

Approved: 4/12/2023

Effective: 4/22/2023

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

ORDINANCE NO. 23-019

AMENDING TITLE 25 OF THE SNOHOMISH COUNTY CODE RELATING TO STORM
AND SURFACE WATER MANAGEMENT

WHEREAS, as authorized by chapter 36.89 RCW, Title 25 of the Snohomish County Code (SCC) imposes storm and surface water management service charges (hereinafter "Service Charges") on real property located within the unincorporated area of Snohomish County and areas annexed to cities since 2009; and

WHEREAS, pursuant to RCW 36.89.065, the County may, by resolution or ordinance, adopt all or any part of the alternative interest rate, lien, and foreclosure procedures as set forth in RCW 36.89.092 through 36.89.094 or 36.94.150, or chapters 84.56, 84.60, and 84.64 RCW for purposes of collection of delinquent Service Charges; and

WHEREAS, on May 12, 2021 Engrossed Substitute House Bill 1410 was signed into law by the Governor amending certain provisions of RCW 84.56 related to interest and penalty charges for delinquent property tax payments; and

WHEREAS, the County has adopted by ordinance the alternative interest rate, lien and foreclosure procedures set forth in chapters 84.56, 84.60, and 84.64 RCW as more fully set forth in SCC 25.20.120; and

WHEREAS, RCW 84.56.240 provides a process for the County to cancel certain uncollectible taxes as the legislative authority of the county is satisfied cannot be collected which process is adopted for cancellation of those delinquent service charge accounts deemed uncollectable as provided for herein; and

WHEREAS, pursuit of collection of delinquent Service Charges against certain real property is not in the public interest either due to the cost of collection exceeding the value of the property subject to foreclosure where said property has no independent value due to restrictions on use or other limitations arising under conditions of subdivision or other development approval; and/or where foreclosure of that lien created pursuant to Ch. 36.89 RCW would result in liabilities or other obligations being assumed by the County by virtue of acquisition of such real property rendering foreclosure unadvisable such as property consisting primarily of drainage facilities where ownership of the property would result in the County assuming the obligation to repair and maintain said facilities, or site conditions such as environmental contamination or other defects which would give rise to liability on the part of the County to remediate or abate such conditions if acquired (hereinafter collectively referred to as "Uncollectible Accounts"); and

1 WHEREAS, SCC 25.20.120 governing delinquent service charges contains no
2 provision governing the disposition of delinquent service charges on Uncollectible
3 Accounts other than foreclosure; and
4

5 WHEREAS, foreclosure of some Uncollectible Accounts may not be in the public
6 interest due to lack of economic value of the properties and liability the public may incur
7 upon assuming ownership of the properties at issue as set forth above; and
8

9 WHEREAS, the County Council desires to amend authority under Title 25 SCC
10 to allow certain Uncollectible Accounts which are delinquent to be cancelled; and
11

12 WHEREAS, the majority of Surface Water Management utility charges are billed
13 on tax statements and due at the same time as property taxes; and
14

15 WHEREAS, during the recent Covid 19 pandemic a state of emergency was
16 declared and the due date for payment of taxes was extended; and
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18 WHEREAS, the potential for future emergency declarations exists requiring
19 amendment of SCC 25.20.090(3) to allow the due date for Surface Water Management
20 utility charges to be extended in concert with the due date for property taxes; and
21

22 WHEREAS, SCC 25.20.080(2) provides for a credit (reduction in rate category)
23 for property containing an aquatic system which credit in its inception was based on the
24 presumption that stormwater may discharge to such natural aquatic system and which
25 discharge is now contrary to other environmental regulations and efforts of the county
26 warranting repeal of said credit;
27

28 WHEREAS, on April 12, 2023, the County Council held a public hearing after
29 proper notice and considered public comment and the entire record related to the code
30 amendments contained in this ordinance.
31

32 NOW, THEREFORE, BE IT ORDAINED:
33

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

36 Section 2 Snohomish County Code Section 25.10.080, last amended by
37 Amended Ordinance 15-069 on November 16, 2015 is amended to read:
38

39 **25.10.080 Farm.**

40 Property assessed and taxed by the county as farm or agricultural use. For purposes of
41 that rate structure set forth in SCC Ch. 25.20 SCC, the definition of Farm shall include
42 those other uses covered by the County's NPDES permit which are subject to additional
43 Best Management Practices (BMPs) for bacteria (e.g. animal handling facilities and
44 commercial composting).
45

1 Section 3. Snohomish County Code Section 25.10.180, last amended by
2 Amended Ordinance 15-069 on November 16, 2015 is amended to read:

3
4 **25.10.180 Ordinary residential improvement.**

5
6 Those structures and facilities that are commonly found with, and are incidental to, the
7 development and use of a single-family residence including, but not limited to, garages,
8 decks, driveways and serving utility systems. Properties containing only ordinary
9 residential improvement shall be charged the single family rate.

