



# Planning & Development Services

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## Memorandum

To: **Planning Commission**

From: **Stacie Pratschner, AICP** Senior Planner

Date: **November 28, 2017**

Re: **Planning Commission Workshop on Proposed Code Amendments to Skagit County Code (SCC)**  
**Chapters:**  
**14.06 – Permit Procedures**  
**14.18 – Land Divisions**  
**14.22 – Land Disturbance**  
**14.32 – Stormwater Management**

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### SUMMARY:

Planning and Development Services (PDS) is providing this memo in advance of the December 5, 2017 Planning Commission meeting. The purpose of this memo is to present the a draft of the Department's proposed stormwater code amendments.

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### ACTION REQUESTED OF THE PLANNING COMMISSION:

This is an informational workshop, and staff requests guidance from the Planning Commission concerning the attached code drafts to SCC Chapters 14.06, 14.18, 14.22 (proposed new chapter) and 14.32.

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### BACKGROUND/DISCUSSION:

#### *Previous Workshops: August 1, 2017 September 19, 2017*

PDS staff and the Planning Commission held workshops on August 1, 2017 and September 19, 2017, to present a work program and conceptual code draft for proposed stormwater code updates. Staff has discussed the regulatory framework of the Federal Clean Water Act and the Phase II Municipal Stormwater Permit for Western Washington, or NPDES (National Pollutant Discharge Elimination System). Per the adoption of the 2017 Legislative Work Program, Resolution #R20170012, PDS has presented conceptual code drafts and described the goals of these updates. The previous memos and code drafts are available at [www.skagitcounty.net/stormwaterupdate](http://www.skagitcounty.net/stormwaterupdate).

The purpose of the code amendments is to provide prescriptive stormwater performance standards for developments outside of the NPDES Phase II permit areas that are not subject to the strict requirements of the Stormwater Management Manual (**Attachment 1**). The Department proposes to include the new Land Disturbance chapter, SCC 14.22, as part of the stormwater management code updates. The land disturbance updates have been worked on as part of the Rural Forestry Initiative (RFI) and Class IV – G Forest Practices updates, but staff anticipates that the stormwater updates will be adopted prior to the RFI / Class IV –G updates. SCC 14.32 references the land disturbance permit requirements of SCC 14.22; therefore PDS recommends that the SCC 14.22 be included in the stormwater legislative process. The previous memo describing the development of the land disturbance chapter is available at the following County website: [www.skagitcounty.net/RFI](http://www.skagitcounty.net/RFI).

### ***Proposed Code Amendments***

Staff has continued review of Title 14, and proposes the following edits for consistency with the Stormwater Management Manual (**Attachment 2**):

#### **Chapter 14.06 – Permit Procedures**

- *14.06.090 – Contents of Application.* Staff will discuss the following two options for completing this code section:
  - A detailed list of all required site plan elements; or
  - A statement that required site plan elements may be administratively prescribed.

#### **Chapter 14.18 – Land Division**

- *14.18.000 – General.* No changes are proposed since the last workshop: [www.skagitcounty.net/stormwaterupdate](http://www.skagitcounty.net/stormwaterupdate).

#### **Chapter 14.22 – Land Disturbance**

- In order to comply with the Forest Practices Act and implement the goals of the Comprehensive Plan, the County proposes a new SCC Chapter 14.22, named “Land Disturbance”. This chapter will provide a permit pathway for stand-alone clearing and grading activities and will harmonize the requirements for stormwater management, forest practices, protection of critical areas, cultural resource management, and SEPA when land disturbing activities are conducted. Clearing and grading activities associated with an approved building permit or shoreline permit will not require a separate land disturbance permit.

The attached code edits (**Attachment 2**) are designed to permit a suite of clearing and grading activities through a single application with no new substantive requirements. Proposed SCC chapter 14.22 includes statements of purpose and applicability, lists activities that will be exempt from a permit requirement, and provides staff the authority to require site inspections and performance bonds.

The Building Official currently processes Grading Permit Applications pursuant to the requirements in Appendix J of the International Building Code (IBC). Staff proposes a new Level I permit application per SCC 14.06.110 that will be reviewed by the Planning Department for consistency with Title 14 and the IBC. Planning staff will coordinate land disturbance application reviews with the Public Works Department for activities proposed in the County right-of-way. The proposed Level I permit application will fulfill the goal of harmonizing the requirements of Title 14 with applicable engineering standards, the IBC, SEPA. Applicants will need only a single permit to comply with each of these requirements.

## Chapter 14.32 – Stormwater

- 14.32.040 - The previous memos to the Planning Commission ([www.skagitcounty.net/stormwaterupdate](http://www.skagitcounty.net/stormwaterupdate)) provided a description of the proposed edits to each section of SCC Chapter 14.32. Staff has made a number of these edits for the Planning Commission's review (**Attachment 2**).

Other goals with this update include the following items:

- Lowering the development thresholds for requiring oil/water separators;
- Adoption of separation requirements per the Manual (i.e. distance from a septic system to a stormwater system);
- A requirement for an as built for any stormwater facility utilizing pumps;
- Minimum load requirements for underground stormwater facilities (i.e. vaults); and
- Require applicants to submit documentation confirming the installation of amended top soils for Low-Impact Development (LID) techniques.

