

Chapter 12.19 DRAINAGE UTILITY

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12.19.010 Establishment and powers.

Pursuant to RCW 36.89, a utility to be known as the Skagit County Drainage Utility is established under the direction of the Board of County Commissioners to be administered and operated by the Department of Public Works. The utility is authorized to exercise all lawful powers necessary and appropriate to planning, designing, establishing, acquiring, developing, financing, constructing, operating, managing, improving, maintaining, controlling and requesting drainage facilities including, without limitation, all lawful powers to fix, alter, regulate and control the rates and charges and conditions for the use thereof and full power to enter into agreements with other governmental entities for such purposes. (Ord. 15572 (part), 1994)

12.19.020 Purpose.

This authority is being invoked in order to minimize property damage, promote and protect the public health, safety and welfare, minimize water quality degradation by preventing siltation, contamination and erosion of the County's waterways, protect aquifers, insure the safety of County roads and rights-of-way, increase educational and recreational opportunities, restore fisheries, encourage the retention of open space, and foster other beneficial public uses. (Ord. 15572 (part), 1994)

12.19.030 Enterprise fund created—Purposes enumerated.

There is hereby created an enterprise fund known as the "Skagit County Drainage Fund." All fees and charges imposed herein shall be placed in said fund for the purpose of paying all or any part of the cost of all expenses related to the acquisition, installation, addition, improvement, replacement, repair, maintenance, operation, or administration of Drainage Utility facilities. (Ord. 15572 (part), 1994)

12.19.040 Definitions.

For the purposes of this Chapter, the words or phrases below shall have the following meanings:

(1) "Agricultural" shall mean those activities involving land use for nonclassified agriculture and related activities and open space farming and agriculture as defined by Skagit County Land Use Codes.

(2) "Apartments" shall mean a residential structure accommodating five or more household units; residential hotels and condominiums; hotels and motels; or institutional lodging as defined by Skagit County Land Use Codes.

(3) "Commercial" shall mean those activities involving land use for mobile home parks; automobile parking; communications; other transportation, communication, or utilities; wholesale

trade; retail trade in building materials, hardware, or farm equipment, in general merchandise, in food, in automobiles, tires, marine craft, aircraft, and accessories, in apparel and accessories, in furniture, home furnishings and equipment, in eating and drinking, or in other retail trades; finance, insurance, or real estate; personal services; business services; repair services; professional services; contract construction services; and miscellaneous services as defined by Skagit County Land Use Codes.

(4) "County" shall mean the unincorporated areas of Skagit County, less those areas of the unincorporated County lying in drainage or subflood control zone districts, or as indicated by the context, may mean the Department of Public Works, Public Works Director, County Engineer, or other employee or agent representing the County in the discharge of his or her duties. For purposes of this Chapter, County shall also be construed to include those incorporated areas or areas lying in drainage or subflood control zone districts joining the utility by executing an interlocal agreement for drainage with the Skagit County Drainage Utility.

(5) "County roads" shall mean public rights-of-way, excluding State roads, in the unincorporated and incorporated areas served by the Drainage Utility.

(6) "Director" shall mean the director of the Skagit County Department of Public Works or his or her designee.

(7) "Drainage facilities" shall mean any facility, improvement, development, property or interest thereon, made, constructed or acquired for the purpose of controlling, or protecting life or property from any runoff, storm, waste, flood or surplus waters wherever located within the County, and shall include but not be limited to the improvements and authority described in Chapters 86.12 and 86.15 RCW.

(8) "Enterprise fund" shall mean a fund established to account for operations that are financed and operated in a manner similar to private business enterprises where the intent of the governing body is that the costs (expenses, including depreciation) of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges. As such, enterprise funds must report actual financial position and results of operations, such as actual assets, liabilities, fund equity balances, revenues, expenditures, and expenses.

(9) "Impervious surfaces" shall mean hard surfaced areas which prevent or retard the entry of water into the soil mantle and/or cause water to run off the surface in greater quantities or at an increased rate of flow than under natural conditions. Common impervious surfaces include, but are not limited to rooftops, concrete or asphalt roads, sidewalks and paving, walkways, patio areas, driveways, parking lots or storage areas and gravel, hard-packed dirt, oiled or other surfaces which similarly impede the natural infiltration of surface water or runoff patterns existent prior to development.

