed as an equivalent to the 2019
45 SWMMWW and has been tailored for consistency with the SCC to provide clarity, improve
46 usability and promote permit review efficiencies; and

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1
2 WHEREAS, draft stormwater documents were transmitted to Ecology for review on June
3 22, 2020, in accordance with the requirements in special condition S5.C.5.b.iii of the 2019
4 NPDES Permit; and

5
6 WHEREAS, Ecology provided written comments on the county's draft stormwater
7 documents on August 25, 2020; and

8
9 WHEREAS, Ecology staff and county staff met to discuss the county's draft stormwater
10 documents on September 14, 2020; and

11
12 WHEREAS, county staff and Ecology staff communicated on several occasions from late-
13 September to mid-November 2020, to resolve issues identified in Ecology's written comments;
14 and

15
16 WHEREAS, Ecology issued a letter to the county on November 19, 2020, making a
17 preliminary approval and determination that the county's amendments to the code and to the
18 Drainage Manual are equivalent to the required portions of Ecology's 2019 SWMMWW; and

19
20 WHEREAS, the county implemented a public participation program pursuant to special
21 condition S5.C.4 of the 2019 NPDES Permit, in conjunction with public participation opportunities
22 afforded under the Growth Management Act (GMA), that included opportunities for the public's
23 involvement in the development of the county's stormwater management program and
24 implementation priorities; and

25
26 WHEREAS, a State Environmental Policy Act (SEPA) comprehensive checklist was
27 completed and a threshold determination of nonsignificance (DNS) was issued for the proposed
28 non-project actions relating to the stormwater regulations and standards on April 9, 2021,
29 pursuant to chapter 43.21 RCW, chapter 197-11 WAC and chapter 30.61 SCC; and

30
31 WHEREAS, pursuant to RCW 36.70A.106, a notice of intent to adopt the proposed
32 regulations and standards was transmitted to the Washington State Department of Commerce on
33 March 9, 2021; and

34
35 WHEREAS, the Snohomish County Planning Commission ("planning commission") was
36 briefed on the revised 2019 NPDES Permit conditions and/or the updated stormwater drainage
37 regulation proposals on February 23, 2021; and

38
39 WHEREAS, the planning commission held a public hearing on the proposed stormwater
40 regulations on March 23, 2021; and

41
42 WHEREAS, the planning commission deliberated on the stormwater regulations on
43 March 23, 2021, and voted to recommend approval of the stormwater regulations; and

44
45 WHEREAS, the county council was briefed on the planning commission recommendation
46 on _____, 2021; and

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1
2 WHEREAS, the county council held a public hearing on the proposed stormwater
3 regulations on _____, to consider the entire record and hear public testimony on
4 Ordinance No. 21-____; and
5

6 WHEREAS, the county council considered all public testimony on the proposed
7 stormwater regulations prior to deliberating on _____.
8

9 NOW, THEREFORE, BE IT ORDAINED:

10 Section 1. The county council adopts the following findings in support of this ordinance:

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

12 B. The county council makes the following additional general findings of fact:

- 13 1. The county drainage regulations in chapter 30.63A SCC contain the drainage
14 requirements for all of unincorporated Snohomish County and prevent and control
15 pollution of waters of the State of Washington pursuant to special condition
16 S5.C.5.b of the 2019 NPDES Permit.
- 17 2. Permit applicants are required to comply with the drainage regulations in
18 amended chapter 30.63A SCC, the land-disturbing activity regulations in
19 amended chapter 30.63B SCC, the Drainage Manual and the Engineering Design
20 and Development Standards (EDDS). Together, these regulations will control
21 stormwater runoff from new development, redevelopment and construction
22 activities including public and private development and roads. These regulations
23 meet the minimum performance measures in special condition S5.C.5 of the 2019
24 NPDES Permit.
- 25 3. The amendments to the county drainage regulations contained in this ordinance
26 address the significant changes made to applicable portions of the 2019 NPDES
27 Permit and the 2019 SWMMWW identified in Appendix 10, Part 2 of the 2019
28 NPDES Permit.
- 29 4. The Drainage Manual includes methods for achieving compliance with the
30 stormwater requirements addressed in chapters 30.63A, 30.63B, 7.53 and 7.54
31 SCC. The Drainage Manual includes the following volumes:
 - 32 a. Volume I: Introduction and stormwater site plans;
 - 33 b. Volume II: BMPs for short-term stormwater management at construction sites;
 - 34 c. Volume III: Hydrologic analysis and BMPs to control flow volumes from
35 developed sites;
 - 36 d. Volume IV: BMPs to minimize pollution generated by potential pollution
37 sources at developed sites;
 - 38 e. Volume V: BMPs to treat runoff that contains sediment or other pollutants from
39 developed sites; and
 - 40 f. Volume VI: Stormwater facility maintenance.

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- 1 5. The Drainage Manual will be updated to address the significant changes made to
2 applicable portions of the 2019 NPDES Permit and the 2019 SWMMWW identified
3 in Appendix 10, Part 2 of the 2019 NPDES Permit, as well as additional significant
4 changes identified by the county consistent with special condition S5.C.5.b.iii of
5 the 2019 NPDES Permit. Updates to the Drainage Manual include:
 - 6 a. Text updated throughout to require continuous simulation models that
7 include:
 - 8 i. The ability to directly model BMPs that may be used in LID
9 applications, such as bioretention, permeable pavement, and green
10 roofs;
 - 11 ii. 15-minute time steps;
 - 12 iii. Incorporation of the van Genuchten algorithm to model
13 bioretention;
 - 14 b. Incorporate new requirements consistent with code updates;
 - 15 c. Update requirements for stormwater pollution prevention plans
16 associated with construction general stormwater permits;
 - 17 d. Update requirements associated with soil amendment and concrete
18 washout BMPs;
 - 19 e. Add new source control BMPs;
 - 20 f. Update flow control exemption requirements to improve protection for
21 marine waters;
 - 22 g. Update monitoring and modeling requirements for high value wetlands
23 where legal access is available;
 - 24 h. Revise text for clarity and consistency with Permit language; and
25 i. Add and revise definitions consistent with the Permit.
- 26 6. A new Volume VI of the Drainage Manual was developed to consolidate
27 maintenance requirements into a single volume making it easier for the user to
28 locate BMP-specific requirements and prepare a maintenance plan for new
29 development.
- 30 7. The Drainage Manual will be updated to be equivalent to the 2019 SWMMWW.
- 31 8. No updates to the EDDS were needed to address the required significant changes
32 to local programs identified in Appendix 10, Part 2.
- 33 9. The county developed a comprehensive public participation program to educate
34 and inform the public about the stormwater regulation update project and this
35 ordinance within the public health guidelines for COVID-19. Public comments
36 have been solicited consistent with the requirements of the GMA and the 2019
37 NPDES Permit special condition S5.C.4. Project information, updates and draft
38 proposals have been maintained on the NPDES project webpage. Public

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1 comments have been solicited from the website and via direct email to interested
2 parties.

- 3 10. The GPP sets forth the following objective and policies related to stormwater
4 management:

5 Objective NE 3.H: Comply with the county's Phase I Municipal Stormwater
6 Permit issued by the Washington State Department of Ecology pursuant to the
7 Clean Water Act and the National Pollutant Discharge Elimination System
8 (NPDES).

9 NE Policies

10
11 3.H.1 The county shall protect properties and waters from adverse impacts
12 by eliminating illicit discharges and sediment transport, and
13 regulating stormwater and land disturbing activity to reduce the
14 discharges of pollutants and impacts to receiving waters.

15
16 3.H.2 The county shall develop inspection and enforcement procedures to
17 prevent water quality degradation.

18
19 3.H.3 The county shall adopt programs, development regulations and
20 standards regulating drainage and land disturbing activity that require
21 low impact development techniques, where feasible, consistent with
22 the Phase I Municipal Stormwater Permit.

23
24 3.H.4 REPEALED BY ORDINANCE 14-070

25
26 3.H.5 The county shall adopt comprehensive site planning requirements
27 that minimize land disturbing activity and promote on-site stormwater
28 management on new development and redevelopment project sites.

29
30 3.H.6 The county shall adopt water pollution control requirements intended
31 to ensure that receiving waters, groundwater, and stormwater in
32 Snohomish County meet or exceed state water quality standards.

- 33 11. The code amendments in this ordinance are consistent with the county's GPP
34 objective and policies cited above because they include proposed regulations, site
35 planning requirements, and inspection and enforcement programs as specifically
36 addressed in the policy language to manage stormwater and prevent pollution.

- 37 12. These code amendments are consistent with GMA planning goal 10 ("Protect the
38 environment and enhance the state's high quality of life, including air and water
39 quality, and the availability of water") because they will prevent and control
40 pollution of waters of the state consistent with special condition S5.C.5.b of the
41 2019 NPDES Permit.

- 42 13. These code amendments are consistent with the following Multicounty Planning
43 Policies (MPP) from *Vision 2050* and Countywide Planning Policies (CPP)

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1 because they further the protection of natural ecosystems through LID techniques,
2 site planning, and BMP selection, consistent with special condition S5.C.5.b of the
3 2019 NPDES Permit:

- 4 a. MPP-En-5 – “Locate development in a manner that minimizes impacts to
5 natural features. Promote the use of innovative environmentally sensitive
6 development practices, including design, materials, construction, and on-going
7 maintenance.”
- 8 b. MPP-EN-13 – “Preserve and restore native vegetation and tree canopy,
9 especially where it protects habitat and contributes to overall ecological
10 function.”
- 11 c. MPP-EN-17 – “Maintain and restore natural hydrological functions and water
12 quality within the region's ecosystems and watersheds to recover the health of
13 Puget Sound.”
- 14 d. MPP- En-18 – “Reduce stormwater impacts from transportation and
15 development through watershed planning, redevelopment and retrofit projects,
16 and low-impact development.”
- 17 e. CPP Env-1 – “All jurisdictions shall protect and enhance natural ecosystems
18 through their comprehensive plans, development regulations, capital facilities
19 programs and management practices. Jurisdictions should consider regional
20 and countywide strategies and assessments, as well as best available
21 qualitative and quantitative information, in formulating plans and regulations
22 that are specific to their community.”
- 23 f. CPP PS-6 – “The County and cities should design infrastructure and public
24 services to promote conservation of natural resources.”
- 25 g. CPP PS-10 – “Jurisdictions should encourage the use of low impact
26 development techniques, and renewable and alternative energy sources.”

27 C. The county council makes the following additional specific findings of fact relating to the
28 amendments to chapters 7.53 SCC and 7.54 SCC:

- 29 1. Amendments update citations to the 2019 NPDES Permit.
- 30 2. Amendments update citations to the county’s stormwater Drainage Manual.

31 D. The county council makes the following additional specific findings of fact relating to the
32 amendments to chapter 30.63A SCC:

- 33 1. A new section SCC 30.63A.025 is added to provide a cross reference to the
34 requirements related to “started construction” located in SCC 30.70.310.
- 35 2. Amendments to SCC 30.63A.200 revise a utility exemption to clarify the
36 development activities must comply with minimum requirement 2; remove an
37 exemption that is not consistent with the threshold requirements in SCC
38 30.63A.300 and 30.63A.310; encourage use of best management practices for oil
39 and gas field operations; and replace the word “road” prism with the word
40 “pavement” prism to clarify the extent of exempt pavement preservation activities.

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- 1 3. Amendments to SCC 30.63A.210 correct cross references related to drainage
2 easements and maintenance requirements.
- 3 4. Amendments to SCC 30.63A.310 update standards for meeting minimum
4 requirements 5, 6, 7 and 8 by providing flow control or treatment capacity for an
5 area of equivalent flow and pollution characteristics; and revise the valuation
6 criteria for commercial and industrial projects subject to minimum requirements 1
7 through 9.
- 8 5. Amendments to SCC 30.63A.400 update requirements for stormwater site plans
9 adding language related to low impact development principles, and restructure the
10 code section to improve readability.
- 11 6. Amendments to SCC 30.63A.450 clarify requirements related to the timing of
12 seasonal work limitations and add certain maintenance activities as exempt from
13 seasonal work limitations.
- 14 7. Amendments to SCC 30.63A.520 correct citations to the Drainage Manual.
- 15 8. Amendments to SCC 30.63A.570 address the review process needed to
16 determine the level of protection required for wetlands under minimum
17 requirement 8 (MR8), and refer the user to the appropriate sections of the
18 Drainage Manual where the technical details regarding MR8 are now located.
- 19 9. Amendments to SCC 30.63A.575 restructure the code section for readability and
20 add a reference to new Volume VI of the Drainage Manual.
- 21 10. Amendments to SCC 30.63A.580 clarify that any party who constructs LID BMPs
22 within county right-of-way is responsible for inspection, maintenance and
23 operation of the facilities for the time period specified, and adds LID BMPs to the
24 list of facilities that the county may inspect.
- 25 11. Amendments to SCC 30.63A.590 provide an exemption from the requirement to
26 record an easement for large residential lots outside of the Urban Growth Area
27 that do not drain to the MS4.
- 28 12. Amendments to SCC 30.63A.700 update terminology to reflect the terms used in
29 the 2019 NPDES Permit, restructure the section to improve clarity, and revise the
30 pavement maintenance and resurfacing activities that are subject to threshold
31 requirements.
- 32 13. Amendments to SCC 30.63A.825 remove site plan requirements associated with
33 land disturbing activities which are already located in the land disturbing activities
34 code chapter 30.63B SCC.
- 35 E. The county council makes the following additional specific findings of fact relating to the
36 amendments to chapter 30.63B SCC:
 - 37 1. Amendments to SCC 30.63B.050 add new language to clarify that permit approval
38 criteria includes use of LID principles in site planning, where feasible.
 - 39 2. Amendments add a new section SCC 30.63B.055 addressing seasonal work
40 limitations to control sediment transport and erosion during the wet season.

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3. Amendments add a new section SCC 30.63B.065 to clarify that land disturbing activity permits issued for implementation of drainage requirements in chapter 30.63A SCC are subject to the start of construction requirements located in SCC 30.70.310.
 4. Amendments to SCC 30.63B.070 related to exemptions and special conditions for land disturbing activity (LDA) permits include:
 - a. Adding a cross reference to alternate requirements in SCC 30.63A.810 for small projects.
 - b. Adding language to encourage use of BMPs during and after construction of oil and gas field activities and operations.
 - c. Clarifying that permit exemptions for road maintenance activities include pavement maintenance activities.
 - d. Adding an exemption from an LDA permit for certain minor development activities related to maintenance and repair performed by utility providers within an improved right-of-way or an improved utility corridor. This proposed permit exemption is subject to specific conditions and criteria consistent with the Phase I Permit.
- F. The county council makes the following additional specific findings of fact relating to the amendments to definitions in subtitle 30.91 SCC:
1. Amendments are proposed to the definitions SCC 30.91A.250 “appurtenance” and SCC 30.91S.330 “single-family residence” to expand the applicability of existing definitions as necessary to implement the proposed addition to SCC 30.63A.590(10).
 2. Amendments are proposed to the definition in SCC 30.91I.012 “improved right-of-way” to expand the applicability of the existing definition as necessary to implement the proposed LDA permit exemption in SCC 30.63A.070(3), and a new definition is proposed for “improved utility corridor” also to facilitate implementation of the proposed LDA permit exemption in SCC 30.63B.070(3).
 3. Amendments are proposed to the definition in SCC 30.91L.025 “land disturbing activity” to clarify that landscape maintenance is not considered to be a land disturbing activity.
 4. Amendments are proposed to the definition in SCC 30.91M.011 “maintenance” to acknowledge that maintenance activities involving replacement may result in an expansion of a facility.
 5. Amendments are proposed to the definition in SCC 30.91T.054B “threshold discharge area” (TDA) to replace the the existing definition and diagram with a new definition from the 2019 NPDES Permit, and to direct the reader to a new TDA diagram in the Drainage Manual.
- G. The Washington State Department of Ecology reviewed the proposed amendments to the county’s stormwater program and issued a preliminary determination that the county’s

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1 revised program is equivalent to the *2019 Stormwater Management Manual for Western*
2 *Washington*, in a letter to the Snohomish County Executive dated November 19, 2020.

- 3 H. The Snohomish County Drainage Manual is a required element of the county's
4 stormwater management program to be adopted using the rule making process
5 authorized by chapter 30.82 SCC.

6 Section 2. The county council makes the following conclusions:

- 7
8 A. Chapters 7.53, 7.54, 30.63A, and 30.63B SCC, as amended herein contain enforceable
9 stormwater regulations that will protect the public health, safety, welfare and the
10 environment through the regulation of stormwater runoff as required by federal and state
11 law.
- 12 B. Chapters 7.53, 7.54, 30.63A, and 30.63B SCC, as amended herein regulate stormwater
13 to support the preservation of water quality for aquatic habitats, recreation, and drinking
14 water.
- 15 C. Amendments to chapter 30.63A and 30.63B SCC contained in this ordinance, together
16 with updates to the county's Drainage Manual, incorporate the significant changes made
17 to applicable portions of the 2019 NPDES Permit and 2019 SWMMWW identified in
18 Appendix 10, Part 2, as required by special condition S5.C.5.b.iii of the 2019 NPDES
19 Permit.
- 20 D. The county's stormwater regulations, as amended herein, meet the requirements in
21 special condition S5.C.5.b of the 2019 NPDES Permit.
- 22 E. The county's stormwater regulations, as amended herein, comply with the 2019 NPDES
23 Permit.
- 24 F. These stormwater regulations strengthen the county's stormwater management program.
- 25 G. Chapters 30.63A and 30.63B SCC, as amended herein, implement the comprehensive
26 plan objective and policies, MPPs and CPPs identified in section 1, findings B.9 and B.12
27 of this ordinance.
- 28 H. Despite the public health considerations related to COVID-19, the public participation
29 process implemented for the 2019 NPDES Permit code and rule updates has been early
30 and continuous and has complied with all applicable requirements, including but not
31 limited to, RCW 36.70A.140, special condition S5.C.4 of the 2019 NPDES Permit,
32 chapter 30.73 SCC, and the Snohomish County Charter.
- 33 I. Due to public health restrictions in place for COVID-19, public involvement has been
34 limited to electronic communications using the county's website, direct email to
35 stakeholders, and online briefings and public hearings.
- 36 J. The SEPA process conducted for this ordinance satisfies the requirements of chapter
37 43.21C RCW, as implemented by chapter 197-11 WAC and chapter 30.61 SCC.
- 38 K. The Washington State Attorney General last issued an advisory memorandum, as
39 required by RCW 36.70A.370, in September of 2018 entitled "Advisory Memorandum:
40 Avoiding Unconstitutional Takings of Private Property" to help local governments avoid

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1 the unconstitutional taking of private property. The process outlined in the State Attorney
2 General's 2018 advisory memorandum was used by the County in objectively evaluating
3 the regulatory changes proposed by this ordinance. The proposal does not result in an
4 unconstitutional taking of private property for a public purpose and does not violate
5 substantive due process guarantees.

- 6 L. The county council bases its findings and conclusions on the entire legislative record,
7 including all testimony and exhibits. Any finding, which should be deemed a conclusion,
8 and any conclusion which should be deemed a finding, is hereby adopted as such.
9

10 Section 3. Snohomish County Code Section 7.53.120, last amended by Amended Ordinance
11 No. 13-023 on April 17, 2013, is amended to read:
12

13 **7.53.120 Best management practices (BMPs) required.**

14
15 (1) Any person storing or using materials containing contaminants in any manner that may
16 result in a prohibited discharge shall implement the source control BMPs described in
17 Volume ((4)) IV, Chapter 2 of the Drainage Manual.

18 (2) Any person operating a facility or performing an activity described in Chapter 3, Volume
19 ((4)) IV of the Drainage Manual shall implement the source control BMPs described therein
20 for the facility or activity.

21 (3) Full implementation of all stormwater BMPs required by an NPDES industrial stormwater
22 permit or State Waste Discharge Permit shall constitute compliance with this section.

23 (4) As an alternative to implementing the BMPs described in subsections (1) through (3) of
24 this section, the director may allow or require implementation of BMPs described in (a)
25 Volume ((4)) IV, Chapter 4 or 5 of the Drainage Manual, (b) Volume ((2)) II, ((3)) III, ((or-5)) V,
26 or VI of the Drainage Manual, or (c) other documents such as stormwater pollution prevention
27 plans developed pursuant to farm plans or similar documents, if the director determines the
28 alternative BMPs provide substantially equivalent environmental protection and meet the
29 objectives of safety, function, and maintenance. The director shall document in writing all
30 such determinations and supporting information.

31 (5) Full implementation of the source control BMPs described in subsections (1) through (4)
32 of this section constitutes the minimum required actions an owner, occupant or operator of
33 real property must take toward preventing prohibited discharges from the real property. Full
34 implementation of the BMPs required by this section does not exempt a person from also
35 complying with any other requirement of this chapter.
36

37 Section 4. Snohomish County Code Section 7.54.070, last amended by Amended Ordinance
38 No. 20-081 on January 20, 2021, is amended to read:
39

40 **7.54.070 Definitions.**

41
42 In this chapter, unless the context clearly requires otherwise, the following terms shall have
43 the meanings specified below:

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- 1 (1) "Aquatic sediment" means a surface sediment overlain by an aquatic environment; a
2 solid, fragmented, particulate material transported and deposited by wind, water, ice or
3 chemically precipitated from solution and/or secreted by organisms; forming deposits of
4 loose, unconsolidated layers in which the void spaces are occupied by fresh, marine or
5 brackish water.
- 6 (2) "Best management practices" or "BMPs" means physical objects, structures, managerial
7 practices, or behaviors, that when used singly or in combination, eliminate or reduce the
8 introduction of contaminants to stormwater, receiving waters, or groundwater.
- 9 (3) "Clean Water Act" means the federal Water Pollution Control Act, codified at 33 U.S.C.
10 1251 et seq., as now existing or hereafter amended.
- 11 (4) "Constructed stormwater control facility" means any type of catch basin or drainage
12 facility for which maintenance standards are set forth in Volume ~~(V, Chapter 4)~~ VI of the
13 Drainage Manual.
- 14 (5) "Constructed stormwater control facilities regulated by the county's Phase I NPDES
15 municipal stormwater permit" means those constructed stormwater control facilities that
16 discharge into the county's storm sewer system and are thereby subject to the operation and
17 maintenance program mandated by Special Condition ~~((S5.C-9))~~ S5.C.10 of the county's
18 Phase I NPDES municipal stormwater permit.
- 19 (6) "Contaminant" means a solid, liquid, or gaseous substance that, if discharged to a
20 drainage facility, natural drainage system, receiving waters or groundwater, will alter the
21 physical, chemical, or biological properties thereof to the extent that the discharge will render
22 the facility, system, or water harmful, detrimental, or injurious to the public health, safety, or
23 welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate
24 beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.
- 25 (7) "Department" means the department of conservation and natural resources or the
26 department of planning and development services, unless otherwise specified.
- 27 (8) "Director" means the director of the department of conservation and natural resources or
28 the department of planning and development services, unless otherwise specified.
- 29 (9) "Drainage facility" means any part of a manmade physical system designed or
30 constructed to collect, treat, convey, store, or control the flow of stormwater. Drainage
31 facilities include, but are not limited to, stormwater conveyance and containment facilities,
32 including pipelines, constructed channels and ditches, infiltration facilities, retention and
33 detention facilities, stormwater treatment facilities, erosion and sedimentation control
34 facilities, and all other drainage structures and appurtenances.
- 35 (10) "Ecology" means the Washington State Department of Ecology.
- 36 (11) "EPA" means the United States Environmental Protection Agency.
- 37 (12) "Groundwater" means all waters that exist beneath the land surface or beneath the bed
38 of any stream, lake, or reservoir, or other body of surface water, whatever may be the
39 geological formation or structure in which such water stands, flows, percolates or otherwise
40 moves.

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

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

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

8 (16) "Person" means any natural person, corporation, nonprofit corporation, municipal
9 corporation, government agency, limited liability company, partnership, limited partnership,
10 limited liability partnership, professional services corporation, or any other legally recognized
11 entity.

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

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

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

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

19 (d) Any other person(s) responsible for the violation under applicable law.

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

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

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

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

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

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

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

34
35 Section 5. Snohomish County Code Section 7.54.080, last amended by Amended Ordinance
36 No. 20-081 on January 20, 2021, is amended to read:

37
38 **7.54.080 Maintenance and repair of constructed stormwater control facilities.**

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

6 (2) For all constructed stormwater control facilities not described in subsection (1) of this
7 section, the person(s) responsible for such facilities must inspect and maintain the facilities in
8 accordance with the standards set forth in Volume ~~((V, Chapter 4))~~ VI of the Drainage
9 Manual.

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

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

18
19 Section 6. Snohomish County Code Section 7.54.100, reenacted by Ordinance No. 19-009 on
20 April 10, 2019, is amended to read:

21
22 **7.54.100 Notice and order to cease violation.**

23
24 (1) Whenever any constructed stormwater control facility is found to be in violation of this
25 chapter or standards required hereunder, the director may cause a notice and order to be
26 issued to the responsible person(s), which may include an order to immediately cease the
27 activity causing the violation or take affirmative action to abate the violation.

28 (2) The notice and order shall include the following information:

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

30 (b) The address or legal description of the real property on which the violation exists or
31 occurred;

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

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

36 (e) A description of any required corrective action;

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

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

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

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

3 (j) The date of the notice and order; and

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

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

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

10 (a) By personal service;

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

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

14
15 Section 7. Snohomish County Code Section 7.54.110, reenacted by Ordinance No. 19-009 on
16 April 10, 2019, is amended to read:

17
18 **7.54.110 Warning notice as alternative to notice and order.**
19

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

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

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

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

30 (c) A description of the apparent violation, including the specific provision of this chapter,
31 ~~((or))~~ Volume V, Chapter 4 or Volume VI of the Drainage Manual which has been
32 violated;

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

35 (e) A description of any recommended corrective action;

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

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

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

3 (i) The date of the warning notice.

4 (3) The director may issue a notice and order for a violation of this chapter irrespective of
5 any previous issuance of a warning notice regarding the violation.
6

7 Section 8. A new section is added to Chapter 30.63A of the Snohomish County Code to read:

8
9 **30.63A.025 Compliance with updated stormwater regulations – “Started
10 Construction” requirement.**

11
12 Compliance with updated stormwater drainage regulations shall be required as provided in
13 SCC 30.70.310.
14

15 Section 9. Snohomish County Code Section 30.63A.200, last amended by Amended Ordinance
16 No. 15-102 on January 11, 2016, is amended to read:
17

18 **30.63A.200 General exemptions.**

19
20 The following new development and redevelopment activities shall be exempt from all
21 stormwater management requirements of this chapter except as otherwise specified below:

22 (1) Repair or installation of underground or overhead facilities performed by a utility. For this
23 exemption to apply, the repair or installation shall only replace ground surfaces with in-kind
24 materials or materials with similar runoff characteristics and the development activities shall
25 comply with minimum requirement 2 (SCC 30.63A.445 and 30.63A.450) and must occur
26 outside all critical areas, together with the buffers of and setbacks from these critical areas,
27 except that such activities may occur within floodplains and aquifer recharge areas of low or
28 moderate sensitivity to groundwater contamination.

29 (2) Utility facility maintenance and repairs performed by a utility that replace ground surfaces
30 with in-kind materials or materials with similar runoff characteristics, that do not add hard
31 surfaces, and that do not adversely impact any critical areas, critical area buffers or upstream
32 or downstream properties, except that such activities shall comply with minimum requirement
33 2 (SCC 30.63A.445 and 30.63A.450).

34 (3) Remodeling or tenant improvements that do not meet the definitions of new
35 development, redevelopment or land disturbing activity.

36 (4) ~~RESERVED ((Development activities that result in less than 2,000 square feet of new,~~
37 ~~replaced, or new plus replaced hard surfaces, except that such activities shall comply with~~
38 ~~minimum requirement 2 (SCC 30.63A.445 and 30.63A.450). For this exemption to apply,~~
39 ~~development activities must occur outside all critical areas, together with the buffers of and~~
40 ~~setbacks from these critical areas, except that such activities may occur within floodplains~~
41 ~~and aquifer recharge areas of low or moderate sensitivity to groundwater contamination.))~~

42 (5) Forest practice Classes I, II, III and Class IV special nonconversion forest practices
43 regulated by WAC Title 222.

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1 (6) Oil and gas field activities or operations, including the construction of drilling sites, waste
2 management pits, access roads and transportation and treatment infrastructure (such as
3 pipelines, natural gas treatment plants, natural gas pipeline compressor stations and crude
4 oil pumping stations). Operators are encouraged to implement and maintain best
5 management practices to minimize erosion and control sediment during and after
6 construction activities to help ensure protection of surface water quality during storm events.

7 (7) The following road and pavement maintenance activities: pothole and square cut
8 patching, overlaying existing asphalt or concrete pavement with asphalt or concrete without
9 expanding the coverage area, shoulder grading, reshaping and/or re-grading drainage
10 systems, crack sealing, resurfacing with in-kind material without expanding the road prism,
11 pavement preservation activities that do not expand the ((road)) pavement prism, and
12 vegetation maintenance.

13 (8) The following commercial agricultural activities:

14 (a) Tilling, soil preparation, fallow rotation, planting, harvesting and other commercial
15 agricultural activities involving working the land when such activities are outside of critical
16 areas (except for floodplains and aquifer recharge areas with low or moderate sensitivity
17 to groundwater contamination), together with the buffers of and setbacks from these
18 critical areas;

19 (b) Maintenance or repair of existing commercial agricultural facilities including drainage
20 facilities, ponds, animal stock flood sanctuaries, animal waste management facilities,
21 agricultural buildings, fences, roads and bridges; and

22 (c) New construction of drainage ditches (including enlargement of existing drainage
23 ditches) that require less than 500 cubic yards of grading. To qualify under this
24 exemption, such ditches shall not adversely impact critical areas or upstream or
25 downstream properties, be located within 100 feet of streams, wetlands, lakes, marine
26 waters, fish and wildlife habitat conservation areas, or erosion hazard areas, or contain
27 water on site for retention, infiltration or evaporation and the development activities must
28 occur outside all critical areas, together with the buffers of and setbacks from these
29 critical areas, except that such activities may occur within floodplains and aquifer
30 recharge areas of low or moderate sensitivity to groundwater contamination.

31 (9) Agricultural activities defined in chapter 30.32B SCC or SCC 30.91A.090 provided:

32 (a) The activity occurs on property on which agriculture is a legal use of the property;

33 (b) The activity requires no other permit or project approval from Snohomish County
34 except for a flood hazard permit under chapter 30.43C SCC; and

35 (c) The activity does not occur in a wetland as defined under state law, unless:

36 (i) The activity is exempt from wetlands regulations under section 404(f) of the federal
37 Clean Water Act; or

38 (ii) The wetland is an area of no greater than 5,000 square feet of nonriparian
39 wetland Categories II or III or 10,000 square feet of nonriparian Category IV wetlands,
40 pursuant to SCC 30.62A.230(2).

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1 (10) The construction or maintenance of recreational trails, not including challenge areas,
2 parking areas, spectator areas, or any other developed or disturbed areas that are not trails,
3 provided that the following criteria are met:

4 (a) The trail at issue is on land located in a rural or resource zone;

5 (b) The trail at issue is located in a public park or a private park, as those terms are
6 defined in chapter 30.91P SCC;

7 (c) The area in which the construction or maintenance will be performed does not drain
8 into the county's municipal separate storm sewer system, as that term is defined in
9 chapter 30.91M SCC; and

10 (d) Design of the trail conforms to:

11 (i) The standards specified in the United States Forest Service Trail Construction and
12 Maintenance Notebook and the United States Forest Service Standard Specifications
13 for Construction and Maintenance of Trails; or

14 (ii) Such other standards for the design and construction of recreational trails that
15 provide equivalent or greater environmental protection, provided that such standards
16 are adopted by rule pursuant to SCC 30.82.010.

17
18 Section 10. Snohomish County Code Section 30.63A.210, added by Ordinance No. 15-102 on
19 January 11, 2016, is amended to read:

20
21 **30.63A.210 Exception for selected project sites that do not drain to a municipal**
22 **separate storm sewer system.**

23
24 (1) New development or redevelopment activities that result in less than 10,000 square feet
25 of new, replaced, or new plus replaced hard surfaces where no portion of the project site will
26 drain, either directly or indirectly, to any existing or planned municipal separate storm sewer
27 system (MS4), shall be eligible for an exception from certain requirements of this chapter as
28 described in subsection (2) of this section. All other applicable requirements of this chapter
29 shall apply, based on the thresholds for the project site. For this exception to apply:

30 (a) The proposed new development and redevelopment activities must occur outside of
31 all critical areas, together with the buffers of and setbacks from critical areas, except that
32 such activities may occur within floodplains and aquifer recharge areas of low or
33 moderate sensitivity to groundwater contamination; and

34 (b) The applicant shall clearly establish with accurate supporting documentation showing
35 to the satisfaction of the director, that the project meets the criteria set forth in subsection
36 (3) of this section.

