

1 **Skagit County Code Amendment Proposals**
2 **DRAFT Drainage Ordinance**
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4 The Interim Ordinance O20090008 is hereby repealed.
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6 **14.04.020 Definitions**

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8 SCC 14.04.020 is hereby amended to add, modify, or delete the following definitions:
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10 **AKART:** All Known, Available, and Reasonable methods of prevention, control, and
11 Treatment. See also the State Water Pollution Control Act, sections 90.48.010 RCW and
12 90.48.520 RCW.
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14 **Best management practices (BMPs), drainage:** schedules of activities, prohibitions of
15 practices, general good housekeeping practices, pollution prevention and educational practices,
16 maintenance procedures, and structural or managerial practices to prevent or reduce the discharge
17 of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance
18 systems. BMPs also include treatment practices, operating procedures, and practices to control
19 site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

20 **Clean Water Act:** the federal Water Pollution Control Act (33 USC Section 1251 et seq.),
21 and any subsequent amendments thereto.
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23 **Hazardous material:** means any material, including any substance, waste, or combination
24 thereof, which because of its quantity, concentration, or physical, chemical, or infectious
25 characteristics may cause, or significantly contribute to, a substantial present or potential hazard
26 to human health, safety, property or the environment when improperly treated, stored,
27 transported, disposed of, or otherwise managed, as defined under applicable State and Federal
28 laws, rules, and regulations.
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30 **Illicit discharge:** any direct or indirect non-stormwater discharge to the stormwater system,
31 except as expressly allowed in SCC 14.32.090.
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33 **Non-stormwater discharge:** any discharge to the stormwater system that is not composed
34 entirely of stormwater.
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36 **NPDES (National Pollutant Discharge Elimination System) Stormwater Discharge**
37 **Permit:** a permit issued by the Environmental Protection Agency (EPA) (or by the Washington
38 Department of Ecology under authority delegated pursuant to 33 USC Section 1342(b))that
39 authorizes the discharge of pollutants to waters of the United States, whether the permit is
40 applicable on an individual, group, or general area-wide basis.
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42 **Pollutant:** anything which causes or contributes to pollution, as defined under applicable
43 State and Federal laws, rules, and regulations.
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46 **Stormwater:** runoff during and following precipitation and snowmelt events, including
47 surface runoff and drainage.
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49 **Stormwater Design Manual:** the Stormwater Management Manual for Western
50 Washington or a subsequent manual adopted by Ecology.

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

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7 **Stormwater System:** all natural and man-made systems that function together or
8 independently to collect, store, purify, discharge, and convey stormwater. Included are all
9 stormwater and drainage facilities as well as natural systems such as streams and creeks and all
10 natural systems which convey, store, infiltrate, or divert stormwater.

12 **14.32 Drainage Ordinance**

13
14 SCC 14.32 is hereby amended to read as follows:

16 **14.32.010 Intent.**

17 Washington State Law mandates that stormwater discharge resulting from development
18 activities and pollution-generating activities be controlled and treated to provide available and
19 reasonable methods of erosion control, flood control, and water quality treatment. To help protect
20 adjacent landowners from downstream flooding, erosion, and pollution, Skagit County has
21 adopted the following requirements for both temporary and long-term stormwater management.
22 (Ord. 17938 Attch. F (part), 2000)

24 **14.32.020 [No change]**

26 **14.32.030 General provisions.**

27 (1) The requirements of this Chapter are adopted pursuant to the authority granted to Skagit
28 County as set forth in:

29 (a) - (b) No change.

30 (c) Chapter 90. 48 RCW, Water Pollution Control.

31 (2) Deleted.

32 (3) Deleted.

33 (4) Water Quality. For circumstances or conditions related to water quality that are not
34 specifically addressed within this Chapter, the preferred method for selection, design, and
35 implementation of stormwater management practices shall be the method(s) outlined in
36 the Stormwater Design Manual.

