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SNOHOMISH COUNTY
Snohomish County , Washington

AMENDED
ORDINANCE NO. 01-035

ADOPTING A NEW CHAPTER 7.53 OF THE SNOHOMISH COUNTY CODE
RELATING TO WATER POLLUTION CONTROL

BE IT ORDAINED:

Section 1. A new chapter 7.53 is added to the Snohomish County Code to read as follows:

Chapter 7.53
WATER POLLUTION CONTROL

Sections:

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7.53.020	Declaration of purpose
7.53.030	Applicability
7.53.040	Administration—authority of directors
7.53.050	Snohomish county water pollution control guidance manual-- executive's authority
7.53.060	Definitions
7.53.070	Prohibited discharges
7.53.080	Prohibited plumbing and sewer connections
7.53.090	Allowed discharges
7.53.100	Advance notice of dye testing required
7.53.110	Public fire fighting discharges exempt
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7.53.130	Director's authority where BMP's fail to control pollution
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7.53.160	Enforcement—authority of departments
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7.53.180	Enforcement--warning, citation and order to cease violation
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7.53.200	Enforcement--criminal penalty
7.53.210	Joint and several liability

7.53.220	Voluntary compliance agreements
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7.53.240	No county liability
7.53.250	Immunity from suit
7.53.260	Compliance with other laws required

7.53.010 Title. This chapter shall be known as the Snohomish County Water Pollution Control Code.

7.53.020 Declaration of purpose. The purpose of this code is to protect the quality of Snohomish County's surface water and groundwater by providing minimum requirements for the control of discharges of contaminants to public drainage facilities, natural drainage systems, surface and storm water and ground water in the county.

7.53.030 Applicability. Unless specifically exempted herein, this chapter applies to all discharges that occur in the unincorporated area of Snohomish County.

7.53.040 Administration--authority of directors. The directors of public works and planning and development services are authorized to adopt and amend administrative rules pertaining to their responsibilities as established in this chapter for the purpose of implementing and enforcing the provisions of this chapter. Copies of all administrative rules and amendments thereto shall be available to the public at the departments.

7.53.050 Snohomish county water pollution control guidance manual--Director of Public Works' Authority. The director of public works is authorized to develop, adopt and amend a Water Pollution Control Guidance Manual containing technical guidelines and best management practices for implementing the requirements of this chapter. Prior to adoption of the manual or amendments thereto, the director shall allow a public review period of not less than 30 days. Upon adoption, a copy of the manual shall be filed with the clerk of the county council and shall also be available to the public at the department of public works.

7.53.060 Definitions. In this chapter, unless the context clearly requires otherwise,

- (1) "Best management practices" or "BMPs" mean the best available and reasonable physical, structural, managerial, or behavioral activities, that when used singly or in combination, eliminate or reduce the contamination of surface and/or ground waters.
- (2) "Chapter " means this chapter and any administrative rules and regulations adopted to implement and enforce it.
- (3) "Clean Water Act" means 33 U.S.C. 1251 et. seq., as now existing or hereafter amended.

- (4) "Connection" means a plumbing or hydraulic connection.
- (5) "Contaminant" means a solid, liquid, or gaseous substance that, if discharged to a drainage facility, natural drainage system, surface or storm water, or ground water, will alter the physical, chemical, or biological properties thereof to the extent that the discharge will render the facility, system, or water harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.
- (6) "County " means Snohomish County .
- (7) "Discharge" means to throw, drain, release, dump, spill, empty, emit, or pour any matter into water, or to cause or allow matter to be thrown, drained, released, dumped, spilled, emptied, emitted or poured into water, or to cause or allow matter to flow, run, or seep from land into water.
- (8) "Drainage facility" means any part of a man-made physical system that collects, conveys, or stores surface and storm water runoff. Drainage facilities include, but are not limited to, storm water conveyance and containment facilities, including pipelines, constructed channels and ditches, infiltration facilities, retention and detention facilities, stormwater treatment facilities, erosion and sedimentation control facilities, all other drainage structures and appurtenances.
- (9) "Ground water" means all waters that exist beneath the land surface or beneath the bed of any stream, lake, or reservoir, or other body of surface water, whatever may be the geological formation or structure in which such water stands, flows, percolates or otherwise moves.
- (10) "National Pollutant Discharge Elimination System" or "NPDES" means the national program authorized under the Clean Water Act for controlling pollutants from point and nonpoint source discharges into waters of the United States.
- (11) "National Pollutant Discharge Elimination System permit" or "NPDES permit" means a permit issued by the Washington State Department of Ecology acting on behalf of the Environmental Protection Agency, to implement the requirements of the Clean Water Act.
- (12) "Natural drainage system" means the physical beds and boundaries of natural surface water features such as rivers, streams, springs, seeps, ponds, lakes or wetlands that convey or contain surface and storm water, including those natural systems that have been altered by human actions.

