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SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

AMENDED ORDINANCE NO. 10-023

RELATING TO REGULATION OF LAND DISTURBING ACTIVITIES; REPEALING
CHAPTER 30.63B SCC; ADOPTING A NEW CHAPTER 30.63B SCC; AMENDING
SECTIONS OF TITLE 30 SCC; AND AMENDING ORDINANCE NO. 10-014

WHEREAS, the Federal Water Pollution Control Act (Clean Water Act (CWA))
requires states and their local governments to take steps to implement the National
Pollutant Discharge Elimination System (NPDES) permit program; and

WHEREAS, under its administration of the CWA, the Environmental Protection
Agency (EPA) promulgated regulations to control stormwater discharges from municipal
separate storm sewer systems (MS4s) in two groups called Phase I and Phase II; and

WHEREAS, EPA designated Snohomish County as a Phase I municipal
stormwater permittee in 1990 for the purpose of regulating discharge from MS4s under
the NPDES permit program and Washington State's Waste Discharge General Permit
program; and

WHEREAS, chapter 90.48 RCW, the Washington State Water Pollution Control
Act, authorizes the Washington State Department of Ecology (Ecology) to implement
the NPDES permit program at the state level; and

WHEREAS, Ecology issued Snohomish County's Phase I Municipal Stormwater
Permit (NPDES Permit) on July 5, 1995; and

WHEREAS, the county council adopted Amended Ordinance No. 98-055 on
August 3, 1998, enacting drainage development regulations consistent with the initial
NPDES Permit and the goals and policies of the Snohomish County Growth
Management Act Comprehensive Plan (GMACP) General Policy Plan (GPP); and

WHEREAS, Ecology re-issued the county's 1995 NPDES Permit on January 17,
2007, under Phase I Municipal Stormwater Permit No. WAR04-4502; and

WHEREAS, the 2007 NPDES Permit became effective February 16, 2007, and
expires February 15, 2012; and

WHEREAS, the NPDES Permit regulates stormwater that enters into large and
medium MS4s in unincorporated Snohomish County that are owned or operated by the
county and that discharges from such MS4s to surface waters and groundwaters of the
state, as set forth in NPDES Permit special condition S2; and

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WHEREAS, MS4s include roads with drainage systems, county roads, catch basins, curbs, gutters, ditches, manmade channels and storm drains that are owned or operated by the county; and

WHEREAS, special condition S4.C of the NPDES Permit requires the county to reduce the discharge of pollutants to the maximum extent practicable (MEP); and

WHEREAS, special condition S4.D of the NPDES Permit requires the county to use all known, available and reasonable methods of prevention, control and treatment (AKART) to prevent and control pollution to the waters of the State of Washington; and

WHEREAS, NPDES Permit special condition S5.C.5.a requires the county to design a program to prevent and control the impacts of runoff from new development, redevelopment, and construction activities applicable to both public and private development, including roads; and

WHEREAS, the program to prevent and control the impacts of runoff from new development, redevelopment and construction activities shall be enforceable; and

WHEREAS, NPDES Permit special condition S5.C.5.b.i requires that the county's stormwater management regulations comply with the minimum requirements, thresholds, definitions, and adjustment and variance criteria in *Appendix 1 Minimum Technical Requirements for New Development and Redevelopment* (Appendix 1) of the NPDES Permit, or provide minimum requirements, thresholds and definitions determined by Ecology to provide equivalent or similar protection of receiving waters and equal or similar levels of pollution control to those required in Appendix 1; and

WHEREAS, NPDES Permit special condition S5.C.5.b.ii requires that the county's stormwater management regulations include a site planning process and best management practice (BMP) selection and design criteria to implement the minimum requirements of Appendix 1 of the NPDES Permit. The county may use either the *Washington State Department of Ecology's 2005 Stormwater Management Manual for Western Washington* (2005 Ecology Manual) or an equivalent manual approved by Ecology to meet this requirement; and

WHEREAS, NPDES Permit special condition S5.C.5.b.iii requires that non-structural preventative actions and source reduction approaches such as low impact development (LID) techniques be allowed to minimize the creation of impervious surfaces to minimize the disturbance of soils and vegetation; and

WHEREAS, following litigation over the NPDES Permit before the Pollution Control Hearings Board, the NPDES Permit was modified to require in special condition S5.C.5.b.iii(2) that the county's stormwater management program require non-structural preventative actions and source reduction approaches including LID techniques to minimize the disturbance of soils and vegetation where feasible; and

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91
92 WHEREAS, Ecology has initiated a process to define the scope of LID
93 techniques to be considered, criteria for determining the feasibility of LID techniques,
94 and a LID performance standard; and
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96 WHEREAS, when Ecology's process is complete, Ecology will incorporate the
97 results and a deadline for implementation of special condition S5.C.5.b.iii(2) into the
98 NPDES Permit through a permit modification; and
99

100 WHEREAS, NPDES Permit requirements for site planning, BMP selection and
101 design criteria and on-site management requirements are proposed in chapter 30.63A
102 SCC (Drainage) in Amended Ordinance No. 10-026 that include LID site planning
103 principles and stormwater BMPs that require amendments to title 30 code sections
104 pertaining to the use of LID principles and LID BMPs; and
105

106 WHEREAS, Snohomish County's stormwater regulations and standards must be
107 updated to comply with the NPDES Permit; and
108

109 WHEREAS, it is necessary to repeal chapters 30.63A, 30.63B and 30.63C SCC
110 (Drainage, Grading, and LID) and adopt new chapters 30.63A, 30.63B and 30.63C SCC
111 (Drainage, Land Disturbing Activity, and LID); and
112

113 WHEREAS, it is necessary to update the Snohomish County Drainage Manual
114 (Drainage Manual) and chapters 1 and 5 of the Engineering Design and Development
115 Standards (EDDS) to comply with the NPDES Permit; and
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117 WHEREAS, the Drainage Manual and the EDDS are administrative rules
118 promulgated by the Snohomish County Department of Public Works (DPW) and provide
119 the standards and design details necessary to implement the requirements of chapters
120 30.63A, 30.63B and 30.63C SCC; and
121

122 WHEREAS, the updated Drainage Manual is proposed as an equivalent to the
123 2005 Ecology Manual; and
124

125 WHEREAS, the Drainage Manual has been tailored for consistency with the
126 Snohomish County Code to provide clarity, improve usability and promote permit review
127 efficiencies; and
128

129 WHEREAS, draft stormwater regulation documents were transmitted to Ecology
130 for review on February 13, 2008, in accordance with the NPDES Permit deadline; and
131

132 WHEREAS, Ecology and county staff met to discuss draft submittals on March 1,
133 2008, and April 2, 2008; and
134

135 WHEREAS, Ecology provided general written comments on the draft regulations
136 on May 13, 2008, and provided more specific comments on July 2, 2008; and
137

138 WHEREAS, in accordance with NPDES Permit general condition G-20 Non-
139 Compliance Notification, the county notified Ecology on September 2, 2008, that it
140 would be unable to adopt updated stormwater regulations by the October 23, 2008,
141 deadline specified in Ecology's July 2, 2008, comment letter; and
142

143 WHEREAS, after many teleconferences with Ecology, draft stormwater
144 regulations and standards were transmitted to Ecology on April 24, 2009, in accordance
145 with the deadline specified in the Agreed Order; and
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147 WHEREAS, Ecology and county staff had multiple meetings and teleconferences
148 to discuss technical issues and to determine how to incorporate Ecology's comments
149 into final stormwater regulations and standards; and
150

151 WHEREAS, on May 6, 2009, Ecology and the county entered into Agreed Order
152 No. 6688 specifying a schedule and setting a January 29, 2010, deadline for the
153 adoption of compliant stormwater regulations and standards; and
154

155 WHEREAS, due to unexpected Ecology staffing issues, Ecology notified the
156 county that it could not meet the May 29, 2009, review deadline in the Agreed Order;
157 and
158

159 WHEREAS, Ecology submitted written comments on the county's April 24, 2009,
160 submittal on August 31, 2009; and
161

162 WHEREAS, Ecology's comments were clarified and additional technical issues
163 raised by the county were discussed between September and November 2009; and
164

165 WHEREAS, Agreed Order No. 6688 was amended by Agreed Order No. 7295 on
166 January 14, 2010, to provide a new compliance schedule that requires effective
167 stormwater regulations that comply with NPDES Permit by September 30, 2010; and
168

169 WHEREAS, the county implemented a public participation program pursuant to
170 special condition S.5.C.4 of the NPDES Permit, in conjunction with public participation
171 opportunities afforded under the Growth Management Act, that included opportunities
172 for the public's involvement in the development of the county's stormwater management
173 program and implementation priorities; and
174

175 WHEREAS, a State Environmental Policy Act (SEPA) comprehensive checklist
176 and threshold determination of nonsignificance (DNS) was issued for the proposed non-
177 project actions relating to the stormwater regulations and standards on March 24, 2010,
178 pursuant to chapter 43.21 RCW, chapter 197-11 WAC and chapter 30.61 SCC; and
179

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180 WHEREAS, pursuant to RCW 36.70A.106, a notice of intent to adopt the
181 proposed regulations and standards was transmitted to the Washington State
182 Department of Commerce on February 18, 2010; and
183

184 WHEREAS, the planning commission was briefed on the NPDES update
185 proposals on October 23, 2007, February 25, 2008, October 23, 2008, July 22, 2008,
186 February 24, 2009, January 26, 2010, and February 23, 2010; and
187

188 WHEREAS, the planning commission and county council were jointly briefed on
189 the proposed stormwater regulations on July 23, 2009; and
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191 WHEREAS, the planning commission held a public hearing on the proposed
192 stormwater regulations on March 23, 2010; and
193

194 WHEREAS, the planning commission deliberated on the stormwater regulations
195 on March 23, 2010, and a motion to recommend approval of the stormwater regulations
196 failed; and
197

198 WHEREAS, project briefing memos were frequently provided to the Snohomish
199 County Council Planning and Community Development Committee, and this committee
200 was formally briefed on the stormwater regulation update project between 2007 and
201 2010, including September 22, 2007, January 22, March 25, April 14, June 24 and July
202 22 in 2008, and January 29, February 10 and 24, March 27, May 12, and August 11, in
203 2009; and
204

205 WHEREAS, the Snohomish County Council Committee of the Whole was also
206 briefed on June 9, 2008; and
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208 WHEREAS, the county council was briefed on the planning commission
209 recommendation on May 10, 2010; and
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211 WHEREAS, the county council held a public hearing on the proposed
212 stormwater regulations on June 9, 2010 to consider the entire record and hear public
213 testimony on Ordinance No. 10-023 and
214

215 WHEREAS, the county council considered all public testimony on the proposed
216 stormwater regulations prior to deliberating on June 9, 2010.
217

218 NOW, THEREFORE, BE IT ORDAINED:
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220 Section 1. The foregoing recitals are incorporated by this reference as findings
221 of fact as though set forth in full.
222

223 Section 2. The Snohomish County Council makes the following additional
224 findings of fact:

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- 225
- 226 A. The proposed land disturbing activity regulations in chapter 30.63B SCC
- 227 establish land disturbing activity requirements for all of unincorporated
- 228 Snohomish County.
- 229
- 230 B. Applicants requesting land disturbing activity permits will be required to comply
- 231 with the drainage regulations in new chapter 30.63A SCC (Amended Ordinance
- 232 No. 10-026), the LID regulations in chapter 30.63C SCC (Ordinance No. 10-024),
- 233 the Drainage Manual and the EDDS. Together, these regulations will control
- 234 stormwater runoff from new development, redevelopment and construction
- 235 activities including public and private development and roads.
- 236
- 237 C. The Drainage Manual and chapter 5 of the EDDS shall be used to comply with
- 238 chapters 30.63A, 30.63B and 30.63C SCC, as applicable. The Drainage Manual
- 239 will be updated to be equivalent to the 2005 Ecology Manual.
- 240
- 241 D. The proposed regulations contain the thresholds, minimum technical
- 242 requirements, definitions and adjustment and variance criteria equivalent to
- 243 Appendix 1 of the NPDES Permit for new development, redevelopment and
- 244 construction sites pursuant to pursuant to special condition S5.C.5.b.i of the
- 245 NPDES Permit.
- 246
- 247 E. The modification and waiver criteria established in proposed SCC 30.63A.830
- 248 through 30.63A.842 are equivalent to the adjustment and variance criteria in
- 249 Appendix 1 of the NPDES Permit.
- 250
- 251 F. A land disturbing activity definition is proposed in Amended Ordinance No. 10-
- 252 026 as follows to comply with the definition in Section 2 of Appendix 1:
- 253
- 254 30.91L.025 "Land disturbing activity" means any activity that will result in
- 255 movement of earth or a change in the existing soil cover or the existing
- 256 soil topography (both vegetative and non-vegetative), including the
- 257 creation and/or replacement of impervious surfaces. Land disturbing
- 258 activities include, but are not limited to, clearing and grading. Land
- 259 disturbing activities to not include agricultural plowing and tilling exempt
- 260 from stormwater regulations pursuant to SCC 30.63A.200. Compaction
- 261 that is associated with stabilization of structures and road construction
- 262 also is a land disturbing activity. Vegetation and drainage facility
- 263 maintenance practices are not land disturbing activities, provided that the
- 264 maintenance is performed according to standards adopted by Snohomish
- 265 County.
- 266
- 267 G. Multiple amendments are proposed in title 30 SCC to change the term "grading"
- 268 to "land disturbing activity."
- 269

- H. NPDES Permit special condition S5.C.5.b.iii requires non-structural preventative actions and source reduction approaches such as LID techniques be allowed to minimize the creation of impervious surfaces to minimize the disturbance of soils and vegetation. LID techniques include “small-scale hydrologic controls” that more closely mimic predevelopment hydrologic functions. The site planning techniques required by minimum requirement 1 of Appendix 1 are used in LID, and are contained in proposed SCC 30.63A.400 through SCC 30.63A.440 (Amended Ordinance No. 10-026). The use of these site planning techniques will minimize land disturbing activity.
- I. Chapter 30.63B SCC (Grading) is repealed and a new chapter 30.63B SCC (Land Disturbing Activity) is proposed to comply with the NPDES Permit. The new chapter establishes regulations, standards, and permitting and inspection processes for land disturbing activity, including grading and clearing that are necessary to control stormwater in compliance with Appendix 1 of the NPDES Permit.
- J. Proposed SCC 30.63B.010 expands and revises existing SCC 30.63B.010 to address land disturbing activities instead of only grading for compliance with the NPDES Permit. For organizational purposes, the applicability provisions previously in this code section are provided in proposed SCC 30.63B.020.
- K. Proposed SCC 30.63B.030 contains new provisions that clarify when a land disturbing activity permit is required. All land disturbing activity that meets a new development or redevelopment threshold in section 3.2 or 3.3 of Appendix 1 requires a land disturbing activity permit unless the activity is exempt under proposed SCC 30.63B.070 or is a project performed under the authority of the director of DPW or the county engineer pursuant to proposed SCC 30.63B.100. Currently, no permit is required for clearing activities.
- L. Proposed SCC 30.63B.040 provides for the collection of fees for the administration of land disturbing activity permit applications. The fee exemptions in existing SCC 30.63B.020 pertaining to utility and related underground drainage system are clarified to ensure proper application of the intent of this exemption. A fee exemption will only apply if the utility or drainage system must be relocated as a result of a project performed under the authority of the director of DPW or the county engineer and such work is included in DPW’s project plans.
- M. Proposed SCC 30.63B.050 incorporates and updates provisions in existing SCC 30.63B.200 relating to grading permits. The permit approval criteria are revised consistent with the NPDES Permit. Proposed SCC 30.63B.050(d) and (e) are new provisions that regulate the marking of clearing limits and the approval of land disturbing activity plans and specifications. SCC 30.63B.050(f) provides the conditions under which the county will accept bonding and insurance securities.

- N. Proposed SCC 30.63B.060 pertains to the Department of Planning and Development Services (PDS) director's authority to require more stringent standards or requirements to protect the public health, safety or welfare and to impose mitigation necessary to mitigate any significant adverse impacts. Similar provisions for grading are in existing SCC 30.63B.250. Proposed SCC 30.63B.060 establishes criteria for the director's permitting procedures and makes decision-making transparent. Proposed SCC 30.63B.060 identifies circumstances under which more stringent land disturbing activity standards, specifications or requirements may be required to mitigate adverse impacts resulting from a land disturbing activity. Written documentation of the director's determination will be required.
- O. Proposed SCC 30.63B.070 establishes land disturbing activity permit exemptions. The grading permit exemptions in existing SCC 30.63B.020 are substantively amended for NPDES Permit compliance to include exemptions for all land disturbing activities including clearing and grading. As noted in finding K of this ordinance, a land disturbing activity permit is required unless the land disturbing activity is exempted in proposed SCC 30.63B.070 or is a project performed under the authority of the director of DPW or the county engineer pursuant to proposed SCC 30.63B.100. SCC 30.63B.020(4) pertaining to emergency repairs is now addressed in proposed SCC 30.63B.380 because it is not an exemption from permit requirements.
- P. The exemptions in proposed SCC 30.63B.070 clarify the applicable critical area, buffer and/or setback terms consistent with regulations adopted on August 1, 2007. Critical area references are more explicit in SCC 30.63B.070 to ensure the applicability of the exemptions to specific critical areas and their setbacks or buffers. For example, an exemption may apply if the activity is located outside of critical areas, except for floodplains and aquifer recharge areas with low to moderate sensitivity to groundwater contamination. Certain exemptions are updated to ensure compliance with Appendix 1 minimum requirement 2 pertaining to soil erosion control.
- Q. Proposed SCC 30.63B.070(1) provides general criteria and thresholds for land disturbing activity exemptions. The NPDES Permit does not establish specific grading thresholds. County grading thresholds remain the same in the proposed land disturbing activity exemptions.
- R. Proposed SCC 30.63B.070(2) establishes exemptions conditioned on their location outside of critical areas and their buffers and setbacks for certain types of land use activities. The exemptions in existing SCC 30.63B.020 are clarified and improved for compliance with the intent of NPDES Permit regulations. Pursuant to section 1 of Appendix 1, the following three new exemptions are established in this section: Forest practices (except for Class IV general forest

practice conversions from timberland to other uses); oil and gas facilities; and road maintenance practices.

