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

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

AMENDED ORDINANCE NO. 21-025

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

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

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

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

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

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

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

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

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

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

WHEREAS, Ecology modified and re-issued the county’s NPDES Permit on December 17, 2014, which became effective on January 16, 2015; and
WHEREAS, the County Council adopted Ordinance Nos.15-102 and 15-103 on January 11, 2016, enacting revised development regulations consistent with the 2014 NPDES Permit and the goals and policies of the GMACP GPP; and

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

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

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

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

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

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

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

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

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

WHEREAS, special condition S5.C.5.b.i of the 2019 NPDES Permit requires that the county’s stormwater management regulations comply with the minimum requirements, thresholds, definitions, and adjustment and variance criteria in Appendix 1 Minimum Technical Requirements for New Development and Redevelopment (“Appendix 1”) of the 2019 NPDES Permit, or provide minimum requirements, thresholds and definitions determined by Ecology to provide equal or similar protection of receiving waters and equal or similar levels of pollution control to those required in Appendix 1; and
WHEREAS, special condition S5.C.5.b.ii of the 2019 NPDES Permit requires that the county’s stormwater management regulations include a site planning process, BMP selection and design criteria, BMP infeasibility criteria, LID competing needs criteria, and BMP limitations to implement the minimum requirements of Appendix 1 of the 2019 NPDES Permit. The county may use either the Washington State Department of Ecology’s *2019 Stormwater Management Manual for Western Washington* (“2019 SWMMWW”), or an equivalent manual approved by Ecology to meet this requirement; and

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

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

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

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

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

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

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

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

WHEREAS, Ecology provided written comments on the county’s draft stormwater documents on August 25, 2020; and

WHEREAS, Ecology staff and county staff met to discuss the county’s draft stormwater documents on September 14, 2020; and

WHEREAS, county staff and Ecology staff communicated on several occasions from late-September to mid-November 2020, to resolve issues identified in Ecology’s written comments; and
WHEREAS, Ecology issued a letter to the county on November 19, 2020, making a preliminary approval and determination that the county’s amendments to the code and to the Drainage Manual are equivalent to the required portions of Ecology’s 2019 SWMMWW; and

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

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

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

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

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

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

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

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

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

NOW, THEREFORE, BE IT ORDAINED:
Section 1. The County Council adopts the following findings in support of this ordinance:
A. The foregoing recitals are adopted as findings as though set forth in full herein.
B. The County Council makes the following additional general findings of fact:
1. The county drainage regulations in chapter 30.63A SCC contain the drainage requirements for all of unincorporated Snohomish County and prevent and control pollution of waters of the State of Washington pursuant to special condition S5.C.5.b of the 2019 NPDES Permit.
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

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;
6. A new Volume VI of the Drainage Manual was developed to consolidate maintenance requirements into a single volume making it easier for the user to locate BMP-specific requirements and prepare a maintenance plan for new development.

7. The Drainage Manual will be updated to be equivalent to the 2019 SWMMWW.

8. No updates to the EDDS were needed to address the required significant changes to local programs identified in Appendix 10, Part 2.

9. The county developed a comprehensive public participation program to educate and inform the public about the stormwater regulation update project and this ordinance within the public health guidelines for COVID-19. Public comments have been solicited consistent with the requirements of the GMA and the 2019 NPDES Permit special condition 55.C.4. Project information, updates and draft proposals have been maintained on the NPDES project webpage. Public comments have been solicited from the website and via direct email to interested parties.

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

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

NE Policies

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

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

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

3.H.4 REPEALED BY ORDINANCE 14-070
3.H.5 The county shall adopt comprehensive site planning requirements that minimize land disturbing activity and promote on-site stormwater management on new development and redevelopment project sites.

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

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

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

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

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

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

c. MPP-EN-17 – “Maintain and restore natural hydrological functions and water quality within the region’s ecosystems and watersheds to recover the health of Puget Sound.”

d. MPP- En-18 – “Reduce stormwater impacts from transportation and development through watershed planning, redevelopment and retrofit projects, and low-impact development.”