37 (5)-(7) No change.

39 **14.32.040-070 [No change]**

41 **14.32.090 Water quality.**

42 (1) Purpose. The purpose of this Section is to protect the County's surface and groundwater
43 quality by controlling the discharge of pollutants.

44 (2) Illicit Discharges. Illicit discharges of any pollutants to the Stormwater Systems are
45 prohibited. No person shall throw, drain, or otherwise discharge, cause or allow others under
46 its control to throw, drain or otherwise discharge into the Stormwater System any materials
47 other than stormwater.

48 (3) Illicit Connections and Uses. Stormwater Systems, both natural and artificial, may only be
49 used to convey stormwater runoff. Violation of this Section shall result in enforcement
50 action being taken as prescribed in Chapter 14.44 SCC.

- 1 (a) No person shall use this System, directly or indirectly, to dispose of any solid or liquid
2 matter other than stormwater. No person shall make, allow, use, or allow the continued
3 existence of any connection to the Stormwater System that could result in the discharge
4 of polluting matter.
- 5 (b) Connections to the Stormwater System from the interiors of structures are prohibited.
- 6 (c) No change.
- 7 (4) Allowable discharges and Exemptions.
- 8 (a) Allowable discharges. The following types of discharges shall not be considered illicit
9 discharges for the purpose of this chapter unless the Administrative Official determines
10 that the type of discharge, whether singly or in combination with others, is causing or is
11 likely to cause pollution of surface water or groundwater:
- 12 (i) Diverted stream flows.
- 13 (ii) Rising groundwaters.
- 14 (iii) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20).
- 15 (iv) Uncontaminated pumped groundwater.
- 16 (v) Foundation drains.
- 17 (vi) Air conditioning condensation.
- 18 (vii) Irrigation water from agricultural sources that is commingled with urban
19 stormwater.
- 20 (viii) Springs.
- 21 (ix) Water from crawl space pumps.
- 22 (x) Footing drains.
- 23 (xi) Flows from riparian habitats and wetlands.
- 24 (xii) Discharges from emergency fire fighting activities
- 25 (b) Exemptions. The following discharges are exempt from the provisions of this Section:
- 26 (i) The regulated effluent from any commercial or municipal facility holding a
27 valid State or Federal wastewater discharge permit or NPDES stormwater
28 permit.
- 29 (ii) Acts of God or nature not compounded by human negligence.
- 30 (iii) Properly operating on-site domestic sewage systems.
- 31 (iv) Discharges of farm chemicals that are compliant with SCC
32 14.24.120(4)(b)(iv) Properly applied agricultural and forestry chemicals and
33 materials. (Ord. 17938 Attech. F (part), 2000)
- 34 (5) Best Management Practices (BMPs). Compliance with this chapter shall be achieved
35 through the use of best management practices described in the Stormwater Design Manual or
36 as described below.
- 37 (a) BMPs shall be applied to any business or residential activity that might result in illicit
38 discharges. In applying the Stormwater Design Manual, the Administrative Official
39 shall first require the implementation of source control BMPs. If these are not
40 sufficient to prevent pollutants from entering stormwater, the Administrative Official
41 may require implementation of treatment BMPs as set forth in AKART (All Known,
42 Available, and Reasonable methods of prevention and treatment Technology).
- 43 (b) Conditional Discharges. The following types of discharges shall not be considered
44 illicit discharges for the purposes of this chapter if they meet the stated conditions, or
45 unless the Administrative Official determines that the type of discharge, whether
46 singly or in combination with others, is causing or is likely to cause pollution of
47 surface water or groundwater.
- 48 (i) Potable water, including water from water line flushing, fire hydrant system
49 flushing, and pipeline hydrostatic test water. Planned discharges shall be de-
50 chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in

