

Latecomers Agreement Code

Draft White Paper | May 29, 2018

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Introduction and Purpose

Latecomer agreements allow a property owner to request that a municipality contract with them to extend street or utility improvements; the owner can recoup a portion of their costs to install the new facilities from others benefiting from the infrastructure extension. A property owner who benefits from the infrastructure put in by the “first in” developer contributes their fair share for connecting to it. Latecomer agreements are a way to share the cost of building infrastructure and can be a helpful tool to spur development in areas where the upfront cost of infrastructure is a challenge to development.

Statutes authorize counties and cities to have a process to contract with owners of real estate for the construction or improvement of street projects; counties or cities may also participate in or finance all the costs and become the sole beneficiary of the reimbursements for streets.

In 2013 and 2015, the Washington State Legislature made changes to latecomers’ laws to require a municipality or district to contract with the owners of real estate upon request to extend water or sewer service where it is a prerequisite to development. The legislative changes also allow counties or cities to participate in or to initiate latecomers’ agreements for utilities. Facilities must be consistent with all applicable comprehensive plans and development regulations, e.g. consistent with comprehensive water system plans, sewer plans, infrastructure standards and specifications, etc.

Skagit County has not adopted regulations governing the creation of road or utility latecomers’ agreements. The Skagit County Code (SCC) provides a latecomers’ fee only within the Clean Water District—Edison Subarea (SCC Chapter 12.64) to recover a portion of the cost that the County incurred when installing the septic tank effluent pumping system in 1999 to address the Edison Slough and Samish Bay environmental hazards. Skagit County is considering amending its code to ensure it can respond to property owner requests for roads, or has the option to participate in or initiate latecomers’ agreements for roads or utilities.

BERK Consulting, Inc. has been retained by Skagit County to provide on-call planning services regarding latecomers’ agreements. This white paper presents the statutory basis for a latecomers’ code, an example of how similar codes are administered in other communities, and options for implementation in Skagit

County. Following County staff and Planning Commission review of this white paper, a draft code will be developed for County consideration.

Requirements and Procedures

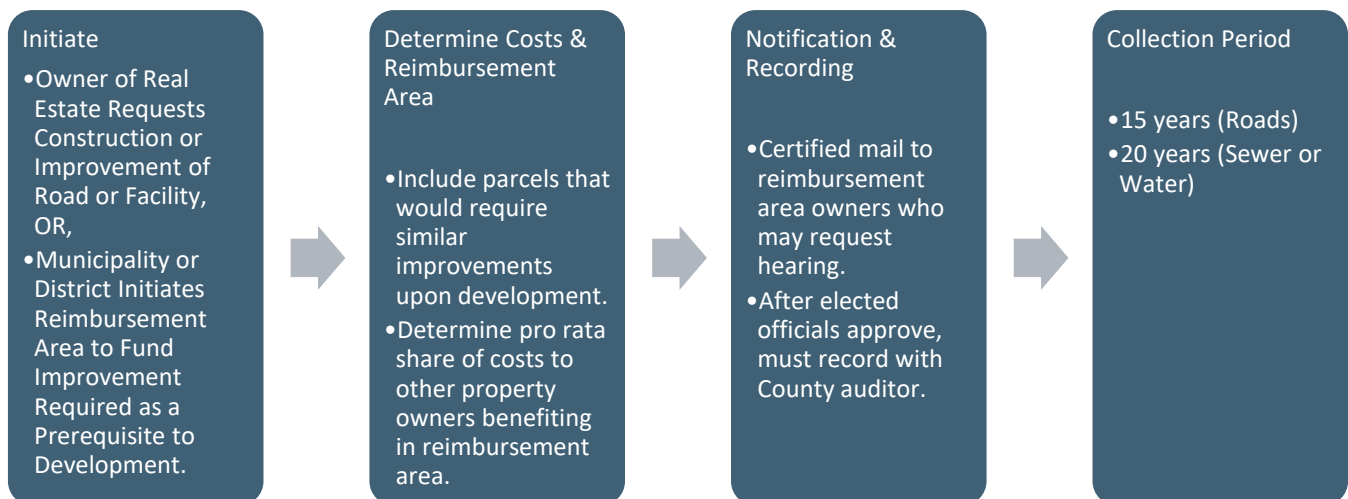
LEGISLATIVE REQUIREMENTS

There are three statutes governing latecomers' agreements, two of which are meant for implementation by municipalities like a county or city, Chapter 35.72 RCW and Chapter 35.91:

- Chapter 35.72 RCW Contracts for Street, Road, and Highway Projects
- Chapter 35.91 RCW Municipal Water and Sewer Facilities Act
- Chapter 57.22 RCW Contracts for System Extensions (by water and sewer districts)

The applicable statutes for counties and cities have similar requirements regarding: 1) initiation of the improvement by the owner of real estate or by the municipality, provided the improvement is necessary for development; 2) determination of the beneficiaries in a reimbursement assessment area; 3) notification of property owners in the reimbursement area and a process to request a hearing (RCW 35.72 and RCW 35.91 only); 4) recording upon approval; and 5) reimbursement collection over a 15-20-year period (roads shorter, utilities longer). See Exhibit 1 below.

Exhibit 1. Flow Chart: Roads and Municipal Sewer and Water per Chapter 35.72 RCW and Chapter 35.91 RCW



Source: RCW 35.72 and RCW 35.91, BERK Consulting 2018

Other Jurisdiction Examples

PIERCE COUNTY

Pierce County offers cost recovery contracts for road improvements in Chapter 12.36 allowing a property owner or the County engineer to initiate them.