S. General exemptions for agricultural activities are updated in proposed SCC 30.63B.070(4).

T. The right-to-farm agricultural exemptions of existing SCC 30.63.025 are incorporated in proposed SCC 30.63B.070(5) consistent with current practices established by PDS in conjunction with the Federal Emergency Management Agency (FEMA) and Ecology. These agencies determined that floodplain permits were not required for certain *de minimus* agricultural activities that would trigger the application of drainage and grading code requirements. PDS, FEMA and Ecology agreed that *de minimus* agricultural activities are those that do not alter contours and may include tilling, plowing, harvesting, incorporating soil amendments into the agricultural fields and ditch digging, if the originally constructed ditch configuration is not altered and spoils are removed from the site or tilled into fields as a soil amendment. Exempt activities in the right to farm provisions also include farm road construction or maintenance that would not alter contours, use culverts, or result in a farm road that is more than 6 inches above grade.

In determining equivalency with the exemptions allowed under section 1 of Appendix 1, the county and Ecology determined that the right to farm exemptions rarely result in projects that provide a conveyance to an MS4. Only conveyances to the county's MS4s are regulated by the NPDES Permit. In addition, the county and Ecology determined that designated agricultural land is typically flat, consisting of advance outwash soils as shown on the county's Aquifer Recharge/Wellhead Protection Map. Water directly infiltrates on these soils. Run-off does not generally result from creation of minor agricultural roads under the required specifications noted in the paragraph above that are agreed to by FEMA and Ecology. Even when graveled, minor agricultural roads tend to generate less than the minimum threshold of 0.10 cubic feet per second used to determine drainage impacts. Further, Ecology and the Natural Resource Conservation Services regulate stormwater management on farms. Farm plans address drainage issues. The use of the right to farm exemption is limited because it is restricted to use only when another permit, except for a special flood hazard permit, is not required.

The right to farm exemptions are updated to include references to all wetland categories addressed in chapters 30.62 and 30.62A SCC for consistency with the county's critical area regulations effective October 1, 2007. Different versions of wetland categories are cited in chapters 30.62 and 30.62A SCC because the Legislature passed SSB 5248 (Chapter 353, Laws of 2007), which prohibited the county from amending its existing critical area regulations in chapter 30.62 SCC because these regulations applied to agricultural activities (as defined in the

404 legislation). The legislation applies only to agricultural activities in the rural areas
405 and in agricultural resource land areas, and will be in effect until July 1, 2011 (the
406 original July 1, 2010, "timeout" recently was extended to July 1, 2011, by SSB
407 6520). The county retained its existing chapter 30.62 SCC to apply to agricultural
408 activities in rural and agricultural resource land areas. The county applies the
409 wetland provisions in chapter 30.62A SCC to agricultural activities in other areas,
410 and to all other development activities county-wide. The right to farm exemption
411 was updated to include the correct wetland categories for both chapters 30.62
412 and 30.62A SCC.
413

414 U. NPDES Permit special condition S5.C.5.b.i establishes minimum performance
415 standards to be included in the county's stormwater management program.
416 Under this condition, the minimum requirements, thresholds and definitions
417 determined by Ecology to be equivalent to Appendix 1 of the NPDES Permit for
418 new development, redevelopment and construction sites must be included in
419 ordinances or other enforceable documents adopted by the county. The
420 exemptions contained in proposed 30.63B.070 have been determined by
421 Ecology staff to be equivalent to Appendix 1 of the NPDES Permit. These
422 exemptions, as described in findings O through T. above, will provide equal or
423 similar protection of receiving waters and equal to or similar levels of pollutant
424 control as compared to Appendix 1.
425

426 V. Proposed SCC 30.63B.090, pertaining to compliance with other laws, updates
427 existing SCC 30.63B.040 to address the approval of construction plans and
428 issuance of land disturbing activity permits, not grading permits.
429

430 W. Proposed SCC 30.63B.100 codifies requirements for projects performed under
431 the authority of the director of DPW or the county engineer. Compliance with
432 chapter 30.63B SCC for these projects may be obtained through the permit
433 process established in chapter 30.63A SCC or through compliance with a rule
434 authorized in this code section that will be adopted by DPW pursuant to chapter
435 30.82 SCC. The rule includes procedures and tools that shall be utilized to help
436 DPW staff achieve and document compliance with the substantive requirements
437 of chapters 30.63A and 30.63B SCC, SCC 30.63C.040, and other applicable
438 provisions of title 30 SCC. This includes all actions or their functional equivalents
439 that would be performed by the director of PDS related to project planning,
440 design, review, environmental review, construction inspection, construction
441 acceptance, county administration and regulation, final project documentation,
442 and related actions set forth in chapters 30.63A, 30.63B and 30.63C SCC.
443

444 X. Proposed SCC 30.63B.110 updates existing SCC 30.63B.310. The requirements
445 are reorganized and rewritten to provide clarity. Proposed SCC 30.63B.110(3)
446 identifies the specific critical areas (streams, wetlands, lakes, marine waters, fish
447 and wildlife habitat conservation areas and erosion and landslide hazard areas),
448 and their buffers or setbacks, that require critical area studies and mitigation

pursuant to chapters 30.62, 30.62A and 30.62B SCC prior to approval of a cut or excavation.

Y. Proposed SCC 30.63B.120 updates, reorganizes and clarifies existing SCC 30.63B.320. References in SCC 30.63B.120(3) pertaining to compaction standards are corrected for alignment with the EDDS. New requirements codify current procedures for obtaining approval to place fill in the floodplain. These regulations provide consistency with the construction codes and special flood hazard area regulations in title 30 SCC. SCC 30.63B.120(4) includes updated requirements for fills or embankments in critical areas. Clarification was required to ensure that the regulations and standards apply to specific critical areas and their buffers or setbacks as necessary and applicable. Specific critical areas are identified (streams, wetlands, lakes, marine waters, fish and wildlife habitat conservation areas and erosion and landslide hazard areas) which require critical area studies and mitigation prior to approval of a fill or embankment.

Z. The provisions in proposed SCC 30.63B.130 relating to cuts and fills currently are in existing SCC 30.63B.330. Proposed SCC 30.63B.130 reorganizes those provisions for greater clarity. SCC 30.63B.130(4) establishes new provisions that may be used to provide relief from the application of the required two foot property line setback for cuts and fills. This more flexible provision allows approval of construction agreements between affected property owners, or the submittal of a survey from a licensed surveyor that will ensure compliance with construction and land disturbing activity plans for work within 6 inches of a property line. This provision provides for permit flexibility and efficiency while maintaining the public safety.

AA. Proposed SCC 30.63B.140 relating to terracing updates existing SCC 30.63B.340. SCC 30.63B.140 is reorganized to provide clarity and usability. Existing SCC 30.63B.340(8) is deleted because all grading that requires a grading permit must comply with chapter 30.63A SCC drainage requirements. This requirement is addressed in proposed SCC 30.63A.050 and 30.63A.090 for land disturbing activity permits and does not need repeating in the proposed SCC 30.63B.140.

BB. Proposed SCC 30.63B.150 relating to soil erosion control updates existing SCC 30.63B.350. Existing SCC 30.63B.350(3), which requires compliance with certain drainage requirements in chapter 30.63A SCC, is deleted because it is addressed in proposed SCC 30.63A.050 and 30.63A.090 for land disturbing activity permits.

CC. Proposed SCC 30.63B.160 contains new requirements requiring applicants to depict tree and vegetation retention and replacement areas on land disturbing activity site plans and stormwater pollution prevention plans (SWPPPs). This requirement will allow plan reviewers and inspectors to evaluate clearing plans to

ensure that clearing limits are marked as required by proposed chapter 30.63A SCC consistent with section 4.2 of Appendix 1 of the NPDES Permit. This provision is also needed to ensure consolidated permit review of related requirements of title 30 SCC. The proposed SCC 30.63B.160 does not impose new or additional tree and vegetation retention and replacement requirements on development activities.

DD. Proposed SCC 30.63B.170 relating to the reclamation of quarry or mining sites updates existing SCC 30.63B.360.

EE. Proposed SCC 30.63B.180 establishes new provisions that require applicants to comply with a land disturbing activity permit application submittal checklist established by PDS. The submittals of the land disturbing activity site plan, construction plans, engineering reports, zero rise analysis, haul route agreements and reports required for compliance with proposed chapter 30.63A SCC are required to ensure compliance with land disturbing activity requirements in chapter 30.63B SCC and the stormwater management requirements of chapter 30.63A SCC.

FF. Proposed SCC 30.63B.190 establishes new minimum requirements for the submittal of land disturbing activity site plans and reports that are submitted with a land disturbing activity permit application. The information provided in these plans and reports will allow PDS to efficiently review project applications for compliance with proposed chapters 30.63A and 30.63B SCC.

GG. Proposed SCC 30.63B.200 updates existing SCC 30.63B.100. SCC 30.63B.200 clarifies which submittals require engineered construction plans. SCC 30.63B.200(1)(a) clarifies that all land disturbing activity in excess of 5,000 cubic yards requires engineered construction plans. SCC 30.63B.200 provides new building code citations that authorize the building official to require civil engineering. These updates provide clarity and transparency regarding the permitting process and PDS's decision-making authority.

HH. Proposed SCC 30.63B.210 through SCC 30.63B.250 update existing SCC 30.63B.110, which establishes the requirements for and required contents of engineering reports. The updated code sections are re-organized for clarity and are made consistent with the new land disturbing activity permit requirements to ensure compliance with the NPDES Permit. New references to building code regulations that require a report are provided in these code sections to provide greater clarity and transparency regarding the permitting process and PDS's decision-making authority.

II. Proposed SCC 30.63B.270 establishes a new requirement pertaining to the abandonment of land disturbing activity applications. Such applications are deemed abandoned after 18 months of filing a complete application if all

necessary information and revisions requested by PDS have not been made. The director may authorize one 18-month extension of the application expiration date. The provision is established for consistency with building code requirements in subtitle 30.5 SCC.

JJ. Proposed SCC 30.63B.280 (existing SCC 30.63B.210) regulates permit expiration and renewal. The first version of SCC 30.63B.280 contained in section 15 of this ordinance, which will become effective September 30, 2010, is identical to the amendments to existing SCC 30.63B.210 that were adopted in Ordinance No. 10-014 (permit extension ordinance), with the exception of a few housekeeping edits that update terminology and cross-references. Section 28 of this ordinance contains a second version of SCC 30.63B.280, which will become effective April 29, 2011, when the amendments adopted in Ordinance No. 10-014 are repealed. The permit expiration timeframe in the second version of SCC 30.63B.280(1) changes the current 24-month timeframe to an 18-month time period to provide consistency with building code provisions in subtitle 30.5 SCC. The second version of SCC 30.63B.280(3) allows the PDS director to grant a permit extension for a period of 18 months within 30 days of the permit expiration date, instead of 24 months, the time period in the current code. The second version of SCC 30.63B.280(4) establishes a new provision that an on-site inspection may be required prior to issuance of a permit extension. Existing SCC 30.63B.210(4) pertaining to permanent grading requirements is not included in either version of SCC 30.63B.280 because the requirement for permanent stormwater regulations is contained in proposed chapter 30.63A SCC.

KK. Proposed SCC 30.63B.290 is a new provision that regulates requests for a modification or waiver of a chapter 30.63B SCC requirement. Modifications and waivers of chapter 30.63B SCC requirements may be approved pursuant to the criteria in proposed SCC 30.63A.830 through 30.63A.842 (Amended Ordinance No 10-026). The modification and waiver processes and decision-making criteria comply with the requirements of sections 5 and 6 of NPDES Permit Appendix 1 (Adjustment and Exceptions/Variances). The Snohomish County Code uses the terms "modifications" and "waivers" while the NPDES Permit uses the terms "adjustments" and "exception/variances."

LL. Proposed SCC 30.63B.300 (existing SCC 30.63B.060) pertains to the person responsible. The term "grading" is changed to "land disturbing activity" and other general edits are made to ensure compliance with the NPDES Permit.

MM. Proposed SCC 30.63B.310 is a new provision that allows land disturbing activity inspections to be conducted together with any inspections required under proposed chapter 30.63A SCC to ensure compliance with both chapters 30.63A and 30.63B SCC and the NPDES Permit.

- 583 NN. Proposed SCC 30.63B.320 is a new provision requiring a preliminary site
584 inspection to confirm that clearing limits are marked and natural drainage
585 courses are not blocked or altered.
586
- 587 OO. Proposed SCC 30.63B.330 establishes a new requirement for mandatory pre-
588 construction meetings and inspections prior to land disturbing activity. This
589 provision is necessary to allow the county to fulfill its inspection obligations under
590 special condition S5.C.5(b)(vi) of the NPDES Permit.
591
- 592 PP. The provisions of existing SCC 30.63B.220 pertaining to inspections are now
593 addressed in proposed SCC 30.63B.340 and 30.63B.350. SCC 30.63B.340(1)
594 provides an overview of the inspection processes required during land disturbing
595 activity and construction. Inspection requirements are updated to ensure
596 compliance with chapters 30.63A and 30.63B SCC and the NPDES Permit.
597 Required plan names are updated and citations to the IBC pertaining to soil tests
598 are provided. SCC 30.63B.350(4) is updated to require applicants to obtain
599 professional water quality monitoring inspections when required by PDS pursuant
600 to chapter 17 of the IBC.
601
- 602 QQ. The term "grading" is changed to the term "land disturbing activity," and general
603 clarifications are made in proposed SCC 30.63B.360 (existing SCC 30.63B.230),
604 for consistency with chapters 30.63A and 30.63B SCC. The term "as-graded" in
605 existing SCC 30.63B.230(1) is amended to "finished grade" in proposed SCC
606 30.63B.360(1)(a) to correct terms. The term "grading contractor" used in existing
607 SCC 30.63B.230(4) is changed in proposed SCC 30.63A.360(2) to "applicant or
608 owner" for consistency with the land disturbing activity chapter.
609
- 610 RR. Proposed SCC 30.63B.370 (existing SCC 30.63B.240) allows PDS to require
611 bonds or performance securities to ensure that land disturbing activity is
612 completed. The updated provision replaces the term "work" to "land disturbing
613 activity." Proposed SCC 30.63B.370 clarifies that the department may require
614 drainage facilities and "improvements" to comply with the security and insurance
615 requirements in chapter 30.63A SCC, part 900.
616
- 617 SS. Proposed SCC 30.63B.380 (existing SCC 30.63B.020(4)) establishes new
618 requirements and procedures for emergency land disturbing activities. New
619 criteria for when an emergency action may be undertaken are established in
620 SCC 30.63B.380(2). The criteria include, among other things, a notification
621 requirement and a requirement that the land disturbing activity be the minimum
622 action necessary to alleviate the emergency. SCC 30.63B.380(3) establishes
623 new procedures requiring the county to notify the owner that compliance with soil
624 erosion and sedimentation control shall be implemented as soon as practicable
625 and that applications for permits necessary to achieve compliance with chapter
626 30.63B SCC after an emergency action must be submitted within 120 days of the
627 emergency land disturbing activity. These updated provisions are necessary to

fulfill NPDES Permit requirements for protecting water quality, reducing discharges to the maximum extent feasible and implementing a progressive enforcement program.

TT. Proposed SCC 30.91A.300, containing the definition of “as-graded,” is repealed because the term will longer be used.

UU. Existing SCC 30.91C.210 is amended to correct a referencing error.

VV. The definition of “excavation” in existing SCC 30.91E.230 is amended to change the phrase “excavation and grading” to “land disturbing activity” for conformance with the NPDES Permit.

WW. The definition of “finish grade” in existing SCC 30.91G.070(3) is amended to change the term “grading” to “land disturbing activity” for NPDES Permit compliance.

XX. The definition of “grading” in existing SCC 30.91G.075 is amended to strike the notation that the definition applies only to the construction codes in subtitle 30.5 SCC.

YY. Chapter 30.63B SCC will be enforced under chapter 30.85 SCC.

ZZ. These regulations are not intended to update the county’s critical areas regulations in subtitle 30.6 SCC, but may relate to them to ensure consistency throughout the county code. The proposed stormwater regulations are based upon and consistent with the 2005 Ecology Manual. Volume 1, Section 1.6.3 of the 2005 Ecology Manual indicates that the presumptive and demonstrative approaches to protecting water quality in the manual are the best available science (BAS). The proposed regulations are consistent with the county’s *Revised Draft Summary Best Available Science* adopted on March 28, 2006. Stormwater management and aquatic areas are specifically addressed in chapter 3 of the BAS and stormwater mitigation measures are addressed in Appendix A of the BAS.

AAA. The county developed a comprehensive public participation program to educate and inform the public about the stormwater regulation update project and this ordinance. Public comments have been solicited consistent with the requirements of the Growth Management Act and NPDES Permit special condition S5.C.4.

BBB. The GMACP – GPP sets forth the following objective and policies related to stormwater management, which are furthered by the proposed ordinance:

Objective NE 3.H – Comply with the county’s Phase I Municipal Stormwater Permit by the Washington State Department of Ecology pursuant to the Clean Water Act and the National Pollutant Discharge Elimination System (NPDES).

NE Policies

3.H.1 The county shall protect properties and waters from adverse impacts by eliminating illicit discharges and sediment transport, and regulating stormwater and land disturbing activity to reduce the discharges of pollutants and impacts to receiving waters.

3.H.2 The county shall develop inspection and enforcement procedures to prevent water quality degradation.

3.H.3 The county shall adopt programs, development regulations and standards regulating drainage and land disturbing activity that allow or require the use of low impact development techniques and are consistent with the Phase I Municipal Stormwater Permit.

3.H.4 The county shall improve stormwater management permitting procedures to ensure timely review of projects that incorporate low impact development techniques.

3.H.5 The county shall adopt comprehensive site planning requirements that minimize land disturbing activity and promote on-site stormwater management on new development and redevelopment project sites.

3.H.6 The county shall adopt water pollution control requirements intended to ensure that receiving waters, groundwater, and stormwater in Snohomish County meet or exceed state water quality standards.

Section 3. The county council makes the following conclusions:

- A. Proposed chapter 30.63B SCC contains enforceable land disturbing activity regulations that will protect the public health, safety, welfare and the environment through the regulation of stormwater runoff as required by federal and state law.
- B. Proposed chapter 30.63B SCC land disturbing activity regulations will support the preservation of water quality for aquatic habitats, recreation, and drinking water.
- C. Proposed chapter 30.63B SCC includes regulatory mechanisms and control measures required by special condition S5.C.5 of the NPDES Permit.
- D. Proposed chapter 30.63B SCC requirements promote sound, practical, and economical development practices and construction procedures that prevent or

717 minimize impacts to adjoining properties and county waters and reduce the
718 discharge of pollutants to the maximum extent practicable. These regulations
719 permit the use of all known, available and reasonable methods of prevention,
720 control and treatment to prevent and control pollution of waters of the State of
721 Washington.

