SMITH & LOWNEY, P.L.L.C.
2317 EAST JOHN STREET
SEATTLE, WASHINGTON 98112
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RECEIVED ON:
ORC- Sharon Cooney
DEC 06 2017
EPA Region 10
Office of the Regional Administrator

December 4, 2017

Via Certified Mail – Return Receipt Requested
Attorney General Jeff Sessions
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530-0001

Via Certified Mail – Return Receipt Requested
Attorney General – Citizen Suit Coordinator
Environmental and Natural Resources Division
Law and Policy Section
P.O. Box 7415
Ben Franklin Station
Washington, D.C. 20044-7415

Via Certified Mail – Return Receipt Requested
Administer Scott Pruitt
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Mail Code 1101A
Washington, D.C. 20460

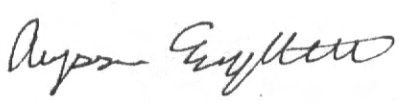
Via Certified Mail – Return Receipt Requested
Regional Acting Administrator Michelle Pirzadeh
U.S. Environmental Protection Agency, Region 10
1200 Sixth Ave., Suite 900
Seattle WA 98101

Re: Puget Soundkeeper Alliance v. Snohomish County; W.D. Wash. No. 2:16-cv-01428-JCC

Dear Honorable Civil Servants:

Please find enclosed the proposed consent decree for the above-named Clean Water Act citizen suit. The motion for entry of the consent decree has been noted to allow time for your statutory 45-day review.

Sincerely,



Alyssa Englebrecht, WSBA #46773
Attorney for Plaintiff

Hon. John C. Coughenour

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PUGET SOUNDKEEPER ALLIANCE, Plaintiff, vs. SNOHOMISH COUNTY, Defendant.	No. 2:16-cv-01428-JCC CONSENT DECREE

I. STIPULATIONS

Puget Soundkeeper Alliance ("Soundkeeper") filed this citizen suit on September 8, 2016, alleging violations of the Clean Water Act, 33 U.S.C. §§ 1251-1387, relating to Snohomish County's implementation of its National Pollutant Discharge Elimination System (NPDES) Phase I Municipal Stormwater Permit. In its complaint, Soundkeeper seeks declaratory and injunctive relief, civil penalties, and attorney's fees and costs.

The parties agree that settlement of these matters is in the best interest of the parties and the public, and that entry of this Consent Decree is the most appropriate means of resolving this action.

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Prosecuting Attorney – Civil Division
Robert J. Drewel Bldg., 8th Floor, M/S 504
3000 Rockefeller Ave
Everett, Washington 98201-4060
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The parties stipulate to the entry of this Consent Decree without trial, adjudication, or admission of any additional issues of fact or law regarding Soundkeeper's claims or allegations set forth in its complaint and sixty-day notice dated June 30, 2016.

Dated this Dec. 4th, 2017.

SNOHOMISH COUNTY

By: [signature]

Title: Deputy Executive

PUGET SOUNDKEEPER ALLIANCE

By: [signature]

Title: Executive Director

II. ORDER AND DECREE

THIS MATTER came before the Court upon the Parties' Joint Motion for Entry of Consent Decree and the foregoing Stipulations of the parties. Having considered the Stipulations and the promises set forth below, the Court hereby ORDERS, ADJUDGES, and DECREES as follows:

A. This Court has jurisdiction over the parties and subject matter of this action.

B. Each signatory for the parties certifies for that party that he or she is authorized to enter into the agreements set forth below.

C. This Consent Decree applies to and binds the parties and their successors and assigns.

D. The CWA prohibits the discharge of pollutants from a point source into waters of the United States except in compliance with a permit. The Washington Department of Ecology administers NPDES permits in Washington State pursuant to the CWA. Ecology issues

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municipal stormwater permits that authorize the discharge of stormwater to surface waters and groundwaters of the state. As the owner and operator of a large MS4 that discharges stormwater to surface waters and ground waters of the state, Snohomish County must comply with the conditions of the Phase I Municipal Stormwater Permit ("Permit") under which its MS4 discharges are authorized (NPDES permit number WAR044502, effective August 1, 2013, as modified January 16, 2015, and August 19, 2016). Soundkeeper alleges that Snohomish County failed to comply with numerous conditions of the Permit and, therefore, violated the CWA.

E. This Consent Decree is a full and complete settlement of the claims and allegations in the Complaint and all other claims known and unknown existing as of the date of entry of this Consent Decree that could be asserted under the CWA, 33 U.S.C. §§ 1251-1387, concerning the County's compliance or non-compliance with the Permit, including any activities or conduct performed for the purpose of complying with the Permit. This release includes a release, and covenant not to sue, for any claims or injunctive relief which could have been asserted with respect to any activity or lack of activity in alleged violation of the Permit arising prior to the entry of this Consent Decree. These claims are released and dismissed with prejudice. Enforcement of this Consent Decree is Soundkeeper's exclusive remedy for any violation of its terms.

F. This Consent Decree is a settlement of disputed facts and law. It is not an admission or adjudication regarding any allegations by Soundkeeper in this case or any fact or conclusion of law related to those allegations.

G. Prior to executing this Consent Decree, the County performed the following actions as part of its efforts to resolve this litigation:

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1. The County substantially revised and supplemented the content of its annual Stormwater Management Program Plan ("SWMP Plan"). The County published its *2017 Stormwater Management Program Plan* in March 2017. The 2017 SWMP Plan contained much greater detail regarding actions the County would take to implement the Permit in 2017. Although the County does not admit prior versions of its SWMP Plan did not comply with the Permit, it revised its SWMP Plan format with the belief that a more detailed SWMP Plan will better inform the public regarding the County's implementation of the Permit and will allow for greater public input regarding the County's annual priorities under the Permit.

2. The County adopted Amended Ordinance No. 17-070 on November 1, 2017 (effective December 1, 2017), which ordinance is attached to this Consent Decree as Appendix A. The purpose of the Snohomish County Code amendments adopted by Amended Ordinance No. 17-070 was to address Soundkeeper's allegations in Paragraph 48 of its Complaint that the County did not "review, revise, and make effective local development related codes, rules, standards, or other enforceable documents to incorporate and required [low impact development] principles and [low impact development best management practices] by January 22, 2016," as required under Permit Special Condition S5.C.5.b. Although the County does not admit it violated Permit Special Condition S5.C.5.b, the amendments adopted by Amended Ordinance No. 17-070, together with revisions made by rule to the Snohomish County Drainage Manual and the Snohomish County Engineering Design and Development Standards, require and promote the use of low impact development best management practices and provide incentives for or remove barriers to the use of low impact development best management practices.

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H. In lieu of a payment of penalty, the County will perform as follows in exchange for the consideration provided by Soundkeeper in releasing its claims as specified herein and entering into this Consent Decree:

1. Annual report to track low impact development implementation. Starting in 2018 and continuing through 2020 the County will produce an annual report that shows the number and type of stormwater low impact development (LID) systems constructed, as well as the acreage treated by those LID systems. The report will include LID systems built by the County and LID systems permitted by the County and built by private developers. The types of LID systems reported will be those set forth in the 2016 Snohomish County Drainage Manual. Through time, the County and the public will be able to see which LID systems are being built, how often, and how many acres are being treated. This information could aid in identifying roadblocks and developing incentives for LID. The report will be provided to Soundkeeper, posted on the County's website, and shared with other local governments in the region. Within 30 days of publication of the 2018 report on the County's website, the County will provide a copy of the 2018 report to the following agencies and encourage their use of the report format as a model for regional data collection and reporting: Puget Sound Partnership, Department of Ecology, and Washington Stormwater Center.

2. Enhanced public education and promotion of LID. In 2018, the County will hold three public education events intended to promote and facilitate the use of LID. These events will be in addition to any public outreach required by the Permit. The first event will be an "LID Fair," at which the County will arrange for booths and presentations about LID from organizations with expertise and interest in LID, potentially including Washington State

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University, Snohomish Conservation District, non-profit organizations, and businesses involved in LID. The second event will be a homeowner workshop focused on how one specific type of LID, rain gardens, can be implemented on private property to reduce stormwater impacts. These first two events will be organized and managed by the Surface Water Management Division of the Department of Public Works. The third event will be hosted by the Department of Planning and Development Services. This event will promote LID to the development industry. To attract broad participation, the event will be conducted as part of a workshop that includes other topics of interest to developers. The event will provide a forum for developers to learn about LID and to share their experiences using LID techniques. For all three of these events, the County will invite Soundkeeper to do tabling and outreach.

3. LID retrofit projects. The County will construct or have constructed the following two LID retrofit projects. The County will make reasonable efforts to have the two projects completed within two years from the date of the entry of this Consent Decree, however, the County will have the two projects completed no later than three years from the date of the entry of this Consent Decree.

a. Ditch retrofits will be constructed in the Little Bear Creek watershed along the north and south side of West Interurban Boulevard near its intersection with 54th Drive SE, as depicted in Appendix B to this Consent Decree. Approximately 800 lineal feet of roadway will contribute to the retrofitted ditch on the north side of the road, and approximately 400 lineal feet of roadway will contribute to the retrofitted ditch on the south side of the road. The approximate total amount of roadway that will receive treatment from this ditch retrofit is 1,200 lineal feet, or 12,600 square feet. A durable permanent sign that describes

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the value of LID and includes Soundkeeper's logo will be installed at the project site. The County will advertise the project on the County's website and through a direct mailing to residents in the vicinity of the project.

b. Permeable pavement will be installed in the Silver Firs development located in the northern end of the Little Bear Creek watershed. The location of the project is on 149th Street SE near 52nd Avenue SE, as depicted in Appendix C to this Consent Decree. The total pavement area that will be replaced with permeable pavement is approximately 4,900 square feet. A durable permanent sign that describes the value of LID and includes Soundkeeper's logo will be installed at the project site. The County will advertise the project on the County's website and through a direct mailing to residents in the vicinity of the project. In the event County engineers determine that this site is not suitable for a permeable pavement retrofit, the County will work with Soundkeeper to identify a substitute project of similar type and scale.

I. From the effective date of this Consent Decree until the termination date set forth in paragraph O below, the County agrees to provide Soundkeeper, on a twice per year basis, with the following documents transmitted by or to the Washington State Department of Ecology regarding compliance or non-compliance with the Permit: annual reports and any attachments to the annual reports, SWMP Plans, G20 notifications, notices of violation or penalty issued to the County by Ecology related to the Permit, and any Permit modifications issued to the County by Ecology.

J. Snohomish County will pay Soundkeeper's reasonable attorney and experts' fees and costs in an amount not to exceed $125,000.00, as indicated by invoices for attorney and

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expert witness fees and costs to be submitted to Snohomish County's counsel. Payment will be made within 14 days of the entry of this decree or receipt of the fee documentation, whichever comes later, by check payable and mailed to Smith & Lowney, PLLC, 2317 E. John Street, Seattle, Washington 98112, attn: Richard Smith. This payment is full and complete satisfaction of any claims Soundkeeper may have under the CWA for fees and costs.