### NEXT STEPS:

Other needed changes may be revealed as staff completes the review process for the code amendments. Staff is proposing an approximately four-month process to review the code and draft revisions for the Planning Commission and the Board of County Commissioners to consider. Other tasks included in the scope of the project include SEPA notification and actions, various staff reports and briefings to the Planning Commission and Board of County Commissioners, WA Department of Commerce 60-day review, review by legal counsel, public notification, and public hearings as needed.

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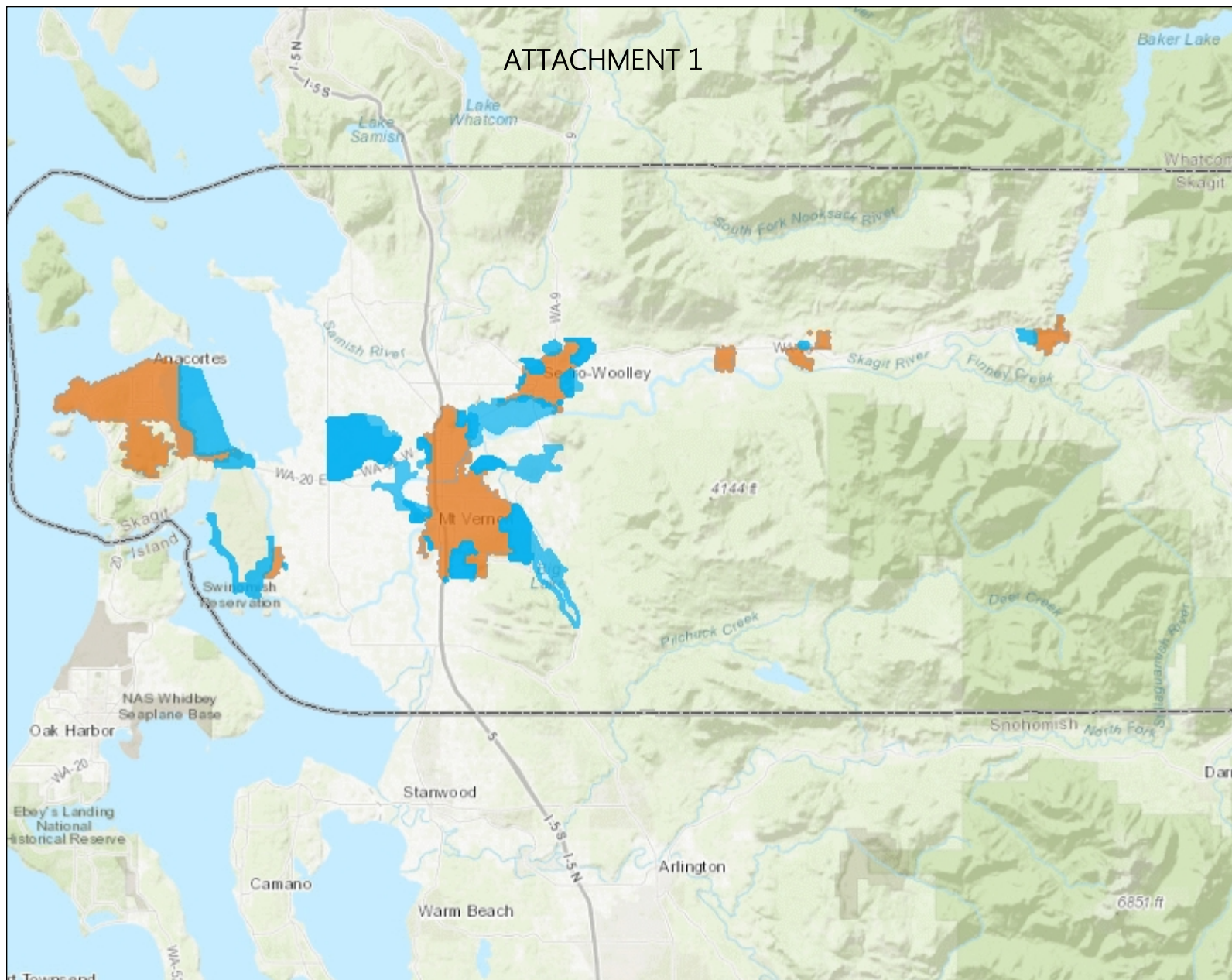
### LIST OF ATTACHMENTS:

1. NPDES Permit Areas Map
2. Proposed amendments to Skagit County Code (SCC) Chapters 14.06, 14.18, 14.22 (proposed new chapter) and 14.32.



# Skagit County NPDES Permit Areas and Urban Growth Areas (UGAs)

## ATTACHMENT 1



### LEGEND

- NPDES Permit Areas<sup>1</sup>
- Cities
- County Boundary

<sup>1</sup> The darker blue areas symbolize the overlapping UGA layer and NPDES permit layer.

