



Planning & Development Services

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Memorandum

To: **Planning Commission**

From: **Stacie Pratschner, AICP** Senior Planner
Ryan Walters Assistant Director

Date: **July 25, 2017**

Re: **PC Workshop on Proposed Code Amendments to Skagit County Code (SCC) Chapter 14.32 – Stormwater Management**

SUMMARY:

Planning and Development Services (PDS) is providing this memo in advance of the August 1, 2017 Planning Commission meeting. The purpose of this memo is to present a work program and a conceptual code draft for proposed edits to Skagit County Code (SCC) Chapter 14.32 – Stormwater Management pursuant to the County's adoption in 2015 of the 2012 DOE Stormwater Management Manual for Western Washington.

ACTION REQUESTED OF THE PLANNING COMMISSION:

This is an informational workshop and staff requests conceptual feedback from the Planning Commission concerning the attached code drafts to SCC Chapter 14.32.

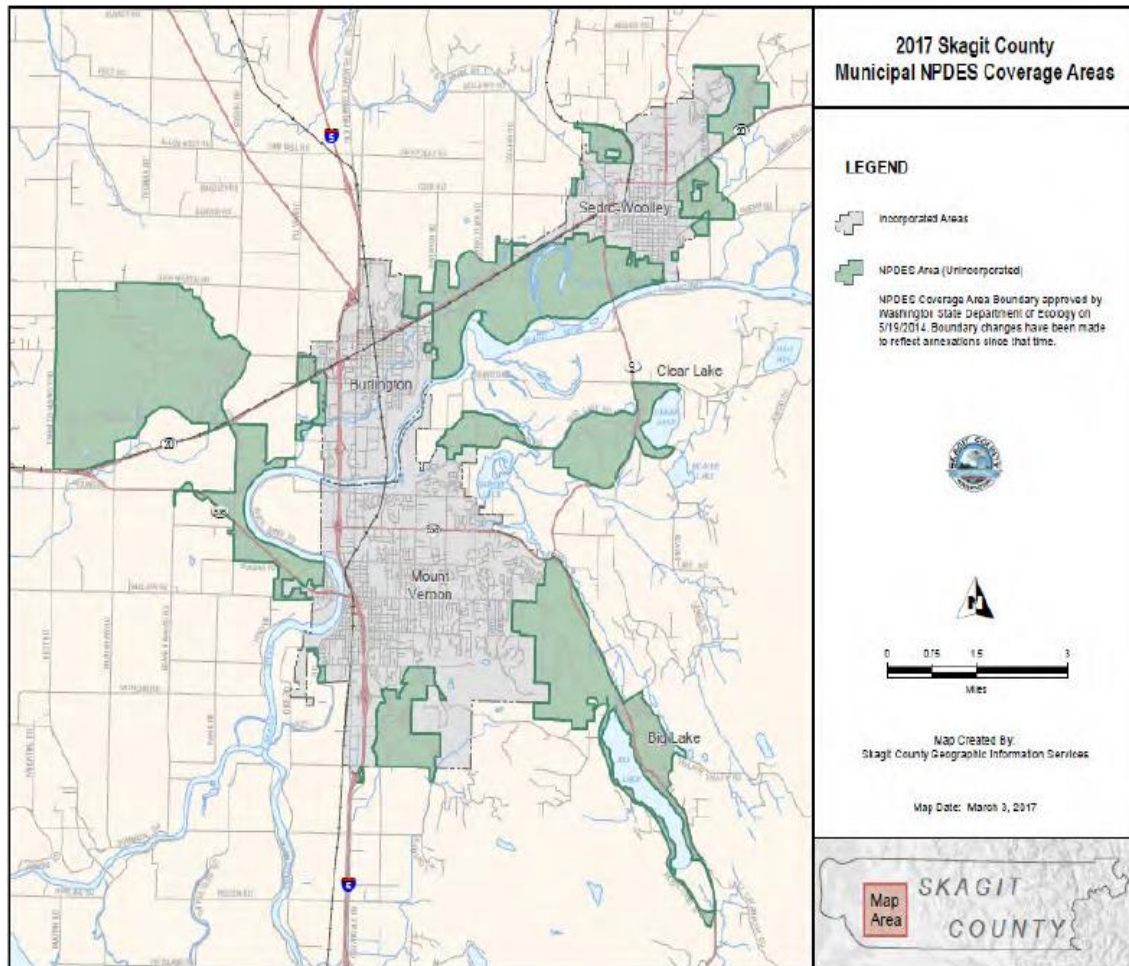
BACKGROUND/DISCUSSION:

Regulatory Framework

The Federal Clean Water Act requires jurisdictions to implement stormwater management programs and regulations within prescribed time frames. The Department of Ecology (ECY) has been delegated authority by the Environmental Protection Agency (EPA) to administer these regulations. ECY issued the Phase II Municipal Stormwater Permit for Western Washington (NPDES: National Pollutant Discharge Elimination System), effective August 1, 2013 through July 13, 2018, which requires local governments like Skagit County to adopt the 2012 Department of Ecology Stormwater Management Manual for Western Washington ("2012 Manual"). The regional trend of developers transitioning from the use of conventional stormwater facilities to Low Impact Development (LID) best management practices

(BMP's) is reflected in the 2012 Manual's new requirement for LID (unless it can be shown it's not feasible on a site), rather than just encouragement of LID BMP's¹. Skagit County adopted Ordinance # O20150006 (**Attachment 1**) in 2015, implementing the 2012 Stormwater Manual in fulfillment of the County's obligations under the [NPDES permit](#). Site development projects within the NPDES permit areas, defined as the Urban Growth Areas (UGA's) and Flood Hazard Areas in Skagit County are subject to the requirements of the 2012 Manual as shown in Figure 1, below.

Figure 1: 2017 Skagit County Municipal NPDES Coverage Areas²



Pursuant to the adoption of the 2017 Legislative Work Program, Resolution # [R20170012](#), PDS is proposing amendments to SCC Chapter 14.32 – Stormwater Management to clarify the thresholds and provide performance standards for developments outside of the NPDES Phase II permit areas that are not subject to the requirements of the 2012 Manual. The following section identifies the portions of Chapter 14.32 to be edited and describes how the changes will be harmonized with the new [Land Disturbance chapter](#) (SCC 14.22).

¹ Puget Sound Partnership, 2012. *Integrating LID into Local Codes: A Guidebook for Local Governments*. Prepared by AHBL for the Puget Sound Partnership, July 2012 (Page iv).

² Figure courtesy of the Skagit County NPDES Phase II Stormwater Management Program Plan, dated March 2017 (Page 4).

Code Amendments

Staff has completed an initial review of Title 14 and proposes the following edits for consistency with 2012 Manual (**Attachment 2**):

- 14.32.020 - Applicability: Revise section (2)(c) to reference the new Level I Land Disturbance application. The definition of “hard surfaces” per the 2012 Manual includes “impervious surfaces).
- 14.32.030 - Application Requirements: Modify this section to ensure stormwater management requirements outside the NPDES Permit area are comprehensive but streamlined. New sections have been added to require Stormwater Pollution Prevention Plans (SWPPP) per the 2012 Manual. The bonding language in a new section (5) is cross referenced with the financial security requirements of proposed SCC 14.22.060.
- 14.32.040 - Stormwater Management Manual: Tables 14.32.040-1 and -2 have been removed. Discussion concerning management outside of the NPDES areas.
- 14.32.070 - LID Techniques and Facilities: A requirement has been added that stormwater facilities must be designed by a Washington State-licensed Engineer.
- 14.32.080 - Stormwater Conveyance: References to the Rational Method and Santa Barbara Urban Hydrograph Method have been removed. Staff proposes a 5-foot setback from public drainage easements.
- 14.32.090 - County Acceptance of Stormwater Facilities: This section has been updated to reflect the revised requirements of the 2012 Manual.
- 14.32.100 - This section has been restructured for clarity.

The Department has also identified additional areas of research in order to complete the edits to Chapter 14.32, including an audit of the County’s existing Basin plans; addressing the cumulative impacts of hard surfaces added over time; determining which storm event stormwater facilities should be designed to accommodate; the allowance of stormwater facilities within drainage easements; and the dispersion of stormwater into well-protection zones.

NEXT STEPS:

Other needed changes may be revealed as staff completes the initial research and 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.

APPLICABLE COUNTY POLICIES: Chapter 14.32 of Skagit County Code, the Utilities Element of the Skagit County Comprehensive Plan, and the Skagit County NPDES Phase II Stormwater Management Program Plan.

