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SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

AMENDED ORDINANCE NO. 06-044

RELATING TO DRAINAGE DEVELOPMENT STANDARDS, MAKING AVAILABLE FOR USE
THE "LOW IMPACT DEVELOPMENT TECHNICAL GUIDANCE MANUAL FOR PUGET
SOUND;" AMENDING SNOHOMISH COUNTY CODE SECTION 30.63A.200; AND ADDING
A NEW CHAPTER 30.63C
TO THE SNOHOMISH COUNTY CODE

WHEREAS, stormwater runoff is a significant cause of water quality problems in the state of Washington; and

WHEREAS, stormwater runoff from roofs, paved and graveled roadways, highways, parking lots, lawns, playfields and other surfaces is often polluted with toxic metals, organic compounds, and bacterial and viral pathogens that can harm human health, drinking water, and fish habitat; and

WHEREAS, the Puget Sound Water Quality Management Plan, the state and federal plan to protect Puget Sound, calls on local governments to protect and restore Puget Sound and to adopt or revise existing regulations to allow and encourage low impact development (LID) techniques to mitigate the impacts of stormwater runoff; and

WHEREAS, LID is a stormwater management and land development strategy that can be applied to projects at the individual parcel or subdivision scale. This strategy emphasizes conservation and the use of on-site natural features combined with engineered, small-scale hydrologic controls to closely mimic pre-development hydrology; and

WHEREAS, LID stormwater management options can help prevent measurable harm to streams, lakes, wetlands and other natural aquatic systems resulting from commercial, residential, or industrial development; and

WHEREAS, the Puget Sound Action Team (PSAT) and Washington State University Pierce County Extension have jointly developed a *Low Impact Development Technical Guidance Manual for Puget Sound ("LID Guidance Manual")* that contains detailed guidance on how to design, construct and maintain LID practices; and

WHEREAS, the LID Guidance Manual provides professionals involved in stormwater management and land development a common understanding of LID goals and objectives. It

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provides a framework for site assessment and project design and gives specifications for individual projects; and

WHEREAS, the LID Guidance Manual also explains how individuals can obtain credits to help them reduce the size of their stormwater facilities by using LID techniques. The manual presents findings and monitoring results from national and international research to help professionals make informed decisions when using LID techniques; and

WHEREAS, adoption of the LID Guidance Manual will provide the County with important stormwater management alternatives that may be used instead of or in conjunction with conventional stormwater management techniques; and

WHEREAS, adoption of the LID Guidance Manual as an optional alternative to conventional stormwater management techniques and the adoption of code amendments allowing the waiver of regulatory obstacles in Snohomish County Code will allow LID to be used in development projects located in Snohomish County; and

WHEREAS, SCC 30.33A.150(6) requires the incorporation of low impact development techniques in the design and development of fully contained communities; and

WHEREAS, adoption of the LID Guidance Manual will allow the use of stormwater management techniques that can complement regulations protecting critical areas by protecting water quality and controlling sedimentation and erosion; and

WHEREAS, allowing the use of LID techniques can help mitigate adverse environmental impacts identified in the County's Final Environmental Impact Statement (FEIS) for the 10-Year Comprehensive Plan Update; and

WHEREAS, the County Council finds it is in the best interests of the public to protect the natural environment by allowing the use of innovative low impact development stormwater management techniques; and

WHEREAS, the Chief Engineering Officer has given LID presentations to many organizations since January 2006, including the Public Utility District Sustainable Development Task Force, the Citizen's Advisory Board of Snohomish County Tomorrow, Snohomish County Planning Advisory Council, the Built Green Conference, the American Public Works Association Stormwater Managers Conference, the Land Surveyors Association and many others; and

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WHEREAS, Planning and Development Services conducted a workshop for the Planning Commission on March 28, 2006, to educate the Commission on LID techniques and the use of LID; and

WHEREAS, the Planning Commission was briefed and held a public hearing on the proposed development code amendment on April 25, 2006, and forwarded a recommendation to the County Council, dated April 25, 2006; and

