

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING SKAGIT COUNTY CODE  
CHAPTER 6.68 CLEAN WATER (SHELLFISH PROTECTION) DISTRICT  
ESTABLISHING A CLEAN WATER (SHELLFISH PROTECTION) PROGRAM (CWP)**

**WHEREAS**, on August 19, 1994 a portion of the commercial shellfish beds in Samish Bay were downgraded by the Washington State Health Department; from either approved to restricted or from approved to prohibited (closed) due to bacterial contamination; and

**WHEREAS**, in response and pursuant to State Law (Chapter 90.72) the Skagit County Board of Commissioners signed Ordinance # 15708 on March 27, 1995 establishing Skagit County Code (SCC) 6.68 the Clean Water (Shellfish Protection) District and developed programs to assist the communities of Edison and Blanchard repair their failing onsite sewage systems; and

**WHEREAS**, water quality degradation of the marine tidelands and fresh waters of Skagit County continues to threaten the public's health and safety, and other beneficial uses of these waters for agriculture, fish and wildlife protection and recreation; and

**WHEREAS**, State law (Chapter 90.72 RCW) authorizes a county having shellfish tidelands within its boundaries to establish a shellfish protection district and to establish a CWP with elements intended to improve water quality in shellfish tidelands by eliminating or decreasing nonpoint pollution from stormwater runoff, onsite sewage systems, animal grazing and manure management and other activities that may threaten water quality and to impose fees, rates, or charges for the program and related services; and

**WHEREAS**, Skagit County in response to the Growth Management Act has adopted a Critical Areas Ordinance (SCC 14.24) establishing a "Do No Harm or Degradation Standard" for watercourses and committing the County to an extensive water quality and habitat monitoring and adaptive management program; and

**WHEREAS**, every citizen within Skagit County contributes in some way to the degradation of water quality; density of development and its associated impervious surfaces increase stormwater flow and pollution; and it is in the public's interest that coordinated, cost-effective decisions be made to achieve water quality objectives that protect shellfish and other beneficial uses of the waters of Skagit County; and

**WHEREAS**, it is the intent of the Skagit County Board of Commissioners to establish a CWP to perform essential water quality activities to be funded by reasonable fees and charges related to density of development and impervious surfaces; and

**WHEREAS**, the Skagit County Public Works Department administers the County Drainage Utility and the countywide Flood Control Zone Districts and would be best suited to manage the CWP with the goal of integrating it into a countywide, coordinated and comprehensive stormwater, flood control and water quality water program; and

**WHEREAS**, the Skagit County Board of Commissioners shall have final approval of CWP rates and services.

**NOW THEREFORE, BE IT ORDAINED BY THE SKAGIT COUNTY BOARD OF COMMISSIONERS:**

That Chapter 6.68 Skagit County Code is amended by adding new sections 6.68.040 through 6.68.170. Chapter 6.68 to read:

Chapter 6.68  
CLEAN WATER (SHELLFISH PROTECTION) DISTRICT

Sections:

- 6.68.010 Established.
- 6.68.020 Activities To Be Conducted Throughout County.
- 6.68.030 Purpose.
- 6.68.040 Definitions.
- 6.68.050 Clean Water (Shellfish Protection) Program (CWP) Creation and Authority.
- 6.68.060 CWP Elements and Responsibilities.
- 6.68.070 Administration.
- 6.68.080 Program Coordination.
- 6.68.090 Program Budget and Funding.
- 6.68.100 CWP Revenue Deposits
- 6.68.110 Billing.
- 6.68.120 Appeals Pertaining To Rates And Service Charges.
- 6.68.130 Right of Entry
- 6.68.140 Effective Date.
- 6.68.150 Liability.
- 6.68.160 Severability.

**6.68.010 Established.**

Pursuant to RCW 90.72.045 there is hereby established a shellfish protection district, which shall be called the Skagit County Clean Water District (District). The boundaries of said District shall include the unincorporated areas of Skagit County. (Ord. 15708 § 1, 1995)

**6.68.020 Activities To Be Conducted Throughout County.**

The District shall conduct its activities throughout unincorporated Skagit County due to the pervasive nature of non-point sources of pollution affecting the water quality within shellfish growing areas. (Ord. 15708 § 2, 1995)

**6.68.030 Purpose.**

The purpose of the District is to accomplish the mandates of RCW 90.72 to protect and improve the water quality in shellfish growing areas. This will include, but not be limited to, establishing programs and projects to reduce non-point pollution threatening surface water quality in Skagit County. (Ord. 15708 § 3, 1995)

**6.68.040 Definitions.**

This chapter contains technical and common County terms that are used in Chapters found throughout Titles 6, 12, and 14 of the Skagit County Code, and unless otherwise noted their meaning shall be consistent with their meaning/definition as used elsewhere in Skagit County Code. "Director" shall mean the Director of the Department of Public Works or his or her designee.