10
11 Section 4. Snohomish County Code Section 25.20.020, last amended by
12 Amended Ordinance No. 19-074 on November 12, 2019, is amended to read:

13 **25.20.020 Rate structure for the surface water management utility district.**

14 (1) The director shall assign all developed real property located in the surface water
15 management utility district to service charge rate categories according to the land use
16 classification and the degree of impervious surface coverage of the real property. The
17 "Index of Land Use Classifications and Rate Categories" dated January 8, 2002, or any
18 revision thereafter compiled by the director, is available in the department of ((public
19 works))conservation and natural resources and incorporated by this reference. When
20 assigning real property to appropriate service charge rate categories, if portions of any
21 tax parcel or legal lot have been placed into separate taxation categories by the county
22 assessor, the director shall treat each of those separate portions of the tax parcel or
23 legal lot as separate properties and assign an appropriate service charge rate category
24 to each. When assigning the real property to appropriate service charge rate categories,
25 if the property exhibits mixed use, the director shall assign the rate category based on
26 the use associated with the majority of the impervious surface area on the real property
27 or portion thereof.

28 (2) Except as provided in SCC 25.20.070, SCC 25.20.080, and SCC 25.20.100, for
29 the period beginning January 1, 2020, and ending December 31, 2020, developed real
30 property located in surface water management utility district areas shall be subject to
31 annual service charges as follows:

32
33 **Table 25.20.020(2)(a)**

34 **Annual Service Charge for Residential and Farm**

Rate Category	Impervious Surface Coverage	Annual Service Charge
Single Family Residential	N/A	\$122.00 per dwelling unit
Condominium	N/A	\$109.80 per dwelling unit
Farm	N/A	\$122.00 per parcel

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Table 25.20.020(2)(b)

Annual Service Charge for Commercial, Non-residential and Other Uses

Rate Category	Impervious Surface Coverage	Annual Service Charge
Exempt	Less than 1%	\$0.00
Very Light	1% to 19%	\$36.59 per quarter acre
Light	20% to 39%	\$122.00 per quarter acre
Moderate	40% to 59%	203.27 per quarter acre
Heavy	60% to 79%	\$276.49 per quarter acre
Very Heavy	80% to 100%	\$365.96 per quarter acre

4
5 (3) Except as provided in SCC 25.20.070, SCC 25.20.080, and SCC 25.20.100, for
6 the period beginning January 1, 2021, and annually thereafter until the County Council
7 establishes different service charges, the annual service charge shall be the annual
8 service charge for the previous year increased by 2.8%. On or before the end of the
9 second quarter of 2024 and at least every five years thereafter, the director shall
10 provide to the County Council a recommendation for future annual service charges with
11 supporting analyses and documentation.

12
13 Section 5. Snohomish County Code Section 25.20.040, last amended by
14 Amended Ordinance No. 17-020 on July 5, 2017, is amended to read:

15 **25.20.040 Rate structure for bond debt service in areas annexed by cities and**
16 **towns.**

17 (1) The director shall assign all developed real property located in areas annexed by
18 cities and towns to service charge rate categories according to the land use
19 classification and the degree of impervious surface coverage of the real property. The
20 "Index of Land Use Classifications and Rate Categories" dated January 8, 2002, or any
21 revision thereafter compiled by the director, is available in the department of ((public
22 works))conservation and natural resources and incorporated by this reference. When
23 assigning real property to appropriate service charge rate categories, if portions of any
24 tax parcel or legal lot have been placed into separate taxation categories by the county
25 assessor, the director shall treat each of those separate portions of the tax parcel or
26 legal lot as separate properties and assign an appropriate service charge rate category
27 to each. When assigning the real property to appropriate service charge rate categories,
28 if the property exhibits mixed use, the director shall assign the rate category based on
29 the use associated with the majority of the impervious surface area on the real property.

30 (2) Except as provided in SCC 25.20.070(1) through (3) and SCC 25.20.100, all
31 developed real property in all areas annexed by cities and towns shall be subject to
32 annual service charges for bond debt payment under RCW 36.89.120 as follows:

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Table 25.20.040(2)

Annual Service Charge for Bond Debt Service

Rate Category	Rate
Single Family Residential	\$14.97 per dwelling unit
Condominium	\$13.48 per dwelling unit
Farm	\$14.97 per parcel
Exempt	No charge
Very Light	\$4.49 per quarter acre
Light	\$14.97 per quarter acre
Moderate	\$24.97 per quarter acre
Heavy	\$33.96 per quarter acre
Very Heavy	\$44.92 per quarter acre

5
6 (3) A reasonable administrative fee in an amount sufficient to reimburse the county
7 for its actual, reasonable costs of performing administrative functions related to the
8 service charges shall be added to the amount charged.

