



# Planning & Development Services

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## Memorandum

**To:** Skagit County Board of County Commissioners  
**From:** Jenn Rogers, Assistant Long Range Planner  
**Re:** Planning Commission's Recorded Motion on Amendments to Skagit County Stormwater Code  
**Date:** June 22, 2022

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### Summary

Planning and Development Services (PDS) is providing this staff report in advance of the June 27, 2022, and June 28, 2022, meetings of the Board of County Commissioners on the amendments to Stormwater Management Standards, Skagit County Code 14.04, 14.18, 14.22, and 14.32. This memo serves as a formal transmittal of the Planning Commission Recorded Motion within two weeks of signature. Appendix 1 contains the Planning Commission Recorded Motion and Appendix 2 and 3 are the amendments.

### Background

Skagit County, along with many other cities and counties in the state, is required to update our stormwater regulations in response to the National Pollution Discharge Elimination System (NPDES) Western Washington Phase II Municipal Stormwater Permit. In Washington State, the EPA has delegated the authority to administer NPDES permits to the Department of Ecology. Skagit County (and other municipal governments) are required NPDES permittees because our municipal stormwater system (i.e., our ditches) discharges to waters of the United States and because our population meets the threshold for coverage under the Phase II Municipal Stormwater Permit.

The current proposal is related to the County's NPDES permit. We currently are subject to our third permit cycle, effective August 1, 2019. The permit requires the County to:

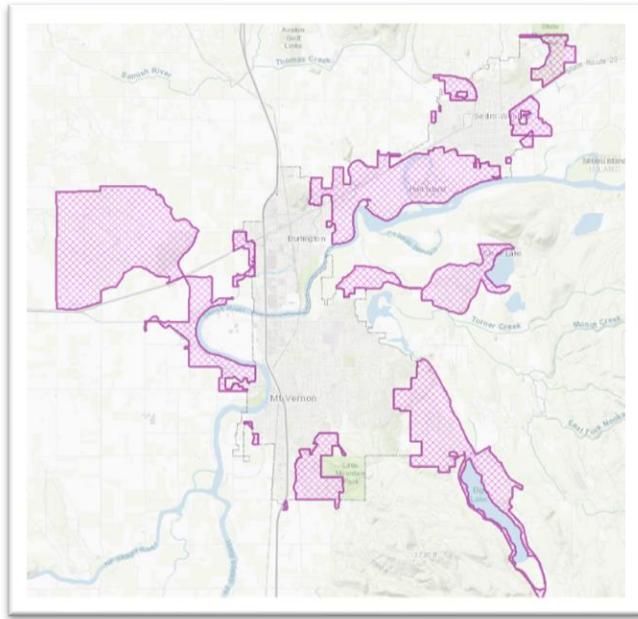


Figure 1: Skagit County Municipal NPDES Coverage Areas shown in pink.

*“Implement an ordinance or other enforceable mechanism that addresses runoff from new development, redevelopment, and construction site projects. Each Permittee shall adopt and make effective a local program, no later than June 30, 2022, that meets the requirements of S5.C.6.b(i) through (iii), below, and shall apply to all applications submitted:*

- i. On or after July 1, 2022.*
- ii. Prior to January 1, 2017, that have not started construction<sup>19</sup> by January 1, 2022.<sup>20</sup>*
- iii. Prior to July 1, 2022, that have not started construction by July 1, 2027.<sup>1”</sup>*

Development projects within the NPDES permit areas, as shown in Figure 1, and certain flood hazard areas are held to a higher level of standard.

While many of the changes are directly related to NPDES permit requirements, PDS is also proposing changes to areas outside of the NPDES area. The purpose of these changes is to simplify the stormwater construction regulations for the customer and incorporate stormwater considerations early in the development process.

PDS analyzed the proposed amendments under the State Environmental Policy Act (SEPA) and for consistency with the existing comprehensive plan and the unified development regulations. A full proposal was released for public review and comment on May 3, 2022. A public hearing was held with the Skagit County Planning Commission on May 24, 2022, and supplemental staff reports were provided to give a synopsis of public comments and answer Planning Commission questions.

The Planning Commission recorded motion (Appendix 1) was approved on June 14, 2022. The recorded motion includes recommendations for the Board’s consideration. The various staff reports, memos, public noticing documents, and public comments are available to view on the County’s project webpage at the following address: [www.skagitcounty.net/stormwater2022](http://www.skagitcounty.net/stormwater2022). This memo serves as a formal transmittal of the Planning Commission recommendation within two weeks of signature.

<sup>1</sup> See Appendix 2 for full requirement

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## Public Notice and Participation

On May 3, 2022, the Staff Report for the amendments to Stormwater Management Standards, Skagit County Code 14.04, 14.18, 14.22, and 14.32 was published to the County website. The public notice opened the comment period, noticed the public hearing, and provided the environmental (SEPA) determinations.

Notice was published to the Skagit Valley Herald, the PDS email distribution list, SEPA distribution list, and posted to the PDS and legal notice webpage.

On May 24, 2022, the Planning Commission held a public hearing on the stormwater code amendments as authorized by Skagit County Code (SCC) 14.08.080. The hearing was attended by the full Planning Commission and testimony was provided by the public. One person provided testimony during the hearing on the proposed amendments. A full transcript of the meeting can be found on the [Planning Commission Agenda and Archive page](#).<sup>2</sup>

Two written comments were submitted during the comment period, May 3, 2022, to May 24, 2022. Written comments can be found attached to the June 7, 2022, Supplemental Staff Report.<sup>3</sup>

## Summary of Planning Commission's Recorded Motion

The Planning Commission heard testimony to amend the Stormwater Management Standards, Skagit County Code 14.04, 14.18, 14.22, and 14.32 during a public hearing on May 24, 2022. On May 24, 2022, and June 14, 2022, the Planning Commission deliberated on the proposed amendments. The recorded motion (Appendix 1) was approved on June 14, 2022. The motion carried 6-0-0-3 (three members being absent). Appendix 1 is the Recorded Motion from the Planning Commission recommending the Board adopt the amendments as presented by staff. Code language can be found in Appendix 2 and 3.

## Planning and Development Services (PDS) Department Recommendation

PDS staff provided recommendations in staff reports to the Planning Commission. These were provided in the [May 3, 2022, staff report](#)<sup>4</sup> and supported in supplemental staff reports. The department is supportive of the recommendations in the Planning Commission recorded motion.

## Requested Board Action

The Department will present the Planning Commission Recorded Motion and this memo to the Board on Monday, June 27, 2022. Amendments can be found in Appendix 2. The BoCC is

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<sup>2</sup> <https://www.skagitcounty.net/Departments/PlanningCommission/PCminutes.htm>

<sup>3</sup> [https://www.skagitcounty.net/PlanningAndPermit/Documents/stormwater/PCSuppStaffReport\\_Stormwater\\_06072022\\_wAttachments.pdf](https://www.skagitcounty.net/PlanningAndPermit/Documents/stormwater/PCSuppStaffReport_Stormwater_06072022_wAttachments.pdf)

<sup>4</sup> <https://www.skagitcounty.net/PlanningCommission/Documents/PCdocs/Staff%20Report-Stormwater-2022-0503.pdf>

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authorized by SCC 14.08.090 to take the following actions to address the proposed amendments:

1. Adopt the proposed amendments as recommended by the Planning Commission.
2. Adopt the proposed amendments with modifications. Per SCC 14.08.090(2)(b)(i-v), substantial changes to any of the proposals shall require an additional opportunity for public review prior to final action.
3. Decline to adopt the proposed amendments.
4. Remand the issue(s) to the Department or the Planning Commission for additional work, study, review, or refinement.

PDS has prepared an ordinance for Board deliberation on June 28, 2022.

**Attachments:**

**Appendix 1, Planning Commission Recorded Motion, Amendments to Stormwater Management Standards, Skagit County Code 14.04, 14.18, 14.22, and 14.32**

**Appendix 2, Amendments to Stormwater Management Standards, Skagit County Code 14.04, 14.18, and 14.22**

**Appendix 3, Amendments to Skagit County Code 14.32**

**Skagit County Planning Commission's Recorded Motion Regarding the  
Amendments to Stormwater Management Standards, Skagit County Code  
14.04, 14.18, 14.22, and 14.32**

<b>Proposal publish date:</b>	May 3, 2022
<b>Proposal name:</b>	Amendments to Stormwater Management Standards, Skagit County Code 14.04, 14.18, 14.22, and 14.32
<b>Documents available at:</b>	<a href="http://www.skagitcounty.net/stormwater2022">www.skagitcounty.net/stormwater2022</a>
<b>Public hearing body:</b>	Skagit County Planning Commission
<b>Public hearing date:</b>	Tuesday, May 24, 2022, at 6 p.m.
<b>Written comment deadline:</b>	Tuesday, May 24, 2022, at conclusion of public hearing
<b>PC deliberations:</b>	Tuesday, May 24, 2022

The Planning Commission held four work sessions on the amendments to the Skagit County stormwater management standards on March 22, April 12, April 26, and May 10, 2022.

On May 5, 2022, the Planning and Development Services Department published a Notice of Availability (including SEPA determination of nonsignificance and notice of written comment period and public hearing) and staff report, and transmitted a 60-day Notice of Intent to Adopt to the Department of Commerce.

The Staff Report published on May 5, 2022, contains additional findings related to process, public notice, and department recommendations.

The public comment period is open from May 5, 2022, until May 24, 2022 at 7:00 p.m.

The Planning Commission deliberated on the docket on May 24, 2022, and June 14, 2022.

After considering the written and spoken comments and considering the record before it, the Planning Commission enters the following findings of fact, reasons for action, and recommendations to the Board of County Commissioners.

**Findings of Fact and Reasons for Action**

1. The Department has provided thorough analysis of the proposed amendments and included community input in the code language.
2. It is reasonable to evaluate regional stormwater systems after twenty years to consider new best management practices and other new regulations overseeing stormwater facilities.