- (1) "Impervious surfaces" shall mean hard surfaced areas which prevent or retard the entry of water into the soil mantle and/or cause water to run off the surface in greater quantities or at an increased rate of flow than under natural conditions. Common impervious surfaces include, but are not limited to rooftops, concrete or asphalt roads, sidewalks and paving, walkways, patio areas, driveways, parking lots or storage areas and gravel, hard-packed dirt, oiled or other surfaces which similarly impede the natural infiltration of surface water or runoff patterns existent prior to development.
- (2) "Average impervious surface square footage" calculations for single family residences (3692 square feet) and multi-family residences (4550 square feet) were determined by a statistically significant random survey of existing single family and multi-family residential properties.

**6.68.050 Program Creation and Authority.**

Skagit County, pursuant to Chapter 90.72 Revised Code of Washington and Skagit County Code Chapter 6.68 hereby creates a Clean Water Program (CWP) to implement a comprehensive, countywide water quality plan. The CWP shall be administered by the Skagit County Department of Public Works, who shall have the authority, subject to approval by the Board of County Commissioners, to exercise all lawful powers necessary and appropriate to accomplish the goals of Chapter 90.72, the watershed action plans, and to implement the program elements and goals of the CWP.

**6.68.060 CWP Elements.**

- (1) While the overall CWP shall be administered by the Public Works Department, the following program elements may be performed and managed by other entities as established by the enabling budget resolution.
  - (a) Implement the water quality monitoring, habitat monitoring and adaptive management requirements in the Ongoing Agriculture Section of the Skagit County Critical Areas Code (SCC 14.24.120); support the Skagit County Marine Resource Committee; support for the Lake Management Districts, provide funding for habitat restoration projects including acquisition of property and/or conservation easements and development rights; provide support to assist the State Department of Ecology and/or the Skagit County Health Department gather and analyze data to address water quality concerns and develop and implement feasible solutions to those concerns; and to construct and operate water pollution control facilities. Develop a comprehensive, coordinated stormwater, flood control, water quality program in partnership with local cities, towns, and special purpose districts.
  - (b) Support the onsite sewage program and the onsite sewage operation and maintenance program found in SCC 12.05 and mandated by State regulations. Investigate alleged violations of the water quality standards of the Do No Harm provisions found in the Critical Areas Ordinance (SCC 14.24.120).
  - (c) Mapping support services for the CWP including updated aerial photography including LIDAR (Light Detection and Ranging), and other geographic information products.
  - (d) Update regulations and perform compliance activities related to the Critical Areas Ordinance (SCC 14.24).
  - (e) Provide technical support and possible financing assistance for property owners needing to implement best management practices (BMP's) as necessary to meet Critical Area Ordinance (SCC 14.24) and the CWP.

- (f) Support local and regional non-profit organizations and other entities whose purpose is to educate the public, implement watershed action plan recommendations, and to protect and restore habitat in order to improve the functionality and health of the Skagit County watersheds.

(2) All entities receiving support from the CWP shall submit an annual work plan and a progress report to the Director of the Department of Public Works by July 1 of each year.

**6.68.070 Administration.**

The CWP shall be administered by the Department of Public Works. The Director shall have the authority to implement the program as defined in this ordinance. No provision of this ordinance shall prevent municipalities, county agencies, departments, or special districts from adopting, administering, or enforcing other ordinances and regulations to protect water quality.

**6.68.080 Program Coordination.**

The Department of Public Works may coordinate the CWP and services by forming interlocal or operating agreements with other departments, governmental entities, or special districts in order to achieve a comprehensive approach to surface water management. The Department of Public Works shall endeavor to eliminate or reduce duplication and to achieve the maximum program benefit in the most efficient manner. The Director shall submit an operating plan, budget, and an annual report to the County Commissioners for review and approval as part of the annual County budget process.

**6.68.090 Program Budget and Funding.**

- (1) The Board of County Commissioners shall establish by separate resolution a CWP budget and rates and charges for all real property within unincorporated Skagit County according to the land use classification and impervious surface area of each property described as follows in this section:

Class of Property / Basis of Charge.