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

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

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

C. The County Council makes the following additional specific findings of fact relating to the amendments to chapters 7.53 SCC and 7.54 SCC:
1. Amendments update citations to the 2019 NPDES Permit.

D. The County Council makes the following additional specific findings of fact relating to the amendments to chapter 30.63A SCC:

1. A new section SCC 30.63A.025 is added to provide a cross reference to the requirements related to “started construction” located in SCC 30.70.310.
2. Amendments to SCC 30.63A.200 revise a utility exemption to clarify the development activities must comply with minimum requirement 2; remove an exemption that is not consistent with the threshold requirements in SCC 30.63A.300 and 30.63A.310; encourage use of best management practices for oil and gas field operations; and replace the word "road" prism with the word "pavement" prism to clarify the extent of exempt pavement preservation activities.
3. Amendments to SCC 30.63A.210 correct cross references related to drainage easements and maintenance requirements.
4. Amendments to SCC 30.63A.310 update standards for meeting minimum requirements 5, 6, 7 and 8 by providing flow control or treatment capacity for an area of equivalent flow and pollution characteristics; and revise the valuation criteria for commercial and industrial projects subject to minimum requirements 1 through 9.
5. Amendments to SCC 30.63A.400 update requirements for stormwater site plans adding language related to low impact development principles, and restructure the code section to improve readability.
6. Amendments to SCC 30.63A.450 clarify requirements related to the timing of seasonal work limitations and add certain maintenance activities as exempt from seasonal work limitations.
8. Amendments to SCC 30.63A.570 address the review process needed to determine the level of protection required for wetlands under minimum requirement 8 (MR8), and refer the user to the appropriate sections of the Drainage Manual where the technical details regarding MR8 are now located.
10. Amendments to SCC 30.63A.580 clarify that any party who constructs LID BMPs within county right-of-way is responsible for inspection, maintenance and operation of the facilities for the time period specified, and adds LID BMPs to the list of facilities that the county may inspect.
11. Amendments to SCC 30.63A.590 provide an exemption from the requirement to record an easement for large residential lots outside of the Urban Growth Area that do not drain to the MS4.
12. Amendments to SCC 30.63A.700 update terminology to reflect the terms used in the 2019 NPDES Permit, restructure the section to improve clarity, and revise the pavement maintenance and resurfacing activities that are subject to threshold requirements.
13. Amendments to SCC 30.63A.825 remove site plan requirements associated with
land disturbing activities which are already located in the land disturbing activities
code chapter 30.63B SCC.

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

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

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

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

4. Amendments to SCC 30.63B.070 related to exemptions and special conditions for
land disturbing activity (LDA) permits include:
   a. Adding a cross reference to alternate requirements in SCC 30.63A.810
      for small projects.
   b. Adding language to encourage use of BMPs during and after
      construction of oil and gas field activities and operations.
   c. Clarifying that permit exemptions for road maintenance activities include
      pavement maintenance activities.
   d. Adding an exemption from an LDA permit for certain minor development
      activities related to maintenance and repair performed by utility providers
      within an improved right-of-way or an improved utility corridor. This
      proposed permit exemption is subject to specific conditions and criteria
      consistent with the Phase I Permit.

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

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

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

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

4. Amendments are proposed to the definition in SCC 30.91M.011 “maintenance” to
   acknowledge that maintenance activities involving replacement may result in an
   expansion of a facility.
5. Amendments are proposed to the definition in SCC 30.91T.054B “threshold discharge area” (TDA) to replace the existing definition and diagram with a new definition from the 2019 NPDES Permit, and to direct the reader to a new TDA diagram in the Drainage Manual.