3. Development pressure will continue in Skagit County, there is a need for predictable stormwater management. This will help mitigate impacts to sensitive downstream resources by increased runoff.
4. The code updates are required to maintain compliance with the NPDES Phase II Municipal Stormwater Permit by June 30, 2022.
5. The updates provide clarity and ease for the public applying for development permits.
6. The code language is compatible and consistent with shoreline, critical areas, stormwater, and land disturbance codes. Also, these topics are cohesive and comprehensive.

**Recommendation**

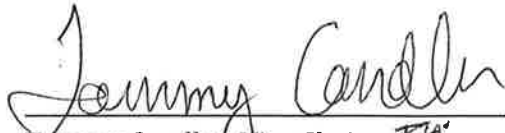
The Planning Commission recommends that the Board of County Commissioners **approve** the amendments to the Stormwater Management Standards, Skagit County Code 14.04, 14.18, 14.22, and 14.32 with the recommended changes provided by the Department in the June 10, 2022, supplementary staff report addendum:

1. SCC 14.32.040(2)
2. SCC 14.32.150(4)-(6)


**This recorded motion approved June 14, 2022**

<b>Commission Vote</b>	<b>Support</b>	<b>Oppose</b>	<b>Absent</b>	<b>Abstain</b>
Tim Raschko, Chair			x	
Tammy Candler, Vice Chair	x			
Kathy Mitchell	x			
Vince Henley	x			
Mark Knutzen			x	
Amy Hughes	x			
Martha Rose	x			
Joe Woodmansee			x	
Jennifer Hutchison	x			
<b>Total</b>	<b>6</b>	<b>0</b>	<b>3</b>	<b>0</b>

SKAGIT COUNTY PLANNING COMMISSION  
SKAGIT COUNTY, WASHINGTON

  
Tammy Candler, Vice Chair ~~PH~~

6/14/22  
Date

  
Hal Hart, Secretary

6/14/22  
Date

**Attachment 2.**

Planning Commission Recommended Amendments to Chapter 14.04  
Definitions, Chapter 14.18 Land Divisions, and New Chapter 14.22 Land  
Disturbance

Plain text = existing code with no changes  
~~Strikethrough~~ = existing code to be deleted  
Underlined = new code to be added  
~~Double Strikethrough~~ = existing code moved to  
another location  
Double Underline = existing code moved from  
another location  
*Italics* = Instructions for code reviser/reviewer

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## Chapter 14.04 Definitions

### SCC 14.04.020 Definitions

**As-built record drawing:** the final corrected drawings that accurately represent infrastructure of a project as constructed.

**Best management practices (BMPs), stormwater:** the schedule of activities, prohibition of practices, maintenance procedures, and structural and/or managerial practices approved by Ecology that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State.

**Construction Stormwater Pollution Prevention Plan (CSWPPP):** a written plan to implement measures to identify, prevent, and control the contamination of point source discharge of stormwater.

**Impervious surface--:** A non-vegetated surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purposes of determining whether the thresholds for application of Minimum Requirements are exceeded. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of runoff modelling.

**Low Impact Development Best Management Practices (LID BMP)** means distributed stormwater management practices, integrated into a project design, that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID BMPs include, but are not limited to, bioretention, rain gardens, permeable pavements, roof downspout controls, dispersion, soil quality and depth, vegetated roofs, minimum excavation foundations, and water re-use.

**Native vegetation:** pursuant to the NPDES Permit, vegetation comprised of plant species other than noxious weeds that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to occur naturally on the site. Examples include trees such as Douglas Fir, western hemlock, western red cedar, alder, big-leaf maple, and vine maple; shrubs such as willow, elderberry, salmonberry, and salal; and herbaceous plants such as sword fern, foam flower, and fireweed.

**NPDES (~~National Pollutant Discharge Elimination System~~) stormwater discharge permit:** ~~a~~ the permit issued by the Environmental Protection Agency (EPA) (or by the Washington Department of Ecology under authority delegated pursuant to 33 U.S.C. Section 1342(b)) that authorizes the Skagit County to discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis, surface water runoff to the waters of the state, known as the National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge General Permit for Discharge from Small Municipal Separate Storm Sewers in Western Washington, and which is referred to throughout this Code as “the County’s NPDES Permit”.

**NPDES Permit Area:** The area of unincorporated Skagit County that are urbanized areas and urban growth areas associated with permitted cities under the jurisdictional control of the County as defined by the Department of Ecology’s Phase II Western Washington Municipal Stormwater County’s NPDES

Permit (~~(modified July 1, 2019)~~ January 16, 2015), issued pursuant to the federal National Pollutant Discharge Elimination System.

**Qualified professional:** a person with ~~experience and training~~ and two years of work experience in the applicable field or critical area. ~~A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geology or related field, and two years of related work experience.~~

(1) A qualified professional for watercourses, wetlands, and wildlife habitat conservation areas must have a bachelor's degree or equivalent in biology or related field and relevant professional experience in functional assessment and mitigation techniques.

(2) A qualified professional for preparing geotechnical reports and geotechnical design recommendations must be a professional geologist or geotechnical engineer, licensed in the State of Washington.

(3) A qualified professional for critical aquifer recharge areas must be a hydrogeologist or professional engineer, licensed in the State of Washington, who is trained and qualified to analyze geologic, hydrologic, and groundwater flow systems.

(4) A qualified professional for stormwater management must be a professional engineer, licensed in the State of Washington, who is trained and qualified to design stormwater facilities.

**Retention/detention facility:** a type of drainage facility designed to either hold water for a considerable length of time and then release it by evaporation, plant transpiration, and/or infiltration into the ground; or to hold surface and stormwater runoff for a relatively short-shorter period of time and then release it to the surface and stormwater management system.

**Stormwater facility:** A constructed component of a manmade-stormwater drainage ~~feature or features~~system designed or constructed to perform a particular function, or multiple functions. ~~These Stormwater facilities~~ include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention ~~basins~~ponds, retention ~~basins~~ponds, ~~wetponds~~, constructed wetlands, infiltration devices, catch basins, ~~sediment basins, and low-impact development facilities~~oil/water separators~~separators~~, and biofiltration swales. ~~“Stormwater facility” does not include building gutters, downspouts, and drains serving only one single family residence.~~

~~**Stormwater Pollution Prevention Plan (SWPPP):** a document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a premises and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.~~

~~**Stormwater quality control:** the control of the introduction of pollutants into stormwater and the process of separating pollutants from stormwater. Stormwater quality control facilities include, but are not limited to, source controls, biofiltration/biofilter facilities, wetponds, wetland forebays, constructed wetlands, and erosion and sedimentation control facilities.~~

~~**Stormwater quantity control:** the control of the rate and/or volume of stormwater released from a development site. Stormwater quantity control facilities include, but are not limited to, detention and retention facilities.~~**Stormwater Treatment and Flow Control BMPs/Facility:** detention facilities, treatment BMPs/facilities, bioretention, vegetated roofs, and permeable pavements that help meet Minimum Requirement No. 6 (treatment), Minimum Requirement No. 7 (flow control), or both.

## Chapter 14.18 Land Divisions

### 14.18.000 General.

(1)–(4) [no change]

(5) [no change]

(a)–(m) [no change]

(n) Stormwater.

(i) Permanent stormwater facilities must be designed to accommodate all land and planned development within a land division. The Administrative Official may require facilities to be designed for individual lots or groups of lots within the proposed land division.

(ii) The face of the short plat or plat must contain a note that states:

(A) the total amount of impervious surface that the common stormwater facility is designed to accommodate; and

(B) for each lot, the amount of impervious surface that the common stormwater facility is designed to accommodate.

(o)(n) All construction and site development activities related to the land division are prohibited until (1) the preliminary land division is approved, and (2) engineering plans are approved which are based on the approved preliminary land division.

(6)–(10) [no change]

### 14.18.100 Preliminary subdivisions.

The purpose of this Section is to specify requirements for the segregation of land into short subdivisions (4 or fewer lots) and long subdivisions (5 or more lots) in accordance with applicable State and County laws, rules and regulations, including permit processing procedures required by Chapter 14.06 SCC. See SCC 14.18.000(2) for exemptions.

(1)–(5) [no change]

(6) [no change]

(a)–(d) [no change]

(e) Any applicant who has received preliminary short or long subdivision approval on or before September 1, 2011, who submits a request for extension in writing to the Administrative Official at least 30 days before the preliminary approval expiration date may be granted a one-year extension of the preliminary approval by the Administrative Official or designee upon a showing that the applicant has attempted in good faith to submit the final subdivision within the preliminary approval period set forth in Subsections (6)(a) and (b) of this Section. Only five such extensions shall be allowed. ~~The Administrative Official's decision on a plat extension request is appealable as a Level I decision pursuant to SCC Chapter 14.06.~~

(f) Any applicant who has received preliminary short or long subdivision approval on or before April 1, 2014, who submits a request for extension in writing to the Administrative Official at least 30 days before the preliminary approval expiration date may be granted a one-year extension of the preliminary approval by the Administrative Official or designee upon a showing

that the applicant has attempted in good faith to submit the final subdivision within the preliminary approval period set forth in Subsections (6)(a) and (b) of this Section. Only 10 total extensions shall be allowed pursuant to Subsections (6)(e) and (f) of this Section. ~~The Administrative Official's decision on a plat extension request is appealable as a Level I decision pursuant to SCC Chapter 14.06.~~

(g) Approval of any extension may contain additional or altered conditions and requirements, including a requirement that stormwater designs be updated to reflect stormwater requirements in effect at the time of the application for an extension.

(h) The Administrative Official's decision on a plat extension request is appealable as a Level I decision pursuant to SCC Chapter 14.06.