37 (2) Projects that meet the requirements of subsection (1) of this section shall be excepted
38 from the following:

39 (a) The requirements of SCC 30.63A.525 relating to on-site stormwater management
40 feasibility analysis and on-site stormwater management BMPs described in Vol. I, Section
41 2.5.5 of the Drainage Manual, with the exception of BMP T5.13 (Post-Construction Soil

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1 Quality and Depth), and any requirements pursuant to SCC 30.63A.400 that pertain
2 solely to implementation of SCC 30.63A.525 (except for implementation of BMP T5.13).

3 (b) The recording of drainage easements for on-site stormwater management BMPs
4 pursuant to SCC 30.63A.590 or 30.63A.595.

5 (c) Requirements related to operation and maintenance manuals for on-site stormwater
6 management BMPs set forth in SCC ((~~30.63A.575(4)~~) 30.63A.575(2)(b)).

7 (3) For the purposes of this chapter, a project site does not drain, either directly or indirectly,
8 to any existing or planned MS4 if the following criteria are met:

9 (a) Stormwater runoff generated from the project site will either flow directly to a receiving
10 water body or be totally contained on the project site and dispersed through infiltration
11 and/or evaporation; and

12 (b) Stormwater leaving the project site through infiltration will not migrate to a component
13 of the MS4 through groundwater flow or otherwise indirectly to the existing or planned
14 MS4.

15
16 Section 11. Snohomish County Code Section 30.63A.310, last amended by Ordinance No. 15-
17 102 on January 11, 2016, is amended to read:

18
19 **30.63A.310 Minimum drainage review thresholds and requirements for**
20 **redevelopment.**
21

22 (1) Regardless of the redevelopment thresholds established below in subsections (2) and (3)
23 of this section all redevelopment shall comply with minimum requirement 2 (SCC 30.63A.445
24 and SCC 30.63A.450) unless minimum requirement 2 is not required for an exempted activity
25 pursuant to SCC 30.63A.200. In addition, redevelopment shall comply with any other
26 applicable ((~~redevelopment requirement~~) requirements specified in part 700 of this chapter.

27 (2) Unless an exception under SCC 30.63A.210 applies, redevelopment projects shall
28 comply with minimum requirements 1 through 5 (SCC 30.63A.400 through 30.63A.525) for
29 the new and replaced hard surfaces and the land disturbed if the redevelopment will:

30 (a) Result in or add 2,000 square feet or greater of new, replaced or the total of new plus
31 replaced hard surfaces; or

32 (b) Cause 7,000 square feet or more of land disturbing activity.

33 (3) Unless an exception under SCC 30.63A.210 applies, redevelopment projects shall
34 comply with minimum requirements 1 through 9 (SCC 30.63A.400 through 30.63A.605) for
35 the new hard surfaces and converted vegetation areas if the redevelopment will:

36 (a) Result in or add 5,000 square feet or more of new hard surface area;

37 (b) Convert three-quarters of an acre or more of vegetation to lawn or landscaped areas;
38 or

39 (c) Convert two and one-half acres or more of native vegetation to pasture.

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1 ((The director may allow the minimum requirements to be met for an equivalent area of
2 flow and pollution characteristics within the same site. For public road projects, the equivalent
3 area does not have to be within the project limits, but must drain to the same receiving
4 water.)) Minimum requirements 5, 6, 7, and 8 may be met for an area within a threshold
5 discharge area (TDA) by providing flow control or treatment capacity for an area of equivalent
6 flow and pollution characteristics. The equivalent area does not have to be within the same
7 TDA or project limits, but must drain to the same receiving water, and the guidance for
8 equivalent facilities using in-basin transfers must be followed in Appendix I-
9 D.6 Regional Facility Area Transfers in Volume I of the 2019 Ecology Stormwater
10 Management Manual for Western Washington.

11 (5) In addition to the requirements in subsections (1) through (4) of this section, for road-
12 related redevelopment projects, runoff from the replaced and new hard surfaces (including
13 pavement, shoulders, curbs and sidewalks) and the converted vegetation areas shall meet
14 minimum requirements 1 through 9 (SCC 30.63A.400 through 30.63A.605) if the new hard
15 surfaces total 5,000 square feet or more and total 50 percent or more of the existing hard
16 surfaces within the project limits. The project limits shall be defined by the length of the
17 project and the width of the right-of-way.

18 (6) In addition to the requirements in subsections (1) through (4) of this section, all
19 redevelopment projects, except road-related projects covered by subsection (5) of this
20 section, shall comply with minimum requirements 1 through 9 (SCC 30.63A.400 through
21 30.63A.605) for the new plus replaced hard surfaces and converted vegetation areas when:

22 (a) The total of the new plus replaced hard surfaces totals 5,000 square feet or more;
23 and

24 (b) One of the following valuation criteria is met, as applicable. For the purpose of
25 meeting this valuation criteria, "commercial project" means development or
26 redevelopment of a structure or site for purposes of providing accommodations for
27 provision of goods, merchandise or services for compensation, and "industrial project"
28 means development or redevelopment of a structure or site for purposes of providing
29 accommodations for manufacturing, assembly, processing or storage of products or
30 equipment:

31 (i) For commercial or industrial projects: the valuation of the proposed improvements,
32 including interior improvements, exceeds 50 percent of the assessed value of the
33 existing project site improvements as documented by the applicant; or

34 (ii) For projects other than commercial or industrial projects: ((The value)) the
35 valuation of proposed improvements, including interior improvements, exceeds 50
36 percent of the assessed value of the existing site improvements as documented by
37 the applicant.

38
39 Section 12. Snohomish County Code Section 30.63A.400, last amended by Ordinance No. 15-
40 102 on January 11, 2016, is amended to read:

41
42 **30.63A.400 Minimum requirement 1: Preparation of a stormwater site plan.**
43

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1 When minimum requirement 1 applies pursuant to part 300 of this chapter, the applicant shall
2 prepare a stormwater site plan.

3 (1) A stormwater site plan is a comprehensive report containing all of the technical
4 information and analysis necessary for the evaluation of a proposed new development or
5 redevelopment project for compliance with the requirements of this chapter.

6 (2) Prior to any land disturbing activity, the applicant shall submit a stormwater site plan that:

7 ~~(a) ((complies))~~ Complies with this section and volume I, chapter 3 of the Drainage
8 Manual((-));

9 ~~(b) Uses site-appropriate development principles to retain native vegetation and minimize~~
10 ~~impervious surfaces to the extent feasible;~~

11 ~~(c) Relies on ((Volumes))~~ volumes I through V of the Drainage Manual ~~((shall be used))~~ to
12 select BMPs((-); and

13 ~~(d) Includes a stormwater pollution prevention plan (SWPPP). The required procedures~~
14 ~~for preparing a ((stormwater pollution prevention plan (SWPPP), a part of the stormwater~~
15 ~~site plan;))~~ SWPPP and the required content of the SWPPP are described in SCC
16 30.63A.445, 30.63A.450, and volume II, chapter 3 of the Drainage Manual.

17 (3) The following types of stormwater site planning work shall be performed by or under the
18 direction of a professional engineer licensed in Washington State:

19 (a) Stormwater site plans that involve engineering calculations;

20 (b) Plans involving construction of treatment facilities or flow control facilities (detention
21 ponds, bioretention or infiltration basins, etc.);

22 (c) Structural source control BMPs; and

23 (d) On-site drainage conveyance systems.

24
25 Section 13. Snohomish County Code Section 30.63A.450, last amended by Ordinance No. 15-
26 102 on January 11, 2016, is amended to read:

27 28 **30.63A.450 Minimum requirement 2: SWPPP – general requirements.**

29
30 (1) All the SWPPP elements to be followed are in the Drainage Manual volume II, chapter 3.

31 (2) Applicants for all new development and redevelopment projects of any size shall be
32 responsible for preventing soil erosion and the discharge of sediment and pollutants into
33 receiving waters. A SWPPP must be submitted as part of the stormwater site plan. The
34 SWPPP shall be implemented prior to initial soil disturbance through final stabilization.

35 ~~(3) The SWPPP shall include a narrative and drawings. The narrative shall be a stand-alone~~
36 ~~document attached to the construction drawings. The standard SWPPP format for narratives~~
37 ~~is available from the Washington State Department of Ecology. The narrative shall include~~
38 ~~written explanations describing the pollution prevention decisions made for the project to~~
39 ~~comply with the SWPPP requirements contained in SCC 30.63A.450 and volume II of the~~
40 ~~Drainage Manual, including information concerning existing site conditions, construction~~

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1 schedules and other pertinent items not found in the drawings. Sediment and erosion control
2 BMPs shall be selected and designed pursuant to volume II, chapters 3 and 4 of the
3 Drainage Manual. The drawings and narrative shall describe when and where the selected
4 BMPs will be installed, the performance that the BMPs are expected to achieve and actions
5 to be taken if performance is not achieved. All relevant information shall be included on the
6 construction plans for the availability of project inspectors.

7 (4) All new development and redevelopment shall be designed to prevent erosion and
8 discharge of sediment and other pollutants into receiving waters.

9 (5) To control sediment transport and erosion during the wet season from October 1 through
10 April 30, seasonal work limitations shall apply, except as otherwise exempt per SCC
11 30.63A.450(6). ~~((From October 1st through April 30th, land))~~ Based on information provided
12 by the applicant or local weather conditions, the department may expand or restrict the
13 seasonal limitation on site disturbance. Land disturbing activities may only be authorized if
14 silt-laden runoff will be prevented from leaving the site through any combination of the
15 following:

16 (a) Site conditions including existing vegetative coverage, slope, soil type and proximity
17 to receiving waters;

18 (b) Limitations on activities and the extent of disturbed areas; and

19 (c) Proposed erosion and sediment control measures.

20 (6) ~~((Based on information provided by the applicant and/or local weather conditions, the~~
21 ~~department may expand or restrict the seasonal limitation on site disturbance.))~~ The following
22 conditions or development activities are exempt from the seasonal clearing and grading
23 limitations required per SCC 30.63A.450(5):

24 (a) Where there is 100 percent infiltration of surface water runoff within the site into
25 approved and installed stormwater facilities~~((, land disturbing activities are exempt from~~
26 ~~the seasonal clearing and grading limitations in subsection (5) of this section.))~~;

27 (b) Routine maintenance and necessary repair of erosion and sediment control BMPs;
28 and

29 (c) Routine maintenance of public facilities or existing utility structures that do not expose
30 the soil or result in the removal of the vegetative cover to soil.

31
32 Section 14. Snohomish County Code Section 30.63A.520, last amended by Ordinance No. 15-
33 102 on January 11, 2016, is amended to read:

34
35 **30.63A.520 Minimum requirement 4: Preservation of natural drainage systems and**
36 **outfalls, and provision of off-site mitigation.**
37

38 When minimum requirement 4 applies pursuant to part 300 of this chapter and no exemption
39 under SCC 30.63A.200 applies, the requirements of this section shall be met.

40 (1) Natural drainage patterns identified in the stormwater site plan and determined by the
41 currently functioning drainage pattern and patterns occurring over the past ten consecutive

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1 years shall be maintained. Discharges from the project site shall occur at natural locations, to
2 the maximum extent practicable.

3 (2) The manner by which runoff is discharged from the project site shall not cause off-site
4 drainage impacts, as defined in volume I, chapter 3 of the Drainage Manual. Mitigation of off-
5 site drainage impacts shall be provided pursuant to the requirements of volume I, chapter 3
6 of the Drainage Manual. In addition, appropriate energy dissipation shall be provided for all
7 outfalls in accordance with the requirements of the EDDS and ~~((volume))~~ volumes III and V of
8 the Drainage Manual.
9

10 Section 15. Snohomish County Code Section 30.63A.570, last amended by Ordinance No. 15-
11 102 on January 11, 2016, is amended to read:

12 **30.63A.570 Minimum requirement 8: Stormwater discharges to wetlands.**

13
14
15 (1) When minimum requirement 8 applies pursuant to part 300 of this chapter and no
16 exemption under SCC 30.63A.200 applies, and when a project will result in the direct or
17 indirect (through a conveyance system) discharge of stormwater into a wetland or wetland
18 buffer, the requirements of this section shall be met. Each threshold discharge area (TDA)
19 within a project site that requires minimum requirement 8 must be reviewed to determine
20 what level(s) of wetland protection must be applied to the TDA to comply with minimum
21 requirement 8. Levels of wetland protection shall apply as set forth in volume I, Appendix I-D
22 of the Drainage Manual.

23 (2) Stormwater treatment and flow control facilities shall not be built within a natural
24 vegetated buffer, except as necessary for conveyance systems as approved by Snohomish
25 County or as allowed in wetlands approved for hydrologic modification and/or treatment in
26 accordance with volume I, chapter 2 and Appendix I-D of the Drainage Manual.

27 (3) In instances where stormwater from the project site discharges to a stream that leads to a
28 wetland, or to a wetland that has an outflow to a stream, compliance with both minimum
29 requirement 7 and minimum requirement 8 is required.
30

31 Section 16. Snohomish County Code Section 30.63A.575, last amended by Ordinance No. 15-
32 102 on January 11, 2016, is amended to read:

33 **30.63A.575 Minimum requirement 9: Inspection, operation and maintenance** 34 **requirements.**

35
36
37 When minimum requirement 9 applies pursuant to part 300 of this chapter, and no exemption
38 under SCC 30.63A.200 applies, the requirements of SCC 30.63A.575 through 30.63A.605
39 shall be met.

40 (1) The owner(s) of real property burdened by one or more easements or other servitudes
41 for drainage facilities, stormwater facilities and/or other stormwater BMPs, as shown on the
42 approved stormwater site plan for the property((-)) :

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1 (a) ~~((shall))~~ Shall not create, place or maintain any obstructions in, on, above, upon, over,
2 under, across or through such easements or other servitudes~~((:)); and~~

3 ~~((2) The owner(s) of real property burdened by one or more easements or other servitudes
4 for drainage facilities, stormwater facilities and/or other stormwater BMPs, as shown on the
5 approved stormwater site plan for the property,)) (b) ((shall))~~ Shall at all times ensure there is
6 adequate access to such easements or other servitudes for the performance of inspection
7 and maintenance activities to the drainage facilities, stormwater facilities and/or other
8 stormwater BMPs.

9 ~~((3))~~ (2) The owner(s) of real property containing one or more drainage facilities,
10 stormwater facilities and/or other stormwater BMPs, as shown on the approved stormwater
11 site plan for the property~~((:));~~:

12 (a) ~~((shall))~~ Shall regularly inspect and maintain such facilities and/or BMPs to ensure
13 such facilities and/or other BMPs are functioning as anticipated by the approved
14 stormwater site plan. Such facilities and/or BMPs shall be inspected according to the
15 maintenance requirements set forth in chapter 7.54 SCC~~((:)); and~~

16 ~~((4) The owner(s) of real property on which one or more drainage facilities, stormwater
17 facilities and/or other stormwater BMPs are located, as shown on the approved stormwater
18 site plan for the property,)) (b) ((shall))~~ Shall develop, keep and maintain an operation and
19 maintenance manual for such facilities and/or BMPs, consistent with the provisions in
20 volume V and volume VI of the Drainage Manual. The operation and maintenance manual
21 shall be available for examination by the county at any reasonable time. The manual shall at
22 a minimum include the following information regarding the drainage facilities, stormwater
23 facilities and/or other stormwater BMPs located on the property:

24 ~~((a))~~ (i) A maintenance plan developed pursuant to volume V, chapter 4.6 and
25 volume VI of the Drainage Manual;

26 ~~((b))~~ (ii) A log listing the dates, type and scope of any maintenance activities
27 performed; and

28 ~~((c))~~ (iii) Any other information pertinent to the functioning of the drainage facilities,
29 stormwater facilities, on-site stormwater management BMPs and/or other stormwater
30 BMPs on the property.

31 ~~((5))~~ (3) Any modification to the drainage facilities, stormwater facilities or other stormwater
32 BMPs shown on an approved stormwater site plan for a property, which is not part of an
33 approved maintenance schedule, requires prior approval by the county. Proposed revisions
34 to the approved plans, drainage computations or maintenance schedule shall be submitted to
35 the county for approval prior to modification pursuant to SCC 30.63A.825.

36
37 Section 17. Snohomish County Code Section 30.63A.580, last amended by Ordinance No. 15-
38 102 on January 11, 2016, is amended to read:

39
40 **30.63A.580 Minimum requirement 9: Interim maintenance responsibility for facilities**
41 **and BMPs in the county right-of-way after construction acceptance.**
42

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1 (1) Any private party who constructs, locates, builds or otherwise places one or more
2 drainage facilities, stormwater facilities, LID BMPs, and/or other stormwater BMPs in, on,
3 above, upon, over, under, across or through any portion of a county right-of-way or other
4 county-owned property shall be responsible for the inspection, maintenance and operation of
5 such facilities and/or BMPs during one of the following two periods, whichever is longer:
6

7 (a) A two-year period following construction acceptance by the county pursuant to SCC
8 30.63A.870; or

9 (b) Through such time as any maintenance security is released pursuant to SCC
10 30.84.120.

11 (2) The county may periodically inspect the drainage facilities, stormwater facilities, LID
12 BMPs, or other stormwater BMPs to ensure maintenance is being properly performed.

13 (3) The private party responsible for interim inspection, maintenance and operation of
14 drainage facilities, stormwater facilities, LID BMPs and/or other stormwater BMPs pursuant to
15 this section shall provide a maintenance security as required pursuant to SCC 30.84.120.
16

17 Section 18. Snohomish County Code Section 30.63A.590, last amended by Amended
18 Ordinance No. 20-081 on January 20, 2021, is amended to read:
19

20 **30.63A.590 Minimum requirement 9: Easements granted to the county.**

21
22 (1) ~~((To protect the public from flooding, water quality degradation, damage to aquatic~~
23 ~~habitat and other drainage impacts)) Except as provided in subsection (10) of this section,~~
24 easements shall be granted to the county for the right to enter onto privately owned property,
25 at the county's discretion, for the purpose of accessing, inspecting, maintaining, modifying or
26 replacing the following types of privately owned drainage facilities, stormwater facilities or
27 other stormwater BMPs:

28 (a) All stormwater flow control facilities and stormwater treatment facilities designed and
29 constructed to meet the requirements of SCC 30.63A.530 or 30.63A.550; and

30 (b) Conveyance systems that conduct stormwater from a public right-of-way, private tract
31 or public easement to drainage facilities, stormwater facilities, stormwater BMPs,
32 conveyance systems or waters of the state.

33 (2) All easements granted to the county under subsection (1) of this section shall include
34 access rights from an open public right-of-way.

35 (3) Drainage easements granted to the county pursuant to subsection (1) of this section shall
36 be 20 feet in width unless:

37 (a) The drainage facility, stormwater facility or other stormwater BMP is larger than 20
38 feet in width, in which case the easement size shall be increased appropriately;

39 (b) During plan review, the director requires an increase above the required easement
40 width to the extent reasonably necessary to allow adequate maintenance of the proposed
41 drainage facility, stormwater facility or other stormwater BMP, or to accommodate
42 existing site conditions, when the director determines that there are special

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1 circumstances applicable to the site or the intended use for which a wider easement is
2 reasonably necessary; or

3 (c) During plan review, the director may reduce the easement width, if the director
4 determines that there are special circumstances applicable to the site or the intended
5 use. These circumstances may include, but are not limited to, shape, topography,
6 location, or surroundings that do not generally occur on other sites and that render it
7 infeasible to provide the standard width easement, provided that the director also
8 determines the proposed drainage facility, stormwater facility or other stormwater BMP
9 can be adequately inspected and maintained with a reduced easement width.

10 (4) The director of the department of public works and the director of the department of
11 conservation and natural resources shall have the authority to modify existing drainage
12 easement widths consistent with the criteria set forth in subsection (3) of this section without
13 requiring an applicant to follow the modification process in SCC 30.63A.830.

14 (5) All drainage easements granted pursuant to subsection (1) of this section shall be in a
15 form specified by the director, and shall include a covenant requiring the owner(s) of the
16 property at issue to regularly inspect and maintain the drainage facilities, stormwater
17 facilities, LID BMPs, or stormwater BMPs located within the easement area. All persons
18 having an ownership interest in the property at issue shall execute and acknowledge the
19 easement document, which shall be recorded.

20 (6) Should the county determine, at any time, that the property owner(s) have not performed
21 the required inspection and maintenance of the drainage facilities, stormwater facilities or
22 stormwater BMPs located within a drainage easement granted pursuant to subsection (1) of
23 this section, the county may cause such inspection and/or maintenance to be performed, and
24 the property owner(s) shall reimburse the county for the cost of any such work.

25 (7) Prior to accepting an easement granted pursuant to subsection (1) of this section, the
26 director may require the removal of all obstructions or encumbrances located in, on, above,
27 upon, over, under, across or through the easement area which are inconsistent with the
28 purposes for which the easement is being granted.

29 (8) No fill, structures, fences, walls, rip rap, buildings or other similar obstructions to access
30 or restrictions to the flow of water may be placed within the easement area without the written
31 consent of the director. Obstructions placed within an easement area in violation of this
32 restriction may be removed by the county at the sole expense of the property owner(s), and
33 the property owner(s) shall reimburse the county for the cost of removal.

34 (9) Payments due to the county under subsections (6) and (8) of this section shall be made
35 within 90 days of the day the county submits a bill for costs. In the event of nonpayment, the
36 county may bring suit to recover such removal costs, including its attorneys' fees, and upon
37 obtaining a judgment, such amount shall become a lien against the property of the owner as
38 provided in RCW 4.56.190.

39 (10) The director may exempt single-family residential development or redevelopment from
40 the requirement to record an easement under subsection (1) of this section provided all of the
41 following apply:

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1 (a) The proposed project is for construction, reconstruction or remodel of a single-family
2 residence or appurtenance;

3 (b) The project site is on an existing lot 100,000 square feet or larger located outside of
4 any Urban Growth Area;

5 (c) The project site is outside of all critical areas, together with the buffers of and setbacks
6 from critical areas, except that such activities may occur within floodplains and aquifer
7 recharge areas of low or moderate sensitivity to groundwater contamination, and except
8 that dispersion of stormwater may be allowed per BMP T5.30 in a critical area buffer;

9 (d) The project site does not drain, either directly or indirectly, to any existing or planned
10 municipal separate storm sewer system according to the criteria in SCC 30.63A.210(3);
11 and

12 (e) The project applicant records the approved stormwater site plan with the county
13 auditor. The recorded stormwater site plan must include the following statement, "The
14 property owner is responsible for inspecting and maintaining all stormwater facilities
15 required by chapter 7.54 SCC."

16
17 Section 19. Snohomish County Code Section 30.63A.700, last amended by Ordinance No. 15-
18 102 on January 11, 2016, is amended to read:

19
20 **30.63A.700 Minimum requirements for ~~((road))~~ pavement maintenance**
21 **~~((redevelopment))~~.**

22
23 ~~((This section establishes requirements for the application of minimum requirements to road~~
24 ~~maintenance redevelopment practices.~~

25 ~~(1) For projects that remove and replace a paved surface to base course or lower, or repair~~
26 ~~the roadway base where hard surfaces are not expanded, minimum requirements 1 through~~
27 ~~5 (SCC 30.63A.400 through 30.63A.525) shall be required.~~

28 ~~(2) Extending the pavement edge without increasing the size of the road prism and paving~~
29 ~~graveled shoulders are considered new hard surfaces and shall be subject to the minimum~~
30 ~~requirements required by SCC 30.63A.310.~~

31 ~~(3) The following are considered new hard surfaces and are subject to the minimum~~
32 ~~requirements required by SCC 30.63A.310:~~

33 ~~(a) Resurfacing by upgrading from dirt to gravel, asphalt, or concrete;~~

34 ~~(b) Upgrading from gravel to asphalt, or concrete; and~~

35 ~~(c) Upgrading from a bituminous surface treatment ("chip seal") to asphalt or concrete.)~~

36
37 The following pavement maintenance practices are not exempt, and must comply with the
38 minimum requirements triggered by the redevelopment thresholds in SCC 30.63A.310:

39 (1) The following are considered to be replaced hard surfaces:

40 (a) Removing and replacing an asphalt or concrete pavement to base course or lower;
41 and

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1 (b) Repairing the pavement base.

2 (2) The following are considered to be new hard surfaces:

3 (a) Extending the pavement edge without increasing the size of the road prism; and

4 (b) Paving graveled shoulders.

5 (3) The following are considered to be new impervious surfaces:

6 (a) Resurfacing by upgrading from dirt to gravel, a bituminous surface treatment (“chip
7 seal”), asphalt, or concrete;

8 (b) Resurfacing by upgrading from gravel to chip seal, asphalt, or concrete; and

9 (c) Resurfacing by upgrading from chip seal to asphalt or concrete.

10
11 Section 20. Snohomish County Code Section 30.63A.825, last amended by Amended
12 Ordinance No. 12-018 on May 2, 2012, is amended to read:

13
14 **30.63A.825 Stormwater site plan revisions.**

15
16 (1) Proposed revisions to an approved stormwater site plan shall be submitted to the
17 department prior to construction, except that requests for revisions to an approved
18 stormwater site plan may be submitted to the department during construction if necessary to
19 address unforeseen circumstances that occur during construction.

20 (2) The applicant may revise an approved stormwater site plan upon paying a revision
21 review fee pursuant to SCC 30.86.510(2) and obtaining written approval from the department
22 prior to construction of any proposed revision to an approved stormwater site plan. At a
23 minimum, the revised submittal shall include substitute pages of the approved stormwater
24 site plan, which include the proposed changes, revised drawings showing any structural
25 changes, and any other supporting information that explains and supports the reason for the
26 change. The department may require additional information before approving or denying the
27 proposed revision. All revisions shall be consistent with all applicable minimum requirements
28 1 through 9 (SCC 30.63A.400 through 30.63A.605). Any revision shall comply with the
29 requirements of this chapter and be shown on final record drawings.

30 ~~(((3) Land disturbing activity site plans prepared pursuant to chapter 30.63B SCC shall~~
31 ~~clearly indicate if they have been prepared for land disturbing activity that will be initiated or~~
32 ~~continue during the wet season work limitation period between October 1 and April 30. When~~
33 ~~approved construction plans for a project do not state that the stormwater site plans have~~
34 ~~been prepared to allow land disturbing activity between October 1 and April 30, land~~
35 ~~disturbing activity shall not occur during that time period until revised construction plans~~
36 ~~addressing wet season work limitations and BMPs have been approved by the department.~~
37 ~~Only site stabilization and erosion control activities shall be allowed to occur during the wet~~
38 ~~season until a revised stormwater site plan and SWPPP are approved.))~~

39
40 Section 21. Snohomish County Code Section 30.63B.050, last amended by Amended
41 Ordinance No. 17-070 on November 1, 2017, is amended to read:

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1 **30.63B.050 Permit approval criteria.**
2

3 (1) A land disturbing activity permit shall only be issued after:

- 4 (a) The project complies with the requirements of this chapter;
- 5 (b) Stormwater site plan approvals and all other permits and approvals required by the
6 county for site development have been obtained;
- 7 (c) Written evidence has been submitted that approvals required from other jurisdictions
8 and agencies will be issued;
- 9 (d) Clearing limits have been marked on the land disturbing activity site plan;
- 10 (e) A land disturbing activity site plan has been approved using LID principles and
11 techniques, as directed by the Drainage Manual, unless exempted or excepted by SCC
12 30.63A.200, 30.63A.210, or 30.63A.220. Site planning shall preserve native vegetation,
13 minimize disruption and compaction of native soils, and preserve natural drainage
14 channels to the greatest extent feasible;
- 15 (f) Security devices pursuant to chapter 30.84 SCC and insurance pursuant to SCC
16 30.63A.940 have been accepted by the department when applicable;
- 17 (g) Environmental review under chapter 30.61 SCC has been completed, if applicable;
18 and
- 19 (h) The project complies with all other applicable requirements of this title.

20 (2) A land disturbing activity permit shall not be issued for land disturbing activity in
21 shorelines until all required permits and approvals have been granted pursuant to chapter
22 30.44 SCC.
23

24 Section 22. A new section is added to Chapter 30.63B of the Snohomish County Code to read:

25
26 **30.63B.055 Seasonal work limitations.**
27

28 To control sediment transport and erosion from land disturbing activities during the wet
29 season from October 1 through April 30, seasonal work limitations shall apply subject to
30 requirements in SCC 30.63A.450(5), unless exempt under SCC 30.63A.450(6).
31

32 Section 23. A new section is added to Chapter 30.63B of the Snohomish County Code to read:

33
34 **30.63B.065 Compliance with updated stormwater regulations – “Started**
35 **Construction” requirement.**
36

37 When a permit is issued under this chapter for the purpose of implementing requirements in
38 chapter 30.63A SCC, land disturbing activity permits are subject to compliance with updated
39 stormwater drainage regulations as provided in SCC 30.70.310.
40

41 Section 24. Snohomish County Code Section 30.63B.070, last amended by Amended
42 Ordinance No. 15-103 on January 11, 2016, is amended to read:

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30.63B.070 Land disturbing activity permit exemptions.

A land disturbing activity permit is not required for activities exempted in this section. Exemption from obtaining a land disturbing activity permit is not an exemption from compliance with this chapter, nor from any other applicable provision in this title. Land disturbing activity exempted in this section shall comply with SCC 30.63A.445 and 30.63A.450, unless specifically exempted from those provisions by SCC 30.63A.200 or subject to alternative requirements in SCC 30.63A.810.

(1) Land disturbing activities are exempt from obtaining a land disturbing activity permit when:

- (a) The land disturbing activity occurs outside all critical areas, together with the buffers of and setbacks from these critical areas, except that such activities may occur within floodplains and aquifer recharge areas of low or moderate sensitivity to groundwater contamination;
- (b) The land disturbing activity is set back at least two feet from all property lines;
- (c) The land disturbing activity does not obstruct or alter an existing drainage course or pattern;
- (d) The land disturbing activity disturbs less than 7,000 square feet of land;
- (e) The land disturbing activity creates or replaces less than 2,000 square feet of new, replaced, or new plus replaced hard surfaces;
- (f) The property on which the land disturbing activity will occur collects or concentrates stormwater from 5,000 square feet or less of drainage area; and
- (g) The amount of land disturbing activity is consistent with one of the following thresholds:
 - (i) One hundred cubic yards or less of grading on a site in any 18 consecutive months (except fills and associated compaction intended to support structures or private roads);
 - (ii) Five hundred cubic yards or less of excavation in any 18 consecutive months for a basement foundation, or for improvements to a single family dwelling and/or accessory structures, provided that excess excavated material shall be disposed of at a permitted site approved by the director and provided further that the activity shall only commence after a building permit is secured by the applicant; or
 - (iii) Five hundred cubic yards or less of grading in any 18 consecutive months for construction of underground drainage systems, provided that the construction shall only commence after a right-of-way use, utility, single family or commercial building permit is obtained by the applicant.