### Notes

Pratschner, SJ  
11/28/17

13.08 0 6.54 13.08 Miles

Scale 1: 414,357

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This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. NOT TO BE USED FOR NAVIGATION.

11/28/2017

## Attachment 2

Plain text = existing code with no changes
<del>Strikethrough</del> = existing code to be deleted
<u>Underlined</u> = new code to be added
<del>Double Strikethrough</del> = existing code moved to another location
<u>Double Underline</u> = existing code moved from another location
<i>Italics</i> = instructions to code reviser

### Chapter 14.04 Definitions

#### SCC 14.04.020 Definitions

**[No changes, but included for easy reference.]**

**AKART:** all known, available, and reasonable methods of prevention, control, and treatment. See also the State Water Pollution Control Act, RCW 90.48.010 and 90.48.520.

**County's NPDES Permit:** the Western Washington Phase II Municipal Stormwater Permit, issued by the Washington State Department of Ecology pursuant to the federal Clean Water Act.

**Hard surface:** an impervious surface, a permeable pavement, or a vegetated roof.

**Impervious surface:** a non-vegetated surface area that 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 rooftops, 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 impeded the natural flow of stormwater.

**Land disturbing activity:** any activity that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to clearing, grading, filling and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered land disturbing activity. Vegetation maintenance practices, including landscape maintenance and gardening, are not considered land disturbing activity. Stormwater facility maintenance is not considered land disturbing activity if conducted according to established standards and procedures.

**Low-impact development (LID):** a stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation, and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

**Native vegetation:** pursuant to the NPDES Permit, vegetation composed 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 Permit Area:** The area of unincorporated Skagit County defined by the Department of Ecology's Phase II Western Washington Municipal Stormwater Permit (modified January 16, 2015), issued pursuant to the federal National Pollutant Discharge Elimination System.

**Permeable pavement:** Pervious concrete, porous asphalt, permeable pavers or other forms of pervious or porous paving material intended to allow passage of water through the pavement section.

**Pollutant:** anything which causes or contributes to pollution, as defined under applicable State and Federal laws, rules, and regulations.

**Pollution:** contamination or other alteration of the physical, chemical, or biological properties of waters of the State. Pollution includes, but is not limited to, change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the State as will or is likely to create a nuisance or render such waters harmful.

**Qualified professional:** a person with experience and training 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 2 years of related work experience.

(1) A qualified professional for watercourses, wetlands, and wildlife habitat conservation areas must have a degree 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 onto the ground; or to hold surface and stormwater runoff for a short period of time and then release it to the surface and stormwater management system.

**Stormwater** means runoff during and following precipitation and snowmelt events, including surface runoff, drainage, or interflow.

**Stormwater Management Manual:** the County's manual for design of stormwater facilities, as adopted in SCC 14.32.040.

**Stormwater facility:** a component of a manmade drainage feature or features designed or constructed to perform a particular function or multiple functions. These include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, wetponds, constructed wetlands, infiltration devices, catch basins, sediment basins, and low-impact development facilities. "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 system:** all natural and manmade systems that function together or independently to collect, store, purify, discharge, and convey stormwater. Included are all stormwater and drainage facilities as well as natural systems such as streams and creeks and all natural systems which convey, store, infiltrate, or divert stormwater.

## Chapter 14.06 Permit Procedures

### 14.06.090 Contents of Application

- (1) The applicant shall apply for all permits and approvals required by the Skagit County Code. A development application shall be declared complete only when the County has received all of the following:
  - (a) – (f) [No change.]
  - (g) A site plan that includes the elements prescribed by the Administrative Official for the application type on forms promulgated by the Department, which may include the following:
    - (i) A title block that includes the applicant name, site address, date of submittal, and assessor property ID (parcel number) number of the subject property;
    - (ii) A scale, north arrow, and property boundaries showing contiguous ownerships;
    - (iii) A vicinity map;
    - (iv) The distances from all existing and proposed structures from all property lines;
    - (v) The location and dimensions of all existing and proposed structures, with each building identified by its primary use;
    - (vi) The proposed land disturbance areas;
    - (vii) Proposed and existing elevations;
    - (viii) Existing and proposed drainage ways and culverts including all surface and subsurface drainage improvements;
    - (ix) Locations and description of all erosion and sediment control measures;
    - (x) Any buildings, structures, fuel tanks, wells, or on-site septic systems on the subject property;

**Comment [SP1]:** Let's discuss, we can stay with this more literal approach (list all the elements) or take the SnoCo approach and key in on construction plan elements (SCC 30.63B.190).

**Comment [RW2]:** May want to eliminate such form requirements in favor of a general line that we may administratively prescribe the form.

(xi) All public and private easements, including proposed and existing streets, driveways, roads, and right-of-ways;

(xii) All critical areas, including associated setbacks and buffers; and

(xiii) Other items that may be required by the Administrative Official.

(h) ~~Provided, however, that additional~~ **Additional** materials may be required based on project specific and site specific issues, as identified in writing by the Administrative Official ~~as part of the pre-application process.~~

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Comment [SP3]: Simplified language.