(7) [No change]

#### **14.18.200 Final subdivisions.**

(1)–(3) [No change]

(4) Final Subdivision Approval Requirements. Prior to approval of the final subdivision, the following requirements shall be met:

(a)–(b) [No change]

(c) All final subdivisions submitted for approval to the County Commissioners shall be accompanied by the written recommendation for approval or denial from the County Engineer.

Engineering plans for roads, ~~drainage controls~~ and other proposed or conditioned public improvements shall be prepared and submitted by the applicant and reviewed and approved by the County Engineer prior to the commencement of on-site clearing or construction activities and approval of the final subdivision.

(d)–(i) [No change]

(5)–(9) [No change]

## **New Chapter 14.22 Land Disturbance**

### **14.22.010 Purpose and Intent.**

(1) The purposes of this Chapter is to regulate land disturbing activity and safeguard public health, safety, and welfare by:

(a) harmonizing the review for stormwater management, forest practices, protection of critical areas, floodplain management, shorelines, cultural resources, the building codes for grading, and SEPA;

(b) promoting site planning that is consistent with natural topographical, vegetation and hydrological conditions, utilizing low impact development (LID) to the maximum practical extent;

(c) encouraging holistic site planning to reduce negative impacts to the community and the environment;

(d) preserving vegetation, including by preventing indiscriminate removal vegetation and trees on undeveloped property, and where appropriate require commensurate replanting;

(e) requiring the implementation of best management practices (BMPs);

(f) addressing short term stormwater impacts resulting from the actual land disturbance and the long-term stormwater impacts caused by loss of native vegetation and soils;

(g) protecting archaeological and historical resources pursuant to RCW Chapters 27.44 and 27.53;

(h) establishing administrative procedures to issue permits, approve plans, and inspect land disturbance activities; and

(i) minimizing the amount of time between land disturbance and the project completion.

### **14.22.020 Applicability.**

(1) Generally. This Chapter applies to all land disturbing activity including but not limited to, clearing, grading, excavation, fill, and forest practices subject to County jurisdiction. This Chapter does not apply to those activities identified in subsection (3).

(2) Required Review and Permit. A land disturbance permit is required for all activities subject to this Chapter unless all provisions of this ordinance are reviewed under a building or shoreline substantial development permit.

(3) Exemptions. The following activities are exempt from the requirements of this Chapter:

(a) Except as provided in subsections (3)(b) and (3)(c), cumulative land disturbing activity, over a five-year period, totaling:

(i) less than 7,000 square feet within the NPDES Permit area; and

(ii) 14,000 square feet outside the NPDES Permit Area cumulatively.

(b) Grading or excavation that meets all of the following:

(i) Does not obstruct or modify drainage;

(ii) Is less than 3 feet deep;

(iii) Does not create of slope greater than 5 feet in height and not steeper than 1.5 horizontal feet to 1 vertical foot (66.6% or 33.7°);

(iv) Does not exceed 100 cubic yards of excavated material;

(v) Over a five year period, does not exceed 2000 square feet of impervious area or 7000 square feet of land disturbance;

(vi) Does not require floodplain review under SCC 14.24; and

(vii) Is not within a critical area or its buffers, unless critical areas review of the project and areas of land disturbance have been approved;

(c) Fill that meets all of the following:

(i) Does not obstruct or modify drainage;

(ii) Does not exceed 3 feet in depth;

(iii) Is placed on natural terrain with a slope of less than 12%;

(iv) Does not exceed 100 cubic yards;

(v) Is not more than 1 foot and intended to support a structure;

(v) Over a five year period, does not exceed 2000 square feet of impervious area or 7000 square feet of land disturbance;

(vii) Does not require floodplain review under SCC 14.24; and

(viii) Is not within a critical area or its buffers, unless critical areas review of the project and areas of land disturbance have been approved.

(d) Site investigations performed under the direction of a qualified professional that do not create permanent impacts such as surveys, soil borings, test pits, soil logs, site evaluations percolation tests and other related activities;

(e) Forest practices not subject to County jurisdiction under RCW 76.09.240;

(f) Cemetery graves;

(g) Refuse disposal sites controlled and in compliance with other regulations;

(h) Excavations for well or utility trenches;

(i) Mining, quarrying, excavating, processing or stockpiling rock, sand, gravel, aggregate, or clay controlled by and in compliance with other regulations when such operations do not affect the lateral support of, or significantly increase stresses in, soil on adjoining properties;

(j) The following agricultural activities in accordance with SCC 14.24.120:

(i) Tilling, soil preparation, fallow rotation, planting, harvesting and other commercial agricultural activities involving working the land, provided that any new development activities must comply with all applicable provisions of SCC 14.24;

(ii) Maintenance or repair of existing agricultural facilities including stormwater facilities, drainage ditches, and ponds;

(iii) New construction and enlargement of existing agricultural drainage ditches that requires 500 cubic yards or less of grading, provided that the new or enlarged ditches:

(A) do not adversely impact upstream or downstream properties; and

(B) are not located within 300 feet of wetlands, fish and wildlife habitat conservation areas, and erosion hazard areas.

(k) The removal of plants designated as noxious or invasive weeds while protecting native plants and native soils;

(l) Vegetation maintenance practices, including landscape maintenance and gardening; and

(m) Stormwater facility maintenance if conducted according to established standards and procedures and consistent with the operations and maintenance plan for the facility, including:

(i) land disturbing activity associated with public improvements and maintenance by Skagit County within the existing right-of-way, except this does not include activities that expand into a critical area or associated buffer, including, but not limited to:

(ii) roadside ditch cleaning if the ditch does not contain fish;

(iii) pavement repair and repaving;

(iv) normal grading of gravel shoulders;

(v) maintenance of culverts;

(vi) maintenance of flood control or other approved stormwater facilities;

(vii) routing clearing within road right-of-way; and

(viii) emergency action necessary to protect public safety or private or public property from imminent danger; and

(n) Private road maintenance that does not change road dimensions, surface material, or drainage.

#### **14.22.040 Application Requirements.**

(1) Review of land disturbing activity requires the applicant to submit:

(a) A narrative of the project that includes the following information:

(i) Existing site conditions;

(ii) Development goals of proposed work;

(iii) Specific work to be accomplished;

(iv) A time schedule for land clearing activities;

(v) Type of equipment to be used;

(vi) A construction pollution prevention plan that identifies measures to protect the site, adjacent properties, and downstream areas from potential adverse impacts;

(vii) The estimated quantities and area of work involved; and

(viii) If excavated material is to be wasted off-site, a description of the location and the route to the disposal site;

(b) A site plan for the project proposal including a map to scale showing areas to be cleared or graded, known critical areas and existing site drainage patterns, sediment and erosion control measures, existing developed areas and those anticipated for future development.

(c) Demonstration of compliance with all applicable development standards listed in SCC 14.22.050; and

(d) Any other items that may be required by the Administrative Official.

(2) An application for a forest practice subject to Skagit County jurisdiction must also include the following:

(a) A completed “Forest Practices Conversion Application” form provided by the Department; and

(b) A site plan that includes the location of existing and proposed skid roads, haul roads, and landings within the project area.

(3) By submitting an application under this Section, the applicant consents to entry upon the subject site by the County during regular business hours for the purposes of making inspections to verify information provided by the applicant and to ensure that work is being performed in accordance with the requirements of this Chapter.

#### **14.22.050 Development Standards**

(1) The Administrative Official has authority to review and to approve, conditionally approve, or deny a land disturbance application.

(a) The application must be denied if it fails to comply with the requirements of this Title or RCW Chapter 76.09.

(b) Conditions of approval may include:

(i) inspection by the applicant’s Certified Erosion and Sediment Control Lead prior to land disturbing activities;

(ii) the establishment of financial securities in the form of performance and maintenance bonds or other surety instruments; and

(iii) any other conditions as deemed necessary by the Administrative Official.

(2) Activities subject to this Chapter must comply with all applicable federal, state, and local laws and regulations, including the following:

(a) SCC Chapter 14.24 Critical Areas.

(b) SCC Chapter 14.26 Shorelines.

(c) SCC Chapter 14.32 Stormwater Management.

(d) SCC Chapter 14.34 Flood Damage Prevention.

(e) SCC Chapter 14.36 Public Works Standards.

(f) SCC Chapter 15.04 International Codes.

(g) SCC Chapter 16.12 State Environmental Policy Act.



(3) The Administrative Official may require additional or more stringent standards than those specified in this Chapter to the extent necessary to protect the public health, safety, and welfare or to mitigate any adverse impacts from land disturbing activities. The Administrative Official must provide written findings of fact related to the additional requirements to the applicant.

(4) The decision of the Administrative Official under subsection (1) or subsection (3) is a level 1 decision appealable under SCC 14.06.050.

(5) Prior to beginning work field the applicant must:

(a) clearly mark all critical areas and associated buffers, landing areas, tree retention areas, native vegetation areas for stormwater dispersion/infiltration, and harvest/cutting/preserved areas boundaries with construction fencing or other approved method that clearly shows their boundaries; and

(b) the location of marked areas must be noted on any future site plan

#### **14.22.060 Performance and Securities.**

(1) The Administrative Official may require the applicant to establish a financial security which may be acceptable to the County at its sole discretion.

(2) The security must be in an amount of at least the County's estimate of the cost of correcting or eliminating hazardous conditions that reasonably may occur, and ensuring compliance with the stipulations of the permit and the approved plans.

#### **14.22.070 Inspections**

A land disturbance permit requires inspections to ensure that all work on a site is completed pursuant to the approved permit and requirements of this Chapter.

#### **14.22.090 Archaeological and Historical Resources**

(1) The purpose of this section is to avoid the destruction of or damage to any site having historic or cultural values as identified by the appropriate agencies, including but not limited to affected Indian tribes and the Washington State Department of Archaeology and Historic Preservation (DAHP).

(2) Archaeological sites are subject to the provisions of RCW Chapters 27.53 and 27.44.