- 722
- 723 E. Proposed chapter 30.63B SCC will not result in less restrictive performance
724 standards or objectives than those required by the NPDES Permit. These
725 regulations meet the minimum performance measures in special condition
726 S5.C.5.b of the NPDES Permit.
- 727
- 728 F. The minimum requirements, thresholds, definitions, modification and waiver
729 criteria in the proposed ordinance are equivalent to Appendix 1 of the NPDES
730 Permit for new development, redevelopment and construction sites. The
731 regulations contained in the ordinance provide equal or similar levels of pollutant
732 controls as compared to Appendix 1.
- 733
- 734 G. Proposed chapter 30.63B SCC complies with the NPDES Permit.
- 735
- 736 H. These stormwater regulations strengthen the county's stormwater management
737 program and the protection of critical areas and, to the extent required, are
738 consistent with the county's BAS.
- 739
- 740 I. The public participation process implemented for the NPDES Permit code and
741 standard updates has been early and continuous and has complied with all
742 applicable requirements, including but not limited to, RCW 36.70A.140, special
743 condition S5.C.4 of the NPDES Permit, chapter 30.73 SCC and the Snohomish
744 County Charter.
- 745
- 746 J. The State Environmental Policy Act (SEPA) process conducted for this ordinance
747 satisfies the requirements of chapter 43.21C RCW, as implemented by chapter
748 197-11 WAC and chapter 30.61 SCC.
- 749
- 750 K. The county council bases its findings and conclusions on the entire record of the
751 planning commission and the county council, including all testimony and
752 exhibits. Any finding, which should be deemed a conclusion, and any conclusion
753 which should be deemed a finding, is hereby adopted as such.
- 754
- 755

756 Section 4. Snohomish County Code Section 30.22.130, last amended by
757 Amended Ordinance No. 10-008 on March 24, 2010, is amended to read:
758

30.22.130 Reference notes for use matrix.

(1) Airport, Stage 1 Utility:

(a) Not for commercial use and for use of small private planes; and

(b) In the RU zone, they shall be primarily for the use of the resident property owner; and

(c) When the airport is included in an airpark, the disclosure requirements of SCC 30.28.005 shall apply.

(2) Day Care Center:

(a) In WFB, R-7,200, R-8,400, R-9,600, R-12,500, R-20,000, and SA-1 zones, shall only be permitted in connection with and secondary to a school facility or place of worship; and

(b) Outdoor play areas shall be fenced or otherwise controlled, and noise buffering provided to protect adjoining residences.

(3) Dock and Boathouse, Private, Non-commercial:

(a) The height of any covered over-water structure shall not exceed 12 feet as measured from the line of ordinary high water;

(b) The total roof area of covered, over-water structures shall not exceed 1,000 square feet;

(c) The entirety of such structures shall have a width no greater than 50 percent of the width of the lot at the natural shoreline upon which it is located;

(d) No over-water structure shall extend beyond the mean low water mark a distance greater than the average length of all preexisting over-water structures along the same shoreline and within 300 feet of the parcel on which proposed. Where no such preexisting structures exist within 300 feet, the pier length shall not exceed 50 feet;

(e) Structures permitted hereunder shall not be used as a dwelling, nor shall any boat moored at any wharf be used as a dwelling while so moored; and

(f) Covered structures are subject to a minimum setback of three feet from any side lot line or extension thereof. No side yard setback shall be required for uncovered structures. No rear yard setback shall be required for any structure permitted hereunder.

(4) Dwelling, Single family: In PCB zones, shall be allowed only if included within the same structure as a commercial establishment.

(5) See chapter 30.31E SCC for rezoning to Townhouse zone, and chapter 30.23A SCC for design standards applicable to townhouse and attached single-family dwelling development.

(6) Dwelling, Mobile Home:

(a) Shall be multi-sectioned by original design, with a width of 20 feet or greater along its entire body length;

(b) Shall be constructed with a non-metallic type, pitched roof;

(c) Except where the base of the mobile home is flush to ground level, shall be installed either with:

(i) skirting material which is compatible with the siding of the mobile home; or

- 801 (ii) a perimeter masonry foundation;
- 802 (d) Shall have the wheels and tongue removed; and
- 803 (e) In the RU zone the above only applies if the permitted lot size is less than
- 804 20,000 square feet.
- 805 (7) Fallout Shelter, Joint, by two or more property owners:
- 806 Side and rear yard requirements may be waived by the department along the
- 807 boundaries lying between the properties involved with the proposal, and zone; provided
- 808 that its function as a shelter is not impaired.
- 809 (8) Family Day Care Home:
- 810 (a) No play yards or equipment shall be located in any required setback from a
- 811 street; and
- 812 (b) Outdoor play areas shall be fenced or otherwise controlled.
- 813 (9) Farm Stand:
- 814 (a) There shall be only one stand on each lot; and
- 815 (b) At least 50% by farm product unit of the products sold shall be grown, raised
- 816 or harvested in Snohomish County, and 75% by farm product unit of the products sold
- 817 shall be grown, raised or harvested in the State of Washington.
- 818 (10) Farm Worker Dwelling:
- 819 (a) At least one person residing in each farm worker dwelling unit shall be
- 820 employed full time in the farm operation;
- 821 (b) An agricultural farm worker dwelling unit affidavit must be signed and
- 822 recorded with the county attesting to the need for such dwellings to continue the farm
- 823 operation;
- 824 (c) The number of farm worker dwellings shall be limited to one per each 40
- 825 acres under single contiguous ownership to a maximum of six total dwellings, with 40
- 826 acres being required to construct the first accessory dwelling unit. Construction of the
- 827 maximum number of dwelling units permitted shall be interpreted as exhausting all
- 828 residential potential of the land until such time as the property is legally subdivided; and
- 829 (d) All farm worker dwellings must be clustered on the farm within a 10-acre
- 830 farmstead which includes the main dwelling. The farmstead's boundaries shall be
- 831 designated with a legal description by the property owner with the intent of allowing
- 832 maximum flexibility while minimizing interference with productive farm operation. Farm
- 833 worker dwellings may be located other than as provided for in this subsection only if
- 834 environmental or physical constraints preclude meeting these conditions.
- 835 (11) Home Occupation: See SCC 30.28.050(1).
- 836 (12) Kennel, Commercial: There shall be a five-acre minimum lot area; except in
- 837 the R-5 and RD zones, where 200,000 square feet shall be the minimum lot area.
- 838 (13) Kennel, Private-breeding, and Kennel, Private Non-breeding: Where the
- 839 animals comprising the kennel are housed within the dwelling, the yard or some portion
- 840 thereof shall be fenced and maintained in good repair or to contain or to confine the
- 841 animals upon the property and restrict the entrance of other animals.
- 842 (14) Parks, Publicly-owned and Operated:
- 843 (a) No bleachers are permitted if the site is less than five acres in size;
- 844 (b) All lighting shall be shielded to protect adjacent properties; and
- 845 (c) No amusement devices for hire are permitted.

- 846 (15) Boarding House: There shall be accommodations for no more than two
847 persons.
- 848 (16) RESERVED for future use (Social Service Center - DELETED by Amended Ord.
849 04-010 effective March 15, 2004)
- 850 (17) Swimming/Wading Pool (not to include hot tubs and spas): For the sole use
851 of occupants and guests:
- 852 (a) No part of the pool shall project more than one foot above the adjoining
853 ground level in a required setback; and
- 854 (b) The pool shall be enclosed with a fence not less than four feet high, of
855 sufficient design and strength to keep out children.
- 856 (18) Temporary Dwelling for a relative:
- 857 (a) The dwelling shall be occupied only by a relative, by blood or marriage, of the
858 occupant(s) of the permanent dwelling;
- 859 (b) The relative must receive from, or administer to, the occupant of the other
860 dwelling continuous care and assistance necessitated by advanced age or infirmity;
- 861 (c) The need for such continuous care and assistance shall be attested to in
862 writing by a licensed physician;
- 863 (d) The temporary dwelling shall be occupied by not more than two persons;
- 864 (e) Use as a commercial rental unit shall be prohibited;
- 865 (f) The temporary dwelling shall be situated not less than 20 feet from the
866 permanent dwelling on the same lot and shall not be located in any required yard of the
867 principal dwelling;
- 868 (g) A land use permit binder shall be executed by the landowner, recorded with
869 the Snohomish County Auditor and a copy of the recorded document submitted to the
870 department for inclusion in the permit file;
- 871 (h) Adequate screening, landscaping, or other measures shall be provided
872 pursuant to SCC 30.25.015 to protect surrounding property values and ensure
873 compatibility with the immediate neighborhood;
- 874 (i) An annual renewal of the temporary dwelling permit, together with
875 recertification of need, shall be accomplished by the applicant through the department in
876 the same month of each year in which the initial mobile home/building permit was
877 issued;
- 878 (j) An agreement to terminate such temporary use at such time as the need no
879 longer exists shall be executed by the applicant and recorded with the Snohomish
880 County Auditor; and
- 881 (k) Only one temporary dwelling may be established on a lot. The temporary
882 dwelling shall not be located on a lot on which a detached accessory apartment is
883 located.
- 884 (19) Recreational Vehicle:
- 885 (a) There shall be no more than one per lot;
- 886 (b) Shall not be placed on a single site for more than 180 days in any 12-
887 month period; and
- 888 (c) Shall be limited in the floodways to day use only (dawn to dusk)
889 during the flood season (October 1 through March 30) with the following exceptions:

(i.) Recreational vehicle use associated with a legally occupied dwelling to accommodate overnight guests for no more than a 21-day period;

(ii.) Temporary overnight use by farm workers on the farm where they are employed subject to SCC 30.22.130(19)(a) and (b) above; and

(iii) Subject to SCC 30.22.130(19)(a) and (b) above and SCC 30.22.120(7)(b), temporary overnight use in a mobile home park, which has been in existence continuously since 1970 or before, that provides septic or sewer service, water and other utilities, and that has an RV flood evacuation plan that has been approved and is on file with the Department of Emergency Management and Department of Planning and Development Services.

(20) Ultralight Airpark:

(a) Applicant shall submit a plan for the ultralight airpark showing the location of all buildings, ground circulation, and parking areas, common flight patterns, and arrival and departure routes;

(b) Applicant shall describe in writing the types of activities, events, and flight operations which are expected to occur at the airpark; and

(c) Approval shall be dependent upon a determination by the county decision maker that all potential impacts such as noise, safety hazards, sanitation, traffic, and parking are compatible with the site and neighboring land uses, particularly those involving residential uses or livestock or small animal husbandry; and further that the proposed use can comply with Federal Aviation Administration regulations (FAR Part 103), which state that ultralight vehicle operations will not:

(i) create a hazard for other persons or property;

(ii) occur between sunset and sunrise;

(iii) occur over any substantially developed area of a city, town, or settlement, particularly over residential areas or over any open air assembly of people; or

(iv) occur in an airport traffic area, control zone, terminal control area, or positive control area without prior authorization of the airport manager with jurisdiction.

(21) Craft Shop:

(a) Articles shall not be manufactured by chemical processes;

(b) No more than three persons shall be employed at any one time in the fabricating, repair, or processing of materials; and

(c) The aggregate nameplate horsepower rating of all mechanical equipment on the premises shall not exceed two.

(22) Grocery and Drug Stores: In the FS zone, there shall be a 5,000-square foot floor area limitation.

(23) Motor Vehicle and Equipment Sales: In the CB and CRC zone, all display, storage, and sales activities shall be conducted indoors.

(24) Race Track: The track shall be operated in such a manner so as not to cause offense by reason of noise or vibration beyond the boundaries of the subject property.

(25) Rural Industry:

(a) The number of employees shall not exceed 10;

(b) All operations shall be carried out in a manner so as to avoid the emission or creation of smoke, dust, fumes, odors, heat, glare, vibration, noise, traffic, surface water drainage, sewage, water pollution, or other emissions which are unduly or unreasonably

935 offensive or injurious to properties, residents, or improvements in the vicinity;

936 (c) The owner of the rural industry must reside on the same premises as the rural

937 industry and, in the RD zone, the residence shall be considered as a caretaker's

938 quarters; and

939 (d) Outside storage, loading or employee parking in the RD zone shall provide

940 15-foot wide Type A landscaping as defined in SCC 30.25.017.

941 (26) Sawmill, Shake and Shingle Mill:

942 (a) Such uses shall not include the manufacture of finished wood products such

943 as furniture and plywood, but shall include lumber manufacturing;

944 (b) The number of employees shall not exceed 25 during any eight-hour work

945 shift;

946 (c) All operations shall be carried out in a manner so as to avoid the emission or

947 creation of smoke, dust, fumes, odors, heat, glare, vibration, noise, traffic, surface water

948 drainage, sewage, water pollution, or other emissions which are unduly or unreasonably

949 offensive or injurious to properties, residents or improvements in the vicinity; and

950 (d) Sawmills and shakemills adjacent to a state highway in the RU zone shall

951 provide 25 feet of Type A landscaping as defined in SCC 30.25.017.

952 (27) Governmental and Utility Structures and Facilities:

953 Special lot area requirements for this use are contained in SCC 30.23.200.

954 (28) Excavation and Processing of Minerals:

955 (a) This use, as described in SCC 30.31D.010(2), is allowed in the identified

956 zones only where these zones coincide with the mineral lands designation in the

957 comprehensive plan (mineral resource overlay or MRO), except for the MC zone where

958 mineral lands designation is not required.

959 (b) An Administrative Conditional Use Permit or a Conditional Use Permit is

960 required pursuant to SCC 30.31D.030.

961 (c) Excavation and processing of minerals exclusively in conjunction with forest

962 practices regulated pursuant to chapter 76.09 RCW is permitted outright in the Forestry

963 zone.

964 (29) Medical Clinic, Licensed Practitioner: A prescription pharmacy may be

965 permitted when located within the main building containing licensed practitioner(s).

966 (30) Forest Industry Storage & Maintenance Facility (except harvesting) adjacent to

967 property lines in the RU zone shall provide 15-foot wide Type A landscaping as defined

968 in SCC 30.25.017.

969 (31) Boat Launch Facilities, Commercial or Non-commercial:

970 (a) The hearing examiner may regulate, among other factors, required launching

971 depth, lengths of existing docks and piers;

972 (b) Off-street parking shall be provided in an amount suitable to the expected

973 usage of the facility. When used by the general public, the guideline should be 32 to 40

974 spaces capable of accommodating both a car and boat trailer for each ramp lane of

975 boat access to the water;

976 (c) A level vehicle-maneuvering space measuring at least 50 feet square shall be

977 provided;

978 (d) Pedestrian access to the water separate from the boat launching lane or

979 lanes may be required where it is deemed necessary in the interest of public safety;

(e) Safety buoys shall be installed and maintained separating boating activities from other water-oriented recreation and uses where this is reasonably required for public safety, welfare, and health; and

(f) All site improvements for boat launch facilities shall comply with all other requirements of the zone in which it is located.

(32) Campground:

(a) The maximum overall density shall be seven camp or tent sites per acre; and

(b) The minimum site size shall be 10 acres.

(33) Commercial Vehicle Home Basing:

(a) The vehicles may be parked and maintained only on the property wherein resides a person who uses them in their business;

(b) Two or more vehicles may be so based; and

(c) The vehicles shall be in operable conditions.

(34) Distillation of Alcohol:

(a) The distillation shall be from plant products, for the purpose of sale as fuel, and for the production of methane from animal waste produced on the premises;

(b) Such distillation shall be only one of several products of normal agricultural activities occurring on the premises; and

(c) By-products created in this process shall be used for fuel or fertilizer on the premises.

(35) RESERVED for future use (Group Care Facility - DELETED by Amended Ord. 04-010 effective March 15, 2004)

(36) Mobile Home and Travel Trailer Sales:

(a) Property shall directly front upon a principal or minor arterial in order to reduce encroachment into the interior of IP designated areas;

(b) The hearing examiner shall consider the visual and aesthetic characteristics of the use proposal and determine whether nearby business and industrial uses, existing or proposed, would be potentially harmed thereby. A finding of potential incompatibility shall be grounds for denial;

(c) The conditional use permit shall include a condition requiring mandatory review by the hearing examiner at intervals not to exceed five years for the express purpose of evaluating the continued compatibility of the use with other IP uses. The review required herein is in addition to any review which may be held pursuant to SCC 30.42B.100, SCC 30.42C.100 and SCC 30.43A.100;

(d) Such use shall not be deemed to be outside storage for the purpose of SCC 30.25.024; and

(e) Such use shall be temporary until business or industrial development is timely on the site or on nearby IP designated property.

(37) Small Animal Husbandry: There shall be a five-acre minimum site size.

(38) Mobile Home Park: Such development must fulfill the requirements of chapter 30.42E SCC.

(39) Sludge Utilization: See SCC 30.28.085.

(40) Homestead Parcel: See SCC 30.28.055.

(41) Special Setback Requirements for this use are contained in SCC 30.23.110(20).

(42) Minimum Lot Size for duplexes shall be one and one-half times the minimum lot size for single family dwellings. In the RU zone, this provision only applies when the minimum lot size for single family dwellings is 12,500 square feet or less.

(43) Petroleum Products and Gas, Bulk Storage:

(a) All above ground storage tanks shall be located 150 feet from all property lines; and

(b) Storage tanks below ground shall be located no closer to the property line than a distance equal to the greatest dimensions (diameter, length or height) of the buried tank.

(44) Auto Wrecking Yards and Junkyards: A sight-obscuring fence a minimum of seven feet high shall be established and maintained in the LI zone. For requirements for this use, SCC 30.25.020 and 30.25.050 applies.

(45) Antique Shops when established as a home occupation as regulated by SCC 30.28.050(1); provided further that all merchandise sold or offered for sale shall be predominantly "antique" and antique-related objects.

(46) Billboards: See SCC 30.27.080 for specific requirements.

(47) Nursery, Wholesale: In R-20,000 zone, a wholesale nursery is permitted on three acres or more; a conditional use permit is required on less than three acres.

(48) Stockyard and Livestock Auction Facility: The minimum lot size is 10 acres.

(49) Restaurants and Personal Service Shops: Located to service principally the constructed industrial park uses.