(2) The following land disturbing activities are exempt from obtaining a land disturbing activity permit when the activity is at least two feet from all property boundary lines. For this exemption to apply, development activities must occur outside all critical areas, together with the buffers of and setbacks from these critical areas, except that such activities may occur

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1 within floodplains and aquifer recharge areas of low or moderate sensitivity to groundwater
2 contamination:

3 (a) Operation of a solid waste disposal site subject to a solid waste permit pursuant to
4 chapter 70.95 RCW, except that expansion, relocation, closure, or capping of a solid
5 waste disposal site is not exempt;

6 (b) Mineral resource operations including commercial mining, quarrying, excavating, or
7 processing of rock, sand, gravel, aggregate, or clay and associated stockpiling when
8 such operations are authorized by a conditional use permit or an administrative
9 conditional use permit for expansion of a nonconforming use as required by chapter
10 30.22, 30.42C or 30.43A SCC, except that the following are not exempt:

11 (i) Reclamation pursuant to SCC 30.63B.170;

12 (ii) An operation which the director determines may destabilize or undermine any
13 adjacent or contiguous property; and

14 (iii) An operation which the director determines may result in an adverse downstream
15 drainage impact;

16 (c) Site investigative work necessary for land use application submittals pursuant to this
17 title, such as surveys, soil borings, test pits, percolation tests, nonmechanical survey
18 monument placement, data collection by nonmechanical means and other related
19 activities, if performed in accordance with state-approved sampling protocols or sections
20 7 and 10 of the federal Endangered Species Act (ESA) (16 U.S.C. §§ 1536 and 1539),
21 provided that the land disturbing activity is no greater than is necessary to accomplish the
22 site investigative work and results in less than 2,000 square feet of new plus replaced
23 hard surfaces;

24 (d) Drilling or excavation of a well for a single family dwelling; and

25 (e) Digging, excavating, or filling cemetery graves; ~~(; and~~

26 ~~(f) Repair or installation of underground or overhead utility facilities that replace ground~~
27 ~~surfaces with in-kind materials or materials with similar runoff characteristics.))~~

28 (3) The following land disturbing activities are exempt from obtaining a land disturbing
29 activity permit:

30 ~~((a) Repair or installation of underground or overhead facilities performed by a utility that~~
31 ~~only replaces ground surfaces with in-kind materials or materials with similar runoff~~
32 ~~characteristics. For this exemption to apply, development activities must occur outside all~~
33 ~~critical areas, together with the buffers of and setbacks from these critical areas, except~~
34 ~~that such activities may occur within floodplains and aquifer recharge areas of low or~~
35 ~~moderate sensitivity to groundwater contamination;~~

36 ~~(b) Facility maintenance and repairs performed by a utility that replace ground surfaces~~
37 ~~with in-kind materials or materials with similar runoff characteristics, that do not add hard~~
38 ~~surfaces, and that do not adversely impact any critical areas, critical area buffers or~~
39 ~~upstream or downstream properties;))~~

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1 (a) Repair, maintenance or installation of underground or overhead facilities performed by
2 a utility that meets the following criteria:

3 (i) Replaces ground surfaces with in-kind materials or materials with similar runoff
4 characteristics and does not add hard surfaces;

5 (ii) Occurs outside all critical areas, together with the buffers of and setbacks from
6 these critical areas, except that such activities may occur within floodplains and
7 aquifer recharge areas of low or moderate sensitivity to groundwater contamination;
8 and except as allowed by SCC 30.63B.070(3)(b);

9 (iii) Does not adversely impact any critical areas, critical area buffers or upstream or
10 downstream properties; and

11 (iv) Is located at least two feet from all property boundary lines;

12 (b) Minor development activities performed by a utility that meet the following criteria:

13 (i) Occurs within an improved right-of-way or an improved utility corridor;

14 (ii) Replaces ground surfaces with in-kind materials or materials with similar runoff
15 characteristics, does not add hard surfaces, and replaces less than 2,000 square
16 feet of hard surfaces;

17 (iii) Located at least two feet from all property boundary lines;

18 (iv) Consistent with criteria in SCC 30.63B.070(1)(c), (d) and (f);

19 (v) Involves 500 cubic yards or less of grading in any 18 consecutive months;

20 (vi) Occurs outside all critical areas, except that such activities may occur within buffers
21 of and setbacks from these critical areas and within floodplains and aquifer
22 recharge areas of low or moderate sensitivity to groundwater contamination; and
23 except that replacement or repair of utility poles may occur within non-riparian
24 Category II and III wetlands smaller than 5,000 square feet, or non-riparian
25 Category IV wetlands smaller than 10,000 square feet, provided that the
26 replacement or repair of utility poles meets the following criteria:

27 (A) The replacement or repair of utility poles is conducted in accordance with
28 administrative rules adopted by the department; provided that when
29 administrative rules are unavailable, best management practices shall be
30 employed;

31 (B) The replacement or repair of utility poles does not exceed 100 cubic yards of
32 grading in any 18 consecutive months, including grading for the replacement
33 or repair of poles and work necessary to provide access; and

34 (C) The replacement or repair of utility poles, including work necessary to obtain
35 access to the pole(s), is not located within a landslide hazard area as defined
36 in SCC 30.91L.040(1) through (3), or within the top of slope portion of the
37 landslide hazard area;

38 (vii) Conducted in accordance with administrative rules adopted by the department;
39 provided that when administrative rules are unavailable, best management
40 practices shall be employed; and

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1 (viii) Includes only the following activities:

2 (A) Normal maintenance and repair of utility facilities that does not expand the
3 footprint of existing utility corridors or utility facilities;

4 (B) Minor replacement, modification, extension, installation, or construction of
5 utilities in an improved public road right-of-way;

6 (C) Minor replacement, repair or modification of existing utility facilities in an
7 improved utility corridor;

8 (D) Minor replacement or modification of individual utility service lines connecting
9 to a utility distribution system;

10 (E) Vegetation maintenance in an improved utility corridor or improved road right-
11 of-way including removal of invasive weeds, and felling or topping of
12 hazardous trees based on review by a qualified arborist; and

13 (F) Pole repair or replacement as described in SCC 30.63B.070(3)(b)(vi);

14 (c) Remodeling or tenant improvements that do not meet the definitions of new
15 development or redevelopment;

16 (d) Forest practice Classes I, II, III and Class IV special nonconversion forest practices
17 regulated by title 222 WAC;

18 (e) Oil and gas field activities or operations, including the construction of drilling sites,
19 waste management pits, access roads, and transportation and treatment infrastructure
20 (such as pipelines, natural gas treatment plants, natural gas pipeline compressor stations
21 and crude oil pumping stations). Operators are encouraged to implement and maintain
22 best management practices to minimize erosion and control sediment during and after
23 construction activities to help ensure protection of surface water quality during storm
24 events;

25 (f) The following road and pavement maintenance activities: pothole and square cut
26 patching, overlaying existing asphalt or concrete pavement with asphalt or concrete
27 without expanding the coverage area, shoulder grading, reshaping and/or re-grading
28 drainage systems, crack sealing, resurfacing with in-kind material without expanding the
29 road prism, pavement preservation activities that do not expand the pavement prism, and
30 vegetation maintenance;

31 (g) The construction or maintenance of recreational trails, not including challenge areas,
32 parking areas, spectator areas, or any other developed or disturbed areas that are not
33 trails, provided that the following criteria are met:

34 (i) The trail at issue is on land located in a rural or resource zone;

35 (ii) The trail at issue is located in a public park or a private park, as those terms are
36 defined in chapter 30.91P SCC;

37 (iii) The area in which the construction or maintenance will be performed does not
38 drain into the county's municipal separate storm sewer system, as that term is defined
39 in chapter 30.91M SCC; and

40 (iv) Design of the trail conforms to:

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1 (A) The standards specified in the United States Forest Service Trail Construction
2 and Maintenance Notebook and the United States Forest Service Standard
3 Specifications for Construction and Maintenance of Trails; or

4 (B) Such other standards for the design and construction of recreational trails that
5 provide equivalent or greater environmental protection, provided that such
6 standards are adopted by rule pursuant to SCC 30.82.010; and

7 (h) Site investigative work necessary for land use application submittals pursuant to this
8 title, such as surveys, soil borings, test pits, percolation tests, nonmechanical survey
9 monument placement, data collection by nonmechanical means or other related activities,
10 provided that the work is otherwise consistent with the provisions of other local, state and
11 federal laws and regulations. Land disturbance shall be no greater than that necessary to
12 accomplish the site investigative work and disturbed areas shall be restored to pre-
13 disturbance conditions in one growing season.

14 (4) The following commercial agricultural activities that are conducted on land designated
15 riverway commercial farmland, upland commercial farmland, or local commercial farmland by
16 the comprehensive plan and future land use map (FLUM) are exempt from obtaining a land
17 disturbing activity permit:

18 (a) Tilling, soil preparation, fallow rotation, planting, harvesting and other commercial
19 agricultural activities involving working the land. For this exemption to apply, development
20 activities must occur outside all critical areas, together with the buffers of and setbacks
21 from these critical areas, except that such activities may occur within floodplains and
22 aquifer recharge areas of low or moderate sensitivity to groundwater contamination;

23 (b) Maintenance or repair of existing commercial agricultural facilities including drainage
24 facilities, ponds, animal stock flood sanctuaries, animal waste management facilities,
25 agricultural buildings, fences, roads and bridges; and

26 (c) New construction of drainage ditches (including enlargement of existing drainage
27 ditches) that requires 500 cubic yards or less of grading. Such ditches shall not adversely
28 impact critical areas or upstream or downstream properties, be located within 100 feet of
29 streams, wetlands, lakes, marine waters, fish and wildlife habitat conservation areas, and
30 erosion hazard areas, or contain water on site for retention, infiltration or evaporation. For
31 this exemption to apply, development activities must occur outside all critical areas,
32 together with the buffers of and setbacks from these critical areas, except that such
33 activities may occur within floodplains and aquifer recharge areas of low or moderate
34 sensitivity to groundwater contamination.

35 (5) Agricultural activities defined in chapter 30.32B SCC or SCC 30.91A.090 are exempt
36 from obtaining a land disturbing activity permit, provided that:

37 (a) The activity occurs on property on which agriculture is a legal use of the property;

38 (b) The activity requires no other permit or project approval from Snohomish County
39 except for a flood hazard permit under chapter 30.43C SCC; and

40 (c) The activity does not occur in a wetland as defined by state law, unless:

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1 (i) The activity is exempt from wetlands regulations under section 404(f) of the federal
2 Clean Water Act; or

3 (ii) The wetland is an area of no greater than 5,000 square feet of nonriparian
4 wetland Categories II or III or 10,000 square feet of nonriparian Category IV wetlands,
5 pursuant to SCC 30.62A.230(2).
6

7 Section 25. Snohomish County Code Section 30.91A.250, last amended by Amended
8 Ordinance No. 12-025 on June 6, 2012, is amended to read:
9

10 **30.91A.250 Appurtenance.**

11
12 "Appurtenance" means development necessarily connected to the use and enjoyment of a
13 single-family residence and located landward of the perimeter of a wetland and landward of
14 the ordinary high water mark. Normal appurtenances include a garage; deck; driveway;
15 utilities solely servicing the subject single-family residence; fences; and grading which does
16 not exceed 250 cubic yards (except to construct a conventional drainfield).
17

18 *This definition applies only to "Shoreline" regulations in ((chapter)) chapters 30.44 and 30.67*
19 *SCC, and "Drainage" regulations in chapter 30.63A SCC.*
20

21 Section 26. Snohomish County Code Section 30.911.012, added by Amended Ordinance No.
22 06-061 on October 1, 2007, is amended to read:
23

24 **30.911.012 Improved road right-of-way.**

25
26 "Improved road right-of-way" means that portion of the road right-of-way that was altered to
27 construct the road. This includes the road prism, shoulders, sidewalks, cut and fill slopes, and
28 necessary ditches and vegetation management areas.
29

30 *This definition applies only to "Wetlands and fish and wildlife habitat" regulations in chapter*
31 *30.62A SCC and "Land disturbing activity" regulations in chapter 30.63B SCC.*
32

33 Section 27. A new section is added to Chapter 30.911 of the Snohomish County Code, to read:
34

35 **30.911.014 Improved utility corridor.**

36
37 "Improved utility corridor" means that portion of a utility corridor that was altered to construct
38 or install linear utility distribution or collection systems. This includes that portion of utility
39 easements or utility-owned corridors where linear utility facilities have already been installed,
40 and includes access roads, cut and fill slopes, and necessary ditches and vegetation
41 management areas needed for access to and function of the linear utility facilities. Utility lines
42 or pipes that extend from the utility-owned distribution system across private property to
43 individual customers are not included.
44

45 *This definition applies only to "Land disturbing activity" regulations in chapter 30.63B SCC.*

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1
2 Section 28. Snohomish County Code Section 30.91L.025, last amended by Ordinance No. 15-
3 103 on January 11, 2016, is amended to read:

4
5 **30.91L.025 Land Disturbing Activity.**

6
7 "Land disturbing activity" means any activity that will result in movement of earth or a change
8 in the existing soil cover or the existing soil topography (both vegetative and non-vegetative),
9 including the creation and/or replacement of impervious surfaces. Land disturbing activities
10 include, but are not limited to, clearing, filling, excavation and grading. Land disturbing
11 activities do not include agricultural plowing and tilling exempt from stormwater regulations
12 pursuant to SCC 30.63A.200. Compaction that is associated with stabilization of structures
13 and road construction also is a land disturbing activity. Vegetation and drainage facility
14 maintenance practices are not land disturbing activities, provided that the maintenance is
15 performed according to standards adopted by Snohomish County. Landscape maintenance
16 and gardening are not land disturbing activities.

17
18 Section 29. Snohomish County Code Section 30.91M.011, last amended by Amended
19 Ordinance No. 15-103 on January 11, 2016, is amended to read:

20
21 **30.91M.011 Maintenance.**

22
23 "Maintenance" means activities conducted on currently serviceable structures, facilities and
24 equipment that involve no expansion or use beyond that previously existing and result in no
25 significant adverse hydrologic impact. It includes those usual activities taken to prevent a
26 decline, lapse or cessation in the use of structures and systems. Those usual activities may
27 include replacement of dysfunctional facilities, including cases where any permit requires
28 replacing an existing structure with a different type structure, as long as the functioning
29 characteristics of the original structure are not changed. ~~Maintenance does not include an~~
30 ~~expansion in physical dimension, capacity or use.~~

31
32 *This definition applies to ((chapters)) "Drainage" regulations in chapter 30.63A SCC and*
33 *"Land disturbing activity" regulations in chapter 30.63B SCC.*

34
35 Section 30. Snohomish County Code Section 30.91S.330, last amended by Amended
36 Ordinance No. 19-020 on July 3, 2019, is amended to read:

37
38 **30.91S.330 Single-family residence.**

39 "Single-family residence" means a detached dwelling designed for and occupied by one
40 family and includes normal appurtenances thereto within a contiguous ownership.

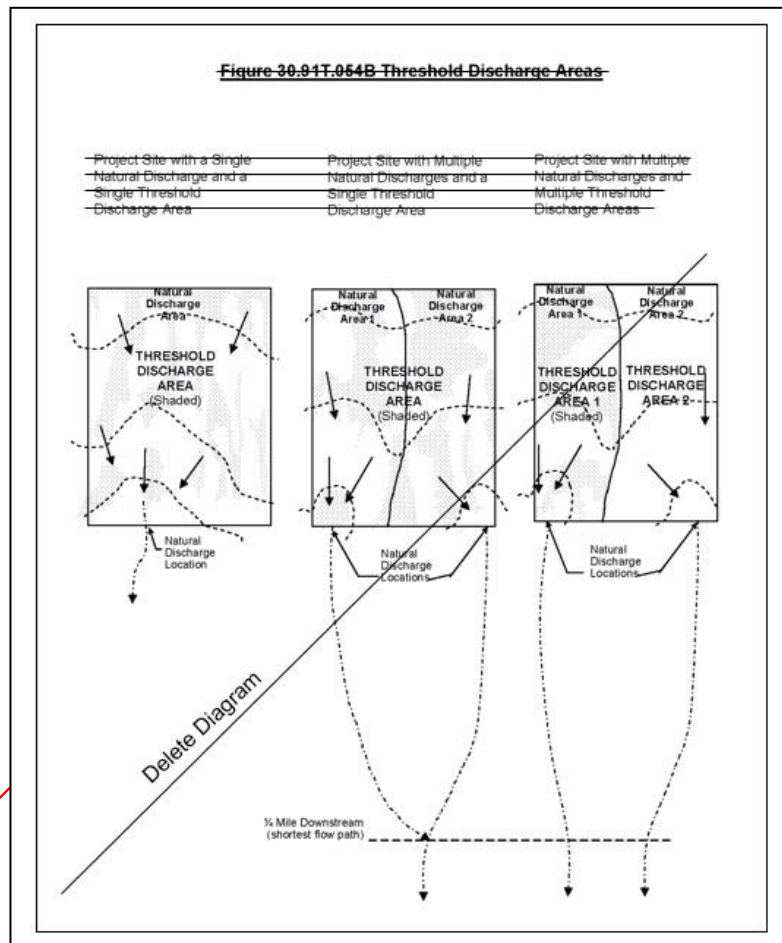
41 *This definition applies only to "Shoreline" regulations in chapters 30.44 and 30.67 SCC, and*
42 *"Drainage" regulations in chapter 30.63A SCC.*

43
44 Section 31. Snohomish County Code Section 30.91T.054B, last amended by Amended
45 Ordinance No. 15-103 on January 11, 2016, is amended to read:

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30.91T.054B Threshold discharge area.

“Threshold discharge area (TDA)” means an ~~(on-site)~~ area within a project site draining to a single natural discharge location or multiple natural discharge locations that combine within one-quarter mile downstream as determined by the shortest flow path. ~~((The examples in Figure 30.91T.054B illustrate this definition))~~ (Refer to diagrams in Drainage Manual, Volume I, Glossary).



Section 32. Effective date. This ordinance shall become effective July 1, 2021.

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1 Section 33. Severability. If any section, sentence, clause or phrase of this ordinance is held to
2 be invalid or unconstitutional by the Growth Management Hearings Board, or a court of
3 competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or
4 constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided,
5 however, that if any section, sentence, clause or phrase of this ordinance is held to be invalid by
6 the Growth Management Hearings Board or court of competent jurisdiction, then the section,
7 sentence, clause or phrase in effect prior to the effective date of this ordinance shall be in full
8 force and effect for that individual section, sentence, clause, or phrase as if this ordinance had
9 never been adopted.

10
11
12
13
14
15
16 PASSED this ____ day of _____, 2021.

17
18
19
20 SNOHOMISH COUNTY COUNCIL
21 Snohomish County, Washington

22
23
24 _____
25 Chairperson

26
27 ATTEST:

28
29 _____
30 Asst. Clerk of the Council

31
32
33 () APPROVED
34 () EMERGENCY
35 () VETOED

36 _____
37 County Executive
38 Date: _____, 2021

39 ATTEST:

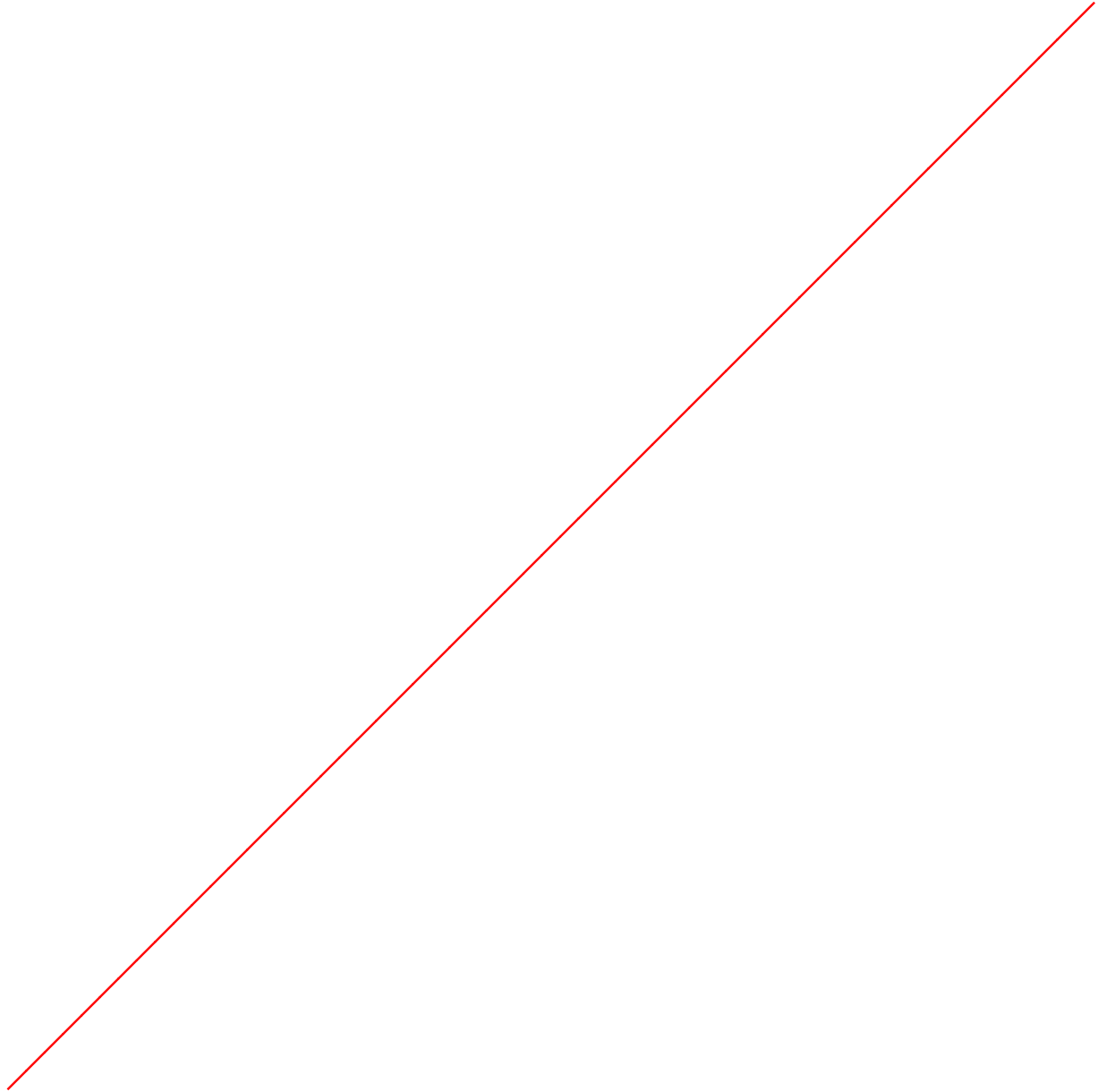
40 _____
41

42
43
44 Approved as to form:

45 _____
46

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1 Deputy Prosecuting Attorney





TO: Snohomish County Council

FROM: Terri Strandberg, Principal Planner

DATE: April 15, 2021

SUBJECT: Staff Report: NPDES Update

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

Dave Somers
County Executive

The purpose of this staff report is to provide an overview of proposed updates to county requirements in compliance with the National Pollution Discharge Elimination System (NPDES) permit program. The NPDES permit program addresses water pollution by regulating point sources that discharge pollutants into waters of the United States. The main focus of the county's program is stormwater runoff from new development and redevelopment, including both public and private projects. The program also addresses stormwater management on county-owned properties and on-going management on properties with potential as stormwater pollution generators.

Background

The NPDES program was created in 1972 by the federal Clean Water Act (Federal Water Pollution Control Act, Title 33 United States Code, Section 1251, et seq.) under the authority of the Environmental Protection Agency (EPA). Under its administration of the Clean Water Act, the EPA promulgated regulations to control stormwater discharges from municipal separate storm sewer systems (MS4s) in two groups called Phase I and Phase II. The determination of Phase I vs. Phase II is based on the size of the community. Snohomish County is designated as a Phase I community for the purpose of regulating discharge from municipal separate storm sewer system (MS4) under the NPDES program.

The EPA authorizes state governments to perform the permitting, administrative and enforcement aspects of the program. In Washington State, this function is delegated to the Washington State Department of Ecology (Ecology). Ecology oversees and approves all the local programs developed by the cities and the counties in the state. Every five years Ecology updates requirements and issues new Phase I and Phase II permits. Local jurisdictions are required to update their local programs in compliance with the newly updated Phase I or Phase II Permits and submit the updated local programs to Ecology for review and approval. For Snohomish County, Ecology must make a formal determination that the county's program is equivalent to the Ecology's *2019 Stormwater Management Manual for Western Washington (SWMMWW)*.

The most recent Phase I Permit was issued by Ecology on July 1, 2019¹. It consists of the main permit document and fourteen appendices. The county must update our local program with an effective date no later than July 1, 2021.

The county program consists of several enforceable documents including regulatory code and administrative rules:

¹ This action by Ecology was appealed by Puget Soundkeeper Alliance and by Washington Association of Water and Sewer Districts. These appeals have not yet been resolved.

Snohomish County Code (SCC):

- Chapter 7.52 SCC Water Supply
- Chapter 7.53 SCC Water Pollution Control
- Chapter 30.63A SCC Drainage
- Chapter 30.63B SCC Land Disturbing Activity
- Section 30.70.310 SCC Started construction – compliance with updated stormwater drainage regulations (New)

Snohomish County Administrative Rules:

- Snohomish County Drainage Manual, Volumes I-VI:
 - Volume I – Minimum Technical Requirements
 - Volume II – Construction Stormwater Pollution Prevention BMPs²
 - Volume III – Hydrologic Analysis and Flow Control BMPs
 - Volume IV – Source Control BMPs
 - Volume V – Runoff Treatment BMPs
 - Volume VI – Stormwater Facility Maintenance (New)
- Engineering Design and Development Standards (EDDS)

Except for the EDDS, all other enforceable documents are being updated under the 2019 Phase I Permit. Section 30.70.310 SCC and Drainage Manual Vol. VI are new with this update. The Planning Commission reviewed the “started construction” requirements under separate action last November and December, 2020. They are included here to show where the “started construction” provisions fit into the overall stormwater program.

Snohomish County NPDES Program Overview

This overview of Snohomish County’s current program is provided to help put the proposed NPDES updates into context.

Snohomish County’s current NPDES Program has evolved over the years in sync with Ecology’s updates to the Phase I Permit. Under the current program, development and redevelopment projects are subject to “minimum requirements” (MRs) based on the size of the development:

- How much vegetation will be removed;
- How much soil will be moved, removed or added; and
- How much impervious surface will be added or replaced.

Each of these development activities affect how much stormwater will be running off the development site relative to natural (predevelopment) conditions.

There are nine MRs. Smaller projects are subject only to MR1 and MR2. Medium sized projects are subject to MR1 through 5. Large projects are subject to MR1 through 9. The thresholds that trigger the various levels of requirements are found in SCC 30.63A.300 (new development), SCC 30.63A.310 (redevelopment), and SCC 30.63A.700 (pavement maintenance) reflecting requirements in Appendix 1 of the Phase I Permit. The Drainage Manual contains helpful flow charts showing how these thresholds are applied (*Drainage Manual, Vol. I, section 2.4, Figs. 1.1, 1.2 and 1.3*). The nine MRs are listed below:

MR1 – Preparation of stormwater site plans.

MR2 – Construction stormwater pollution prevention plan (SWPPP)

MR3 – Source control of pollution

² “BMPs” means best management practices.

MR4 – Preservation of natural drainage systems and outfalls

MR5 – Onsite stormwater management

MR6 – Runoff treatment

MR7 – Flow control

MR8 – Wetlands protection

MR9 – Operation and maintenance

For managing stormwater, use of low impact development (LID) principles and LID best management practices (BMPs) is required, where feasible³. LID principles include retention of native vegetation, preservation of natural drainage channels, protection and preservation of native soils (prevention of soil compaction), and minimization of hard surfaces. These principles should be addressed during the site planning process under MR1.

MR5 is one of the main components of the county's NPDES program addressing options for onsite stormwater management using LID BMPs. There are two methods for achieving compliance with MR5: either the "list approach", or the "LID performance standard".

The List Approach. For each surface (lawn and landscaping; roof surface, other hard surfaces), evaluate the feasibility of the BMPs in the order listed in Volume I of the Drainage Manual, and use the first BMP that is considered feasible. The stormwater system designer must document the site conditions and infeasibility criteria used to deem BMPs infeasible. Once a BMP is deemed feasible and used for a surface, no other BMP from the list is necessary for that surface. If all BMPs in the list are infeasible, then the designer must document the site conditions and infeasibility criteria used to deem each BMP infeasible. This documentation will demonstrate compliance with MR5. There are two separate lists of LID BMPs (List #1 and List #2) in the Drainage Manual (*Drainage Manual, Vol. I, section 2.5.5*).

The LID Performance Standard. This method requires modeling the proposed Flow Control BMPs to demonstrate the flow reduction. Stormwater discharges shall match developed discharge durations to pre-developed durations for the range of pre-developed discharge rates from 8% of the 2-year peak flow to 50% of the 2-year peak flow.

For medium sized projects that trigger MR1 through MR5 based on the threshold criteria, compliance with MR5 can be achieved using LID BMP List #1, or by using the performance standard combined with soil amendments (BMP T5.13).

For larger projects that trigger MR1 through MR9 based on the threshold criteria, parcel size and location inside or outside the UGA are also considered before applying the MR5 compliance options, as shown in the table below.

³ LID relies on replication of natural processes and infiltration of stormwater. Use of LID is not feasible in many locations within Snohomish County due to soils with high clay content and/or areas where the water table is too close to the surface. The Snohomish County Drainage Manual contains the criteria for analyzing and determining LID "feasibility".

Examples of LID BMPs include: soil amendments; full or sheet flow dispersion; downspout dispersion or full infiltration; rain gardens; bioretention cells, swales and planter boxes; permeable pavement, green roof, etc. Table 1.0 in Volume I of the Drainage Manual provides a good overview of the LID BMPs and how they may be used to satisfy requirements for MR5, MR6 and MR7.

MR5 Compliance Options for Projects Subject to MR1 through MR9	
Project Location and Parcel Size	MR5 Compliance Options
Projects inside the UGA on any size parcel	<ul style="list-style-type: none"> • Use LID BMPs from List #2; - OR - • Use Flow Control BMPs to achieve the performance standard, AND apply soil amendments (BMP T5.13)
Projects outside the UGA, parcel size < 5 acres	
Projects outside the UGA, parcel size 5+ acres	Use Flow Control BMPs to achieve the performance standard, AND apply soil amendments (BMP T5.13)

The desired outcome is for stormwater to be managed onsite and only released to the municipal separate storm sewer system (MS4) in a manner that reflects the volume, rate and timing of predevelopment conditions.

Summary of Updates to the Enforceable Documents

The 2019 Phase I Permit requires that the county make nine specifically identified “significant changes” to our local program. These nine “significant changes” are identified in Appendix 10, Part 2 of the Phase I Permit. In addition, the county must highlight for Ecology review and approval, any additional significant changes identified at the local level.

Ecology’s Nine Significant Changes:

1. Continuous Simulation Modeling: Text throughout the SWMMWW has been updated to require continuous simulation models that include:
 - The ability to directly model BMPs that may be used in LID applications, such as bioretention, permeable pavement, and green roofs.
 - 15-minute time steps.
 - Incorporation of the van Genuchten algorithm to model bioretention.

The effect of this change is only a minor impact to the county or customer. Public and private designers will have to use the most recent version of hydrologic models, but the modeling requirements and outcomes have little change. This change requires minor updates to several chapters within Volumes I, II, III and V of the Drainage Manual to reference the updated modeling.

2. Replaced Hard Surfaces Redevelopment Threshold: The MR thresholds for non-road related commercial or industrial redevelopment projects have been updated to require the project proponent to compare the value of the proposed improvements to the value of the project site (the limits of disturbance) improvements, rather than the site (the entire parcel) improvements.

This change will affect commercial and industrial projects which will more often exceed the 50% valuation threshold and be subject to minimum requirements 1-9 instead of only minimum requirements 1-5. This change would require more redevelopment projects to build flow control and treatment facilities for the redeveloped area. This change requires updates to SCC 30.63A.310, and to Drainage Manual, Volume I, Chapter 2.4.

3. Equivalent Areas: The Redevelopment Project Thresholds have been updated to allow a project proponent to provide Stormwater Management BMPs for an equivalent area. The

equivalent area may be on-site or off-site if the area drains to the same receiving water and the guidance for in-basin transfers is followed.

This change allows more flexibility in developing and placing stormwater facilities; also requires additional tracking of stormwater accommodations to ensure they are accounted for in future development proposals. This change requires updates to SCC 30.63A.310, and to Drainage Manual, Volume I, Chapter 2.4.

4. Minimum Requirement 2: The 13 Elements in Minimum Requirement 2 (stormwater pollution prevention during construction - SWPPP) have been updated to incorporate changes that were made to the 2015-2020 Construction Stormwater General Permit issued by Ecology.

This change will have minimal impact to the county or customer; minor changes only with the most far reaching one is folding in the requirement to use the current hydrologic model (required in Change #1). This change requires updates to Volume II, Chapter 3 of the Drainage Manual.

5. Minimum Requirement 5: On-Site Stormwater Management. MR5 has been updated to require BMP T5.13 (Soil Quality and Depth) when choosing to use the LID Performance Standard to meet MR5 for MR1 through 5 projects.

This change could expand the frequency of the required use of BMP T5.13 and increase the demand for quality topsoil. This change requires updates to Volume I, Chapter 2.5.5 of the Drainage Manual.

6. Minimum Requirement 7: Flow Control. MR 7 has been updated to ensure that a TDA discharging to a marine waterbody meets all exemption requirements before it can be determined to be Flow Control exempt.

This change would reduce damage to marine waters, marine shorelines, and public and private drainage systems that discharge directly to marine waters. Developments that discharge to such systems would have to meet all exemption requirements or provide flow control. This change requires updates to Volume I, Chapter 2, and Appendix I-E of the Drainage Manual.