(3) Consistent with RCW 27.53.060, if historical, cultural, or archaeological sites or artifacts of potential significance are discovered during land disturbing activities:

(a) work on the development site must stop immediately;

(b) the project proponent or responsible party must report the discovery to the County immediately;

(c) Skagit County shall notify DAHP, the affected tribes, and other appropriate agencies of the discovery; and

(d) the project proponent or responsible party must retain a professional archaeologist to conduct an immediate site assessment and determine the significance of the discovery.

(A) If a negative determination is received, i.e., the find is not significant, the work may resume after consultation with the State and the affected Tribes.

(B) If a positive determination is received work on the site must remain stopped and the project proponent or responsible party may not resume development activities without authorization from DAHP.

(4) Consistent with RCW 68.50.645, if human skeletal remains are discovered during land disturbing activities:

(a) all activity must cease and the area of the find will be protected from further disturbance;

(b) the project proponent or responsible party must report the discovery to local law enforcement and the County Medical Examiner or Coroner immediately; and

(c) The County Medical Examiner or Coroner may assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic—non-forensic remains must be reported to DAHP, who will then take jurisdiction of the remains.

**Attachment 3.**  
 Planning Commission Recommended Amendments to Chapter 14.32,  
 Stormwater Management

Plain text = existing code with no changes  
~~Strikethrough~~ = existing code to be deleted  
Underlined = new code to be added  
~~Double Strikethrough~~ = existing code moved to another location  
Double Underline = existing code moved from another location  
*Italics* = Instructions for code reviser/reviewer

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\* Prior legislation: Ordinances 17938 (Attch. F), O20020001, O20070003, O20070009 and O20100002 (Exh. 1).

#### 14.32.010 Policy.

(1) Purpose. ~~Washington State law mandates that stormwater discharge resulting from development activities and pollution-generating activities be controlled and treated to provide available and reasonable methods of erosion control, flood control, and water quality treatment. This Chapter seeks~~ to help protect adjacent landowners and others from downstream flooding, erosion, and pollution; ~~Skagit County has adopted the following in compliance with the County's NPDES Permit. The requirements for of this Chapter govern~~ both temporary and long-term stormwater management. ~~The purpose of~~ This Chapter ~~is to set out~~ describes the County's authority, regulatory requirements, submittal requirements, and procedures for stormwater drainage design, review, approval, construction, maintenance, and management in unincorporated Skagit County.

~~(2) Goals of LID. The goals of low impact development (LID) are to conserve and use existing natural site features, to integrate distributed, small-scale stormwater controls, and to help prevent measurable harm to streams, lakes, wetlands, and other natural aquatic systems from development by maintaining a more hydrologically functional landscape. This Chapter accomplishes the following goals:~~

~~(a) Manage~~ This chapter is intended be consistent with the County's NDPES Permit, and in the event of any conflicts between this chapter and the permit, the provisions of the permit control.

(2) This Chapter is in furtherance of the following Stormwater Management goals:

(a) Management of stormwater through a land development strategy ~~that emphasizes~~ emphasizing conservation and use of on-site natural features integrated with ~~engineered, small-scale~~ hydrologic controls to mimic predevelopment hydrologic conditions;

~~(b) Encourage~~ Encouraging creative and coordinated site planning, the conservation of natural conditions and features, the use of appropriate technologies and techniques, and the efficient layout of streets, utility networks and other public improvements;

~~(c) Reduce~~ Reducing hard surfaces and impervious surfaces; and

~~(d) Preserve~~ Preserving or ~~restore~~ restoring native vegetation.

~~(3) Authority. This Chapter is adopted pursuant to the authority granted to Skagit County in:~~

~~(a) RCW Chapter 36.70, Planning Enabling Act;~~

~~(b) RCW Chapter 36.70A, Growth Management Act;~~

~~(c) RCW Chapter 90.48, Water Pollution Control.~~

~~(4) Administration. The Administrative Official administers this Chapter and has the authority to develop and implement procedures to administer and enforce this Chapter. In all cases involving technical requirements and review, the Administrative Official should give due consideration and regard to the advice and recommendations of County technical staff. (Ord. O20150006 § 2 (Att. A))~~

(e) Protect or preserve water quality

(f) Promoting the use of Low Impact Development (LID) techniques by making LID measures the preferred and commonly-used approach to site development.

### 14.32.020 Applicability.

(1) No site development activity requiring review under this Chapter, including land ~~clearing,~~ ~~grading~~~~disturbance~~, or other construction activity, may occur until the proposed activity has been reviewed and any required development permit has been issued. ~~No site development activity may continue without an appropriate development permit.~~

(2) ~~—SCC 14.32.030 through 14.32.080 apply to any activity within~~ This Chapter applies in unincorporated Skagit County ~~identified below~~ to the following activities:

(a) ~~—“New Development,” meaning means~~ land disturbing activities, including Class IV General Forest Practices that are conversions from timber land to other uses; structural development, including construction or installation of a building or other structure; creation of hard surfaces; and subdivision, short subdivision and binding site plans, as defined and applied in ~~RCW~~ Chapter 58.17 RCW. Projects meeting the definition of redevelopment ~~are shall~~ not be considered new development.

(b) ~~—“Redevelopment,” meaning means,~~ on a site that is already substantially developed (~~i.e.,~~ has 35 ~~percent~~% or more of existing hard surface coverage), the creation or addition of hard surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of hard surface that is not part of a routine maintenance activity; and land disturbing activities.

(c) Any activity requiring a ~~grading permit per SCC~~ Land Disturbance Permit under Chapter ~~15.04~~14.22 SCC.

(d) Any land disturbing activity that is not exempt from review under SCC 14.22.

(3) This Chapter applies to all applications for development permits submitted to the County:

(a) On or after July 1, 2022;

(b) Prior to January 1, 2017, that have not started construction by January 1, 2022; and

(c) Prior to July 1, 2022, that have not started construction by July 1, 2027.

(4) Exemptions. ~~Consistent with Appendix 1, Section 1 of the County’s NPDES permit,~~ The following activities, ~~as set forth in the County’s NPDES Permit, Appendix 1,~~ are exempt from the Minimum Requirements this Chapter:

(a) Forest Practices. Forest practices regulated under ~~WAC~~ Title 222 WAC, except for Class IV\_ General forest practices that are conversions from timber land to other uses, ~~are exempt from the provisions of the minimum requirements.~~

(b) Commercial Agriculture. Commercial agriculture practices involving production of crops or livestock ~~as described in the County’s NPDES permit, Appendix 1, Section 1. However,~~ provided that the conversion from ~~timber land~~ timberland to agriculture, and the construction of impervious surfaces are not exempt.

~~(c) —Oil and gas field activities or operations, as described in the County’s NPDES permit, Appendix 1, Section 1.~~

(c) Oil and Gas Field Activities or Operations. Construction of drilling sites, waste management pits, and access roads, as well as construction of transportation and treatment infrastructure such as pipelines, natural gas treatment plants, natural gas pipeline compressor stations, and

crude oil pumping stations are exempt. 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

(d) Pavement Maintenance.

(i) The following pavement maintenance, ~~as described in~~ practices are exempt:

(A) pothole and square cut patching;

(B) overlaying existing asphalt or concrete pavement with asphalt or concrete without expanding the area of coverage;

(C) shoulder grading;

(D) reshaping/regrading drainage systems;

(E) crack sealing;

(F) resurfacing with in-kind material without expanding the road prism;

(G) pavement preservation activities that do not expand the road prism; and

(H) vegetation maintenance.

(ii) The following pavement maintenance practices are not categorically exempt, and are subject to the ~~County's NPDES permit, Appendix 1, Section 1.~~ Minimum Requirements that are triggered when the thresholds identified for new or redevelopment projects are met under SCC 14.32.040, et seq.:

(A) Removing and replacing an asphalt or concrete pavement to base course or lower, or repairing the pavement base: These are considered replaced hard surfaces.

(B) Extending the pavement edge without increasing the size of the road prism, or paving graveled shoulders: These are considered new hard surfaces.

(C) Resurfacing by upgrading from dirt to gravel, a bituminous surface treatment ("chip seal"), asphalt, or concrete; upgrading from gravel to chip seal, asphalt, or concrete; or upgrading from chip seal to asphalt or concrete: These are considered new impervious surfaces

(e) Underground Utility Projects. Underground utility projects that replace the ground surface with in-kind material or materials with similar runoff characteristics are only subject to Minimum Requirement No. 2.2, ~~Construction Stormwater Pollution Prevention. (Ord. 020150006 § 2 (Att. A)).~~

**14.32.030 Application requirements.**

(1) ~~Basic Requirement.~~ All applications for a development permit require a stormwater site plan consistent with this ~~Section.~~Chapter.

(2) All proposals for engineered stormwater facilities must be provided in a native electronic format.

(3) Security. The County may require liability insurance and a financial security to ensure performance of the requirements of this Chapter. ~~(a) All~~

#### 14.32.040 Stormwater Management Manual

(1) Skagit County adopts:

(a) Ecology's 2019 Stormwater Management Manual for Western Washington, as subsequently amended, as the Stormwater Management Manual for unincorporated Skagit County.

(b) The Thresholds, Definitions, Minimum Requirements and Exceptions, Adjustment and Variance Criteria found in Appendix 1 of the County's Current NPDES Permit.

(c) the following portions of WSDOT's Standard Specifications for Road, Bridge, and Municipal Construction:

(i) Section 6-11, Reinforced Concrete Walls.

(ii) Division 7, Drainage Structures, Storm Sewers, Sanitary Sewers, Water Mains, and Conduits.

(iii) Section 8-01, Erosion Control and Water Pollution Control,

(iv) Section 8-15, Riprap.

(v) Section 9-03, Aggregates.

(vi) Section 9-05, Drainage Structures and Culverts.