K. A force majeure event is any event outside the reasonable control of Snohomish County that causes a delay in performing tasks required by this decree that cannot be cured by due diligence. Delay in performance of a task required by this decree caused by a force majeure event is not a failure to comply with the terms of this decree, provided that Snohomish County notifies Plaintiffs of the event; the steps that Snohomish County will take to perform the task; the projected time that will be needed to complete the task; and the measures that have been taken or will be taken to prevent or minimize any impacts to stormwater quality resulting from delay in completing the task.

Snohomish County will notify Soundkeeper of the occurrence of a force majeure event as soon as reasonably possible but, in any case, no later than fifteen days after the occurrence of the event. In such event, the time for performance of the task will be extended for a reasonable period of time following the force majeure event.

By way of example and not limitation, force majeure events include

1. Acts of God, war, insurrection, or civil disturbance;
2. Earthquakes, landslides, fire, floods;
3. Actions or inactions of third parties over which defendant has no control;
4. Restraint by court order or order of public authority;

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5. Strikes; and

6. Litigation, arbitration, or mediation that causes delay.

L. This Court retains jurisdiction over this matter. While this Consent Decree remains in force, this case may be reopened without filing fee so the parties may apply to the Court for any further order that may be necessary to enforce compliance with this decree or to resolve any dispute regarding the terms or conditions of this decree. In the event of a dispute regarding implementation of, or compliance with, this Consent Decree, the parties must first attempt to resolve the dispute by meeting to discuss the dispute and any suggested measures for resolving the dispute. Such a meeting should be held as soon as practical but must be held within thirty (30) days after notice of a request for such a meeting to the other party and its counsel of record. If no resolution is reached at that meeting or within thirty (30) days of the notice, whichever occurs first, either party may file a motion with this Court to resolve the dispute. The provisions of section 505(d) of the CWA, 33 U.S.C. § 1365(d), regarding awards of costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party, shall apply to any proceedings seeking to enforce the terms and conditions of this Consent Decree.

M. The parties recognize that, pursuant to 33 U.S.C. § 1365(c)(3), no consent judgment can be entered in a CWA suit in which the United States is not a party prior to forty-five (45) days following the receipt of a copy of the proposed consent judgment by the U.S. Attorney General and the Administrator of the U.S. EPA. Therefore, upon the signing of this Consent Decree by the parties, Soundkeeper shall serve copies of it upon the Administrator of the U.S. EPA and the Attorney General.

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N. This Consent Decree takes effect upon entry by the Court.

O. This Consent Decree terminates three years from the date of entry of this Consent Decree.

P. This Consent Decree may not be used as evidence in any proceeding or as an admission or adjudication with respect to any allegations in the Complaint or any fact or conclusion of law with respect to any matter alleged in or arising out of the Complaint.

Q. Both parties have participated in drafting this decree.

R. This Consent Decree may be modified only upon the approval of the Court.

S. If for any reason the Court should decline to approve this Consent Decree in the form presented, this Consent Decree is voidable at the discretion of Soundkeeper or the County. The parties agree to continue negotiations in good faith in an attempt to cure any objection raised by the Court to entry of this Consent Decree.

T. Notifications required by this Consent Decree must be in writing. The sending party may use any of the following methods of delivery: (1) personal delivery; (2) registered or certified mail, in each case return receipt requested and postage prepaid; (3) a nationally recognized overnight courier, with all fees prepaid; or (4) e-mail. For a notice or other communication regarding this Consent Decree to be valid, it must be delivered to the receiving party at the addresses listed below or to any other address designated by the receiving party in a notice in accordance with this paragraph 19.

if to Soundkeeper:

Katelyn Kinn
Puget Soundkeeper Alliance
130 Nickerson Street, Suite 107
Seattle, WA 98109

Snohomish County
Prosecuting Attorney – Civil Division
Robert J. Drewel Bldg., 8th Floor, M/S 504
3000 Rockefeller Ave
Everett, Washington 98201-4060
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Email: katelyn@pugetsoundkeeper.org

and to:

Richard A. Smith
Smith & Lowney PLLC
2317 East John St.
Seattle, WA 98112
Email: rasmithwa@igc.org

if to Snohomish County:

Will Hall
Director, Surface Water Management Division, Department of Public Works
3220 100th Street SW,
Everett, WA 98204
Email: Will.Hall@co.snohomish.wa.us

and to:

Laura Kisielius
Snohomish County Prosecutor's Office, Civil Division
3000 Rockefeller Ave., M/S 504
Everett, WA 98201
Email: lkisielius@snoco.org

A notice or other communication regarding this Consent Decree will be effective when received unless the notice or other communication is received after 5:00 p.m. on a business day, or on a day that is not a business day, then the notice will be deemed received at 9:00 a.m. on the next business day. A notice or other communication will be deemed to have been received: (a) if it is delivered in person or sent by registered or certified mail or by nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt; or (b) if the receiving party rejects or otherwise refuses to accept it, or if it cannot be delivered because of a change in address for which no notice was given, then upon that rejection, refusal, or inability to

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deliver; or (c) for notice provided via e-mail, upon receipt of a response by the party providing notice or other communication regarding this Consent Decree.

DATED this ____ day of _____, _____.

_____
HON. JOHN C. COUGHENOUR
UNITED STATES JUDGE

Snohomish County
Prosecuting Attorney – Civil Division
Robert J. Drewel Bldg., 8th Floor, M/S 504
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APPENDIX A

Amended Ordinance No. 17-070

Consent Decree
Puget Soundkeeper Alliance v. Snohomish County

ADOPTED: 11/01/17
EFFECTIVE: 12/01/17

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

AMENDED ORDINANCE NO. 17-070

RELATING TO REGULATION OF STORMWATER AND LOW IMPACT DEVELOPMENT BEST MANAGEMENT PRACTICES; AMENDING TITLE 30 OF THE SNOHOMISH COUNTY CODE

WHEREAS, the County is a Phase I jurisdiction subject to the requirements of the Phase I Municipal Stormwater Permit ("NPDES Permit") issued by the Washington State Department of Ecology, the current version of which was issued on August 1, 2012, effective August 1, 2013, modified on January 15, 2015, and August 19, 2016; and

WHEREAS, the NPDES Permit, Special Condition S5.C.5.b, requires the County to review, revise, and make effective its rules and regulations for the purpose of making Low Impact Development (LID) the preferred and commonly-used approach to site development; and

WHEREAS, on September 8, 2016, Puget Soundkeeper Alliance ("Soundkeeper") filed a complaint in the United States District Court, Western District of Washington, alleging the County was in violation of the Federal Water Pollution Control Act or "Clean Water Act" by not complying with the terms of its NPDES Permit, including the requirement in Special Condition S5.C.5.b; and

WHEREAS, although the County complied with Special Condition S5.C.5.b, it acknowledges that protecting water quality from stormwater runoff is a priority to both the County and Soundkeeper; and

WHEREAS, the intent of the proposed amendments is to further promote the use of LID, provide incentives for or remove barriers to the use of LID Best Management Practices (BMPs), and to provide clarity regarding LID feasibility requirements; and

WHEREAS, the Snohomish County Planning Commission ("planning commission") was briefed and held a hearing on the proposed amendments on August 22, 2017; and

WHEREAS, the planning commission deliberated on the proposed amendments on August 22, 2017, and voted to recommend approval of the proposed amendments, as set forth in its recommendation letter dated September 7, 2017; and

WHEREAS, the Snohomish County Council ("county council") was briefed on the planning commission recommendation on September 19, 2017; and

WHEREAS, on November 1, 2017, the county council held a public hearing after proper notice, and considered public comments and the entire record related to the proposal contained in this ordinance; and

WHEREAS, following the public hearing, the county council deliberated on the code amendments contained in this ordinance; and

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The county council adopts the following findings in support of this ordinance:

A. The foregoing recitals are adopted as findings as if set forth in full herein.

B. This ordinance will amend the County's Unified Development Code, Title 30 SCC, to further promote the use of LID BMPs, provide incentives for or remove barriers to the use of LID BMPs, and provide clarity regarding LID feasibility requirements.

C. LID is a stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

D. LID BMPs include bioretention, rain gardens, permeable pavements, roof downspout controls, dispersion, soil quality and depth, vegetated roofs, minimum excavation foundations, and water re-use.

E. The goal of LID is to prevent measurable physical, chemical or biological degradation to streams, lakes, wetlands, and other natural aquatic systems from commercial, residential or industrial development sites.

F. LID is the preferred and commonly-used approach to land development in Snohomish County. The Snohomish County Code and the Snohomish County Drainage Manual determine when the use of LID BMPs is mandatory. In recognition of the fact that LID BMPs work to manage stormwater pollution and runoff, Snohomish County encourages their use beyond what is required by the Drainage Manual.

G. The proposed amendments call attention to LID BMPs and encourage consideration of LID principles and LID BMPs early in the project planning and design phase.

H. The proposed amendments are consistent with the Growth Management Act, chapter 36.70A RCW, the Multi-County Planning Policies, the Countywide Planning Policies, and the County's GMA Comprehensive Plan. In particular, the proposed amendments further the following provisions:

1. RCW 36.70A.010(10): "Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water."

2. Countywide Planning Policy Env-1: "All jurisdictions shall protect and enhance natural ecosystems through their comprehensive plans, development regulations, capital facilities programs, and management practices."

3. Countywide Planning Policy PS-10: "Jurisdictions should encourage the use of low impact development techniques, and renewable and alternative energy sources."

4. GMA Comprehensive Plan NE Policy 1.C.1: "The county shall continue to protect water resources and natural watershed processes by maintaining the quality, rates and supplies of water, sediment, and woody debris through the use of a variety of strategies, such as: ... utilizing low impact development (LID) techniques and site planning."

5. GMA Comprehensive Plan NE Policy 3.H.3: "The county shall adopt programs, development regulations and standards regulating drainage and land disturbing activity that require low impact development techniques, where feasible, consistent with the Phase I Municipal Stormwater Permit."

6. GMA Comprehensive Plan NE Policy 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."

I. Procedural requirements.

1. A State Environmental Policy Act (SEPA) comprehensive checklist was completed and a threshold determination of nonsignificance (DNS) was issued for the proposed non-project action on August 28, 2017, pursuant to chapter 43.21 RCW, chapter 197-11 WAC, and chapter 30.61 SCC.

2. The proposal is a Type 3 legislative action pursuant to SCC 30.73.010.

3. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt the proposed regulations was transmitted to the Washington State Department of Commerce for distribution to state agencies on August 16, 2017.

4. The public participation process used in the adoption of this ordinance complies with all applicable requirements of the GMA and the SCC.