7. Concrete Washout BMP: BMP C154 (Concrete Washout Area) has been updated to clarify that auxiliary concrete truck components and small concrete handling equipment may be washed into formed areas awaiting concrete pour, while concrete truck drums must be washed either off-site or into a designated concrete washout area.

The BMP revision will require an operational change for concrete truck drum washout. This change requires updates to Volume II, Chapter 4 of the Drainage Manual.

8. Source Control BMPs: Volume IV (Source Control BMP Library) has been updated with Source Control BMPs for activities not listed in previous versions of the manual. The new activities with Source Control BMPs are:

- S434 BMPs for Dock Washing
- S441 BMPs for Potable Water Line Flushing, Water Tank Maintenance, and Hydrant Testing
- S435 BMPs for Pesticides and an Integrated Pest Management Program
- S444 BMPs for the Storage of Dry Pesticides and Fertilizers
- S449 BMPs for Nurseries and Greenhouses
- S450 BMPs for Irrigation
- S445 BMPs for Temporary Fruit Storage
- S439 BMPs for In-Water and Over-Water Fueling

- S436 BMPs for Color Events
- S438 BMPs for Construction Demolition
- S440 BMPs for Pet Waste
- S442 BMPs for Labeling Storm Drain Inlets On Your Property
- S443 BMPs for Fertilizer Application
- S446 BMPs for Well, Utility, Directional and Geotechnical Drilling
- S447 BMPs for Roof Vents
- S451 BMPs for Building, Repair, Remodeling, Painting, and Construction
- S452 BMPs for Goose Waste

Many of these new BMPs extend beyond development-related activities and will affect county work operations for Parks, Facilities, Airport, Road Maintenance and county-issued event permits. Other BMPs will affect farming and nurseries/greenhouses, drilling operations, Fire Districts, water utilities, and private property owners. This change requires updates to Volume IV, Chapters 3, 4 and 5 of the Drainage Manual.

9. Wetlands Guidance: Appendix I-C (Wetland Protection Guidelines) and Minimum Requirement 8 (Wetlands Protection) have been updated to require monitoring and modeling of high value wetlands, if the project proponent has legal access to them. The 2014 Wetland Guidance is retained, but refined, for modeling requirements for lower value wetlands (and high value wetlands that the project proponent does not have legal access to)

This change may result in significant additional cost and/or delay for public and private projects where the project proponent has legal access to the wetland(s), because wetland monitoring must be performed. However, if the proponent does not have legal access, the existing requirements apply. This change requires updates to Volume I, Appendix I-D of the Drainage Manual. An amendment to chapter 30.63A.570(1) is also proposed.

County-Identified Significant Changes

1. “Started construction” requirements. This requirement has already been addressed by the Planning Commission in November-December 2019. This requires that proposed development activities meet the most recent version of the regulations when they have not reached the “started construction” stage by a specified date. Revised drainage and grading plans may be necessary to bring the proposed development into compliance with new regulations. The timeframes determined in the Phase I Permit allow at least five years for a project to meet the “started construction” stage before tripping the requirement to revise plans. This change is reflected in new code section 30.63A.025 SCC directing the reader to 30.70.310 SCC.
2. Minimum requirements for pavement maintenance projects. The change affects specific pavement repair and maintenance projects that are not exempt from the MRs. Instead of routinely being subject to MR 1-5, projects that remove and replace a paved surface to base course or lower, or repair the roadway base could now be subject to MR 1-9, depending on the size of the project. In addition, resurfacing a gravel surface with chip seal would now be subject to MRs based on size of project. This change will affect public and private road projects and parking lots. Also, since repair and maintenance of permeable pavement can require work on the base course or lower, this work may now be subject to MR1 through MR9.
3. Easement exemption for single family residential development on large rural lots. Under current regulations, the requirement to record an easement on private property allowing for county access to drainage facilities for inspection and maintenance purposes does not apply unless MR9 is required. The proposed amendment would allow an exemption from this

easement recording requirement for large rural single-family residential lots 100,000 square feet or larger that do not drain to the MS4. However, the drainage site plan must still be recorded along with a maintenance responsibility clause. Maintenance of the onsite drainage facilities is the responsibility of the property owner.

4. Revised limited exemption for utility purveyors from LDA permit. Under current regulations, maintenance, repair and installation of utility facilities by a utility provider is exempt from obtaining a land disturbing activity (LDA) permit provided that no associated work is being conducted in a critical area. However, under certain conditions, the critical area regulations treat this type of work as a minor development activity subject only to BMPs. The proposed amendment would bring the LDA requirements into better alignment with the critical requirements.
5. Minor code changes to highlight LID BMPs. This proposed amendment inserts language into several sections of the code to highlight LID principles and LID BMPs. This amendment has no effect on regulatory requirements.
6. Minor revisions to code and drainage manuals to improve clarity and update code cross references. While not technically a “significant change” it’s important to note that new requirements are not being added with these minor revisions.
7. New volume VI of the drainage manual. The current Drainage Manual contains maintenance requirements for each of the drainage facilities dispersed throughout the various volumes. New Volume VI consolidates the maintenance requirements into a single volume making it easier for the user to compile specific maintenance requirements based on the facilities installed in their new development. The only new content in Volume VI is the maintenance standard for vegetated roofs taken from Ecology’s Stormwater Manual.
8. Amendments to definitions. Amendments are proposed to the following existing definitions in SCC 30.91:
 1. Single Family Residential
 2. Appurtenance
 3. Land disturbing activity
 4. Maintenance
 5. Threshold discharge area (TDA)

Amendment Supported by the Planning Commission

The Planning Commission voted to approve an amendment to section 30.63B.070. This amendment provides an exemption from land disturbing activity (LDA) permits for certain minor development activities conducted by utility purveyors in improved right-of-way or improved utility corridors even when the work will be conducted with a critical area buffer. The LDA permit exemption would primarily apply to maintenance and repair of utility facilities provided that the work is conducted in accordance with Phase I Permit requirements and adopted administrative rules or best management practices. The LDA permit exemption would also allow utility providers to replace poles within small, low scoring wetlands

Implementation of this LDA permit exemption requires that the definition of “improved right-of-way” be modified to expand applicability to include SCC 30.63B; and that a new definition be added for “improved utility corridor”.

Schedule and Process for the NPDES Update

Ecology issued the Phase I Permit on July 1, 2019 with an effective date of August 1, 2019. An interdepartmental staff team reviewed the updated Phase I Permit requirements and identified key changes needed to the county code and to the administrative rules. These proposed changes were discussed by an interdisciplinary team made up of leadership and subject matter experts from all of the county governmental units charged with implementing the county's stormwater program: Airport, Facilities, Parks and Recreation, Public Works Roads Division, Public Works Surface Water Management Division, Planning and Development Services, the Executive's Office, and the Prosecuting Attorney's Office.

The NPDES update has progressed along the following schedule:

August 2019 to June 2020: Preparation of updates and amendments to the county code and Drainage Manual. It was determined that EDDS updates were not needed.

July 1, 2020: Submitted updates to Ecology as required per the Phase I Permit.

July through August, 2020: Documents were made available on the county website for public review and comment. Due to public health restrictions for Covid-19, public meetings were not an option. Stakeholders who had provided contact information were alerted to the available documents via email. Additional opportunities for public involvement will occur during the Planning Commission and County Council public processes.

July through October, 2020: Phase I Permit requirements allow Ecology 120 days to review local programs. During this time Ecology submitted comments and worked with county staff to resolve outstanding issues. On November 19, 2020, Ecology issued a preliminary determination of equivalency with the SWMMWW for the county's updated program.

November through December, 2020: Planning Commission held a public briefing and a public hearing on the proposed code amendments related to the "start of construction" requirements.

November, 2020 through January 2021: Preparation of materials for Planning Commission for updates to the county's stormwater program.

February – March, 2021: Planning Commission briefing and public hearing on the county's stormwater program.

April, 2021: Prepare Planning Commission materials for transmittal to the County Council.

The next steps are expected to progress as follows, subject to schedule approval by the County Council:

May – early June, 2021: Council briefing and public hearing.

July 1, 2021: Effective date for updated NPDES program

After July 1, 2021: Ecology will review the county-adopted version of the NPDES updates and prepare a final equivalency determination, or issue comments that must be addressed before an equivalency determination can be made. Once Ecology has issued a final equivalency determination, Ecology will formally amend Appendix 10 of the Phase I Permit to document county compliance with NPDES requirements.

Note that resolution by the courts of the outstanding appeals of Ecology's action to issue the Phase I Permit on July 1, 2019, may require additional steps to further revise the county's NPDES program. The appeal by Puget Soundkeeper Alliance addresses three main issues:

- List approach to LID feasibility and LID implementation;
- Lack of implementation requirements for recommendations from the watershed plans that were developed under the 2014 Phase I Permit; and
- Lack of adequate standards for adaptive management program.

The appeal filed by the Washington Association of Water and Sewer Districts addresses the discharge of stormwater into underground injection wells and subsequent protections for groundwater to prevent contamination of potable water supply.

Procedural Requirements

The proposed ordinance complies with all state law and SCC procedural requirements. The following provides an outline of key procedural requirements:

Environmental Review

A State Environmental Policy Act Checklist and a Determination of Nonsignificance (DNS) were issued on April 9, 2021. A fourteen-day public comment period on the DNS runs from April 9th through April 23, 2021.

Notification to State Agencies

Pursuant to RCW 36.70A.106, a notice of intent to adopt the proposed regulations and standards was transmitted to the Washington State Department of Commerce and acknowledged by the state on March 9, 2021. The required 60-day comment period ends on May 8, 2021.

Staff Recommendation and Requested Action

Because these proposed updates to the county's NPDES program are driven by the content of the Phase I Permit and subject to Ecology approval as equivalent to the SWMMWW, opportunity to consider amendments at the local level is extremely limited. However, the County Council is free to suggest amendments with the understanding that they must meet the "equivalency" standard applied by Ecology before such amendments can ultimately be approved.

Staff recommends that the County Council approve the proposed amendments, along with the findings, as written.

Documents for County Council Review

The enforceable documents include the drainage code (SCC 30.63A), the land disturbing activities code (SCC 30.63B), and the stormwater manual (Volumes I – VI). Due to the size of these the documents they are located on the County's web page here:

<https://www.snohomishcountywa.gov/5573/NPDES-Comment>

CC:

Ken Klein
Josh Dugan
Mike McCrary
David Killingstad
Ken Crossman
Kelly Snyder
Doug McCormick

Gregg Farris
Karen Kerwin
Laura Frolich
Bill Leif
Alethea Hart
Jessica Kraft-Klehm

Snohomish County: Analysis of Building and Land Use Regulation Effects on Housing and Jobs

Proposed Regulation: This is a programmatic proposal amending the county's stormwater regulations. These proposed updates to the county's regulations are required to comply with the Federal Water Pollution Control Act and associated requirements in the county's Phase I National Pollution Discharge Elimination System permit (NPDES Permit).

Date: April 12, 2021

Staff Contact: Terri Strandberg, PDS, extension 2359

	Increase	Decrease	Neutral	Uncertain	Comments
Housing					
Capacity/Targets		X			Capacity may be reduced; unlikely that growth targets will be affected.
Cost of housing dvpt:	X				Permitting costs may be increased due to new analysis and submittal requirements.
• Infrastructure		X			Utilization of natural systems should reduce costs for stormwater infrastructure in most cases. However, some LID BMPs may be costly to install (permeable pavement, green roof, etc.)
• Site		X			Utilization of natural systems should reduce costs for site preparation.
• Building const.			X		Costs not expected to be impacted by this proposal.
• Fees			X		Not impacted by proposal.
• Yield		X			In some cases yield could decrease due to sizing of stormwater infrastructure
Timing	X	X			Application materials for new development may take longer to prepare. During initial implementation, review times may be increased. Installation time for LID stormwater infrastructure may be reduced. Uncertain how these timeframes may offset each other.
Jobs					
Capacity/Targets		X			Capacity may be reduced; unlikely that growth targets will be affected.
Cost of com'l/ind dvpt:	X				Permitting costs may be increased due to new analysis and submittal requirements.
• Infrastructure		X			Utilization of natural systems should reduce costs for stormwater infrastructure in most cases. However, some LID BMPs may be costly to install (permeable pavement, green roof, etc.)
• Site		X			Utilization of natural systems should reduce costs for site preparation.

• Building const.			X		Costs not expected to be impacted by this proposal.
• Fees			X		Not impacted by proposal.
• Yield		X			In some cases yield could decrease due to sizing of stormwater infrastructure.
Time to Create Jobs	X	X			Application materials for new development may take longer to prepare. During initial implementation, review times may be increased. Installation time for LID stormwater infrastructure may be reduced. Uncertain how these timeframes may offset each other.
# Family Wage Jobs			X		Not impacted by proposal.

Discussion: (e.g.: What efforts have been made to minimize costs associated with the proposed regulation? How will the proposal affect the County’s ability to meet its fair share housing goals, and provide family wage jobs. Will the proposed regulation reduce the capacity for housing and/or jobs? What type of housing development might be affected by this regulation? (New, redevelopment, infill, renovated))

As a programmatic proposal, this update to the county’s stormwater rules and regulations does not have a direct impact on housing or jobs. However, implementation of the updated regulations will impact new development and re-development. Feasibility analysis, design costs and permit application submittal requirements associated with the low impact development best management practices (LID BMPs) required under the proposed regulations may increase costs of development. In the long term, utilization of low impact development techniques and reliance on natural processes to store and treat stormwater may result in lower costs for installation and maintenance relative to traditional stormwater facilities. In addition, LID BMPs add environmental benefit by preserving vegetation thus improving air quality and habitat functions.

Amendments to the county’s stormwater regulations are required pursuant to the conditions of the county’s Phase 1 NPDES Permit in compliance with federal and state law. With economic impacts in mind, these code amendments seek to address the requirements under the law without adding any additional burden. Also, the proposed code amendments include cost reduction measures for certain smaller developments of 10,000 square feet or less. It is proposed that smaller developments which can meet the necessary criteria be subject to fewer requirements thereby reducing costs.

In some cases, stormwater facilities may occupy more square footage than is currently required. This could reduce capacity and yields affecting the supply of new housing and space for new employment. However, yield reductions could potentially be offset by currently available code provisions allowing for some flexibility in structure type, setbacks and height requirements.

Snohomish County Capital Facility Development Cost Analysis Summary FILE ORD 21-025

Proposed Regulation: This is a programmatic proposal amending the county's stormwater rules and regulations. These proposed updates to the county's regulations are required to comply with the Federal Water Pollution Control Act and associated requirements in the county's Phase I National Pollution Discharge Elimination System permit (NPDES Permit).

Date: April 12, 2021

Staff Contact: Terri Strandberg, PDS, extension 2795

General Cost Analysis Summary: As a programmatic proposal, this update to the county's drainage regulations in Chapter 30.63A SCC, related updates to the land disturbing activity regulations in Chapter 30.63B, and amendments to the county drainage manual (Volumes I through VI) do not have a direct impact on capital facilities. However, implementation of the updated regulations will impact new development and re-development of capital facilities. Hydrologic modeling and monitoring of existing conditions may result in added costs related to time expended and size or type of stormwater facilities needed. Permitting costs and timelines will be reduced for minor development and maintenance activities conducted by utility providers.

Necessary Facility	Quantification/Qualification of Anticipated Cost:	
Parks	County Funded Impacts	Fiscal impacts may result from adoption of the proposed amendments.
	Other Fund Sources Impacts –	Fiscal impacts may result from adoption of the proposed amendments.
Roads & Transit	County Funded Impacts	Fiscal impacts may result from adoption of the proposed amendments.
	Other Fund Sources Impacts –	Fiscal impacts may result from adoption of the proposed amendments.
Surface Water	County Funded Impacts	Fiscal impacts may result from adoption of the proposed amendments.
	Other Fund Sources Impacts –	Fiscal impacts may result from adoption of the proposed amendments.
Public Schools	County Funded Impacts	Fiscal impacts may result from adoption of the proposed amendments.
	Other Fund Sources Impacts –	Fiscal impacts may result from adoption of the proposed amendments.
Electric Power	County Funded Impacts	Fiscal impacts may result from adoption of the proposed amendments.
	Other Fund Sources Impacts –	Fiscal impacts may result from adoption of the proposed amendments.
Public Water	County Funded Impacts	Fiscal impacts may result from adoption of the proposed amendments.
	Other Fund Sources Impacts –	Fiscal impacts may result from adoption of the proposed amendments.
Wastewater	County Funded Impacts	Fiscal impacts may result from adoption of the proposed amendments.
	Other Fund Sources Impacts –	Fiscal impacts may result from adoption of the proposed amendments.
Planning Summary Comments	County Funded Impacts	Fiscal impacts may result from adoption of the proposed amendments.
	Other Fund Sources Impacts –	Fiscal impacts may result from adoption of the proposed amendments.

The purpose of this form is to briefly summarize the financial impact analysis that has taken place (quantitative or qualitative) for each facility element of development. The form should accompany ECAFs that accompany development actions.

**Snohomish County Council**

Committee: Planning
ECAF: 2021-0182
Proposal: Ord 21-025

Report by: Geoffrey Thomas
Chief of Staff
Date: 05/04/21

Consideration

The proposed ordinance would amend regulations related to stormwater in response to the County's 2019 NPDES Phase 1 Permit.

Background

The Washington Department of Ecology reviews and updates its stormwater related regulations every five years. Local jurisdictions are then required to update their local stormwater-related programs. To be compliant with more recent changes, Snohomish County is to update its local codes and administrative rules with an effective date of not later than July 1, 2021.

The county's program includes the following code sections: Water Supply, Water Pollution Control, Drainage, Land Disturbing Activity, and Started Construction. The program also includes the Snohomish County Drainage Manual Volumes 1 – 6 and the Engineering Design and Development Services Standards (EDDS). The proposed ordinance would update these code sections and the Snohomish County Drainage Manual. The packets provided to Council include a detailed summary of amendments and additions that would result from Council's adoption of Ordinance 21-025 in the April 15, 2021 memorandum to Council entitled "Staff Report: NPDES Update."

Handling: NORMAL – to be in compliance with its NPDES Phase 1 Permit, the local code must be revised with an effective date of not later than July 1, 2021.

Approved-as-to-form: YES.

Risk Management: APPROVE.

Executive Recommendation: APPROVE.

Request: Move to GLS on 05/12/21 to consider scheduling a public hearing. Following receipt of public testimony, consider taking action on the proposed ordinance and Amendment Sheet 1, "Housekeeping," or provide other direction to staff.

SNOHOMISH COUNTY COUNCIL

EXHIBIT # 3.2.2

FILE ORD 21-025

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES)

2019-2024 Phase I Permit

Snohomish County Council Briefing, May 2021

National Pollutant Discharge Elimination System (NPDES)

What is NPDES?

The NPDES permit program addresses water pollution by regulating point sources that discharge pollutants to waters of the United States.

Created in 1972 by the Clean Water Act, the NPDES permit program is authorized to state governments by EPA to perform many permitting, administrative, and enforcement aspects of the program.

1 2 3


**About
NPDES**

**Program
Areas**

**Technical
Resources**



CLEAN WATER ACT

- ▶ The Federal Water Pollution Control Act (Clean Water Act) Title 33 United States Code, Section 1251 et seq.
 - ▶ The State of Washington Water Pollution Control Law Chapter 90.48 Revised Code of Washington
 - ▶ Washington State Department of Ecology is the lead entity
 - ▶ Phase I Permits are issued by Ecology every five years
 - ▶ Local jurisdictions are required to adopt enforceable documents that are equivalent to Ecology's standards
 - ▶ Significant fines levied for non-compliance
- 

Timeline:

July 2019 - Ecology issues 2019-2024 Phase I Permit

Sept 2019 thru June 2020 - County revises stormwater enforceable documents

July 1, 2020 - County Executive submits draft revisions to Ecology

July thru August 2020 - Stakeholders review and comment on drafts

July thru Oct 2020 - Ecology reviews County's draft submittal (120 days)

Nov 2020 thru Jan 2021 - County completes post-Ecology review revisions

Feb 2021 thru March 2021 - Planning Commission process

★ May thru June 5, 2021 - County Council process

June 5, 2021 - Council adoption deadline (to meet effective date deadline)

July 1, 2021 - Statutory deadline for effective date of regulations

2019 Phase I Permit Submittal Requirements:

1. Revised enforceable documents
2. Nine significant changes identified by Ecology
3. Additional significant changes identified by the County



Enforceable Documents included in this update:

- Snohomish County Code:
 - Chapter 30.63A Drainage
 - Chapter 30.63B Land Disturbing Activity
 - Section 30.70.371 SCC – provisions for “started construction”
 - Chapter 30.91 Definitions

- Stormwater Drainage Manual:
 - Volume I - Minimum Technical Requirements
 - Volume II - Construction Stormwater Pollution Prevention BMPs
 - Volume III - Hydrologic Analysis and Flow Control BMPs
 - Volume IV - Source Control BMPs
 - Volume V - Runoff Treatment BMPs
 - Volume VI - Stormwater Facility Maintenance (NEW)

#	Ecology Significant Change	Effect
1	Revise requirements for the hydrologic models used to design flow control facilities, stormwater treatment facilities, and LID BMPs.	Minor impact to County or customer. Public and private designers will have to use the most recent version of hydrologic models, but the modeling requirements and outcomes have little change.
2	Change 'cost cap' exemption calculation for commercial / industrial redevelopment to be based on value of improvements within limits of site disturbance, rather than value of improvements on entire parcel.	Commercial and industrial projects will more often exceed the 50% valuation threshold and be subject to minimum requirements 1-9 instead of only minimum requirements 1-5. This change would require more redevelopment projects to build flow control and treatment facilities for the redeveloped area.
3	Revise redevelopment project thresholds to allow providing flow control and treatment for an equivalent area, on or off the project site.	This allows more flexibility in developing and placing stormwater facilities; also requires additional tracking of stormwater accommodations to ensure they are accounted for in future development proposals.
4	Revise some of the 13 Construction Stormwater Pollution Prevention Plan (SWPPP) elements.	Minimal impact to County or customer. Minor changes, most far reaching one is folding in the requirement to use the current hydrologic model (required in Change #1).
5	Revise Minimum Requirement 5 to require BMP T5.13 (Soil Quality and Depth) when choosing to use the LID Performance Standard for Minimum Requirement 1-5 projects.	This could expand the frequency of the required use of BMP T5.13 and increase the demand for quality topsoil.
6	Revise Minimum Requirement 7 (Flow Control) to require that a Threshold Discharge Area discharging to a marine waterbody must meet all exemption requirements before it is determined to be Flow Control exempt.	This change would reduce damage to marine waters, marine shorelines, and public and private drainage systems that discharge directly to marine waters. Developments that discharge to such systems would have to meet all exemption requirements or provide flow control.
7	Revise BMP C154 (Concrete Washout Area) to clarify that auxiliary concrete truck components and small concrete handling equipment may be washed into formed areas awaiting concrete pour, while concrete truck drums must be washed either off-site or into a concrete washout area	The BMP revision will require an operational change for concrete truck drum washout.
8	Add 17 new pollution source control BMPs to Drainage Manual Volume IV.	Many of these new BMPs extend beyond development-related activities and will affect work operations for Parks, Facilities, Airport, Road Maintenance and event permits. Other BMPs will affect farming and nurseries/greenhouses, drilling operations, Fire Districts, and private property owners.
9	Revise Appendix I-C (Wetland Protection Guidelines) and Minimum Requirement 8 (Wetlands Protection) to require monitoring and modeling of high value wetlands, if the project proponent has legal access to them.	Significant additional cost / delay for public and private projects where the proponent has legal access, because wetland monitoring must be performed. However, if the proponent does not have legal access, the existing requirements apply.

Additional significant changes identified by the County

1. “Started construction” requirements (*Council Hearing April 7, 2021*)
2. Minimum requirements for pavement maintenance projects
3. Easement exemption for sfr development on large rural lots
4. Revised limited exemption for utility purveyors from LDA permit
5. Minor code changes to highlight LID BMPs
6. Minor revisions to code and drainage manuals to improve clarity, update code cross references
7. New volume VI of the drainage manual to consolidate BMP maintenance requirements – does not include new content except for maintenance standard for vegetated roofs, from Ecology’s Stormwater Manual.

Minimum requirements for pavement maintenance projects

Pavement maintenance and repair projects that are excluded from maintenance exemption and subject to minimum requirements based on size of the project:

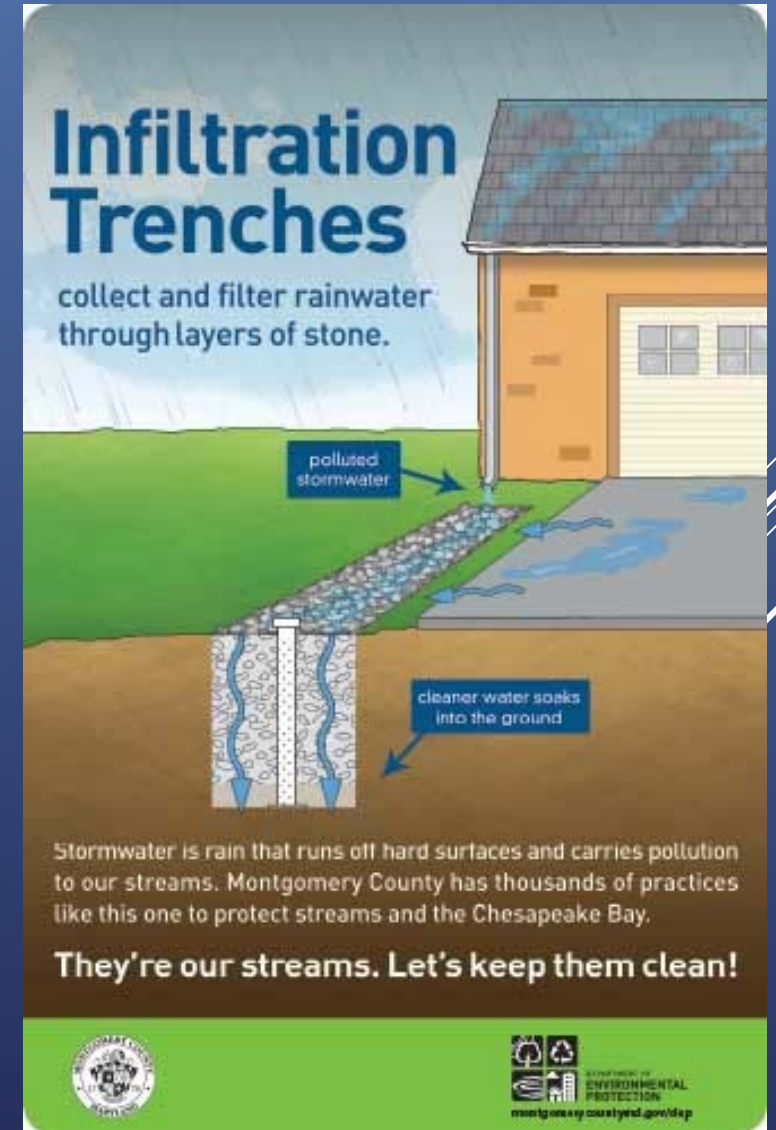
- ➔ Instead of routinely being subject to MR 1-5, projects that remove and replace a paved surface to base course or lower, or repair the roadway base could be subject to MR 1-9, depending on the size of the project; and
- ➔ Resurface from gravel to chip seal is subject to MR application based on size of project.



Easement exemption for sfr development on large rural lots

A new exemption from the easement recording requirements in MR 9 for SFR development and redevelopment on large rural lots that do not drain to the MS4.

- ➔ Applies only to:
 - Single family house on existing lot
 - Large rural lot (100,000 sq.ft. or larger)
 - Lot that does not drain to the MS4
- ➔ Project site must be outside of critical areas
- ➔ Must record drainage site plan with maintenance responsibility clause.



Revised Limited Exemption for Utility Providers: LDA Permits

- Exemption from the LDA permit for minor development activities performed by a utility purveyor.
- Alignment with “minor development activities” in the critical area regulations
- Exemption from the LDA permit is not an exemption from all requirements in SCC 30.63B



Outstanding Appeal of Phase I Permit

1. Puget Soundkeeper Alliance

Issues:

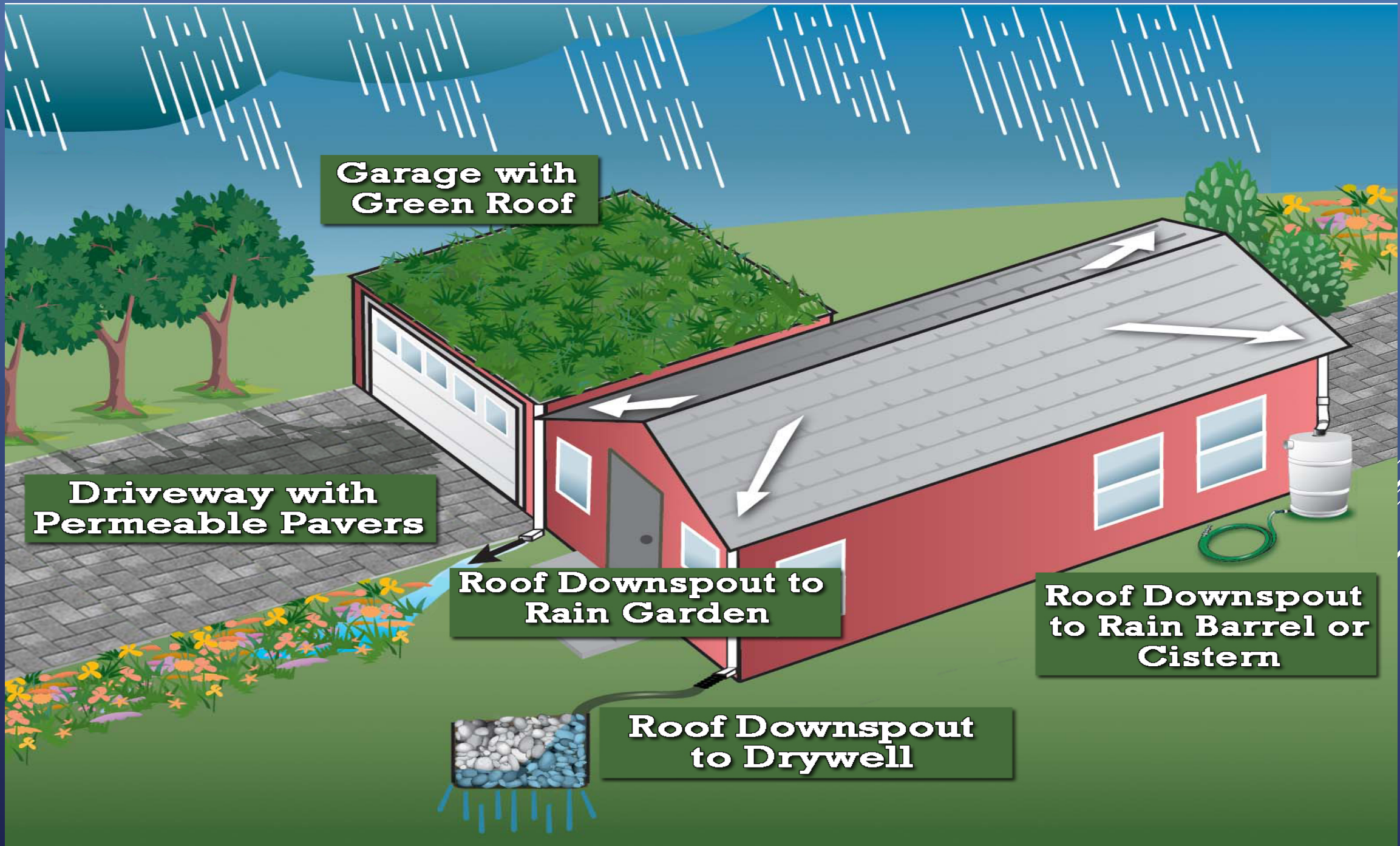
- List approach to LID feasibility and LID implementation
- Lack of implementation requirements for recommendations from watershed plans
- Lack of adequate standards for adaptive management program

2. Washington Association of Water and Sewer Districts

Issue: Protection of groundwater quality from impairment resulting from discharging stormwater into to groundwater via injection wells.

The outcome of these appeals may result in significant changes to the County's stormwater program.