(vii) Section 9-13, Riprap, Quarry Spalls, Slope Protection, and Rock for Erosion and Scour Protection and Rock Walls.

(c) WSDOT Highway Runoff Manual

(2) Within the Airport Environs Overlay the provisions of SCC 14.32.16.210(3)(c)(iii) apply.

#### ~~14.32.040 Stormwater Management Manual.~~

~~(1) Skagit County adopts Ecology's 2012 Stormwater Management Manual for Western Washington, as amended in December 2014, as the Stormwater Management Manual for the entirety of unincorporated Skagit County.~~

~~(2) Inside the NPDES Permit Area. Skagit County adopts the Thresholds, Definitions, Minimum Requirements and Exceptions, Adjustment and Variance Criteria found in Appendix I of the County's NPDES Permit. Thresholds identified in this Chapter control only if they are lower than those required by Appendix I.~~

~~(3) Outside the NPDES Permit Area.~~

~~(a) Outside of the NPDES permit area, the Stormwater Management Manual's minimum requirements are modified as provided in the table below.~~

**Table 14.32.040-1**

Minimum Requirement (MR)	When Required, By Land Use Intensity		
	Low	Medium	High
MR1 Stormwater Site Plan	≥ 7,000 sq ft of new plus replaced hard surface, or ≥ 14,000 sq ft land disturbing activity	≥ 4,000 sq ft of new plus replaced hard surface, or ≥ 14,000 sq ft land disturbing activity	per manual
MR2 Construction SWPPP	always required		
MR3 Source Control	not required	≥ 4,000 sq ft of new plus replaced hard surface, or ≥ 14,000 sq ft land disturbing activity	per manual
MR4 Preserve Natural Drainage	≥ 7,000 sq ft of new plus replaced hard surface, or ≥ 14,000 sq ft land disturbing activity		per manual
MR5 Onsite Stormwater Management	not required		per manual
MR6 Treatment	not required		per manual
MR7 Flow Control	not required		per manual
MR8 Wetlands Protection	≥ 7,000 sq ft of new plus replaced hard surface, or ≥ 14,000 sq ft land disturbing activity		per manual
MR9 O&M	required only if stormwater facility installed		per manual

(b) The land use intensities in the table above have the following meanings:

**Table 14.32.040-2**

Land Use Intensity	Meaning
Low	Single-family residential and accessory uses on parcels of one acre or larger; construction of agricultural buildings in Ag-NRL; seasonal roadside stands; roads (other than those exempt as pavement maintenance)
Medium	Single-family residential and accessory uses on parcels smaller than one acre; land divisions into four or fewer lots; minor utility developments;



Land-Use Intensity	Meaning
	trails and trailheads
High	<p>All other uses, including all commercial, industrial, institutional, and urban or multifamily residential uses;</p> <p>land divisions into more than four lots;</p> <p>all uses on parcels bisected by the NPDES Permit Area boundary;</p> <p>any project that results in new plus replaced hard surface greater than or equal to 20,000 sq ft, or 1.5 acres of vegetation to lawn conversion, or five acres of vegetation to pasture conversion</p>

[moved to SCC 14.32.070] (4) ~~Experimental Best Management Practices (BMPs). In those instances where the Stormwater Management Manual does not contain appropriate BMPs, experimental BMPs may be considered. In an effort to improve stormwater quality technology, experimental BMPs are encouraged as a means of solving problems in a manner not addressed by the Stormwater Management Manual. The Administrative Official must approve experimental BMPs and may require that the performance of experimental BMPs be monitored to document their effectiveness for future use.~~

(5) ~~Adjustments and Exceptions.~~

(a) ~~The Administrative Official may grant an adjustment to the application of the Stormwater Management Manual and its minimum requirements prior to permit approval and construction consistent with the criteria in the Stormwater Management Manual Volume I, Section 2.7 (Adjustments).~~

(b) ~~The Administrative Official may grant an exception from this Chapter or the application of the Stormwater Management Manual and its minimum requirements prior to permit approval and construction when consistent with the criteria in the Stormwater Management Manual Volume I, Section 2.8 (Exceptions/Variations). The Administrative Official must retain records, including the written findings of fact, of all exceptions from the minimum requirements.~~

(c) ~~A request for an adjustment or exception must adequately describe the justification for relief and is processed as a Level I decision under SCC 14.06.110.~~

[moved to SCC 14.32.100] (6) ~~Critical Drainage Areas. In order to mitigate or eliminate potential stormwater-related impacts on critical drainage areas, the Administrative Official may require additional stormwater improvements in the following areas:~~

(a) ~~All areas designated as critical areas under SCC Chapter 14.24;~~

(b) ~~All lands within 200 feet of the ordinary high water mark of waterbodies possessing fish spawning and rearing habitat for anadromous and resident fish species, as designated by the State Department of Fish and Wildlife;~~

(c) ~~Any lands that drain to a natural feature that is a closed depression, i.e., a low-lying area that has no surface outlet, or such a limited surface outlet that in most storm events, the area acts as a retention basin, holding water for infiltration, evaporation or transpiration;~~

(d) ~~Any lands that are established by law as fish or shellfish protection areas; and~~

~~(e) Any lands determined by the Administrative Official to have a high potential for drainage and water quality problems and/or are sensitive to the effects of construction or development. (Ord. O20150006 § 2 (Att. A))~~

**14.32.050 Projects Within the NPDES Permit Area; Non-Residential Projects outside of the NPDES Permit Area [Previously 14.32.040]**

Any development or redevelopment, or other project subject to this chapter, that is wholly or partially inside the NPDES Permit Area or an Urban Growth Area and non-single family residential projects outside of the NPDES permit area, must fully comply with the County's NPDES Permit and the Stormwater Management Manual.

**14.32.060 Residential Projects Outside the NPDES Permit Area [Previously 14.32.040]**

(1) Single family residential and single family residential accessory projects that are wholly outside the NPDES Permit Area and an Urban Growth Area that meet these criteria must comply with the Stormwater Management Manual's minimum requirements as modified in subsection (2).

(a) Minimum Requirements Nos. 1–9 are required for projects that meet any of the following criteria:

- (i) Result in 10,000 square feet of new plus replaced hard surface area.
- (ii) Result in 50% or greater hard surface coverage of the lot.
- (iii) Convert 1.5 acres or more of vegetation to lawn or landscaped area.
- (iv) Converts 5 acres or more of natural vegetation to pasture.
- (v) Includes grading or filling that moves more than 500 cubic yards of material.

(b) Minimum Requirements Nos. 1–5 are required for projects that meet any of the following criteria:

- (i) Results in 4000 square feet or more of new plus replaced hard surface.
- (ii) Results in land disturbance of 14,000 square feet or more.

(c) Minimum Requirement No. 2, Construction Stormwater Pollution and Protection Plan is required for all projects.

(2) Modified Minimum Requirement for Residential Projects wholly outside of the NPDES Permit Area.

(a) Minimum Requirement No. 1 Stormwater Site Plan.

(i) The infiltration test for the stormwater site ~~plans must~~ plan be performed consistent with the simplified procedure provided by the Department.

~~(ii) If the project does not include a stormwater pollution prevention plan (MR2), including provisions for erosion and sediment control.~~

~~(b) When a or require an engineered stormwater site plan (MR1) is required by SCC 14.32.040 facility, the stormwater site plan fulfills this application requirement is not required to be prepared by a registered land surveyor or an engineer.~~

(b) Minimum Requirement No. 2 Construction Stormwater Pollution and Protection Plan. The applicant may use the Model Construction SWPPP provided by the Department if:

(i) the project is a residence or residential accessory use; and

(ii) the project does not require coverage under Ecology's Construction Stormwater General Permit.

(c) Minimum Requirement No. 3 Source Control. Reserved

(d) Minimum Requirement No. 4 Preservation of Natural Drainage. Reserved

~~(2) Inside the NPDES Permit Area. The applicant must use the site assessment process in Chapter 2 of the Low Impact Development Technical Guidance Manual for Puget Sound (Puget Sound Partnership and WSU Extension, 2012) to develop the stormwater site plan. The site assessment provides the baseline information necessary to design strategies that preserve areas most appropriate to evaporate, transpire, and infiltrate stormwater and achieve the requirements of the Stormwater Management Manual and this chapter.~~

~~(3) Outside the NPDES Permit Area:~~

~~(a) A stormwater site plan must demonstrate compliance with the requirements of SCC 14.32.040.~~

~~(b) The stormwater site plan must be prepared by a qualified professional and must include an offsite analysis only when the application includes any of the following:~~

~~(i) Land-disturbing activity greater than or equal to one acre;~~

~~(ii) Grading greater than or equal to 500 cubic yards;~~

~~(iii) Any improvements within County right of way for which the County will ultimately assume responsibility for maintenance.~~

~~(c) Off-Site Analysis. Any off-site analysis must be consistent with the methods described in the Stormwater Management Manual.~~

~~(d)~~

(e) Minimum Requirement No. 5 Onsite Stormwater Management.

(i) If the application is subject only to Minimum Requirement Nos. 1–5, the applicant may use any feasible BMP from the appropriate Stormwater Management Manual list, and does not need to select BMPs in the prescribed order.

(ii) If the application is subject to Minimum Requirement Nos. 1–9 the applicant may use the LID Performance Standard or the appropriate Stormwater Management Manual list.

(iii) Geotechnical Analysis. ~~The stormwater site plan must include~~ A geotechnical analysis ~~only~~ when:

(i) ~~A~~ Grading or the construction of retention facilities, detention facilities, or other stormwater and drainage facilities is proposed within 200 feet of slopes steeper than ~~40~~15 percent; or

~~(ii)–B)~~ The Administrative Official deems that the proposed construction poses a potential hazard due to its proximity to a geologically hazardous area or Category I aquifer recharge area.