(2) – (4) [No change.]

## Chapter 14.18 Land Divisions

### 14.18.000 General.

- (1) Purpose. [No change.]
- (2) Applicability/Exemptions. [No change.]
- (3) General Provisions. [No change.]
- (4) Review for Conformity with Other Codes. [No change.]
- (5) General Requirements. The following requirements shall be met for any land division under this Chapter to be approved. In addition to these general requirements, any specific requirements relevant to each individual type of land division are found in their respective sections of this Chapter.
  - (a) – (n) [No change.]

(o) Stormwater.

(i) For land divisions containing five or more lots, all lots must be designed to use common facilities for detention and dispersion of stormwater.

(ii) For all common stormwater facilities, the face of the plat must contain a note that states the total amount of impervious surface the stormwater facility has been designed to accommodate.

(6) – (10) [No change.]

Comment [SP4]: No changes proposed subsequent to previous PC workshop.

## New Chapter 14.22 Land Disturbance

### 14.22.010 Purpose and Intent.

- (1) The purposes of this chapter are to:
  - (a) Regulate land disturbing activity as defined by this Title;
  - (b) Harmonize the requirements for stormwater management, forest practices, protection of critical areas, shorelines and cultural resources, compliance with the currently adopted IBC, and consistency with SEPA when land disturbance activities are conducted;



- (c) Assume regulatory authority from the Washington Department of Natural Resources over certain forest practices as required by RCW 76.09.240; and
  - (d) Ensure that forest practices over which the County has jurisdiction occur in compliance with the Skagit County Comprehensive Plan, the Skagit County Shoreline Master Program, and the regulations of this Title.
- (2) The intent of this chapter is to safeguard public health, safety, and welfare by requiring the following elements when land disturbing activity takes place:
- (a) Encourage holistic site planning to reduce negative impacts to the community and the environment;
  - (b) Preserve vegetation and where appropriate require commensurate replanting;
  - (c) Require the implementation of best management practices (BMPs);
  - (d) Minimize adverse stormwater impacts related to land disturbance per the requirements of the Stormwater Management Manual for Western Washington or as amended pursuant to Chapter 14.32;
  - (e) Protect archaeological and historical resources pursuant to RCW Chapters 27.44 and 27.53;
  - (f) Establish administrative procedures to issue permits, approve plans, and inspect land disturbance activities; and
  - (g) Reduce the amount of time between land disturbance and the beginning of actual site construction.

**14.22.020 Applicability.**

- (1) **Generally.** This Chapter applies to all land disturbing activity, including forest practices subject to County jurisdiction, except those activities identified in subsection (2).
- (2) **Exemption.** The following activities are exempt from the requirements of this Chapter, when they occur outside of critical areas and/or their associated buffers:
- (a) Land disturbing activity totaling less than 7,000 square feet of land cumulatively over a five-year period.
  - (b) Site investigations such as surveys, soil borings, test pits, percolation tests and other related activities, necessary for preparing land use or building permit applications provided the land disturbing activities are not greater than is necessary to accomplish the work and do not create permanent site impacts.
  - (c) Forest practices not subject to County jurisdiction per SCC 14.02.100.
  - (d) The following agricultural activities:
    - (i) Tilling, soil preparation, fallow rotation, planting, harvesting and other commercial agricultural activities involving working the land. For this exemption to apply, development activities must occur outside all critical areas, together with the buffers of and setbacks from these critical areas and consistent with SCC 14.24.120.

**Comment [RW5]:** But not exempt: 2,000 sq ft of impervious surface

**Comment [RW6]:** Added to clearly exempt forest practices from this chapter. This section won't exist until adoption of the forest management code package, however.

**Comment [SP7]:** Critical Areas Ordinance: Ongoing Agriculture.

- (ii) Maintenance or repair of existing commercial agricultural facilities including drainage facilities, drainage ditches, and ponds.
- (iii) New construction of drainage ditches (including enlargement of existing drainage ditches) that requires 500 cubic yards or less of grading. Such ditches may not adversely impact critical areas or upstream or downstream properties or be located within 200 feet of streams, 300 feet of wetlands, lakes, marine waters, fish and wildlife habitat conservation areas, and erosion hazard areas, or contain water on site for retention, infiltration, or evaporation.
- (e) The removal of plants designated as noxious or invasive weeds.

**Comment [LF8]:** Do we need to clarify how these are removed?

**14.22.030 Permit Requirement.**

- (1) **Generally.** A land disturbance permit is required for all activities subject to this Chapter unless exempt per subsection (2).
- (2) **Exemptions.** The following activities must comply with the substantive provisions of this chapter, but do not require a land disturbance permit:
  - (a) Land disturbance authorized by a building permit or shoreline permit.
  - (b) 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:
    - (i) Roadside ditch cleaning, provided the ditch does not contain fish;
    - (ii) Pavement work;
    - (iii) Normal grading of gravel shoulders;
    - (iv) Maintenance of culverts;
    - (v) Maintenance of flood control or other approved stormwater facilities;
    - (vi) Routine clearing within road right-of-way; and
    - (vii) Emergency action necessary to protect public safety or private or public property from imminent danger.