Garage with Green Roof

Driveway with Permeable Pavers

Roof Downspout to Rain Garden

Roof Downspout to Rain Barrel or Cistern

Roof Downspout to Drywell

Permeable Pavement Options



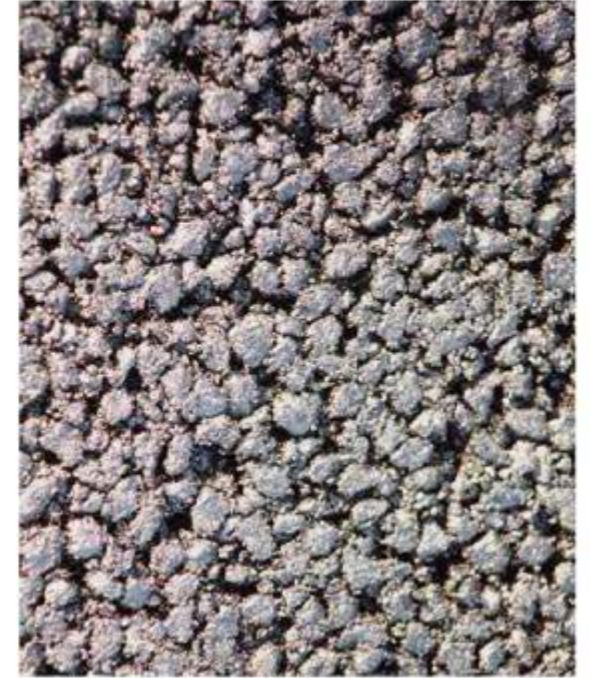
Permeable interlocking pavers



Permeable interlocking grid



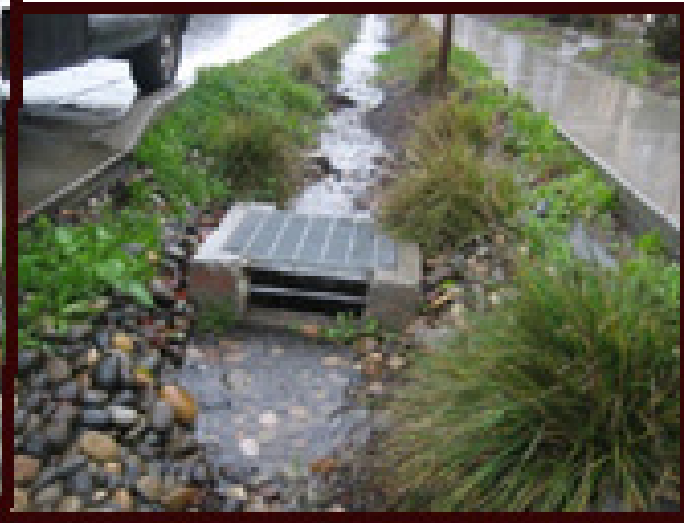
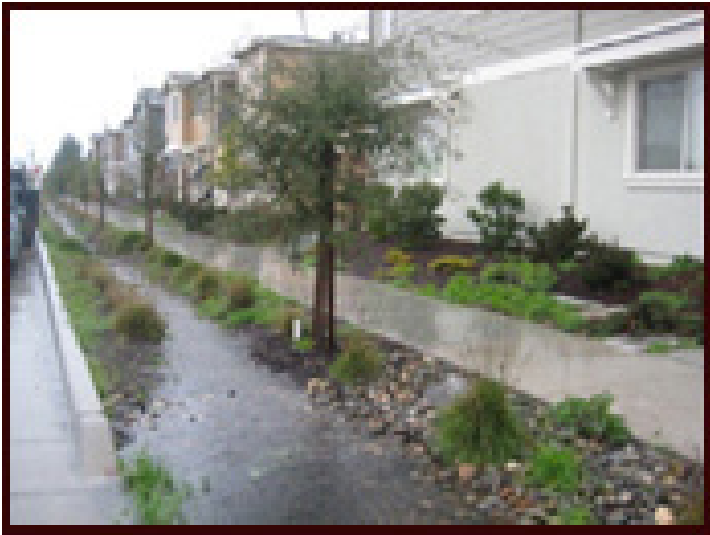
Pervious concrete



Porous asphalt



QUESTIONS?



Public Comment provided at Council Meetings

1. [General Legislative Session Zoom Meeting 04/28/21](#)

(http://snohomish.granicus.com/MediaPlayer.php?view_id=18&clip_id=7915)

William Lider, resident of city of Lynnwood, provided public comment at General Legislative Session, April 28, 2021.

2. [Planning and Community Development Committee Zoom Meeting 05/04/21](#)

(http://snohomish.granicus.com/MediaPlayer.php?view_id=18&clip_id=7919)

Public Comment given at Planning and Community Development Committee, May 4, 2021, by the following people related to Ordinance 21-025:

William Lider, resident of city of Lynnwood; and
Marjie Fields, resident of city of Edmonds

3. [General Legislative Session Zoom Meeting 05/12/21](#)

(http://snohomish.granicus.com/MediaPlayer.php?view_id=18&clip_id=7926)

William Lider, resident of city of Lynnwood, provided public Comment at General Legislative Session, May 12, 2021.

4. [Planning and Community Development Committee Zoom Meeting 06/01/21](#)

(http://snohomish.granicus.com/MediaPlayer.php?view_id=18&clip_id=7952)

Public Comment given at Planning and Community Development Committee, June 1, 2021, by the following people related to Ordinance 21-025:

William Lider, resident of city of Lynnwood; and
Marjie Fields, resident of city of Edmonds



Snohomish County

**Planning and Development
Services**

TO: Snohomish County Council
FROM: Terri Strandberg, Principal Planner
DATE: May 25, 2021
SUBJECT: Council Questions re: Bioretention

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

Dave Somers
County Executive

The purpose of this memo is to respond to questions asked by Councilmember Dunn at the Planning and Community Development Committee briefing on May 4th. Councilmember Dunn asked two questions:

- Is active recreation allowed over bioretention cells? and
- Are pesticides allowed to be used around drainage facilities covered with grass?

1. Snohomish County code (SCC) does not allow active recreation in bioretention cells. However, open space credit is given for areas dedicated to drainage facilities and credit for passive recreation is also allowed. The relevant code language in the Urban Residential Design Standards in SCC 30.23A.080 says the following:

SCC 30.23A.080(4)(f)

Passive uses include critical areas that cannot be developed, nature interpretive areas, bird watching facilities, unimproved trails, and similar uses approved by the director;

SCC 30.23A.080(4)(g)

The following drainage facilities may be counted as on-site passive recreation space:

- (i) Unfenced detention, retention and wet ponds;
- (ii) Stormwater treatment wetlands;
- (iii) Stormwater infiltration trenches and bioswales that serve more than one dwelling;
and
- (iv) Vegetated areas located above underground detention facilities;

This provision to allow open space and passive recreation credits for drainage facilities is included in the code for three reasons:

- So as not to disincentivize, or create a barrier for the use of low impact stormwater facilities consistent with Phase I Permit requirements;

- To preserve development density within the Urban Growth Area consistent with Growth Management Act goals; and
 - To address property rights and “takings” concerns.
2. Pesticide use within and around grass-covered drainage facilities is discouraged but is not prohibited outright, since it is needed in some cases such as control of noxious weeds. Proper use of pesticides, including herbicides, is addressed by three BMPs in Volume IV of the drainage manual:
- BMPs for Landscaping and Lawn/Vegetation Management at Commercial Sites or Performed Commercially at Other Sites (Chapter 3.10)
 - BMPs for Pesticides and Pest Management (Chapter 3.34); and
 - BMPs for the Storage of Dry Pesticides and Fertilizers (Chapter 3.35)

Chapters 3.34 and 3.35 are new and included along with 14 others which, as a group, are identified as one of the “9 significant changes” required by Ecology in the current update. *(Note also that Volume IV Chapter 3.42 BMPs for Pet Waste is also part of the group of new BMPs.)*

BMP T7.10 Infiltration Basins, BMP T7.20 Infiltration Trenches and BMP T9.10 Basic Biofiltration Swale are examples of grass-covered drainage facilities where turf grasses are the preferred plant species to use. To prevent or minimize the need to use fertilizers, herbicides or pesticides, implementation of these BMPs suggests careful selection of grass species most suitable to soil and growing conditions. Mowing is an expected maintenance action. When needed, use of fertilizers, herbicides and pesticides must follow the appropriate BMPs.

With respect to bioretention cells specifically (BMP T7.30), where turf grass is *not* one of the recommended plants, Ecology’s stormwater manual says the following:

The soil mix and plants are selected for optimum fertility, plant establishment, and growth. Nutrient and pesticide inputs *should not be required* and may degrade the pollutant processing capability of the bioretention area, as well as contribute pollutant loads to receiving waters. (2019 SWMMWW, pg. 802, emphasis added).

While use of nutrients and pesticides is not expressly prohibited in bioretention cells, and assumed to be unnecessary, contribution of contaminants into receiving waters would be a prohibited outcome. Use of turf grass within bioretention cells increases the likelihood that nutrients and/or pesticides may be necessary because turf grass is not entirely suitable to the cycle of wet/dry conditions occurring within bioretention cells. Ecology’s 2019 *Stormwater Management Manual for Western Washington* (2019 SWMMWW) references two recommended plant lists for bioretention facilities:

Site growing characteristics and plant selection: Appropriate plants should be selected for sun exposure, soil moisture, and adjacent plant communities. Native species or hardy cultivars are recommended and can flourish in the properly designed and placed bioretention soil mix with no nutrient or pesticide inputs and 2-3 years irrigation for

establishment. Invasive species and noxious weed control will be required as typical with all planted landscape areas. (2019 SWMMWW, pg. 784)

Note that the *Low Impact Development Technical Guidance Manual for Puget Sound* (Hinman and Wulkan, 2012) is for additional information purposes only. You must follow the guidance within this manual if there are any discrepancies between this manual and the *Low Impact Development Technical Guidance Manual for Puget Sound* (Hinman and Wulkan, 2012). (2019 SWMMWW, pg. 785)

In general, the predominant plant material utilized in bioretention areas are species adapted to stresses associated with wet and dry conditions. Soil moisture conditions will vary within the facility from saturated (bottom of cell) to relatively dry (rim of cell). Accordingly, wetland plants may be used in the lower areas, if saturated soil conditions exist for appropriate periods, and drought-tolerant species planted on the perimeter of the facility or on mounded areas. See the *Low Impact Development Technical Guidance Manual for Puget Sound* (Hinman and Wulkan, 2012) for additional guidance and recommended plant species. See also City of Seattle's ROW bioretention plant lists found in Seattle's GSI Manual, Appendix G, ... (2019 SWMMWW, pg. 797-798)

Ecology's SWMMWW (2019 and earlier editions) clearly states that the two cited plant lists are "recommendations" and "guidance" when designing bioretention facilities. Since use of these lists is not a requirement, turf grass has, on occasion, been used as an alternative in bioretention cells. If the recommended plant list was not consulted, it may have been assumed based on the description of bioretention cells in Ecology's SWMMWW that use of turf grass is acceptable:

Bioretention cells: Shallow depressions with a designed planting soil mix and a variety of plant material, including trees, shrubs, grasses, and/or other herbaceous plants. Bioretention cells may or may not have an underdrain and are not designed as a conveyance system. (2019 SWMMWW pg. 774).

The recommended plant lists do include a few grass species, but they are fescue-types, not turf grasses.

Regardless, while use of turf grass is not expressly prohibited, it can create an attractive nuisance in the form of unanticipated use by humans and pets, and presents an unanticipated degree of maintenance when compared to the maintenance standards for bioretention facilities when using the recommended plant lists (i.e., frequent mowing during the growing season as compared to bi-annual weeding). To discourage excessive intrusion into bioretention facilities and the subsequent compaction of the soils, the County Executive recommends revising BMP T7.30 in the county's 2021 drainage manual, Volume V, to require use of the cited plant lists.

Please note that the county's drainage manual is adopted via the rulemaking process in chapter 30.82 SCC. As such, it will not be necessary for the County Council to address this revision through a formal amendment sheet. The County Executive has directed staff to make this revision and proceed with the rule making process.

CC: Ken Klein, Executive Director
Josh Dugan, Chief of Staff
Mike McCrary, PDS Director
Tom Teigen, DCNR Director

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

NOTICE OF INTRODUCTION OF ORDINANCE
AND
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, that the Snohomish County Council will hold a public hearing on June 16, 2021, at the hour of 10:30 a.m. in the Henry M. Jackson Board Room, 8th Floor, Robert J. Drewel Building, 3000 Rockefeller, Everett, Washington to consider proposed Ordinance No. 21-025, titled: RELATING TO REGULATION OF STORMWATER; AMENDING PORTIONS OF CHAPTERS 7.53, 7.54, 30.63A, 30.63B AND SUBTITLE 30.91 OF THE SNOHOMISH COUNTY CODE (SCC) IN RESPONSE TO THE COUNTY'S 2019 NPDES PHASE I PERMIT

NOTE: Due to the federal, state, and local emergency response to COVID-19 and pursuant to Governor Inslee's Proclamations [20-05](#), [20-25.12](#), and [20-28.15](#), and any extensions thereof, the Council office is closed and public hearings are being held remotely. Please check the Council webpage 24 hours prior to the scheduled hearing time for the most up-to-date information <https://www.snohomishcountywa.gov/2288/Meetings-Webcasts> or contact the Council Clerk at 425-388-3494 or at contact.council@snoco.org.

Zoom Webinar Information:

Join online at <https://zoom.us/j/94846850772>
or by telephone call 1-253-215-8782 or 1-301-715-8592

Background: This ordinance adopts amendments to Snohomish County Code (SCC) relating to stormwater management and compliance with the National Pollutant Discharge Elimination System (NPDES) 2019 Phase I Municipal Stormwater Permit ("2019 Phase I Permit") issued by Washington State Department of Ecology under authority of the Federal Water Pollution Control Act (Clean Water Act).

A summary of the proposed ordinance is as follows:

PROPOSED ORDINANCE NO. 21-025

Sections 1 and 2. Adopt recitals, findings, conclusions, and state that the Snohomish County Council bases its decision on the entire record.

Section 3. Amends SCC 7.53.120 to update references to the drainage manual.

Section 4 through 7. Amends sections of chapter 7.54 SCC to update references to the drainage manual and to the 2019 Phase I Permit.

Section 8. Adds a new section SCC 30.63A.025 to link the applicable drainage requirements based on when a project has "started construction," as required by the 2019 Phase I Permit.

Section 9. Amends SCC 30.63A.200 to correct a missing reference in an exemption for utility work; remove an exemption that conflicts with the threshold requirements in SCC 30.63A.300 and 30.63A.310; add language encouraging implementation of best management practices for oil and gas field operations and activities; and clarify the extent of exempt pavement preservation activities.

Section 10. Amends SCC 30.63A.210 to update code citations for drainage easements and stormwater on-site best management practices.

Section 11. Amends SCC 30.63A.310 to: (1) clarify applicable requirements in part 700 of chapter 30.63A SCC; (2) specify that minimum requirements 5, 6, 7 and 8 may be satisfied by providing flow control or treatment capacity for an area of equivalent flow and pollution characteristics, and where applicable guidance for equivalent facilities using in-basin transfers contained in the 2019 Ecology Stormwater Management Manual for Western Washington must be used; and (3) add definitions for “commercial project” and “industrial project” and revise the valuation threshold criteria for commercial or industrial projects based on the project site instead of the full site.

Section 12. Amends SCC 30.63A.400 to clarify that stormwater site plans should consider retention of native vegetation and minimization of new impervious surface, and to renumber subsection 2 for clarity.

Section 13. Amends SCC 30.63A.450 to clarify seasonal work limits; add exemptions for maintenance and repair of erosion and sediment control BMPs and routine maintenance of public facilities or existing utility structures that do not impact the soil; and allow the county to modify seasonal limitations on site disturbance based on information provided by the applicant or local weather conditions.

Section 14. Amends SCC 30.63A.520 to update citations to the correct volumes of the drainage manual for the appropriate energy dissipation for outfalls.

Section 15. Amends SCC 30.63A.570 to require that each threshold discharge area (TDA) within a project must be reviewed to determine the level of wetland protection that must be applied using Volume I Appendix I-D of the drainage manual.

Section 16. Amends SCC 30.63A.575 to reorganize and renumber the section for improved clarity and to add reference to new Volume VI of the drainage manual.

Section 17. Amends SCC 30.63A.580 to highlight that LID BMPs are included in the list of stormwater facilities for assigning inspection and maintenance responsibilities in the county right-of-way after construction acceptance.

Section 18. Amends SCC 30.63A.590 to add an exemption from easement recording requirements for residential development on large rural properties where critical areas and buffers are not disturbed by the development activity and where the project site does not drain to the existing or planned municipal separate storm sewer system, and assigns maintenance responsibility to the property owner.

Section 19. Amends SCC 30.63A.700 clarify that the provisions apply to pavement maintenance, not just roads, and identifies which pavement maintenance practices are considered to be replaced hard surfaces, new hard surfaces, or new impervious surfaces for the purpose of applying the thresholds that trigger the applicable minimum requirements.

Section 20. Amends SCC 30.63A.825 to delete as duplicative subsection (3) concerning land disturbing activity site plans and seasonal work limitations that are addressed elsewhere in the land disturbing activity code in chapter 30.63B SCC.

Section 21. Amends SCC 30.63B.050 to highlight LID principles and techniques to be considered in the site planning process.

Section 22. Adds a new section SCC 30.63B.055 to cross reference to the seasonal work limitations in chapter 30.63A SCC.

Section 23. Adds a new section SCC 30.63B.065 to clarify that compliance with the “started construction” requirements may require revisions to land disturbing activity permits to comply with updated drainage requirements required by the 2019 Phase I Permit.

Section 24. Amends land disturbing activity (LDA) permit exemptions in SCC 30.63B.070 to: (1) clarify that alternative requirements for stormwater pollution prevention plans in SCC 30.63A.810 may also apply to activities exempt from a LDA permit; (2) clarify an existing exemption from a LDA permit for certain development activities performed by a utility; (3) add an exemption from a LDA permit for certain minor development activities performed by a utility provider in an improved right-of way or an improved utility corridor where there is overlap with a critical area buffer provided certain conditions are met; (4) add an exemption from a LDA permit for utility pole replacement performed by a utility provider in an improved right-of way or an improved utility corridor where there is overlap with low scoring smaller wetlands provided certain conditions are met; (5) encourage implementation of best management practices for LDA permit exempt oil and gas field operations and activities; and (6) clarify that road maintenance LDA permit exemptions also apply to some pavement maintenance and preservation activities.

Section 25. Amends the definition in SCC 30.91A.250 “appurtenance” to expand the applicability of the existing definition as necessary to implement the proposed addition to SCC 30.63A.590(10).

Section 26. Amends the definition in SCC 30.91I.012 “improved road right-of-way” to expand the applicability of the existing definition as necessary to implement the proposed exemption in SCC 30.63B.070(3).

Section 27. Add a new definition in chapter 30.91I SCC “improved utility corridor” to mean “that portion of a utility corridor that was altered to construct or install linear utility distribution or collection systems” as necessary to implement the proposed exemption in SCC 30.63B.070(3).

Section 28. Amends the definition in SCC 30.91L.025 “land disturbing activity” to clarify that landscape maintenance and gardening are not considered to be land disturbing activities.

Section 29. Amends the definition in SCC 30.91M.011 “maintenance” to acknowledge that maintenance activities involving replacement may result in an expansion of a facility.

Section 30. Amends the definition in SCC 30.91S.330 “single-family residence” to expand the applicability of the existing definition as necessary to implement the proposed addition to SCC 30.63A.590(10).

Section 31. Amends the definition in SCC 30.91T.054B “threshold discharge area (TDA)” to replace the phrase “on site area” with “area within a project site” describing a TDA and delete the existing diagram and direct the reader to a new TDA diagram in the drainage manual.

Section 32. Contains an effective date of July 1, 2021, as required by the 2019 Phase I Permit.

Section 33. Contains a standard severability clause.

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State Environmental Policy Act: State Environmental Policy Act (SEPA) requirements with respect to this non-project action have been satisfied through issuance of a Determination of Nonsignificance (DNS) on April 9, 2021. Copies of all applicable SEPA documents are available at the office of the County Council.

Where to Get Copies of the Proposed Ordinance: Copies of the full ordinance and other documentation are available upon request by calling the Snohomish County Council Office at (425) 388-3494, 1-(800) 562-4367x3494, TDD (425) 877-8339 or by e-mailing contact.council@snoco.org.

While the Council office is closed due to the emergency response to COVID-19, copies will not be available for pickup until the office reopens.

Website Access: This ordinance can be accessed through the Council website at: <http://www.snohomishcountywa.gov/2134/County-Hearings-Calendar>.

Range of Possible Actions the County Council May Take on This Proposal: At the conclusion of its public hearing(s), the County Council may make one of the following decisions regarding the proposed actions: (1) adopt the proposed ordinance; (2) adopt an amended version of the proposed ordinance; (3) decline to adopt the proposed ordinance; (4) adopt such other proposals or modification of such proposals as were considered by the council at its own hearing; or (5) take any other action permitted by law.

Public Testimony: Anyone interested may testify concerning the above described matter at the time and place indicated above or by remote participation in the meeting. The County Council may continue the hearing to another date to allow additional public testimony thereafter, if deemed necessary. Written testimony is encouraged and may be sent to the office of the Snohomish County Council at 3000 Rockefeller Ave M/S 609, Everett, WA 98201; faxed to (425) 388-3496 or e-mailed to Contact.Council@snoco.org. Submitting public comments 24 hours prior to the hearing will ensure that comments are provided to the Council and appropriate staff in advance of the hearing.

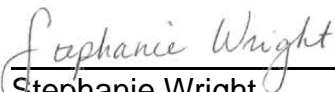
Party of Record: You may become a party of record on this matter by sending a written request to the Clerk of the County Council at the above address, testifying at the public hearing, or entering your name and address on a register provided for that purpose at the public hearing.

Americans with Disabilities Act Notice: Accommodations for persons with disabilities will be provided upon request. Please make arrangements one week prior to the hearing by calling Debbie Eco at 425-388-3494, 1-800-562-4367 x3494, or TDD #1-800-877-8339.

QUESTIONS: For additional information or specific questions on the proposed ordinance, please call Terri Strandberg in the Planning and Development Services at 425-262-2359.

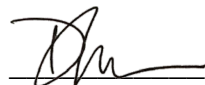
DATED this 28th day of May, 2021

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington



Stephanie Wright
Council Chair

ATTEST:



Debbie Eco, CMC
Clerk of the Council

PUBLISH: June 2, 2021

Send Affidavit to: Council
Send Invoice to: Planning #107010

2014 Broadcast email list for NPDES – updated March 2021

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SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

NOTICE OF ENACTMENT

NOTICE IS HEREBY GIVEN, that on June 16, 2021, the Snohomish County Council adopted Amended Ordinance No. 21-025, which shall be effective July 1, 2021. A summary of the amended ordinance is as follows:

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Section 22. Adds a new section SCC 30.63B.055 to cross reference to the seasonal work limitations in chapter 30.63A SCC.

Section 23. Adds a new section SCC 30.63B.065 to clarify that compliance with the “started construction” requirements may require revisions to land disturbing activity permits to comply with updated drainage requirements required by the 2019 Phase I Permit.

Section 24. Amends land disturbing activity (LDA) permit exemptions in SCC 30.63B.070 to: (1) clarify that alternative requirements for stormwater pollution prevention plans in SCC 30.63A.810 may also apply to activities exempt from a LDA permit; (2) clarify an existing exemption from a LDA permit for certain development activities performed by a utility; (3) add an exemption from a LDA permit for certain minor development activities performed by a utility provider in an improved right-of way or an improved utility corridor where there is overlap with a critical area buffer provided certain conditions are met; (4) add an exemption from a LDA permit for utility pole replacement performed by a utility provider in an improved right-of way or an improved utility corridor where there is overlap with low scoring smaller wetlands provided certain conditions are met; (5) encourage implementation of best management practices for LDA permit exempt oil and gas field operations and activities; and (6) clarify that road maintenance LDA permit exemptions also apply to some pavement maintenance and preservation activities.

Section 25. Amends the definition in SCC 30.91A.250 “appurtenance” to expand the applicability of the existing definition as necessary to implement the proposed addition to SCC 30.63A.590(10).

Section 26. Amends the definition in SCC 30.91I.012 “improved road right-of-way” to expand the applicability of the existing definition as necessary to implement the proposed exemption in SCC 30.63B.070(3).

Section 27. Add a new definition in chapter 30.91I SCC “improved utility corridor” to mean “that portion of a utility corridor that was altered to construct or install linear utility distribution or collection systems” as necessary to implement the proposed exemption in SCC 30.63B.070(3).

Section 28. Amends the definition in SCC 30.91L.025 “land disturbing activity” to clarify that landscape maintenance and gardening are not considered to be land disturbing activities.

Section 29. Amends the definition in SCC 30.91M.011 “maintenance” to acknowledge that maintenance activities involving replacement may result in an expansion of a facility.

Section 30. Amends the definition in SCC 30.91S.330 “single-family residence” to expand the applicability of the existing definition as necessary to implement the proposed addition to SCC 30.63A.590(10).

Section 31. Amends the definition in SCC 30.91T.054B “threshold discharge area (TDA)” to replace the phrase “on site area” with “area within a project site” describing a TDA and delete the existing diagram and direct the reader to a new TDA diagram in the drainage manual.

Section 32. Contains an effective date of July 1, 2021, as required by the 2019 Phase I Permit.

Section 33. Contains a standard severability clause.


=====

Where to Get Copies of the Amended Ordinance: Copies of the full ordinance and other documentation are available upon request by calling the Snohomish County Council Office at (425) 388-3494, 1-(800) 562-4367x3494, TDD (425) 877-8339 or by e-mailing contact.council@snoco.org.

While the Council office is closed due to the emergency response to COVID-19, copies will not be available for pickup until the office reopens.

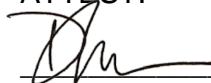
Website Access: This ordinance can be accessed through the Council website at: <http://www.snohomishcountywa.gov/2134/County-Hearings-Calendar>.

DATED this 22nd day of June, 2021.



Stephanie Wright
Council Chair

ATTEST:



Debbie Eco, CMC
Clerk of the Council

PUBLISH: June 30, 2021

Send Affidavit to: Council
Send Invoice to: Planning #107010

NOTICE OF ENACTMENT
AMENDED ORDINANCE NO. 21-025
PAGE 3 OF 3

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

EXHIBIT # 3.5.5

FILE ORD 21-025

NOTICE OF ACTION

NOTICE IS HEREBY GIVEN under the Growth Management Act, RCW 36.70A.290 that the Snohomish County Council took the action described in (1) below on June 16, 2021.

1. Description of agency action: Approval of Amended Ordinance No. 21-025.

2. Description of proposal: RELATING TO REGULATION OF STORMWATER; AMENDING CHAPTERS 7.53, 7.54, 30.63A, 30.63B AND SUBTITLE 30.91 OF THE SNOHOMISH COUNTY CODE (SCC) IN RESPONSE TO THE COUNTY'S 2019 NPDES PHASE I PERMIT

3. Documentation is available electronically upon request by calling the Snohomish County Council Office at (425) 388-3494, 1-800-562-4367 x3494, TDD 1-800-877-8339 or e-mailing to Contact.Council@snoco.org.

While the Council office is closed due to the emergency response to COVID-19, copies will not be available for pickup until the office reopens.

4. Name of agency giving notice: Snohomish County Council

5. This notice is filed by: Debbie Eco
Clerk of the Council

Date: June 22, 2021

PUBLISH: June 30, 2021

Send Affidavit to: County Council
Send Invoice to: Planning #107010



Department of Commerce

Innovation is in our nature.

SNOHOMISH COUNTY COUNCIL

Notice of Adopted Amendment

EXHIBIT # 3.5.6

Indicate one (or both, if applicable):

FILE ORD 21-025

- Comprehensive Plan Amendment
- Development Regulation Amendment

Pursuant to RCW 36.70A.106, the following jurisdiction provides notice of an adopted comprehensive plan amendment and/or development regulation amendment.

(If needed, you may expand this form and the fields below, but please try to keep the entire form under two pages in length.)

Jurisdiction:	Snohomish County
Mailing Address:	3000 Rockefeller Avenue, MS 609, Everett, WA 98201
Date:	June 23, 2021
Contact Name:	Debbie Eco
Title/Position:	Clerk of the Council
Phone Number:	425-388-7038
E-mail Address:	debbie.eco@snoco.org
Brief Description of the Adopted Amendment: <i>(40 words or less)</i>	AMENDED ORDINANCE 21-025 RELATING TO REGULATION OF STORMWATER; AMENDING CHAPTERS 7.53, 7.54, 30.63A, 30.63B AND SUBTITLE 30.91 OF THE SNOHOMISH COUNTY CODE (SCC) IN RESPONSE TO THE COUNTY'S 2019 NPDES PHASE I PERMIT
Was this action submitted to Commerce for 60-day notice of intent to adopt (or to request expedited review)?	Yes. Material ID# 2021-S-2418
Public Hearing Date:	Planning Commission: March 23, 2021 Council/County Commission: June 16, 2021
Date Adopted:	June 16, 2021

REQUIRED: Attach or include a copy the adopted ordinance (signed and dated) and the final amendment text.