~~(e)–iv)~~ Soils Analysis. ~~The stormwater site plan must include~~ A soils analysis ~~only is~~ required when the Administrative Official deems that existing soils maps of the project site are not of sufficient resolution to allow proper engineering analysis.

(f) Minimum Requirement No. 6 Runoff Treatment. Reserved.

(g) Minimum Requirement No. 7 Flow Control. Reserved.

(h) Minimum Requirement No. 8 Wetlands Protection. Reserved.

(i) Minimum Requirement No. 9 Operations & Maintenance. The applicant may use the BMP Maintenance Tables in Appendix V-A of the Stormwater Management Manual—

~~(4) Security. The County may require liability insurance and a financial security to ensure performance of the requirements of this Chapter. (Ord. O20160004 § 6 (Att. 6); Ord. O20150006 § 2 (Att. A))~~

~~(3)–~~ 14.32.070 Experimental Best Management Practices (BMPs). [Previously 14.32.040(4)]

(1) Inside the NPDES Permit Area, a development may use emerging stormwater treatment technologies that are approved by Ecology’s Technology Assessment Protocol.

(2) Wholly Outside the NPDES Permit Area-

~~(4) Experimental Best Management Practices (BMPs). In those instances where the Stormwater Management Manual does not contain appropriate BMPs, experimental BMPs may be considered. In an effort to improve stormwater quality technology, experimental BMPs are encouraged as a means of solving used to solve~~ problems in a manner not addressed by the Stormwater Management Manual. The Administrative Official ~~must~~ may:

(a) Approve experimental BMPs where there is substantial evidence that the experimental BMP will be as effective as a traditional BMP at controlling stormwater quality and ~~may~~ quantity;

(b) Require that the performance of experimental BMPs be monitored to document their effectiveness for future use-; or

~~(5)–c)~~ Require additional BMPs if the experimental BMPs fail to adequately control and treat stormwater.

14.32.080 Land Uses and Pollutant Generating Sources.

Development that proposes pollution generating land uses may be required to include structural source control BMPs that are protective of water quality in accordance with AKART.

14.32.090 Adjustments and Exceptions. [Previously 14.32.040(5)]

~~(a)–(1) Adjustments.~~ The Administrative Official may grant an adjustment to the application of the Stormwater Management Manual and its Minimum Requirements prior to permit approval and construction ~~consistent with the criteria in the Stormwater Management Manual Volume I, Section 2.7 (Adjustments).~~ provided that written findings of fact are prepared that address the following:

~~(b)–~~ (a) The adjustment provides substantially equivalent environmental protection.

(b) Based on sound Engineering practices, the objectives of safety, function, environmental protection, and facility maintenance are met.

(2) Exceptions.

(a) The Administrative Official may grant an exception from this Chapter or the application of the Stormwater Management Manual and its Minimum Requirements prior to permit approval and construction ~~when consistent with the criteria in the Stormwater Management Manual Volume I, Section 2.8 (Exceptions/Variances).~~ following legal public notice of an application for an exception or variance, legal public notice of the Administrative Official's decision on the application, and written findings of fact that document the Administrative Official's determination to grant an exception.

(b) The Administrative Official may grant an exception to the Minimum Requirements if such application imposes a severe and unexpected economic hardship.

(i) To determine whether the application imposes a severe and unexpected economic hardship on the project applicant, the Administrative Official must consider and document, with written findings of fact, the following:

(A) The current (pre-project) use of the Site,

(B) How the application of the Minimum Requirement(s) restricts the proposed use of the Site compared to restrictions that existed prior to the adoption of the Minimum Requirements;

(C) The possible remaining uses of the Site if the exception were not granted;

(4) The uses of the Site that would have been allowed prior to the adoption of the Minimum Requirements;

(5) A comparison of the estimated amount and percentage of value loss as a result of the Minimum Requirements versus the estimated amount and percentage of value loss as a result of requirements that existed prior to adoption of the Minimum Requirements; and

(6) The feasibility for the owner to alter the project to apply the Minimum Requirements.

(ii) The administrative Official may not approve any exception unless the exception meets the following criteria:

(A) The exception will not increase risk to the public health and welfare, nor be injurious to other properties in the vicinity and/or downstream, and to the quality of waters of the state; and

(B) The exception is the least possible exception that could be granted to comply with the intent of the Minimum Requirements.

(c) Records. The Administrative Official must retain records, including the written findings of fact, of all exceptions from the Minimum Requirements.

~~(c)–3)~~ A request for an adjustment or exception must adequately describe the justification for relief and is processed as a Level I decision under SCC 14.06.110.

~~(6)~~ **14.32.100 Critical drainage areas.**

~~In order~~ To mitigate or eliminate potential stormwater-related impacts on critical drainage areas, the Administrative Official may require additional stormwater improvements in the following areas:

- ~~(a)~~ 1) All areas designated as critical areas under SCC Chapter 14.24;
- ~~(b)~~ 2) All lands within 200 feet of the ordinary high-water mark of waterbodies possessing fish spawning and rearing habitat for anadromous and resident fish species, as designated by the State Department of Fish and Wildlife;
- ~~(c)~~ 3) Any lands that drain to a natural feature that is a closed depression, i.e., a low-lying area that has no surface outlet, or such a limited surface outlet that in most storm events, the area acts as a retention basin, holding water for infiltration, evaporation, or transpiration;
- ~~(d)~~ 4) Any lands that are established by law as fish or shellfish protection areas; and
- ~~(e)~~ 5) Any lands determined by the Administrative Official to have a high potential for drainage and water quality problems and/or are sensitive to the effects of construction or development. ~~(Ord. O20150006 § 2 (Att. A))~~

**14.32.050 — 110 Basin Planning. ~~Reserved.~~**

~~(Ord. O20150006 § 2 (Att. A))~~

The County may use Basin/watershed planning, as allowed under the County's NPDES Permit, Appendix 1, Section 7. For a Basin Plan to serve as a means of modifying the minimum requirements of this Chapter, the plan must:

- (1) be formally adopted by all jurisdictions with responsibilities under the plan;
- (2) all ordinances and regulations called for by the plan must be in effect; and
- (3) the basin plan must be reviewed and approved by the Department of Ecology.

**14.32.060 — 120 General stormwater management standards.**

(1) All development must meet the following performance standards so that adjacent properties are not unreasonably burdened with surface waters resulting from such development.

- (a) Runoff may not discharge directly onto the surface of a public or private road.
- (b) Runoff may not discharge into a private road's ditch system except when the lot is within a recorded subdivision with an approved stormwater facility and the runoff is directed into that facility and will not exceed the capacity of the facility.
- (c) Runoff may not discharge into a County right-of-way, except (i) with the authorization of the Public Works Director or (ii) when the lot is within a recorded subdivision with an approved stormwater facility, the runoff is directed into that facility, and will not exceed the capacity of the facility.
- (d) Runoff may not discharge into a Drainage District's system without prior written authorization from the applicable Drainage District.
- (e) Runoff may not discharge directly into a manure lagoon or vault unless the lagoon or vault has been converted to only support stormwater.
- (f) Runoff and infiltration must be directed away from septic drain fields.

(g) Runoff from impervious surfaces, roof drains, and yard drains must be directed so as not to adversely affect adjacent properties, public properties and facilities, well protection zones, unstable slopes, basement crawl spaces, and footing drains.

(h) Runoff from development may not cause a significant adverse impact to down-gradient properties.

(2) All stormwater facilities must be constructed consistent with the currently adopted International Building Code and International Residential Code.

(3) All stormwater facilities that include pipes and drains must meet the following minimum installation requirements:

(a) Footing and roof drains may not utilize the same pipe.

(b) A 1% minimum ground slope away from the structure is required for installation of downspouts.

(c) Pipe covers and pipe bedding must be installed according to manufacturer's specifications.

(d) Facilities must be inspected and approved by the County prior to use.

(e) Facilities must be cleaned of sediment prior to use.

#### **14.32.130 Erosion and sediment control.**

(1) All development must control erosion and sedimentation during construction ~~to permanently stabilize soil exposed during construction and to comply with the requirements of this Section.~~ In addition to the requirements of the Stormwater Management Manual, development must do the following:

(a) Stabilization of exposed soils. At all times of the year, sufficient materials, equipment, and labor must be readily available to stabilize and prevent erosion ~~from~~. All exposed, disturbed soils and must ~~stabilize soils before~~ be stabilized prior to any forecasted rain event.

(b) Delineation of clearing and easement limits. Clearing limits, setbacks, buffers, and sensitive or Critical Areas such as steep slopes, wetlands, wellhead protection areas and riparian corridors shall be clearly marked in the field ~~by the applicant's surveyors or critical areas consultant~~ and inspected by County staff (or where appropriate, by the applicant's critical areas consultant) prior to commencement of land clearing activities.

(c) Construction access routes. Wherever construction vehicle access routes intersect paved roads, provisions must be made to minimize the transport of sediment (mud) onto the paved road by use of appropriate BMPs such as a Stabilized Construction Entrance. If sediment is transported onto a road surface, at a minimum, the roads must be ~~cleaned~~ thoroughly, ~~as a minimum,~~ cleaned at the end of each day. Sediment must be removed from roads by shoveling or sweeping and be transported to a controlled sediment disposal area. Street washing is allowed only after sediment is removed in this manner and no drainage systems and/or wildlife habitat will be harmed by the flushing activity.

(d) Dewatering construction sites. Dewatering devices must discharge into an appropriate sediment trap or pond designed to accept such a discharge, preceded by adequate energy dissipation, prior to runoff leaving the site.