(10) "Industrial" shall mean those activities involving land use for manufacture of food and kindred products, textile mill products, apparel and finished products of fabric, leather, or similar material, lumber and wood products, furniture and fixtures, paper and allied products, chemicals, rubber and miscellaneous products, stone, clay, and glass, primary metal products, fabricated metal products, and professional scientific and control instruments and photo and optical products; for log dumps; for printing and publishing; aircraft transportation; and for petroleum refining and related industries as defined by Skagit County Land Use Codes.

(11) "Institutional" shall mean those activities involving land use for governmental services; education services, i.e., schools; cultural activities and nature exhibits; public assembly; amusements; recreational activities; resorts and group camps; and other cultural, entertainment, recreational, and church-related activities as defined by Skagit County Land Use Codes.

(12) "Interlocal agreement" shall mean that contract between the County and other incorporated areas of Skagit County or other entities pursuant to RCW Chapter 39.34, which delineates the term, conditions and relationships of the parties regarding the plan, design, construction, operation, maintenance and funding of the drainage system within the incorporated area.

- (13) "Manager" shall mean the manager of the Skagit County Drainage Utility or his/her designee.
- (14) "Multifamily residence" shall mean a residential structure accommodating two, three, or four household units as defined by Skagit County Land Use Codes.
- (15) "Parcel" shall mean the smallest separately segregated unit or plot of land having an identified owner, boundaries and surface area which is documented for real property purposes, and a tax account number assigned by the Skagit County Assessor-Treasurer.
- (16) "Single-family residence" shall mean a residential structure accommodating one household unit, including mobile homes and vacation homes and cabins as defined by Skagit County Land Use Codes.
- (17) "Skagit County Drainage Utility Appeals Board" shall mean an appeals board for rate adjustments.
- (18) "State roads" shall mean State Highway rights-of-way as defined in RCW 90.03.520.
- (19) "Timber land" shall include land uses for classified timber; reforestation under RCW 84.28; trees; open space timber; and designated timber as defined by the Skagit County Land Use Codes.
- (20) "Undeveloped land" shall mean unimproved land and land used for railroad transportation; parks; cemeteries; other resource production; and open space as defined by the Skagit County Land Use Codes. (Ord. 15572 (part), 1994)

12.19.050 Imposition of rates and charges.

(1) Land Use Classification. The Board of Skagit County Commissioners shall establish by resolution rates for all real property within the County according to the land use classification, size, and impervious surface area of each parcel as described below:

	Class of Property	Basis of Charge
(a)	Parcels containing single-family residences.	Average impervious square feet per parcel, as set by resolution, plus charge per acre.
(b)	Average impervious square feet parcel, as set resolution, plus charge per acre.	Parcels containing duplex, triplex, per or four-plex by residential units (multifamily).
(c)	Parcels containing apartments of more than four residential units, commercial, industrial, or recorded on Assessor's database plus charge institutional establishments or agricultural land.	Measured square feet of impervious surface as per acre.
(d)	Parcels containing timber or undeveloped land.	Charge per acre.
(e)	County roads.	Charge per impervious square foot.
(f)	State roads.	30% of standard County rate per impervious square foot.

(2) Special Classifications. The following special categories of property are exempt from rates and charges:

- (a) Federal and Tribal Land. All federal and tribal owned lands located within the County;
- (b) Waterways. All parcels consisting entirely of tidelands, riparian rights-of-way, lakes and/or streams;
- (c) Unassessed Value. All parcels consisting of oyster tracts, marine moorage condos, and taxable accounts with no assessed value.

(3) One-Time Charges. All real property within Skagit County shall, upon permitting of construction thereon, be assessed a one-time charge, established by resolution, per square foot of impervious surface area as set forth in the plans for intended development of the parcel as approved by the County, with the following exceptions:

- (a) Single-Family Residences. Parcels intended to contain single-family residences shall

be assessed a uniform charge based upon average impervious surface area as set by resolution; and

(b) Multifamily Residences. Parcels intended to contain multifamily residences shall be assessed a uniform charge based upon average impervious surface area as set by resolution.