5. Pursuant to RCW 36.70A.370, the Washington State Attorney General last issued an advisory memorandum in December of 2015 entitled "Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property" to help local governments avoid the unconstitutional taking of private property. The process outlined in the State Attorney General's 2015 advisory memorandum was used by the County in objectively evaluating the regulatory changes proposed by this ordinance.

Section 2. The county council makes the following conclusions:

A. The proposal is consistent with the goals, objectives, and policies of the County's GMA Comprehensive Plan.

B. The proposal is consistent with Washington State law and the County Code.

C. The County has complied with all SEPA requirements with respect to this non-project action.

D. The regulations proposed by this ordinance do not result in an unconstitutional taking of private property for a public purpose.

Section 3. The County Council bases its findings and conclusions on the entire record of the County Council, including all testimony and exhibits. Any finding which should be deemed a conclusion, and any conclusion which should be deemed a finding, is hereby adopted as such.

Section 4. Snohomish County Code Section 30.23A.010, adopted by Amended Ord. No. 08-101 on January 21, 2009, is amended to read:

30.23A.010 Purpose.

The purpose of this chapter is:
(1) To provide design standards and guidelines that address site and building design features;
(2) To implement the county's desire for creating quality residential development as set forth in Objective LU 4.A and associated policies in the Snohomish County GMA Comprehensive Plan;
(3) To provide a well-designed residential environment that creates safe places for children to play and residents to meet;
(4) To contribute to an attractive streetscape by providing buildings with architectural detail;
((~~and~~))
(5) To improve compatibility of new residential development with existing residential development by appropriate design scale and massing of new residential development((~~.~~)) <u>; and</u>
<u>(6) To require and promote the use of low impact development (LID) best management practices (BMPs) as directed by the Drainage Manual.</u>

Section 5. Snohomish County Code Section 30.23A.100, last amended by Amended Ord. No. 16-004 on March 16, 2016, is amended to read:

30.23A.100 Administrative site plan review.

(1) An administrative site development plan shall be required for all residential development subject to the requirements of this chapter. The elements of an administrative or official site plan required by chapters 30.41F and 30.42B SCC shall be combined with the administrative site plan required by this chapter.

(2) Administrative site plan review.

(a) Administrative site plan review is a Type 1 decision and is subject to the review procedures in chapter 30.71 SCC, except that consolidated permit review shall be granted if requested by the applicant pursuant to SCC 30.70.120(2). When an administrative site plan is consolidated with a Type 2 decision, notwithstanding subsection (2)(b) of this section, the administrative site plan shall be processed as a Type 2 decision concurrent with the Type 2 decision with which it is consolidated.

(b) When residential development requires both an administrative site plan approval pursuant to this section and a Type 2 decision issued by the hearing examiner after an open record hearing, the administrative site plan shall not be approved until the hearing examiner has issued a decision.

(c) To approve an administrative site plan pursuant to this section, the director must find that the administrative site plan is consistent with the applicable requirements of Subtitle 30.2. The director's decision on the administrative site plan shall be consistent with any hearing examiner decision issued for the residential development.

(3) The administrative site plan application shall meet the submittal requirements established by SCC 30.70.030 and shall include the following:

(a) The building envelope of all structures and the location of all on-site recreation open space areas, buffers, points of egress, ingress, and internal circulation, pedestrian facilities and parking;

(b) Existing and proposed topography at contour intervals of five or less feet;

(c) Name, address, and phone number of the owner and plan preparer(s);

(d) Calculations showing acreage of the site, number of dwelling units proposed, zoning, site density and on-site recreation open space acreage;

(e) Scale and north arrow;

(f) Vicinity sketch (drawn to approximately 1" = 2,000' scale) showing sufficient area and detail to clearly locate the project in relation to arterial streets, natural features, landmarks and municipal boundaries; ((~~and~~))

(g) Natural drainage courses and probable alterations which will be necessary to handle the expected drainage from the proposal, and the general method proposed to comply with chapter 30.63A SCC((~~.~~)) <u>; and</u>

<u>(h) Low impact development best management practices, as required by chapter 30.63A SCC.</u>

(4) An administrative site plan shall also meet the submittal requirements established by SCC 30.70.030, and shall be subject to the notice requirements for a notice of application in chapter 30.70 SCC.

(5) Time limitation of application. An administrative site plan application shall expire pursuant to SCC 30.70.140.

(6) Revisions to an administrative site plan that has been approved by the department shall be processed pursuant to SCC 30.70.210 or 30.70.220.

(7) Approval expiration. Administrative site plan approval expires pursuant to SCC 30.70.140.

Section 6. Snohomish County Code Section 30.25.010, last amended by Amended Ord. No. 14-073 on October 8, 2014, is amended to read:

30.25.010 Purpose.

(1) The purpose of this chapter is to establish standards for landscaping to implement the policies of the comprehensive plan and to achieve the following objectives:

(a) Enhance neighborhood livability and mitigate potential land use incompatibility through landscaping and screening and by conserving tree canopy and vegetation;

(b) Encourage the conservation of the urban tree canopy and significant trees to retain the county's urban aesthetic character and environment; ((~~and~~))

(c) Promote the preservation of open space, existing tree canopy and vegetation, and natural diversity and wildlife habitat, using supplemental plantings when necessary((~~.~~)) ; and

(d) Require and promote the use of low impact development (LID) best management practices (BMPs) as directed by the Drainage Manual.

(2) The provisions of this chapter should enhance compatibility between uses and zones and build continuity within neighborhoods while reducing the impacts of new development and minimizing the visual impact of parking areas and detention facilities and other special uses that require screening from residential uses.

Section 7. Snohomish County Code Section 30.25.015, last amended by Amended Ord. No. 14-073 on October 8, 2014, is amended to read:

30.25.015 General landscaping requirements.

(1) All residential developments located within urban growth areas are required to landscape a minimum of 10 percent of the total gross area of the site to the standards set forth in this chapter unless exempted otherwise. The 10 percent requirement may include perimeter landscaping, parking lot and detention facility landscaping, rain gardens, tree canopy areas and street trees not in a public right-of-way.

(2) No building permit shall be issued when landscaping is required until a landscaping plan has been submitted and approved by the department, if applicable. Landscaping plan requirements shall be defined by the department in a submittal requirements checklist, as authorized by SCC 30.70.030. The landscaping plan shall be prepared by a qualified landscape designer.

(3) Planting areas outside of the right-of-way may include landscape features such as decorative paving, sculptures, fountains, rock features, benches, picnic tables, and other amenities; provided that the area devoted to such features may count toward no more than 20 percent of the total required perimeter and parking lot landscaping area. Use of bark, mulch, gravel, and similar non-vegetative material shall be minimized and used only to assist plant growth and maintenance or to visually complement plant material.

(4) An accessible route of travel meeting construction code barrier free requirements may cross a required landscape area at a 90 degree angle or as close to a 90 degree angle to the road right-of-way as conditions allow. The area devoted to an accessible route of travel in a required perimeter area may be included to satisfy the requirements of SCC 30.25.020.

(5) The following minimum planting standards apply, except that street trees required pursuant to subsection (8) of this section shall comply with planting standards in the EDDS:

(a) Evergreen and deciduous trees shall be at least six feet high at the time of planting;

(b) Deciduous trees shall have a minimum diameter of one and one-half inches caliper at the time of planting; provided that the combined diameter measurements of groupings of under-story trees, such as vine maples, may be used to meet this requirement;

(c) Evergreen and deciduous shrubs shall be at least 18 inches high at the time of planting;

(d) Trees shall be of a size and type projected to reach a height of at least 20 feet in 10 years, except where under-story or low-growing trees are specifically approved or required by the director;

(e) Trees shall be planted at least five feet from adjoining property lines.

(6) All landscape materials shall meet or exceed current United States standards for nursery stock published by the American Nursery and Landscape Association and consist of native species. The applicant shall use a list of acceptable species prepared by the director or may substitute a species with similar characteristics not on the list with the director's approval.

(7) To promote stabilization and continued healthy growth of the landscape areas required by this section, a qualified landscape designer shall determine the need for irrigation. An irrigation plan shall be submitted together with the required landscape plan.

(8) Street trees are required to be planted as frontage improvements along public roads and along private roads and drive aisles in residential developments within urban growth areas. Street trees are not required around turnarounds at the end of road network elements less than 150 feet in length.

(9) Property owners shall be responsible for the maintenance (including pruning) and liability of street trees on their property, or where responsibility has been assumed by the owner through a recorded agreement with the county.

(10) Utility work shall minimize impact to street trees, both above ground and to root systems below ground.

<u>(11) Preservation of native vegetation is encouraged and use of low impact development (LID) best management practices (BMPs) is preferred for stormwater management. When LID BMPs employing native vegetation are proposed, they may be counted towards landscaping requirements when the applicable landscaping criteria in SCC 30.25.020 SCC through SCC 30.25.036 SCC are met. Permeable pavement areas cannot be applied towards landscaping requirements.</u>

Section 8. Snohomish County Code Section 30.25.022, last amended by Amended Ord. No. 08-101 on January 21, 2009, is amended to read:

30.25.022 Parking lot landscaping.

(1) Parking lot landscaping is required for all parking areas with more than three parking stalls, except for individual single-family or duplex residences. Parking lot landscaping is required in addition to any perimeter landscaping required by SCC 30.25.020.

(2) Parking lot landscaping shall be installed as follows to provide visual relief and shade in parking areas, to decrease reflected heat and glare, and to mitigate aesthetic impacts:

(a) An area equal to at least 10 percent of the parking lot area shall be landscaped;

(b) Trees shall be included in parking lot landscaping at the rate of one tree for every seven parking stalls or one per landscaping area or island, whichever is greater;

(c) Low growing evergreen shrubs and groundcover, not to exceed a mature height of approximately 30 inches shall be planted in each parking lot landscaping area or island. Shrubs shall be planted approximately three feet on center and groundcover shall be planted approximately 12 inches on center;

(d) Lawn may be allowed as a substitute for shrubs and groundcover in parking lot landscaping if an applicant demonstrates that the areas proposed for lawn can and will be easily maintained; and

(e) Coniferous evergreen trees shall not be planted in parking lot landscaping islands or in any other location where they could obstruct lines of sight or create a safety hazard.

(3) No passenger vehicle parking stall shall be more than 50 feet from a landscaped area or island.

(4) Parking lot landscaping areas or islands shall be at least 80 square feet in size and shall have a minimum horizontal dimension of four feet in every portion of the island.

(5) All landscaping areas or islands shall be protected from vehicle damage by six-inch protective curbing, and, if necessary, wheel blocks. Vehicle overhang into landscaping areas is prohibited unless the required landscape area adjacent to any parking stall overhang area is increased in width by a minimum of two feet.

(6) A landscaping island shall be located at the end of each row of passenger vehicle parking, and in mid-row or other locations as needed to meet the requirements of this section; provided that parking lots containing fewer than 20 parking stalls may satisfy the 10 percent landscaping requirement with plantings in any area.