**14.22.040 Application Requirements.**

- (1) A land disturbance application must be on forms provided by the Department and include the following items:
  - (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) Measures proposed to protect the site and adjacent properties from potential adverse impacts;
  - (vii) The estimated quantities/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 completed SEPA checklist if required pursuant to SCC Chapter 16.12;
  - (c) Demonstration of compliance with the development standards in SCC 14.22.050;
  - (d) A site plan that meets the Department's requirements pursuant to SCC Chapter 14.06.090;
  - (e) 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;
  - (b) Written verification from the Washington State Department of Natural Resources that the subject site is not and has not been subject to a notice of conversion to nonforestry use under RCW 76.09.060 during the six-year period prior to submission of the permit application;
  - (c) A site plan that includes the following:
    - (i) Location of existing and proposed skid roads, haul roads, and landings within the project area; and
    - (ii) Field marking of site features. All critical areas and associated buffers, landing areas, tree retention areas, and harvest/cutting boundaries shall be clearly marked at the site with flagging or colored paint and their location noted on the site plan.
- (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 to ensure that work is being performed in accordance with the requirements of this Chapter.

**Comment [RW9]:** i.e., a conversion

**Comment [RW10]:** since the app is getting CA review, is this necessary to say again here?

**Comment [JC11]:** As ca review will identify CA onsite, the applicant should have knowledge of the location. for timber harvest purposes it may be wise to include this on the site plan and have it marked in the field.

**Comment [JC12]:** This should be on the application as well.

#### 14.22.050 Development Standards

- (1) The Administrative Official has authority to review and to approve, conditionally approve, or deny a land disturbance application if it fails to comply with the requirements of this Title or RCW Chapter 76.09. Conditions of approval may include but are not limited to inspection by the applicant's CESCL prior to land disturbing activities and the establishment of financial securities in the form of performance and maintenance bonds or other conditions as deemed applicable 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; and
  - (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.

**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, in an amount deemed by the County to be sufficient to reimburse the County if it should become necessary to enter the property and correct or eliminate hazardous conditions relating to land disturbance activities or for other purposes authorized in this Chapter.
- (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/or of ensuring compliance with the stipulations of the permit and the approved plans.

**14.22.070 Inspections**

- (1) A land disturbance permit may be required to submit to a final inspection to ensure that all work on a site has been 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, whenever 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 find to the County immediately;
  - (c) Skagit County must 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. If a negative determination is received, i.e., the report does not determine that the find is significant, the work may resume after consultation with the State and the affected Tribes. On receipt of a positive determination of the site's significance, work must remain stopped on the project site and the project proponent or responsible party may not resume development activities without authorization from DAHP.
- (4) If land disturbing activities encounter human skeletal remains during the course of construction, all activity must cease and the area of the find will be protected from further disturbance. The finding of human skeletal remains must be reported to local law enforcement and the County Medical Examiner or Coroner as soon as possible. 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 the Washington DAHP, who will then take jurisdiction of the remains.

## Chapter 14.32 Stormwater Management

SCC Chapter 14.32 Drainage Ordinance is renamed Stormwater Management and amended to read as follows:

14.32.010 Policy.....	<a href="#">109</a>
14.32.020 Applicability. ....	<a href="#">1140</a>
14.32.030 Application requirements. ....	<a href="#">1241</a>
14.32.040 Stormwater Management Manual .....	<a href="#">1342</a>
14.32.050 Reserved. ....	<a href="#">1746</a>
14.32.060 Erosion and sediment control.....	<a href="#">1746</a>
14.32.070 Low-Impact Development (LID) techniques and facilities. ....	<a href="#">1847</a>
14.32.080 Stormwater conveyance. ....	<a href="#">2049</a>
14.32.090 County acceptance of stormwater facilities. ....	<a href="#">2120</a>
14.32.100 Operation and maintenance .....	<a href="#">2220</a>

### 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.~~ To help protect adjacent landowners from downstream flooding, erosion, and pollution, [and comply with the County's NPDES Permit](#), Skagit County has adopted the following requirements for both temporary and long-term stormwater management. The purpose of this Chapter is to set out the authority, regulatory requirements, submittal requirements, and procedures for stormwater drainage design, review, approval, construction, maintenance, and management in 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 [Low-Impact Development \(LID\)](#) goals:
  - (a) Manage stormwater through a land development strategy that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to mimic predevelopment hydrologic conditions;
  - (b) Encourage 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 hard surfaces and impervious surfaces; and
  - (d) Preserve or restore 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.

Comment [A13]: No change

#### 14.32.020 Applicability.

- (1) No site development activity requiring review under this Chapter, including land clearing, grading, 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) Sections .030-.080 of this Chapter apply to any activity within unincorporated Skagit County identified below:
  - (a) "New Development," meaning 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. Projects meeting the definition of redevelopment are not considered New Development.
  - (b) "Redevelopment," meaning, on a site that is already substantially developed (i.e., has 35% 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 Chapter 15.04.
- (3) Exemptions. Consistent with Appendix 1, Section 1 of the County's NPDES Permit, the following activities are exempt from this Chapter:
  - (a) Forest practices. Forest practices regulated under 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, the conversion from 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.