1 ADOPTED: 06/16/21
2 EFFECTIVE: 07/01/21

3
4 SNOHOMISH COUNTY COUNCIL
5 SNOHOMISH COUNTY, WASHINGTON

6
7 AMENDED ORDINANCE NO. 21-025

8
9 RELATING TO REGULATION OF STORMWATER; AMENDING CHAPTERS 7.53, 7.54,
10 30.63A, 30.63B AND SUBTITLE 30.91 OF THE SNOHOMISH COUNTY CODE (SCC) IN
11 RESPONSE TO THE COUNTY'S 2019 NPDES PHASE I PERMIT

12
13 WHEREAS, the Federal Water Pollution Control Act ("Clean Water Act" or CWA) requires
14 states and their local governments to take steps to implement the National Pollutant Discharge
15 Elimination System (NPDES) permit program; and

16
17 WHEREAS, under its administration of the CWA, the Environmental Protection Agency
18 (EPA) promulgated regulations to control stormwater discharges from municipal separate storm
19 sewer systems (MS4s) in two groups called Phase I and Phase II; and

20
21 WHEREAS, Snohomish County ("the county") is a Phase I municipal stormwater
22 permittee for the purpose of regulating discharge from MS4s under the NPDES permit program
23 and Washington State's Waste Discharge General Permit program; and

24
25 WHEREAS, chapter 90.48 RCW, the Washington State Water Pollution Control Act,
26 authorizes the Washington State Department of Ecology ("Ecology") to implement the NPDES
27 permit program at the state level; and

28
29 WHEREAS, Ecology issued the county's first Phase I Municipal Stormwater Permit
30 ("NPDES Permit") on July 5, 1995; and

31
32 WHEREAS, the Snohomish County Council ("County Council") adopted Amended
33 Ordinance No. 98-055 on August 3, 1998, enacting drainage development regulations consistent
34 with the 1995 NPDES Permit and the goals and policies of the Snohomish County Growth
35 Management Act Comprehensive Plan (GMACP) General Policy Plan (GPP); and

36
37 WHEREAS, Ecology re-issued the county's NPDES Permit on January 17, 2007, under
38 Phase I Municipal Stormwater Permit No. WAR04-4502; and

39
40 WHEREAS, the County Council adopted Amended Ordinance Nos. 10-023 and 10-026
41 and Ordinance No. 10-024 on June 9, 2010, enacting revised development regulations
42 consistent with the 2007 NPDES Permit and the goals and policies of the GPP; and

43
44 WHEREAS, Ecology re-issued the county's NPDES Permit on August 1, 2012, which
45 became effective on August 1, 2013; and

46
47 WHEREAS, Ecology modified and re-issued the county's NPDES Permit on December
48 17, 2014, which became effective on January 16, 2015; and

1 WHEREAS, the County Council adopted Ordinance Nos.15-102 and 15-103 on January
2 11, 2016, enacting revised development regulations consistent with the 2014 NPDES Permit and
3 the goals and policies of the GMACP GPP; and
4

5 WHEREAS, the County Council adopted Amended Ordinance No.17-070 on November
6 1, 2017, which became effective on December 1, 2017, to further promote the use of low impact
7 development (LID) best management practices (BMPs), provide incentives for or remove barriers
8 to the use of LID BMPs, and provide clarity regarding LID feasibility requirements; and
9

10 WHEREAS, Ecology re-issued the county's NPDES Permit on July 1, 2019, which
11 became effective on August 1, 2019; and
12

13 WHEREAS, the 2019 NPDES Permit regulates stormwater that enters into large and
14 medium MS4s in unincorporated Snohomish County that are owned or operated by the county
15 and that discharges from such MS4s to surface waters and groundwaters of the state, as set
16 forth in special condition S2; and
17

18 WHEREAS, MS4s include roads with drainage systems, county roads, catch basins,
19 curbs, gutters, ditches, manmade channels and storm drains that are owned or operated by the
20 county; and
21

22 WHEREAS, special condition S4.C of the 2019 NPDES Permit requires the county to
23 reduce the discharge of pollutants to the maximum extent practicable (MEP); and
24

25 WHEREAS, special condition S4.D of the 2019 NPDES Permit requires the county to use
26 all known, available and reasonable methods of prevention, control and treatment (AKART) to
27 prevent and control pollution to the waters of the State of Washington; and
28

29 WHEREAS, special condition S5.C.5 of the 2019 NPDES Permit requires the county to
30 design a program to prevent and control the impacts of runoff from new development,
31 redevelopment, and construction activities applicable to both public and private development,
32 including roads; and
33

34 WHEREAS, the program to prevent and control the impacts of runoff from new
35 development, redevelopment and construction activities shall be enforceable; and
36

37 WHEREAS, special condition S5.C.5.a of the 2019 NPDES Permit requires that the
38 county continue to implement the existing stormwater program under the 2014 NPDES Permit
39 until new provisions are adopted under the 2019 NPDES Permit. The stormwater program
40 adopted under the 2019 NPDES Permit will apply to all applications submitted prior to July 1,
41 2021, which have not started construction by July 1, 2026, and to all applications submitted prior
42 to January 22, 2016, which have not started construction by July 1, 2021; and
43

44 WHEREAS, special condition S5.C.5.b.i of the 2019 NPDES Permit requires that the
45 county's stormwater management regulations comply with the minimum requirements,
46 thresholds, definitions, and adjustment and variance criteria in *Appendix 1 Minimum Technical*
47 *Requirements for New Development and Redevelopment* ("Appendix 1") of the 2019 NPDES
48 Permit, or provide minimum requirements, thresholds and definitions determined by Ecology to
49 provide equal or similar protection of receiving waters and equal or similar levels of pollution
50 control to those required in Appendix 1; and
51

1 WHEREAS, special condition S5.C.5.b.ii of the 2019 NPDES Permit requires that the
2 county's stormwater management regulations include a site planning process, BMP selection
3 and design criteria, BMP infeasibility criteria, LID competing needs criteria, and BMP limitations
4 to implement the minimum requirements of Appendix 1 of the 2019 NPDES Permit. The county
5 may use either the Washington State Department of Ecology's *2019 Stormwater Management*
6 *Manual for Western Washington* ("2019 SWMMWW"), or an equivalent manual approved by
7 Ecology to meet this requirement; and
8

9 WHEREAS, Appendix 10, Part 2 of the 2019 NPDES Permit identifies nine significant
10 changes made to the 2019 NPDES Permit and the 2019 SWMMWW, which are required to be
11 included in the county's stormwater management regulations; and
12

13 WHEREAS, special condition S5.C.5.b.iii of the 2019 NPDES Permit requires that the
14 county amend its stormwater management regulations as needed to reflect the nine significant
15 changes made to the 2019 NPDES Permit and the 2019 SWMMWW identified in Appendix 10,
16 Part 2, as well as any other significant changes the county proposes to its stormwater
17 management regulations; and
18

19 WHEREAS, the county's updated stormwater regulations that meet the standards in
20 special condition S5.C.5.b.i through ii must be adopted and made effective by July 1, 2021, to
21 comply with the 2019 NPDES Permit; and
22

23 WHEREAS, it is necessary to amend portions of chapters 7.53, 7.54, 30.63A, 30.63B,
24 30.70, and subtitle 30.91 SCC to reflect the significant changes identified in Appendix 10, Part 2,
25 and comply with the 2019 NPDES Permit; and
26

27 WHEREAS, it is necessary to update the Snohomish County Drainage Manual
28 ("Drainage Manual") to reflect the significant changes identified in Appendix 10, Part 2, and
29 comply with the 2019 NPDES Permit; and
30

31 WHEREAS, the Drainage Manual is an administrative rule promulgated by the
32 Snohomish County Department of Conservation and Natural Resources and provides the
33 standards and design details necessary to implement the requirements of chapters 30.63A,
34 30.63B, 7.53 and 7.54 SCC; and
35

36 WHEREAS, the updated Drainage Manual is proposed as an equivalent to the 2019
37 SWMMWW and has been tailored for consistency with the SCC to provide clarity, improve
38 usability and promote permit review efficiencies; and
39

40 WHEREAS, draft stormwater documents were transmitted to Ecology for review on June
41 22, 2020, in accordance with the requirements in special condition S5.C.5.b.iii of the 2019
42 NPDES Permit; and
43

44 WHEREAS, Ecology provided written comments on the county's draft stormwater
45 documents on August 25, 2020; and
46

47 WHEREAS, Ecology staff and county staff met to discuss the county's draft stormwater
48 documents on September 14, 2020; and
49

50 WHEREAS, county staff and Ecology staff communicated on several occasions from late-
51 September to mid-November 2020, to resolve issues identified in Ecology's written comments; and

1
2 WHEREAS, Ecology issued a letter to the county on November 19, 2020, making a
3 preliminary approval and determination that the county's amendments to the code and to the
4 Drainage Manual are equivalent to the required portions of Ecology's 2019 SWMMWW; and
5

6 WHEREAS, the county implemented a public participation program pursuant to special
7 condition S5.C.4 of the 2019 NPDES Permit, in conjunction with public participation opportunities
8 afforded under the Growth Management Act (GMA), that included opportunities for the public's
9 involvement in the development of the county's stormwater management program and
10 implementation priorities; and
11

12 WHEREAS, a State Environmental Policy Act (SEPA) comprehensive checklist was
13 completed and a threshold determination of nonsignificance (DNS) was issued for the proposed
14 non-project actions relating to the stormwater regulations and standards on April 9, 2021,
15 pursuant to chapter 43.21 RCW, chapter 197-11 WAC and chapter 30.61 SCC; and
16

17 WHEREAS, pursuant to RCW 36.70A.106, a notice of intent to adopt the proposed
18 regulations and standards was transmitted to the Washington State Department of Commerce on
19 March 9, 2021; and
20

21 WHEREAS, the Snohomish County Planning Commission ("Planning Commission") was
22 briefed on the revised 2019 NPDES Permit conditions and/or the updated stormwater drainage
23 regulation proposals on February 23, 2021; and
24

25 WHEREAS, the Planning Commission held a public hearing on the proposed stormwater
26 regulations on March 23, 2021; and
27

28 WHEREAS, the Planning Commission deliberated on the stormwater regulations on
29 March 23, 2021, and voted to recommend approval of the stormwater regulations; and
30

31 WHEREAS, the County Council was briefed on the Planning Commission
32 recommendation on May 4, 2021; and
33

34 WHEREAS, the County Council held a public hearing on the proposed stormwater
35 regulations on June 16, 2021, to consider the entire record and hear public testimony on
36 Ordinance No. 21-025; and
37

38 WHEREAS, the County Council considered all public testimony on the proposed
39 stormwater regulations prior to deliberating on June 16, 2021.
40

41 NOW, THEREFORE, BE IT ORDAINED:

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

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

44 B. The County Council makes the following additional general findings of fact:

- 45 1. The county drainage regulations in chapter 30.63A SCC contain the drainage
46 requirements for all of unincorporated Snohomish County and prevent and control
47 pollution of waters of the State of Washington pursuant to special condition
48 S5.C.5.b of the 2019 NPDES Permit.

- 1 2. Permit applicants are required to comply with the drainage regulations in
2 amended chapter 30.63A SCC, the land-disturbing activity regulations in
3 amended chapter 30.63B SCC, the Drainage Manual and the Engineering Design
4 and Development Standards (EDDS). Together, these regulations will control
5 stormwater runoff from new development, redevelopment and construction
6 activities including public and private development and roads. These regulations
7 meet the minimum performance measures in special condition S5.C.5 of the 2019
8 NPDES Permit.

- 9 3. The amendments to the county drainage regulations contained in this ordinance
10 address the significant changes made to applicable portions of the 2019 NPDES
11 Permit and the 2019 SWMMWW identified in Appendix 10, Part 2 of the 2019
12 NPDES Permit.

- 13 4. The Drainage Manual includes methods for achieving compliance with the
14 stormwater requirements addressed in chapters 30.63A, 30.63B, 7.53 and 7.54
15 SCC. The Drainage Manual includes the following volumes:
16 a. Volume I: Introduction and stormwater site plans;
17 b. Volume II: BMPs for short-term stormwater management at construction sites;
18 c. Volume III: Hydrologic analysis and BMPs to control flow volumes from
19 developed sites;
20 d. Volume IV: BMPs to minimize pollution generated by potential pollution
21 sources at developed sites;
22 e. Volume V: BMPs to treat runoff that contains sediment or other pollutants from
23 developed sites; and
24 f. Volume VI: Stormwater facility maintenance.

- 25 5. The Drainage Manual will be updated to address the significant changes made to
26 applicable portions of the 2019 NPDES Permit and the 2019 SWMMWW identified
27 in Appendix 10, Part 2 of the 2019 NPDES Permit, as well as additional significant
28 changes identified by the county consistent with special condition S5.C.5.b.iii of
29 the 2019 NPDES Permit. Updates to the Drainage Manual include:
30 a. Text updated throughout to require continuous simulation models that
31 include:
32 i. The ability to directly model BMPs that may be used in LID
33 applications, such as bioretention, permeable pavement, and green
34 roofs;
35 ii. 15-minute time steps;
36 iii. Incorporation of the van Genuchten algorithm to model
37 bioretention;
38 b. Incorporate new requirements consistent with code updates;
39 c. Update requirements for stormwater pollution prevention plans
40 associated with construction general stormwater permits;
41 d. Update requirements associated with soil amendment and concrete
42 washout BMPs;
43 e. Add new source control BMPs;

- 1 f. Update flow control exemption requirements to improve protection for
2 marine waters;
- 3 g. Update monitoring and modeling requirements for high value wetlands
4 where legal access is available;
- 5 h. Revise text for clarity and consistency with Permit language; and
6 i. Add and revise definitions consistent with the Permit.
- 7 6. A new Volume VI of the Drainage Manual was developed to consolidate
8 maintenance requirements into a single volume making it easier for the user to
9 locate BMP-specific requirements and prepare a maintenance plan for new
10 development.
- 11 7. The Drainage Manual will be updated to be equivalent to the 2019 SWMMWW.
- 12 8. No updates to the EDDS were needed to address the required signicant changes
13 to local programs identified in Appendix 10, Part 2.
- 14 9. The county developed a comprehensive public participation program to educate
15 and inform the public about the stormwater regulation update project and this
16 ordinance within the public health guidelines for COVID-19. Public comments
17 have been solicited consistent with the requirements of the GMA and the 2019
18 NPDES Permit special condition S5.C.4. Project information, updates and draft
19 proposals have been maintained on the NPDES project webpage. Public
20 comments have been solicited from the website and via direct email to interested
21 parties.
- 22 10. The GPP sets forth the following objective and policies related to stormwater
23 management:
- 24 Objective NE 3.H: Comply with the county’s Phase I Municipal Stormwater
25 Permit issued by the Washington State Department of Ecology pursuant to the
26 Clean Water Act and the National Pollutant Discharge Elimination System
27 (NPDES).
- 28 NE Policies
- 29
- 30 3.H.1 The county shall protect properties and waters from adverse impacts
31 by eliminating illicit discharges and sediment transport, and
32 regulating stormwater and land disturbing activity to reduce the
33 discharges of pollutants and impacts to receiving waters.
- 34
- 35 3.H.2 The county shall develop inspection and enforcement procedures to
36 prevent water quality degradation.
- 37
- 38 3.H.3 The county shall adopt programs, development regulations and
39 standards regulating drainage and land disturbing activity that require
40 low impact development techniques, where feasible, consistent with
41 the Phase I Municipal Stormwater Permit.
- 42
- 43 3.H.4 REPEALED BY ORDINANCE 14-070
- 44

- 1 1. Amendments update citations to the 2019 NPDES Permit.
- 2 2. Amendments update citations to the county's stormwater Drainage Manual.
- 3 D. The County Council makes the following additional specific findings of fact relating to the
- 4 amendments to chapter 30.63A SCC:
 - 5 1. A new section SCC 30.63A.025 is added to provide a cross reference to the
 - 6 requirements related to "started construction" located in SCC 30.70.310.
 - 7 2. Amendments to SCC 30.63A.200 revise a utility exemption to clarify the
 - 8 development activities must comply with minimum requirement 2; remove an
 - 9 exemption that is not consistent with the threshold requirements in SCC
 - 10 30.63A.300 and 30.63A.310; encourage use of best management practices for oil
 - 11 and gas field operations; and replace the word "road" prism with the word
 - 12 "pavement" prism to clarify the extent of exempt pavement preservation activities.
 - 13 3. Amendments to SCC 30.63A.210 correct cross references related to drainage
 - 14 easements and maintenance requirements.
 - 15 4. Amendments to SCC 30.63A.310 update standards for meeting minimum
 - 16 requirements 5, 6, 7 and 8 by providing flow control or treatment capacity for an
 - 17 area of equivalent flow and pollution characteristics; and revise the valuation
 - 18 criteria for commercial and industrial projects subject to minimum requirements 1
 - 19 through 9.
 - 20 5. Amendments to SCC 30.63A.400 update requirements for stormwater site plans
 - 21 adding language related to low impact development principles, and restructure the
 - 22 code section to improve readability.
 - 23 6. Amendments to SCC 30.63A.450 clarify requirements related to the timing of
 - 24 seasonal work limitations and add certain maintenance activities as exempt from
 - 25 seasonal work limitations.
 - 26 7. Amendments to SCC 30.63A.520 correct citations to the Drainage Manual.
 - 27 8. Amendments to SCC 30.63A.570 address the review process needed to
 - 28 determine the level of protection required for wetlands under minimum
 - 29 requirement 8 (MR8), and refer the user to the appropriate sections of the
 - 30 Drainage Manual where the technical details regarding MR8 are now located.
 - 31 9. Amendments to SCC 30.63A.575 restructure the code section for readability and
 - 32 add a reference to new Volume VI of the Drainage Manual.
 - 33 10. Amendments to SCC 30.63A.580 clarify that any party who constructs LID BMPs
 - 34 within county right-of-way is responsible for inspection, maintenance and
 - 35 operation of the facilities for the time period specified, and adds LID BMPs to the
 - 36 list of facilities that the county may inspect.
 - 37 11. Amendments to SCC 30.63A.590 provide an exemption from the requirement to
 - 38 record an easement for large residential lots outside of the Urban Growth Area
 - 39 that do not drain to the MS4.
 - 40 12. Amendments to SCC 30.63A.700 update terminology to reflect the terms used in
 - 41 the 2019 NPDES Permit, restructure the section to improve clarity, and revise the
 - 42 pavement maintenance and resurfacing activities that are subject to threshold
 - 43 requirements.

1 13. Amendments to SCC 30.63A.825 remove site plan requirements associated with
2 land disturbing activities which are already located in the land disturbing activities
3 code chapter 30.63B SCC.

4 E. The County Council makes the following additional specific findings of fact relating to the
5 amendments to chapter 30.63B SCC:

6 1. Amendments to SCC 30.63B.050 add new language to clarify that permit approval
7 criteria includes use of LID principles in site planning, where feasible.

8 2. Amendments add a new section SCC 30.63B.055 addressing seasonal work
9 limitations to control sediment transport and erosion during the wet season.

10 3. Amendments add a new section SCC 30.63B.065 to clarify that land disturbing
11 activity permits issued for implementation of drainage requirements in chapter
12 30.63A SCC are subject to the start of construction requirements located in SCC
13 30.70.310.

14 4. Amendments to SCC 30.63B.070 related to exemptions and special conditions for
15 land disturbing activity (LDA) permits include:

16 a. Adding a cross reference to alternate requirements in SCC 30.63A.810
17 for small projects.

18 b. Adding language to encourage use of BMPs during and after
19 construction of oil and gas field activities and operations.

20 c. Clarifying that permit exemptions for road maintenance activities include
21 pavement maintenance activities.

22 d. Adding an exemption from an LDA permit for certain minor development
23 activities related to maintenance and repair performed by utility providers
24 within an improved right-of-way or an improved utility corridor. This
25 proposed permit exemption is subject to specific conditions and criteria
26 consistent with the Phase I Permit.

27 F. The County Council makes the following additional specific findings of fact relating to the
28 amendments to definitions in subtitle 30.91 SCC:

29 1. Amendments are proposed to the definitions SCC 30.91A.250 “appurtenance”
30 and SCC 30.91S.330 “single-family residence” to expand the applicability of
31 existing definitions as necessary to implement the proposed addition to SCC
32 30.63A.590(10).

33 2. Amendments are proposed to the definition in SCC 30.91I.012 “improved right-of-
34 way” to expand the applicability of the existing definition as necessary to
35 implement the proposed LDA permit exemption in SCC 30.63A.070(3), and a new
36 definition is proposed for “improved utility corridor” also to facilitate
37 implementation of the proposed LDA permit exemption in SCC 30.63B.070(3).

38 3. Amendments are proposed to the definition in SCC 30.91L.025 “land disturbing
39 activity” to clarify that landscape maintenance is not considered to be a land
40 disturbing activity.

41 4. Amendments are proposed to the definition in SCC 30.91M.011 “maintenance” to
42 acknowledge that maintenance activities involving replacement may result in an
43 expansion of a facility.

1 5. Amendments are proposed to the definition in SCC 30.91T.054B “threshold
2 discharge area” (TDA) to replace the the existing definition and diagram with a
3 new definition from the 2019 NPDES Permit, and to direct the reader to a new
4 TDA diagram in the Drainage Manual.

5 G. The Washington State Department of Ecology reviewed the proposed amendments to the
6 county’s stormwater program and issued a preliminary determination that the county’s
7 revised program is equivalent to the *2019 Stormwater Management Manual for Western*
8 *Washington*, in a letter to the Snohomish County Executive dated November 19, 2020.

9 H. The Snohomish County Drainage Manual is a required element of the county’s
10 stormwater management program to be adopted using the rule making process
11 authorized by chapter 30.82 SCC.

12 Section 2. The County Council makes the following conclusions:
13

14 A. Chapters 7.53, 7.54, 30.63A, and 30.63B SCC, as amended herein contain enforceable
15 stormwater regulations that will protect the public health, safety, welfare and the
16 environment through the regulation of stormwater runoff as required by federal and state
17 law.

18 B. Chapters 7.53, 7.54, 30.63A, and 30.63B SCC, as amended herein regulate stormwater
19 to support the preservation of water quality for aquatic habitats, recreation, and drinking
20 water.

21 C. Amendments to chapter 30.63A and 30.63B SCC contained in this ordinance, together
22 with updates to the county’s Drainage Manual, incorporate the significant changes made
23 to applicable portions of the 2019 NPDES Permit and 2019 SWMMWW identified in
24 Appendix 10, Part 2, as required by special condition S5.C.5.b.iii of the 2019 NPDES
25 Permit.

26 D. The county’s stormwater regulations, as amended herein, meet the requirements in
27 special condition S5.C.5.b of the 2019 NPDES Permit.

28 E. The county’s stormwater regulations, as amended herein, comply with the 2019 NPDES
29 Permit.

30 F. These stormwater regulations strengthen the county’s stormwater management program.

31 G. Chapters 30.63A and 30.63B SCC, as amended herein, implement the comprehensive
32 plan objective and policies, MPPs and CPPs identified in section 1, findings B.9 and B.12
33 of this ordinance.

34 H. Despite the public health considerations related to COVID-19, the public participation
35 process implemented for the 2019 NPDES Permit code and rule updates has been early
36 and continuous and has complied with all applicable requirements, including but not
37 limited to, RCW 36.70A.140, special condition S5.C.4 of the 2019 NPDES Permit,
38 chapter 30.73 SCC, and the Snohomish County Charter.

39 I. Due to public health restrictions in place for COVID-19, public involvement has been
40 limited to electronic communications using the county’s website, direct email to
41 stakeholders, and online briefings and public hearings.

42 J. The SEPA process conducted for this ordinance satisfies the requirements of chapter
43 43.21C RCW, as implemented by chapter 197-11 WAC and chapter 30.61 SCC.

44 K. The Washington State Attorney General last issued an advisory memorandum, as
45 required by RCW 36.70A.370, in September of 2018 entitled “Advisory Memorandum:

1 Avoiding Unconstitutional Takings of Private Property” to help local governments avoid
2 the unconstitutional taking of private property. The process outlined in the State Attorney
3 General’s 2018 advisory memorandum was used by the County in objectively evaluating
4 the regulatory changes proposed by this ordinance. The proposal does not result in an
5 unconstitutional taking of private property for a public purpose and does not violate
6 substantive due process guarantees.

- 7 L. The County Council bases its findings and conclusions on the entire legislative record,
8 including all testimony and exhibits. Any finding, which should be deemed a conclusion,
9 and any conclusion which should be deemed a finding, is hereby adopted as such.

10
11 Section 3. Snohomish County Code Section 7.53.120, last amended by Amended Ordinance
12 No. 13-023 on April 17, 2013, is amended to read:

13
14 **7.53.120 Best management practices (BMPs) required.**

15
16 (1) Any person storing or using materials containing contaminants in any manner that may
17 result in a prohibited discharge shall implement the source control BMPs described in
18 Volume ((4)) IV, Chapter 2 of the Drainage Manual.

19 (2) Any person operating a facility or performing an activity described in Chapter 3, Volume
20 ((4)) IV of the Drainage Manual shall implement the source control BMPs described therein
21 for the facility or activity.

22 (3) Full implementation of all stormwater BMPs required by an NPDES industrial stormwater
23 permit or State Waste Discharge Permit shall constitute compliance with this section.

24 (4) As an alternative to implementing the BMPs described in subsections (1) through (3) of
25 this section, the director may allow or require implementation of BMPs described in (a)
26 Volume ((4)) IV, Chapter 4 or 5 of the Drainage Manual, (b) Volume ((2)) II, ((3)) III, ((~~or 5~~)) V,
27 or VI of the Drainage Manual, or (c) other documents such as stormwater pollution prevention
28 plans developed pursuant to farm plans or similar documents, if the director determines the
29 alternative BMPs provide substantially equivalent environmental protection and meet the
30 objectives of safety, function, and maintenance. The director shall document in writing all
31 such determinations and supporting information.

32 (5) Full implementation of the source control BMPs described in subsections (1) through (4)
33 of this section constitutes the minimum required actions an owner, occupant or operator of
34 real property must take toward preventing prohibited discharges from the real property. Full
35 implementation of the BMPs required by this section does not exempt a person from also
36 complying with any other requirement of this chapter.

37
38 Section 4. Snohomish County Code Section 7.54.070, last amended by Amended Ordinance
39 No. 20-081 on January 20, 2021, is amended to read:

40
41 **7.54.070 Definitions.**

42
43 In this chapter, unless the context clearly requires otherwise, the following terms shall have
44 the meanings specified below:

45 (1) "Aquatic sediment" means a surface sediment overlain by an aquatic environment; a
46 solid, fragmented, particulate material transported and deposited by wind, water, ice or
47 chemically precipitated from solution and/or secreted by organisms; forming deposits of

- 1 loose, unconsolidated layers in which the void spaces are occupied by fresh, marine or
2 brackish water.
- 3 (2) "Best management practices" or "BMPs" means physical objects, structures, managerial
4 practices, or behaviors, that when used singly or in combination, eliminate or reduce the
5 introduction of contaminants to stormwater, receiving waters, or groundwater.
- 6 (3) "Clean Water Act" means the federal Water Pollution Control Act, codified at 33 U.S.C.
7 1251 et seq., as now existing or hereafter amended.
- 8 (4) "Constructed stormwater control facility" means any type of catch basin or drainage
9 facility for which maintenance standards are set forth in Volume (~~V, Chapter 4~~) VI of the
10 Drainage Manual.
- 11 (5) "Constructed stormwater control facilities regulated by the county's Phase I NPDES
12 municipal stormwater permit" means those constructed stormwater control facilities that
13 discharge into the county's storm sewer system and are thereby subject to the operation and
14 maintenance program mandated by Special Condition (~~(S5.C.9)~~) S5.C.10 of the county's
15 Phase I NPDES municipal stormwater permit.
- 16 (6) "Contaminant" means a solid, liquid, or gaseous substance that, if discharged to a
17 drainage facility, natural drainage system, receiving waters or groundwater, will alter the
18 physical, chemical, or biological properties thereof to the extent that the discharge will render
19 the facility, system, or water harmful, detrimental, or injurious to the public health, safety, or
20 welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate
21 beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.
- 22 (7) "Department" means the department of conservation and natural resources or the
23 department of planning and development services, unless otherwise specified.
- 24 (8) "Director" means the director of the department of conservation and natural resources or
25 the department of planning and development services, unless otherwise specified.
- 26 (9) "Drainage facility" means any part of a manmade physical system designed or
27 constructed to collect, treat, convey, store, or control the flow of stormwater. Drainage
28 facilities include, but are not limited to, stormwater conveyance and containment facilities,
29 including pipelines, constructed channels and ditches, infiltration facilities, retention and
30 detention facilities, stormwater treatment facilities, erosion and sedimentation control
31 facilities, and all other drainage structures and appurtenances.
- 32 (10) "Ecology" means the Washington State Department of Ecology.
- 33 (11) "EPA" means the United States Environmental Protection Agency.
- 34 (12) "Groundwater" means all waters that exist beneath the land surface or beneath the bed
35 of any stream, lake, or reservoir, or other body of surface water, whatever may be the
36 geological formation or structure in which such water stands, flows, percolates or otherwise
37 moves.
- 38 (13) "National Pollutant Discharge Elimination System" or "NPDES" means the national
39 program authorized under the Clean Water Act for controlling pollutants from point and
40 nonpoint source discharges into waters of the United States.
- 41 (14) "National Pollutant Discharge Elimination System permit" or "NPDES permit" means a
42 permit issued by Ecology or the EPA to implement the requirements of the Clean Water Act.
- 43 (15) "Natural drainage system" means the physical beds and boundaries of receiving waters,
44 including those natural drainage systems that have been altered by human actions.

1 (16) "Person" means any natural person, corporation, nonprofit corporation, municipal
2 corporation, government agency, limited liability company, partnership, limited partnership,
3 limited liability partnership, professional services corporation, or any other legally recognized
4 entity.

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

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

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

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

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

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

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

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

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

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

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

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

27
28 Section 5. Snohomish County Code Section 7.54.080, last amended by Amended Ordinance
29 No. 20-081 on January 20, 2021, is amended to read:

30
31 **7.54.080 Maintenance and repair of constructed stormwater control facilities.**

32
33 (1) The person(s) responsible for one or more constructed stormwater control facilities
34 regulated by the county's Phase I NPDES municipal stormwater permit must inspect and
35 maintain those facilities in accordance with the standards and timelines set forth in Volume V,
36 Chapter 4, and Volume VI of the Drainage Manual.

37 (2) For all constructed stormwater control facilities not described in subsection (1) of this
38 section, the person(s) responsible for such facilities must inspect and maintain the facilities in
39 accordance with the standards set forth in Volume (~~V, Chapter 4~~) VI of the Drainage
40 Manual.

41 (3) Inspections required under subsection (1) of this section shall be performed annually.
42 The director of the department of conservation and natural resources may approve a reduced
43 inspection frequency for a particular constructed stormwater control facility if the person(s)

1 responsible for said facility can demonstrate that the reduced frequency is justified on the
2 basis of maintenance records.

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

6
7 Section 6. Snohomish County Code Section 7.54.100, reenacted by Ordinance No. 19-009 on
8 April 10, 2019, is amended to read:

9
10 **7.54.100 Notice and order to cease violation.**

11
12 (1) Whenever any constructed stormwater control facility is found to be in violation of this
13 chapter or standards required hereunder, the director may cause a notice and order to be
14 issued to the responsible person(s), which may include an order to immediately cease the
15 activity causing the violation or take affirmative action to abate the violation.

16 (2) The notice and order shall include the following information:

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

18 (b) The address or legal description of the real property on which the violation exists or
19 occurred;

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

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

24 (e) A description of any required corrective action;

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

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

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

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

31 (j) The date of the notice and order; and

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

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

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

38 (a) By personal service;

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

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

1 Section 7. Snohomish County Code Section 7.54.110, reenacted by Ordinance No. 19-009 on
2 April 10, 2019, is amended to read:

3
4 **7.54.110 Warning notice as alternative to notice and order.**
5

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

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

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

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

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

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

21 (e) A description of any recommended corrective action;

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

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

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

27 (i) The date of the warning notice.

28 (3) The director may issue a notice and order for a violation of this chapter irrespective of
29 any previous issuance of a warning notice regarding the violation.
30

31 Section 8. A new section is added to Chapter 30.63A of the Snohomish County Code to read:

32
33 **30.63A.025 Compliance with updated stormwater regulations – “Started
34 Construction” requirement.**
35

36 Compliance with updated stormwater drainage regulations shall be required as provided in
37 SCC 30.70.310.
38

39 Section 9. Snohomish County Code Section 30.63A.200, last amended by Amended Ordinance
40 No. 15-102 on January 11, 2016, is amended to read:

41
42 **30.63A.200 General exemptions.**
43

44 The following new development and redevelopment activities shall be exempt from all
45 stormwater management requirements of this chapter except as otherwise specified below:

1 (1) Repair or installation of underground or overhead facilities performed by a utility. For this
2 exemption to apply, the repair or installation shall only replace ground surfaces with in-kind
3 materials or materials with similar runoff characteristics and the development activities shall
4 comply with minimum requirement 2 (SCC 30.63A.445 and 30.63A.450) and must occur
5 outside all critical areas, together with the buffers of and setbacks from these critical areas,
6 except that such activities may occur within floodplains and aquifer recharge areas of low or
7 moderate sensitivity to groundwater contamination.

8 (2) Utility facility maintenance and repairs performed by a utility that replace ground surfaces
9 with in-kind materials or materials with similar runoff characteristics, that do not add hard
10 surfaces, and that do not adversely impact any critical areas, critical area buffers or upstream
11 or downstream properties, except that such activities shall comply with minimum requirement
12 2 (SCC 30.63A.445 and 30.63A.450).

13 (3) Remodeling or tenant improvements that do not meet the definitions of new
14 development, redevelopment or land disturbing activity.

15 (4) ~~RESERVED ((Development activities that result in less than 2,000 square feet of new,
16 replaced, or new plus replaced hard surfaces, except that such activities shall comply with
17 minimum requirement 2 (SCC 30.63A.445 and 30.63A.450). For this exemption to apply,
18 development activities must occur outside all critical areas, together with the buffers of and
19 setbacks from these critical areas, except that such activities may occur within floodplains
20 and aquifer recharge areas of low or moderate sensitivity to groundwater contamination.))~~

21 (5) Forest practice Classes I, II, III and Class IV special nonconversion forest practices
22 regulated by WAC Title 222.

23 (6) Oil and gas field activities or operations, including the construction of drilling sites, waste
24 management pits, access roads and transportation and treatment infrastructure (such as
25 pipelines, natural gas treatment plants, natural gas pipeline compressor stations and crude
26 oil pumping stations). Operators are encouraged to implement and maintain best
27 management practices to minimize erosion and control sediment during and after
28 construction activities to help ensure protection of surface water quality during storm events.

29 (7) The following road and pavement maintenance activities: pothole and square cut
30 patching, overlaying existing asphalt or concrete pavement with asphalt or concrete without
31 expanding the coverage area, shoulder grading, reshaping and/or re-grading drainage
32 systems, crack sealing, resurfacing with in-kind material without expanding the road prism,
33 pavement preservation activities that do not expand the ((road)) pavement prism, and
34 vegetation maintenance.

35 (8) The following commercial agricultural activities:

36 (a) Tilling, soil preparation, fallow rotation, planting, harvesting and other commercial
37 agricultural activities involving working the land when such activities are outside of critical
38 areas (except for floodplains and aquifer recharge areas with low or moderate sensitivity
39 to groundwater contamination), together with the buffers of and setbacks from these
40 critical areas;

41 (b) Maintenance or repair of existing commercial agricultural facilities including drainage
42 facilities, ponds, animal stock flood sanctuaries, animal waste management facilities,
43 agricultural buildings, fences, roads and bridges; and

44 (c) New construction of drainage ditches (including enlargement of existing drainage
45 ditches) that require less than 500 cubic yards of grading. To qualify under this
46 exemption, such ditches shall not adversely impact critical areas or upstream or

1 downstream properties, be located within 100 feet of streams, wetlands, lakes, marine
2 waters, fish and wildlife habitat conservation areas, or erosion hazard areas, or contain
3 water on site for retention, infiltration or evaporation and the development activities must
4 occur outside all critical areas, together with the buffers of and setbacks from these
5 critical areas, except that such activities may occur within floodplains and aquifer
6 recharge areas of low or moderate sensitivity to groundwater contamination.