- (13) "Person" means any individual, government agency, municipality, corporation, limited liability corporation, partnership, association, firm, or any other legal entity whatsoever.
- (14) "Public drainage facility" means any drainage facility owned or operated by Snohomish County, including but not limited to all drainage facilities located within the public right-of-way or on other County property and easements, including natural drainage systems located therein.
- (15) "State Waste Discharge Permit" means a permit issued by the Washington State Department of Ecology in accordance with Chapter 173-216 of the Washington Administrative Code.
- (16) "State Water Quality Standards" means those water quality standards established by the Department of Ecology for surface waters, as set forth in Chapter 173-201A of the Washington Administrative Code, and for ground waters, as set forth in Chapter 173-200 of the Washington Administrative Code.
- (17) "Surface and storm water" means vagrant or diffuse waters produced by rain, melting snow or springs. Surface and storm water is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and wetlands, as well as shallow ground water.
- (18) "Water Pollution Control Guidance Manual" or "Manual" means the current edition of the manual adopted pursuant to SCC 7.53.050.

7.53.070 Prohibited discharges. (1) It is unlawful for any person to discharge one or more contaminants into any public drainage facility, natural drainage system, surface and storm water found in these systems, ground water, or any part of Puget Sound that is within Snohomish County, such that the discharge either:

- (a) causes or contributes to a violation of State Water Quality Standards; or
- (b) causes or contributes to a violation of any NPDES permit or State Waste Discharge permit issued to the County.

(2) "Contaminant" shall have the definition set forth in SCC 7.53.060. Contaminants may include, but are not limited, to the following:

- (1) trash or debris;
- (2) construction materials;
- (3) petroleum products including but not limited to oil, gasoline, grease, fuel oil or heating oil;
- (4) antifreeze and other automotive products;
- (5) metals in either particulate or dissolved form;
- (6) flammable or explosive materials;
- (7) radioactive material;
- (8) batteries;
- (9) acids, alkalis, or bases;
- (10) paints, stains, resins, lacquers, or varnishes;
- (11) degreasers and solvents;
- (12) drain cleaners;
- (13) pesticides, herbicides, or fertilizers;
- (14) steam cleaning wastes;
- (15) soaps, detergents, or ammonia;
- (16) chlorine, bromine, or other disinfectants;
- (17) heated water;
- (18) animal wastes;
- (19) sewage;
- (20) animal carcasses;
- (21) food wastes;
- (22) bark, soils, sediment and other fibrous materials;
- (23) collected lawn clippings, leaves, or branches;
- (24) dyes, except as allowed in 7.53.090(g);
- (25) process waste water; and
- (26) chemicals not normally found in uncontaminated water.

7.53.080 Prohibited plumbing or sewer connections. Plumbing or sewer connections that discharge contaminants to a public drainage facility, natural drainage system, surface and storm water found in these systems, ground water, or any part of Puget Sound that is within Snohomish County, in violation of Section 7.53.070 SCC, are prohibited except (1) connections conveying discharges allowed by a NPDES permit or a State Waste Discharge Permit; or (2) connections conveying effluent to subsurface soils from onsite sewage disposal systems authorized by the Snohomish Health District or the Washington State Department of Ecology, provided that such discharges do not otherwise violate Section 7.53.070 SCC.

7.53.090 Allowed discharges. Discharges that do not violate SCC 7.53.070 are not prohibited by this chapter. Such discharges may include, but are not limited to, the following:

- (1) potable water;
- (2) uncontaminated water from crawl space pumps or footing drains;
- (3) runoff from landscape irrigation;
- (4) water from pools or spas that does not contain contaminants as defined in Section 7.53.060(5);
- (5) materials used in County -approved habitat restoration or bank stabilization projects;
- (6) marine engine exhaust and cooling water; and
- (7) non-toxic dye used for identifying and testing sewer connections.

7.53.100 Advance notice of dye testing required. Any person conducting dye testing in accordance with SCC 7.53.090 shall notify the director of public works at least one day prior to the date of test.