- (d) Pavement maintenance, as described in the County's NPDES Permit, Appendix 1, Section 1.
- (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 #2, Construction Stormwater Pollution Prevention.

#### 14.32.030 Application requirements.

- (1) ~~Basic requirement.~~ All applications require a stormwater site plan consistent with this section.
  - (a) ~~All stormwater site plans must include a Stormwater Pollution Prevention Plan (MR2), including provisions for erosion and sediment control.~~
  - (b) ~~When a Stormwater Site Plan (MR1) is required by SCC 14.32.040, the stormwater site plan fulfills this application requirement.~~
- (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 [consistent with Minimum Requirement 1](#). 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  $\geq$  1 acre;
    - (ii) grading  $\geq$  500 cu yards;
    - (iii) any improvements within County right of way for which the County will ultimately assume responsibility for maintenance.
  - (c) Off-Site Analysis. Any offsite analysis must be consistent with the methods described in the Stormwater Management Manual.
  - (d) Geotechnical Analysis. The stormwater site plan must include a geotechnical analysis only when:
    - (i) 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%; or
    - (ii) 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.

**Comment [RW14]:** We need to ensure these are appropriate thresholds.



- (e) Soils Analysis. The stormwater site plan must include a soils analysis only when the Administrative Official deems that existing soils maps of the project site are not of sufficient resolution to allow proper engineering analysis.
- (4) Security. The County may require liability insurance and a financial security to ensure performance of the requirements of this Chapter.

**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:~~

**Comment [A15]:** 14.32.040: Projects outside of the NPDES Permit Area, Special Flood Hazard Areas, and Urban Growth Areas must comply with the following modified Stormwater Management Manual Minimum Requirements::

**Comment [A16]:** State law requires that plans involving construction of treatment facilities, flow control facilities, structural source control BMP’s, and drainage conveyance systems must be prepared by a professional engineer licensed in Washington State (DOE Manual page 77).

**Comment [A17]:** System

**Comment [A18]:** DOE Manual Volume II 1.5.2: Transport is determined by soil characteristics, vegetative cover, topography, and climate.

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; trails and trailheads
High	All other uses, including all commercial, industrial, institutional, and urban or multifamily residential uses; land divisions into more than four lots; all uses on parcels bisected by the NPDES Permit Area boundary; 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.

- (2) Any project that is wholly or partially inside the NPDES Permit Area or an Urban Growth Area must fully comply with the Stormwater Management Manual and is not eligible for any of the modifications described in subsection (3).
- (3) Any project that is wholly outside the NPDES Permit Area and an Urban Growth Area may comply with the Stormwater Management Manual's Minimum Requirements through the modifications described in this subsection.
  - (a) A project is subject to the Minimum Requirements described in Figure I-2.4.1 and Figure I-2.4.2 in the Stormwater Management Manual except that a project that creates less than 10,000 sq ft of hard surface is not subject to Minimum Requirements 6-9.
  - (b) MR1 Stormwater Site Plan.
    - (i) The infiltration test for the stormwater site plan be performed consistent with the simplified procedure provided by the Department.
    - (ii) If the project does not include or require an engineered stormwater facility, the stormwater site plan is not required to be prepared by a registered land surveyor or an engineer.
  - (c) MR2 Construction SWPPP.
    - (i) The applicant may use the Model Construction SWPPP provided by the Department if:
      - (A) The application is for a residence or residential accessory use;
      - (B) The application is for less than 10,000 sq ft of hard surface; and
      - (C) The application is not on a site with a high potential for sediment transport as defined by the Stormwater Management Manual.
  - (d) MR3 Source Control. Reserved.
  - (e) MR4 Preservation of Natural Drainage. Reserved.
  - (f) MR5 Onsite Stormwater Management.
    - (i) If the application is subject only to Minimum Requirements 1-5, the applicant may use the prescriptive onsite stormwater management methods promulgated by the Department.
    - (ii) The following areas identified by the South Fidalgo Island Stormwater Management Plan (July 2010) are designated areas where infiltration should be avoided to mitigate landslide concerns:
      - (A) Quiet Cove;
      - (B) Yokeko Point;
      - (C) Salmon Beach & south end of Gibraltar Road;
      - (D) North end of Gibraltar Road;
      - (E) Jura Lane;

**Comment [RW19]:** Kitsap Code 12.20 establishes 10,000 sq ft instead of 5,000 sq ft of impervious surface as the threshold for triggering MR1-9

**Comment [RW20]:** We still need to deal with cumulative and/or unpermitted additions of hard surface.

(F) East of Rosario Road south of Marine Drive;

(G) East of Marine Drive;

(H) South of Biz Point Road.

(g) MR6 Runoff Treatment.

(h) MR7 Flow Control. Reserved.

(i) MR8 Wetlands Protection. Reserved.

(j) MR9 Operations & Maintenance.

(i) The applicant may use the model O&M manual promulgated by the Department.