(50) Sludge Utilization: A conditional use permit is required for manufacture of materials by a non-governmental agency containing stabilized or digested sludge for a public utilization.

(51) Single Family and Multifamily Dwellings are a prohibited use, except for the following:

(a) Existing dwellings that are nonconforming as a result of a county-initiated rezone to BP may make improvements or additions provided such improvements are consistent with the bulk regulations contained in chapter 30.23 SCC; provided further that such improvements do not increase the ground area covered by the structural portion of the nonconforming use by more than 100 percent of that existing at the existing date of the nonconformance; and

(b) New single family and multifamily dwellings in the BP zone authorized pursuant to the provisions of SCC 30.31A.140.

(52) Greenhouses, Lath Houses, and Nurseries:

(a) Incidental sale of soil, bark, fertilizers, plant nutrients, rocks, and similar plant husbandry materials is permitted;

(b) The sale of garden tools and any other hardware or equipment shall be prohibited; and

(c) There shall be no on-site signs advertising other than the principal use.

(53) Retail Store: See SCC 30.31A.120 for specific requirements for retail stores in the BP zone.

(54) Retail Sales of Hay, Grain, and Other Livestock Feed are permitted on site in conjunction with a livestock auction facility.

(55) Noise of Machines and Operations in the LI and HI zones shall comply with

chapter 10.01 SCC and machines and operations shall be muffled so as not to become objectionable due to intermittence, beat frequency, or shrillness.

(56) Sludge Utilization only at a completed sanitary landfill or on a completed cell within a sanitary landfill, subject to the provision of SCC 30.28.085.

(57) Woodwaste Recycling and Woodwaste Storage Facility: See SCC 30.28.095.

(58) Bed and Breakfast Guesthouses and Bed and Breakfast Inns: See SCC 30.28.020.

(59) Detached accessory or non-accessory private garages and storage structures are subject to the following requirements:

(a) Special setback requirements for these uses are contained in SCC 30.23.110(20);

(b) Artificial lighting shall be hooded or shaded so that direct outside lighting, if any, will not result in glare when viewed from the surrounding property or rights-of-way;

(c) The following compatibility standards shall apply:

(i) proposals for development in existing neighborhoods with a well-defined character should be compatible with or complement the highest quality features, architectural character and siting pattern of neighboring buildings. Where there is no discernable pattern, the buildings shall complement the neighborhood. Development of detached private garages and storage structures shall not interrupt the streetscape or dwarf the scale of existing buildings of existing neighborhoods. Applicants may refer to the Residential Development Handbook for Snohomish County Communities to review techniques recommended to achieve neighborhood compatibility;

(ii) building plans for all proposals larger than 2,400 square feet in the Waterfront Beach, R 7,200, R 8,400, R 9,600 and R 12,500 zones and rural cluster subdivisions shall document the use of building materials compatible and consistent with existing on-site residential development exterior finishes;

(iii) in the Waterfront Beach, R 7,200, R 8,400, R 9,600 and R 12,500 zones and rural cluster subdivisions, no portion of a detached accessory private garage or storage structure shall extend beyond the building front of the existing single family dwelling, unless screening, landscaping, or other measures are provided to ensure compatibility with adjacent properties; and

(iv) in the Waterfront Beach, R 7,200, R 8,400, R 9,600 and R 12,500 zones and rural cluster subdivisions, no portion of a detached non-accessory private garage or storage structure shall extend beyond the building front of existing single family dwellings on adjacent lots where the adjacent dwellings are located within 10 feet of the subject property line. When a detached non-accessory private garage or storage structure is proposed, the location of existing dwellings on adjacent properties located within 10 feet of the subject site property lines shall be shown on the site plan;

(d) All detached accessory or non-accessory private garages and storage structures proposed with building footprints larger than 2,400 square feet shall provide screening or landscaping from adjacent properties pursuant to chapter 30.25 SCC.

(e) On lots less than ten acres in size having no established residential use, only one non-accessory private garage and one storage structure shall be allowed. On lots 10 acres or larger without a residence where the cumulative square footage of all

existing and proposed non-accessory private garages and storage structures is 6,000 square feet or larger, a conditional use permit shall be required.

(f) Where permitted, separation between multiple private garages or storage structures shall be regulated pursuant to subtitle 30.5 SCC.

(60) The cumulative square footage of all detached accessory and non-accessory private garages and storage structures shall not exceed 6,000 square feet on any lot less than 5 acres, except this provision shall not apply in the LDMR, MR, T, NB, GC, PCB, CB, FS, BP, IP, LI, HI, RB, RFS, CRC and RI zones.

(61) Museums: Museums within the agriculture A-10 zone are permitted only in structures which are legally existing on October 31, 1991.

(62) Accessory Apartments: See SCC 30.28.010.

(63) Temporary Woodwaste Recycling and Temporary Woodwaste Storage Facilities: See SCC 30.28.090.

(64) Home Occupation: See SCC 30.28.050(3).

(65) On-site Hazardous Waste Treatment and Storage Facilities are allowed only as an incidental use to any use generating hazardous waste which is otherwise allowed; provided that such facilities demonstrate compliance with the state siting criteria for dangerous waste management facilities pursuant to RCW 70.105.210 and WAC 173-303-282 as now written or hereafter amended.

(66) An application for a conditional use permit to allow an off-site hazardous waste treatment and storage facility shall demonstrate compliance with the state siting criteria for dangerous waste management facilities pursuant to RCW 70.105.210 and WAC 173-303-282 as now written or hereafter amended.

(67) Adult Entertainment Uses: See SCC 30.28.015.

(68) Special Building Height provisions for this use are contained in SCC 30.23.050(2)(d).

(69) Bakery: In the NB zone, the gross floor area of the use shall not exceed 1,000 square feet and the bakery business shall be primarily retail in nature.

(70) Equestrian Centers are allowed with a conditional use permit on all lands zoned A-10 except in that portion of the special flood hazard area of the lower Snohomish and Stillaguamish rivers designated density fringe as described in chapter 30.65 SCC.

(71) Mini-equestrian Centers are allowed as a permitted use on all lands zoned A-10 except in that portion of the special flood hazard area of the lower Snohomish and Stillaguamish rivers designated density fringe as described in chapter 30.65 SCC.

(72) Equestrian Centers and Mini-equestrian Centers require the following:

(a) Five-acre minimum site size for a mini-equestrian center;

(b) Covered riding arenas shall not exceed 15,000 square feet for a mini-equestrian center; provided that stabling areas, whether attached or detached, shall not be included in this calculation;

(c) Any lighting of an outdoor or covered arena shall be shielded so as not to glare on surrounding properties or rights-of-way;

(d) On sites located in RC and R-5 zones, Type A landscaping as defined in SCC 30.25.017 is required to screen any outside storage, including animal waste storage, and parking areas from adjacent properties;

(e) Riding lessons, rentals, or shows shall only occur between 8 a.m. and 9 p.m.;

(f) Outside storage, including animal waste storage, and parking areas shall be set back at least 30 feet from any adjacent property line. All structures shall be set back as required in SCC 30.23.110(8); and

(g) The facility shall comply with all applicable county building, health, and fire code requirements.

(73) Temporary Residential Sales Coach (TRSC):

(a) The commercial coach shall be installed in accordance with all applicable provisions within chapter 30.54A SCC;

(b) The TRSC shall be set back a minimum of 20 feet from all existing and proposed road rights-of-way and five feet from proposed and existing property lines;

(c) Vehicular access to the temporary residential sales coach shall be approved by the county or state; and

(d) Temporary residential sales coaches may be permitted in approved preliminary plats, prior to final plat approval, when the following additional conditions have been met:

- (i) plat construction plans have been approved;
- (ii) the fire marshal has approved the TRSC proposal;
- (iii) proposed lot lines for the subject lot are marked on site; and
- (iv) the site has been inspected for TRSC installation to verify compliance with all applicable regulations and plat conditions, and to assure that ~~((grading))~~ land disturbing activity, drainage, utilities infrastructure, and native growth protection areas are not adversely affected.

(74) Golf Course and Driving Range: In the A-10 zone, artificial lighting of the golf course or driving range shall not be allowed. ~~((Grading))~~ Land disturbing activity shall be limited in order to preserve prime farmland. At least 75 percent of prime farmland on site shall remain undisturbed.

(75) Model Hobby Park: SCC 30.28.060.

(76) Commercial Retail Uses are not allowed in the Light Industrial and Industrial Park zones when said zones are located in the Maltby UGA of the comprehensive plan, and where such properties are, or can be served by railway spur lines.

(77) Studio: Studio uses may require the imposition of special conditions to ensure compatibility with adjacent residential, multiple family, or rural-zoned properties. The hearing examiner may impose such conditions when deemed necessary pursuant to the provisions of chapter 30.42C SCC. The following criteria are provided for hearing examiner consideration when specific circumstances necessitate the imposition of conditions:

- (a) The number of nonresident artists and professionals permitted to use a studio at the same time may be limited to no more than 10 for any lot 200,000 square feet or larger in size, and limited to five for any lot less than 200,000 square feet in size;
- (b) The hours of facility operation may be limited; and
- (c) Landscape buffers may be required to visually screen facility structures or outdoor storage areas when the structures or outdoor storage areas are proposed within 100 feet of adjacent residential, multiple family, and rural-zoned properties. The buffer shall be an effective site obscuring screen consistent with Type A landscaping as

defined in SCC 30.25.017.

(78) The gross floor area of the use shall not exceed 1,000 square feet.

(79) The gross floor area of the use shall not exceed 2,000 square feet.

(80) The gross floor area of the use shall not exceed 4,000 square feet.

(81) The construction contracting use in the Rural Business zone shall be subject to the following requirements:

(a) The use complies with all of the performance standards required by SCC 30.31F.100 and 30.31F.110;

(b) Not more than 1,000 square feet of outdoor storage of materials shall be allowed and shall be screened in accordance with SCC 30.25.024;

(c) In addition to the provisions of SCC 30.22.130(81)(b), not more than five commercial vehicles or construction machines shall be stored outdoors and shall be screened in accordance with SCC 30.25.020 and 30.25.032;

(d) The on-site fueling of vehicles shall be prohibited; and

(e) The storage of inoperable vehicles and hazardous or earth materials shall be prohibited.

(82) Manufacturing, Heavy includes the following uses: Distillation of wood, coal, bones, or the manufacture of their by-products; explosives manufacturing; manufacture of fertilizer; extraction of animal or fish fat or oil; forge, foundry, blast furnace or melting of ore; manufacturing of acid, animal black/black bone, cement or lime, chlorine, creosote, fertilizer, glue or gelatin, potash, pulp; rendering of fat, tallow and lard, rolling or booming mills; tannery; or tar distillation and manufacturing. See SCC 30.91M.028.

(83) "All other forms of manufacture not specifically listed" is a category which uses manufacturing workers, as described under the Dictionary of Occupational Titles, published by the US Department of Labor, to produce, assemble or create products and which the director finds consistent with generally accepted practices and performance standards for the industrial zone where the use is proposed. See SCC 30.91M.024 and 30.91M.026.

(84) Home Occupations: See SCC 30.28.050(3).

(85) A single family dwelling may have only one guesthouse.

(86) Outdoor display or storage of goods and products is prohibited on site.

(87) Wedding Facility:

(a) Such use is permitted only on undeveloped land or in structures which are legally existing on January 1, 2001;

(b) The applicant shall demonstrate that the following criteria are met with respect to the activities related to the use:

(i) compliance with the noise control provisions of chapter 10.01 SCC;

(ii) adequate vehicular site distance and safe turning movements exist at the access to the site consistent with the EDDS as defined in title 13 SCC; and

(iii) adequate sanitation facilities are provided on site pursuant to chapter 30.52A SCC and applicable Snohomish Health District provisions;

(c) Adequate on-site parking shall be provided for the use pursuant to SCC 30.26.035;

(d) A certificate of occupancy shall be obtained pursuant to chapter 30.52A SCC for the use of any existing structure. The certificate of occupancy shall be subject to an

annual inspection and renewal pursuant to SCC 30.53A.060 to ensure building and fire code compliance;

(e) In the A-10 zone, the applicant must demonstrate that the activities related to the use are subordinate to the use of the site for agricultural purposes; and

(f) In the A-10 zone, any ~~((grading or disturbances))~~ land disturbing activity required to support the use shall be limited to preserve prime farmland. At least 90 percent of prime farmland on site shall remain undisturbed.

(88) Public/Institutional Use Designation (P/IU): When applied to land that is (a) included in an Urban Growth Area and (b) designated P/IU on the Snohomish County Future Land Use Map concurrent with or prior to its inclusion in a UGA, the R-7,200, R-8,400 and R-9,600 zones shall allow only the following permitted or conditional uses: churches, and school instructional facilities. All other uses are prohibited within areas that meet criteria (a) and (b), unless the P/IU designation is changed.

(89) Hotel/Motel uses are permitted in the Light Industrial zone when the following criteria are met:

- (a) The Light Industrial zone is located within a municipal airport boundary;
- (b) The municipal airport boundary includes no less than 1000 acres of land zoned light industrial; and
- (c) The hotel/motel use is served by both public water and sewer.

(90) Health and social service facilities regulated under this title do not include secure community transition facilities (SCTFs) proposed pursuant to chapter 71.09 RCW. See SCC 30.91H.095.

(a) Snohomish County is preempted from regulation of SCTFs. In accordance with the requirements of state law the county shall take all reasonable steps permitted by chapter 71.09 RCW to ensure that SCTFs comply with applicable siting criteria of state law. Every effort shall be made by the county through the available state procedures to ensure strict compliance with all relevant public safety concerns, such as emergency response time, minimum distances to be maintained by the SCTF from "risk potential" locations, electronic monitoring of individual residents, household security measures and program staffing.

(b) Nothing herein shall be interpreted as to prohibit or otherwise limit the county from evaluating, commenting on, or proposing public safety measures to the state of Washington in response to a proposed siting of a SCTF in Snohomish County.

(c) Nothing herein shall be interpreted to require or authorize the siting of more beds or facilities in Snohomish County than the county is otherwise required to site for its SCTFs pursuant to the requirements of state law.

(91) Level II health and social service uses are allowed outside the UGA only when the use is not served by public sewer.

(92) The area of the shooting range devoted to retail sales of guns, bows, and related equipment shall not exceed one-third (1/3) of the gross floor area of the shooting range and shall be located within a building or structure.

(93) Farmers Market: See SCC 30.28.036.

(94) Farm Product Processing and Farm Support Business: See SCC 30.28.038.

(95) Farmland Enterprise: See SCC 30.28.037.

(96) Public Events/Assemblies on Farmland: Such event or assembly shall:

- (a) Comply with the requirements of Chapter 6.37 SCC; and
- (b) Not exceed two events per year. No event shall exceed two weeks in duration.
- (97) Bakery, Farm: The gross floor area of the use shall not exceed 1,000 square feet.
- (98) Recreational Facility Not Otherwise Listed in Ag-10 zone: See SCC 30.28.076.
- (99) Farm Stand: See SCC 30.28.039.
- (100) Farm Stand: Allowed as a Permitted Use (P) when sited on land designated riverway commercial farmland, upland commercial farmland or local commercial farmland in the comprehensive plan. Allowed as an Administrative Conditional Use (A) when sited on land not designated riverway commercial farmland, upland commercial farmland or local commercial farmland in the comprehensive plan.
- (101) Farmers Market: Allowed as a Permitted Use (P) when sited on land designated riverway commercial farmland, upland commercial farmland or local commercial farmland in the comprehensive plan. Allowed as an Administrative Conditional Use (A) when sited on land not designated riverway commercial farmland, upland commercial farmland or local commercial farmland in the comprehensive plan.
- (102) Community Facilities for Juveniles in R-5 zones must be located within one mile of an active public transportation route at the time of permitting.
- (103) All community facilities for juveniles shall meet the performance standards set forth in SCC 30.28.025.
- (104) Personal wireless telecommunications service facilities: See chapter 30.28A SCC and landscaping standards in SCC 30.25.025.
- (105) Personal wireless telecommunications service facilities are subject to a building permit pursuant to SCC 30.28A.020 and the development standards set forth in chapter 30.28A SCC and landscaping standards in SCC 30.25.025.
- (106) A building permit only is required for facilities co-locating on existing utility poles, towers, and/or antennas unless otherwise specified in 30.28A SCC.
- (107) RESERVED for future use (R-5 w/MRO - DELETED by Ord. 07-090 effective September 21, 2007)
- (108) Projects submitted under the Urban Centers Demonstration Program (chapter 30.34A SCC) and located within the NB or PCB zones may include the permitted uses in these zones. Uses listed in SCC 30.34A.100(5) and conditional uses in the NB and PCB zones are prohibited in these projects.
- (109) Privately operated off-road vehicle (ORV) use areas shall be allowed by conditional use permit on Forestry and Recreation (F&R) zoned property designated Forest on the comprehensive plan future land use map. These areas shall be identified by an F&R ORV suffix on the zoning map. Privately operated ORV use areas are regulated pursuant to SCC 30.28.080, SCC 30.28.085 and other applicable county codes.
- (110) Recreational Facility Not Otherwise Listed: Playing fields permitted in accordance with chapter 30.33B SCC are allowed as a Permitted Use (P) when sited on designated recreational land as identified on the future land use map in the county's comprehensive plan.
- (111) Recreational Facility Not Otherwise Listed: Playing fields not permitted in

1340 accordance with chapter 30.33B SCC are allowed as an Administrative Conditional Use
1341 (A) when sited on designated recreational land as identified on the future land use map
1342 in the county's comprehensive plan.

1343 (112) Land zoned R-5 and having an RA overlay, depicted as R-5-RA on the official
1344 zoning map, is a Transfer of Development Rights (TDR) receiving area and, consistent
1345 with the comprehensive plan, will be retained in the R-5-RA zone until regulatory
1346 controls are in place which ensure that TDR certificates issued pursuant to SCC
1347 30.35A.050 will be required for development approvals within the receiving area.

1348 (113) Privately operated motocross racetracks are allowed by conditional use
1349 permit, and are regulated pursuant to SCC 30.28.100, SCC 30.28.105, and other
1350 applicable county codes. Motocross racetracks are allowed in the Forestry and
1351 Recreation (F&R) zone only on commercial forest lands.

