



Planning & Development Services

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Staff Report

2022 Stormwater Code Amendments

To: Planning Commission
From: Peter Gill, Long Range Planning Manager
Re: Amendments to Stormwater Management Standards, Skagit County Code 14.04, 14.18, 14.22, and 14.32
Date: May 3, 2022

Summary

The proposed changes relate to stormwater construction regulations in the unified development code, Title 14. Specifically, the proposal amends Chapter 14.04 Definitions, Chapter 14.18 Land Divisions, Chapter 14.32 Stormwater Management, and adds a new Chapter, 14.22 Land Clearing.

The amendments ensure continued compliance with the Skagit County NPDES permit and adopts the standards of the 2019 Stormwater Management Manual for Western Washington throughout unincorporated Skagit County. The amendments create a single threshold for residential development outside of the NPDES area and retains the current thresholds inside the NPDES area. Other changes include a 20 year review provision for new development intending to use existing regional facilities, permit application dates for adherence to the code, and additional incorporation of low impact development design concepts. The proposed Land Clearing code consolidates existing standards in order to integrate stormwater design considerations early in the review process.

This report describes the regulatory background for the amendments; provides a synopsis of the public review process; analyzes the proposed changes pursuant to local and State requirements; describes the Department's (PDS) recommendations, and how to comment on the draft proposal. The previous staff memos, public noticing documents, and other supporting materials are available at the following project webpage:

<https://www.skagitcounty.net/Departments/PlanningAndPermit/StormwaterUpdate2022.htm>

Background

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

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

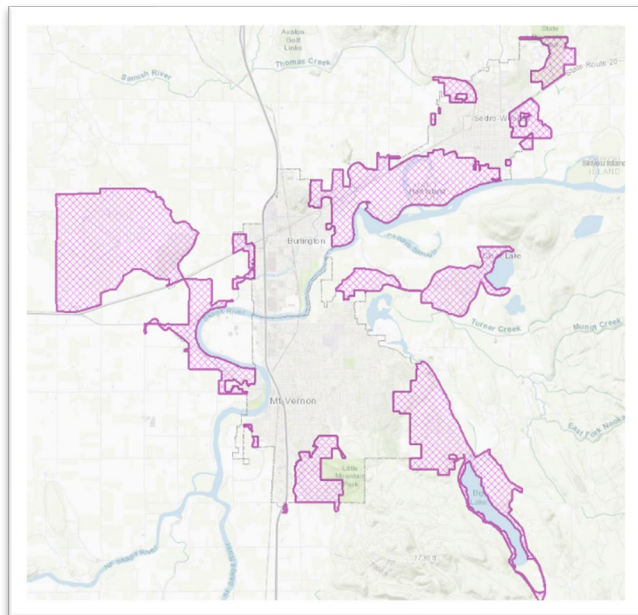


Figure 1: Skagit County Municipal NPDES Coverage Areas shown in pink.

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

- i. On or after July 1, 2022.*
- ii. Prior to January 1, 2017, that have not started construction¹⁹ by January 1, 2022.²⁰*
- iii. Prior to July 1, 2022, that have not started construction by July 1, 2027.¹”*

Development projects within the NPDES permit areas, defined as the Urban Growth Areas (UGA's) and certain flood hazard areas, as shown in Figure 1, are held to a higher level of standard.

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

Findings of Fact

SEPA and Chapter 14.08 SCC

The following sections demonstrate the County's compliance with the procedural requirements for legislative actions pursuant to local and State requirements:

¹ See Attachment 1 for full requirement

1. *Compliance with the State Environmental Policy Act (Chapter 97-11 WAC, SCC 14.08.050, and SCC 16.12):*
 - Staff prepared an environmental checklist for the proposed amendments, dated April 29, 2022.
 - A Determination of Nonsignificance was issued based on the environmental checklists on May 5, 2022.
 - Any comments received prior to the close of the comment period will be presented to the Planning Commission at the scheduled public hearing.

Conclusion – The proposed code amendment will satisfy local and State SEPA requirements at the conclusion of the comment period.

2. *Procedural Compliance:*
 - The County requested review from the Department of Commerce on April 29, 2022.
 - The County must notify the Department of Commerce, at least 60 days in advance or request and expedited review, of its intent to adopt comprehensive plan and development regulation amendments.
 - Staff will file the ordinance with the Department of Commerce within 10 days of the County Commission's action.

Conclusion – The proposed code amendment will meet the Growth Management Act requirements.

3. *Public Notice and Comments*
 - The County published a Notice of Availability, Public Comment, and SEPA threshold determination in the Skagit Valley Herald on May 5, 2022.
 - Any comments received prior to the close of the comment period will be presented to the Planning Commission at the scheduled public hearing on May 24, 2022.

Conclusion – The County has met the public notice requirements of SCC 14.08.070.