In accordance with Chapter 35.72 RCW and the provisions of this Chapter, Pierce County ("the County") may create, approve and/or execute a Cost Recovery Contract for the reimbursement to the County Road Fund and/or to a Property Owner ("Owner") required or willing to construct County road improvements as a prerequisite to further property development. Cost Recovery Contract procedures in this Chapter may be initiated by an Owner or the County Engineer on his/her own initiative.

The procedures are similar to those in state law. If initiated by a private property owner, an application is made including a description and cost of the improvement and a map showing the cost recovery area and the pro-rate reimbursement shares. A benefited property must be zoned such that it would produce at least the same number of trips as a single-family home. The code addressing roads has been amended several times through March 2018.

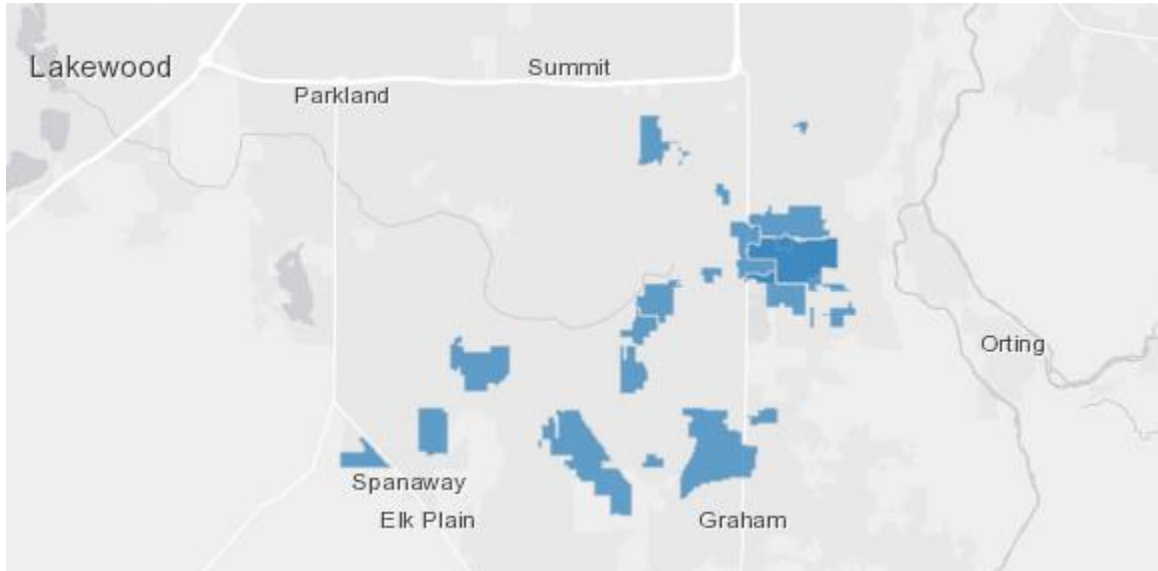
Pierce County's code for sewer latecomers' agreements Chapter 13.10, was last amended in 2013. Its goals include ensuring costs are borne by those benefiting from the improvement: "The goal of the Latecomers Agreement is to provide a means to reimburse the applicants for costs that exceed their own pro rata share of installing the Improvements necessary to serve both the Development and the remainder of the Tributary Service Area without passing on any of the costs to the County or other property owners outside the Tributary Service Area. The agreements shall be formulated so that the applicants are not reimbursed for their own pro rata share of the costs of installing the Improvements."

Pierce County's code for sewer latecomers' agreements responds to applicants who request a latecomers' agreement; there are detailed submittal requirements and procedures for administrative approval. It allows an applicant to appeal the "Tributary Service Area" extent and costs to the Hearing Examiner. Pierce County's code does not reflect the 2013 or 2015 legislative amendments requiring the County to respond to a property owner request or to allow the County to voluntarily participate or initiate an extension with reimbursement over 20 years; Pierce County code amendments are in progress.¹

Pierce County Utilities has approved about one to two latecomers' agreements per year for sewer extension in the unincorporated urban growth area. Currently there are four agreements expiring in 2018 and 19 agreements that expire between 2019 to 2032. None of the agreements have involved both roads and sewer since the roads were in place when the requested sewer latecomers' agreements were initiated (pers com, Cisco, May 18, 2018). Pierce County Utilities maps the sewer benefit area agreement boundaries online per the exhibit below (shapefiles and a database can be downloaded).

¹ See: <http://www.piercecountywa.org/2989/Sewer-Code-Update>.

Exhibit 2. Pierce County Sewer Reimbursement Areas



Source: Pierce County Utilities, <http://geo.wa.gov/datasets/piercecowa::reimbursement-agreement-areas>.

Aside from offering latecomers' agreements, Pierce County promotes sewer connection assistance to property owners and businesses through grants and loans including:

- Sewer Connection Program. The program collects a minimum of \$250,000 annually used for a variety of public and private projects. Program recipients are chosen using a value rating system acknowledging everything from acres served, to jobs created, to health and safety improvements.
- Commercial Sewer Conservation Loan Program. Pierce County Council passed an ordinance (2014-69s) establishing a commercial sewer conservation program consistent with the County's economic development goals of supporting the local business community and enhancing the operating environment for commercial businesses. Loans are available for existing or new commercial or industrial buildings.
- Residential Side Sewer Conservation Loan Program. Pierce County Planning and Public Works Sewer Division offers low-interest loans with terms up to 10 years to residential property owners for qualifying side sewer conservation projects.

Pierce County also allows for a latecomers' agreement for regional stormwater facilities, Chapter 17A.40 PCC.