(7) When a parking area abuts residentially-zoned property or a property developed for residential use, a solid fence (gaps no greater than 1/4 inch) at least 48 inches high shall be required to block headlight glare; provided that the department may modify or waive this requirement when the abutting property or existing or likely future development is separated topographically from the parking area or otherwise protected from headlight glare.

(8) For calculating the 10 percent landscaping requirement, parking lot area shall include all areas devoted to parking spaces, driveways, and aisles accessing passenger vehicle parking spaces, accessible routes of travel across a parking area, and landscape islands within a parking area. Truck loading areas and truck turnarounds, if not in the passenger vehicle parking areas, and outdoor storage and outdoor display areas are not included in the calculation of parking lot area for landscaping purposes.

(9) Parking lot landscaping may include landscape areas adjacent to property lines, critical areas buffers, buildings, recreation areas, and roads. These areas may not be double counted as fulfilling the requirements for perimeter landscaping or for open space or other required landscape buffers unless specifically so provided.

<u>(10) Low impact development best management practices employing native vegetation installed to assist with parking lot stormwater management may count towards the ten percent landscaping requirement.</u>

Section 9. Snohomish County Code Section 30.25.040, last amended by Amended Ord. No. 08-101 on January 21, 2009, is amended to read:

30.25.040 Landscaping modifications.

(1) An applicant may request modification of landscaping requirements as part of project review, except modifications to landscaping in planter strips located in a public right-of-way shall be processed as deviation from the EDDS.

(2) The decision maker (either the department or the hearing examiner) may approve a request for modification when:

(a) The proposed landscaping represents an equal or better result than would be achieved by strictly following the requirements of the code; and

(b) The proposed landscaping fulfills the purpose of this chapter set forth in SCC 30.25.010(1).

(3) Notice of the department decision or recommendation on a landscaping modification shall be provided:

(a) Pursuant to SCC 30.70.050 and 30.72.030 if the project is a Type 2 application; or

(b) Pursuant to SCC 30.70.050 and 30.71.040, if the project is a Type 1 application or is a project not subject to administrative appeal.

(4) In considering requests for modification of perimeter landscaping requirements, the following alternative screening and buffering strategies shall be favored:

(a) Preservation of existing vegetation, particularly significant trees or other groupings of natural vegetation in consolidated locations;

(b) Better accommodation of existing physical conditions on site, including incorporation of elements to provide for wind protection or improve solar access;

(c) Incorporation of elements to protect or improve upon water quality;

(d) Increased landscaping width adjacent to residential uses or zones or in other strategic locations;

(e) Provision of a unique focal point of interest or better useable open space; ((~~and~~))

(f) Increased protection of wetlands and fish and wildlife habitat conservation areas and their buffers beyond((~~.~~)) <u>; and</u>

<u>(g) Use of low impact development best management practices employing native vegetation.</u>

(5) A modification is not required to provide more than the minimum width, density, or quality of landscaping.

Section 10. Snohomish County Code Section 30.31A.210, adopted by Amended Ord. No. 02-064 on December 9, 2002, is amended to read:

30.31A.210 Preliminary site plan.

The preliminary site plan shall contain, at a minimum, the following:

(1) Textual Material:

(a) The names and addresses of the developer, land surveyor, engineer, architect, planner, and other professionals involved;

(b) A document satisfactorily assuring unified control through the final plan approval stage for the total zone;

(c) A description of intended type of uses and operations including timing of development, if phased, and management control;

(d) A statement of intention to formally subdivide the property, if applicable;

(e) A description of proposed building design, including probable exterior finish;

(f) A provision for phasing out nonconforming uses and for removing existing structures or incorporating them into the overall development scheme;

(g) A statement of landscape maintenance provisions; ((~~and~~))

(h) A traffic analysis, when required by the department of public works; <u>and</u>

<u>(i) The general method proposed to comply with chapter 30.63A SCC.</u>

(2) Graphic Material. Prints of drawings, the number and scale determined by the department showing all the following information:

(a) A vicinity sketch locating the development;

(b) Property boundaries of the development area;

(c) All existing structures and improvements within the development area which are to remain;

(d) Existing streets bounding and/or within the development area;

(e) Tentative traffic and pedestrian circulation pattern within the development area, showing intended street widths;

(f) Tentative location of building lots and/or building areas and major areas intended for open space;

(g) Phasing plan depicting development divisions, if applicable; ((~~and~~))

(h) General landscape plan showing areas to be landscaped, proposed plant height, and treatment of existing vegetation((~~.~~)) <u>; and</u>

<u>(i) Natural drainage courses and probable alterations which will be necessary to handle the expected drainage from the proposal, including low impact development best management practices.</u>

Section 11. Snohomish County Code Section 30.31A.300, adopted by Amended Ord. No. 02-064 on December 9, 2002, is amended to read:

30.31A.300 Requirements for the final plan.

(1) A planned development may be finalized as a whole or in successive divisions.

(2) The final plan for a planned development shall consist of the following for each division:

(a) A completed application form signed by the developer(s) of the project and by the property owner(s) if other than the developer;

(b) Prints of drawings, the number and scale determined by the director of the department, showing all the following information; however, the director may permit postponement of detailed building design information until application for building permits on each lot or site:

(i) site contours at five foot intervals, both existing and final where different, street layout and identification, size and shape of all building sites and lots, location of buildings, open space areas with any specific open space activity areas indicated;

(ii) final landscape plan, including plant locations and species sizes at planting, together with location and typical side or cross-section view of perimeter fencing or berms, if any;

(iii) plans for signing and lighting, including typical entrance treatment and entrance signs; ((~~and~~))

(iv) plans for buildings and related improvements to a scale of at least one inch to 50 feet, showing:

(A) a typical plot plan for each type of building, including location of building entrance, driveway, parking, fencing, and sight screening;

(B) typical elevations (side views) of each type of building, including identification of exterior building materials;

(C) typical street and walkway cross-sections;

(D) plans for open space area improvements, if any;

(E) restrictive covenants as required, together with a statement from a private attorney as to their adequacy to fulfill the requirements of this chapter; and

(F) to ensure conformity, a short subdivision or subdivision, if required, shall be filed simultaneously with final plans. Final plan approval shall occur only after preliminary short subdivision or subdivision approval((.)) ; and

(v) plans for stormwater management.

(3) Where no preliminary site plan has been required, the final plan shall also include:

(a) The names and addresses of the developer, land surveyor, engineer, architect, planner, and other professionals involved;

(b) A document satisfactorily assuring unified control through the final plan approval stage for the total zone;

(c) A vicinity sketch locating the development and defining the property boundaries of the development area;

(d) A description of intended type of uses and operations including timing of development, if phased, and management control;

(e) A tentative traffic and pedestrian circulation pattern within the development area and a traffic analysis, when required by the department of public works pursuant to SCC 30.66B.220(1);

(f) All existing structures and improvements within the development area which are to remain; and

(g) A statement of landscape maintenance provisions.

Section 12. Snohomish County Code Section 30.31F.100, adopted by Amended Ord. No. 02-064 on December 9, 2002, is amended to read:

30.31F.100 General performance standards.

In addition to other applicable standards contained in subtitle 30.2 SCC, the following performance standards apply to development in the RB, RI, RFS, and CRC zones:

(1) Adequate water supplies shall be demonstrated for fire protection;

(2) Stormwater detention facilities ((~~such as ponds and grass swales~~)) and low impact development best management practices shall be designed whenever possible as to integrate them into the overall site design and required landscaping and buffers on the site;

(3) Signage shall be consistent with the provisions of SCC 30.27.010 to 30.27.090; and

(4) Refuse collection, fuel loading, and above ground fuel storage areas, and large truck parking areas shall be located at least 100 feet from residential uses or designations and shall be screened

in accordance with the landscaping requirements for outdoor storage and solid waste areas contained in SCC 30.25.024.

Section 13. Snohomish County Code Section 30.31F.200, last amended by Amended Ord. No. 13-042 on July 10, 2013, 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 30.62A and 30.62B SCC, detention/retention areas, <u>low impact development best management practices</u>, 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 SCC 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 land disturbing activity permit application submittal.

Section 14. Snohomish County Code Section 30.34A.010, last amended by Amended Ord. No. 13-100 on January 8, 2014, is amended to read:

30.34A.010 Purpose and applicability.

(1) This chapter establishes regulations, design standards and review procedures for development in the UC zone.
(2) The regulations and design standards established in this chapter promote higher density transit- and pedestrian-oriented development consistent with SCC 30.21.025(1)(e) <u>and require and promote the use of low impact development (LID) best management practices (BMPs) as directed by the Drainage Manual</u>.
(3) The provisions of this chapter apply to any property that is zoned UC on the Snohomish County Official Zoning Map, unless specifically exempted in subsection (4) of this section.

(4) This chapter does not apply to:

(a) Personal wireless communications facilities which are regulated under chapter 30.28A SCC.

(b) Nonconforming uses which are regulated under SCC 30.28.072.

(c) Service stations which are legally existing on May 29, 2010. Any alterations or reconstruction shall meet the requirements of the Planned Community Business zone.

(d) Manufacturing uses and structures on sites that are a minimum of 25 contiguous acres which are under single ownership or unified development control and which legally existed on May 29, 2010. The existing 100 foot wide on-site buffer adjacent to any residential zone shall be retained. Any alterations, reconstruction or construction of new structures thereon shall meet the requirements of the Business Park zone.

(5) If there is a conflict between the regulations in this chapter and other sections of this title, the regulations in this chapter shall control.

Section 15. Snohomish County Code Section 30.34A.026, adopted by Amended Ord. No. 13-007 on September 11, 2013, is amended to read:

30.34A.026 Expansion of existing structures containing a permitted use.

Permit or land use approval applications for the expansion of existing structures containing a permitted use shall be processed pursuant to SCC 30.34A.180(1) if the expansion satisfies the following requirements:

(1) The total square feet of the expansion or expansions of a building or buildings on a development site existing as of October 3, 2013, permitted under this section shall not exceed the greater of either:

(a) One hundred percent of the total gross floor area existing as of October 3, 2013, up to a maximum of 12,000 square feet of total additional gross floor area; or

(b) Ten percent of the total gross floor area existing as of October 3, 2013.

(2) Any future increase in gross floor area beyond that permitted under this section shall be subject to all of the provisions in this chapter.

(3) The expansion shall not create nonconformity with the existing regulations.

(4) The existing structure and the expansion shall meet the following requirements:

(a) The minimum setbacks and height in SCC 30.22.030 and SCC 30.22.041.

(b) The parking standards in SCC 30.26.032. If there are existing parking spaces in excess of the maximum permitted, the parking spaces may remain. The creation of new parking spaces in excess of the maximum shall not be permitted.

(c) The design standards in SCC 30.34A.100 through SCC 30.34A.160.