1352 (114) Mobile Home Park zone:

1353 (a) The Mobile Home Park zone is intended to promote the retention of
1354 mobile home parks as a source of affordable detached single-family and senior housing.
1355 This zone is assigned to certain existing mobile home parks which contain rental pads,
1356 or mobile home condominium units as of April 8, 2009, as opposed to fee simple owned
1357 lots, and as such are more susceptible to future development.

1358 (b) The only use permitted in the Mobile Home Park zone is mobile home
1359 parks, including mobile home park condominiums for which the condominium
1360 declaration has been recorded as of April 8, 2009. No other use is permitted on
1361 property zoned Mobile Home Park. For any mobile home park regulated by a
1362 conditional use permit, an application for vacation of the conditional use permit must be
1363 submitted for approval concurrently with rezone approval.

1364 (115) This use is prohibited in the R-5 zone with the Mineral Resource Overlay
1365 (MRO). Public park is a permitted use on reclaimed portions of mineral excavation sites
1366 with the MRO.

1367 (116) See cottage housing design standard requirements in chapter 30.41G SCC.

1368
1369 Section 5. Snohomish County Code Section 30.28.020, last amended by
1370 Amended Ordinance No. 07-084 on September 5, 2007, is amended to read:

1371
1372 **30.28.020 Bed and breakfast guesthouses and bed and breakfast inns.**

1373 (1) Where bed and breakfast inns and bed and breakfast guesthouses are allowed in
1374 the same zone, only one or the other of these facilities may be located on a subject
1375 property at the same time. An approved bed and breakfast guesthouse may be
1376 expanded to a bed and breakfast inn if a conditional use application for an inn is
1377 obtained and the original permit for the guesthouse, if necessary, is vacated.

1378 (2) Submittal requirements to accompany a conditional use or building permit
1379 application:

1380 (a) Site plan requirements. The site plan shall indicate the location of the off-street
1381 parking, proposed screening, the location and size of the bed and breakfast inn, and
1382 any proposed new construction to the premises, including additions, remodeling, and
1383 outbuildings; and

1384 (b) Architectural requirements. For new construction only, the following shall apply:

(i) the applicant shall submit proposed architectural drawings and renderings of the proposed structure, including exterior elevations, which shall project a residential, rather than a commercial appearance. This architectural documentation shall be in sufficient detail to demonstrate discernible compatibility between the new construction and the existing on-site development and structures; provided further that the applicant also shall document a design which, in scale, bulk, siding, and use of materials, is in keeping with existing buildings on adjacent properties and compatible with the surrounding character and neighborhood in which the guesthouse or inn is located; and

(ii) if an outbuilding or outbuildings are proposed, a ~~((grading))~~ land disturbing activity plan, showing the extent of clearing activity, is required. Site design shall be sensitive to the natural features of the site. The use of manufactured and mobile homes is prohibited;

(c) Screening: The owner/operator shall provide screening with shrubs, trees, fencing, and other suitable materials as necessary to minimize the impacts upon the residential character of the surrounding neighborhood; and

(d) Floor plan: The floor plan shall indicate bathrooms to be used by guests and the location and number of guest rooms.

(3) Minimum performance standards:

(a) Parking requirements shall be in accordance with SCC Table 30.26.030(1). No on-street parking shall be allowed;

(b) Meal service shall be limited to overnight guests of the establishment. Kitchens shall not be allowed in individual guest rooms;

(c) The owner shall operate the facility and reside on the premises;

(d) One sign for business identification and advertising shall be permitted in conjunction with the bed and breakfast establishment in accordance with SCC 30.27.060(4);

(e) The bed and breakfast establishment shall be conducted in such a manner as to give no outward appearance nor manifest any characteristics of a business, except as to the sign as allowed above, that would be incompatible with the ability of the neighboring residents to enjoy peaceful occupancy of their properties;

(f) Guests shall be permitted to stay at the establishment for not more than 10 consecutive days at a time;

(g) The applicant shall submit a letter from the applicable water purveyor and sewer district, if applicable, stating that each of them has the respective capacity to serve the bed and breakfast inn;

(h) The applicant shall comply with all applicable county codes for fire, health, and building requirements and any applicable food service regulations and on-site sewage disposal requirements of the Snohomish Health District. The applicant shall comply with the applicable state regulations pertaining to public water systems, if a water system is to be developed or connected to an existing public water system;

(i) If three or more guest rooms are proposed, the applicant shall also meet state regulations pertaining to transient accommodation;

(j) If six guest rooms are proposed, the applicant shall meet all requirements for a hotel occupancy pursuant to the building code in chapter 30.52A SCC;

(k) If outbuilding(s) are proposed for guest rooms, each outbuilding shall be a

minimum of 130 square feet. The aggregate outbuilding square footage for guest use shall not exceed 850 square feet; and

(l) If an accessory apartment or temporary dwelling exists on the premises, the maximum number of bed and breakfast guest rooms shall be one less than otherwise permitted.

(4) A certificate of occupancy, to ensure compliance with applicable codes, shall be obtained from the department prior to allowing guests at the establishment. The certificate of occupancy shall be subject to an annual inspection and renewal pursuant to SCC 30.53A.060.

(5) In the Forestry (F) zone, bed and breakfast establishments shall not be permitted if the comprehensive plan designates the property as "Commercial Forest." In the F zone, up to three outbuildings for guest use may be permitted, provided that the aggregate outbuilding square footage does not exceed 850 square feet.

Section 6. Snohomish County Code Section 30.28.037, adopted by Amended Ordinance No. 04-074 on July 28, 2004, is amended to read:

30.28.037 Farmland enterprises

(1) Farmland enterprises shall be allowed only on land:

(a) zoned "Agriculture-10 acre;" or

(b) designated pursuant to the comprehensive plan as riverway commercial farmland or upland commercial farmland;

(2) Farmland enterprises are permitted only in structures that were legally existing on January 1, 2003, except that additional buildings may be allowed if all of the buildings on the farm site are in use;

(3) Applicants shall submit a site plan and description of the proposed farmland enterprise to permit approval authorities to determine whether or not additional conditions may be required to avoid impacts that are unduly or unreasonably offensive or injurious to properties, residents or improvements in the vicinity. The site plan shall delineate existing structures in a farm building cluster needed to support the activity or business, and include areas proposed for parking, access, storage, signs, lighting and screening as applicable;

(4) Farmland enterprises shall be confined to the portion of the farm site that includes an existing farm building cluster. The farm building cluster shall be designated on the site plan with an accurate legal description. Where the farm site is less than 10 acres in size, the farm building cluster may be increased up to 10 percent of the farm site to serve the farmland enterprise. Where the farm site is 10 acres or more, the farm building cluster may be increased up to 1 acre in size to serve the farmland enterprise;

(5) The applicant must demonstrate that the activities conducted as a part of the farmland enterprise, including the hours of operation, will be clearly incidental and subordinate to, and will have no significant adverse impact on surrounding agricultural uses and activities or on nearby or adjacent residential or institutional uses, or the rural character of the surrounding area;

(6) Farmland enterprises shall meet the off-street parking requirements of Chapter

1473 30.26 SCC, except that paved parking facilities shall not be required;

1474 (7) Improvements associated with the farmland enterprise for access, parking, or
1475 drainage, as well as any other physical changes, shall not remove prime farmland soils
1476 from production or potential production. An exception shall exist for new buildings or
1477 infrastructures allowed when all existing buildings are in use for farm-related purposes,
1478 provided the new buildings or infrastructures support long-term farm viability and are
1479 consistent with the rural character of the surrounding area, and meet the expansion
1480 limitations set forth in subsection (4), above;

1481 (8) No sewer lines shall be extended to service farmland enterprises;

1482 (9) Any ~~((grading or disturbances))~~ land disturbing activity required to support
1483 farmland enterprises shall not unduly impact prime farmland soils or existing natural
1484 vegetation;

1485 (10) The farmland enterprise shall not displace any existing tree cover or vegetation
1486 that serves as a buffer between adjoining properties, tilled or grazed areas, adjacent
1487 wetlands, or adjacent water bodies;

1488 (11) Structures shall meet all provisions of federal, state and local statute and laws,
1489 including provisions to assure water quality and flood protection.

1490
1491 Section 7. Snohomish County Code Section 30.28.060, adopted by Amended
1492 Ordinance No. 02-064 on December 9, 2002, is amended to read:

1493
1494 **30.28.060 Model hobby park.**

1495
1496 (1) An application for a model hobby park shall include the following:

1497 (a) A plan for the model hobby park showing the location of all property lines,
1498 ground circulation and parking areas, runways, tracks, pits, overflight areas, and other
1499 improved or active use areas. The plan shall also depict a non-use area at least 100
1500 feet wide adjacent to and beyond all active use areas, including overflight areas;

1501 (b) Operational information which demonstrates that the model hobby park will be
1502 operated in conformance with all applicable provisions of county code and state law and
1503 shall avoid impacts which are unduly or unreasonably offensive or injurious to
1504 properties, residents, or improvements in the vicinity; and

1505 (c) Documentation that the improved or active use areas and the overflight areas, if
1506 any, are authorized for such use, if not fully under the ownership of the applicant.

1507 (2) Runway, track, and pit surfaces shall be limited to natural grass or removable
1508 composite matting in the A-10 zone.

1509 (3) Maximum allowable runway size shall be 600 feet by 100 feet, not including buffer
1510 overrun areas.

1511 (4) The improved area, including parking, pit, track, and runway areas but excluding
1512 any overflight area, shall be limited to five acres. In the A-10 zone, parking stalls and
1513 aisles shall not be paved.

1514 (5) Minimum size of the site, including any overflight area, shall be 20 acres.

1515 (6) Any site improvements and structures in addition to the runways, tracks, and pits
1516 shall be incidental to the use of the site as a model hobby park.

1517 (7) Operation of models shall be prohibited within identified non-use areas.

RELATING TO REGULATION OF LAND DISTURBING ACTIVITIES;
REPEALING CHAPTER 30.63B SCC; ADOPTING A NEW CHAPTER
30.63B SCC; AMENDING SECTIONS OF TITLE 30 SCC;
AND AMENDING ORDINANCE NO. 10-014

(8) In the A-10 zone, ((grading)) land disturbing activity shall be limited in order to preserve prime farmland. At least 75 percent of prime farmland on site shall remain undisturbed.

(9) A model hobby park permit application shall be processed in accordance with the provisions of chapter 30.42C SCC.

Section 8, Snohomish County Code Section 30.31D.160, last amended by Amended Ordinance No. 05-083 on December 21, 2005, is amended to read:

30.31D.160 ((Grading)) Land disturbing activity, reclamation and topsoil retention.

(1) Where applicable pursuant to SCC 30.63B.020, excavation and processing of minerals, and other mining-related development activities, including but not limited to road construction, drainage facilities and detention ponds, and reclamation of mining sites not subject to chapter 78.44 RCW, shall be in accordance with chapter 30.63B SCC.

(2) Topsoil that exists on a site shall be retained on the site in sufficient quantities to ensure an adequate supply for reclamation purposes for excavations not regulated by the state pursuant to chapter 78.44 RCW.

Section 9, Snohomish County Code Section 30.31F.200, last amended by Amended Ordinance No. 06-061 on August 1, 2007, is amended to read:

30.31F.200 Procedural requirements.

(1) An official site plan shall not be required at the time of rezone application for the RB and RI zones. The performance standards of SCC 30.31F.100, 30.31F.110, and 30.31F.130, and other applicable provisions of this chapter shall be applied to a site development plan otherwise required at the time of initial development in the RB and RI zones.

(2) For the RB zone, information shall be submitted at the time of application for the RB rezone in a form acceptable to the director of the department, and in compliance with SCC 30.70.030, that identifies the approximate location and amount of net usable area designated on the site. The submittal shall also include the approximate location and type of critical areas and their probable required buffers pursuant to chapters 30.62, 30.62A and 30.62B SCC, detention/retention areas, biofiltration swales, public rights-of-way, and private roads. This information is to be used at the time of zoning approval to determine whether an adequate development and building area exists on the site, and whether the five-acre net usable area limitation of SCC 30.31F.020(2)(d) has been met.

(3) An official site plan shall be required at the time of rezone application for the RFS zone. The plan shall be reviewed and approved in accordance with the provisions governing official site plan approval for the Freeway Service (FS) zone as provided in SCC 30.31B.200. The performance standards of SCC 30.31F.100 and 30.31F.120, and other provisions of this title applicable to the RFS zone shall be applied at the time of official site plan review and approval. Modifications of a RFS official site plan are

permitted in accordance with the provisions of 30.31B.300.

(4) An official site plan shall not be required at the time of rezone application for development in the CRC zone. The performance standards of SCC 30.31F.100 and 30.31F.140, and other applicable provisions of this title, shall be approved to the site development plan required at the time of building or ~~((grading))~~ land disturbing activity permit application submittal.

Section 10. Snohomish County Code Section 30.41C.050, adopted by Amended Ordinance No. 08-087 on February 4, 2009, is amended to read:

30.41C.050 Site planning principles.

All rural cluster subdivisions and short subdivisions must comply with the following site planning principles to the greatest extent feasible:

(1) The post-development view of the site from the roads should be as similar to the pre-development view as is practical.

(2) Avoid placing lots on ridgelines and other prominent topographic features to blend new development into the existing rural landscape.

(3) Landscaping, using both retention of existing vegetation and new plantings, shall soften and minimize the view of new development and preserve scenic views.

(4) Retain 50 percent of the overall tree canopy on the predevelopment site whenever feasible.

(5) Incorporate existing landscape features and structures into the site design to maintain rural character and the familiar landscape.

(6) Configure the clusters and lots to maintain the natural features of the site and minimize topographic alteration and clearing of existing vegetation.

(7) Avoid uniformity of cluster siting and building sites to provide visual diversity and maintain the dominance of natural features and open space in the rural area.

(8) Provide connectivity between open space tracts and natural habitat and wildlife corridors with adjacent properties whenever practical.

(9) Use low impact development techniques when they are appropriate to the site conditions.

(10) ~~((Phase-clearing and grading))~~ Phase land disturbing activity site plans in accordance with any construction phasing.

Section 11. Snohomish County Code Section 30.44.605, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is amended to read:

30.44.605 "Appurtenance" means necessarily connected to the use and enjoyment of a single family residence and is located landward of the perimeter of a marsh, bog, swamp and landward of the ordinary high water mark. Normal appurtenances include a garage; deck; driveway; utilities solely servicing the subject single family residence; fences; and ~~((grading))~~ land disturbing activity which does not exceed 250 cubic yards (except to construct a conventional drainfield).

Section 12. Snohomish County Code Section 30.61.112, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is amended to read:

30.61.112 Environmental review of building or ~~((grading))~~ land disturbing activity permit subsequent to environmental review of land use proposal.

Environmental review of a land use proposal should include all environmental impacts of the proposal known at the time of review, including environmental impacts for subsequent permits required for the same proposal. The applicable department must adopt the environmental documents used in the environmental review for the land use proposal for environmental review of subsequent permits required for the same proposal unchanged unless:

(1) ~~((another))~~ Another agency with jurisdiction is dissatisfied with the environmental documents, in which case it must assume lead agency status;

(2) ~~((there))~~ There are substantial changes to the proposal such that the proposal is likely to have significant adverse environmental impacts that were not previously considered; or

(3) ~~((there))~~ There is new information indicating the proposal's probable significant adverse environmental impacts that was not previously considered in the environmental review for the land use proposal.

Section 13. Snohomish County Code Section 30.61.300, last amended by Ordinance No. 03-068 on July 9, 2003, is amended to read:

30.61.300 SEPA appeals - general.

(1) An aggrieved party of record may file an appeal of a DNS, MDNS, DS, or the adequacy of a final EIS as set forth in this section and SCC 30.71.050.

(2) An appeal made pursuant to this section is processed as an appeal of a Type 1 decision in accordance with chapter 30.71 SCC, except as otherwise provided in this section.

(3) An appeal of a DNS, MDNS, or EIS adequacy associated with an underlying Type 1 decision shall be combined with appeal of the underlying Type 1 decision and considered together at a combined appeal hearing, except as provided in SCC 30.61.300(10).

(4) An appeal of a DNS, MDNS, or EIS adequacy associated with an underlying Type 2 application shall be considered at an appeal hearing that is combined with the open record hearing for the Type 2 application, except as provided in SCC 30.61.300(10).

(5) An appeal of a DNS, MDNS, or EIS adequacy associated with a commercial building or ~~((grading))~~ land disturbing activity permit not related to single family residential development shall be processed as an appeal of a Type 1 decision.

(6) An appeal of a DS associated with a project permit application shall be adjudicated prior to a decision on the project permit, and for a Type 2 application, prior to convening an open record hearing for the Type 2 application.

(7) There is no administrative appeal of a DNS, MDNS, DS, or EIS adequacy

associated with a Type 3 or other legislative decision.

(8) Administrative appeals shall be limited to one review of a threshold determination and to one review of the adequacy of a final EIS. An appeal shall not be allowed following remand from an appeal under this chapter, except that an appeal challenging the adequacy of a final EIS shall be allowed if the adequacy of a final EIS was not the subject of the prior appeal.

(9) Appeals of intermediate steps under this chapter, including but not limited to, lead agency determination, scoping, and draft EIS adequacy shall not be allowed.

(10) Appeal of a DNS, MDNS, or EIS adequacy related to a Type 1 or Type 2 shoreline substantial development, shoreline variance and shoreline conditional use permit shall be submitted to the state shorelines hearings board together with appeal of the underlying permit.

(11) An appeal of the conditioning or denial of a proposal pursuant to RCW 43.21C.060 shall not be made to the county council as a separate appeal under this chapter but may be considered as part of an underlying permit appeal filed pursuant to SCC 30.72.070.

Section 14. Snohomish County Code Chapter 30.63B, last amended by Ordinance No. 10-014 on April 7, 2010, is repealed.

Section 15. A new chapter of Snohomish County Code is adopted to read:

**CHAPTER 30.63B
LAND DISTURBING ACTIVITY**

30.63B.010 Purpose and objectives.

30.63B.020 Applicability.

30.63B.030 Land disturbing activity permits required.

30.63B.040 Land disturbing activity permit fees.

30.63B.050 Permit approval criteria.

30.63B.060 Authority to require more stringent standards and requirements and to impose mitigation.

30.63B.070 Land disturbing activity permit exemptions.

30.63B.090 Compliance with other laws.

30.63B.100 Projects performed under the authority of the director of public works or county engineer.

30.63B.110 Standards for cuts and excavations.

30.63B.120 Standards for fills and embankments.

30.63B.130 Standard setbacks for cuts and fills.