(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.

**Comment [SP21]:** Examples?

**Comment [LF22]:** Is there a requirement to provide an alternative if the experimental BMPs fail?

(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.

(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;

(a) 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;

(b) 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;

- (c) any lands that are established by law as fish or shellfish protection areas; and
- (d) 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.

(7) 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.

**Comment [RW23]:** Moved from conveyance section. Need to harmonize this section consistent with the permit requirements for allowing basin planning.

**14.32.050 ~~Reserved~~ 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 road.
  - (b) Runoff may not discharge into a County right-of-way, except:
    - (i) When the development will take place on a lot within a recorded subdivision with an approved stormwater facility;
    - (ii) With the authorization of the Public Works Director;
    - (iii) If the discharge is an allowable discharge as described in SCC Chapter 16.32.
  - (c) Runoff and infiltration must be directed away from septic drain fields.
  - (d) Runoff from impervious surfaces, roof drains, and yard drains must be directed so as not to adversely affect adjacent properties.
  - (e) Runoff from development may not cause a significant adverse impact to down-gradient properties.

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**Comment [RW24]:** TODO: update 16.32.030(2) to match the list of allowable discharges in <http://www.ecy.wa.gov/programs/wq/stormwater/municipal/phasellww/SYR/2014mod/WWAPhasell-Permit-2014Final.pdf>

**14.32.060 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:

**Comment [SP25]:** Less wordy.

- (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 soils and must stabilize soils before 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 thoroughly cleaned at the end of each day. ~~the roads must be cleaned thoroughly, as a minimum, 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.
- (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. Pollutants of concern include, but are not limited to, fuels, lubricants, solvents, concrete by-products, and construction materials.

**Comment [LF26]:** Not all projects require a surveyor or CAO consultant

**14.32.070 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 Low Impact Development Technical Guidance Manual for Puget Sound (Puget Sound Partnership and WSU Extension, 2012) and this chapter are allowed, where feasible, anywhere in unincorporated Skagit County.
  - (a) Permeable pavement may be used in place of regular pavement to meet applicable LID requirements where feasible. 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) In the event of a conflict between this Section and other development regulations, the provisions of this Section apply.
- (2) When Required.

- (a) LID techniques and facilities are required within the NPDES Permit Area where the NPDES Permit thresholds are exceeded and where feasible. The applicant must use the BMPs identified in the Stormwater Management Manual as feasible for the site conditions. The Stormwater Management Manual provides criteria for determining feasibility of BMPs; the Administrative Official has authority to determine whether specific BMPs are feasible.
  - (b) Within the NPDES Permit Area, projects subject to Minimum Requirements #1 to #9 in Appendix 1 of the NPDES Permit 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, 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.
- (a) Applicants should consider limiting clearing and grading to the minimum necessary for construction of permitted uses and associated utilities.
  - (b) Applicants should consider limiting 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 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 14.32.100 is required.
- (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 with the following:
    - (i) Groundcover: 4"-container plants at 1 per 125 square feet and native groundcover seed mix at 1 pound per acre;
    - (ii) Understory Shrubs (evergreen and/or deciduous): 1-gallon plants at 1 per 300 square feet; and

- (iii) Canopy Trees: 2-gallon plants at 1 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 6 or 7, only the following is allowed:
  - (i) permeable pedestrian trails;
  - (ii) surface water restoration projects;
  - (iii) passive recreation;
  - (iv) removal of invasive species;
  - (v) planting of native vegetation;
  - (vi) amendment of disturbed soils consistent with all applicable regulations.
- (d) Where native vegetation is used to achieve Minimum Requirements 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 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;
  - (iv) an alternative permanent protective mechanism approved by the Administrative Official.

**14.32.080 Stormwater conveyance.**

- (1) Generally.
  - (a) All proposed developments must provide 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 must use the Rational Method, Santa Barbara Urban Hydrograph Method, 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.~~

**Comment [RW27]:** These provisions are moved up to the general stormwater design standards section.



(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 easements through non-drainage structures are prohibited.
- (b) Wording to this effect must appear on the face of all final plats, and must be contained in any covenants required for a development.

**Comment [SP28]:** Indemnify the County if a structure needs to be removed for easement access?

(3) Wetlands. Stormwater discharges to wetlands are allowed only when consistent with the Stormwater Management Manual, especially Minimum Requirement #8 and Appendix I-D.

~~(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 quantity and quality 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.~~

**Comment [RW29]:** Moved this to the stormwater manual section

(5)(4) 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.

**14.32.090 County acceptance of stormwater facilities.**

- (1) 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) For residential subdivisions, improvements have been completed on at least 80% of the lots, unless waived by the Administrative Official;
  - (b) The facility has been inspected by the County and accepted by the Administrative Official and have been in satisfactory operation for at least two years;

- (c) If the facility was reconstructed during the maintenance period, it has been accepted by the Administrative Official;
- (d) The facility as designed and constructed conforms to the provisions of this Chapter;
- (e) 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) An operation and maintenance manual including a maintenance schedule has been submitted to and accepted by Skagit County; and
- (g) The applicant has provided to Skagit County a complete and accurate set of reproducible as-built record drawings stamped and certified as accurate by a qualified professional and accompanied by an approved maintenance plan.