(d) The access and circulation requirements of chapter 30.24 SCC.

(e) The sign requirements of chapter 30.27 SCC.

(f) The requirements of chapter 30.66B.

(5) Expansion of an existing structure containing a permitted use shall not be subject to the minimum floor area ratio in SCC 30.34A.030.

<u>(6) The expansion of an existing structure containing a permitted use shall incorporate low impact development best management practices as directed by the Drainage Manual when required under chapter 30.63A SCC.</u>

Section 16. Snohomish County Code Section 30.34A.070, last amended by Amended Ord. No. 13-007 on September 11, 2013, is amended to read:

30.34A.070 Open space.

(1) All developments in the UC zone shall have a coherent, clearly defined integrated open space network that links together the various open spaces within the project.
(2) All developments shall provide a minimum amount of open space at a rate of 150 square feet per residential unit and two percent of the floor area of nonresidential development (excluding parking).
(3) At least 50 percent of the open space required under subsection (2) of this section shall be accessible to the public for active recreation.
(4) A minimum of 25 percent of area required for active recreation shall be consolidated in one location within the development.
(5) Active recreation includes:
(a) Playgrounds developed with children's play equipment;
(b) Outdoor or indoor sports courts (such as volleyball, basketball or tennis courts), swimming pools, and similar facilities;
(c) Picnic areas with permanent tables, benches or gazebos;
(d) Community gardens for use by residents;
(e) Improved trails or paths not otherwise required to provide pedestrian connections including those within critical area buffers provided they meet the requirements of chapter 30.62A SCC;
(f) Plaza;
(g) Courtyard;
(h) Forecourt;
(i) Rooftop garden; or
(j) Other active recreational uses approved by the director.
(6) The requirements in subsection (2) of this section may be reduced by up to 30 percent for residential development that is located within one-quarter mile walking distance of a public park or public school containing a playground or outdoor recreational facilities. The director shall determine the amount of reduction based on the following:
(a) The availability of safe pedestrian facilities connecting the development to the park and/or school;
(b) The availability and ability of the park and/or school facilities to accommodate additional usage by residents of the development; and
(c) The number of parks and/or school facilities located within one-quarter mile distance.
(7) Up to 30 percent of the required open space that is not dedicated to active recreation may be:
(a) Located within on-site critical areas and their buffers;
(b) Unfenced detention, retention and wet ponds;
(c) Stormwater treatment wetlands;
(d) Stormwater infiltration trenches and bioswales; ((~~or~~))
(e) Vegetated areas located above underground detention facilities((~~.~~)) <u>; or</u>
<u>(f) Low impact development best management practices related to stormwater treatment, except for permeable pavement areas intended for vehicle access or parking.</u>

Section 17. Snohomish County Code Section 30.41A.010, last amended by Amended Ord. No. 12-018 on May 2, 2012, is amended to read:

30.41A.010 Purpose and applicability.

(1) The purpose of this chapter is to:

(a) Regulate the division or redivision of land into five or more lots, tracts, or parcels outside of an urban growth area, or 10 or more lots, tracts, or parcels inside an urban growth area;

(b) Promote the public health, safety, and general welfare;

(c) Further the goals and objectives of the comprehensive plan;

(d) Prevent the over-crowding of land;

(e) Lessen congestion in the streets and highways;

(f) Promote effective use of land;

(g) Promote safe and convenient travel by the public on streets and highways;

(h) Provide for adequate light and air;

(i) Require that appropriate provisions are made for open space, drainage ways, streets, alleys or roads, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and sidewalks or other planning features that assure safe walking conditions for students who walk to and from school;

(j) Adequately provide for the housing and commercial needs of citizens;

(k) Provide for proper ingress and egress;

(l) Require uniform monumentation of subdivisions;

(m) Require conveyancing by accurate legal description; ((~~and~~))

(n) Provide for expeditious review and approval of proposed subdivisions that conform to the requirements of this code((~~.~~)) ; and

(o) Require and promote the use of low impact development (LID) best management practices (BMPs) as directed by the Drainage Manual.

(2) The provisions of this chapter shall apply to subdivisions as defined in this title and to every redivision of a short subdivision occurring within five years of the date of recording of the original short subdivision, except as provided in SCC 30.41B.010(2).

(3) The property owner of a split parcel may submit a plat to subdivide parcel split by a UGA boundary if one division of the parcel occurs on the UGA boundary line resulting in one lot encompassing the entire rural or resource area, even if this one lot does not meet minimum lot dimension requirements. Any additional division of the lot including lots created within the urban portion of the original parcel or additional lots created within the rural or resource area of the site must meet all applicable zoning and development standards set forth in subtitle 30.2 SCC and applicable subdivision requirements in subtitle 30.4 SCC.

Section 18. Snohomish County Code Section 30.41A.220, adopted by Amended Ord. No. 02-064 on December 9, 2002, is amended to read:

30.41A.220 Design standards - drainage.

All subdivisions shall comply with the requirements of chapter 30.63A SCC, including the requirement to use low impact development best management practices as directed by the

Drainage Manual. Modification of drainage standards or requirements shall be done only pursuant to chapter 30.63A SCC.

Section 19. Snohomish County Code Section 30.41A.630, adopted by Amended Ord. No. 02-064 on December 9, 2002, is amended to read:

30.41A.630 Dedications.

(1) All highways and public roads or portions thereof and parcels of land shown on the final plat intended for any public use shall be deeded or offered for dedication for public use except where the provisions of this chapter provide otherwise.
(2) Public roads, or portions thereof, may be reserved by the county for future dedication where the immediate opening and improvement is not required, but where it is necessary to ensure that the county can later accept dedication when the public roads become needed due to traffic impacts of the subdivision, together with expected impacts of reasonably foreseeable future development of the areas or adjacent areas.
(3) Easements shall be dedicated and indicated on the face of the final plat in a form acceptable to the department. Easements for the purpose of serving the subdivision and other property with utility services and granting the right to enter upon the lots, tracts, and common areas at all times to install, lay, construct, renew, operate, and maintain underground conduit, cables, pipe, and wires with necessary facilities and other equipment shall be reserved for and granted to all utilities and to their respective successors and assigns, under and upon the exterior 10 feet parallel with and adjoining the street frontage of all lots, tracts, and common areas. Easements required per chapter 30.63A SCC for low impact development best management practices ((~~storm drainage sewers~~)) and stormwater management facilities, and easements for other purposes required by Snohomish County Code, shall be dedicated as appropriate. The department shall establish standard language for the establishment of such easements and shall make the standard language available with the submittal requirements checklists for final subdivision approval.

Section 20. Snohomish County Code Section 30.41B.010, last amended by Amended Ord. No. 12-018 on May 2, 2012, is amended to read:

30.41B.010 Purpose and applicability.

(1) The purpose of this chapter is to:
(a) Regulate the division or redivision of land into nine or fewer lots, tracts, or parcels in an urban growth area, and four or fewer lots, tracts, or parcels outside an urban growth area, except as set forth in SCC 30.41B.010(2) - (4) below;
(b) Promote the public health, safety, and general welfare;
(c) Further the goals and objectives of the comprehensive plan;
(d) Prevent the over-crowding of land;
(e) Lessen congestion in the streets and highways;
(f) Promote effective use of land;
(g) Promote safe and convenient travel by the public on streets and highways;
(h) Provide for adequate light and air;

(i) Require that appropriate provisions are made for open space, drainage ways, streets, alleys or roads, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and sidewalks, or other planning features that assure safe walking conditions for students who walk to and from school;

(j) Adequately provide for the housing and commercial needs of citizens;

(k) Provide for proper ingress and egress;

(l) Require uniform monumentation;

(m) Require conveyancing by accurate legal description; ((~~and~~))

(n) Provide for expeditious review and approval of proposed short subdivisions that conform to the requirements of this title((.)) ; and

(o) Require and promote the use of low impact development (LID) best management practices (BMPs) as directed by the Drainage Manual.

(2) Land within a short subdivision which has been recorded within the immediately preceding five years may not be further divided in any manner, except that a final subdivision may be approved and filed for record pursuant to chapter 30.41A SCC, or the short subdivision may be altered to contain up to the maximum number of permissible lots, tracts, or parcels, as follows: When a short subdivision contains fewer than the maximum number of permissible lots, tracts, or parcels, based on the short subdivision's location either outside or inside an urban growth area, the owner who filed the short subdivision may file an alteration within the five year period to create, within the original boundaries of the short subdivision, a greater number of lots, tracts, or parcels than were originally created, up to a total of four lots outside an urban growth area, or a total of nine lots inside an urban growth area.

(3) After five years, further divisions may be permitted through the short subdivision process by a parcel owner when otherwise consistent with the then current regulations. PROVIDED, that when the subdivider owns more than one lot within a short subdivision, he may not divide the aggregate total into more than four lots when located outside an urban growth area or nine lots when located in an urban growth area.

(4) Where there have been no sales of any lots in a short subdivision, nothing contained in this section shall prohibit an applicant from completely withdrawing the entire short subdivision and thereafter presenting a new application.

(5) Land within a subdivision exempted from subdivision or short subdivision requirements by RCW 58.17.040(2) or SCC 30.41A.020(7), may not be further divided in any manner within five years immediately following the date of exempt subdivision so as to create any nonexempt lot, tract or parcel; except that a final subdivision may be approved and filed for record pursuant to chapter 30.41A SCC. This prohibition shall not apply as to lots, tracts, or parcels conveyed to purchasers for value. For the purpose of this subsection, the phrase "date of exempt subdivision" shall mean the date of creation of an exempt subdivision as shown by documents of sale or lease, filing of maps or surveys thereof with the county auditor or the department, or such other similar proof as is considered sufficient by the department. After five years, further divisions may be permitted by a parcel owner when otherwise consistent with the current regulations.

(6) Any nonexempt redivision of land authorized by paragraphs (2) and (3) above shall be subject to all subdivision requirements of chapter 30.41A SCC if approval would result in the subdivider owning more than four contiguous lots when located outside an urban growth area, or more than nine contiguous lots when located in an urban growth area, regardless of whether the lots are subdivided, short subdivided, or are unplatted lots.

(7) A split parcel may be divided into a two-lot short plat if:

(a) the parcel is divided on the UGA boundary line;

(b) both resulting parcels or lots meet all applicable subdivision requirements set forth in subtitle 30.4 SCC; and

(c) both resulting parcels or lots meet all applicable development standards set forth in subtitle 30.2, except:

(i) the urban portion of the parcel is exempt from compliance with minimum net density requirements pursuant to SCC 30.23.020; and

(ii) the rural or resource portion of the parcel is exempt from compliance with minimum lot dimension requirements pursuant to SCC 30.23.010.