30.63B.140 Standards for drainage and terracing.

30.63B.150 Standards for soil erosion control.

30.63B.160 Standards for tree and vegetation retention and replacement.

30.63B.170 Standards for reclamation of quarry or mining sites.

30.63B.180 Land disturbing activity permit submittal requirements.

30.63B.190 Land disturbing activity site plan and reports.

RELATING TO REGULATION OF LAND DISTURBING ACTIVITIES;
REPEALING CHAPTER 30.63B SCC; ADOPTING A NEW CHAPTER
30.63B SCC; AMENDING SECTIONS OF TITLE 30 SCC;
AND AMENDING ORDINANCE NO. 10-014

- 1692 30.63B.200 Land disturbing activities and projects requiring engineered construction
1693 plans.
- 1694 30.63B.210 Reports.
- 1695 30.63B.220 Geotechnical engineering report.
- 1696 30.63B.230 Soils engineering report.
- 1697 30.63B.240 Engineering geology report.
- 1698 30.63B.250 Liquefaction report.
- 1699 30.63B.270 Time limitation of application.
- 1700 30.63B.280 Permit expiration and renewal.
- 1701 30.63B.290 Requests for modification or waiver of requirements.
- 1702 30.63B.300 Person responsible.
- 1703 30.63B.310 Inspections – general.
- 1704 30.63B.320 Site inspection for clearing limits.
- 1705 30.63B.330 Pre-construction meeting and inspection prior to land disturbing activity.
- 1706 30.63B.340 Inspections after permit issuance.
- 1707 30.63B.350 Inspection schedule after permit issuance.
- 1708 30.63B.360 Final reports and other documents required at the completion of work.
- 1709 30.63B.370 Bonds or performance security.
- 1710 30.63B.380 Emergency land disturbing activities and required permits.
- 1711 30.63B.390 Hazards.

1712
1713 **30.63B.010 Purpose and objectives.**
1714

1715 (1) The purpose of this chapter is to regulate land disturbing activities as defined in
1716 SCC 30.91L.025.

1717 (2) Specific objectives of this chapter are:

1718 (a) To promote sound, practical, and economical development practices and
1719 construction activities that prevent or minimize adverse impacts to adjoining properties
1720 and to waters of the state within Snohomish County;

1721 (b) To prevent or minimize degradation of water quality to protect human health,
1722 recreational opportunities and fish and wildlife habitat;

1723 (c) To control soil movement on land that is subject to new development or
1724 redevelopment;

1725 (d) To maintain stable earth during land disturbing activity for structures and to
1726 maintain stable earth foundations for structures;

1727 (e) To protect public safety by reducing slope instability and the potential for
1728 landslides or erosion; and

1729 (f) To maintain the safety of county roads and rights-of-way.
1730

1731 **30.63B.020 Applicability.**
1732

1733 This chapter applies to all land disturbing activity as defined in SCC 30.91L.025.
1734
1735

30.63B.030 Land disturbing activity permits required.

(1) A land disturbing activity permit is required for all land disturbing activity and must be obtained prior to the commencement of any land disturbing activity unless the activity is exempted in SCC 30.63B.070, or the activity is conducted as part of a project administered by the department of public works or the county engineer under the requirements of SCC 30.63B.100(1)(b) and (2).

(2) If a person or entity determines that a proposed land disturbing activity is exempt from obtaining a land disturbing activity permit under SCC 30.63B.070, the person or entity may consult with the department to confirm the determination or to ensure compliance with other applicable requirements of title 30 SCC. A consultation may be requested by following the pre-application process described in SCC 30.70.020. The appropriate consultation fee established in SCC 30.86.510(2)(c) shall be paid at the time of the request.

30.63B.040 Land disturbing activity permit fees.

(1) Land disturbing activity permit fees shall be paid at the time of application pursuant to SCC 30.86.510.

(2) If utility facilities and any related underground drainage systems must be relocated as a direct result of a project performed under the authority of the director of the department of public works or the county engineer and such relocation work is included in that department's plans, the relocation of the utility facilities and any related underground drainage systems shall be exempt from the land disturbing activity fee requirements of SCC 30.86.510.

30.63B.050 Permit approval criteria.

- (1) A land disturbing activity permit shall only be issued after:
- (a) The project complies with the requirements of this chapter;
 - (b) Stormwater site plan approvals and all other permits and approvals required by the county for site development have been obtained;
 - (c) Written evidence has been submitted that approvals required from other jurisdictions and agencies will be issued;
 - (d) Clearing limits have been marked on the land disturbing activity site plan;
 - (e) A land disturbing activity site plan and specifications have been approved;
 - (f) Bonding and insurance securities have been accepted by the department pursuant to chapter 30.63A SCC, when applicable;
 - (g) Environmental review under chapter 30.61 SCC has been completed, if applicable; and
 - (h) The project complies with all other applicable requirements of title 30 SCC.
- (2) A land disturbing activity permit shall not be issued for land disturbing activity in shorelines until all required permits and approvals have been granted pursuant to chapter 30.44 SCC.

30.63B.060 Authority to require more stringent standards and requirements and to impose mitigation.

(1) Before and after the issuance of a land disturbing activity permit, the director may impose additional or more stringent standards and requirements than those specified in this chapter or impose mitigation requirements to the extent necessary to:

- (a) Protect the public health, safety and welfare; or
- (b) Mitigate any significant adverse impact from the land disturbing activity.

(2) The director's decision to require additional or more stringent standards and requirements or mitigation requirements under SCC 30.63B.060(1) shall be in writing and shall include findings of fact and conclusions that demonstrate how the decision meets the following criteria:

- (a) The decision eliminates or substantially reduces a specific public health, safety and welfare concern or a significant adverse impact;
- (b) The decision is based on sound engineering practices;
- (c) The decision will not adversely impact off-site properties; and
- (d) The decision is the least possible change from the requirements of this chapter.

30.63B.070 Land disturbing activity permit exemptions.

A land disturbing activity permit is not required for activities exempted in this section. Exemption from obtaining a land disturbing activity permit is not an exemption from compliance with this chapter, nor from any other applicable provision in title 30 SCC. Land disturbing activity exempted in this section shall comply with SCC 30.63A.445 through 30.63A.510, unless specifically exempted from those provisions by SCC 30.63A.200.

(1) Land disturbing activities are exempt from obtaining a land disturbing activity permit when:

(a) The land disturbing activity occurs outside all critical areas, together with the buffers of and setbacks from these critical areas, except that such activities may occur within floodplains and aquifer recharge areas of low or moderate sensitivity to groundwater contamination;

(b) The land disturbing activity is set back at least two feet from all property lines;

(c) The land disturbing activity does not obstruct or alter an existing drainage course or pattern;

(d) The land disturbing activity disturbs less than 7,000 square feet of land;

(e) The land disturbing activity creates or replaces less than 2,000 square feet of new, replaced, or new plus replaced impervious surface;

(f) The property on which the land disturbing activity will occur collects or concentrates stormwater from 5,000 square feet or less of drainage area; and

(g) The amount of land disturbing activity is consistent with one of the following thresholds:

(i) 100 cubic yards or less of grading on a site in any 18 consecutive months (except fills and associated compaction intended to support structures or private roads);

(ii) 500 cubic yards or less of excavation in any 18 consecutive months for a

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basement foundation, or for improvements to a single-family dwelling and/or accessory structures, provided that excess excavated material shall be disposed of at a permitted site approved by the director and provided further that the activity shall only commence after a building permit is secured by the applicant; or

(iii) 500 cubic yards or less of grading in any 18 consecutive months for construction of underground drainage systems, provided that the construction shall only commence after a right-of-way use, utility, single-family or commercial building permit is obtained by the applicant.

(2) The following land disturbing activities are exempt from obtaining a land disturbing activity permit when the activity is at least two feet from all property boundary lines. For this exemption to apply, development activities must occur outside all critical areas, together with the buffers of and setbacks from these critical areas, except that such activities may occur within floodplains and aquifer recharge areas of low or moderate sensitivity to groundwater contamination:

(a) Operation of a solid waste disposal site subject to a solid waste permit pursuant to chapter 70.95 RCW, except that expansion, relocation, closure, or capping of a solid waste disposal site is not exempt;

(b) Mineral resource operations including commercial mining, quarrying, excavating, or processing of rock, sand, gravel, aggregate, or clay and associated stockpiling when such operations are authorized by a conditional use permit or an administrative conditional use permit for expansion of a nonconforming use as required by chapters 30.22, 30.42C or 30.43A SCC, except that the following are not exempt:

(i) Reclamation pursuant to SCC 30.63B.170;

(ii) An operation which the director determines may destabilize or undermine any adjacent or contiguous property; and

(iii) An operation which the director determines may result in an adverse downstream drainage impact;

(c) Site investigative work necessary for land use application submittals pursuant to title 30 SCC, such as surveys, soil borings, test pits, percolation tests, non-mechanical survey monument placement, data collection by non-mechanical means and other related activities, if performed in accordance with state-approved sampling protocols or sections 7 and 10 of the Federal Endangered Species Act (ESA) (16 U.S.C. §§ 1536 and 1539), provided that the land disturbing activity is no greater than is necessary to accomplish the site investigative work;

(d) Drilling or excavation of a well for a single family dwelling;

(e) Digging, excavating, or filling cemetery graves; and

(f) Repair or installation of underground or overhead utility facilities that replace ground surfaces with in-kind materials or materials with similar runoff characteristics.

(3) The following land disturbing activities are exempt from obtaining a land disturbing activity permit:

(a) Repair or installation of underground or overhead facilities performed by a utility that only replaces ground surfaces with in-kind materials or materials with similar runoff characteristics. For this exemption to apply, development activities must occur outside all critical areas, together with the buffers of and setbacks from these critical areas,

except that such activities may occur within floodplains and aquifer recharge areas of low or moderate sensitivity to groundwater contamination;

(b) Facility maintenance and repairs performed by a utility that that replace ground surfaces with in-kind materials or materials with similar runoff characteristics, that do not add impervious surface, and that do not adversely impact any critical areas, critical area buffers or upstream or downstream properties;

(c) Remodeling or tenant improvements that do not meet the definitions of new development or redevelopment;

(d) Forest practice Classes I, II, III and Class IV special non-conversion forest practices regulated by title 222 WAC;

(e) Oil and gas field activities or operations, including the construction of drilling sites, waste management pits, access roads, and transportation and treatment infrastructure (such as pipelines, natural gas treatment plants, natural gas pipeline compressor stations and crude oil pumping stations); and

(f) The following road maintenance activities: pothole and square cut patching, overlaying existing asphalt or concrete pavement with asphalt or concrete without expanding the coverage area, shoulder grading, reshaping and/or re-grading drainage systems, crack sealing, resurfacing with in-kind material without expanding the road prism and vegetation maintenance.

(4) The following commercial agricultural activities that are conducted on land designated riverway commercial farmland, upland commercial farmland, or local commercial farmland by the comprehensive plan and future land use map (FLUM) are exempt from obtaining a land disturbing activity permit:

(a) Tilling, soil preparation, fallow rotation, planting, harvesting and other commercial agricultural activities involving working the land. For this exemption to apply, development activities must occur outside all critical areas, together with the buffers of and setbacks from these critical areas, except that such activities may occur within floodplains and aquifer recharge areas of low or moderate sensitivity to groundwater contamination;

(b) Maintenance or repair of existing commercial agricultural facilities including drainage facilities, ponds, animal stock flood sanctuaries, animal waste management facilities, agricultural buildings, fences, roads and bridges; and

(c) New construction of drainage ditches (including enlargement of existing drainage ditches) that requires 500 cubic yards or less of grading. Such ditches shall not adversely impact critical areas or upstream or downstream properties, be located within 100 feet of streams, wetlands, lakes, marine waters, fish and wildlife habitat conservation areas, and erosion hazard areas, or contain water on-site for retention, infiltration or evaporation. For this exemption to apply, development activities must occur outside all critical areas, together with the buffers of and setbacks from these critical areas, except that such activities may occur within floodplains and aquifer recharge areas of low or moderate sensitivity to groundwater contamination.

(5) Agricultural activities defined in chapter 30.32B SCC, SCC 30.91A.090 or 30.62.015 are exempt from obtaining a land disturbing activity permit, provided that:

(a) The activity occurs on property on which agriculture is a legal use of the property;

(b) The activity requires no other permit or project approval from Snohomish County except for a flood hazard permit under chapter 30.43 SCC; and

(c) The activity does not occur in a wetland as defined by state law, unless:

(i) The activity is exempt from wetlands regulations under section 404(f) of the federal Clean Water Act;

(ii) The activity occurs on designated agricultural or rural lands and the wetland area is no greater than 5,000 square feet of non-riparian Category 2 or 3 wetlands or 10,000 square feet of non-riparian Category 4 wetlands, pursuant to chapter 30.62 SCC; or

(iii) The activity occurs in a UGA or on designated forest lands, and the wetland is an area of no greater than 5,000 square feet of non-riparian wetland Categories II or III or 10,000 square feet of non-riparian Category IV wetlands, pursuant to SCC 30.62A.230(2).

30.63B.090 Compliance with other laws.

Approvals of construction and land disturbing activity site plans and the issuance of a land disturbing activity permit under this chapter, and any rules, policies and procedures promulgated hereunder, do not constitute waivers of the requirements contained in any other laws or regulations. Compliance with all applicable federal, state, and local laws and regulations is required.

30.63B.100 Projects performed under authority of the director of public works or county engineer.

(1) For projects performed under the authority of the director of the department of public works or the county engineer that require a land disturbing activity permit, the director of the department of public works or the county engineer may:

(a) Submit a land disturbing activity permit application and the applicable fee payment to the department of planning and development services pursuant to SCC 30.63B.030 and 30.63B.040; or

(b) The director of the department of public works may adopt a rule, in accordance with the rulemaking provisions in chapter 30.82 SCC, that is intended to ensure compliance with the substantive requirements of chapters 30.63A, 30.63B, and 30.63C SCC. The rule may be administered either by the director of the department of public works or the county engineer. The rule shall:

(i) Establish administrative procedures and tools under which the department of public works will achieve and document compliance with the substantive requirements of chapters 30.63A, 30.63B and 30.63C SCC and other applicable provisions of title 30 SCC during project planning, design, environmental review and throughout construction administration and acceptance;

(ii) Require identical or functional equivalents of plans and reports required by chapters 30.63A, 30.63B and 30.63C SCC or other applicable chapters of title 30 SCC; and

(iii) Implement the provisions of SCC 30.63A.830 through 30.63A.842 without amendment, except that such provisions may be administered by either the director of the department of public works or the county engineer.

(2) If the director of the department of public works or the county engineer chooses to administer any project according to the rule described in SCC 30.63B.100(1)(b) and consultation with the department of planning and development services is desired to ensure compliance with title 30 SCC, the department of public works shall follow the pre-application process described in SCC 30.70.020 to arrange the consultation. The department of public works shall pay the appropriate consultation fee established in SCC 30.86.510(2)(c).

30.63B.110 Standards for cuts and excavations.

Cuts or excavations shall conform to the provisions of this section, unless the department approves the alternative recommendations contained in a soils engineering report or engineering geology report required under SCC 30.63B.230 or 30.63B.240. A cut that is less than four feet in height shall not be required to meet the requirements of this section.

(1) The slope of cut surfaces shall be no steeper than is safe for the intended use, and shall be no steeper than one unit vertical to two units horizontal (50 percent slope), unless the applicant furnishes a soils engineering report or an engineering geology report, or both, stating that the site has been investigated and determining that a cut at a steeper slope will be stable and will not create a hazard to public or private property.

(2) Slopes shall be stabilized after being cut or excavated. The soils engineering report or the engineering geology report, or both, shall verify that the slopes shall not be subject to on-going erosion that would adversely impact public safety or public or private property. Erosion hazard areas and landslide hazard areas, as defined in SCC 30.62.015 or subtitle 30.9 SCC, shall be described and shown in the soils engineering report.

(3) Cuts or excavations within streams, wetlands, lakes, marine waters, fish and wildlife habitat conservation areas, erosion hazard areas, landslide hazard areas or the buffers of or setbacks from any of these areas shall not occur unless a critical area study is prepared and mitigation is provided consistent with the applicable requirements of chapters 30.62, 30.62A and 30.62B SCC.

30.63B.120 Standards for fills and embankments.

Fills shall conform to the provisions of this section, unless the department approves the recommendations contained in a soils engineering report required under SCC 30.63A.230. The requirements of this section shall not apply to fills that are less than four feet in height and which are not intended to support structures.

(1) Fill slopes shall not be constructed on natural slopes steeper than one unit vertical to two units horizontal (50 percent slope). The slope of fill surfaces shall be no steeper than is safe for the intended use. The slope shall be protected pursuant to SCC 30.63A.480. Fill slopes steeper than 33 percent shall require a geotechnical

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engineering report pursuant to chapter 30.62 or 30.62B SCC, as applicable.

(2) Fill material.

(a) Deleterious amounts of organic material shall not be permitted in fills. Except as permitted by the department under SCC 30.63B.120(2)(b), no rock or similar irreducible material with a maximum dimension greater than 12 inches shall be buried or placed in fills.

(b) The department may allow rock greater than 12 inches in diameter to be buried or placed in fills when the soils engineer properly devises a method of placement, inspects the site during the placement of the rock, and approves the fill stability. The following conditions shall also apply:

(i) Prior to issuance of the land disturbing activity permit, potential rock disposal areas shall be delineated on the land disturbing activity site plan;

(ii) Rock greater than 12 inches in diameter shall be located no less than ten feet or more below the finish grade, measured vertically; and

(iii) Rocks or other similar irreducible material shall be placed so as to assure filling of all voids with well-graded soil.

(3) All fills intended to support structures or private roads shall be compacted to a minimum of 90 percent of maximum density. All fills within public rights-of-way, private tracts and easements shall be compacted in accordance with the EDDS. All fills in the floodplain shall be designed to resist or prevent scour and erosion from floodwaters. Fills in the floodplain shall be regulated pursuant to chapters 30.43C and 30.65 SCC. If fill is allowed in the floodplain, a zero-level rise analysis shall be performed and provided in the land disturbing activity permit application.

(4) Fill shall not be placed in streams, wetlands, lakes, marine waters, fish and wildlife habitat conservation areas, erosion hazard areas, landslide hazard areas or in the buffers of or setbacks from any of these areas unless a critical area study is prepared and mitigation is provided consistent with the applicable requirements of chapters 30.62, 30.62A and 30.62B SCC.