- (a) Parcels containing a single family residence (including an accessory dwelling unit) shall be charged based on average impervious surface square footage.
  - (b) Parcels containing a duplex, or a triplex, or a fourplex multi-family housing unit shall be charged based on average impervious surface square footage.
  - (c) Parcels containing greater than four multiple family housing units (including apartments and hotels) shall be charged based on their actual impervious surface square footage.
  - (d) Parcels containing commercial, industrial, and/or institutional uses shall be charged based on their actual impervious surface square footage.
  - (e) County roads shall be charged based on their impervious surface square footage.
  - (f) State highways shall be charged based on their impervious surface square footage.
- (2) Special Classifications: The following special categories of property, facilities, and activities are exempt from CWP rates and charges:
    - (a) Federal and Tribal lands owned within the County.
    - (b) Waterways (including all parcels consisting of entirely tidelands, riparian right-of-way, lakes, and/or stream).
    - (c) Activities, facilities and lands not subject to fees, rates, or charges contained in State law (Chapter 90.72.070 RCW) including lands classified as forest land under Chapter 84.33 RCW and/or classified as open space timber land under Chapter 84.34.
    - (d) In keeping with the intent of State law Chapter 84.34 RCW, to maintain, preserve, conserve and otherwise continue in existence adequate open space lands for the

production of food and fiber, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens, bare or unimproved land shall not be subject to rates and charges by this CWP.

- (e) All parcels consisting of oyster tracts, marine moorage condos, and taxable parcel accounts with no assessed value.

#### **6.68.100 CWP Revenue Deposits**

All fees and charges imposed herein shall be placed in a revenue fund for the purpose of paying all, or any part, of the expenses related to the administration and the implementation of the activities, programs, and projects identified in the CWP elements (SCC 6.68.060) and associated resolution establishing the CWP budget and program rates and charges.

#### **6.68.110 Billing**

- (1) All property subject to rates and service charges pursuant to this ordinance shall be assessed annually. Billing statements shall be included on the annual property tax statements and collected by the County Treasurer consistent with RCW 84.56.
- (2) The Director, the Skagit County Assessor, and the Skagit County Treasurer are hereby authorized to establish all administrative procedures necessary to implement the provisions of this section of Chapter 6.68.
- (3) The Department of Public Works and any participating municipality, agency, department, or special districts may solicit additional funds through grants or other sources of funding, if available, to supplement program funding.
- (4) All service charges billed and fees collected shall be deposited in a revenue fund consistent with SCC 6.68.100.

#### **6.68.120 Appeals Pertaining To Rates And Service Charges.**

- (1) Any person receiving a billing statement for the CWP and making a timely payment thereof may apply to the Director for a rate adjustment.
- (2) The burden of proof shall be on the applicant to show that the rate adjustment sought should be granted. Decisions of the Director on requests for rate adjustments shall be in writing and shall be final unless appealed by the applicant to the superior court of Skagit County by writ of certiorari within 30 days of the notice of decision.

#### **6.68.130 Right of Entry**

Whenever necessary to examine the property characteristics of a particular parcel for the purposes of implementing this ordinance, the Director may enter any property at reasonable times in compliance with the following procedures:

- (1) If such property is occupied, the Director shall present identification credentials, state the reason for entry, and request entry.
- (2) If such property is unoccupied, the Director shall first make a reasonable effort to locate the owner or other person having charge or control of the property and request entry.
- (3) Unless entry is consented to by the owner or person in control of any property, the Director, prior to entry, shall obtain a search warrant as authorized by the laws of the State of Washington.

**6.68.140 Effective Date**

This ordinance shall be effective upon proper passage by the Skagit County Board of Commissioners.

**6.68.160 Liability**

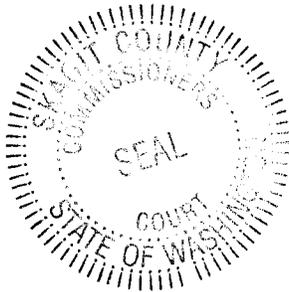
Administration of this title shall not be construed to create the basis for any liability on the part of the County, its appointed elected officials, and employees while working within the scope of their duties, for any action or inaction thereof authorized or done in connection with the implementation of this title.

**6.68.160 Severability**

If any provision of this ordinance or its application to any person or circumstance is held to be unconstitutional or invalid for any reason, the remainder of this ordinance or the application of the provisions to other persons or circumstances shall not be affected.

WITNESS OUR HAND AND THE OFFICIAL SEAL OF OUR OFFICE this 20<sup>th</sup> day of ~~November~~, 2005.

*December*



**BOARD OF COUNTY COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON**

*Don Munks*  
Don Munks, Chairman

*Kenneth A. Dahlstedt*  
Kenneth A. Dahlstedt, Commissioner

*Ted W. Anderson*  
Ted W. Anderson, Commissioner

**APPROVED AS TO FORM:**

*Ronald A. Marshall*  
Ronald A. Marshall, Deputy Civil Attorney  
Skagit County Prosecuting Attorney's Office

**ATTEST:**

*Joanne Ciesbrecht*  
Joanne Ciesbrecht, Clerk of the Board