(8) A split parcel may be divided into a short plat if the original split parcel is divided along the UGA boundary line creating at least one lot in the rural or resource designated area, even if this one lot does not meet minimum lot dimension requirements. Any additional divisions of the lot, including lots created within the urban portion of the original lot or additional lots created in the rural or resource area of the site must meet all applicable zoning and development standards set forth in subtitle 30.2 SCC and applicable subdivision requirements in subtitle 30.4 SCC.

Section 21. Snohomish County Code Section 30.41B.200, last amended by Amended Ord. No. 08-101 on January 21, 2009, is amended to read:

30.41B.200 Design standards.

The following design standards shall be met, unless a modification is specifically provided for:

(1) Each lot shall contain sufficient square footage to meet minimum zoning and health requirements, provided that the minimum lot size within a short subdivision may be reduced below the size required by applicable zoning through the lot size averaging provisions of SCC 30.23.210, or through the planned residential development or rural cluster subdivision provisions of this title;

(2) Each new lot shall have an accessible area suitable for construction pursuant to SCC 30.41A.235;

(3) Short subdivisions located in special flood hazard areas shall comply with the provisions of SCC 30.65.110(3);

(4) Roads and access shall be provided in accordance with the requirements in chapter 30.24 SCC; ((~~and~~))

(5) All short subdivisions shall meet the applicable tree retention and landscaping requirements of chapter 30.25 SCC((.)) ; and

(6) All short subdivisions shall comply with the provisions of chapter 30.63A SCC, including the requirement to use low impact development best management practices as directed by the Drainage Manual.

Section 22. Snohomish County Code Section 30.41C.010, last amended by Amended Ord. No. 08-087 on February 4, 2009, is amended to read:

30.41C.010 Purpose.

The purpose of this chapter is to provide regulations and standards for lot clustering in rural areas consistent with rural character. It does this by an alternative subdivision method for developing rural residential property, whereby landowners and developers are given incentives to cluster lots on the most buildable and least environmentally sensitive portions of sites, while retaining a substantial portion of each site, including most resource lands and environmentally sensitive areas, in restricted open space tracts. In order to take advantage of these incentives, landowners and developers are required to meet specific requirements called forth in this chapter, in the County's rural land use policies, and in requirements that may be elsewhere referenced in the SCC.

Specifically, this chapter is designed:

(1) To preserve areas of land which are suitable for agriculture, forestry, open space or, when applied in the rural urban transition area, possible future development;

(2) To preserve rural open space with the purpose of assuring continued viable undeveloped natural vegetated corridors for wildlife habitat, protection of watersheds, and preservation of wetlands and rural character;

(3) To produce a development pattern in rural areas consistent with rural character in accordance with rural land use policies and manifesting variety in design rather than uniformity of appearance in siting of clusters, placement of buildings, use of open space, more efficient use of the most buildable portion of sites, and retention of the environmentally sensitive and scenic portions of sites as permanent open space;

(4) To permit flexibility that will encourage a more creative approach in the development of land in rural areas and will result in a more efficient, aesthetic, and environmentally sound use of land, while harmonizing with adjoining development and preserving the county's attractive rural character;

(5) To encourage the development of cluster housing which provides greater compatibility with surrounding development and land uses in rural areas by providing larger buffer areas;

(6) To encourage the retention of more permanently undisturbed open space with its natural vegetative cover which protects continued groundwater recharge and reduces potential water pollution, flooding, erosion and other drainage-related problems often associated with rural development;

(7) To minimize adverse impacts on the county's productive agricultural, forestry, mineral and other important resource lands;

(8) To minimize adverse impacts on the county's environmentally sensitive areas such as wetlands, fish and wildlife habitat conservation areas, areas of unique vegetation or wildlife species, steep slopes, geologically hazardous areas, and other critical areas;

(9) To minimize the risk of danger to human life and property by restricting rural development on geologically unstable lands and in flood prone areas;

(10) To minimize the cost of installing essential public and private capital facilities necessary for a rural infrastructure;

(11) To support the provision of more affordable housing in rural areas;

(12) To provide reasonable opportunity for rural property owners to derive economic use of land characterized by features which substantially limit its development potential;

(13) To protect rural natural features and landscape by minimizing tree, vegetation, and soil removal; ((~~and~~))
(14) To provide a subdivision or short subdivision alternative for use in the rural/urban transition areas that will maintain and enhance rural character while preserving large tracts for future development upon inclusion into a UGA((~~.~~)) ; and
(15) To require and promote the use of low impact development (LID) best management practices (BMPs) as directed by the Drainage Manual.

Section 23. Snohomish County Code Section 30.41C.050, last amended by Ord. No. 15-103 on January 11, 2016, 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) Phase land disturbing activity site plans in accordance with any construction phasing.
(10) Avoid placement of impervious surfaces in areas appropriate for low impact development best management practices due to the capacity and ability of such areas to be used for infiltration and flow dispersal.

Section 24. Snohomish County Code Section 30.41C.070, last amended by Ord. No. 15-103 on January 11, 2016, is amended to read:

30.41C.070 Site design and development standards - general.

The following standards shall apply to all rural cluster subdivisions and short subdivisions:
(1) Site design shall be subject to the following standards for clustering and protection of natural resource lands and critical areas:
(a) A subdivision may contain more than one cluster of housing lots;
(b) The minimum number of residential lots in a cluster shall be two, except a residential lot may stand alone when an existing residence is maintained;

(c) The maximum number of residential lots in a cluster shall be 13;

(d) In addition to the minimum front yard setback defined in Table SCC 30.41C.130, the building areas on the plat shall represent residential dwellings and accessory buildings located at varying front yard setback distances to provide a visually diversified streetscape. The minimum variation between setbacks for buildings on adjacent lots shall be 10 feet;

(e) Individual clusters shall be located a minimum of 100 feet from adjacent natural resource lands designated in accordance with chapters 30.32A, 30.32B and 30.32C SCC; ((~~and~~))

(f) Designate and protect critical areas and their buffers pursuant to chapter 30.62A SCC((~~.~~)) ; and

(g) Use low impact development best management practices as directed by chapter 30.63A SCC and the Drainage Manual.

(2) Tree retention is encouraged on building sites with the approved fire mitigation review in accordance with SCC 30.53A.514.

(3) Services and optional development features shall conform to the following standards:

(a) Electric, telephone, and other utility lines and support infrastructure shall be located underground;

(b) Rural cluster subdivisions or short subdivisions are prohibited from connecting to public sanitary sewers, except when required by the Snohomish County Health District or a state agency to protect public health;

(c) When a proposal includes street lights, lighting should be low intensity and shall be projected downward, with full cut-off illumination that shields light from being emitted upwards toward the night sky or surrounding natural areas;

(d) Entrance signs shall incorporate materials typical of the rural character of the area and shall comply with all applicable provisions of SCC 30.27.060; and

(e) Rural cluster subdivisions shall draw water supply from a public water utility when one is available within one-quarter mile of the project site as measured along the existing right-of-way and the water utility is willing and able to provide service to the subdivision at the time of preliminary subdivision approval.

Section 25. Snohomish County Code Section 30.41C.080, last amended by Amended Ord. No. 10-072 on September 8, 2010, is amended to read:

30.41C.080 Site design standards - roads, gates and pedestrian pathways.

The following standards shall apply to the design of roads in a rural cluster subdivision or short subdivision.

(1) All roads, whether public or private, shall be designed and constructed in accordance with county engineering design and development standards (EDDS). Minimum required pavement dimensions consistent with the EDDS shall be used to minimize stormwater runoff.

(2) Access to the internal roads of a rural cluster subdivision by a private road may be permitted pursuant to SCC 30.41A.210.

(3) Access to the existing public roadway system shall be limited to no more than 2 points per cluster unless specifically approved or required by the county engineer.

(4) Internal roads shall be provided in accordance with the EDDS and with chapter 30.24 SCC.

(5) Connect clusters with pedestrian trails or pathways when feasible.

(6) Pedestrian facilities shall be physically separate from vehicular roadways. Use of pervious materials for pedestrian facilities is encouraged where conditions allow.
(7) If entrance gates are used, they shall be constructed to accommodate emergency vehicle access in accordance with SCC 30.53A.512. Gate locations and width shall be approved by the fire marshal and the county engineer. Gates serving 2 or fewer dwelling units may be exempt from these requirements if approved by the local fire district.

Section 26. Snohomish County Code Section 30.41C.090, last amended by Amended Ord. No. 13-042 on July 10, 2013, is amended to read:

30.41C.090 Restricted open space - general requirements.

(1) All open space within the rural cluster subdivision used to meet the open space requirements for lot yield calculations shall be restricted open space. Such restricted open space shall be designated, held in tracts separate from residential lots, and marked on the face of the plat.
(2) To qualify as restricted open space, an area must meet the following standards:
(a) It must be used for buffering, critical area protection, resource production, conservation, recreation, community utility purposes, or general preservation;
(b) At least 25 percent of the open space tract shall be accessible by all residents of the rural cluster subdivision or short subdivision for passive recreation, except when the restricted open space is fenced off as a critical area protection area. Access points to open space shall be shown on the face of the plat;
(c) The following uses are permitted in restricted open space tracts unless prohibited by chapter 30.62A, 30.62B or 30.62C SCC:
(i) Beaches, docks, swimming areas, picnic areas, trails/pedestrian walkways, equestrian trails, equestrian centers or structures related to animal husbandry or farming, playgrounds, or any nonmotorized passive recreational facilities and other similar uses as authorized by the director;
(ii) Community wells, well houses, water lines, water system appurtenances and community drain fields;
(iii) The following drainage facilities that meet the landscaping requirements in SCC 30.25.023:
(A) Unfenced detention, retention and wetponds;
(B) Stormwater treatment wetlands; ((~~and~~))
(C) Stormwater infiltration trenches and bioswales that serve more than one dwelling((~~.~~)) ; and
(D) Low impact development best management practices that serve more than one dwelling, excluding permeable pavement areas intended for vehicle access and parking.
(iv) Natural resource uses in accordance with chapters 30.32A, 30.32B and 30.32C SCC; and
(d) At least 30 percent of the total area of restricted open space shall be left undisturbed. Undisturbed open space may contain critical areas and their buffers. Such undisturbed restricted open space shall be identified on the site plan and marked clearly on the land disturbing activity site plan.

(3) SCC Table 30.41C.090 establishes the minimum percentage of the original gross development area that shall be retained as restricted open space tracts, except when the land is also designated as rural urban transition area (RUTA), which is governed by SCC 30.41C.140.

Table 30.41C.090

RESTRICTED OPEN SPACE AREA REQUIREMENTS

Zones and comprehensive plan designation	(1) Forestry (F) zone (2) Forestry & Recreational (F&R) zone (3) Mineral Conservation zone (MC) with or without MRO	(1) Rural 5-acre zone in RR-5 & RR-10(RT) without MRO (2) Rural Resource Transition 10-acre zone, Rural Conservation (RC) zone & Rural Diversification zones in RR-10(RT) designation with MRO	(1) Rural 5-acre zone in RR (RR Basic) designation without MRO
Minimum restricted open space	60 percent	45 percent	45 percent
Minimum restricted open space (natural resource lands)	60 percent	60 percent	60 percent
Notes: The Mineral Resource Lands Overlay (MRO) is a comprehensive plan designation overlay which overlaps other designations. Where the MRO overlaps the R-5 zone, residential subdivision is prohibited on any portion of a parcel located within the MRO under SCC 30.32C.150.			