- 1 volumes and velocities controlled to prevent re-suspension of sediments in the
- 2 Stormwater System;
- 3 (ii) Lawn watering and other irrigation runoff are permitted but must be minimized;
- 4 (iii) De-chlorinated swimming pool discharges. These discharges shall be de-
- 5 chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in
- 6 volumes and velocities controlled to prevent re-suspension of sediments in the
- 7 Stormwater System;
- 8 (iv) Street and sidewalk wash water, water to control dust and routine external
- 9 building wash down that does not use detergents are permitted if the amount of
- 10 street wash and dust control water is minimized. At active construction sites,
- 11 street sweeping must be performed prior to washing the street;
- 12 (v) Other non-stormwater discharges. The discharges shall be in compliance with
- 13 the requirements of a stormwater pollution prevention plan (SWPPP) reviewed
- 14 and approved by the County, which addresses control of such discharges by
- 15 applying AKART to prevent pollutants from entering surface or groundwater.
- 16 (c) A person does not violate subsection 2 of this section if:
- 17 (i) That person has properly designed, constructed, implemented and is maintaining
- 18 BMPs and is carrying out AKART as required by this chapter, even if pollutants
- 19 continue to enter surface and stormwater of groundwater; or
- 20 (ii) That person can demonstrate that there are no additional pollutants being
- 21 discharged from the site above the background conditions of the water entering
- 22 the site.

23 (6) Inspection and Enforcement. ~~Exemptions. The following discharges are exempt from the~~
 24 ~~provisions of this Section:~~

25 The Administrative Official is authorized to carry out inspection and enforcement actions
 26 pursuant to the provisions of SCC Chapter 14.44 Enforcement/Penalties, including but
 27 not limited to Section 14.44.050 Investigation and Section 14.44.065 Enforcement
 28 provisions for water quality.

- 29 ~~(a) The regulated effluent from any commercial or municipal facility holding a valid State~~
- 30 ~~or Federal wastewater discharge permit.~~
- 31 ~~(b) Acts of God or nature not compounded by human negligence.~~
- 32 ~~(c) Properly operating on-site domestic sewage systems.~~
- 33 ~~(d) Properly applied agricultural and forestry chemicals and materials. (Ord. 17938 Atch. F~~
- 34 ~~(part), 2000)~~

36 **14.32.100 Operation and maintenance.**

- 37 (1) Maintenance of Stormwater Facilities by Owners.
- 38 (a) - (b) No change.
- 39 (c) Pollution Control Device Maintenance. Owners and operators of wet ponds, bio-
- 40 filtration/biofilter facilities, sediment and erosion control systems, infiltration systems,
- 41 and any other pollution control devices shall operate and maintain such control devices
- 42 to assure that performance meets the intended level of pollutant removal. Recommended
- 43 maintenance schedules for these devices are included in the Stormwater Design Manual.
- 44 (2) – (7) No change.

46 **14.32.110 [No change]**

48 **14.32.120 NPDES Drainage Area.**

- 49 (1) Special Drainage Improvements within the NPDES drainage area. In order to mitigate or
- 50 eliminate potential drainage-related impacts within the NPDES Drainage Area, the

- 1 Administrative Official shall require drainage improvements in excess of those required in
2 other sections of this Chapter for new development, redevelopment and construction projects.
- 3 (2) The NPDES drainage area includes the census-defined Urban Area and Urban Growth Area
4 within unincorporated Skagit County.
- 5 (3) The County hereby adopts the Thresholds, Definitions, Minimum Requirements and
6 Exceptions, Adjustment and Variance Criteria found in Appendix I of the NPDES Phase II
7 Municipal Stormwater Permit, including the mandatory incorporation provisions of the
8 Stormwater Design Manual within the NPDES drainage area. Thresholds identified in
9 Chapter 14.32 shall control if they are lower than those required in Appendix I of the NPDES
10 Phase II Municipal Stormwater Permit.
- 11 (4) Low Impact Development (LID). The Administrative Official may allow the use of
12 appropriate LID measures within the NPDES Drainage Area. LID BMPs identified in
13 Chapter 7 of the Low Impact Development Technical Guidance Manual for Puget Sound
14 (SPAT/WSU Extension 2005) may be used as appropriate for the site conditions. The
15 Administrative official shall determine whether or not the specific stormwater management
16 technique is appropriate for use.
- 17 (5) Inspections and Enforcement. The Administrative Official is authorized to make such
18 inspections and take such actions as may be required to enforce the provisions of this section.
19 The Administrative Official is authorized to enforce the provisions of this section pursuant to
20 the enforcement and penalty provisions of S.C.C. Chapter 14.44 Enforcement/Penalties.