WHEREAS, the County Council held a public hearing on June 28, 2006, to consider the entire record and hear public testimony on Ordinance No. 06-044 adopting amendments to development regulations.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The Snohomish County Council adopts the following findings of fact and conclusions:

- A. The above recitals are incorporated herein as findings and conclusions as if set forth in full.
- B. Adoption of the proposal will allow the use of LID stormwater management strategies contained in the Low Impact Development Technical Guidance Manual for Puget Sound ("LID Guidance Manual").
- C. The LID Guidance Manual provides alternative stormwater management options that can help Snohomish County protect critical habitat and decrease stormwater runoff.
- D. The flow reduction credits included in the Department of Ecology's 2005 Stormwater Management Manual for Western Washington are included in the LID Guidance Manual.
- E. These credits will help engineers by providing additional tools to retain stormwater on-site and reduce the size of conventional facilities that control stormwater.
- F. The ordinance is consistent with the Snohomish County Comprehensive Plan and the Growth Management Act (GMA).
- G. The proposal is consistent with the Snohomish County General Policy Plan Policies 3.H.2 and 3.H.3 noted below which directly address low impact development regulations:

3.H.2 The county should consider adoption of the Puget Sound Action Team's Technical Guidance Manual for Low Impact Development and encourage its use in the design and construction of new development and redevelopment projects.

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3.H.3 The county shall adopt policies, programs and development regulations that encourage or create incentives for the use of low impact development techniques.

- H. A State Environmental Policy Act (SEPA) Determination of Nonsignificance was issued April 4, 2006. Compliance with SEPA (chapter 43-21 RCW) and chapter 30.61 SCC is satisfied by this DNS.
- I. The County published legal notice in The (Everett) Herald on March 15, 2006 and June 14, 2006 notifying the public of public hearings held by the planning commission and county council.
- J. The planning commission was briefed on March 28, 2006, and another briefing and public hearing was held April 25, 2006. The planning commission recommended approval of the ordinance.
- K. A public hearing was held before the county council on June 28, 2006 which meets state and local public participation requirements for the adoption of an ordinance under the GMA.
- N. The county council considered the entire hearing record, including the planning commission's recommendation, written testimony during the public comment period, and oral testimony given during public hearings before the planning commission and county council.

Section 2. Snohomish County Code Section 30.63A.200, adopted by Amended Ordinance 02-064, December 9, 2002, is amended to read:

30.63A.200 Drainage system requirements for all development activities with drainage plans.

The review standards and drainage system requirements of this section shall apply to all drainage plans and subsequent development activities.

(1) Storm water entry and exit. If drainage patterns currently exist on the site, drainage facilities shall be designed so that storm water enters and exits the site at the existing location(s) of entry and exit.

(2) Mitigation.

(a) Mitigation shall be provided for all significant drainage impacts upstream or downstream caused only by the development activity, including any significant drainage impacts identified in a downstream analysis performed in accordance with paragraph (b) of this subsection, to the extent the impacts are caused by the development activity. Avoiding, minimizing, rectifying, or lastly compensating for impacts shall be given preference in that order.

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(b) Downstream and upstream analysis. The applicant shall perform a downstream analysis for at least a quarter mile downstream of the subject property which evaluates potential downstream drainage impacts as well as the adequacy of the downstream drainage facilities to accommodate flows from the development activity and all other upstream sources. The downstream analysis shall include proposed mitigation pursuant to paragraph (a) of this subsection for all significant drainage impacts from the development activity identified in the downstream analysis. The applicant shall include in the downstream analysis a computation of the adequacy of downstream conveyance systems in accordance with SCC 30.63A.210(2)(c), and whenever possible, shall include a visual or photographic inspection of the condition of the downstream drainage system to verify that it will function in accordance with the analysis. If flooding areas, locations of existing severe cumulative drainage impacts, critical areas, lakes, or fisheries resources which may be adversely impacted, or other features where significant drainage impacts may occur as a result of the proposed development activity, are located more than a quarter of a mile downstream of the subject property, the downstream analysis shall also evaluate the potential impacts by the development activity to these areas. If the director determines that a downstream analysis fails to include an evaluation of all such areas located more than a quarter mile downstream of the subject property, the downstream analysis shall be returned to the applicant for revision.