(4) No more than 65 percent of the total restricted open space area may consist of unbuildable land as defined in SCC 30.91U.060.

(5) To retain rural character, the restricted open space shall contain on-site forested areas, active agriculture, meadows, pastures or prominent hillsides or ridges.

(6) The following notice shall be filed on the title of the properties within the plat and shall be placed on the face of the final plat and short plat:

> "Tract ___ is a restricted open space tract with limited uses pursuant to chapter 30.41C SCC. The open space tract is intended to be preserved in perpetuity."

Section 27. Snohomish County Code Section 30.41D.220, adopted by Amended Ord. No. 02-064 on December 9, 2002, is amended to read:

30.41D.220 Phased development.

(1) An applicant who chooses to develop a site in phases or divisions shall submit to the department a phasing plan consisting of a written schedule and a drawing illustrating the plan for concurrent review with the application for a binding site plan.
(2) Site improvements designed to relate to, benefit, or be used by the entire development (such as stormwater ((~~detention pond~~)) low impact development best management practices or tennis courts in a residential development) shall be noted on the phasing plan. The phasing plan shall relate completion of such improvements to completion of one or more phases or stages of the entire development.
(3) Once a phasing plan has been approved, the information contained therein shall be shown on, or the phasing plan attached to and made a part of, the binding site plan.
(4) Approval of a phasing plan does not constitute approval of the binding site plan. No land may be used, no buildings may be occupied, and no lots may be sold except in accordance with the approved binding site plan.

Section 28. Snohomish County Code Section 30.41F.010, adopted by Amended Ord. No. 07-022 on April 23, 2007, is amended to read:

30.41F.010 Purpose and Applicability.

(1) This chapter establishes and describes development standards and review procedures for single family detached units residential development created outside the traditional subdivision process.
(2) The provisions of this chapter shall apply to single family detached units developed on properties designated in the comprehensive plan for medium and high density residential development. Any combination of two or more detached single family dwelling units, two or more duplexes on one lot, or one or more detached single family dwelling unit and one or more duplexes, whether alone or in combination with multifamily dwellings (e.g., triplexes or larger multi-family units, etc.) on the same lot, may be created. Multiple lots may be combined to create one development site.
(3) Single family detached units may be located in the following zones: LDMR (Low Density Multiple Residential), MR (Multiple Residential), NB (Neighborhood Business), CB (Community Business), and GC (General Commercial).
(4) This chapter and all other applicable chapters of this title ensure development is consistent with the intent and function of each zone. Unless specifically modified by this chapter, all bulk requirements of the underlying zone shall apply.
(5) The purpose of this chapter is to allow an alternative method for developing higher density single family housing within urban growth areas outside the traditional subdivision process and lot ownership patterns. This alternative may be used to infill existing single family neighborhoods where infrastructure exists to deliver efficient land use and cost-effective delivery of urban services or may be used to develop larger scale higher-density single family housing where infrastructure may be developed in areas designated in the county's comprehensive plan for medium and high density development.

(6) This chapter requires and promotes the use of low impact development (LID) best management practices (BMPs) as directed by the Drainage Manual.

Section 29. Snohomish County Code Section 30.41F.040, last amended by Amended Ord. No. 16-004 on March 16, 2016, is amended to read:

30.41F.040 Approvals.

(1) Administrative site plan. In order to approve an administrative site plan, the department must find that the site plan is consistent with the requirements of this chapter and other applicable regulations as determined by the department.
(2) Final inspection and occupancy shall not be completed until the following requirements are met for those units included in the inspection:
(a) Fire lane signs and/or striping are completed for all access ways to the units;
(b) Address signs, street signs and unit addressing is completed;
(c) All landscaping, stormwater facilities, site amenities, fencing, pedestrian facilities, lighting, and other requirements for the units, pursuant to this chapter, are installed and approved; and
(d) Parking restrictions, common facilities, drive aisles, fire lanes and other vehicle and pedestrian facilities, and all other commonly-owned and operated property shall be protected in perpetuity by a recorded covenant, in a form approved by the director.
(3) Director's discretion. For the purpose of achieving greater innovation and design flexibility, the director and public works director shall have the authority to grant modifications or deviations as follows:
(a) Modifications or deviations may be granted to the following provisions of the county code if the applicant demonstrates that its proposal is consistent with the requirements of this chapter and the requested modification or deviation is consistent with the intent and purpose of this chapter and its provisions:
(i) chapter 30.24 SCC;
(ii) chapter 30.25 SCC;
(iii) chapter 30.26 SCC; and
(iv) chapter 30.27 SCC.
(b) The director shall retain administrative authority over the request. The director's decision shall be final and not subject to appeal to the hearing examiner.
(4) An approved administrative site plan shall expire pursuant to SCC 30.70.140.

Section 30. Snohomish County Code Section 30.41G.010, last amended by Amended Ord. No. 16-073 on December 21, 2016, is amended to read:

31.41G.010 Purpose.

The purpose of this chapter is to:
(1) Provide development regulations for cottage housing, which responds to changing household demographics and desired types of housing;
(2) Encourage creation of more usable open space for residents of cottage housing development through flexibility in lot standards;

(3) Ensure that the overall size, including bulk and mass of cottage structures and cottage housing developments, remains smaller and incurs less visual impact than standard sized single-family dwellings, particularly given the allowed intensity of cottage dwellings;
(4) Provide a centrally located and functional common open space area that fosters a sense of community and a sense of openness in cottage housing developments;
(5) Provide private areas around the individual dwellings to enable diversity in landscape design and foster a sense of ownership; and
(6) Ensure minimal visual impact from vehicular use and storage areas for residents of the cottage housing development as well as adjacent properties, and to maintain a detached single-family character along public streets.
(7) Require and promote the use of low impact development (LID) best management practices (BMPs) as directed by the Drainage Manual.

Section 31. Snohomish County Code Section 30.41G.070, adopted by Amended Ord. No. 16-073 on December 21, 2016, is amended to read:

30.41G.070 Final Inspection and Occupancy.

Final inspection and occupancy of a cottage housing development shall not be completed until the following requirements are met for those units included in the inspection:
(1) Fire lane signs and/or striping are completed for all access ways to the units;
(2) Address signs, street signs, and unit addressing is completed; and
(3) All landscaping, stormwater facilities, site amenities, fencing, pedestrian facilities, lighting, and other requirements for the units are installed and approved.

Section 32. Snohomish County Code Section 30.42B.010, adopted by Amended Ord. No. 02-064 on December 9, 2002, is amended to read:

30.42B.010 Purpose.

The purposes of this chapter are to:
(1) Provide an alternative form of development within urban growth areas (UGAs) to traditional subdivision which allows flexibility and creativity in site layout and design and protects critical areas through the use of open space;
(2) Provide for small and large scale developments incorporating a variety of housing types and related uses, that are planned and developed as an integral unit;
(3) Promote the efficient use of land by allowing a flexible arrangement of buildings and lots, circulation systems, land uses, and utilities;
(4) Promote the combination and coordination of architectural styles, building forms, and building relationships within a development;
(5) Preserve the value, character, and integrity of surrounding areas which have been, or, are being developed under traditional zoning regulations;
(6) Provide for the integration of new development into the existing community while protecting and preserving the value of the surrounding neighborhood;
(7) Provide the opportunity for affordable housing to meet the needs of a wide range of income and age groups;

(8) Encourage the preservation of existing natural site features such as trees, topography, and geologic features;
(9) Create permanent, useable and commonly owned open space for both active and passive recreation to serve the development; ((~~and~~))
(10) Implement the policies of the comprehensive plan((.)) ; and
(11) Require and promote the use of low impact development (LID) best management practices (BMPs) as directed by the Drainage Manual.

Section 33. Snohomish County Code Section 30.42B.115, last amended by Amended Ord. No. 13-042 on July 10, 2013, is amended to read:

30.42B.115 Design criteria - Open space.

(1) Open space shall be provided in PRD developments consistent with the following standards:
(a) Within a PRD, a minimum of 20 percent of the gross site area shall be established as open space;
(b) Open space shall be used for:
(i) On-site recreation space;
(ii) Critical areas and their required buffers subject to chapters 30.62A and 30.62B SCC;
(iii) Perimeter landscaping areas outside of rights-of-way;
(iv) All other open space areas owned in common and shared by residents and/or owners in the PRD, excluding those items listed in subsection (1)(c) of this section;
(v) LID BMPs that do not require fencing or consist of hard surfaces, such as infiltration systems, bioretention, and flow dispersal systems. LID BMPs that consist of hard surfaces may count as open space only when the hard surface is specifically for recreational use, such as a pedestrian trail;
(c) Open space shall not include any of the following:
(i) Lots, dwellings, and associated private yards, outdoor storage areas, and building setback areas;
(ii) Public or private street right-of-way including sidewalks and planter strips;
(iii) Parking lots, driveways and other areas of motorized vehicle access;
(iv) Open drainage facilities such as detention and retention ponds, wetponds, and other drainage facilities that require fencing pursuant to chapter 30.63A SCC, the Drainage Manual, or the EDDS; or
(v) Submerged lands when not defined as critical areas pursuant to chapter 30.62A, 30.62B or 30.62C SCC;
(d) Open space shall be permanently established in clearly designated, separate tracts. Tracts shall be owned by:
(i) The landowner, when no individual building lots are created and the property is held under single ownership;
(ii) All lot owners and condominium owners jointly, with an equal and undivided interest; or
(iii) A homeowners association, when consistent with SCC 30.42B.210(6);
(e) Open space shall be protected in perpetuity by a recorded covenant, in a form approved by the director. The recorded covenant must restrict uses of the total open space to those

specified in the approved PRD site plan and must provide for the maintenance of the total open space in a manner which assures its continuing use for the intended purpose.