7 (9) Agricultural activities defined in chapter 30.32B SCC or SCC 30.91A.090 provided:

8 (a) The activity occurs on property on which agriculture is a legal use of the property;

9 (b) The activity requires no other permit or project approval from Snohomish County
10 except for a flood hazard permit under chapter 30.43C SCC; and

11 (c) The activity does not occur in a wetland as defined under state law, unless:

12 (i) The activity is exempt from wetlands regulations under section 404(f) of the federal
13 Clean Water Act; or

14 (ii) The wetland is an area of no greater than 5,000 square feet of nonriparian
15 wetland Categories II or III or 10,000 square feet of nonriparian Category IV wetlands,
16 pursuant to SCC 30.62A.230(2).

17 (10) The construction or maintenance of recreational trails, not including challenge areas,
18 parking areas, spectator areas, or any other developed or disturbed areas that are not trails,
19 provided that the following criteria are met:

20 (a) The trail at issue is on land located in a rural or resource zone;

21 (b) The trail at issue is located in a public park or a private park, as those terms are
22 defined in chapter 30.91P SCC;

23 (c) The area in which the construction or maintenance will be performed does not drain
24 into the county's municipal separate storm sewer system, as that term is defined in
25 chapter 30.91M SCC; and

26 (d) Design of the trail conforms to:

27 (i) The standards specified in the United States Forest Service Trail Construction and
28 Maintenance Notebook and the United States Forest Service Standard Specifications
29 for Construction and Maintenance of Trails; or

30 (ii) Such other standards for the design and construction of recreational trails that
31 provide equivalent or greater environmental protection, provided that such standards
32 are adopted by rule pursuant to SCC 30.82.010.
33

34 Section 10. Snohomish County Code Section 30.63A.210, added by Ordinance No. 15-102 on
35 January 11, 2016, is amended to read:

36
37 **30.63A.210 Exception for selected project sites that do not drain to a municipal**
38 **separate storm sewer system.**
39

40 (1) New development or redevelopment activities that result in less than 10,000 square feet
41 of new, replaced, or new plus replaced hard surfaces where no portion of the project site will
42 drain, either directly or indirectly, to any existing or planned municipal separate storm sewer
43 system (MS4), shall be eligible for an exception from certain requirements of this chapter as
44 described in subsection (2) of this section. All other applicable requirements of this chapter
45 shall apply, based on the thresholds for the project site. For this exception to apply:

1 (a) The proposed new development and redevelopment activities must occur outside of
2 all critical areas, together with the buffers of and setbacks from critical areas, except that
3 such activities may occur within floodplains and aquifer recharge areas of low or
4 moderate sensitivity to groundwater contamination; and

5 (b) The applicant shall clearly establish with accurate supporting documentation showing
6 to the satisfaction of the director, that the project meets the criteria set forth in subsection
7 (3) of this section.

8 (2) Projects that meet the requirements of subsection (1) of this section shall be excepted
9 from the following:

10 (a) The requirements of SCC 30.63A.525 relating to on-site stormwater management
11 feasibility analysis and on-site stormwater management BMPs described in Vol. I, Section
12 2.5.5 of the Drainage Manual, with the exception of BMP T5.13 (Post-Construction Soil
13 Quality and Depth), and any requirements pursuant to SCC 30.63A.400 that pertain
14 solely to implementation of SCC 30.63A.525 (except for implementation of BMP T5.13).

15 (b) The recording of drainage easements for on-site stormwater management BMPs
16 pursuant to SCC 30.63A.590 or 30.63A.595.

17 (c) Requirements related to operation and maintenance manuals for on-site stormwater
18 management BMPs set forth in SCC (~~30.63A.575(4)~~) 30.63A.575(2)(b).

19 (3) For the purposes of this chapter, a project site does not drain, either directly or indirectly,
20 to any existing or planned MS4 if the following criteria are met:

21 (a) Stormwater runoff generated from the project site will either flow directly to a receiving
22 water body or be totally contained on the project site and dispersed through infiltration
23 and/or evaporation; and

24 (b) Stormwater leaving the project site through infiltration will not migrate to a component
25 of the MS4 through groundwater flow or otherwise indirectly to the existing or planned
26 MS4.

27
28 Section 11. Snohomish County Code Section 30.63A.310, last amended by Ordinance No. 15-
29 102 on January 11, 2016, is amended to read:

30
31 **30.63A.310 Minimum drainage review thresholds and requirements for redevelopment.**

32
33 (1) Regardless of the redevelopment thresholds established below in subsections (2) and (3)
34 of this section all redevelopment shall comply with minimum requirement 2 (SCC 30.63A.445
35 and SCC 30.63A.450) unless minimum requirement 2 is not required for an exempted activity
36 pursuant to SCC 30.63A.200. In addition, redevelopment shall comply with any other
37 applicable (~~redevelopment requirement~~) requirements specified in part 700 of this chapter.

38 (2) Unless an exception under SCC 30.63A.210 applies, redevelopment projects shall
39 comply with minimum requirements 1 through 5 (SCC 30.63A.400 through 30.63A.525) for
40 the new and replaced hard surfaces and the land disturbed if the redevelopment will:

41 (a) Result in or add 2,000 square feet or greater of new, replaced or the total of new plus
42 replaced hard surfaces; or

43 (b) Cause 7,000 square feet or more of land disturbing activity.

1 (3) Unless an exception under SCC 30.63A.210 applies, redevelopment projects shall
2 comply with minimum requirements 1 through 9 (SCC 30.63A.400 through 30.63A.605) for
3 the new hard surfaces and converted vegetation areas if the redevelopment will:

4 (a) Result in or add 5,000 square feet or more of new hard surface area;

5 (b) Convert three-quarters of an acre or more of vegetation to lawn or landscaped areas; or

6 (c) Convert two and one-half acres or more of native vegetation to pasture.

7 (4) ~~((The director may allow the minimum requirements to be met for an equivalent area of
8 flow and pollution characteristics within the same site. For public road projects, the equivalent
9 area does not have to be within the project limits, but must drain to the same receiving
10 water.))~~ Minimum requirements 5, 6, 7, and 8 may be met for an area within a threshold
11 discharge area (TDA) by providing flow control or treatment capacity for an area of equivalent
12 flow and pollution characteristics. The equivalent area does not have to be within the same
13 TDA or project limits, but must drain to the same receiving water, and the guidance for
14 equivalent facilities using in-basin transfers must be followed in Appendix I-
15 D.6 Regional Facility Area Transfers in Volume I of the 2019 Ecology Stormwater
16 Management Manual for Western Washington.

17 (5) In addition to the requirements in subsections (1) through (4) of this section, for road-
18 related redevelopment projects, runoff from the replaced and new hard surfaces (including
19 pavement, shoulders, curbs and sidewalks) and the converted vegetation areas shall meet
20 minimum requirements 1 through 9 (SCC 30.63A.400 through 30.63A.605) if the new hard
21 surfaces total 5,000 square feet or more and total 50 percent or more of the existing hard
22 surfaces within the project limits. The project limits shall be defined by the length of the
23 project and the width of the right-of-way.

24 (6) In addition to the requirements in subsections (1) through (4) of this section, all
25 redevelopment projects, except road-related projects covered by subsection (5) of this
26 section, shall comply with minimum requirements 1 through 9 (SCC 30.63A.400 through
27 30.63A.605) for the new plus replaced hard surfaces and converted vegetation areas when:

28 (a) The total of the new plus replaced hard surfaces totals 5,000 square feet or more; and

29 (b) One of the following valuation criteria is met, as applicable. For the purpose of
30 meeting this valuation criteria, "commercial project" means development or
31 redevelopment of a structure or site for purposes of providing accommodations for
32 provision of goods, merchandise or services for compensation, and "industrial project"
33 means development or redevelopment of a structure or site for purposes of providing
34 accommodations for manufacturing, assembly, processing or storage of products or
35 equipment:

36 (i) For commercial or industrial projects: the valuation of the proposed improvements,
37 including interior improvements, exceeds 50 percent of the assessed value of the
38 existing project site improvements as documented by the applicant; or

39 (ii) For projects other than commercial or industrial projects: ((The value)) the
40 valuation of proposed improvements, including interior improvements, exceeds 50
41 percent of the assessed value of the existing site improvements as documented by
42 the applicant.

43
44 Section 12. Snohomish County Code Section 30.63A.400, last amended by Ordinance No. 15-
45 102 on January 11, 2016, is amended to read:
46

1 **30.63A.400 Minimum requirement 1: Preparation of a stormwater site plan.**

2
3 When minimum requirement 1 applies pursuant to part 300 of this chapter, the applicant shall
4 prepare a stormwater site plan.

5 (1) A stormwater site plan is a comprehensive report containing all of the technical
6 information and analysis necessary for the evaluation of a proposed new development or
7 redevelopment project for compliance with the requirements of this chapter.

8 (2) Prior to any land disturbing activity, the applicant shall submit a stormwater site plan that:

9 (a) ~~((complies))~~ Complies with this section and volume I, chapter 3 of the Drainage
10 Manual~~((-))~~;

11 (b) Uses site-appropriate development principles to retain native vegetation and minimize
12 impervious surfaces to the extent feasible;

13 (c) Relies on ~~((Volumes))~~ volumes I through V of the Drainage Manual ~~((shall be used))~~ to
14 select BMPs~~((-))~~; and

15 (d) Includes a stormwater pollution prevention plan (SWPPP). The required procedures
16 for preparing a ~~((stormwater pollution prevention plan (SWPPP), a part of the stormwater~~
17 ~~site plan.))~~ SWPPP and the required content of the SWPPP are described in SCC
18 30.63A.445, 30.63A.450, and volume II, chapter 3 of the Drainage Manual.

19 (3) The following types of stormwater site planning work shall be performed by or under the
20 direction of a professional engineer licensed in Washington State:

21 (a) Stormwater site plans that involve engineering calculations;

22 (b) Plans involving construction of treatment facilities or flow control facilities (detention
23 ponds, bioretention or infiltration basins, etc.);

24 (c) Structural source control BMPs; and

25 (d) On-site drainage conveyance systems.

26
27 Section 13. Snohomish County Code Section 30.63A.450, last amended by Ordinance No. 15-
28 102 on January 11, 2016, is amended to read:

29
30 **30.63A.450 Minimum requirement 2: SWPPP – general requirements.**

31
32 (1) All the SWPPP elements to be followed are in the Drainage Manual volume II, chapter 3.

33 (2) Applicants for all new development and redevelopment projects of any size shall be
34 responsible for preventing soil erosion and the discharge of sediment and pollutants into
35 receiving waters. A SWPPP must be submitted as part of the stormwater site plan. The
36 SWPPP shall be implemented prior to initial soil disturbance through final stabilization.

37 (3) The SWPPP shall include a narrative and drawings. The narrative shall be a stand-alone
38 document attached to the construction drawings. The standard SWPPP format for narratives
39 is available from the Washington State Department of Ecology. The narrative shall include
40 written explanations describing the pollution prevention decisions made for the project to
41 comply with the SWPPP requirements contained in SCC 30.63A.450 and volume II of the
42 Drainage Manual, including information concerning existing site conditions, construction
43 schedules and other pertinent items not found in the drawings. Sediment and erosion control
44 BMPs shall be selected and designed pursuant to volume II, chapters 3 and 4 of the
45 Drainage Manual. The drawings and narrative shall describe when and where the selected

1 BMPs will be installed, the performance that the BMPs are expected to achieve and actions
2 to be taken if performance is not achieved. All relevant information shall be included on the
3 construction plans for the availability of project inspectors.

4 (4) All new development and redevelopment shall be designed to prevent erosion and
5 discharge of sediment and other pollutants into receiving waters.

6 (5) To control sediment transport and erosion during the wet season from October 1 through
7 April 30, seasonal work limitations shall apply, except as otherwise exempt per SCC
8 30.63A.450(6). ~~((From October 1st through April 30th, land))~~ Based on information provided
9 by the applicant or local weather conditions, the department may expand or restrict the
10 seasonal limitation on site disturbance. Land disturbing activities may only be authorized if
11 silt-laden runoff will be prevented from leaving the site through any combination of the
12 following:

13 (a) Site conditions including existing vegetative coverage, slope, soil type and proximity
14 to receiving waters;

15 (b) Limitations on activities and the extent of disturbed areas; and

16 (c) Proposed erosion and sediment control measures.

17 (6) ~~((Based on information provided by the applicant and/or local weather conditions, the~~
18 ~~department may expand or restrict the seasonal limitation on site disturbance.))~~ The following
19 conditions or development activities are exempt from the seasonal clearing and grading
20 limitations required per SCC 30.63A.450(5):

21 (a) Where there is 100 percent infiltration of surface water runoff within the site into
22 approved and installed stormwater facilities~~((, land disturbing activities are exempt from~~
23 ~~the seasonal clearing and grading limitations in subsection (5) of this section.))~~;

24 (b) Routine maintenance and necessary repair of erosion and sediment control BMPs; and

25 (c) Routine maintenance of public facilities or existing utility structures that do not expose
26 the soil or result in the removal of the vegetative cover to soil.

27
28 Section 14. Snohomish County Code Section 30.63A.520, last amended by Ordinance No. 15-
29 102 on January 11, 2016, is amended to read:

30
31 **30.63A.520 Minimum requirement 4: Preservation of natural drainage systems and**
32 **outfalls, and provision of off-site mitigation.**
33

34 When minimum requirement 4 applies pursuant to part 300 of this chapter and no exemption
35 under SCC 30.63A.200 applies, the requirements of this section shall be met.

36 (1) Natural drainage patterns identified in the stormwater site plan and determined by the
37 currently functioning drainage pattern and patterns occurring over the past ten consecutive
38 years shall be maintained. Discharges from the project site shall occur at natural locations, to
39 the maximum extent practicable.

40 (2) The manner by which runoff is discharged from the project site shall not cause off-site
41 drainage impacts, as defined in volume I, chapter 3 of the Drainage Manual. Mitigation of off-
42 site drainage impacts shall be provided pursuant to the requirements of volume I, chapter 3
43 of the Drainage Manual. In addition, appropriate energy dissipation shall be provided for all
44 outfalls in accordance with the requirements of the EDDS and ~~((volume))~~ volumes III and V of
45 the Drainage Manual.
46

1 Section 15. Snohomish County Code Section 30.63A.570, last amended by Ordinance No. 15-
2 102 on January 11, 2016, is amended to read:

3
4 **30.63A.570 Minimum requirement 8: Stormwater discharges to wetlands.**

5
6 (1) When minimum requirement 8 applies pursuant to part 300 of this chapter and no
7 exemption under SCC 30.63A.200 applies, and when a project will result in the direct or
8 indirect (through a conveyance system) discharge of stormwater into a wetland or wetland
9 buffer, the requirements of this section shall be met. Each threshold discharge area (TDA)
10 within a project site that requires minimum requirement 8 must be reviewed to determine
11 what level(s) of wetland protection must be applied to the TDA to comply with minimum
12 requirement 8. Levels of wetland protection shall apply as set forth in volume I, Appendix I-D
13 of the Drainage Manual.

14 (2) Stormwater treatment and flow control facilities shall not be built within a natural
15 vegetated buffer, except as necessary for conveyance systems as approved by Snohomish
16 County or as allowed in wetlands approved for hydrologic modification and/or treatment in
17 accordance with volume I, chapter 2 and Appendix I-D of the Drainage Manual.

18 (3) In instances where stormwater from the project site discharges to a stream that leads to a
19 wetland, or to a wetland that has an outflow to a stream, compliance with both minimum
20 requirement 7 and minimum requirement 8 is required.

21
22 Section 16. Snohomish County Code Section 30.63A.575, last amended by Ordinance No. 15-
23 102 on January 11, 2016, is amended to read:

24
25 **30.63A.575 Minimum requirement 9: Inspection, operation and maintenance**
26 **requirements.**

27
28 When minimum requirement 9 applies pursuant to part 300 of this chapter, and no exemption
29 under SCC 30.63A.200 applies, the requirements of SCC 30.63A.575 through 30.63A.605
30 shall be met.

31 (1) The owner(s) of real property burdened by one or more easements or other servitudes
32 for drainage facilities, stormwater facilities and/or other stormwater BMPs, as shown on the
33 approved stormwater site plan for the property((-)) :

34 (a) ~~((shall))~~ Shall not create, place or maintain any obstructions in, on, above, upon, over,
35 under, across or through such easements or other servitudes((-)); and

36 ~~((2) The owner(s) of real property burdened by one or more easements or other servitudes~~
37 ~~for drainage facilities, stormwater facilities and/or other stormwater BMPs, as shown on the~~
38 ~~approved stormwater site plan for the property,)) (b) ~~((shall))~~ Shall at all times ensure there is
39 adequate access to such easements or other servitudes for the performance of inspection
40 and maintenance activities to the drainage facilities, stormwater facilities and/or other
41 stormwater BMPs.~~

42 ~~((3))~~ (2) The owner(s) of real property containing one or more drainage facilities,
43 stormwater facilities and/or other stormwater BMPs, as shown on the approved stormwater
44 site plan for the property((-));

45 (a) ~~((shall))~~ Shall regularly inspect and maintain such facilities and/or BMPs to ensure
46 such facilities and/or other BMPs are functioning as anticipated by the approved
47 stormwater site plan. Such facilities and/or BMPs shall be inspected according to the
48 maintenance requirements set forth in chapter 7.54 SCC((-)); and

1 ~~((4))~~ The owner(s) of real property on which one or more drainage facilities, stormwater
2 facilities and/or other stormwater BMPs are located, as shown on the approved stormwater
3 site plan for the property,) ~~(b)~~ ~~((shall))~~ Shall develop, keep and maintain an operation and
4 maintenance manual for such facilities and/or BMPs, consistent with the provisions in
5 volume V and volume VI of the Drainage Manual. The operation and maintenance manual
6 shall be available for examination by the county at any reasonable time. The manual shall at
7 a minimum include the following information regarding the drainage facilities, stormwater
8 facilities and/or other stormwater BMPs located on the property:

9 ~~((a))~~ (i) A maintenance plan developed pursuant to volume V, chapter 4.6 and
10 volume VI of the Drainage Manual;

11 ~~((b))~~ (ii) A log listing the dates, type and scope of any maintenance activities
12 performed; and

13 ~~((c))~~ (iii) Any other information pertinent to the functioning of the drainage facilities,
14 stormwater facilities, on-site stormwater management BMPs and/or other stormwater
15 BMPs on the property.

16 ~~((5))~~ (3) Any modification to the drainage facilities, stormwater facilities or other stormwater
17 BMPs shown on an approved stormwater site plan for a property, which is not part of an
18 approved maintenance schedule, requires prior approval by the county. Proposed revisions
19 to the approved plans, drainage computations or maintenance schedule shall be submitted to
20 the county for approval prior to modification pursuant to SCC 30.63A.825.

21
22 Section 17. Snohomish County Code Section 30.63A.580, last amended by Ordinance No. 15-
23 102 on January 11, 2016, is amended to read:

24
25 **30.63A.580 Minimum requirement 9: Interim maintenance responsibility for facilities**
26 **and BMPs in the county right-of-way after construction acceptance.**

27
28 (1) Any private party who constructs, locates, builds or otherwise places one or more
29 drainage facilities, stormwater facilities, LID BMPs, and/or other stormwater BMPs in, on,
30 above, upon, over, under, across or through any portion of a county right-of-way or other
31 county-owned property shall be responsible for the inspection, maintenance and operation of
32 such facilities and/or BMPs during one of the following two periods, whichever is longer:

33
34 (a) A two-year period following construction acceptance by the county pursuant to SCC
35 30.63A.870; or

36 (b) Through such time as any maintenance security is released pursuant to SCC 30.84.120.

37 (2) The county may periodically inspect the drainage facilities, stormwater facilities, LID
38 BMPs, or other stormwater BMPs to ensure maintenance is being properly performed.

39 (3) The private party responsible for interim inspection, maintenance and operation of
40 drainage facilities, stormwater facilities, LID BMPs and/or other stormwater BMPs pursuant to
41 this section shall provide a maintenance security as required pursuant to SCC 30.84.120.

42
43 Section 18. Snohomish County Code Section 30.63A.590, last amended by Amended
44 Ordinance No. 20-081 on January 20, 2021, is amended to read:

1
2
3 **30.63A.590 Minimum requirement 9: Easements granted to the county.**
4

5 (1) ~~((To protect the public from flooding, water quality degradation, damage to aquatic~~
6 ~~habitat and other drainage impacts))~~ Except as provided in subsection (10) of this section,
7 easements shall be granted to the county for the right to enter onto privately owned property,
8 at the county's discretion, for the purpose of accessing, inspecting, maintaining, modifying or
9 replacing the following types of privately owned drainage facilities, stormwater facilities or
10 other stormwater BMPs:

11 (a) All stormwater flow control facilities and stormwater treatment facilities designed and
12 constructed to meet the requirements of SCC 30.63A.530 or 30.63A.550; and

13 (b) Conveyance systems that conduct stormwater from a public right-of-way, private tract
14 or public easement to drainage facilities, stormwater facilities, stormwater BMPs,
15 conveyance systems or waters of the state.

16 (2) All easements granted to the county under subsection (1) of this section shall include
17 access rights from an open public right-of-way.

18 (3) Drainage easements granted to the county pursuant to subsection (1) of this section shall
19 be 20 feet in width unless:

20 (a) The drainage facility, stormwater facility or other stormwater BMP is larger than 20
21 feet in width, in which case the easement size shall be increased appropriately;

22 (b) During plan review, the director requires an increase above the required easement
23 width to the extent reasonably necessary to allow adequate maintenance of the proposed
24 drainage facility, stormwater facility or other stormwater BMP, or to accommodate
25 existing site conditions, when the director determines that there are special
26 circumstances applicable to the site or the intended use for which a wider easement is
27 reasonably necessary; or

28 (c) During plan review, the director may reduce the easement width, if the director
29 determines that there are special circumstances applicable to the site or the intended
30 use. These circumstances may include, but are not limited to, shape, topography,
31 location, or surroundings that do not generally occur on other sites and that render it
32 infeasible to provide the standard width easement, provided that the director also
33 determines the proposed drainage facility, stormwater facility or other stormwater BMP
34 can be adequately inspected and maintained with a reduced easement width.

35 (4) The director of the department of public works and the director of the department of
36 conservation and natural resources shall have the authority to modify existing drainage
37 easement widths consistent with the criteria set forth in subsection (3) of this section without
38 requiring an applicant to follow the modification process in SCC 30.63A.830.

39 (5) All drainage easements granted pursuant to subsection (1) of this section shall be in a
40 form specified by the director, and shall include a covenant requiring the owner(s) of the
41 property at issue to regularly inspect and maintain the drainage facilities, stormwater
42 facilities, LID BMPs, or stormwater BMPs located within the easement area. All persons
43 having an ownership interest in the property at issue shall execute and acknowledge the
44 easement document, which shall be recorded.

45 (6) Should the county determine, at any time, that the property owner(s) have not performed
46 the required inspection and maintenance of the drainage facilities, stormwater facilities or

1 stormwater BMPs located within a drainage easement granted pursuant to subsection (1) of
2 this section, the county may cause such inspection and/or maintenance to be performed, and
3 the property owner(s) shall reimburse the county for the cost of any such work.

4 (7) Prior to accepting an easement granted pursuant to subsection (1) of this section, the
5 director may require the removal of all obstructions or encumbrances located in, on, above,
6 upon, over, under, across or through the easement area which are inconsistent with the
7 purposes for which the easement is being granted.

8 (8) No fill, structures, fences, walls, rip rap, buildings or other similar obstructions to access
9 or restrictions to the flow of water may be placed within the easement area without the written
10 consent of the director. Obstructions placed within an easement area in violation of this
11 restriction may be removed by the county at the sole expense of the property owner(s), and
12 the property owner(s) shall reimburse the county for the cost of removal.

13 (9) Payments due to the county under subsections (6) and (8) of this section shall be made
14 within 90 days of the day the county submits a bill for costs. In the event of nonpayment, the
15 county may bring suit to recover such removal costs, including its attorneys' fees, and upon
16 obtaining a judgment, such amount shall become a lien against the property of the owner as
17 provided in RCW 4.56.190.

18 (10) The director may exempt single-family residential development or redevelopment from
19 the requirement to record an easement under subsection (1) of this section provided all of the
20 following apply:

21 (a) The proposed project is for construction, reconstruction or remodel of a single-family
22 residence or appurtenance;

23 (b) The project site is on an existing lot 100,000 square feet or larger located outside of
24 any Urban Growth Area;

25 (c) The project site is outside of all critical areas, together with the buffers of and setbacks
26 from critical areas, except that such activities may occur within floodplains and aquifer
27 recharge areas of low or moderate sensitivity to groundwater contamination, and except
28 that dispersion of stormwater may be allowed per BMP T5.30 in a critical area buffer;

29 (d) The project site does not drain, either directly or indirectly, to any existing or planned
30 municipal separate storm sewer system according to the criteria in SCC 30.63A.210(3);
31 and

32 (e) The project applicant records the approved stormwater site plan with the county
33 auditor. The recorded stormwater site plan must include the following statement, "The
34 property owner is responsible for inspecting and maintaining all stormwater facilities
35 required by chapter 7.54 SCC."

36
37 Section 19. Snohomish County Code Section 30.63A.700, last amended by Ordinance No. 15-
38 102 on January 11, 2016, is amended to read:
39

40 **30.63A.700 Minimum requirements for ((road)) pavement maintenance**
41 **((redevelopment)).**
42

43 ~~((This section establishes requirements for the application of minimum requirements to road~~
44 ~~maintenance redevelopment practices.~~

1 ~~(1) For projects that remove and replace a paved surface to base course or lower, or repair~~
2 ~~the roadway base where hard surfaces are not expanded, minimum requirements 1 through~~
3 ~~5 (SCC 30.63A.400 through 30.63A.525) shall be required.~~

4 ~~(2) Extending the pavement edge without increasing the size of the road prism and paving~~
5 ~~graveled shoulders are considered new hard surfaces and shall be subject to the minimum~~
6 ~~requirements required by SCC 30.63A.310.~~

7 ~~(3) The following are considered new hard surfaces and are subject to the minimum~~
8 ~~requirements required by SCC 30.63A.310:~~

9 ~~(a) Resurfacing by upgrading from dirt to gravel, asphalt, or concrete;~~

10 ~~(b) Upgrading from gravel to asphalt, or concrete; and~~

11 ~~(c) Upgrading from a bituminous surface treatment ("chip seal") to asphalt or concrete.))~~

12
13 The following pavement maintenance practices are not exempt, and must comply with the
14 minimum requirements triggered by the redevelopment thresholds in SCC 30.63A.310:

15 (1) The following are considered to be replaced hard surfaces:

16 (a) Removing and replacing an asphalt or concrete pavement to base course or lower;
17 and

18 (b) Repairing the pavement base.

19 (2) The following are considered to be new hard surfaces:

20 (a) Extending the pavement edge without increasing the size of the road prism; and

21 (b) Paving graveled shoulders.

22 (3) The following are considered to be new impervious surfaces:

23 (a) Resurfacing by upgrading from dirt to gravel, a bituminous surface treatment ("chip
24 seal"), asphalt, or concrete;

25 (b) Resurfacing by upgrading from gravel to chip seal, asphalt, or concrete; and

26 (c) Resurfacing by upgrading from chip seal to asphalt or concrete.

27
28 Section 20. Snohomish County Code Section 30.63A.825, last amended by Amended
29 Ordinance No. 12-018 on May 2, 2012, is amended to read:

30
31 **30.63A.825 Stormwater site plan revisions.**

32
33 (1) Proposed revisions to an approved stormwater site plan shall be submitted to the
34 department prior to construction, except that requests for revisions to an approved
35 stormwater site plan may be submitted to the department during construction if necessary to
36 address unforeseen circumstances that occur during construction.

37 (2) The applicant may revise an approved stormwater site plan upon paying a revision
38 review fee pursuant to SCC 30.86.510(2) and obtaining written approval from the department
39 prior to construction of any proposed revision to an approved stormwater site plan. At a
40 minimum, the revised submittal shall include substitute pages of the approved stormwater
41 site plan, which include the proposed changes, revised drawings showing any structural
42 changes, and any other supporting information that explains and supports the reason for the
43 change. The department may require additional information before approving or denying the
44 proposed revision. All revisions shall be consistent with all applicable minimum requirements

1 1 through 9 (SCC 30.63A.400 through 30.63A.605). Any revision shall comply with the
2 requirements of this chapter and be shown on final record drawings.

3 ~~(((3) Land disturbing activity site plans prepared pursuant to chapter 30.63B SCC shall
4 clearly indicate if they have been prepared for land disturbing activity that will be initiated or
5 continue during the wet season work limitation period between October 1 and April 30. When
6 approved construction plans for a project do not state that the stormwater site plans have
7 been prepared to allow land disturbing activity between October 1 and April 30, land
8 disturbing activity shall not occur during that time period until revised construction plans
9 addressing wet season work limitations and BMPs have been approved by the department.
10 Only site stabilization and erosion control activities shall be allowed to occur during the wet
11 season until a revised stormwater site plan and SWPPP are approved.))~~

12
13 Section 21. Snohomish County Code Section 30.63B.050, last amended by Amended
14 Ordinance No. 17-070 on November 1, 2017, is amended to read:

15
16 **30.63B.050 Permit approval criteria.**

17
18 (1) A land disturbing activity permit shall only be issued after:

- 19 (a) The project complies with the requirements of this chapter;
- 20 (b) Stormwater site plan approvals and all other permits and approvals required by the
21 county for site development have been obtained;
- 22 (c) Written evidence has been submitted that approvals required from other jurisdictions
23 and agencies will be issued;
- 24 (d) Clearing limits have been marked on the land disturbing activity site plan;
- 25 (e) A land disturbing activity site plan has been approved using LID principles and
26 techniques, as directed by the Drainage Manual, unless exempted or excepted by SCC
27 30.63A.200, 30.63A.210, or 30.63A.220. Site planning shall preserve native vegetation,
28 minimize disruption and compaction of native soils, and preserve natural drainage
29 channels to the greatest extent feasible;
- 30 (f) Security devices pursuant to chapter 30.84 SCC and insurance pursuant to SCC
31 30.63A.940 have been accepted by the department when applicable;
- 32 (g) Environmental review under chapter 30.61 SCC has been completed, if applicable;
33 and
- 34 (h) The project complies with all other applicable requirements of this title.

35 (2) A land disturbing activity permit shall not be issued for land disturbing activity in
36 shorelines until all required permits and approvals have been granted pursuant to chapter
37 30.44 SCC.
38

39 Section 22. A new section is added to Chapter 30.63B of the Snohomish County Code to read:

40
41 **30.63B.055 Seasonal work limitations.**

42
43 To control sediment transport and erosion from land disturbing activities during the wet
44 season from October 1 through April 30, seasonal work limitations shall apply subject to
45 requirements in SCC 30.63A.450(5), unless exempt under SCC 30.63A.450(6).
46

1 Section 23. A new section is added to Chapter 30.63B of the Snohomish County Code to read:

2
3 **30.63B.065 Compliance with updated stormwater regulations – “Started**
4 **Construction” requirement.**
5

6 When a permit is issued under this chapter for the purpose of implementing requirements in
7 chapter 30.63A SCC, land disturbing activity permits are subject to compliance with updated
8 stormwater drainage regulations as provided in SCC 30.70.310.
9

10 Section 24. Snohomish County Code Section 30.63B.070, last amended by Amended
11 Ordinance No. 15-103 on January 11, 2016, is amended to read:

12
13 **30.63B.070 Land disturbing activity permit exemptions.**
14

15 A land disturbing activity permit is not required for activities exempted in this section.
16 Exemption from obtaining a land disturbing activity permit is not an exemption from
17 compliance with this chapter, nor from any other applicable provision in this title. Land
18 disturbing activity exempted in this section shall comply with SCC 30.63A.445 and
19 30.63A.450, unless specifically exempted from those provisions by SCC 30.63A.200 or
20 subject to alternative requirements in SCC 30.63A.810.