Pierce County has a limited water utility. When Pierce County purchased the Chambers Creek Properties for expansion of the wastewater treatment plant it included surface and ground water rights. The Water Utility is currently working on infrastructure projects to provide water to Chambers Creek Properties and is investigating opportunities to provide wholesale water to local retail water companies. Pierce County has also been designated as the receiver of the Kapowsin Water District (KWD) by the Pierce County Superior Court. The County is still determining its responsibilities and needs for the KWD. A latecomers' process for water service is not yet in place.

CLARK COUNTY

Chapter 12.36 of the Clark County Code includes provisions for latecomers' agreements for street improvements through a road improvement reimbursement area. Clark County can participate in funding improvements, or create an assessment reimbursement area on its own initiative, without the participation of a private property owner. The County can finance the costs of the road or street improvements, and become the sole beneficiary of the reimbursements that are contributed, if the project is identified for reimbursement on the county's six (6) year transportation improvement program. (Clark County, 2018)

According to County Public Works Department staff, latecomers' code provisions are rarely used, and have not been used in the past five years. Instead, the County's preference has been to use developer agreements. Nearly a dozen developer agreements have been used in the past five years; all of these agreements were related to street or intersection improvements. An advantage cited for this preference for developer agreements is that it allows the County to engage with a willing, active developer or group of developers on specific actions. Latecomer agreements, on the other hand, need to bring together a disparate group of property owners with different timelines and appetites for development.

In terms of lessons learned, Clark County staff noted the need for a non-performance clause and better coordination with utility providers. Staff cited many occasions where developers were unable to meet timelines or quality expectations for infrastructure construction and noted the need to include a non-performance clause to address such situations.

Issues and Options

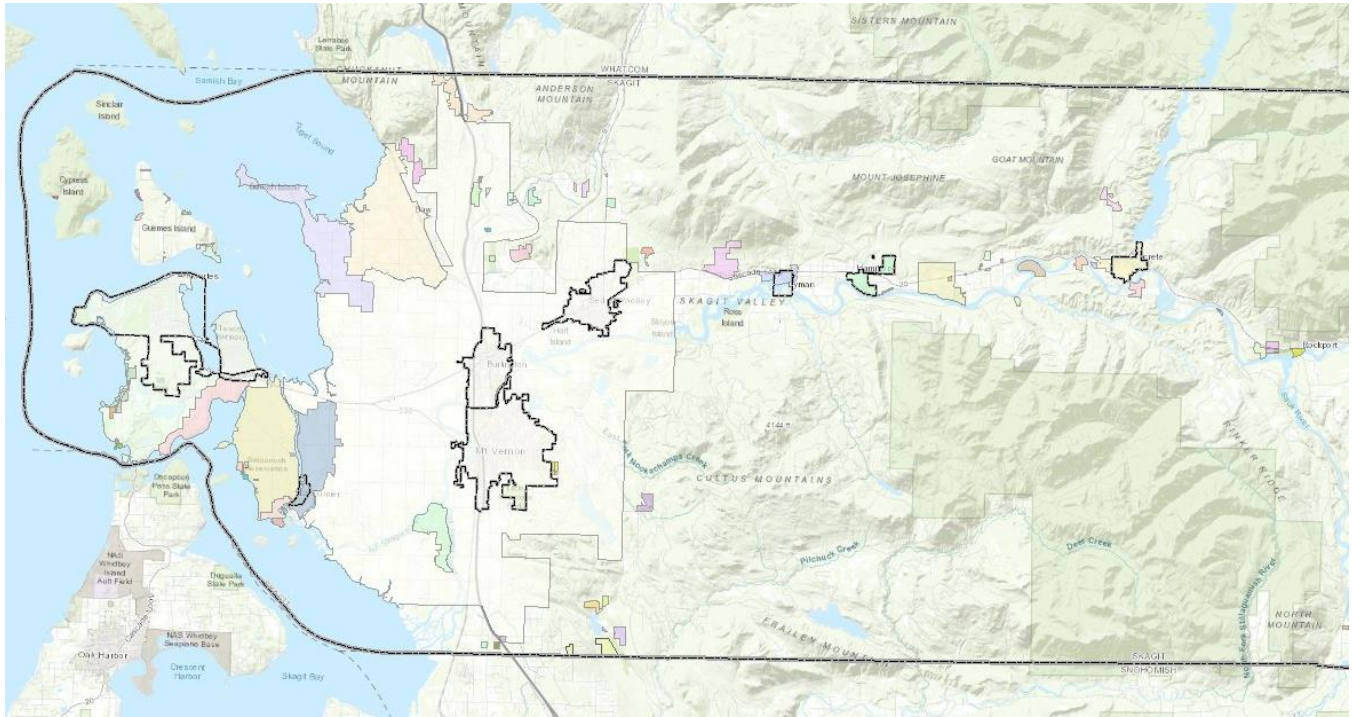
POLICY ISSUES

This section describes policy considerations that Skagit County may consider, in addition to statutory requirements, in developing its latecomers' code.