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

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

Section 2. The County Council makes the following conclusions:

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

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

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

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

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

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

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

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

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

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

K. The Washington State Attorney General last issued an advisory memorandum, as required by RCW 36.70A.370, in September of 2018 entitled “Advisory Memorandum:
Avoiding Unconstitutional Takings of Private Property" to help local governments avoid the unconstitutional taking of private property. The process outlined in the State Attorney General's 2018 advisory memorandum was used by the County in objectively evaluating the regulatory changes proposed by this ordinance. The proposal does not result in an unconstitutional taking of private property for a public purpose and does not violate substantive due process guarantees.

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

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

7.53.120  Best management practices (BMPs) required.

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

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

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

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

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

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

7.54.070  Definitions.

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

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

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

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

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

(5) "Constructed stormwater control facilities regulated by the county's Phase I NPDES municipal stormwater permit" means those constructed stormwater control facilities that discharge into the county's storm sewer system and are thereby subject to the operation and maintenance program mandated by Special Condition (S5.C.9) of the county's Phase I NPDES municipal stormwater permit.

(6) "Contaminant" means a solid, liquid, or gaseous substance that, if discharged to a drainage facility, natural drainage system, receiving waters or groundwater, will alter the physical, chemical, or biological properties thereof to the extent that the discharge will render the facility, system, or water harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

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

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

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

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

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

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

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

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

(15) "Natural drainage system" means the physical beds and boundaries of receiving waters, including those natural drainage systems that have been altered by human actions.
(16) "Person" means any natural person, corporation, nonprofit corporation, municipal
corporation, government agency, limited liability company, partnership, limited partnership,
limited liability partnership, professional services corporation, or any other legally recognized
entity.

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

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

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

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

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

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

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

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

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

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

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

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

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

7.54.080 Maintenance and repair of constructed stormwater control facilities.

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

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

(3) Inspections required under subsection (1) of this section shall be performed annually.
The director of the department of conservation and natural resources may approve a reduced
inspection frequency for a particular constructed stormwater control facility if the person(s)
Section 6. Snohomish County Code Section 7.54.100, reenacted by Ordinance No. 19-009 on April 10, 2019, is amended to read:

7.54.100 Notice and order to cease violation.

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

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

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

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

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

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

(e) A description of any required corrective action;

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

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

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

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

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

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

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

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

(a) By personal service;

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

(c) If the address of the responsible person(s) is unknown, by posting a copy of the notice and order in a conspicuous place at the site of the violation.
Section 7. Snohomish County Code Section 7.54.110, reenacted by Ordinance No. 19-009 on April 10, 2019, is amended to read:

7.54.110 Warning notice as alternative to notice and order.

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

(2) A warning notice shall include the following information:
   (a) The name(s) of the person(s) determined to be responsible for the apparent violation;
   (b) The address or legal description of the real property on which the apparent violation exists or has occurred;
   (c) A description of the apparent violation, including the specific provision of this chapter, ((ee) Volume V, Chapter 4 or Volume VI of the Drainage Manual which has been violated;
   (d) If applicable, a brief description of any activity which is causing the apparent violation to exist or occur;
   (e) A description of any recommended corrective action;
   (f) A deadline by which corrective action should be completed in order to avoid issuance of a notice and order;
   (g) The signature and written name of the county official issuing the warning notice;
   (h) The contact information for the county’s designated contact person or office to which questions regarding the warning notice may be directed; and
   (i) The date of the warning notice.

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

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

30.63A.025 Compliance with updated stormwater regulations – “Started Construction” requirement.

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

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

30.63A.200 General exemptions.

The following new development and redevelopment activities shall be exempt from all stormwater management requirements of this chapter except as otherwise specified below:
(1) Repair or installation of underground or overhead facilities performed by a utility. For this exemption to apply, the repair or installation shall only replace ground surfaces with in-kind materials or materials with similar runoff characteristics and the development activities shall comply with minimum requirement 2 (SCC 30.63A.445 and 30.63A.450) and 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.