9 (4) Rights-of-way owned by the state shall be subject to annual service charges to
10 the extent permitted by law.

11 (5) Service charges collected under this section shall be used solely for purposes
12 permitted by RCW 36.89.120.

13
14 Section 6. Snohomish County Code Section 25.20.080, last amended by
15 Amended Ordinance 22-042 on November 23, 2022 is amended to read:

16 **25.20.080 Credits.**

17 Real property located in the surface water management utility district may be eligible
18 for reductions in service charges as described below:

19 (1) For real property having a rate category of light, moderate, heavy, or very heavy,
20 the rate category shall be reduced one category if the storm water runoff discharges into
21 an onsite storm and surface water management facility built to comply with the
22 detention and water quality regulations and standards set forth in chapter 30.63A SCC,
23 and said facility is adequately operated and maintained by the property owner.

24 ~~((2) For real property having a rate category of light, moderate, heavy, or very heavy,~~
25 ~~the rate category shall be reduced one category if the site contains wholly or partly, an~~
26 ~~aquatic system that complies with the detention and water quality regulations and~~
27 ~~standards set forth in chapter 30.63A SCC, and said aquatic system is maintained in its~~
28 ~~natural state by the property owner.))~~

29 ((3)) For real property located in the surface water management utility district, if all
30 or any portion of the real property is regulated by a valid and active permit issued by the
31 Washington State Department of Ecology or the federal Environmental Protection
32 Agency pursuant to the National Pollutant Discharge Elimination System (NPDES)

1 permit program established by the federal Clean Water Act, codified at 33 U.S.C.
2 § 1251 et seq., then the portion of the annual service charges imposed pursuant to this
3 chapter ~~SCC 25.20.020, SCC 25.20.050, SCC 25.20.053, SCC 25.20.055, and SCC~~
4 ~~25.20.065~~ under authority of chapter 36.89 RCW shall be reduced by 35%. This rate
5 adjustment shall not be available to real property that is a right-of-way owned by a
6 municipality, the county, or the state subject to the rates provided in SCC 25.20.070(2)
7 or SCC 25.20.070(3). The property owner requesting a rate adjustment under this
8 subsection (3) shall provide the director with sufficient documentation to verify that the
9 real property at issue is subject to a valid NPDES permit. The property owner shall also
10 provide the director with written notice promptly upon the expiration of or other
11 termination of coverage under the NPDES permit.

12 ~~(3)((4))~~ Public and private schools that provide water quality or watershed instruction
13 approved by the director shall be given credit equal to the dollar value of the instruction
14 offered. This credit shall be applied against the annual service charge billed under the
15 authority of chapter 36.89 RCW. This annual credit shall not exceed the annual service
16 charge authorized by chapter 36.89 RCW.

17 ~~(4)((5))~~ Pursuant to RCW 85.38.160, real property within diking, drainage, or flood
18 control districts shall be given a credit equal to the dollar value of the annual special
19 district assessment. This credit shall be applied against the annual service charge billed
20 under the authority of chapter 36.89 RCW. This annual credit shall not exceed the
21 annual service charge authorized by chapter 36.89 RCW.

22 ~~((6) Except for automatic credits granted pursuant to subsections (3) and (5) above,~~
23 ~~credits granted under this section shall be subject to renewal every two years in~~
24 ~~accordance with administrative procedures developed by the director pursuant to SCC~~
25 ~~25.20.150.)~~

26
27 Section 7. Snohomish County Code Section 25.05.090, last amended by
28 Amended Ordinance No. 22-042 on November 23, 2022 is amended to read:

29 **25.20.090 Billing.**

30 (1) All real property subject to service charges under this chapter shall be assessed
31 annually on January 1st based upon the rate categories and property characteristics
32 then applicable to the real property and at the rates set forth herein.

33 (2) To minimize administrative costs, where feasible, the billing statement for service
34 charges imposed under this title shall be included on the annual property tax statement
35 for the real property at issue. To further reduce administrative costs, the director may
36 use alternative billing systems for the purposes of billing local, state and federal
37 government agencies. The director may elect to use alternative billing methods for the
38 purpose of billing other property owners with real property in the surface water
39 management utility district or areas annexed by cities and towns where alternative
40 methods provide for greater administrative convenience.