(3) Deposit of Funds. All funds from the Drainage Utility shall be deposited to the Drainage Fund. (Ord. 15572 (part), 1994)

12.19.060 Billing.

(1) Property Tax Statements. Rates and charges established pursuant to this Chapter shall be added to and included in Skagit County's annual tax statements. Properties which do not receive a property tax statement will receive a separate billing statement for these rates and charges.

(2) Payment Date. The total amount of the drainage rate and charge shall be due and payable on or before the 30th day of April and shall be delinquent after that date; however, if one-half of such rate and charge is paid on or before the said 30th day of April, the remainder shall be due and payable on or before the 31st day of October and shall be delinquent after that date.

(3) Payment Application. If a payment is received in conjunction with a combined property tax and drainage rate and charge, and the payment is less than the amount due, the payment shall be applied first to the annual property tax of the parcel and any remaining amount to the drainage rate and charge. (Ord. 15572 (part), 1994)

12.19.070 Rate adjustments and appeals.

(1) Rate Adjustments. Any person receiving a billing statement for drainage charges and making a timely payment therefore may apply to the Manager for a rate adjustment for qualified on-site mitigation that exceeds County standards, parcel-specific characteristics that significantly affect run-off, and/or an alleged error in billing resulting from incorrect specification of parcel data, including but not limited to total acreage, impervious surface coverage, and land use classification. The Manager will consult the Assessor on applications which dispute information on the Assessor's database. Determination of the appropriate rate adjustment shall be made by the Manager.

(2) Rate Adjustments—Documentation. The burden of proof shall be on the applicant to show that the rate adjustment sought should be granted. Requirements of admissible documentation shall be determined by the Manager.

(3) Rate Adjustments—Review Deposit. Applications for rate adjustment must include a deposit sufficient to cover the utility's cost of review. The deposit shall be refunded in full if the adjustment is granted. If the adjustment is not granted, only the unused portion of the deposit, if any, shall be refunded.

(4) Rate Adjustments—Scheduling. To be effective for the current billing year, applications for rate adjustment must be made by March 15. Applications received after March 15 shall only be effective for subsequent years. If the Manager grants an adjustment which reduces the charge for the current year, the applicant shall be refunded the amount overpaid. If the Manager determines that an adjustment shall be made which increases the charge due for the current year, the applicant shall submit the additional charge within forty-five (45) days of the decision date.

(5) Rate Adjustment—Appeals. Decisions of the Manager on requests for rate adjustments may be appealed to the Skagit County Drainage Utility Appeals Board within thirty (30) days of the decision date. The decision of the Appeals Board shall be the final decision of the County in regards to rate adjustments. (Ord. 15572 (part), 1994)

12.19.080 Administrative procedures.

The Manager, the Skagit County Assessor, and the Skagit County Treasurer are hereby authorized to establish all administrative procedures necessary to implement the provisions of this Chapter. (Ord. 15572 (part), 1994)

12.19.090 Lien for delinquent charges and foreclosures.

(1) Liens. Pursuant to RCW 36.89.090, Skagit County shall have a lien for delinquent service charges, including interest thereon, against any property against which they were levied for drainage facilities, which lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. Such liens shall be effective and shall be enforced and foreclosed in the same manner as provided for sewerage liens of cities and towns by RCW 35.67.200 through 35.67.290, except that the service charge lien shall be effective for a total not to exceed one year's delinquent service charges without the necessity of any writing or recording of the lien with the County Auditor, as provided for in RCW 36.89.093, in lieu of the provisions provided for in RCW 35.67.210. In accordance with RCW 36.89.094, the County may commence to foreclose a drainage service charge lien after three (3) years from the date drainage charges become delinquent, in lieu of the provisions provided for in RCW 35.67.230.

(2) Interest. Delinquent service charges shall bear interest as provided in RCW 36.89.090, RCW 36.89.092 and RCW 35.67.200 at the rate of twelve percent (12%) per annum, or such rate as may hereafter be authorized by law, computed on a monthly basis from the date of delinquency until paid. Interest shall be calculated at the rate in effect at the time of payment of the charges regardless of when the charges were first delinquent. (Ord. 15572 (part), 1994)

12.19.100 Severability.

If any section, clause or provision of this Chapter be declared by the courts to be invalid, the same shall not affect the validity of the Chapter as a whole or any part thereof, other than the part so declared to be invalid. (Ord. 15572 (part), 1994)