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

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

(4) RESERVED (Development activities that result in less than 2,000 square feet of new, replaced, or new plus replaced hard surfaces, except that such activities shall comply with minimum requirement 2 (SCC 30.63A.445 and 30.63A.450). 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) Forest practice Classes I, II, III and Class IV special nonconversion forest practices regulated by WAC Title 222.

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

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

(8) The following commercial agricultural activities:

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

(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 require less than 500 cubic yards of grading. To qualify under this exemption, 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, or erosion hazard areas, or contain
water on site for retention, infiltration or evaporation and the 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.

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

(10) The construction or maintenance of recreational trails, not including challenge areas,
parking areas, spectator areas, or any other developed or disturbed areas that are not trails,
provided that the following criteria are met:
(a) The trail at issue is on land located in a rural or resource zone;
(b) The trail at issue is located in a public park or a private park, as those terms are
defined in chapter 30.91P SCC;
(c) The area in which the construction or maintenance will be performed does not drain
into the county’s municipal separate storm sewer system, as that term is defined in
chapter 30.91M SCC; and
(d) Design of the trail conforms to:
(i) The standards specified in the United States Forest Service Trail Construction and
Maintenance Notebook and the United States Forest Service Standard Specifications
for Construction and Maintenance of Trails; or
(ii) Such other standards for the design and construction of recreational trails that
provide equivalent or greater environmental protection, provided that such standards
are adopted by rule pursuant to SCC 30.82.010.

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

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

(1) New development or redevelopment activities that result in less than 10,000 square feet
of new, replaced, or new plus replaced hard surfaces where no portion of the project site will
drain, either directly or indirectly, to any existing or planned municipal separate storm sewer
system (MS4), shall be eligible for an exception from certain requirements of this chapter as
described in subsection (2) of this section. All other applicable requirements of this chapter
shall apply, based on the thresholds for the project site. For this exception to apply:
(a) The proposed new development and redevelopment activities must occur outside of all critical areas, together with the buffers of and setbacks from critical areas, except that such activities may occur within floodplains and aquifer recharge areas of low or moderate sensitivity to groundwater contamination; and

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

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

(a) The requirements of SCC 30.63A.525 relating to on-site stormwater management feasibility analysis and on-site stormwater management BMPs described in Vol. I, Section 2.5.5 of the Drainage Manual, with the exception of BMP T5.13 (Post-Construction Soil Quality and Depth), and any requirements pursuant to SCC 30.63A.400 that pertain solely to implementation of SCC 30.63A.525 (except for implementation of BMP T5.13).

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

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

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

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

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

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

30.63A.310 Minimum drainage review thresholds and requirements for redevelopment.

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

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

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

(b) Cause 7,000 square feet or more of land disturbing activity.
(3) Unless an exception under SCC 30.63A.210 applies, redevelopment projects shall comply with minimum requirements 1 through 9 (SCC 30.63A.400 through 30.63A.605) for the new hard surfaces and converted vegetation areas if the redevelopment will:

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

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

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

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

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

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

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

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

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

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

Section 12. Snohomish County Code Section 30.63A.400, last amended by Ordinance No. 15-102 on January 11, 2016, is amended to read:
30.63A.400  Minimum requirement 1: Preparation of a stormwater site plan.

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

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

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

(a) (complies) Complies with this section and volume I, chapter 3 of the Drainage Manual((c));

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

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

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

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

(a) Stormwater site plans that involve engineering calculations;

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

(c) Structural source control BMPs; and

(d) On-site drainage conveyance systems.

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

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

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

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

(3) The SWPPP shall include a narrative and drawings. The narrative shall be a stand-alone document attached to the construction drawings. The standard SWPPP format for narratives is available from the Washington State Department of Ecology. The narrative shall include written explanations describing the pollution prevention decisions made for the project to comply with the SWPPP requirements contained in SCC 30.63A.450 and volume II of the Drainage Manual, including information concerning existing site conditions, construction schedules and other pertinent items not found in the drawings. Sediment and erosion control BMPs shall be selected and designed pursuant to volume II, chapters 3 and 4 of the Drainage Manual. The drawings and narrative shall describe when and where the selected
BMPs will be installed, the performance that the BMPs are expected to achieve and actions
to be taken if performance is not achieved. All relevant information shall be included on the
construction plans for the availability of project inspectors.