7.53.110 Public fire fighting discharges exempt. A discharge resulting directly from public fire fighting activities is exempt from compliance with this chapter. However, a discharge resulting from maintenance, repair, or operation of fire fighting equipment and facilities that is not directly associated with public fire fighting is not exempt from compliance with this chapter.

7.53.120 Best management practices required. Any person causing or allowing a discharge to a public drainage facility, natural drainage system, surface and storm water found in these systems, ground water, or any part of Puget Sound that is within Snohomish County shall control contamination in the discharge so as not to violate SCC 7.53.070, by implementing appropriate best management practices (BMPs). BMPs may include development and implementation of a spill control plan, site operation and maintenance practices, material handling and storage practices, and construction and operation of structural improvements, and other BMPs described in documents such as the Water Pollution Control Guidance Manual, farm plans approved by the Snohomish Conservation District, and pollution prevention plans developed pursuant to NPDES permits.

7.53.130 Director's authority where BMP's fail to control pollution. If the director of public works determines that, despite the proper use of best management practices, a discharge is causing a violation of SCC 7.53.070, he or she shall notify the director of planning and development services of that determination. The director of planning and development services may require the person causing or allowing the discharge to employ additional or more stringent BMP's. In the alternative, the director may order the person to cease discharging altogether.

7.53.140 Notification of the director regarding discharges. Any person causing or allowing a discharge in violation of SCC 7.53.070 shall report the discharge immediately upon discovery to the director of public works. This reporting requirement is in addition to any other notification required under federal, state or local laws and regulations.

7.53.150 Investigation and testing of prohibited discharges. If the director of public works determines that a prohibited discharge is occurring or has occurred, he or she shall notify the director of planning and development services of such discharge. The director of planning and development services may require the person causing or allowing the discharge to investigate and test private plumbing, sanitary sewers, and drainage facilities, and test water to determine its nature and character, or to determine the source or cause of the discharge. Alternatively, the director of public works may perform such investigations and tests and recover the costs thereof, as part of the enforcement proceedings authorized herein.

7.53.160 Enforcement--authority of departments. Whenever the director of public works determines that a condition exists in violation of this chapter or a standard required hereunder, he or she shall convey that determination to the director of planning and development services. Upon receipt of such a determination, the director of planning and development services is authorized to commence an enforcement action against the person(s) responsible for such violation. In considering whether to initiate enforcement action, the director may consider mitigating circumstances, including catastrophic events, that cause failure of properly designed and implemented BMPs. The director may request the assistance of the prosecuting attorney's office for judicial enforcement of this chapter as deemed appropriate by the prosecuting attorney.

7.53.170 Enforcement --Title 28 SCC not applicable. Enforcement of violations of this chapter and standards required hereunder is not subject to the provisions of Title 28 SCC.

7.53.180 Enforcement -- warning, citation and order to cease violation. Whenever any condition is found to be in violation of this chapter or standards required hereunder, the director of planning and development services may cause a warning notice or citation to be issued to the person(s) causing or allowing the violation, which may include an order to immediately cease the activity causing the violation. The warning notice or citation shall include the following information:

- (1) The name(s) of the parties determined to be responsible for the violation(s).

- (2) The address or legal description of the location where each violation is alleged to have occurred.
- (3) A brief description of the activity which is causing or allowing the violation.
- (4) The specific provision of this chapter which is believed to have been violated.
- (5) A description of any required corrective action.
- (6) A deadline by which corrective action, if any, must be completed.
- (7) The amount of monetary penalty imposed, if any, and the date by which payment shall be made.
- (8) The signature and written name of the county official issuing the warning notice or citation.
- (9) The date of the warning notice or citation.
- (10) Notice of the right to appeal provided in SCC 7.53.230.

A warning notice or citation may be amended at any time to correct clerical errors, which shall not affect the validity of the warning or citation. The warning notice or citation shall be served upon the person(s) named therein either: (1) personally; (2) by certified mail, sent to the person's last known address; or (3) if unknown, by posting a copy of the warning or citation in a conspicuous place at the site of violation.

7.53.190 Enforcement--civil penalties and costs. Whenever a condition is found to be in violation of this chapter or standards required hereunder, the director of planning and development services may impose a monetary penalty upon the person(s) causing or allowing the violation in an amount not less than \$15.00 but not more than \$1,000.00 per day, for each violation. The director shall develop written policies governing the imposition or suspension of penalties under this section which shall be forwarded to the Council for approval by written motion. In addition to any penalties imposed under this section, the person cited shall be liable for all costs, including costs of mitigating or remediating any damage caused by the unlawful discharge and the costs of suit and reasonable attorney's fees, incurred by the County in enforcing this chapter.