Analysis of Changes

The proposed changes relate to regulations in our unified development code, [Title 14](#). An overview of the changes is provided here followed by a description of the code sections that are proposed for change:

The proposed code sections to be amended:

- **SCC 14.04: Update definitions.** The existing code contains a number of definitions that can be deleted. Including content into definitions makes the code more difficult to read and should be avoided. There are updates to improve consistency with NPDES permit requirements.
- **14.18: Land Divisions.** Regional stormwater facilities are designed for all land within the land division with specific amounts of impervious surfaces allocated for each lot. This additional language will clarify what parcels can be expedited through the permit process versus those that need additional on-site stormwater controls.

- **Chapter 14.22: Land Disturbance (New Chapter).** To improve our integration of LID practices and to coordinate review of forest conversion practices, the County proposes a new SCC Chapter 14.22, named “Land Disturbance”. The Building Official currently processes grading permit Applications pursuant to the requirements in Appendix J of the International Building Code (IBC). This permit replaces the existing grading permit and is only required when development is *not* done in conjunction with a building permit.

This chapter will provide a permit pathway for stand-alone clearing and grading activities and will harmonize the requirements for stormwater management, forest practices, septic system development, critical areas, cultural resource management, and SEPA when land disturbing activities are conducted.

- **SCC Chapter 14.32: Reorganize and update drainage chapter.** The core of the proposal is in the drainage chapter, where the code is reorganized to improve usability. Other sections were changed to ensure compliance and compatibility with the 2019 NPDES Permit and Stormwater Management Manual.

One goal of this revision is to simplify the regulations outside the NPDES Permit Area. Requirements were simplified by: deleting the land use intensity table (Table 14.32.040), and adopting the 2019 Stormwater Management Manual for Western Washington for all unincorporated Skagit County.

The Stormwater Manual is divided into nine Minimum Requirements (MRs):

- MR1 Stormwater Site Plan
- MR2 Construction SWPPP (erosion and sediment control)
- MR3 Source Control
- MR4 Preserve Natural Drainage
- MR5 Onsite Stormwater Management
- MR6 Treatment
- MR7 Flow Control
- MR8 Wetlands Protection
- MR9 Operation and Maintenance

All land use intensities are required to comply with MR2, which provides instruction on how to control erosion and sediment. That requirement is consistent with the approach taken by the current code, which emphasizes and prioritizes erosion and sediment control.

Thresholds outside of NPDES areas are changed for residential development. As proposed, the stormwater Minimum Requirements (MRs) apply to single family residential development when:

- MR1 – MR5: Developing 4,000 square feet of hard surface or land disturbance of 14,000 square feet; and,
- MR1 – MR 9: Developing 10,000 square feet of hard surface or conversion of 1.5 acres of vegetation.

Thresholds for stormwater management requirements inside of NPDES area has not changed (2,000 sq ft impervious/hard surface or land disturbance of 7,000 sq ft of land), but the cumulative total of hard surfaces added over the last five years would be used to determine thresholds for stormwater minimum requirements.

The proposal adds language to allow the County to reject the responsibility for maintenance of private stormwater infrastructure. Watershed specific approaches, or “basin” stormwater approach language has changed to require review and approve by Ecology, consistent with the NPDES permit language.

Consistency

Consistency Review (Skagit County Code 14.08)

1. Is the amendment consistent with the vision statements, goals, objectives, and policy directives of the Comprehensive Plan and the does the proposal preserve the integrity of the Comprehensive Plan and assure its systematic execution?

This amendment is consistent with the comprehensive Plan:

Policy 5A-5.3(t): Storm water runoff, flow rates, flow volumes and pollution caused by site development shall be managed so that detrimental impacts to water resources and property are maintained at predevelopment levels.

Goal 9B: Protect and enhance natural hydrologic features and functions by: maintaining water quality and fish and wildlife habitat; incorporating natural drainage patterns into measures to protect the public from health and safety hazards and property damage; maintaining a sustainable groundwater discharge/recharge budget; and by promoting beneficial uses as well as water resource education and planning efforts.

Goal 9B-1 Reduce risks to public health and safety and the loss of, or damage to public and private property

- Policy 9B-1.1 Solutions – Nonstructural storm water measures should be preferred over structural measures.
- policy 9B-1.3 Planning – Strategies for surface water management should balance engineering, economic, environmental and social factors in relationship to stated comprehensive planning goals and policies.
- policy 9B-1.8 Natural Drainage – Natural drainage shall be preferred over the use of pipelines or enclosed detention systems, where possible.
- policy 9B-1.9 Best Management Practices – Storm water runoff from impervious surfaces should be treated by utilizing best management practices (treatment BMPs) before the storm water is allowed to enter the natural drainage system, infiltrate into the ground or enter Puget Sound. Examples of treatment BMPs are, but not limited to: detention ponds, oil/water separators, biofiltration swales and constructed wetlands.
- policy 9B-1.10 Coordination of Regulations: The county shall work with other jurisdictions and agencies toward standardization and monitoring of regulations that affect storm water management.