30.63B.130 Standard setbacks for cuts and fills.

(1) Before performing any land disturbing activity subject to a land disturbing activity permit, the applicant shall mark on the site and show on the land disturbing activity site plan the limits of all proposed land disturbing activities, trees and native vegetation to be retained, and drainage courses, so that setbacks can be determined. Cut and fill slopes shall be set back from site boundaries in accordance with this section. Setback dimensions shall be horizontal distances measured perpendicular to the site boundary.

(2) The top of cut slopes shall not be nearer to a site boundary line than 20 percent of the vertical height of cut, and in no event nearer than two feet from the boundary line. The setback shall be increased when necessary to stabilize any required subsurface drainage or surcharge, as determined by the geotechnical engineering report, soils engineering report or engineering geology report pursuant to SCC 30.63B.220 through 30.63B.240.

(3) The toe of fill slopes shall not be made nearer to the site boundary line than 50

percent of the height of the slope, but in no event nearer than two feet from the boundary line.

(4) Cuts and fills shall be set back a minimum of two feet from the property line unless the following is provided:

(a) A construction easement, written agreement or letter of authorization from all of the affected property owners allowing a setback of less than two feet; or

(b) A survey by a land surveyor licensed in Washington State that ensures compliance with construction and land disturbing activity site plans prior to construction of cut, fill, rockery, or a retaining wall proposed within six inches of a property line.

30.63B.140 Standards for drainage and terracing.

(1) Cut or fill slopes steeper than one unit vertical to three units horizontal (33 percent slope) shall be designed to comply with the following criteria:

(a) Terraces at least six feet in width shall be established at not more than 30-foot vertical intervals on all cut or fill slopes to control surface drainage and debris, except that where only one terrace is required, it shall be at mid-height of the slope. For cut or fill slopes greater than 60 feet and up to 120 feet in vertical height, one terrace at approximately mid-height shall be 12 feet in width. Terrace widths and spacing for cut and fill slopes greater than 120 feet in height shall be designed by a civil engineer. Suitable access shall be provided to permit proper cleaning and maintenance of drainage facilities, if any;

(b) Swales or ditches on terraces shall have a minimum gradient of 0.5 percent;

(c) Cut or fill slopes shall be provided with subsurface drainage as necessary to ensure slope stability and proper conveyance of groundwater;

(d) All drainage facilities shall be designed to carry waters to the nearest practicable drainage way in a safe manner and shall comply with chapter 30.63A SCC. Outfalls or points of discharge shall be designed using BMPs and construction procedures that prevent or minimize erosion pursuant to volumes II and III of the Drainage Manual;

(e) Building pads located on cuts or fills shall have a drainage gradient of two percent toward approved drainage facilities except that the gradient from a building pad may be one percent if all of the following conditions exist throughout the project site:

(i) No proposed fills are greater than ten feet deep;

(ii) No proposed finish cut or fill slope faces have a vertical height more than ten feet; and

(iii) No existing slope faces that are steeper than one unit vertical to ten units horizontal (ten percent slope) have a vertical height more than ten feet; and

(f) Paved interceptor drains shall be installed if the drainage flow path is greater than 40 feet above the cut slope. Interceptor drains, if required, shall be paved with a minimum of three inches of concrete or gunite and may be reinforced. They shall have a minimum depth of 12 inches and a minimum paved width of 30 inches, measured horizontally across the drain.

(2) The department may approve an alternative slope or retaining structure when it is determined that the documentation on the construction plans and land disturbing

activity site plan demonstrates that the alternative slope or retaining structure will be stable and will not adversely impact downstream properties.

30.63B.150 Standards for soil erosion control.

All land disturbing activity shall provide soil erosion control pursuant to this section and chapter 30.63A SCC.

(1) The faces of cut and fill slopes shall be prepared and maintained to control erosion. Soil erosion control may consist of effective planting, hydro-seeding or mulching. Soil erosion control protection for the slopes shall be installed as soon as practicable in accordance with SCC 30.63A.480 and prior to calling the department to request final land disturbing activity inspection. Where cut slopes are not subject to erosion due to the erosion-resistant character of the materials, such protective measures may not be required, as determined by the department.

(2) Where necessary to provide erosion protection to adjoining properties, check dams, cribbing, riprap, silt fences or other devices and methods shall be employed.

30.63B.160 Standards for tree and vegetation retention and replacement.

Land disturbing activity site plans and SWPPPs required pursuant to chapter 30.63A SCC shall show all on-site tree and vegetation retention areas required by any applicable provisions of title 30 SCC. Tree replacement areas shall also be shown on the land disturbing activity plan, when applicable.

30.63B.170 Standards for reclamation of quarry or mining sites.

Upon completion or abandonment of a quarry or mining operation, the owner or operator of sites not regulated by the Washington State Department of Natural Resources pursuant to chapter 78.44 RCW shall obtain a land disturbing activity permit for reclamation, which shall include an approved full stormwater site plan pursuant to chapter 30.63A SCC and comply with the following reclamation standards:

(1) Grading or backfilling shall be done with clean earth material (i.e., non-noxious, non-flammable, non-combustible and non-putrescible solids);

(2) Graded or backfilled areas, except for roads, shall be sodded or surfaced with soil of a quality at least equal to the topsoil of the immediately surrounding land areas, and to a depth equal to that of the topsoil of immediately surrounding land areas, provided that all sod and soil shall be at least eight inches in depth consistent with soil quality and depth BMPs in volume V of the Drainage Manual;

(3) Final grading shall result in finished grades which would allow development of the land uses permitted within the underlying zone classification;

(4) Bare topsoil shall be stabilized by planted trees, shrubs, legumes, and grasses indigenous to the region and compatible with the surrounding area;

(5) Graded or backfilled areas shall be reclaimed in a manner that will not allow water to collect, nor permit stagnant water to remain, and will not adversely affect the groundwater aquifer or maximum seasonal high groundwater table; and

(6) Non-harmful tailings, which consist of earth material and soil piles, shall be graded to near-level contour, matching the surrounding natural topography. The leveled and graded area shall be sodded or surfaced and planted as required by SCC 30.63B.170(2) and (4).

30.63B.180 Land disturbing activity permit submittal requirements.

The land disturbing activity permit application shall comply with the submittal checklist established by the department pursuant to SCC 30.70.030. The permit application shall contain the following plans and reports, when applicable:

- (1) Land disturbing activity site plan pursuant to SCC 30.63B.190;
- (2) Engineered construction plans pursuant to SCC 30.63B.200;
- (3) Geotechnical engineering report pursuant to SCC 30.63B.220;
- (4) Soils engineering report pursuant to SCC 30.63B.230;
- (5) Engineering geology report pursuant to SCC 30.63B.240;
- (6) Liquefaction report pursuant to SCC 30.63B.250;
- (7) Zero-rise analysis pursuant to SCC 30.63B.120(3);
- (8) Plans and reports necessary for compliance with chapter 30.63A SCC; and
- (9) Haul route agreements related to the land disturbing activity.

30.63B.190 Land disturbing activity site plan and reports.

(1) A land disturbing activity site plan, including a stormwater site plan consistent with the land disturbing activity site plan, shall be submitted with the land disturbing activity permit application. Engineered construction plans shall be submitted when required under SCC 30.63B.200. The land disturbing activity site plan shall depict, but not be limited to, the following items, when applicable:

- (a) Existing and finished grade contours including natural drainage courses;
- (b) Critical areas and their buffers;
- (c) The amount of proposed fill, measured in acres, in critical areas;
- (d) Landscape and open space areas and tree and native vegetation retention and replacement areas;
- (e) Clearing limits and clearing operations;
- (f) Quantity of cut or excavations and fill or embankments in cubic yards;
- (g) Soils specifications for compaction;
- (h) Cut and fill areas and stockpile areas;
- (i) Setbacks from property boundaries;
- (j) Terracing, keyways and benches; and
- (k) A description of construction specifications, operations and scheduling pursuant to requirements in the EDDS.

(2) Pursuant to chapter 30.52A SCC and SCC 30.63B.210 through 30.63B.250, reports on geotechnical engineering, soils engineering, engineering geology, and liquefaction shall be submitted when required by this chapter and chapter 18 of the IBC.

30.63B.200 Land disturbing activities and projects requiring engineered construction plans.

(1) The following land disturbing activities require the submittal of construction plans prepared by and stamped by an engineer licensed in the State of Washington:

- (a) All land disturbing activity in excess of 5,000 cubic yards;
- (b) All land disturbing activity located within public or private roads and their rights-of-ways, tracts or easements;
- (c) All land disturbing activity that is subject to environmental review under chapter 30.61 SCC or is related to development activity that is subject to environmental review under chapter 30.61 SCC; and
- (d) All land disturbing activity projects that require civil engineering, as determined by the department pursuant to subtitle 30.5 SCC and IBC sections 1802.4, 1802.6 and 1803.4(2).

(2) Engineered construction plans for the land disturbing activities identified in SCC 30.63B.200(1) shall also comply with chapter 30.52A SCC and the EDDS.

30.63B.210 Reports.

(1) The applicant shall submit reports on geotechnical engineering, soils engineering, engineering geology, and liquefaction when required by this chapter or chapters 16, 18 or 33 of the IBC as part of the land disturbing activity permit application. Reports shall be prepared and stamped by an engineer licensed in Washington State. The department shall review the reports and ensure that all appropriate recommendations in the reports are reflected on the land disturbing activity site plans.

(2) During review of the land disturbing activity permit application, if the department determines that geologic, hydrologic, or soil conditions may present special grading or drainage conditions which may damage a public right-of-way or county property, or that may pose a substantial threat to public health, safety or welfare, the department may require the applicant to submit a geotechnical engineering report that includes a soils engineering report and/or an engineering geology report pursuant to SCC 30.63B.230 and 30.63B.240 and chapters 16, 18 and 33 of the IBC.

30.63B.220 Geotechnical engineering report.

If a geotechnical engineering report is required by SCC 30.63B.210 or chapter 18 of the IBC, the applicant's geotechnical engineer, civil engineer or engineering geologist shall inspect and determine the suitability of the prepared ground to receive fills and the stability of cut slopes with respect to soil, hydrologic, and geologic conditions. This information shall be incorporated in the engineering report. The geotechnical engineering report shall also evaluate the need for subdrains or other groundwater drainage devices. To verify safety, the department may require testing for required compaction, soil bearing capacity, stability of all finished slopes and the adequacy of structural fills as a condition of permit approval. The required content of the geotechnical engineering report is contained in section 1802.6 of the IBC.

30.63B.230 Soils engineering report.

When required by chapters 16, 18 and 33 of the IBC for expansive soils, questionable soils and the potential for soils near high groundwater, a soils engineering report shall be required. The required content of the soils engineering report is contained in sections 1613, 1802.6 and 3304 of the IBC. The report also shall include the following:

- (1) Data regarding the nature, distribution, site classification and strength of existing soils;
- (2) Conclusions and recommendations for land disturbing activity procedures identified in the reports required by SCC 30.63B.210 or chapters 16, 18 and 33 of the IBC;
- (3) Design criteria for corrective measures, including structural fills, when necessary due to subsurface soils or groundwater conditions; and
- (4) An analysis of the adequacy of affected soils for the intended use of the site as affected by soils engineering factors.

30.63B.240 Engineering geology report.

When required by chapters 16 and 18 of the IBC to analyze soil characteristics due to the location of on-site faults, an engineering geology report shall be required. The report shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and an analysis of the adequacy for the intended use of sites to be developed by the proposed land disturbing activity, as affected by geologic factors. The required content of the engineering geology report is contained in sections 1613 or 1802 of the IBC as applicable.

30.63B.250 Liquefaction report.

Based on the soil strength identified in the soils engineering report, the department may require a geotechnical or geologic investigation and report in accordance with section 1802.4 of the IBC, which shall address the potential for liquefaction.

30.63B.270 Time limitation of application.

- (1) An application for a land disturbing activity permit shall be deemed to have been abandoned 18 months after the date the applicant filed a complete application, unless the applicant has pursued the submittal of all necessary information and revisions requested by the department in good faith, or a permit has been issued.
- (2) The director is authorized to grant one extension of the permit application if abandoned. Such extension shall not exceed an additional 18 month period. The application extension shall be requested in writing and the applicant shall demonstrate a justifiable cause for the extension. A renewal fee shall be paid at the time of the renewal request pursuant to SCC 30.86.510(2)(a) and (b).

2271 **30.63B.280 Permit expiration and renewal.**

2272
2273 (1) Land disturbing activity permits shall expire 24 months from the date of
2274 issuance, provided that the director may set an earlier expiration date for a permit, or
2275 issue a permit that is non-renewable, or both, if the director determines that soil,
2276 hydrologic, or geologic conditions on the project site necessitate that land disturbing
2277 activity and drainage improvements and site stabilization be completed in less time.

2278 (2) If a permit has expired, the applicant shall obtain a renewed permit before
2279 starting work authorized under the expired permit.

2280 (3) A permit may be renewed only once for up to 24 additional months, and a
2281 request for renewal shall be made no later than 30 days after the date of expiration of
2282 the original permit, except as provided for in this section.

2283 (4) Requirements under this chapter that are not expressly temporary during land
2284 disturbing activity operations, including but not limited to, requirements for erosion
2285 control, drainage, and slope management, do not terminate with expiration of the land
2286 disturbing activity permit.

2287 (5) Until April 29, 2011, an applicant may request an extension of time for all
2288 chapter 30.63B SCC permits without requirement to demonstrate justifiable cause or
2289 good faith, provided that:

2290 (a) The permit is necessary to complete improvements approved under or
2291 necessitated by a preliminary subdivision, short subdivision, site plan or commercial
2292 development permit;

2293 (b) A renewal fee as shown in SCC Table 30.86.510(2) is paid;

2294 (c) No permit nor any rights under this section may be transferred, assigned or
2295 sublet, except by operation of law;

2296 (d) The permit has not expired;

2297 (e) Unless provided an extension of time, the permit would expire within 12
2298 months of April 29, 2010; and

2299 (f) If extended, the permit shall expire simultaneously with the associated
2300 approved preliminary subdivision, short subdivision, site plan or commercial
2301 development permit.

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2303
2304 **30.63B.290 Requests for modification or waiver of requirements.**

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2306 The county may approve modifications or waivers of the requirements of this chapter
2307 pursuant to SCC 30.63A.170.

2308
2309 **30.63B.300 Person responsible.**

2310
2311 (1) The county is not responsible for the accuracy of land disturbing activity site
2312 plans submitted for approval. The county expressly disclaims any responsibility for the
2313 design or implementation of a land disturbing activity site plan. The design and
2314 implementation of a suitable land disturbing activity site plan is the responsibility of the
2315 applicant and property owner.

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(2) The applicant and owner shall ensure that all land disturbing activity work is performed in accordance with an approved land disturbing activity site plan and construction specifications that comply with the provisions of title 30 SCC. Any person performing land disturbing activity subject to a land disturbing activity permit shall ensure that a copy of the approved land disturbing activity permit, approved land disturbing activity site plan, and construction plans are available on the work site at all times. Such person shall be responsible for compliance with all approved plans, specifications and permit conditions.

30.63B.310 Inspections – general.

Land disturbing activity inspections required by this chapter may be conducted together with any inspections required by chapter 30.63A SCC.

30.63B.320 Site inspection for clearing limits.

Upon submittal of a complete land disturbing activity permit application, the county must perform a preliminary site inspection prior to any land disturbing activity to confirm that the clearing limits, if applicable, are marked in the field, and that natural drainage courses are not blocked or altered.

30.63B.330 Pre-construction meeting and inspection prior to land disturbing activity.

After a land disturbing activity permit is issued, but prior to any land disturbing activity, the applicant or owner shall call the department to arrange a pre-construction meeting and inspection with the department to review clearing limits, inspection and project management procedures.

30.63B.340 Inspections after permit issuance.

(1) During construction and land disturbing activity, the county shall inspect all land disturbing activity operations for which a permit is issued pursuant to SCC 30.63B.350. The county shall inspect the site at various stages of work including before construction, during construction, at construction completion and at final acceptance of a subdivision or issuance of a certificate of occupancy. The county shall determine if the SWPPP required by chapter 30.63A SCC is implemented and the construction undertaken by the owner, contractor and certified erosion and sediment control lead (CESCL) complies with the approved SWPPP, land disturbing activity site plan and construction plans.

(2) When required on an approved land disturbing activity site plan, the applicant shall provide professional inspection of land disturbing activity by a civil and/or a soils engineer, or an engineering geologist retained by the owner or applicant to provide such services for engineered land disturbing activity as follows:

(a) The civil engineer shall review and observe the establishment of line, grade, surface drainage and erosion control of the development area. If revisions to any

approved land disturbing activity or stormwater site plan, right-of-way plan or other construction plans are required during the course of the land disturbing activity, they shall be prepared by the civil engineer.

(b) The soils engineer shall observe the land disturbing activity and test for compaction. The types of soils inspections and standards shall be consistent with sections 1802.6 and 1803.5 of the IBC.

(c) The soils engineer shall provide sufficient observation during the preparation of the ground and during placement and compaction of the fill to verify that such work is being performed in accordance with the conditions of the approved plans identified in SCC 30.63B.340(2)(a) and the appropriate requirements of this chapter and chapter 30.63A SCC. These observations shall be set forth in a written report as required by SCC 30.63B.360(1)(b) that shall be submitted to the department prior to the final inspection. Revised recommendations relating to conditions differing from the soils engineering, engineering geology, geotechnical engineering and liquefaction reports submitted as part of the land disturbing activity permit application shall be submitted to the department and the civil engineer responsible for the project as soon as they are available.

(d) The engineering geologist shall inspect all excavation to determine if geologic conditions encountered are in conformance with the engineering geology report completed under SCC 30.63B.240. If conditions differ from the approved engineering geology report, the geologist shall submit revised recommendations to the county and soils engineer regarding changes to the land disturbing activity site plan or other construction plans as soon as they are available.

(e) If the civil engineer, CESCL, the soils engineer, or the engineering geologist finds that the work was not performed in conformance with this chapter or the land disturbing activity permit, the individual who discovered the discrepancies shall report this information immediately, in writing, to the applicant or owner and to the county.

(3) The county shall notify the applicant or owner of any discrepancies that would necessitate land disturbing activity site plan or construction plan revisions or corrections by the professional consultants.