22 **14.44 Enforcement/Penalties**

23
24 **A new section, SCC 14.44.065, Enforcement provisions for water quality, is hereby added to**
25 **read as follows:**

27 **14.44.065 Enforcement provisions for water quality.**

- 28 (1) The provisions contained in this Section are in addition to and not in lieu of any other
29 penalty, sanction, or right of action provided by law.
- 30 (2) The Administrative Official may require violators of Section 14.32.090 to implement BMPs
31 as set forth in the Stormwater Design Manual and, when necessary, AKART BMPs, as set
32 forth in RCW 90.48.010 and RCW 90.48.520.
- 33 (3) Inspections. The Administrative Official is authorized to make such inspections and take such
34 actions as may be required to enforce the provisions of SCC 14.32.090 in accordance with
35 SCC 14.44.050, Investigation. Inspections relating to water quality may include the
36 following:
- 37 (a) The Administrative Official may observe BMPs or sample surface and
38 stormwater or groundwater as often as may be necessary to determine
39 compliance.
- 40 (b) When the Administrative Official has determined that a person is violating SCC
41 14.32.090, the Administrative Official may require the violator to sample and
42 analyze any discharge, surface and stormwater, groundwater, and/or sediment, in
43 accordance with the sampling and analytical procedures and requirements
44 determined by the Administrative Official, and provide that analysis to the
45 Administrative Official.
- 46 (4) Civil penalties.
- 47 (a) Any person in violation of SCC 14.32.090 may be subject to civil penalties as
48 follows:
- 49 (i) An amount equal to the economic benefit the violator derives from the
50 violation as determined by the Administrative Official as measured by

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the greater of: the resulting increase in market value of the property or business value received by the violator, or the savings of construction or retrofitting costs realized by the violator performing the act in violation of SCC 14.32.090; and/or

(ii) An amount, not to exceed \$25,000, that is reasonably based upon the nature and gravity of the violation and the cost to the County of enforcement against the violator.

(b) Any person who, through an act of commission or omission, knowingly aids or abets in a violation shall be considered to have committed the violation for the purposes of the civil penalty.

(i) Each violator is jointly and severally liable for a violation of SCC 14.32.090. The Administrative Official may take enforcement action, in whole or in part, against any violator. The Administrative Official may consider the following factors:

(ii) Awareness of the violation;

(iii) Ability to correct the violation;

(iv) Ability to pay damages, costs, and expenses;

(v) Cooperation with government agencies;

(vi) Degree of impact or potential threat to water or sediment quality, human health, or the environment.

(c) The Administrative Official may reduce a civil penalty based upon one or more of the following mitigating factors:

(i) The violator responded to the County's attempts to contact the violator and cooperated with efforts to correct the violation;

(ii) The violator showed due diligence or substantial progress, or both, in correcting the violation; or

(iii) The violator was not the primary cause of the violation.

(d) Payment of a monetary penalty pursuant to this chapter does not relieve the violator of the duty to correct the violation.

(e) All civil penalties recovered during the enforcement of SCC 14.32.090 may be deposited into a water quality mitigation fund and shall be used for the protection of surface and stormwater, through education or enhanced implementation.

(5) In addition to any other penalty or method of enforcement, the Prosecuting Attorney may bring actions for injunctive or other relief to enforce this chapter.