Attachment List:

1. Ordinance # O20150006, adopted September 8, 2015
2. Proposed amendments to Skagit County Code (SCC) Chapter 14.32 – Stormwater Management

An Ordinance Amending Skagit County Code Title 14 and Title 15 and Creating a new Title 16 for Compliance with the Washington State Department of Ecology's 2013-2018 Western Washington Phase II National Pollution Discharge Elimination System ("NPDES") Permit

Whereas a large portion of the County is subject to a municipal stormwater permit from the Washington State Department of Ecology known as the 2013-2018 Western Washington Phase II National Pollution Discharge Elimination System ("NPDES") Permit;

Whereas the permit requires the County to take various steps to control inputs into its municipal stormwater system, including its roadside ditches and other systems that convey stormwater;

Whereas the County has long recognized that effective management of stormwater from development is essential for the protection of septic systems, wells, neighboring and downstream property owners, and the environment;

Whereas the Planning and Development Services Department (the "Department") and the Public Works Department have worked over the past 24 months to craft an update to the County's drainage code chapter to address the requirements of the permit and reorganize the code to achieve county goals of simplicity, consistency, and clarity in its development regulations;

Whereas the Department held two work sessions with the Planning Commission on its progress on January 6 and February 3, 2015, to review the Department's approach to the code update, and provided early drafts to key stakeholders for their review and comment;

Whereas the Department released and advertised a proposal for updated stormwater regulations on June 11, 2015, and accepted written comment through July 9, 2015:

Whereas the Planning Commission held a public hearing on the proposal on July 7, 2015, and issued a unanimous recommendation in favor, attached as Attachment B, on July 22, 2015;

Whereas the Board deliberated on the Planning Commission's recommendations and the Department's recommendations on August 25, 2015, and provided direction for minor changes to the proposed code text;

Whereas these final changes are within the scope of the proposal that received public comment;

Now Therefore, Be It Ordained by the Board of County Commissioners that:

Section 1. The Board of County Commissioners adopts the Planning Commission's findings of fact.

Section 2. Skagit County Code Titles 14 and 15 are amended, and new Title 16 is created, as shown in Attachment A.

Section 3. This ordinance is effective January 1, 2016.

Witness Our Hands and the Official Seal of Our Office this 8 day of September 2015.



**Board of County Commissioners
Skagit County, Washington**

Kenneth A. Dahlstedt
Kenneth A. Dahlstedt, Chair

Lisa Janicki
Lisa Janicki, Commissioner

Ron Wesen
Ron Wesen, Commissioner

ATTEST:

Amber Kellogg
Clerk of the Board

APPROVED AS TO CONTENT:

Dale Pernula
Dale Pernula, Director
Planning and Development Services

APPROVED AS TO FORM:

Ryan Walters
Ryan Walters, Civil Deputy
Skagit County Prosecutor's Office

Conceptual Code DRAFT 07/25/2017 Proposed Development Regulations

Plain text = existing code with no changes
Strikethrough = existing code to be deleted
<u>Underlined</u> = new code to be added
Double Strikethrough = existing code moved to another location
<u>Double Underline</u> = existing code moved from another location
<i>Italics</i> = instructions to code reviser
[Bracketed] = options for public comment

Comment [SP1]: Impervious surfaces are now contained within the definition of "hard surfaces" within the 2012 Stormwater Management Manual.

14.32 Stormwater Management

14.22.010 Policy. *No change.*

14.32.020 Applicability.

- (1) *No change.*
- (2) (a) and (b) *No change.*
(c) Any activating requiring a grading land disturbance permit per SCC Chapter 14.22.
- (3) Exemptions. Consistent with Appendix 1, Section 1 of the County's NPDES permit, the following activities, with the exception of those located within the Special Flood Hazard Areas, are exempt from this Chapter:
 - (a) through (e) *No change.*

14.32.030 Applicant Requirements.

- (1) ~~Basic Requirement.~~ All applications for projects meeting the thresholds of Section 2.4 of the 2012 Stormwater Management Manual for Western Washington shall prepare a stormwater site plan consistent with this Section and the Manual.
 - ~~(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 and the Special Flood Hazard Areas: *No change.*
 - (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.
- (3) Outside the NPDES Permit Area and the Special Flood Hazard Areas, the requirements of Section 14.32.030(2) apply, with the exception that LID BMP's are allowed (if feasible) but are not required.