(4) If the civil engineer, the soils engineer, CESCL, or the engineering geologist of record is changed during land disturbing activity, the work shall be stopped until a replacement has agreed in writing to accept their responsibilities under this chapter. It shall be the duty of the applicant or owner to notify the county in writing of such change in contacts prior to resuming land disturbing activity.

30.63B.350 Inspection schedule after permit issuance.

Following issuance of a land disturbing activity permit, inspections of all land disturbing activity subject to the permit shall be conducted pursuant to, but not limited by, the following inspection schedule:

(1) After the land disturbing activity pre-construction meeting, the applicant shall request from the county a drainage inspection prior to any land disturbing activity.

(2) All permitted development sites involving land disturbing activity that meet the thresholds for drainage review shall be inspected for compliance with applicable minimum requirements pursuant to chapter 30.63A SCC.

(3) All permitted development sites involving land disturbing activities that meet the thresholds for drainage review pursuant to chapter 30.63A SCC shall be inspected upon completion of all land disturbing activity and construction and prior to final approval or issuance of a certificate of occupancy to verify proper installation of permanent erosion controls and storm water facilities/BMPs, if applicable. The county shall determine that all land disturbing activity and construction is complete or identify all land disturbing activity and construction items that are incomplete.

(4) When the county determines that a special inspection is required pursuant to chapter 17 of the IBC for water quality monitoring on land disturbing activity projects, the applicant or owner shall engage consultants to conduct professional inspections and to prepare and submit periodic inspection reports to the county on a timely basis. The county shall respond within seven working days as to the acceptability of the report. The applicant or owner shall act as a coordinator between the consultant, the contractor and the county inspector.

30.63B.360 Final reports and other documents required at the completion of work.

(1) When engineered construction and land disturbing activity site plans are required pursuant to SCC 30.63B.190 and 30.63B.200, or professional inspection is required pursuant to SCC 30.63B.340 for land disturbing activity, the following final reports, plans, drawings and supplements are required at completion of all land disturbing activity and construction:

(a) A record drawing of land disturbing activity site plan prepared by the civil engineer or surveyor showing original ground surface elevations, finished grade ground surface elevations, lot drainage patterns, and the locations and elevations of stormwater drainage facilities and outlets of subsurface drains. Details of subsurface drains shall be shown on the record drawing as reported by the soils or civil engineer or land surveyor. Upon completion of all land disturbing activity and construction, the civil engineer shall sign a statement on the plan stating that to the best of their knowledge, the land disturbing activities were completed in accordance with the approved land disturbing activity site plan and permit;

(b) A report prepared by the soils engineer, retained pursuant to SCC 30.63B.340(2), which shall include locations of field density tests, summaries of field and laboratory tests, other substantiating data, and a description of any changes to the approved land disturbing activity site plan made during the land disturbing activity and their effect on the recommendations made in the approved soils engineering investigation report. The report shall include a signed statement by the soils engineer that, to the best of their knowledge, the land disturbing activity work within their area of responsibility was completed in accordance with the approved soils engineering report and applicable provisions of this chapter; and

(c) A report prepared by the engineering geologist retained pursuant to SCC

30.63B.340(2) that shall include a final description of the geology of the site, any new information disclosed during the land disturbing activity, and the effect of that information on recommendations incorporated in the approved land disturbing activity site plan. The final geology report shall include a signed statement by the engineering geologist that, to the best of their knowledge, the work within their area of responsibility was completed in accordance with the approved engineering geology report and applicable provisions of this chapter.

(2) The applicant or owner shall notify the county when the disturbed land is ready for final inspection. Final approval shall not be given by the county until all land disturbing activity and construction, including installation of all drainage facilities and their protective devices and all erosion-control measures, have been completed in accordance with the final approved land disturbing activity and stormwater site plans, and the required reports have been submitted and approved.

30.63B.370 Bonds or performance security.

(1) The department may require bonds or a performance security pursuant to chapter 30.84 SCC to ensure that the land disturbing activity, if not completed in accordance with the approved land disturbing activity site plan and construction plans, will be corrected.

(2) For drainage facilities and improvements required pursuant to this chapter and chapter 30.63A SCC, the department may require security and insurance in accordance with chapter 30.63A SCC, part 900.

30.63B.380 Emergency land disturbing activities and required permits.

(1) Land disturbing activity that requires a land disturbing activity permit may be undertaken to perform an emergency action, without first obtaining a permit, when insufficient time exists to obtain a land disturbing activity permit. An emergency action is only allowed when:

(a) One of the following circumstances exists:

(i) Damage is occurring as a result of flood waters at or exceeding flood stage as defined by the county's departments of emergency management or public works, and land disturbing activity is necessary to protect existing property, maintain an existing utility facility function, or to prevent channel impairment;

(ii) Maintenance performed by a utility is necessary to repair a utility facility or line which has been damaged as a direct result of an emergency; or

(iii) Removal and relocation of material deposited onto commercial farmland by flood waters is necessary to protect farming operations; and

(b) All of the following criteria are met:

(i) Circumstances causing the emergency developed suddenly;

(ii) The emergency constitutes an imminent threat to public health, safety, welfare, property or the environment and emergency land disturbing activities are necessary to prevent an imminent threat of serious environmental degradation; and

(iii) The land disturbing activity is the minimum necessary to alleviate the emergency.

(2) Prior to undertaking any emergency land disturbing activity to remedy the emergency, the proponent of such activity must notify the department in writing by providing a summary of the intended activity. If prior notification is not feasible, the project proponent shall provide such notification in writing to the department within 48 hours of initiating the emergency land disturbing activity.

(3) The department shall notify the property owner or person who conducted the emergency land disturbing activity in writing that:

(a) The person responsible for the emergency action shall comply with soil erosion and sedimentation control practices required pursuant to minimum requirement 2 (SCC 30.63A.445 through 30.63A.510) as soon as practicable; and

(b) Applications for project permits necessary to satisfy compliance with this chapter shall be submitted to the department within 120 days from the date the emergency land disturbing activity was initiated; and

(c) Whether the land disturbing activity meets the criteria of SCC 30.63B.380(1) and (2).

(4) If the director determines that land disturbing activity was performed that did not meet the criteria in this section, then in addition to requiring that a land disturbing activity permit application be submitted to the department within 120 days of the land disturbing activity, code enforcement may be pursued.

30.63B.390 Hazards.

(1) When the department determines that any existing cut, excavation, fill, embankment or other land disturbing activity or a condition resulting from land disturbing activity on private property creates a present or imminent hazard, or is likely to create a hazard, the department may issue an emergency order pursuant to SCC 30.85.240.

(2) Where the director determines that hazardous conditions exist, warning signs shall be affixed at locations as required by the director, and the site shall be enclosed by fencing that shall be closed and locked when personnel are not present at the site. The fence shall be no less than five feet in height and the fence material shall have no horizontal opening larger than two inches.

Section 16. Snohomish County Code Section 30.70.015, last amended by Amended Ordinance No. 07-084 on September 5, 2007, is amended to read:

30.70.015 Exemptions.

The following actions are exempt from the requirements of this subtitle, except the consistency determination required by SCC 30.70.100:

(1) Street vacations under chapter 13.100 SCC;

(2) Approvals relating to the use of public areas and facilities under title 13 SCC;

(3) Building permits exempt from the State Environmental Policy Act (SEPA);

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2537 (4) ((Grading)) Land disturbing activity permits exempt from SEPA; and
2538 (5) All other construction, mechanical, and plumbing permits exempt from SEPA and
2539 related approvals, including certificates of occupancy.

2540 Section 17. Snohomish County Code Section 30.70.050, last amended by
2541 Ordinance No. 08-136 on October 29, 2008, is amended to read:

2542 **30.70.050 Notice of application - timing and method.**

2543 (1) The department shall provide notice of application within 10 days after a
2544 determination that the application is complete as specified in SCC Table 30.70.050(5).
2545 Required notice shall be given in accordance with SCC 30.70.045.

2546 (2) A notice of application posted or published in the official county newspaper or
2547 provided by mail on a letter/legal size publication shall include the following information:

2548 (a) Date of application, date of completeness determination, and date of notice of
2549 application;

2550 (b) Project description, list of permits requested, assigned county file number,
2551 and county contact person;

2552 (c) Any information or studies requested by the department;

2553 (d) Any other required permits not included in the application, to the extent
2554 known by the department;

2555 (e) Any existing environmental documents that evaluate the proposed project,
2556 including where they can be inspected;

2557 (f) The date, time, place, and type of public hearing, if applicable and if
2558 scheduled at the time of the notice;

2559 (g) When notice is for a rezone action or development in a performance standard
2560 zone, a statement indicating where the full text and/or map of the rezone action may be
2561 inspected;

2562 (h) A statement of when the comment period ends and the right of any person to
2563 comment on the application, receive notice of and participate in any hearings, request a
2564 copy of the decision once made, and any appeal procedures;

2565 (i) If determined at the time of notice, those development regulations that will
2566 be used for project mitigation or to review consistency; and

2567 (j) Any other information determined appropriate by the department.

2568 (3) Mailed notice of application may be provided on a post card.

2569 (4) A post card notice shall contain the following information:

2570 (a) project description;

2571 (b) project file number;

2572 (c) project location;

2573 (d) type of project;

2574 (e) applicable comment dates and notice of where to submit comments;

2575 (f) date the notice of application was published in the official county newspaper;

2576 (g) website address providing access to project information; and

2577 (h) a department contact.

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SCC Table 30.70.050(5)
Notice of Application Requirements

Application Type	Post	Publish	Mail
Administrative Conditional Use	X	X	X
Binding Site Plan	X	X	X
Building and ((grading)) land disturbing activity permits subject to SEPA	X	X	X
Code interpretation not related to a specific project		X	
Code interpretation related to a specific project	X	X	X
Final Subdivision	[see SCC 30.41A.600 - 30.41A.730		
Flood Hazard Permit – except as provided in SCC 30.43C.020			X
Flood Hazard Variance	X	X	X
Freeway service zone official site plan in existing zone	X	X	X
Free-standing sign in FS and RFS zone	X	X	X
SEPA threshold determination and EIS adequacy associated with project permit	X	X	X
Shoreline variance, conditional use, or substantial development permit or permit rescission	X	X	X
Short subdivision and rural cluster short subdivision	X	X	X
Variance	X	X	X
Conditional use and major revision	X	X	X
Preliminary subdivision and rural cluster subdivision, and major revision	X	X	X
Planned Residential Development and major revision	X	X	X
Official site plan or preliminary plan approval in performance standard zones (BP, PCB, IP, FS, T, RB, CRC, RFS, and RI)	X	X	X
Rezone – site specific	X	X	X
Review or revocation of a permit or approval pursuant to SCC 30.71.027	X	X	X
Preapplication Concurrency Decision	X	X	X
Any non-listed Type 1 or Type 2 permit application except Boundary Line Adjustments pursuant to SCC 30.41E.020(1)(c)	X	X	X

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Section 18. Snohomish County Code Section 30.71.020, last amended by Amended Ordinance No. 08-101 on January 21, 2009, is amended to read:

30.71.020 Type 1 permits and decisions.

The following are processed as Type 1 administrative decisions:

- (1) Administrative conditional use permit;
- (2) Binding site plan approval;
- (3) Boundary line adjustment, except as provided in 30.41E.020 SCC;
- (4) Building and ~~((grading))~~ land disturbing activity permits subject to SEPA review pursuant to chapter 30.61 SCC, or subject to conditions imposed pursuant to chapter 30.32D;
- (5) Free standing signs in the FS and RFS zones;
- (6) Code interpretations issued pursuant to SCC 30.83.030(2);
- (7) Flood hazard permit, except as provided in SCC 30.43C.020;
- (8) Flood hazard variance;
- (9) Freeway service zone official site plan (existing FS zone);
- (10) Shoreline substantial development permit, shoreline conditional use, and shoreline variance, except when processed as a Type 2 decision pursuant to SCC 30.44.240;
- (11) Short subdivision approval with no dedication of a new public road right-of-way;
- (12) Urban centers project decision pursuant to chapter 30.34A SCC;
- (13) Variance;
- (14) Single family detached units applications pursuant to chapter 30.41F SCC; and
- (15) Administrative site plan pursuant to SCC 30.23A.100.

Section 19. Snohomish County Code Section 30.91A.300, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is repealed.

Section 20. Snohomish County Code Section 30.91C.210, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is amended to read:

30.91C.210 "Compaction" means the densification of a fill by mechanical means.

This definition applies only to ~~((“Grading”))~~ “Land disturbing activities” regulations in chapter ~~((30.51))~~ 30.63B SCC.

Section 21. Snohomish County Code Section 30.91E.230, last amended by Amended Ordinance No. 05-083 on December 21, 2005, is amended to read:

30.91E.230 "Excavation" ~~((shall mean))~~ means the mining or quarrying or other mechanical removal of sand, gravel, bedrock or precious metals including underground shaft operations, but excluding:

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- (1) ~~((Excavations and grading))~~ Land disturbing activity for building construction where such construction is authorized by a valid building permit; or
- (2) Tilling of soil for agricultural purposes; or
- (3) Any excavation:
- (a) Which does not alter a drainage course, and
- (b) Which has less than two feet of mean average depth, or which does not create a cut slope greater than five feet in height and steeper than one and one-half horizontal to one vertical, and
- (c) Located in an MR, LDMR, R-7200, R-8400, R-9600, R-12,500 or WFB zone, where the cubic yardage excavated from contiguous land under common ownership shall never exceed 500 cubic yards, and
- (d) Located in any zone other than those listed in the preceding subsection, where the cubic yardage excavated from contiguous land under common ownership shall never exceed 2,000 cubic yards. The distinction between zones which is provided in this and the preceding subsections shall be observed notwithstanding cross-referencing between zones which may be found elsewhere in this title.

This definition applies only to chapters 30.22, 30.23, 30.25, 30.31D, 30.32C, 30.63B and 30.64 SCC.

Section 22. Snohomish County Code Section 30.91G.070, adopted by Amended Ordinance No. 02-064 on December 9, 2002, is amended to read:

30.91G.070 "Grade" means the elevation of the ground surface.

- (1) "Existing grade" means the elevation of the ground surface prior to development activity.
- (2) "Rough grade" means the stage at which the elevation of the ground surface approximately conforms to the approved plan.
- (3) "Finish grade" means the final elevation of the ground surface which conforms to the approved ~~((grading))~~ land disturbing activity site plan.

Section 23. Snohomish County Code Section 30.91G.075 adopted by Amended Ordinance 07-085 on September 5, 2007, is amended to read:

30.91G.075 "Grading" means an excavation or fill or a combination thereof.
~~((This definition applies only to the construction codes in subtitle 30.5 SCC.))~~

Section 24. Section 3 of Ordinance No. 10-014, adopted on April 7, 2010, is amended to read:

Sections 5, 7, 9, 11, 13, 15~~((, 17))~~ and 19 of this ordinance shall take effect consistent with Snohomish County Charter Section 2.110, and shall be repealed on April 29, 2011 (twelve months later).

Section 25. Section 4 of Ordinance No. 10-014, adopted on April 7, 2010, is amended to read:

Sections 6, 8, 10, 12, 14, 16(~~(,18)~~) and 20 of this ordinance shall take effect on April 29, 2011 (immediately upon the repeal of Sections 5, 7, 9, 11, 13, 15(~~(,17)~~) and 19 of this Ordinance).

Section 26. Sections 17 and 18 of Ordinance No. 10-014, adopted on April 7, 2010, are repealed.

Section 27. Snohomish County Code Section 30.63B.280, adopted in Section 15 of this ordinance, shall be repealed on April 29, 2011.

Section 28. A new section is added to Chapter 30.63B of the Snohomish County Code to read:

30.63B.280 Permit expiration and renewal.

(1) Land disturbing activity permits shall expire 18 months from the date of issuance. However, the director may set an earlier expiration date for a permit or issue a permit that is non-renewable, or both, if the director determines that soil, hydrologic or geologic conditions on the project site necessitate that land disturbing activity, drainage improvements and site stabilization be completed in less time.

(2) No land disturbing activity shall be performed under an expired land disturbing activity permit. An applicant shall obtain a new permit before starting work authorized under the expired permit.

(3) The director is authorized to grant, in writing, one permit extension of not more than 18 months. The permit extension shall be requested in writing and the applicant shall demonstrate justifiable cause for the extension. The request for extension shall be submitted to the department 30 days before the date of expiration of the original permit.

(4) Prior to extension of a permit, an on-site inspection may be required to determine whether the work authorized by the original permit complies with this chapter and any other applicable law or regulation.

(5) The renewal fee in SCC 30.86.510(2) for a permit extension request shall be paid at the time the extension request is submitted.

(6) The director may extend the timeframe for submitting an extension request under SCC 30.63B.280(3) for good cause, but shall not approve any extension request received later than 30 days after the date of expiration of the original permit.

Section 29. Effective date. This ordinance shall become effective September 30, 2010, with the exception of Section 28.

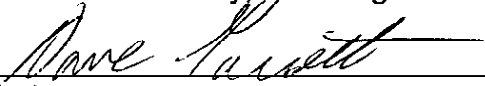
Section 30. Effective date of Section 28. Section 28 of this ordinance shall become effective April 29, 2011.

RELATING TO REGULATION OF LAND DISTURBING ACTIVITIES;
REPEALING CHAPTER 30.63B SCC; ADOPTING A NEW CHAPTER
30.63B SCC; AMENDING SECTIONS OF TITLE 30 SCC;
AND AMENDING ORDINANCE NO. 10-014

Section 31. Severability. If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by the Growth Management Hearings Board ("Board"), or 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 the 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 9th day of June, 2010.


SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Chairperson

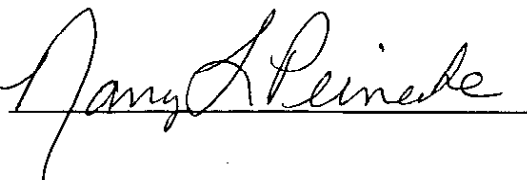
ATTEST:


Asst. Clerk of the Council

☒ APPROVED
☐ EMERGENCY
☐ VETOED


County Executive
Date 6/21/10
AARON REARDON
County Executive

ATTEST:



Approved as to form:

Deputy Prosecuting Attorney

RELATING TO REGULATION OF LAND DISTURBING ACTIVITIES;
REPEALING CHAPTER 30.63B SCC; ADOPTING A NEW CHAPTER
30.63B SCC; AMENDING SECTIONS OF TITLE 30 SCC;
AND AMENDING ORDINANCE NO. 10-014

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