Public Water in Rural Areas

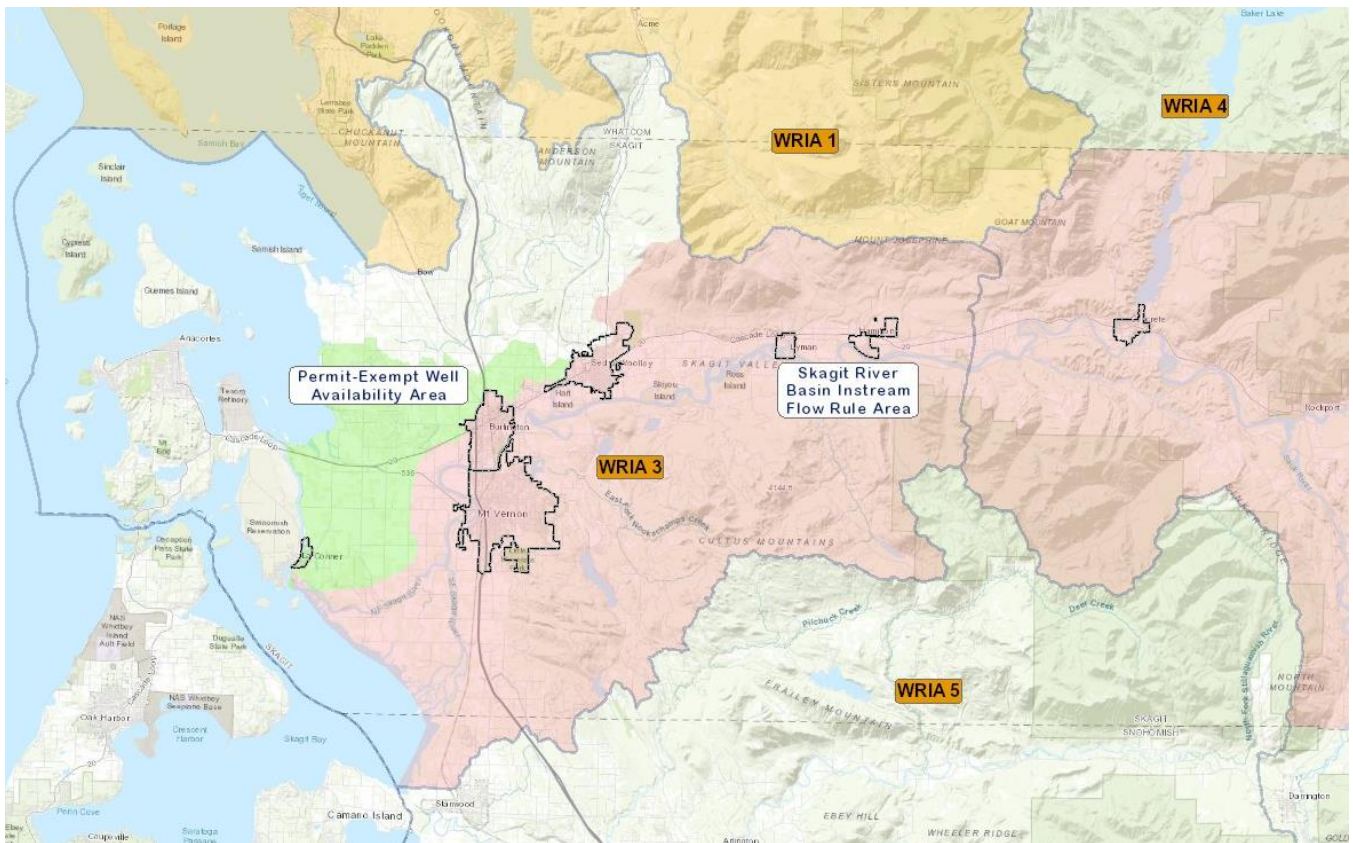
Since latecomers' agreements statutes now allow a county or city to initiate or participate in a latecomers' agreement for utilities, this could allow Skagit County to help rural properties to connect public water systems. This could be beneficial in basins where the ability to add a well is limited. A map of Group A water systems and a map of basins subject to instream flow rules are shown below based on Skagit County online maps.

Exhibit 3. Group A Systems – Skagit County



Source: Skagit County iMap, 2018

Exhibit 4. Skagit River Basin Instream Flow Rule Area



Source: Skagit County iMap, 2018

Economic Development Goals

Agriculture is Skagit County's largest industry. In addition, timber, food processing, retail and services are strong local industries. With strong local businesses in crop production, fishing, forestry and logging, aquaculture, wood product manufacturing, machinery manufacturing and textile mills, Skagit County has a high concentration of natural resource-based employment. (Skagit Council of Governments, 2013)

The County's economic development efforts seek to diversify the local economy through the development of employment-rich, non-resource sectors such as advanced manufacturing, and maritime businesses. An important consideration for these economic development efforts is the amount of industrial and commercial land that is "shovel-ready" or available for development without constraints. Studies of available industrial lands have shown that many industrial sites in the county have development constraints. Close to 37% of all vacant industrial land in the County (546 of 1,461 acres) has some type of non-prohibitive development constraint. For many urban growth areas (Burlington, Concrete, Hamilton, and Mount Vernon), a majority of vacant industrial acres has some type of development constraint. Non-prohibitive constraints can add time and expense to the development process and deter some types of investors. (EcoNorthwest , 2014)

Economic development efforts in the county could benefit from tools that help public agencies react quickly to make land available to meet the needs of businesses looking to locate in the area. Industrial properties in the county that could benefit from such tools include the Bayview Industrial Park, as well as sites in Sedro Woolley and Mount Vernon.

INTERAGENCY AGREEMENTS

To participate in latecomers' agreements, it may be appropriate to develop interlocal agreements between the County and special districts or Washington State Department of Transportation (WSDOT). Utilities may require inclusion in both County roads and State highways.

Interlocal Agreements

Some municipalities and districts develop cooperative service agreements under Chapter 39.34 RCW Interlocal Cooperation Act allowing extension of infrastructure or joint purchasing efforts. These may be helpful tools in achieving goals of investing in utilities in conjunction with other service providers.