7.53.200 Enforcement--criminal penalty. As an alternative to any other legal or equitable remedy provided in this chapter or other law, any person who willfully or knowingly violates any provision of this chapter or any order issued pursuant to this chapter, or by each act of commission or omission procures, aids or abets such violation, shall be guilty of a misdemeanor and upon conviction shall be punished in the manner provided for in RCW 9A.20.021, as it now exists or is hereafter amended, for violations of state law. Each day such violation continues shall be considered an additional misdemeanor offense.

7.53.210 Joint and several liability. Each person causing or allowing a violation of this chapter shall be jointly and severally liable to the county for the violation and any penalties, costs and fees imposed as a result of the violation.

7.53.220 Voluntary compliance agreements. (1) Whenever the director of planning and development services finds that it is in the county's best interests to enter into a contract with a person cited under this chapter for the purpose of ordering corrective action or the performance of mitigation or remediation work to the site impacted or damaged by a violation of this chapter, the director may recommend to the county executive that a voluntary compliance agreement be executed with such person. By entering into such an agreement, the person cited waives any right to appeal a citation issued under this chapter.

(2) The voluntary compliance agreement shall specify the work or actions to be taken and the deadline by which the same shall be accomplished. By entering into such an agreement, the person cited consents to the entry of the county onto their property for purposes of inspection of the required work provided that the county shall endeavor to notify the person cited before the inspection.

(3) The director may suspend penalties under a voluntary compliance agreement contingent upon the satisfactory completion of all work required thereunder. However, the agreement shall provide that if the responsible party fails to comply with the terms of the agreement, any penalties suspended during the term of the agreement may be tripled and imposed upon the person cited, beginning from the date of the violation. Upon successful completion of all requirements set forth in the agreement, the department shall issue written confirmation of such completion to the responsible party.

7.53.230 Appeal. Any person receiving a citation issued under this chapter may appeal such citation to the Snohomish County Superior Court. Appeals must be filed and served upon the County within 20 calendar days after issuance and service of the citation. The filing of an appeal shall not stay the effect of any order issued pursuant to SCC 7.53.180, provided that, subsequent to the filing of an appeal, the court may enter a stay in its discretion. The appeal shall be heard by the court sitting without a jury. At

the hearing on the appeal, the county shall have the burden of proof which shall be met by a preponderance of the evidence.

7.53.240 No county liability. Administration or enforcement of this chapter shall not be construed to impose or create a basis for any liability on the part of the county, its appointed or elected officials, officers, agents, or employees, nor shall this chapter be construed to create any special relationship with or otherwise protect any specific person or class of persons.

7.53.250 Immunity from suit. (1) Any county appointed or elected officials, officers, agents or employees charged with the administration or enforcement of this chapter acting in good faith and without malice on behalf of the County, shall not be personally liable for any damage that may accrue to persons or property as a result of any act required by the county, or by reason of any act or omission in the discharge of those duties.

(2) Any suit brought against county appointed or elected officials, officers, agents or employees because of an act or omission performed in the administration or enforcement of any provision of this chapter shall be defended by the county subject to the provisions of SCC 2.90.085.

7.53.260 Compliance with other laws. Compliance with this chapter does not constitute a waiver of the requirements of any other applicable federal, state or local laws and regulations.

Section 2. Severability. If any provision, phrase or clause of this ordinance or its application to any person or circumstance is held to be invalid, the remainder of this ordinance and its application to other persons or circumstances shall not be affected.

Section 3. Sunset. Chapter 7.53 SCC, adopted by this ordinance, is repealed, effective on the date six years following enactment unless re-enacted prior to that date, as provided in Snohomish County Charter Section 2.115.

PASSED this 23rd day of May, 2001.

ATTEST:

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Kathleen J. Bratcher
Clerk of the Council

Dave Somers
Dave Somers, Chairperson

- (X) APPROVED
() EMERGENCY
() VETOED

DATE 5/23/01

ATTEST: Constance Menn

Robert J. Drewel
Robert J. Drewel, County Executive

Approved as to form only:

STEPHEN L. HOLT
Executive Director

Deputy Prosecuting Attorney

PUBLISH _____ AND _____

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