(e) Control of pollutants other than sediment. All pollutants other than sediment that occur on-site during construction must be handled and legally disposed of in a manner that does not



cause contamination of surface waters ~~and as otherwise required by chapter 16.32 SCC.~~ Pollutants of concern include, but are not limited to, fuels, lubricants, solvents, concrete ~~byproducts~~by-products, and construction materials. ~~(Ord. 020150006 § 2 (Att. A))~~

**14.32.070 — 140 Low-Impact Development (LID) techniques and facilities.**

(1) ~~When Allowed.~~ To minimize the stormwater impacts of development, the Low-Impact Development (LID) techniques and facilities identified in the Stormwater Management Manual, the Low Impact Development Technical Guidance Manual for Puget Sound (Puget Sound Partnership and WSU Extension, 2012), and this chapter are allowed, ~~where feasible~~and encouraged, anywhere in unincorporated Skagit County.

(a) Permeable pavement ~~may be used~~is encouraged in place of regular pavement to meet applicable LID requirements where feasible. Permeable pavement is the preferred approach to development. The Administrative Official must review and approve the utilization of alternative surfacing methods for compliance with other applicable regulations and development standards.

(b) Bioretention swales with compost-amended soils may be used, with the approval of the Administrative Official, ~~within a right-of-way, within an easement dedicated to Skagit County adjacent to the public right-of-way, or in islands created by loop roadways.~~

~~(c)~~ (c) Upon request of the Administrative Official, the applicant must provide copies of delivery tags and purchase statements for any installed LID facilities.

(d) In the event of a conflict between this Section and other development regulations, the provisions of this Section apply.

(2) When LID is Required.

(a) LID techniques and facilities are required within the NPDES Permit Area where the County's NPDES Permit thresholds are exceeded and where feasible: and outside the permit area where thresholds trigger implementation of the Stormwater Manual.

(i) LID techniques are to be the preferred and most commonly-used approach to site planning and development.

(ii) Applicants must design LID BMPs to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations, where feasible.

(iii) The applicant must use the BMPs identified in the Stormwater Management Manual as where feasible for the site conditions. ~~The Stormwater Management Manual provides criteria for determining feasibility of BMPs;~~

(iv) The Administrative Official has authority to determine whether specific BMPs are feasible: under the criteria provided in the Stormwater Management Manual.

(b) ~~Within the NPDES permit area,~~ Projects subject to Minimum Requirements ~~Nos. #1 to 9 in Appendix 1 of the NPDES permit~~#9 must comply with the following:

(i) After the project is complete, there may not be a net increase in impervious surface above the limit on the permit, plat, or site plan without approval from the Administrative Official.

(ii) For subdivisions, the maximum impervious surfaces allowed for each lot must be added to the face of the plat.



(iii) For all other development, the maximum impervious surface allowed for the development must be added to the face of the final, approved site plan.

~~(c) Within the NPDES Permit Area,~~(c) Applicants must locate and design all buildings, streets and pathways, parking areas, and utility easements to promote public safety, ensure compatibility of uses, minimize effective impervious surface, preserve native vegetation, and complement predevelopment site characteristics such as topography, soils, hydrology, and other natural features.

(3) General design techniques- for achieving LID goals.

~~(a) Applicants should consider limiting~~(a) Limit clearing and grading to the minimum necessary for construction of permitted uses and associated utilities.

~~(b) Applicants should consider limiting~~(b) Limit lawn areas, driveways, and roads and locate them in a manner that results in the least disruption to the topography and native vegetation on the site.

~~(c) Applicants should consider clustering of~~(c) Cluster lots, dwelling units, or building structures during the conceptual planning stage to preserve open space, reduce total impervious surface area, and minimize development impacts on critical areas and associated buffers.

(4) Maintenance. A maintenance plan consistent with SCC 14.32.100170 is required. A landscape plan is required when plants are an essential part of the LID BMP.

(5) Native vegetation.

(a) To use existing vegetation as native vegetation for stormwater dispersion, the vegetation must be characterized by a minimum of one mature evergreen or deciduous tree per 400 square feet of area. Areas not meeting this standard must be planted consistent with BMP T5.30 from the following: Stormwater Management Manual.

~~(i) Groundcover: Four-inch container plants at one per 125 square feet and native groundcover seed mix at one pound per acre;~~

~~(ii) Understory shrubs (evergreen and/or deciduous): one-gallon plants at one per 300 square feet; and~~

~~(iii) Canopy trees: two-gallon plants at one per 600 square feet.~~

(b) The duff layer and native topsoil on a project site should be retained in an undisturbed state to the maximum extent practicable to preserve the natural stormwater holding capacity.

(c) Where native vegetation is used to achieve Minimum Requirements Nos. 6 or 7, only the following is/are allowed:

(i) Permeable pedestrian trails;

(ii) Surface water restoration projects;

(iii) Passive recreation;

(iv) Removal of invasive species;

(v) Planting of native vegetation; from the Skagit County Master Tree/Plant List of Native Species; and

(vi) Amendment of disturbed soils consistent with all applicable regulations.

(d) Where native vegetation is used to achieve Minimum Requirements [Nos](#) 6 or 7, the applicant must establish one or more of the following permanent protective mechanisms to ensure that native vegetation is retained:

- (i) A protective easement dedicated to the County;
- (ii) A separate ~~nonbuilding~~[non-building](#) tract owned in common by all lots within the subdivision;
- (iii) Restrictions on the future use of the area recorded on the face of the final plat; [and](#)
- (iv) An alternative permanent protective mechanism approved by the Administrative Official. ~~(Ord. O20150006 § 2 (Att. A))~~

**14.32.080** — **150 Stormwater conveyance.**

(1) Generally.

(a) All proposed developments must provide ~~on-site~~[onsite](#) stormwater conveyance with sufficient capacity to convey without flooding or otherwise damaging existing or proposed structures, consistent with the Stormwater Management Manual.

(b) ~~—Estimation of peak stormwater runoff rates used in the design of~~ Stormwater conveyance ~~facilities~~[infrastructure](#) must ~~use~~[be sized per](#) the ~~Rational Method, Santa Barbara Urban Hydrograph Method,~~[approved Ecology method such as](#) Western Washington Hydrology Model; ~~or another method, accepted by the Administrative Official, of estimating a hydrograph using a mathematical simulation.~~

~~(c) —Runoff may not discharge directly onto the surface of a public road.~~

~~(d) —Runoff and infiltration must be directed away from septic drain fields.~~

~~(e) —Runoff from impervious surfaces, roof drains, and yard drains must be directed so as not to adversely affect adjacent properties.~~

~~(f) —Runoff from development may not cause a significant adverse impact to down-gradient properties.~~

(2) Easements, Tracts, and Covenants.

(a) Drainage easements must be provided in a proposed development for all stormwater and drainage conveyance systems that are not located in public rights-of-way or tracts and must be granted to the parties responsible for providing ongoing maintenance of the systems. Drainage ~~structures~~[easements](#) through ~~nondrainage~~[non-drainage](#) ~~easements~~[structures](#) are prohibited.

(b) ~~—Wording to this effect~~[Drainage easements](#) must ~~appear~~[be clearly shown](#) on the face of all final plats; and must be contained in any covenants required for a development.

[\(c\) Drainage easement width shall be per the chart below unless otherwise approved by the administrative official.](#)

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<a href="#">For Pipes:</a>	<a href="#">Easement Width</a>
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<b><u>Inside Diameter (ID)</u></b>	
<u>ID ≤ 36"</u>	<u>depth to invert &lt; 8':10 feet</u> <u>depth to invert &gt; 8': 15 feet</u>
<u>36" &lt; ID ≤ 60"</u>	<u>depth to invert &lt; 8':10 feet</u> <u>depth to invert &gt; 8': 15 feet</u>
<u>ID &gt; 60"</u>	<u>ID plus 10 feet</u>
<b><u>For Channels and Swales:</u></b> <b><u>Top Width of Channel (W)</u></b>	<b><u>Easement Width</u></b>
<u>W ≤ 10 feet</u>	<u>W plus 10 feet on one side</u> <u>W if no access required</u>
<u>10 feet &lt; W ≤ 30 feet</u>	<u>W plus 15 feet on one side</u>
<u>W &gt; 30 feet</u>	<u>W plus 15 feet on both sides</u>

(3) Wetlands. Stormwater discharges to wetlands are allowed only when consistent with the Stormwater Management Manual, especially including Minimum Requirement No. 8 and Appendix I-D-C of the Stormwater Management Manual.

(4) Regional Facilities.

(a) A regional facility is a stormwater BMP that may provide Runoff Treatment and Flow Control to more than one property. Regional stormwater facilities may be used as an alternative method of meeting Minimum Requirements No. 5, No. 6, No. 7, and No. 8.

(b) Regional facilities are designed, reviewed, and approved based on impervious surfaces anticipated with full development within the basin that drains to the facility.

(i) Once approved, a regional facility may be used for future development provided the regional facility is operational prior to development and has capacity for any future development that proposes to rely on it for compliance.

(ii) The owner/operator of a regional stormwater facility must track impervious surfaces within the basin to determine how much actual capacity remains for use by future projects. This data must be provided to Skagit County upon request.

(iii) A regional stormwater facility's flow control/treatment capacity may not be exceeded.

(v) A Development Agreement pursuant to SCC Chapter 14.14 may include appropriate provisions to ensure re-review and, if warranted, additional Runoff Treatment and/or Flow Control to ensure compliance with stormwater requirements and standards that may apply to future development. Provisions of any development agreements must allow for and ensure compliance with the Permit.

(c) An existing regional facility proposed to be used to meet stormwater requirements for a development application will be reviewed for compliance with the stormwater requirements and standards applicable to the development application as set forth in the Permit and the Skagit County Code.

(i) Regional facilities are subject to review 20 years after the permit issued for construction of the facility, except regional facilities constructed prior to June 30, 2022, are not subject to review prior to June 30, 2027.

(ii) Such review is limited to the impact on the regional facility by the proposed use set forth in the development application, including an analysis of whether the regional facility has remaining capacity to receive stormwater discharges from the proposed project.

(iii) If a regional facility does not have the capacity to meet current stormwater requirements for a development application the deficiencies may be addressed by retrofitting the existing facility or constructing new facilities, or both.