Thurston County developed an interlocal agreement in 2012 under Chapter 39.34 RCW with the City of Lacey for an area in its urban growth area and outside of the County's three sewer service areas. The Washington State Department of Ecology provided a loan to Thurston County for a septic tank effluent public sanitary system (Woodland Creek Sewer); for 20 years until the loan is retired, the system will be owned by the County, but will discharge to the City of Lacey's existing collection and conveyance system. The City will provide maintenance and operation of the sewer and charge a monthly service. Two subdivisions will connect to it. The County will transfer ownership to the City after 20 years when the loan terms are complete. This interlocal agreement is an example of a county funding improvements in an unincorporated urban growth area together with another municipality. Thurston County secured funding and the designated provider of services, Lacey, is maintaining and operating the system.

State Highways and Utilities

The latecomers' agreement statutes allow WSDOT to participate in the extension of roads in relation to state highway, including being the sole participant, like counties or cities. However, the county or city acts as the agent administering the chapter on WSDOT's behalf.

35.72.050 (2) The department of transportation may, for state highways, participate with the owners of real estate or may be the sole participant in the financing of improvement projects, in the same manner and subject to the same restrictions as provided for counties, cities, and towns, in subsection (1) of this section. The department shall enter into agreements whereby the appropriate county, city, or town shall act as an agent of the department in administering this chapter.

Some state routes in Skagit County could be the likely pathway for utility extensions, particularly in rural areas where road density is less than in urban areas. WSDOT has an Utilities Accommodation Policy and provides franchise agreements and utilities standards.

COUNTY INFRASTRUCTURE FUNDING

If Skagit County participates or initiates latecomers' agreements for roads or utilities, the County may contribute funding. There may be several funding sources that the County could secure. One potential funding source includes the sales or use tax authorized under RCW 82.14.370 for rural counties. The County authorizes the tax in Chapter 3.09 SCC. It is meant to be used for purposes of infrastructure, including but not limited to: "the cost of construction, acquisition or operation of public facilities or to pay or secure the payment of all or any portion of general obligation bonds or revenue bonds issued for such purposes" (SCC3.09.050) Application guidelines also indicate that the project must meet the definition of a public facility in the statute: "bridges, roads, domestic and industrial water facilities, sanitary sewer facilities, earth stabilization, storm sewer facilities, railroads, electrical facilities, natural gas facilities, ... buildings, structures, telecommunications infrastructure, transportation infrastructure, or commercial infrastructure, and port facilities in the state of Washington."

The public facilities are to be listed in the County's overall economic development plan or economic development section of the County's Comprehensive Plan.

- The County's Economic Development Element lists a weakness as "physical infrastructure remains inadequate to remedy existing deficiencies and address new needs from growth." The Element lists a threat to economic development as including "limitations on rural water rights."
- The 2013 Comprehensive Economic Development Strategy lists hundreds of projects including road and utility infrastructure though primarily for cities, the county, and the Council of Governments. (Skagit Council of Governments, 2013)

A priority is given to projects in urban growth areas. Preference is given to projects with matching funds, and to projects that result in near term job creation, job retention, or those with family wage jobs. Funds are to be used for construction costs only. In 2017, the County funded fiber optic networks, roadway improvements, port improvements, and Economic Development Alliance of Skagit County investments. ([Resolution R20170108](#))

Skagit County criteria and 2013 Comprehensive Economic Development Strategy project lists support urban growth area investments such as for Bayview and city-assigned urban growth areas related to

roads and municipal infrastructure. In a future update of the strategy and funding criteria, Skagit County could consider whether interagency infrastructure efforts regarding rural water would be appropriate. For example, Skagit County could work with the cities to determine if city water service areas could allow extension to rural properties.

SKAGIT COUNTY CASE STUDIES & STAKEHOLDER OUTREACH

A series of case studies illustrate situations where latecomers' agreements could be implemented in Skagit County either based on property owner requests or based on the County's voluntary participation or creation of reimbursement areas.

Bayview Ridge Subarea

The Bayview Ridge Subarea is an unincorporated urban growth area with an existing mix of industrial and business uses, airport and aviation-related uses, and some residential uses. First adopted in 2006, the Subarea Plan was updated in November 2014 to rezone 173 acres of undeveloped property for light industrial business-park-style development. The Port of Skagit County owns 1,970 acres within the Bayview Ridge Subarea. These lands are associated with the Port's Skagit Regional Airport and a business park.

With 1) access to SR 20 and I-5, 2) location between Seattle and Vancouver B.C., 3) access to Skagit Regional Airport and rail, and 4) available industrial sites, the Bayview Subarea is an important commercial and industrial area with opportunities for economic development. Latecomers' agreements may be an option to implement planned infrastructure improvements to support these opportunities.

Speaking with Port staff, there are several sites that would benefit from infrastructure extension, and the Port has been leading efforts to extend services to attract businesses.

Blanchard Edison Water Association (BEWA)

The BEWA is a community water system serving several hundred lots in the communities of Blanchard, Edison and Bow in northwestern Skagit County. It has ample capacity to provide water. The Chuckanut Manor Restaurant is located within the BEWA service area. The restaurant is currently served by a private, Group A, non-community water system supplied by a single well on the property. Given the poor quality of water from the well source, the restaurant property owner is interested in abandoning the well source and connecting to BEWA's public water system. In addition to the restaurant, six single-family residential property owners in the neighborhood are also interested in connecting to the BEWA water system. Except for a single property owner, all the property owners are within BEWA's service area. Connecting to the BEWA system will require extension of the BEWA's existing water pipeline along Blanchard Road. For the property owner who is out of the service area, an extension of the service area will also be required.