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

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

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

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

(c) Proposed erosion and sediment control measures.

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

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

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

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

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

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

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

(1) Natural drainage patterns identified in the stormwater site plan and determined by the
currently functioning drainage pattern and patterns occurring over the past ten consecutive
years shall be maintained. Discharges from the project site shall occur at natural locations, to
the maximum extent practicable.

(2) The manner by which runoff is discharged from the project site shall not cause off-site
drainage impacts, as defined in volume I, chapter 3 of the Drainage Manual. Mitigation of off-
site drainage impacts shall be provided pursuant to the requirements of volume I, chapter 3
of the Drainage Manual. In addition, appropriate energy dissipation shall be provided for all
outfalls in accordance with the requirements of the EDDS and ((volume)) volumes III and V of
the Drainage Manual.
Section 15. Snohomish County Code Section 30.63A.570, last amended by Ordinance No. 15-102 on January 11, 2016, is amended to read:

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

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

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

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

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

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

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

(1) The owner(s) of real property burdened by one or more easements or other servitudes for drainage facilities, stormwater facilities and/or other stormwater BMPs, as shown on the approved stormwater site plan for the property:\n
(a) (shall) Shall not create, place or maintain any obstructions in, on, above, upon, over, under, across or through such easements or other servitudes; and

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

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

AMENDED ORDINANCE 21-025 RELATING TO REGULATION OF STORMWATER; AMENDING CHAPTERS 7.53, 7.54, 30.63A, 30.63B AND SUBTITLE 30.91 OF THE SNOHOMISH COUNTY CODE (SCC) IN RESPONSE TO THE COUNTY’S 2019 NPDES PHASE I PERMIT 22
(((4)) The owner(s) of real property on which one or more drainage facilities, stormwater facilities and/or other stormwater BMPs are located, as shown on the approved stormwater site plan for the property)) (b) (((shall))) Shall develop, keep and maintain an operation and maintenance manual for such facilities and/or BMPs, consistent with the provisions in volume V and volume VI of the Drainage Manual. The operation and maintenance manual shall be available for examination by the county at any reasonable time. The manual shall at a minimum include the following information regarding the drainage facilities, stormwater facilities and/or other stormwater BMPs located on the property:

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

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

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

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

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

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

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

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

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

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

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

Section 18. Snohomish County Code Section 30.63A.590, last amended by Amended Ordinance No. 20-081 on January 20, 2021, is amended to read:
30.63A.590 Minimum requirement 9: Easements granted to the county.

(1) (To protect the public from flooding, water quality degradation, damage to aquatic habitat and other drainage impacts) Except as provided in subsection (10) of this section, easements shall be granted to the county for the right to enter onto privately owned property, at the county’s discretion, for the purpose of accessing, inspecting, maintaining, modifying or replacing the following types of privately owned drainage facilities, stormwater facilities or other stormwater BMPs:
   (a) All stormwater flow control facilities and stormwater treatment facilities designed and constructed to meet the requirements of SCC 30.63A.530 or 30.63A.550; and
   (b) Conveyance systems that conduct stormwater from a public right-of-way, private tract or public easement to drainage facilities, stormwater facilities, stormwater BMPs, conveyance systems or waters of the state.