2. Is the proposal supported by the Capital Facilities Plan (CFP) and other functional Plans?

The subject amendment does not change any elements of the CFP or other functional Plans. The goals and policies of the Capital Facilities Plan are incorporated directly into Chapter 10 of the Comprehensive Plan.

3. Is the proposal consistent with the Growth Management Act (GMA), the Countywide Planning Policies (CPPs), and applicable provisions of the Comprehensive Plan?

The following GMA Planning Goals are applicable:

- Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.
- Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.

The following Countywide Planning Policies are applicable:

- CPP 12.14: Public drainage facilities shall be designed to control both stormwater quantity and quality impacts.

4. Does the proposal bear a substantial relationship to the public general health, safety, morals, or welfare?

The proposal strengthens regulations intended to manage stormwater onsite and mimic the natural runoff patterns found in a predeveloped state which will protect the public from health and safety hazards and property damage.

Recommendation

The Department recommends adoption of the proposal. The update makes the stormwater more consistent, easier to administer, and ensures continued compliance with the County's NPDES stormwater permit. This amendment adopts the latest version of the stormwater manual instead of a different versions depending where your project is and simplifies rules related to parcel size and land use intensity. It consolidates standards from multiple places into a single land disturbance chapter.

Public Process

Notice of public meetings was provided via the PDS listserv and our website. In addition to Planning Commission meetings, public workshops were held April 27 and April 28. In addition to this staff report, the following materials are available for public consideration on the [website](#).

March 22, 2022 Planning Commission Workshop 1:

- Memo summarizing the proposal with attachments
 - Western Washington Phase II Municipal Stormwater Permit (NPDES permit)
 - Existing Clearing and Forest Practices Handout
 - Part 3. Stormwater Application worksheet (from the existing building permit packet)

April 12, 2022 Planning Commission Workshop 2:

- Comparison matrix of existing to proposed regulations with attachments

- Code amendments as proposed (clean): 14.04, 14.28, 14.22 page 21
- Code amendments showing amendments (mark up): 14.04, 14.28, 14.22 page 33
- Code amendments as proposed (clean): 14.32 page 44
- Code amendments showing amendments (mark up): 14.32 page 58

April 26, 2022 Planning Commission Workshop 2:

- Site plan checklist and example site plan

The proposal will receive at least one public hearing and written comment period before the Planning Commission, consistent with the process for adoption of land use regulations in SCC Chapter 14.08. The Board of County Commissioners must approve the final adoption. The deadline for code amendments to implement the County’s NPDES Permit is June 30, 2022. The anticipated schedule is as follows:

Meeting Date	Topic Area
March 22, 2022	Intro to Stormwater changes
April 12, 2022	Work Session on specific Code Amendments
April 2022	Public Meeting to gather input from Public
April 26, 2022	Work Session on specific Code Amendments
May 2022	Public Hearing and Comment Period
May 24, 2022	Planning Commission Deliberation
June 14, 2022	Planning Commission Deliberation
June 2022	Board adopts proposed changes

See below for more information.

<https://www.skagitcounty.net/Departments/PlanningAndPermit/StormwaterUpdate2022.htm>

How to Comment

Option 1: Email comments are preferred and must be sent to pdscomments@co.skagit.wa.us with the proposal name (“Amendments to Stormwater Management Standards, Skagit County Code 14.04, 14.18, 14.22, and 14.32”) in the subject line. Include your comments in the body of your email message rather than as attachments.

Option 2: Paper comments must be printed on 8½x11 paper and mailed or delivered to:

Planning and Development Services
 Comments on “Amendments to Stormwater Management Standards, Skagit County Code 14.04, 14.18, 14.22, and 14.32”
 1800 Continental Place
 Mount Vernon WA 98273

All comments must be received by the deadline referenced above, and include your full name and mailing address. Comments not meeting these requirements will not be considered.

Option 3: You may also comment in person. The Planning Commission is hosting the public hearing in the Skagit County Commissioners Hearing Room at 1800 Continental Place, Mount Vernon, WA 98273.

If you wish to provide testimony via the online meeting option, please send an email to pdscomments@co.skagit.wa.us, with your name, phone number, and include a request to be added to the speakers list in the body of the email. All requests must be received 24 hours prior to the Public Hearing Date referenced above. Public hearing testimony is usually limited to three minutes, so written comments are preferred.

Anyone who plans to attend the public hearing and has special needs or disabilities should contact Planning and Development Services at (360) 416-1320 at least 96 hours before the hearing to discuss and arrange any special accommodations.

Attachment 1 - Amendments to Skagit County Stormwater Management Standards, March 29, 2022 (Published under a separate cover)