- (a) Through (e): *Deleted.*
- (4) ~~Security. The County may require liability insurance and a financial security to ensure performance of the requirements of this Chapter.~~ A Model [Construction Stormwater Pollution Prevention Plans \(SWPPP\)](#) as promulgated by the Department must be submitted [when LID BMP's are implemented.](#)
- (5) [Performance and Securities.](#) The requirement for liability insurance and a financial security to ensure the performance of the requirements of this Chapter must conform to Section [14.22.060.](#)

Comment [SP2]: Bonding language in the new land disturbance chapter.

14.32.040 Stormwater Management Manual.

- (1) *No change.*
- (2) *No change.*
- (3) And Tables 14.32.040-1 and -2: *Deleted.*
- (a) Outside of the NPDES permit area, the Stormwater Management Manual's minimum requirements are modified as provided [below](#):
 - (i) For single family homes;
 - (ii) Stand-alone land disturbance activities;
 - (iii) Other development activities.
- (4) *No change.*
- (5) *No change.*
- (6) *No change.*

Comment [SP3]: For consideration:
1. Proscriptive way to test infiltration;
2. Rain garden manual;
3. Cumulative impervious surface amounts (10 years) .

14.32.050 Reserved. *No change.*

14.32.060 Erosion and Sediment Control. *No change.*

14.32.070 Low Impact Development Techniques and Facilities.

- (1) *No change.*
- (a) *No change.*
- (b) Bioretention facilities with compost-amended soils may be used [when designed by a Washington State licensed Engineer](#), with the approval of the Administrative Official, ~~within a right-of-way~~, within an easement dedicated to Skagit County adjacent to public right-of-way, or in islands created by loop roadways.
- (c) *No change.*
- (2) *No change.*
- (3) *No change.*
- (4) *No change.*
- (5) *No change.*

Comment [SP4]: Rain gardens are not required to be engineered.

Comment [SP5]: Direct discharge in the ROW is only permitted with vested plats.

14.32.080 Stormwater Conveyance.

- (1) *No change.*
 - (a) *No change.*
 - (b) Estimation of peak stormwater runoff rates used in the design of stormwater conveyance facilities must use [Department of Ecology-approved design methodologies as described in the 2012 Stormwater Management Manual](#), 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 or into a County-owned ditch, unless permitted by the Administrative Official.](#)
 - (d) Through (f): *No change.*
- (2) Easements, Tracts, and Covenants.
 - (a) *No change.*
 - (b) *No change.*
 - (c) [The minimum building setback requirement from a public drainage easement is 5 feet.](#)
- (3) *No change.*
- (4) *No change.*
- (5) *No change.*

Comment [SP6]: Which storm event should facilities be designed to accommodate?

Comment [RW7]: May move to .050 General Design Standards

Comment [SP8]: A building setback is applied to minimize the placement of structures within drainage easements.

14.32.090 County Acceptance of Stormwater Facilities.

Comment [SP9]: Staff will continue to work on this section of code.

14.32.100 Operation and Maintenance.

- (1) Maintenance Required.
 - (a) Owners and operators of stormwater facilities [and drainage easements](#) must operate and maintain those facilities to ensure the performance achieves their intended purpose.
 - (b) *No change.*
 - (c) *No change.*
 - (d) [LID facilities must be permanently protected from all of the following:](#)
 - (i) [Cover by structures or impervious material;](#)
 - (ii) [Soil compaction, for example by vehicular traffic or livestock;](#)
 - (iii) [Damage by soil removal and grade alteration;](#)
 - (iv) [Conversion to another use.](#)
- (2) Maintenance Plan Required.
 - (a) Prior to the use of any stormwater facility [\(including LID facilities\)](#), the owner must:
 - (i) Through (iv): *No change.*

- (b) *No change.*
 - (c) *No change.*
 - ~~(d) For LID facilities, the facility must be protected from all of the following:
 - ~~(i) Cover by structures or impervious material;~~
 - ~~(ii) Soil compaction, for example by vehicular traffic or livestock;~~
 - ~~(iii) Damage by soil removal and grade alteration;~~
 - ~~(iv) Conversion to another use.~~~~
- (3) Inspections of Stormwater Facilities. 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.
- ~~(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 a cause to believe that a violation of this Chapter has been or is being committed, the County may inspect per SCC Chapter 14.44, Enforcement/Penalties.~~
- (4) Dedication of Easements and Violations.
- (a) 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.
 - (b) 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.
 - (c) Whenever there is a cause to believe that a violation of this Chapter has been or is being committed, the County may inspect per SCC Chapter 14.44, Enforcement/Penalties.