41 (3) All service charges billed on the annual property tax statement shall be due and
42 payable, in accordance with RCW 84.56.020 as currently adopted or hereinafter
43 amended. Service charges billed under alternative methods shall be due within the
44 calendar year in which they are billed on such date as set by the director.

1 (4) If a payment is received in conjunction with a combined property tax and service
2 charge, and the payment is less than the sum of the total property tax plus the total
3 service charge, or less than the sum of one-half of the property tax plus one-half of the
4 service charge, and unless otherwise specified by the owner of the real property at
5 issue, the payment shall be applied first to the annual property tax due for the real
6 property, pursuant to the provisions of chapter 84.56 RCW, and any remaining amount
7 to the service charge due for the real property.
8

9 Section 8. Snohomish County Code Section 25.20.120, last amended by
10 Amended Ordinance 15-069 on November 16, 2015 is amended to read:

11 **25.20.120 Delinquent service charges.**

12 (1) Service charges imposed by this title that remain unpaid in whole or in part, when
13 due pursuant to SCC 25.20.090, shall be considered delinquent.

14 (2) (a) Except as provided in (c) of this subsection, delinquent service charges
15 under this section are subject to interest as provided in this subsection computed on a
16 monthly basis on the amount of service charges delinquent from the date of delinquency
17 until paid. Interest must be calculated at the rate in effect at the time of the service
18 charge payment, regardless of when the service charges were first delinquent.

19 (i) Until December 31, 2022, the interest rate is 12 percent per annum for
20 all nonresidential real property and residential real property.

21 (ii) Beginning January 1, 2023, interest rates are as follows:

22 (A) Twelve percent per annum for all nonresidential real property and for
23 residential real property with greater than four units per taxable parcel; or

24 (B) Nine percent per annum for all residential real property with four or
25 fewer units per taxable parcel, including manufactured/mobile homes as defined
26 in RCW 59.20.030.

27 (b) (i) Penalties on delinquent service charges under this section may not be
28 assessed beginning January 1, 2022 through December 31, 2022.

29 (ii) Beginning January 1, 2023, delinquent service charges under this
30 section are subject to penalties for nonresidential real property and for residential
31 real property with greater than four units per taxable parcel as follows:

32 (A) A penalty of three percent of the amount of service charge
33 delinquent is assessed on the service charge delinquent on June 1st of
34 the year in which the service charge is due.

35 (B) An additional penalty of eight percent is assessed on the
36 delinquent service charge amount on December 1st of the year in which
37 the service charge is due.

38 (iii) Penalties may not be assessed on residential real property with four or
39 fewer units per taxable parcel, including manufactured/mobile homes as defined
40 in RCW 59.20.030.

41 (c) (i) If a ratepayer is successfully participating in a payment agreement or a
42 partial payment program, the county treasurer director may not assess additional
43 penalties on delinquent service charges that are included within the payment
44 agreement. Interest and penalties that have been assessed prior to the payment
45 agreement remain due and payable as provided in the payment agreement.

1 (ii) The following remain due and payable as provided in any payment
2 agreement:

3 (A) Interest that has been assessed prior to the payment
4 agreement; and

5 (B) Penalties assessed prior to January 1, 2022 that have been
6 assessed prior to the payment agreement.

7 ~~((Service charges, or any portions thereof, which become delinquent under~~
8 ~~subsection (1) above shall bear interest at the rate 12 percent per annum computed on~~
9 ~~a monthly basis from the date of delinquency until paid, as provided by RCW~~
10 ~~84.56.020(5).~~

11 ~~(3) As provided in RCW 84.56.020(5), penalties shall be imposed upon service~~
12 ~~charges, or portions thereof, that become delinquent under subsection (1) above as~~
13 ~~follows:~~

14 ~~(a) A penalty of 3 percent of the amount delinquent shall be imposed on any~~
15 ~~service charges, or portions thereof, that are delinquent on June 1st of the year in which~~
16 ~~the service charges are due.~~

17 ~~(b) An additional penalty of 8 percent of the amount delinquent shall be imposed~~
18 ~~on any service charges, or portions thereof, that are delinquent on December 1st of the~~
19 ~~year in which the service charges are due.))~~

20 ~~((4))~~(3) As provided by RCW 84.60.010, service charges, or portions thereof, that
21 become delinquent under subsection (1) above, including interest and penalties shall
22 constitute a lien against the real property upon which they are imposed. As provided by
23 RCW 84.60.020, such lien shall attach on the first day of January in the year in which
24 the service charges are assessed and shall continue until the service charges, including
25 any interest and penalties, are paid in full. The county's lien for delinquent service
26 charges shall be superior to all other liens and encumbrances except general taxes and
27 local and special assessments.