The closest pipeline is located on Blanchard Road, approximately 1700 feet from the restaurant. In 2013, all the property owners and BEWA discussed the potential to create a latecomer's agreement to extend the pipeline. While initially supportive of the project, BEWA's Board of Directors eventually decided against moving forward. (Letter dated October 4, 2013 from BEWA to property owners) BEWA concerns included: sources of public funding that would require the BEWA to be the applicant, and out of pocket expenses accrued prior to project construction (for engineering/surveying, planning/permitting or legal fees for example). Recent legislative amendments to latecomers' agreements would allow another

municipality such as Skagit County to participate in the agreement (e.g. County could help apply for public funding sources). Regarding what costs can be reimbursed, the statutes allow reimbursements to cover engineering, legal, and administrative costs. With these differences in Washington statutes and the potential for other municipalities to participate or initiate latecomers' agreements this may make service extension to Chuckanut Manor more feasible.

Edison Sewer Treatment

Edison is a historic community founded in 1869; it is a small village along the Edison Slough surrounded by agricultural lands. Under the Growth Management Act, Skagit County has designated it as a limited area of more intensive rural development. In response to environmental hazards, Skagit County constructed a large on-site septic system including a collection system, pump station, gravel filter facility and drainage fields in 1999. (Skagit County, 2018)

The County created the Edison Subarea Clean Water District and meets regularly with a Subarea Board to advise the County on the operation of the system per [Skagit County Code 12.64](#). The code allows for latecomers contributions to the County in recognition of the system's benefit to new development: "a latecomer's fee will be charged to all new customers (excluding prepaid connections) amounting to five (5) percent of the original Capital Assessment Fee for each year or portion thereof between the time of system construction (1999) and the latecomer service connection."

The Washington State Department of Ecology has monitored groundwater quality in relation to the facility to determine if fecal coliform or total coliform is contributing to exceedances of water quality standards that are affecting on shellfish harvesting in Samish Bay. The study found that water quality results were mostly below detection in groundwater; and limited exceedances were found to be naturally occurring due to heavy precipitation. (Washington Department of Ecology, 2018)

The County, as the designated provider of wastewater services, could create a reimbursement area under a latecomers' agreement to install traditional sewer infrastructure with full pretreatment capabilities (including connecting to nearest municipal provider), and collect reimbursement should it be appropriate to meet public health and environmental considerations. This could replace the Clean Water District.

County Fiber Optics Network

A fiber optic network has been developed incrementally since 1999 through Mount Vernon, Burlington, Anacortes, La Conner, and connections in between. Funding and partnerships have been provided by Skagit County, City of Mount Vernon, Mount Vernon School District, Port of Skagit County, Skagit 911, Skagit PUD, State Community Economic Revitalization Board (CERB), and the federal government. (Skagit County, 2018) The statutes on latecomers' agreements do not call out fiber optic networks in the definitions of facilities (see Attachment) but the definition of street/road includes street lighting and other similar improvements consistent with county or city road standards.

The City of Mount Vernon has developed a fiber network line extension and latecomers' policy. (City of Mount Vernon, 2018) It may be a model policy to implement through a latecomers' agreement or interlocal agreement.

OPTIONS FOR SKAGIT COUNTY

To respond to State legislative requirements Skagit County is considering developing code amendments to establish a latecomers' agreement process for roads and utilities. Code options and considerations are identified below.

Authority and Discretionary Policy Choices

- The code should allow the County to respond to a property owner's request for roads, and must allow a response for utilities at in the Edison area where the County is the primary provider of sewer services.
- The infrastructure supported with latecomers' agreements must be a prerequisite for development. The County determines what facilities must be provided concurrent with development in Chapter 14.28 SCC. Roads and connections to public water are part of the review throughout the County with sewer as required service in urban growth areas.
- The County should identify the circumstances under which it would initiate or participate in latecomers without a property owner request. Where it participates with other municipal or district providers, such infrastructure would need to be consistent with the other agency's comprehensive plan for the infrastructure system (e.g. water plan, sewer plan, etc.).
- The code must provide for required property owner notification and opportunity for a hearing; the County may wish to allow for more public review or an appeals process towards the definition of the reimbursement area boundaries or costs like Pierce County.
- The County should ensure its road standards clearly allow for the improvements covered under road latecomers' agreements such as curbs, gutters, storm drainage, sidewalks, street lighting, traffic controls, etc. County standards should also allow for water and sewer facilities where municipal or utility providers are responding to a property owner request or initiating a latecomer's agreement.
- The code should clarify who is authorized to commit the County to participating in a latecomers' agreement or initiate an agreement, as well as respond to property owner requests. Pierce County allows its County engineer to initiate the cost recovery contract for roads.
- The code could specify the County's publication of reimbursement areas including mapping. Mapping such reimbursement areas can be an effective tool; see Pierce County's approach to mapping sewer reimbursement areas.

Services Provided by others with County Support

- The County should define under what circumstances it would participate with another agency in latecomers' agreements. The County should define how it will enter into agreements – such as through an interlocal agreement – and whether it will consider providing public funds or securing other funding (e.g. see Thurston County example). Sample forms and checklists could be developed to help facilitate interlocal agreements over time, such as with smaller water and sewer districts that may have less resources.

- The County should define how it would work with WSDOT to serve as the administering agency per statutory requirements for road projects where the State is participating or initiating latecomers' agreements.

Other Tools

The County will need to address latecomers' agreements in its code, but may consider other tools appropriate to extending infrastructure:

- Developer agreements are authorized under Chapter 14.14 SCC. Such agreements may be an alternative to latecomers' agreements where there is less need or desire to establish a reimbursement area.
- An interlocal agreement can be executed between the County and another municipality or district without latecomers' agreements to extend roads and utilities where there are mutual benefits.

