

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

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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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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.

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

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

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

- 5. The Drainage Manual will be updated to address the significant changes made to applicable portions of the 2019 NPDES Permit and the 2019 SWMMWW identified in Appendix 10, Part 2 of the 2019 NPDES Permit, as well as additional significant changes identified by the county consistent with special condition S5.C.5.b.iii of the 2019 NPDES Permit. Updates to the Drainage Manual include:
 - a. Text updated throughout to require continuous simulation models that include:
 - i. The ability to directly model BMPs that may be used in LID applications, such as bioretention, permeable pavement, and green roofs;
 - ii. 15-minute time steps;
 - iii. Incorporation of the van Genuchten algorithm to model bioretention;
 - b. Incorporate new requirements consistent with code updates;
 - c. Update requirements for stormwater pollution prevention plans associated with construction general stormwater permits;
 - d. Update requirements associated with soil amendment and concrete washout BMPs;
 - 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 3.H.1 The county shall protect properties and waters from adverse impacts
- 30 by eliminating illicit discharges and sediment transport, and
- 31 regulating stormwater and land disturbing activity to reduce the
- 32 discharges of pollutants and impacts to receiving waters.
- 33 3.H.2 The county shall develop inspection and enforcement procedures to
- 34 prevent water quality degradation.
- 35 3.H.3 The county shall adopt programs, development regulations and
- 36 standards regulating drainage and land disturbing activity that require
- 37 low impact development techniques, where feasible, consistent with
- 38 the Phase I Municipal Stormwater Permit.
- 39 3.H.4 REPEALED BY ORDINANCE 14-070
- 40 3.H.4 REPEALED BY ORDINANCE 14-070
- 41 3.H.4 REPEALED BY ORDINANCE 14-070
- 42 3.H.4 REPEALED BY ORDINANCE 14-070
- 43 3.H.4 REPEALED BY ORDINANCE 14-070
- 44 3.H.4 REPEALED BY ORDINANCE 14-070

1 3.H.5 The county shall adopt comprehensive site planning requirements
2 that minimize land disturbing activity and promote on-site stormwater
3 management on new development and redevelopment project sites.
4

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

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

12 12. These code amendments are consistent with GMA planning goal 10 ("Protect the
13 environment and enhance the state's high quality of life, including air and water
14 quality, and the availability of water") because they will prevent and control
15 pollution of waters of the state consistent with special condition S5.C.5.b of the
16 2019 NPDES Permit.

17 13. These code amendments are consistent with the following Multicounty Planning
18 Policies (MPP) from *Vision 2050* and Countywide Planning Policies (CPP)
19 because they further the protection of natural ecosystems through LID techniques,
20 site planning, and BMP selection, consistent with special condition S5.C.5.b of the
21 2019 NPDES Permit:

22 a. MPP-En-5 – "Locate development in a manner that minimizes impacts to
23 natural features. Promote the use of innovative environmentally sensitive
24 development practices, including design, materials, construction, and on-going
25 maintenance."

26 b. MPP-EN-13 – "Preserve and restore native vegetation and tree canopy,
27 especially where it protects habitat and contributes to overall ecological
28 function."

29 c. MPP-EN-17 – "Maintain and restore natural hydrological functions and water
30 quality within the region's ecosystems and watersheds to recover the health of
31 Puget Sound."

32 d. MPP- En-18 – "Reduce stormwater impacts from transportation and
33 development through watershed planning, redevelopment and retrofit projects,
34 and low-impact development."

35 e. CPP Env-1 – "All jurisdictions shall protect and enhance natural ecosystems
36 through their comprehensive plans, development regulations, capital facilities
37 programs and management practices. Jurisdictions should consider regional
38 and countywide strategies and assessments, as well as best available
39 qualitative and quantitative information, in formulating plans and regulations
40 that are specific to their community."

41 f. CPP PS-6 – "The County and cities should design infrastructure and public
42 services to promote conservation of natural resources."

43 g. CPP PS-10 – "Jurisdictions should encourage the use of low impact
44 development techniques, and renewable and alternative energy sources."

45 C. The County Council makes the following additional specific findings of fact relating to the
46 amendments to chapters 7.53 SCC and 7.54 SCC:

- 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, ~~((or))~~
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.

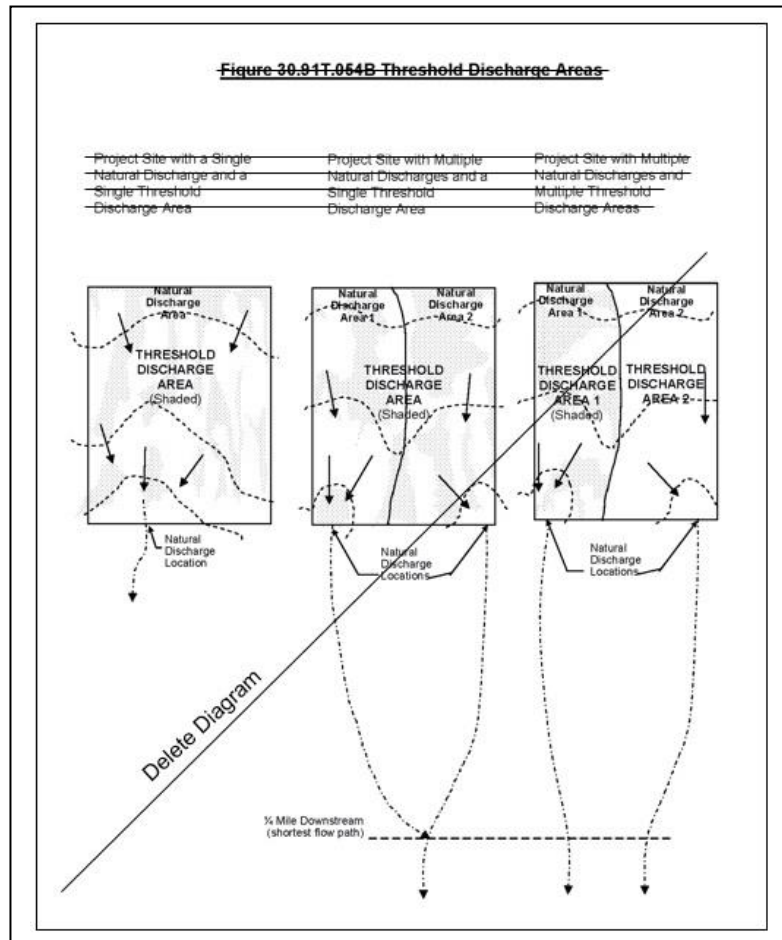
40 *This definition applies only to "Shoreline" regulations in chapters 30.44 and 30.67 SCC, and*
41 *"Drainage" regulations in chapter 30.63A SCC.*

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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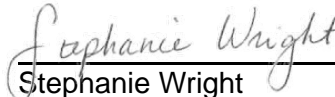
36 Section 33. Effective date. This ordinance shall become effective July 1, 2021.
37

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.
47

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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