~~(4) Regional Facilities. Regional stormwater facilities may be used as an alternative method of meeting Minimum Requirements No. 6, No. 7, and No. 8, through documented engineering reports detailing how the proposed facilities meet these requirements for the sites that drain to them. Such facilities must be operational prior to and must have capacity for new development.~~

#### **14.32.160 Final inspections and approval. [Previously 14.32.100]**

##### **(1) Long term Maintenance required.**

(a) For projects that must meet only Minimum Requirements Nos. 1–5 stormwater BMPs must be maintained in accordance with original approval and County standards.

(b) For projects that must meet Minimum Requirements Nos. 1–9, prior to the use of a stormwater treatment and/or flow control BMP/facility required by this Chapter, the owner must:

(i) Ensure a complete initial evaluation of the stormwater facility system components and property by a qualified professional to determine functionality, maintenance needs, and compliance with this Chapter and any permits. The property owner must submit the signed and stamped engineer's evaluation to the Administrative Official for approval;

(ii) Provide to Skagit County a complete and accurate set of reproducible as-built record drawings;

(iii) For an engineered stormwater facility, have the as-built record drawings stamped and certified as accurate by a qualified professional;

(iv) Obtain approval from the Administrative Official for a maintenance plan; and

(v) Record the approved maintenance plan with the County Auditor against the title of all properties using the stormwater facility.

(c) The maintenance plan must:

(i) Address how all of the elements of the stormwater facility will be maintained;

(ii) Include the schedule for ongoing maintenance;

(iii) Identify the responsible party for ongoing maintenance; and

(iv) Be consistent with Stormwater Management Manual.

(d) The maintenance plan remains in force for the life of the development or until the County approves a new or amended maintenance plan for the development's stormwater facilities.

(e) For LID facilities, the facility must be protected from all of the following:

(i) Cover by structures or impervious material;

(ii) Soil compaction, for example by vehicular traffic or livestock;

(iii) Damage by soil removal and grade alteration; and

(iv) Conversion to another use.

(2) Inspections of Stormwater Facilities. [Previously 14.32.100(3)]

(a) Where a stormwater treatment and/or flow control BMP/facility is required by this Chapter, the applicant must dedicate an easement to the County for access and inspection consistent with this Chapter and during normal business hours, and when inspectors provide advance notice. The Administrative Official may waive this requirement for small facilities that do not require inspection or can be effectively inspected without an access easement.

~~(4) Basin Planning. A watershed-based basin plan that includes all implementing regulations and procedures (e.g., land use management adopted by ordinance for managing surface and stormwater quality and quantity management facilities and drainage features within individual sub-basins), may be used to develop requirements for source control, stormwater treatment, stream bank erosion control, wetlands, and water quality sensitive areas. A basin plan adopted by the Board of County Commissioners may be used to modify any or all of the minimum requirements for stormwater quantity or quality control addressed in this Chapter. Such modifications will be accepted; provided, that the level of protection for surface or ground water achieved by the basin plan will equal or exceed that which would otherwise be achieved by implementation of the provisions of this chapter in the absence of a basin plan. Basin plans must evaluate and include as necessary retrofitting of BMPs for existing development or redevelopment in order to achieve watershed-wide pollution reduction goals.~~

~~(5) Regional Facilities. When the Administrative Official has determined the public would benefit by the establishment of a regional stormwater facility that would serve as an alternative to the construction of separate on-site drainage facilities, the Administrative Official may recommend to the Board that a regional stormwater facility be constructed. This regional facility would serve more than one development in providing stormwater quantity and/or quality control. All future developments constructed on lands designated by the Board to be served by the regional facility must, at the time of issuance of any permit for a development, be required to contribute a fair share to the cost of land purchase, design, and construction of said regional facility. In the event that a proposed regional stormwater facility is not yet in operation at the time of completion of construction of a development that is to be served by said regional facility, the applicant for said development shall be required to provide temporary stormwater quantity and quality controls. Temporary quantity and quality controls may be constructed in temporary easements rather than in separate tracts. (Ord. O20150006 § 2 (Att. A))~~

**14.32.090** —(b) Inside the NPDES permit area, County inspection of stormwater treatment and/or flow control BMP/facility is required at least annually, or less frequently if allowed by the County's NPDES permit.

(c) Outside the NPDES permit area, the Administrative Official is authorized to develop an inspection program, including requirements for an inspection and maintenance schedule, to

determine if stormwater facilities are in good working order and are properly maintained, and to ensure that stormwater BMPs are in place and that non-point source pollution control is being implemented.

(d) Whenever there is cause to believe that a violation of this Chapter has been or is being committed, the County may inspect per SCC Chapter 14.44, Enforcement/Penalties.

(e) Nothing in this section limits the County's authority to inspect facilities under chapter 16.32 SCC.

**(3) County acceptance of stormwater facilities. [Previously 14.32.090]**

~~(1)—a)~~ Skagit County may, at the Administrative Official's sole discretion, accept stormwater facilities for maintenance. ~~Only those that meet the following conditions will be considered for acceptance:~~

~~(a)—(b)~~ Only those facilities that meet the following conditions will be considered for acceptance:

~~(i)~~ (i) For residential subdivisions, improvements have been completed on at least 80 ~~percent~~% of the lots, unless waived by the Administrative Official;

~~(b)—(ii)~~ (ii) The facility has been inspected by the County and accepted by the Administrative Official and ~~has~~have been in satisfactory operation for at least two years;

~~(c)—(iii)~~ (iii) If the facility was reconstructed during the maintenance period, it has been accepted by the Administrative Official;

~~(d)—(iv)~~ (iv) The facility as designed and constructed conforms to the provisions of this Chapter and, if necessary, is retrofitted to meet current stormwater design standards;

~~(e)—(v)~~ (v) All easements and tracts required under this Chapter entitling the County to operate and maintain the facility have been conveyed to Skagit County and have been recorded with the Skagit County Auditor;

~~(f)—(vi)~~ (vi) An operation and maintenance manual including a maintenance schedule has been submitted to and accepted by Skagit County; and

~~(g)—(v)~~ (v) The applicant has provided to Skagit County a complete and accurate set of reproducible hard copy and electronic as-built record drawings stamped and certified as accurate by a qualified professional and accompanied by an approved maintenance plan. ~~(Ord. O20150006 § 2 (Att. A))~~

**~~14.32.100~~ — 170 Operation and maintenance.**

~~(1) — Maintenance Required.~~

~~(a)—(1)~~ (1) Owners and operators of stormwater facilities must operate and maintain those facilities to ensure the performance of those facilities achieves ~~their~~the intended purposes.

~~(b)—(2)~~ (2) Owners of property for which a stormwater BMP has been required by Skagit County must continually maintain that BMP.

~~(c)—(3)~~ (3) Maintenance must be performed consistent with the Stormwater Management Manual and any other conditions of approval and the approved maintenance plan, ~~unless~~ unless a more restrictive provision

applies. When an inspection identifies an exceedance of the maintenance standard, the owner must perform maintenance:

- ~~(i) a~~ Within 12 months for typical maintenance of facilities, except catch basins;
- ~~(ii) b~~ Within six months for catch basins;
- ~~(iii) c~~ Within 24 months for maintenance that requires capital construction of less than \$25,000.

~~(2) Maintenance Plan Required.~~

~~(a) Prior to the use of a stormwater facility required by this Chapter, the owner must:~~

~~(i) Ensure a complete initial evaluation of the stormwater facility system components and property by a qualified professional to determine functionality, maintenance needs, and compliance with this Chapter and any permits. The property owner must submit the signed and stamped engineer's evaluation to the Administrative Official for approval;~~

~~(ii) Provide to Skagit County a complete and accurate set of reproducible as-built record drawings stamped and certified as accurate by a qualified professional;~~

~~(iii) Obtain approval from the Administrative Official for a maintenance plan;~~

~~(iv) Record the approved maintenance plan with the County Auditor against the title of all properties using the stormwater facility.~~

~~(b) The maintenance plan must:~~

~~(i) Address how all of the elements of the stormwater facility will be maintained;~~

~~(ii) Include the schedule for ongoing maintenance;~~

~~(iii) Identify the responsible party for ongoing maintenance;~~

~~(iv) Be consistent with Stormwater Management Manual, especially Volume V, Chapter 4.~~

~~(c) The maintenance plan remains in force for the life of the development or until the County approves a new or amended maintenance plan for the development's stormwater facilities.~~

~~(d) For LID facilities, the facility must be protected from all of the following:~~

~~(i) Cover by structures or impervious material;~~

~~(ii) Soil compaction, for example by vehicular traffic or livestock;~~

~~(iii) Damage by soil removal and grade alteration;~~

~~(iv) Conversion to another use.~~

~~(3) Inspections of Stormwater Facilities.~~

~~(a) Where a stormwater facility is required by this Chapter, the applicant must dedicate an easement to the County for access and inspection consistent with this Chapter and during normal business hours, and when inspectors provide advance notice. The Administrative Official~~

~~may waive this requirement for small facilities that do not require inspection or can be effectively inspected without an access easement.~~

~~(b) Inside the NPDES permit area, County inspection of stormwater facilities is required at least annually, or less frequently if allowed by the County's NPDES permit.~~

~~(c) Outside the NPDES permit area, the Administrative Official is authorized to develop an inspection program, including requirements for an inspection and maintenance schedule, to determine if stormwater facilities are in good working order and are properly maintained, and to ensure that stormwater BMPs are in place and that non-point source pollution control is being implemented.~~

~~(d) Whenever there is cause to believe that a violation of this Chapter has been or is being committed, the County may inspect per SCC Chapter 14.44, Enforcement/Penalties. (Ord. O20150006 § 2 (Att. A))~~

#### **14.32.180 Severability**

If any provision or clause of this chapter or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.