Schedule

County staff propose a draft timeline for developing code changes as follows:

LEGISLATIVE ACTIONS	JUNE 2018	JULY 2018	AUGUST 2018	SEPTEMBER 2018	OCTOBER 2018	NOVEMBER 2018
Research	06/01/18 – 07/31/18					
Draft Code Amendments		07/01/18 – 08/31/18				
Attorney Review			08/01/18 – 10/30/18			
Issue SEPA (30 days)				09/15/18 – 10/15/18		
Commerce Review (60 days)				09/15/18 – 11/15/18		
Release Staff Report, Draft Code, and Public Notice				09/15/18		
Planning Commission Review (WS-workshop; PH-public hearing; D - deliberations)	06/05/18 (WS)	07/17/18 (WS)			10/02/18 (PH) ¹	
					10/16/18 (D) ²	
Send Agenda Coversheet, Ordinance, Code, PC Recorded Motion, and Staff Report to the Clerk of the Board					10/30/18	
Board of County Commissioners Public Hearing and Deliberations (PH – public hearing; D/A – deliberations/adoption)						11/06/18 (D/A) ²

¹ A Public Hearing with the PC or BOCC requires public notice at least 15 days prior to the agenda item.

² Workshop materials and reports for deliberations and adoption with the PC or BOCC are due 1 week prior to Deliberations.

References

- City of Mount Vernon. (2018, May 21). *Fiber Optic Services*. Retrieved from City of Mount Vernon, Washington: <https://www.mountvernonwa.gov/870/Fiber-Optic-Services>
- Clark County. (2018, May 15). Clark County Code.
- E.D. Hovee & Company. (2003, July). *Comprehensive Economic Development Strategy*. Retrieved from Skagit County: <https://www.skagitcounty.net/PlanningandPermit/Documents/2003EconDevStrategy.pdf>
- EcoNorthwest . (2014). *Skagit County Industrial Land Study* .
- Skagit Council of Governments. (2013). *Economic Development*. Retrieved from SCOG.net: http://scog.net/Economic_Development/2013/2013CEDSIImplementationPlan.pdf
- Skagit Council of Governments. (2013). *Skagit County Comprehensive Economic Development Startegy Data Supplement* . Skagit Council of Governments.
- Skagit County. (2018, May 21). *A History of Fiber Optics in Skagit County*. Retrieved from Skagit County: <http://skagitcounty.maps.arcgis.com/apps/MapJournal/index.html?appid=4d7266224d9044ddb55f602ad829ad3>
- Skagit County. (2018, May 21). *Edison Subarea Clean Water District*. Retrieved from Skagit County: <https://www.skagitcounty.net/Departments/PlanningAndPermit/edisonsubarea.htm>
- Skagit County Planning and Development. (2018, May 15). *Bayview Ridge Subarea Plan*. Retrieved from <http://www.skagitcounty.net/PlanningAndPermit/Documents/BayviewRidgeSubarea/BVR-FAQ.pdf>
- Washington Department of Ecology. (2018, April). *Wastewater Treatment System Groundwater Assessment for Edison, Washington*. Retrieved from [fortress.wa.gov](https://fortress.wa.gov/ecy/publications/documents/1803007.pdf): <https://fortress.wa.gov/ecy/publications/documents/1803007.pdf>

Attachment: Legislation Summary

Feature	Street, Road, Highway Projects: Chapter 35.72 RCW	Municipal Water and Sewer Facilities: Chapter 35.91 RCW	Contracts for System Extensions: Chapter 57.22 RCW
What governmental entity is provided authority?	<ul style="list-style-type: none"> ▪ City, town, or county 	<ul style="list-style-type: none"> ▪ County, city, town, or drainage district 	<ul style="list-style-type: none"> ▪ Water-sewer districts
What is the definition of the street or utility?	<ul style="list-style-type: none"> ▪ Curbs, gutters, storm drainage, sidewalks, street lighting, traffic controls, and other similar improvements, as required by the street standards of the city, town, or county. 	<ul style="list-style-type: none"> ▪ Storm, sanitary, or combination sewers, pumping stations, and disposal plants, water mains, hydrants, reservoirs, or appurtenances. 	<ul style="list-style-type: none"> ▪ Not defined in chapter.
Who can initiate latecomers' agreements?	<ul style="list-style-type: none"> ▪ Owners of real estate ▪ County, city, or town may create an assessment reimbursement area on its own initiative, without the participation of a private property owner, finance the costs of the road or street improvements, and become the sole beneficiary of the reimbursements. ▪ WSDOT may participate with the owners of real estate or may be the sole participant in the financing of improvement projects but county, city, or town shall act as an agent of the department 	<ul style="list-style-type: none"> ▪ Owners of real estate ▪ A municipality may create an assessment reimbursement area on its own initiative, without the participation of a private property owner, finance all of the costs associated with the construction or improvement, and become the sole beneficiary of reimbursements. ▪ A municipality may participate in financing water or sewer facilities development projects authorized and improved or constructed. 	<ul style="list-style-type: none"> ▪ Owners of real estate ▪ Districts may join in the financing of improvement projects per resolution with conditions of participation
When is contracting required?	<ul style="list-style-type: none"> ▪ May contract with owners of real estate for the construction or improvement of street projects which the owners elect to install as a result of ordinances that require the projects as a prerequisite to further property. 	<ul style="list-style-type: none"> ▪ Must contract with the owner of real estate for the construction or improvement of water or sewer facilities that the owner elects to install. <ul style="list-style-type: none"> ○ Owner must submit a request for a contract prior to approval of the facility by the municipality. ○ Owner's request may only require a contract where a municipality's ordinances require the facilities to be improved or constructed as a prerequisite to further property development. 	<ul style="list-style-type: none"> ▪ Shall contract with owners of real estate..., at an owner's request, for ... extensions to the district's system to be constructed by such owner at such owner's sole cost where such extensions are required as a prerequisite to further property development.
What are contract requirements?	<ul style="list-style-type: none"> ▪ Provide for the partial reimbursement to the owner or the owner's assigns by properties in the reimbursement area who have a required share of the cost and didn't contribute to the original cost. ▪ Every two years provide contact name and information for person or entity that entered into contract. 	<ul style="list-style-type: none"> ▪ Water or sewer facilities must be located within the municipality's corporate limits or within 10 miles of the municipality's corporate limits (but not outside of the county that is party to the contract). ▪ Meet municipal plans and specifications. ▪ Inspection and approval of the water or sewer facility by the municipality. ▪ Transfer facility extension to municipality. ▪ Full compliance with the owner's obligations under contract and per municipality's rules and regulations. ▪ Provide security to complete extension. ▪ Provide verification and approval of all contracts and costs. ▪ Every two years provide contact name and information for person or entity that entered into contract. 	<ul style="list-style-type: none"> ▪ Provide for the reimbursement to the real estate owner or the owner's assigns. ▪ Meet district plans and specifications. ▪ Pay connection charges. ▪ Transfer facility extension to district. ▪ Provide security to complete extension. ▪ Pay district all costs. ▪ Provide verification and approval of all contracts and costs. ▪ Every two years provide contact name and information for person or entity that entered into contract.