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

(3) Drainage easements granted to the county pursuant to subsection (1) of this section shall be 20 feet in width unless:
   (a) The drainage facility, stormwater facility or other stormwater BMP is larger than 20 feet in width, in which case the easement size shall be increased appropriately;
   (b) During plan review, the director requires an increase above the required easement width to the extent reasonably necessary to allow adequate maintenance of the proposed drainage facility, stormwater facility or other stormwater BMP, or to accommodate existing site conditions, when the director determines that there are special circumstances applicable to the site or the intended use for which a wider easement is reasonably necessary; or
   (c) During plan review, the director may reduce the easement width, if the director determines that there are special circumstances applicable to the site or the intended use. These circumstances may include, but are not limited to, shape, topography, location, or surroundings that do not generally occur on other sites and that render it infeasible to provide the standard width easement, provided that the director also determines the proposed drainage facility, stormwater facility or other stormwater BMP can be adequately inspected and maintained with a reduced easement width.

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

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

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

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

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

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

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

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

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

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

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

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

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

30.63A.700 Minimum requirements for ([road]) pavement maintenance ([redevelopment]).

((This section establishes requirements for the application of minimum requirements to road maintenance redevelopment practices.
(1) For projects that remove and replace a paved surface to base course or lower, or repair the roadway base where hard surfaces are not expanded, minimum requirements 1 through 5 (SCC 30.63A.400 through 30.63A.525) shall be required.

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

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

   (a) Resurfacing by upgrading from dirt to gravel, asphalt, or concrete;
   (b) Upgrading from gravel to asphalt, or concrete; and
   (c) Upgrading from a bituminous surface treatment ("chip seal") to asphalt or concrete.

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

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

   (a) Removing and replacing an asphalt or concrete pavement to base course or lower; and
   (b) Repairing the pavement base.

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

   (a) Extending the pavement edge without increasing the size of the road prism; and
   (b) Paving graveled shoulders.

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

   (a) Resurfacing by upgrading from dirt to gravel, a bituminous surface treatment ("chip seal"), asphalt, or concrete;
   (b) Resurfacing by upgrading from gravel to chip seal, asphalt, or concrete; and
   (c) Resurfacing by upgrading from chip seal to asphalt or concrete.

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

30.63A.825 Stormwater site plan revisions.

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

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

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

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

30.63B.050 Permit approval criteria.

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

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

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

30.63B.055 Seasonal work limitations.

To control sediment transport and erosion from land disturbing activities during the wet
season from October 1 through April 30, seasonal work limitations shall apply subject to
requirements in SCC 30.63A.450(5), unless exempt under SCC 30.63A.450(6).
Section 23. A new section is added to Chapter 30.63B of the Snohomish County Code to read:

30.63B.065 Compliance with updated stormwater regulations – "Started Construction" requirement.

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

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

30.63B.070 Land disturbing activity permit exemptions.

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

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

(a) The land disturbing activity occurs outside all critical areas, together with the buffers of and setbacks from these critical areas, except that such activities may occur within floodplains and aquifer recharge areas of low or moderate sensitivity to groundwater contamination;

(b) The land disturbing activity is set back at least two feet from all property lines;

(c) The land disturbing activity does not obstruct or alter an existing drainage course or pattern;

(d) The land disturbing activity disturbs less than 7,000 square feet of land;

(e) The land disturbing activity creates or replaces less than 2,000 square feet of new, replaced, or new plus replaced hard surfaces;

(f) The property on which the land disturbing activity will occur collects or concentrates stormwater from 5,000 square feet or less of drainage area; and

(g) The amount of land disturbing activity is consistent with one of the following thresholds:

(i) One hundred cubic yards or less of grading on a site in any 18 consecutive months (except fills and associated compaction intended to support structures or private roads);

(ii) Five hundred cubic yards or less of excavation in any 18 consecutive months for a basement foundation, or for improvements to a single family dwelling and/or accessory structures, provided that excess excavated material shall be disposed of at a permitted site approved by the director and provided further that the activity shall only commence after a building permit is secured by the applicant; or

(iii) Five hundred cubic yards or less of grading in any 18 consecutive months for construction of underground drainage systems, provided that the construction shall
only commence after a right-of-way use, utility, single family or commercial building
permit is obtained by the applicant.