**14.32.100 Operation and maintenance.**

- (1) Maintenance required.
  - (a) Owners and operators of stormwater facilities must operate and maintain those facilities to ensure the performance achieves their intended purposes.
  - (b) Owners of property for which a stormwater BMP has been required by Skagit County must continually maintain that BMP.
  - (c) Maintenance must be performed consistent with the conditions of approval and the approved maintenance plan. Unless a more restrictive provision applies, when an inspection identifies an exceedance of the maintenance standard, the owner must perform maintenance:
    - (i) within 12 months for typical maintenance of facilities, except catch basins;
    - (ii) within 6 months for catch basins;
    - (iii) 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/or 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 [and enforce](#) per SCC Chapter 14.44, Enforcement and Penalties.

## **Title 16 Environment**

### **Chapter 16.32 Water Pollution**

#### **16.32.010 Purpose**

The purpose of this Chapter is to protect the County's surface and groundwater quality by controlling the discharge of pollutants and comply with the County's NPDES Permit.

### 16.32.020 Definitions

The definitions in SCC 14.04.020 apply to this Chapter and are incorporated by reference.

### 16.32.030 Illicit Discharges.

- (1) Illicit discharges prohibited. No person may throw, drain, or otherwise discharge, cause or allow others under its control to throw, drain, or otherwise discharge into the stormwater system any materials other than stormwater.
- (2) Allowable discharges. The following types of discharges are not illicit discharges for the purpose of this Chapter unless the Administrative Official determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:
  - (a) Diverted stream flows.
  - (b) Rising groundwaters.
  - (c) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20).
  - (d) Uncontaminated pumped groundwater.
  - (e) Foundation drains.
  - (f) Air conditioning condensation.
  - (g) Irrigation water from agricultural sources that is commingled with urban stormwater.
  - (h) Springs.
  - (i) Water from crawl space pumps.
  - (j) Footing drains.
  - (k) Flows from riparian habitats and wetlands.
  - (l) Discharges from emergency firefighting activities.
- (3) Conditionally allowed discharges. The following types of discharges are not illicit discharges for the purposes of this Chapter if they meet the stated conditions, unless the Administrative Official determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater.
  - (a) Potable water, including water from water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges must be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system.
  - (b) Lawn watering and other irrigation runoff are permitted but must be minimized.
  - (c) De-chlorinated swimming pool discharges. These discharges must be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system. Discharges must be thermally controlled to prevent an increase in temperature of the receiving water.

- (d) Street and sidewalk wash water, water to control dust and routine external building wash down that does not use detergents are permitted if the amount of street wash and dust control water is minimized. At active construction sites, street sweeping must be performed prior to washing the street.
  - (e) Other non-stormwater discharges. The discharges must be in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the County which addresses control of such discharges by applying AKART to prevent pollutants from entering surface or groundwater.
- (4) Exemptions.
- (a) The following discharges are exempt from the provisions of this Section:
    - (i) The regulated effluent from any commercial or municipal facility holding a valid State or Federal wastewater discharge permit or NPDES stormwater permit.
    - (ii) Acts of God or nature not compounded by human negligence.
    - (iii) Properly operating on-site domestic sewage systems.
    - (iv) Discharges from agricultural activities that are compliant with SCC 14.24.120.
  - (b) A person does not commit an illicit discharge if:
    - (i) That person has properly designed, constructed, implemented and is maintaining BMPs and is carrying out AKART as required by SCC Chapter 14.32, even if pollutants continue to enter surface and stormwater or groundwater; or
    - (ii) That person can demonstrate that there are no additional pollutants being discharged from the site above the background conditions of the water entering the site.
- (5) Best Management Practices (BMPs).
- (a) Compliance with this Chapter must be achieved through the use of best management practices described in the Stormwater Management Manual or as described below.
  - (b) BMPs must be applied to any business or residential activity that might result in illicit discharges. In applying the Stormwater Management Manual, the Administrative Official must first require the implementation of source control BMPs. If these are not sufficient to prevent pollutants from entering stormwater, the Administrative Official may require implementation of treatment BMPs as set forth in AKART (all known, available, and reasonable methods of prevention and treatment technology).

**Comment [RW30]:** Need to ensure these are harmonized with the permit.

#### **16.32.040 Illicit connections and uses.**

- (1) No person may use the stormwater system, directly or indirectly, to dispose of any solid or liquid matter other than stormwater.
- (2) No person may make, allow, use, or allow the continued existence of any connection to the stormwater system that could result in an illicit discharge.
- (3) Connections to the stormwater system from the interiors of structures are prohibited.

- (4) Connections to the stormwater system for any purpose other than to convey stormwater or groundwater are prohibited and must be eliminated.

**16.32.050 Inspection and enforcement.**

The Administrative Official is authorized to carry out inspection and enforcement actions pursuant to SCC Chapter 14.44, Enforcement/Penalties.