The applicant shall perform an upstream analysis of the area upstream from the site which drains onto or through the site, which evaluates potential upstream drainage impacts, and calculates the area of land and drainage flow to the site in accordance with SCC 30.63A.210(2)(c). The upstream analysis shall include proposed mitigation pursuant to paragraph (a) of this subsection for all significant drainage impacts from the development activity identified in the upstream analysis.

(3) Conveyance systems.

(a) Conveyance systems shall accommodate the peak discharge from the 25-year, 24-hour design storm based on post-development site conditions including storm water flowing through the site which originates on-site and off-site.

(b) Conveyance systems within public road rights-of-way shall be constructed of vegetation-lined channels, instead of pipe systems unless:

- (i) the channel gradient exceeds five percent (5%),
- (ii) construction of the channel will require deviation from the EDDS, or
- (iii) the director determines that an open channel presents an unacceptable public health or safety risk.

(c) Conveyance systems shall not place streams in culverts unless determined by the director to be necessary for property access and traffic circulation. Bridges or bottomless arch culverts shall be installed instead of culverts at stream crossings, unless an alternative which has been approved by the Washington Department of Fish and Wildlife is approved by the director.

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(4) Setbacks from drainage facilities.

(a) Open drainage facilities. A setback of at least fifteen (15) feet, measured horizontally, shall be provided between the plan view projection of any structure, on-site or off-site, and the top of the bank of a constructed open channel or open retention or detention pond.

(b) Closed drainage facilities. A setback of at least ten (10) feet, measured horizontally, shall be provided between the plan view projection of any structure, on-site or off-site and the nearest edge of a closed drainage facility, unless the public works director determines that adequate accessibility can be provided otherwise.

(5) Easements. Drainage facilities shall include easements as provided in SCC 30.63A.330 and SCC 30.63A.340, if required thereby.

(6) Maintenance. Drainage facilities shall be maintained as required by SCC 30.63A.300.

(7) Storm water retention, detention and water quality treatment facilities may not be constructed within critical areas or critical area buffers except as authorized under the provisions of SCC 30.63.240

(8) Compliance with the EDDS. All drainage facilities constructed in the county road right-of-way or in easements granted to the County in accordance with chapter 30.63A SCC, shall be constructed in accordance with the EDDS(--) unless alternative standards have been approved for use under chapter 30.63C SCC.

Section 3. A new chapter is added to subtitle 30.6 of the Snohomish County Code to read:

**Chapter 30.63C
Low Impact Development**

Sections:

- 30.63C.010 Low Impact Development Guidance Manual for Puget Sound Adopted.
- 30.63C.020 Applicability.
- 30.63C.030 Low Impact Development Review Process.
- 30.63C.040 Modifications From Snohomish County Code.
- 30.63C.050 Deviation From The EDDS.
- 30.63C.060 Hydrologic Modeling Parameters

30.63C.010 Low Impact Development Guidance Manual for Puget Sound adopted.

The 2005 Edition of the Puget Sound Action Team's Low Impact Development Technical Guidance Manual for Puget Sound ("LID Guidance Manual"), as amended, is adopted as the low impact development guidance manual for development within Snohomish County.

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30.63C.020 Applicability.

This chapter applies to all development applications designed to use low impact development techniques as alternatives to or in conjunction with conventional stormwater techniques.

30.63C.030 Low impact development review process.

(1) Any project applicant excluding single-family residential building permits using the stormwater management techniques in the LID Guidance Manual will be required to participate in a pre-application submittal meeting and will submit all necessary project applications and required documentation pursuant to county code. Project applications shall comply with applicable provisions of the county code and may request deviations from certain code provisions pursuant to SCC 30.63C.040 and SCC 30.63C.050.