28 ~~((5))~~(4) As provided in RCW 84.64.050, after the expiration of three years from the
29 date on which service charges, or portions thereof, become delinquent under
30 subsection (1) above, the county treasurer shall foreclose the liens arising pursuant to
31 this section in the county's annual tax foreclosure action under chapter 84.64 RCW
32 unless said delinquent account has been declared to be an Uncollectible Account as
33 provided for in section 6 below. Costs of collection and foreclosure shall be included in
34 the amount of the lien. Approval by the county council shall be required prior to any
35 foreclosure action taken by the county treasurer which involves only delinquent charges
36 under subsection (1) above. The department shall provide such approval to the county
37 treasurer by February 1st of the foreclosure year. The department shall reimburse the
38 county treasurer for the department's share of all costs incurred from collection and/or
39 foreclosure under this section.

40 ~~((6))~~(5) When the county treasurer does not take foreclosure action pursuant to
41 subsection ~~((5))~~(4) above, the director shall take any and all lawful means to collect
42 the delinquent service charge, or portions thereof, that become delinquent under
43 subsection (1) above. The amount collected shall include all accrued interest and
44 penalties, as well as the costs of collection.

45 (6) If during the course of lawful collection action for the delinquent service charges,
46 or portions thereof, that become delinquent under subsection (1) above, the director

1 determines that it is not in the public interest that the lien for collection of said delinquent
2 charges be foreclosed due to lack of economic value of the property subject to
3 foreclosure and/or liability to the public that would arise in the event of acquisition of the
4 property subject to foreclosure, the director may file with the county legislative authority,
5 on or before the first day of February following the year in which such assessments
6 shall remain delinquent for a period of three years, a list of such delinquent accounts
7 together with an affidavit of the director or his designee, stating the reasons why it is not
8 in the public interest that those properties subject to lien for delinquent service charges
9 should be foreclosed. The county legislative authority shall cancel the delinquent
10 charges owing upon those properties as the county legislative authority is satisfied
11 would not be in the public interest to foreclose based either upon the costs of
12 foreclosure exceeding the economic value of the property to be foreclosed and/or said
13 property being subject to certain liabilities or other obligations which may be assumed
14 by the public if foreclosed.

15 (7) Nothing herein shall be deemed to require the county treasurer to foreclose on a
16 lien created hereunder in a manner that is more frequent or inconsistent with other lien
17 foreclosure procedures and the costs related thereto.

18
19 Section 9. Snohomish County Code Section 25.20.130, last amended by
20 Amended Ordinance 15-069 on November 16, 2015 is amended to read:

21 **25.20.130 Waiver of interest, and penalties and payment agreements .**

22 (1) The director may waive interest and penalties on service charges, or portions
23 thereof, which become delinquent under SCC 25.20.120(1) under any of the following
24 conditions:

25 (4a) As provided by RCW 84.56.025.

26 (2b) When the property owner does not receive a service charge billing due to
27 incorrect address information in county records.

28 (3c) As part of a lawful collection action by the director upon consideration of the
29 following criteria:

30 (ai) The property owner's ability to pay;

31 (bii) The ability of the county to collect the delinquency; and

32 (eiii) The cost to the department in collection efforts.

33 (2) The director may enter into payment agreements for collection of service charges
34 which become delinquent under SCC 25.20.120(1) in the same manner as provided for
35 payment agreements for delinquent taxes set forth in RCW 84.56.020(15)(b)(ii) as
36 currently existing or as may be subsequently amended.

37 Section 10. Severability and Savings. If any section, sentence, clause or phrase
38 of this ordinance shall be held to be invalid or unconstitutional by a court of competent
39 jurisdiction, such invalidity or unconstitutionality shall not affect the validity or
40 constitutionality of any other section, sentence, clause or phrase of this ordinance.
41 Provided, however, that if any section, sentence, clause or phrase of this ordinance is
42 held to be invalid or unconstitutional by a court of competent jurisdiction, then the
43 section, sentence, clause or phrase in effect prior to the effective date of this ordinance
44 shall be in full force and effect for that individual section, sentence, clause or phrase as
45 if this ordinance had never been adopted.

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PASSED this 12th day of April, 2023.

ATTEST:

M. Deunlan
Deputy Clerk of the Council

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Jared Mead
Council Chair

APPROVED

EMERGENCY

VETOED

DATE: April 12, 2023

[Signature]
County Executive

ATTEST: *Melissa Geraghty*

Approved as to form only:

[Signature]
Deputy Prosecuting Attorney