Feature	Street, Road, Highway Projects: Chapter 35.72 RCW	Municipal Water and Sewer Facilities: Chapter 35.91 RCW	Contracts for System Extensions: Chapter 57.22 RCW
What can be included in the costs?	<ul style="list-style-type: none"> Design, grading, paving, installation, construction and contract administration. 	<ul style="list-style-type: none"> Engineering, legal, and administrative costs. The municipality's administrative and legal costs are not subject to reimbursement (apart from engineering and construction management costs). 	<ul style="list-style-type: none"> Design, engineering, installation, restoration, legal, and administrative costs.
What is the term of reimbursement?	<ul style="list-style-type: none"> 15 years 	<ul style="list-style-type: none"> 20 years 	<ul style="list-style-type: none"> 15 years
How are reimbursement areas determined?	<ul style="list-style-type: none"> Determination of which parcels adjacent to the improvements would require similar street improvements upon development. Pay a pro rata share of construction and contract administration costs of the street project. Determine the reimbursement share by using a method of cost apportionment which is based on the benefit to the property owner from such project. 	<ul style="list-style-type: none"> Within 120 days of the completion of a water or sewer facility, the owners of the real estate must submit the total cost, and this information must be used by the municipality as the basis for determining reimbursements by future users who benefit from the water or sewer facility, but who did not contribute to the original cost of the water or sewer facility. There shall be included in the engineer's estimate before the hearing on any such improvement, separately itemized, and in such assessments, a sum equal to the amount provided in or computed from such contract as the fair pro rata share of water or sewer facilities. The reimbursement assessment may be no greater than a property's pro rata share of costs associated with construction of the water or sewer facilities required to meet utility service and fire suppression standards. The municipality must determine the reimbursement share ... based on the benefit to the property owner from the project. 	<ul style="list-style-type: none"> Determination of which parcels would require similar improvements upon development. Pay a pro rata share of construction and contract administration costs of the project.
How are property owners in benefiting area provided information / comment opportunities?	<ul style="list-style-type: none"> Forward by certified mail to the property owners of record within the proposed assessment area. If any property owner requests a hearing in writing within twenty days of the mailing of the preliminary determination, a hearing shall be held before the legislative body, notice of which shall be given to all affected property owners. The legislative body's ruling is determinative and final. The contract must be recorded in the appropriate county auditor's office within thirty days of the final execution of the agreement. Once filed, it shall be binding on owners of record within the assessment area who are not party to the contract. 	<ul style="list-style-type: none"> A preliminary determination of the assessment reimbursement area boundaries and assessments, along with a description of property owners' rights and options, must be sent by certified mail to each owner of record of real property within the proposed assessment reimbursement area. Owners of property within the proposed area may request a public hearing by submitting a written request to the municipality within twenty days of the preliminary determination's mailing. If a written request is submitted, the legislative authority of the municipality must hold a public hearing on the assessment reimbursement area. Notice of the hearing must be provided to all affected property owners. Any rulings of the legislative authority of the municipality are determinative and final, subject to judicial review. The contract must be filed and recorded with the county auditor and must contain conditions required by the municipality in accordance with its adopted policies and standards. 	<ul style="list-style-type: none"> Contract must be recorded in the appropriate county auditor's office after the final execution of the agreement.

Feature	Street, Road, Highway Projects: Chapter 35.72 RCW	Municipal Water and Sewer Facilities: Chapter 35.91 RCW	Contracts for System Extensions: Chapter 57.22 RCW
Consistency with system plan required?	<ul style="list-style-type: none"> ▪ Not stated. 	<ul style="list-style-type: none"> ▪ The requirement for a municipality to contract with an owner of real estate for the construction or improvement of water or sewer facilities under this section is only applicable if the facilities are consistent with all applicable comprehensive plans and development regulations of the municipalities. ▪ Unless the municipality provides written notice to the owner of its intent to request a comprehensive plan approval, the owner must request a comprehensive plan approval for a water or sewer facility, if required. 	<ul style="list-style-type: none"> ▪ Amend comprehensive plan for extension, if required.
Use of County Roads		<ul style="list-style-type: none"> ▪ The municipality may install the water or sewer facilities in and along the county streets in the area to be served as hereinabove provided, subject to reasonable requirements as to the manner of occupancy of the streets as the county may by resolution provide. 	