(2) Modifications and deviations from requirements of the county code and the EDDS authorized pursuant to this chapter shall be approved by the director if it is determined that the requested modification or deviation is consistent with the LID Guidance Manual. The director shall retain administrative authority over the request. The director's decision shall be final and not subject to appeal to the hearing examiner. Deviations from the EDDS may only be granted if the applicant can demonstrate that adequate fire safety and adequate access will be provided.

(3) As a condition of approval for applications under this chapter, the county may require adoption of covenants and restrictions and the granting of necessary easements to preserve and maintain the LID improvements.

(4) Applicants who are vested at the time of adoption of this ordinance may request the use of the provisions of this ordinance without losing their vested rights.

30.63C.040 Modifications from Snohomish County Code.

(1) To meet the purposes of the LID Guidance Manual, an applicant may request modifications from the provisions of the following SCC chapters:

- (a) Chapter 30.23 SCC, General development standards - bulk regulations;
- (b) Chapter 30.42B SCC, Planned residential developments;
- (c) Chapter 30.52A SCC, Construction code;
- (d) Chapter 30.63A SCC, Drainage;
- (e) Chapter 30.63B SCC, Grading; and
- (f) Chapter 30.24 – General Development Standards – Access and Roads.

(2) Modifications pursuant to SCC 30.63C.040(1) may be granted based upon the following criteria:

- (a) The change is consistent with and furthers the purposes of the LID Guidance Manual;
- (b) The change does not result in significant adverse environmental impacts;
- (c) The change does not threaten public health, safety, or welfare;

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(d) The change is consistent with generally accepted engineering and design criteria, as provided in this chapter;

(e) The change promotes one or more of the following:

(i) innovative site design furthering the purposes of the program;

(ii) increased on-site stormwater retention using a variety of vegetation and landscape conditions;

(iii) retention or redevelopment of original natural habitat conditions over a significant portion of the site;

(iv) improved on-site water quality beyond that required by current applicable regulations; or

(v) retention or re-creation of pre-development and/or natural hydrologic conditions, and retention or re-creation of forested watershed conditions; and

(f) The change does not conflict with chapters 30.62, 30.64 and 30.65 SCC;

(3) Requests for modifications from Snohomish County Code and any deviation required from the EDDS shall be submitted under one proposal as a comprehensive site analysis.

(4) Applicants will be required to list and document justification for each requested code modification and deviation required from the EDDS.

30.63C.050 Deviation from the EDDS.

Approval of deviations will be based on a finding by the director that the deviation will not be detrimental to the public health, safety, and welfare, and will meet the provisions and criteria in SCC 30.63C.040. Projects may be granted deviations from the EDDS only if the applicant can demonstrate adequate fire safety and access are provided.

Deviations from the EDDS may be approved by the director to allow for:

(1) The flexibility necessary to accomplish LID innovations;

(2) To allow greater compatibility with natural site conditions and restraints;

(3) To reduce impervious surfaces and reduce drainage discharge offsite; or

(4) To otherwise further the purposes of meeting the LID Guidance Manual.

30.63C.060 Hydrologic modeling parameters.

Hydrologic modeling for the design of LID measures described in the LID Guidance Manual shall be performed in accordance with the requirements of the LID Guidance Manual and associated hydrologic modeling or design criteria found in the Department of Ecology's 2005 Stormwater Management Manual for Western Washington.

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Section 4. Severability and Savings. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid by the Growth Management Hearings Board (Board), or invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided, however, that if any section, sentence, clause or phrase of this ordinance is held to be invalid by a board or court of competent jurisdiction, then the section, sentence, clause or phrase in effect prior to the effective date of this ordinance shall be in full force and effect for that individual section, sentence, clause or phrase as if this ordinance had never been adopted.

PASSED this 28th day of June, 2006.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Kimberly Stevens
Council Chair

ATTEST:

Sheila McCallister
Clerk of the Council, *asst.*

- APPROVED
- EMERGENCY
- VETOED

DATE: 7/6/06
Alan G. Rick
County Executive

ATTEST: *Cynthia A. Ringstad*

Approved as to form only:

Deputy Prosecuting Attorney

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