(2) On-site recreation space shall be provided as a component of total open space and shall be consistent with the following standards:

(a) The on-site recreation space shall be for the uses set forth in SCC 30.23A.080(4), excluding the following:

(i) Critical areas and their buffers subject to chapters 30.62A and 30.62B SCC; and

(ii) Utility easements that exist on the project site at the time of application submittal;

(b) The requirement for on-site recreation space shall be at least 600 square feet per dwelling unit: except that retirement apartments and retirement housing shall be 200 square feet per dwelling unit;

(c) Forty percent of the required on-site recreation space shall be located in a single open space tract or permanent easement. Alternatively, the applicant shall be permitted to satisfy this requirement when no more than three open space tracts are created that provide a comparable open space use to that otherwise required. Power line, utility rights-of-way and other similar easements may be incorporated into on-site recreation space and counted towards the open space requirements of this section, provided they are developed with active recreational improvements. Remaining on-site recreation space shall be adequate in design and size for the intended passive and/or active recreation. No on-site recreation space shall have any dimension less than 20 feet (except for segments containing trails, which shall not be less than 10 feet in width), unless the applicant can demonstrate that a lesser dimension will not inhibit the use of the open space for its designated purpose;

(d) On-site recreation space designed for children shall not be located adjacent to any street designated as a collector/arterial unless properly designed with fencing, located away from street edges and other provisions to ensure adequate child safety. On-site recreation space designed for children shall be open, accessible, and visible from adjacent dwellings in order to enhance security;

(e) On-site recreation space shall have the appropriate location, slope, soils, and drainage to be considered for recreational development;

(f) On-site recreation space shall not contain above ground utility transmission lines and associated easement or right-of-way;

(g) On-site recreation space shall be landscaped pursuant to the provisions of SCC 30.42B.125, and in accordance with the required landscape plan in a manner that enhances the design of the open space while not conflicting with the function of the proposed recreation use; and

(h) Any buildings, structures, and improvements to be permitted in the on-site recreation space shall be those appropriate to the proposed uses.

(3) Active recreation uses shall be provided as follows:

(a) A minimum of 30 percent of the required on-site recreation space within PRDs with 10 or more lots or dwelling units shall be developed for active recreation uses;

(b) The active recreation requirement may be reduced by up to 30 percent for projects of 20 or fewer dwelling units, if access for pedestrians is constructed to an adjacent off-site public recreation area that contains an active recreation use that meets the needs of residents within the PRD and is approved by the off-site recreation provider;

(c) The active recreation facility shall be located on a reasonably level site with slopes no greater than six percent unless the applicant can demonstrate that the recreation facility can function adequately on greater slopes; and

(d) Playgrounds with children's play equipment shall meet all safety recommendations and construction specifications of the manufacturer of the equipment used.

Section 34. Snohomish County Code Section 30.63A.010, last amended by Ord. No. 15-102 on January 11, 2016, is amended to read:

30.63A.010 Purpose and objectives.

(1) The purpose of this chapter is to regulate stormwater discharges from all new development and redevelopment to prevent and control adverse impacts of drainage and stormwater on the public health, safety, and general welfare, consistent with the provisions of the Federal Clean Water Act (33 U.S.C. § 1251 et seq.) as administered by the Washington State Department of Ecology through issuance of the National Pollutant Discharge Elimination System (NPDES) Phase I Municipal Stormwater Permit (Permit) in accordance with chapter 90.48 RCW.

(2) The objectives of this chapter are:

(a) To promote sound, practical and economical development practices and construction procedures which prevent or minimize impacts to the county's waters;

(b) To prevent or minimize degradation of water quality and to control the sedimentation of streams, rivers, lakes, wetlands, marine waters and other waters to the maximum extent practicable by all known and reasonable methods of prevention, control and treatment;

(c) To control stormwater runoff originating from new development or redevelopment;

(d) To preserve the quality of water for recreation and fish and wildlife habitat;

(e) To maintain aquatic habitat;

(f) To maintain the quality of the county's water resources;

(g) To prevent or minimize adverse effects caused by degradation of surface water quality flow patterns or quantities, locations, and changes to hydrologic flow patterns;

(h) To prevent groundwater degradation from surface water flows;

(i) To preserve and protect the county's wetlands by maintaining hydrologic continuity with other aquatic resources;

(j) To maintain the safety of county roads and rights-of-way;

(k) To protect and maintain the safety and reliability of public and private electric systems to federally mandated standards;

(l) To protect public safety by reducing soil erosion, slope instability, and landslides;

(m) To encourage new development and redevelopment to locate within urban growth areas;

(n) To promote non-structural preventative and source control activities and actions; ((~~and~~))

(o) To require the use of low impact development (LID) best management practices (BMPs) ((~~where feasible, as defined in~~)) <u>as directed by</u> the Drainage Manual((~~.~~)) <u>; and</u>

<u>(p) To require and promote site planning principles that make LID the preferred and commonly-used approach to site development.</u>

Section 35. Snohomish County Code Section 30.63A.525, last amended by Ord. No. 15-102 on January 11, 2016, is amended to read:

30.63A.525 Minimum requirement 5: On-site stormwater management.

When minimum requirement 5 applies pursuant to part 300 of this chapter and no exemption under SCC 30.63A.200 or exception under SCC 30.63A.210 applies, on-site stormwater management BMPs shall be provided in accordance with the requirements of volume I, chapters 2 and 4, volume III, chapter 3 and volume V, chapter 5 of the Drainage Manual. Low impact development BMPs shall be used as directed by the Drainage Manual.

Section 36. Snohomish County Code Section 30.63A.710, last amended by Ordinance No. 15-102 on January 11, 2016, is amended to read:

30.63A.710 Separation requirements for drainage facilities.

This section establishes the required separation distances between structures, buildings and drainage facilities.

(1) Buildings shall be separated at least 15 feet from the top of bank of an open constructed channel or open detention pond or open detention vault to allow perimeter access to the drainage facility for maintenance equipment.

(2) Buildings shall be separated at least 10 feet from the nearest edge of a closed drainage facility that is not an on-site stormwater management BMP ((~~used to meet the requirements of SCC 30.63A.525~~)) included in Table 1.0, Volume 1 of the Drainage Manual.

(3) Infiltration systems other than on-site stormwater management BMPs included in Table 1.0, Volume 1 of the Drainage Manual ((~~used to meet the requirements of SCC 30.63A.525~~)) shall be separated at least 20 feet from upslope building foundations and at least 100 feet from downslope building foundations.

(4) If a separation required in subsections (1) through (3) of this section extends onto adjoining properties, then the owner of the drainage facility shall obtain a drainage and access easement from the affected adjacent property owner(s) prior to construction plan approval or permit issuance.

(5) Additional separation and setback requirements for specific drainage facilities including on-site stormwater management BMPs are set forth in the Snohomish County Drainage Manual and the EDDS.

Section 37. Snohomish County Code Section 30.63B.010, last amended by Ord. No. 15-103 on January 11, 2016, is amended to read:

30.63B.010 Purpose and objectives.

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

(2) Specific objectives of this chapter are:

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

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

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

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

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

(f) To maintain the safety of county roads and rights-of-way; ((~~and~~))

(g) To integrate low impact development (LID) techniques, ((~~where feasible~~)) as directed by the Drainage Manual, into the site planning process and project design prior to issuance of a land disturbing activity permit((.)) ; and

(h) To require and promote site planning principles that make LID the preferred and commonly-used approach to site development.

Section 38. Snohomish County Code Section 30.63B.050, last amended by Ord. No. 15-103 on January 11, 2016, is amended to read:

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 has been approved using LID techniques ((~~where feasible~~)) , as directed by the Drainage Manual, unless exempted or excepted by SCC 30.63A.200, 30.63A.210, or 30.63A.220;

(f) Security devices pursuant to chapter 30.84 SCC and insurance pursuant to SCC 30.63A.940 have been accepted by the department 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 this title.

(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.

Section 39. Snohomish County Code Section 30.63B.170, adopted by Amended Ord. No. 10-023 on June 9, 2010, is amended to read:

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~~)) native 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).

Section 40. Snohomish County Code Section 30.63B.200, last amended by Ord. No. 15-103 on January 11, 2016, is amended to read:

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-way, 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;
(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);
(e) All land disturbing activity that has drainage impacts that are required to be mitigated by construction of detention, water quality treatment (including low impact development best management practices used to meet requirements of Minimum Requirement 6 per the Drainage Manual), and/or bioretention systems; and
(f) All land disturbing activity that may cause impacts to wetlands or streams as described in chapter 30.63A SCC or volume I of the Drainage Manual.
(2) Engineered construction plans for the land disturbing activities identified in subsection (1) of this section shall also comply with chapter 30.52A SCC and the EDDS.

Section 41. Effective date, implementation. This ordinance shall take effect on December 1, 2017. The departments of Planning and Development Services and Public Works are authorized to take such actions as may be necessary to implement this ordinance on its effective date.

Section 42. Severability and Savings. If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by the Growth Management Hearings 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 Growth Management Hearings 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 1st day of November, 2017.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Chairperson

ATTEST:

Clerk of the Council

(✓) APPROVED
( ) EMERGENCY
( ) VETOED

County Executive

Date: 11/7/17, 2017

ATTEST:

Approved as to form:

Deputy Prosecuting Attorney

Date: _____

D-2

APPENDIX B

Roadside Ditch Bioretention Retrofit

Consent Decree
Puget Soundkeeper Alliance v. Snohomish County

Roadside Ditch Bioretention Retrofit

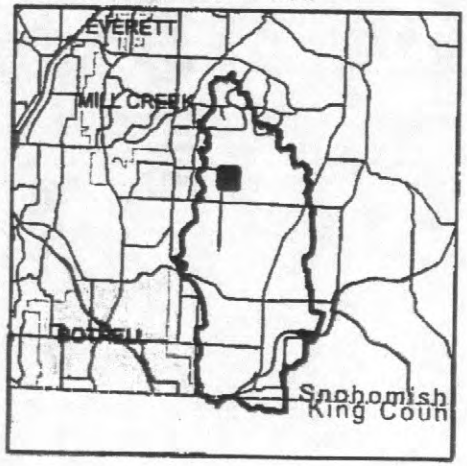
Legend

- Little Bear Creek Watershed
- County Boundary

Watercourses

- Major
- Others
- Ditch Retrofit

VICINITY MAP



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Snohomish County

PUBLIC WORKS

SURFACE WATER MANAGEMENT
(425) 388-3464

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APPENDIX C

Permeable Pavement Retrofit 149th St. SE & 52nd Ave SE

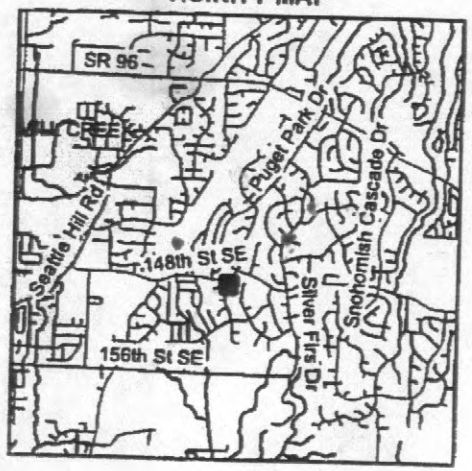
Consent Decree
Puget Soundkeeper Alliance v. Snohomish County

Permeable Pavement Retrofit
149th St SE & 52nd Ave SE

Legend

- Permeable Pavement
- CB Type 1
- CB Type 2
- Pipe

VICINITY MAP



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