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

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

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

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

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

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

(c) 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 and other related
activities, if performed in accordance with state-approved sampling protocols or sections
7 and 10 of the federal Endangered Species Act (ESA) (16 U.S.C. §§ 1536 and 1539),
provided that the land disturbing activity is no greater than is necessary to accomplish the
site investigative work and results in less than 2,000 square feet of new plus replaced
hard surfaces;

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

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

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

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

(((a) Repair or installation of underground or overhead facilities performed by a utility that
only replaces ground surfaces with in-kind materials or materials with similar runoff
characteristics. 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) Facility maintenance and repairs performed by a utility that replace ground surfaces
with in-kind materials or materials with similar runoff characteristics, that do not add hard
surfaces, and that do not adversely impact any critical areas, critical area buffers or
upstream or downstream properties;))
(a) Repair, maintenance or installation of underground or overhead facilities performed by
a utility that meets the following criteria:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(viii) Includes only the following activities:

(A) Normal maintenance and repair of utility facilities that does not expand the
footprint of existing utility corridors or utility facilities;
(B) Minor replacement, modification, extension, installation, or construction of utilities in an improved public road right-of-way;

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

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

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

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

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

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

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

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

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

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

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

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

(iv) Design of the trail conforms to:

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

(B) Such other standards for the design and construction of recreational trails that provide equivalent or greater environmental protection, provided that such standards are adopted by rule pursuant to SCC 30.82.010; and
(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:
30.91A.250  Appurtenance.

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

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

Section 26. Snohomish County Code Section 30.91D.400, last amended by Amended Ordinance No.15-103 on January 22, 2016, is amended to read:

30.91D.400  Drainage manual or Snohomish County drainage manual.

"Drainage manual" or "Snohomish County drainage manual" means the drainage manual adopted by the director of conservation and natural resources pursuant to SCC 30.63A.110. The drainage manual provides detail and specificity regarding the requirements of chapters 7.53, 7.54, 30.63A and 30.63B SCC.

Section 27. Snohomish County Code Section 30.91L.012, added by Amended Ordinance No. 06-061 on October 1, 2007, is amended to read:

30.91L.012  Improved road right-of-way.

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

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

Section 28. A new section is added to Chapter 30.91L of the Snohomish County Code, to read:

30.91L.014  Improved utility corridor.

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

This definition applies only to “Land disturbing activity” regulations in chapter 30.63B SCC.
Section 29. Snohomish County Code Section 30.91L.025, last amended by Ordinance No. 15-103 on January 11, 2016, is amended to read:

30.91L.025  Land Disturbing Activity.

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

Section 30. Snohomish County Code Section 30.91M.011, last amended by Amended Ordinance No. 15-103 on January 11, 2016, is amended to read:

30.91M.011  Maintenance.

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

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

Section 31. Snohomish County Code Section 30.91S.330, last amended by Amended Ordinance No. 19-020 on July 3, 2019, is amended to read:

30.91S.330  Single-family residence.

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

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

Section 32. Snohomish County Code Section 30.91T.054B, last amended by Amended Ordinance No. 15-103 on January 11, 2016, is amended to read:

30.91T.054B  Threshold discharge area.

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

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

Section 34. Severability. If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by the Growth Management Hearings Board, or a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided, however, that if any section, sentence, clause or phrase of this ordinance is held to be invalid by the Growth Management Hearings Board or court of competent jurisdiction, then the section, sentence, clause or phrase in effect prior to the effective date of this ordinance shall be in full force and effect for that individual section, sentence, clause, or phrase as if this ordinance had never been adopted.
PASSED this 16th day of June, 2021.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Stephanie Wright
Chairperson

ATTEST:

Debbie Eco, CMC
Clerk of the Council

(x) APPROVED
( ) EMERGENCY
( ) VETOED

County Executive

Date: June 16, 2021

ATTEST:

Melissa Geraghty

Approved as to form:

Deputy Prosecuting Attorney