21 (1) Land disturbing activities are exempt from obtaining a land disturbing activity permit
22 when:

23 (a) The land disturbing activity occurs outside all critical areas, together with the buffers
24 of and setbacks from these critical areas, except that such activities may occur within
25 floodplains and aquifer recharge areas of low or moderate sensitivity to groundwater
26 contamination;

27 (b) The land disturbing activity is set back at least two feet from all property lines;

28 (c) The land disturbing activity does not obstruct or alter an existing drainage course or
29 pattern;

30 (d) The land disturbing activity disturbs less than 7,000 square feet of land;

31 (e) The land disturbing activity creates or replaces less than 2,000 square feet of new,
32 replaced, or new plus replaced hard surfaces;

33 (f) The property on which the land disturbing activity will occur collects or concentrates
34 stormwater from 5,000 square feet or less of drainage area; and

35 (g) The amount of land disturbing activity is consistent with one of the following
36 thresholds:

37 (i) One hundred cubic yards or less of grading on a site in any 18 consecutive
38 months (except fills and associated compaction intended to support structures or
39 private roads);

40 (ii) Five hundred cubic yards or less of excavation in any 18 consecutive months for a
41 basement foundation, or for improvements to a single family dwelling and/or
42 accessory structures, provided that excess excavated material shall be disposed of at
43 a permitted site approved by the director and provided further that the activity shall
44 only commence after a building permit is secured by the applicant; or

45 (iii) Five hundred cubic yards or less of grading in any 18 consecutive months for
46 construction of underground drainage systems, provided that the construction shall

1 only commence after a right-of-way use, utility, single family or commercial building
2 permit is obtained by the applicant.

3 (2) The following land disturbing activities are exempt from obtaining a land disturbing
4 activity permit when the activity is at least two feet from all property boundary lines. For this
5 exemption to apply, development activities must occur outside all critical areas, together with
6 the buffers of and setbacks from these critical areas, except that such activities may occur
7 within floodplains and aquifer recharge areas of low or moderate sensitivity to groundwater
8 contamination:

9 (a) Operation of a solid waste disposal site subject to a solid waste permit pursuant to
10 chapter 70.95 RCW, except that expansion, relocation, closure, or capping of a solid
11 waste disposal site is not exempt;

12 (b) Mineral resource operations including commercial mining, quarrying, excavating, or
13 processing of rock, sand, gravel, aggregate, or clay and associated stockpiling when
14 such operations are authorized by a conditional use permit or an administrative
15 conditional use permit for expansion of a nonconforming use as required by chapter
16 30.22, 30.42C or 30.43A SCC, except that the following are not exempt:

17 (i) Reclamation pursuant to SCC 30.63B.170;

18 (ii) An operation which the director determines may destabilize or undermine any
19 adjacent or contiguous property; and

20 (iii) An operation which the director determines may result in an adverse downstream
21 drainage impact;

22 (c) Site investigative work necessary for land use application submittals pursuant to this
23 title, such as surveys, soil borings, test pits, percolation tests, nonmechanical survey
24 monument placement, data collection by nonmechanical means and other related
25 activities, if performed in accordance with state-approved sampling protocols or sections
26 7 and 10 of the federal Endangered Species Act (ESA) (16 U.S.C. §§ 1536 and 1539),
27 provided that the land disturbing activity is no greater than is necessary to accomplish the
28 site investigative work and results in less than 2,000 square feet of new plus replaced
29 hard surfaces;

30 (d) Drilling or excavation of a well for a single family dwelling; and

31 (e) Digging, excavating, or filling cemetery graves; ~~(; and~~

32 ~~(f) Repair or installation of underground or overhead utility facilities that replace ground~~
33 ~~surfaces with in-kind materials or materials with similar runoff characteristics.))~~

34 (3) The following land disturbing activities are exempt from obtaining a land disturbing
35 activity permit:

36 ~~((a) Repair or installation of underground or overhead facilities performed by a utility that~~
37 ~~only replaces ground surfaces with in-kind materials or materials with similar runoff~~
38 ~~characteristics. For this exemption to apply, development activities must occur outside all~~
39 ~~critical areas, together with the buffers of and setbacks from these critical areas, except~~
40 ~~that such activities may occur within floodplains and aquifer recharge areas of low or~~
41 ~~moderate sensitivity to groundwater contamination;~~

42 ~~(b) Facility maintenance and repairs performed by a utility that replace ground surfaces~~
43 ~~with in-kind materials or materials with similar runoff characteristics, that do not add hard~~
44 ~~surfaces, and that do not adversely impact any critical areas, critical area buffers or~~
45 ~~upstream or downstream properties;))~~

1 (a) Repair, maintenance or installation of underground or overhead facilities performed by
2 a utility that meets the following criteria:

3 (i) Replaces ground surfaces with in-kind materials or materials with similar runoff
4 characteristics and does not add hard surfaces;

5 (ii) Occurs outside all critical areas, together with the buffers of and setbacks from
6 these critical areas, except that such activities may occur within floodplains and
7 aquifer recharge areas of low or moderate sensitivity to groundwater contamination;
8 and except as allowed by SCC 30.63B.070(3)(b);

9 (iii) Does not adversely impact any critical areas, critical area buffers or upstream or
10 downstream properties; and

11 (iv) Is located at least two feet from all property boundary lines;

12 (b) Minor development activities performed by a utility that meet the following criteria:

13 (i) Occurs within an improved right-of-way or an improved utility corridor;

14 (ii) Replaces ground surfaces with in-kind materials or materials with similar runoff
15 characteristics, does not add hard surfaces, and replaces less than 2,000 square
16 feet of hard surfaces;

17 (iii) Located at least two feet from all property boundary lines;

18 (iv) Consistent with criteria in SCC 30.63B.070(1)(c), (d) and (f);

19 (v) Involves 500 cubic yards or less of grading in any 18 consecutive months;

20 (vi) Occurs outside all critical areas, except that such activities may occur within buffers
21 of and setbacks from these critical areas and within floodplains and aquifer
22 recharge areas of low or moderate sensitivity to groundwater contamination; and
23 except that replacement or repair of utility poles may occur within non-riparian
24 Category II and III wetlands smaller than 5,000 square feet, or non-riparian
25 Category IV wetlands smaller than 10,000 square feet, provided that the
26 replacement or repair of utility poles meets the following criteria:

27 (A) The replacement or repair of utility poles is conducted in accordance with
28 administrative rules adopted by the department; provided that when
29 administrative rules are unavailable, best management practices shall be
30 employed;

31 (B) The replacement or repair of utility poles does not exceed 100 cubic yards of
32 grading in any 18 consecutive months, including grading for the replacement
33 or repair of poles and work necessary to provide access; and

34 (C) The replacement or repair of utility poles, including work necessary to obtain
35 access to the pole(s), is not located within a landslide hazard area as defined
36 in SCC 30.91L.040(1) through (3), or within the top of slope portion of the
37 landslide hazard area;

38 (vii) Conducted in accordance with administrative rules adopted by the department;
39 provided that when administrative rules are unavailable, best management
40 practices shall be employed; and

41 (viii) Includes only the following activities:

42 (A) Normal maintenance and repair of utility facilities that does not expand the
43 footprint of existing utility corridors or utility facilities;

- 1 (B) Minor replacement, modification, extension, installation, or construction of
2 utilities in an improved public road right-of-way;
3 (C) Minor replacement, repair or modification of existing utility facilities in an
4 improved utility corridor;
5 (D) Minor replacement or modification of individual utility service lines connecting
6 to a utility distribution system;
7 (E) Vegetation maintenance in an improved utility corridor or improved road right-
8 of-way including removal of invasive weeds, and felling or topping of
9 hazardous trees based on review by a qualified arborist; and
10 (F) Pole repair or replacement as described in SCC 30.63B.070(3)(b)(vi);
- 11 (c) Remodeling or tenant improvements that do not meet the definitions of new
12 development or redevelopment;
- 13 (d) Forest practice Classes I, II, III and Class IV special nonconversion forest practices
14 regulated by title 222 WAC;
- 15 (e) Oil and gas field activities or operations, including the construction of drilling sites,
16 waste management pits, access roads, and transportation and treatment infrastructure
17 (such as pipelines, natural gas treatment plants, natural gas pipeline compressor stations
18 and crude oil pumping stations). Operators are encouraged to implement and maintain
19 best management practices to minimize erosion and control sediment during and after
20 construction activities to help ensure protection of surface water quality during storm
21 events;
- 22 (f) The following road and pavement maintenance activities: pothole and square cut
23 patching, overlaying existing asphalt or concrete pavement with asphalt or concrete
24 without expanding the coverage area, shoulder grading, reshaping and/or re-grading
25 drainage systems, crack sealing, resurfacing with in-kind material without expanding the
26 road prism, pavement preservation activities that do not expand the pavement prism, and
27 vegetation maintenance;
- 28 (g) The construction or maintenance of recreational trails, not including challenge areas,
29 parking areas, spectator areas, or any other developed or disturbed areas that are not
30 trails, provided that the following criteria are met:
- 31 (i) The trail at issue is on land located in a rural or resource zone;
- 32 (ii) The trail at issue is located in a public park or a private park, as those terms are
33 defined in chapter 30.91P SCC;
- 34 (iii) The area in which the construction or maintenance will be performed does not
35 drain into the county's municipal separate storm sewer system, as that term is defined
36 in chapter 30.91M SCC; and
- 37 (iv) Design of the trail conforms to:
- 38 (A) The standards specified in the United States Forest Service Trail Construction
39 and Maintenance Notebook and the United States Forest Service Standard
40 Specifications for Construction and Maintenance of Trails; or
- 41 (B) Such other standards for the design and construction of recreational trails that
42 provide equivalent or greater environmental protection, provided that such
43 standards are adopted by rule pursuant to SCC 30.82.010; and
- 44

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(h) Site investigative work necessary for land use application submittals pursuant to this title, such as surveys, soil borings, test pits, percolation tests, nonmechanical survey monument placement, data collection by nonmechanical means or other related activities, provided that the work is otherwise consistent with the provisions of other local, state and federal laws and regulations. Land disturbance shall be no greater than that necessary to accomplish the site investigative work and disturbed areas shall be restored to pre-disturbance conditions in one growing season.

(4) The following commercial agricultural activities that are conducted on land designated riverway commercial farmland, upland commercial farmland, or local commercial farmland by the comprehensive plan and future land use map (FLUM) are exempt from obtaining a land disturbing activity permit:

(a) Tilling, soil preparation, fallow rotation, planting, harvesting and other commercial agricultural activities involving working the land. For this exemption to apply, development activities must occur outside all critical areas, together with the buffers of and setbacks from these critical areas, except that such activities may occur within floodplains and aquifer recharge areas of low or moderate sensitivity to groundwater contamination;

(b) Maintenance or repair of existing commercial agricultural facilities including drainage facilities, ponds, animal stock flood sanctuaries, animal waste management facilities, agricultural buildings, fences, roads and bridges; and

(c) New construction of drainage ditches (including enlargement of existing drainage ditches) that requires 500 cubic yards or less of grading. Such ditches shall not adversely impact critical areas or upstream or downstream properties, be located within 100 feet of streams, wetlands, lakes, marine waters, fish and wildlife habitat conservation areas, and erosion hazard areas, or contain water on site for retention, infiltration or evaporation. For this exemption to apply, development activities must occur outside all critical areas, together with the buffers of and setbacks from these critical areas, except that such activities may occur within floodplains and aquifer recharge areas of low or moderate sensitivity to groundwater contamination.

(5) Agricultural activities defined in chapter 30.32B SCC or SCC 30.91A.090 are exempt from obtaining a land disturbing activity permit, provided that:

(a) The activity occurs on property on which agriculture is a legal use of the property;

(b) The activity requires no other permit or project approval from Snohomish County except for a flood hazard permit under chapter 30.43C SCC; and

(c) The activity does not occur in a wetland as defined by state law, unless:

(i) The activity is exempt from wetlands regulations under section 404(f) of the federal Clean Water Act; or

(ii) The wetland is an area of no greater than 5,000 square feet of nonriparian wetland Categories II or III or 10,000 square feet of nonriparian Category IV wetlands, pursuant to SCC 30.62A.230(2).

Section 25. Snohomish County Code Section 30.91A.250, last amended by Amended Ordinance No. 12-025 on June 6, 2012, is amended to read:

1
2
3 **30.91A.250 Appurtenance.**
4

5 "Appurtenance" means development necessarily connected to the use and enjoyment of a
6 single-family residence and located landward of the perimeter of a wetland and landward of
7 the ordinary high water mark. Normal appurtenances include a garage; deck; driveway;
8 utilities solely servicing the subject single-family residence; fences; and grading which does
9 not exceed 250 cubic yards (except to construct a conventional drainfield).

10
11 *This definition applies only to "Shoreline" regulations in ((chapter)) chapters 30.44 and 30.67*
12 *SCC, and "Drainage" regulations in chapter 30.63A SCC.*
13

14 Section 26. Snohomish County Code Section 30.91D.400, last amended by Amended
15 Ordinance No.15-103 on January 22, 2016, is amended to read:

16
17 **30.91D.400 Drainage manual or Snohomish County drainage manual.**
18

19 "Drainage manual" or "Snohomish County drainage manual" means the drainage manual
20 adopted by the director of ((public works)) conservation and natural resources pursuant to
21 SCC 30.63A.110. The drainage manual provides detail and specificity regarding the
22 requirements of chapters 7.53, 7.54, 30.63A and 30.63B SCC.
23

24 Section 27. Snohomish County Code Section 30.91I.012, added by Amended Ordinance No.
25 06-061 on October 1, 2007, is amended to read:

26
27 **30.91I.012 Improved road right-of-way.**
28

29 "Improved road right-of-way" means that portion of the road right-of-way that was altered to
30 construct the road. This includes the road prism, shoulders, sidewalks, cut and fill slopes, and
31 necessary ditches and vegetation management areas.
32

33 *This definition applies only to "Wetlands and fish and wildlife habitat" regulations in chapter*
34 *30.62A SCC and "Land disturbing activity" regulations in chapter 30.63B SCC.*
35

36 Section 28. A new section is added to Chapter 30.91I of the Snohomish County Code, to read:

37
38 **30.91I.014 Improved utility corridor.**
39

40 "Improved utility corridor" means that portion of a utility corridor that was altered to construct
41 or install linear utility distribution or collection systems. This includes that portion of utility
42 easements or utility-owned corridors where linear utility facilities have already been installed,
43 and includes access roads, cut and fill slopes, and necessary ditches and vegetation
44 management areas needed for access to and function of the linear utility facilities. Utility lines
45 or pipes that extend from the utility-owned distribution system across private property to
46 individual customers are not included.
47

48 *This definition applies only to "Land disturbing activity" regulations in chapter 30.63B SCC.*
49

1 Section 29. Snohomish County Code Section 30.91L.025, last amended by Ordinance No. 15-
2 103 on January 11, 2016, is amended to read:

3
4 **30.91L.025 Land Disturbing Activity.**

5
6 "Land disturbing activity" means any activity that will result in movement of earth or a change
7 in the existing soil cover or the existing soil topography (both vegetative and non-vegetative),
8 including the creation and/or replacement of impervious surfaces. Land disturbing activities
9 include, but are not limited to, clearing, filling, excavation and grading. Land disturbing
10 activities do not include agricultural plowing and tilling exempt from stormwater regulations
11 pursuant to SCC 30.63A.200. Compaction that is associated with stabilization of structures
12 and road construction also is a land disturbing activity. Vegetation and drainage facility
13 maintenance practices are not land disturbing activities, provided that the maintenance is
14 performed according to standards adopted by Snohomish County. Landscape maintenance
15 and gardening are not land disturbing activities.

16
17 Section 30. Snohomish County Code Section 30.91M.011, last amended by Amended
18 Ordinance No. 15-103 on January 11, 2016, is amended to read:

19
20 **30.91M.011 Maintenance.**

21
22 "Maintenance" means activities conducted on currently serviceable structures, facilities and
23 equipment that involve no expansion or use beyond that previously existing and result in no
24 significant adverse hydrologic impact. It includes those usual activities taken to prevent a
25 decline, lapse or cessation in the use of structures and systems. Those usual activities may
26 include replacement of dysfunctional facilities, including cases where any permit requires
27 replacing an existing structure with a different type structure, as long as the functioning
28 characteristics of the original structure are not changed. ~~Maintenance does not include an~~
29 ~~expansion in physical dimension, capacity or use.~~

30
31 *This definition applies to ((~~chapters~~)) "Drainage" regulations in chapter 30.63A SCC and
32 "Land disturbing activity" regulations in chapter 30.63B SCC.*

33
34 Section 31. Snohomish County Code Section 30.91S.330, last amended by Amended
35 Ordinance No. 19-020 on July 3, 2019, is amended to read:

36
37 **30.91S.330 Single-family residence.**

38 "Single-family residence" means a detached dwelling designed for and occupied by one
39 family and includes normal appurtenances thereto within a contiguous ownership.

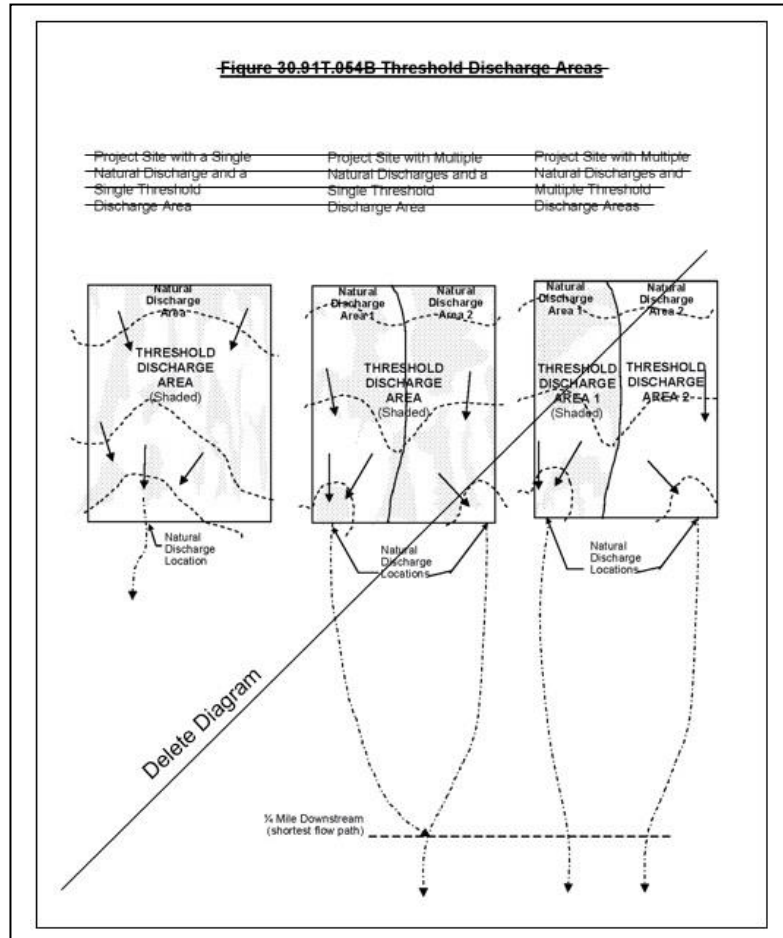
40 *This definition applies only to "Shoreline" regulations in chapters 30.44 and 30.67 SCC, and*
41 *"Drainage" regulations in chapter 30.63A SCC.*

42
43 Section 32. Snohomish County Code Section 30.91T.054B, last amended by Amended
44 Ordinance No. 15-103 on January 11, 2016, is amended to read:

45
46 **30.91T.054B Threshold discharge area.**

47
48 "Threshold discharge area (TDA)" means an ((~~on-site~~)) area within a project site draining to a
49 single natural discharge location or multiple natural discharge locations that combine within
50 one-quarter mile downstream as determined by the shortest flow path. ((~~The examples in~~

1 Figure 30.91T.054B illustrate this definition)) (Refer to diagrams in Drainage Manual, Volume
2 I, Glossary).
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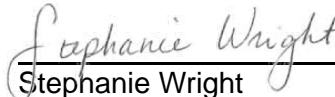
36 Section 33. Effective date. This ordinance shall become effective July 1, 2021.

37
38 Section 34. Severability. If any section, sentence, clause or phrase of this ordinance is held to
39 be invalid or unconstitutional by the Growth Management Hearings Board, or a court of
40 competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or
41 constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided,
42 however, that if any section, sentence, clause or phrase of this ordinance is held to be invalid by
43 the Growth Management Hearings Board or court of competent jurisdiction, then the section,
44 sentence, clause or phrase in effect prior to the effective date of this ordinance shall be in full
45 force and effect for that individual section, sentence, clause, or phrase as if this ordinance had
46 never been adopted.
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PASSED this 16th day of June, 2021.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington




Stephanie Wright
Chairperson

ATTEST:



Debbie Eco, CMC
Clerk of the Council

- APPROVED
- EMERGENCY
- VETOED



County Executive

Date: June 16, 2021

ATTEST:



Approved as to form:

Deputy Prosecuting Attorney



STATE OF WASHINGTON
DEPARTMENT OF COMMERCE

1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

06/23/2021

Ms. Debbie Eco
Clerk of the Council
Snohomish County
3000 Rockefeller Ave.
Everett, WA 98201

Sent Via Electronic Mail

Re: Snohomish County--2021-S-2823--Notice of Final Adoption

Dear Ms. Eco:

Thank you for sending the Washington State Department of Commerce the Notice of Final Adoption as required under [RCW 36.70A.106](#). We received your submittal with the following description.

Adopted Ordinance 21-025 relating to regulation of stormwater; amending Chapters 7.53, 7.54, 30.63A, 30.63B and subtitle 30.91 of the county code in response to the county's 2019 NPDES phase 1 permit.

We received your submittal on 06/23/2021 and processed it with the Submittal ID 2021-S-2823. Please keep this letter as documentation that you have met this procedural requirement.

If you have any questions, please contact Growth Management Services at reviewteam@commerce.wa.gov, or call Kirsten Larsen, (360) 280-0320.

Sincerely,

Review Team
Growth Management Services

Affidavit of Publication

State of Washington }
County of Snohomish } ss

SNOHOMISH COUNTY COUNCIL
RECEIVED TIME

JUL 12 2021

CC'D TO CF
JLM DIST 1 GOT
JDG DIST 2 DLE
YSW DIST 3 ALC
HCB DIST 4 ELL
NAG DIST 5 CMF

Dicy Sheppard being first duly sworn, upon oath deposes and says: that he/she is the legal representative of the Everett Daily Herald a daily newspaper. The said newspaper is a legal newspaper by order of the superior court in the county in which it is published and is now and has been for more than six months prior to the date of the first publication of the Notice hereinafter referred to, published in the English language continually as a daily newspaper in Snohomish County, Washington and is and always has been printed in whole or part in the Everett Daily Herald and is of general circulation in said County, and is a legal newspaper, in accordance with the Chapter 99 of the Laws of 1921, as amended by Chapter 213, Laws of 1941, and approved as a legal newspaper by order of the Superior Court of Snohomish County, State of Washington, by order dated June 16, 1941, and that the annexed is a true copy of EDH931401 ORDINANCE 21-025 as it was published in the regular and entire issue of said paper and not as a supplement form thereof for a period of 1 issue(s), such publication commencing on 06/30/2021 and ending on 06/30/2021 and that said newspaper was regularly distributed to its subscribers during all of said period.

The amount of the fee for such publication is \$211.20.

[Signature of Dicy Sheppard]

Subscribed and sworn before me on this 2nd day of July, 2021.

[Signature of Linda Phillips]



Notary Public in and for the State of Washington.
Snohomish County Planning | 14107010
DEBBIE ECO

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington
NOTICE OF ENACTMENT

NOTICE IS HEREBY GIVEN, that on June 16, 2021, the Snohomish County Council adopted Amended Ordinance No. 21-025, which shall be effective July 1, 2021. A summary of the amended ordinance is as follows:

AMENDED ORDINANCE NO. 21-025

Sections 1 and 2. Adopt recitals, findings, conclusions, and state that the Snohomish County Council bases its decision on the entire record.

Section 3. Amends SCC 7.53.120 to update references to the drainage manual.

Section 4 through 7. Amends sections of chapter 7.54 SCC to update references to the drainage manual and to the 2019 Phase I Permit.

Section 8. Adds a new section SCC 30.63A.025 to link the applicable drainage requirements based on when a project has "started construction," as required by the 2019 Phase I Permit.

Section 9. Amends SCC 30.63A.200 to correct a missing reference in an exemption for utility work; remove an exemption that conflicts with the threshold requirements in SCC 30.63A.300 and 30.63A.310; add language encouraging implementation of best management practices for oil and gas field operations and activities; and clarify the extent of exempt pavement preservation activities.

Section 10. Amends SCC 30.63A.210 to update code citations for drainage easements and stormwater on-site best management practices.

Section 11. Amends SCC 30.63A.310 to: (1) clarify applicable requirements in part 700 of chapter 30.63A SCC; (2) specify that minimum requirements 5, 6, 7 and 8 may be satisfied by providing flow control or treatment capacity for an area of equivalent flow and pollution characteristics, and where applicable guidance for equivalent facilities using in-basin transfers contained in the 2019 Ecology Stormwater Management Manual for Western Washington must be used; and (3) add definitions for "commercial project" and "industrial project" and revise the valuation threshold criteria for commercial or industrial projects based on the project site instead of the full site.

Section 12. Amends SCC 30.63A.400 to clarify that stormwater site plans should consider retention of native vegetation and minimization of new impervious surface, and to renumber subsection 2 for clarity.

Section 13. Amends SCC 30.63A.450 to clarify seasonal work limits, add exemptions for maintenance and repair of erosion and sediment control BMPs and routine maintenance of public facilities or existing utility structures that do not impact the soil; and allow the county to modify seasonal limitations on site disturbance based on information provided by the applicant or local weather conditions.

Section 14. Amends SCC 30.63A.520 to update citations to the correct volumes of the drainage manual for the appropriate energy dissipation for outfalls.

Section 15. Amends SCC 30.63A.570 to require that each threshold discharge area (TDA) within a project must be reviewed to determine the level of wetland protection that must be applied using Volume I Appendix I-D of the drainage manual.

Section 16. Amends SCC 30.63A.575 to reorganize and renumber the section for improved clarity and to add reference to new Volume VI of the drainage manual.

Section 17. Amends SCC 30.63A.580 to highlight that LID BMPs are included in the list of stormwater facilities for assigning inspection and maintenance responsibilities in the county right-of-way after construction acceptance.

Section 18. Amends SCC 30.63A.590 to add an exemption from easement recording requirements for residential development on large rural properties where critical areas and buffers are not disturbed by the development activity and where the project site does not drain to the existing or planned municipal separate storm sewer system, and assigns maintenance responsibility to the

property owner.

Section 19. Amends SCC 30.63A.700 clarify that the provisions apply to pavement maintenance, not just roads, and identifies which pavement maintenance practices are considered to be replaced hard surfaces, new hard surfaces, or new impervious surfaces for the purpose of applying the thresholds that trigger the applicable minimum requirements.

Section 20. Amends SCC 30.63A.825 to delete as duplicative subsection (3) concerning land disturbing activity site plans and seasonal work limitations that are addressed elsewhere in the land disturbing activity code in chapter 30.63B SCC.

Section 21. Amends SCC 30.63B.050 to highlight LID principles and techniques to be considered in the site planning process.

Section 22. Adds a new section SCC 30.63B.055 to cross reference to the seasonal work limitations in chapter 30.63A SCC.

Section 23. Adds a new section SCC 30.63B.065 to clarify that compliance with the "started construction" requirements may require revisions to land disturbing activity permits to comply with updated drainage requirements required by the 2019 Phase I Permit.

Section 24. Amends land disturbing activity (LDA) permit exemptions in SCC 30.63B.070 to: (1) clarify that alternative requirements for stormwater pollution prevention plans in SCC 30.63A.810 may also apply to activities exempt from a LDA permit; (2) clarify an existing exemption from a LDA permit for certain development activities performed by a utility; (3) add an exemption from a LDA permit for certain minor development activities performed by a utility provider in an improved right-of-way or an improved utility corridor where there is overlap with a critical area buffer provided certain conditions are met; (4) add an exemption from a LDA permit for utility pole replacement performed by a utility provider in an improved right-of-way or an improved utility corridor where there is overlap with low scoring smaller wetlands provided certain conditions are met; (5) encourage implementation of best management practices for LDA permit exempt oil and gas field operations and activities; and (6) clarify that road maintenance LDA permit exemptions also apply to some pavement maintenance and preservation activities.

Section 25. Amends the definition in SCC 30.91A.250 "appurtenance" to expand the applicability of the existing definition as necessary to implement the proposed addition to SCC 30.63A.590(10).

Section 26. Amends the definition in SCC 30.911.012 "improved road right-of-way" to expand the applicability of the existing definition as necessary to implement the proposed exemption in SCC 30.63B.070(3).

Section 27. Add a new definition in chapter 30.911 SCC "improved utility corridor" to mean "that portion of a utility corridor that was altered to construct or install linear utility distribution or collection systems" as necessary to implement the proposed exemption in SCC 30.63B.070(3).

Section 28. Amends the definition in SCC 30.91L.025 "land disturbing activity" to clarify that landscape maintenance and gardening are not considered to be land disturbing activities.

Section 29. Amends the definition in SCC 30.91M.011 "maintenance" to acknowledge that maintenance activities involving replacement may result in an expansion of a facility.

Section 30. Amends the definition in SCC 30.91S.330 "single-family residence" to expand the applicability of the existing definition as necessary to implement the proposed addition to SCC 30.63A.590(10).

Section 31. Amends the definition in SCC 30.91T.054B "threshold discharge area (TDA)" to replace the phrase "on site area" with "area within a project site" describing a TDA and delete the existing diagram and direct the reader to a new TDA diagram in the drainage manual.

Section 32. Contains an effective date of July 1, 2021, as required by the 2019 Phase I Permit.

Section 33. Contains a standard severability clause.

Where to Get Copies of the Amended Ordinance: Copies of the full ordinance and other documentation are available upon request by calling the Snohomish County Council Office at (425) 388-3494, 1-(800) 562-4367x3494, TDD (425) 877-8339 or by e-mailing contact council@snoco.org.

While the Council office is closed due to the emergency response to COVID-19, copies will not be available for pickup until the office reopens.

Website Access: This ordinance can be accessed through the Council website at:

<http://www.snohomishcountywa.gov/2134/County-Hearings-Calendar>.

DATED this 22nd day of June, 2021
/s/ Stephanie Wright
Council Chair

ATTEST:
/s/ Debbie Eco, CMC
Clerk of the Council
107010

Published: June 30, 2021.

EDH931401

Everett Daily Herald

Affidavit of Publication

SNOHOMISH COUNTY COUNCIL

RECEIVED _____ TIME _____

State of Washington }
County of Snohomish } ss

JUL 12 2021

Dicy Sheppard being first duly sworn, upon oath deposes and says: that he/she is the legal representative of the Everett Daily Herald a daily newspaper. The said newspaper is a legal newspaper by order of the superior court in the county in which it is published and is now and has been for more than six months prior to the date of the first publication of the Notice hereinafter referred to, published in the English language continually as a daily newspaper in Snohomish County, Washington and is and always has been printed in whole or part in the Everett Daily Herald and is of general circulation in said County, and is a legal newspaper, in accordance with the Chapter 99 of the Laws of 1921, as amended by Chapter 213, Laws of 1941, and approved as a legal newspaper by order of the Superior Court of Snohomish County, State of Washington, by order dated June 16, 1941, and that the annexed is a true copy of EDH931404 NOA ORD 21-025 as it was published in the regular and entire issue of said paper and not as a supplement form thereof for a period of 1 issue(s), such publication commencing on 06/30/2021 and ending on 06/30/2021 and that said newspaper was regularly distributed to its subscribers during all of said period.

CC'D TO	CF	
JLM	DIST 1	GOT
JDG	DIST 2	DLE
YSW	DIST 3	ALC
HCB	DIST 4	ELL
NAG	DIST 5	CMF

The amount of the fee for such publication is \$34.32.

[Signature]

Subscribed and sworn before me on this

2nd day of July,
2021.



[Signature]

Notary Public in and for the State of Washington.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

NOTICE OF ACTION

NOTICE IS HEREBY GIVEN under the Growth Management Act, RCW 36.70A.290 that the Snohomish County Council took the action described in (1) below on June 16, 2021.

1. Description of agency action: Approval of Amended Ordinance No. 21-025.
2. Description of proposal: RELATING TO REGULATION OF STORMWATER; AMENDING CHAPTERS 7.53, 7.54, 30.63A, 30.63B AND SUBTITLE 30.91 OF THE SNOHOMISH COUNTY CODE (SCC) IN RESPONSE TO THE COUNTY'S 2019 NPDES PHASE I PERMIT
3. Documentation is available electronically upon request by calling the Snohomish County Council Office at (425) 388-3494, 1-800-562-4367 x3494, TDD 1-800-877-8339 or e-mailing to Contact.Council@snoco.org. While the Council office is closed due to the emergency response to COVID-19, copies will not be available for pickup until the office reopens.
4. Name of agency giving notice: Snohomish County Council
5. This notice is filed by: Debbie Eco
Clerk of the Council

Date: June 22, 2021
107010
Published: June 30, 2021.

EDH931404