



**Snohomish County**  
*Planning and Development  
 Services*

Visit us at :

2nd Floor Robert J. Drewel Bldg.  
 3000 Rockefeller Avenue  
 Everett, WA 98201

425-388-3311  
 1-800-562-4367, ext. 3311



**PERMIT SUBMITTAL**  
 Appointment  
 425.388.3311  
 Ext. 2790



This Assistance Bulletin only applies to property within unincorporated Snohomish County and does not apply to property within incorporated city limits.

# Land Disturbing Activity (LDA) Permit Exemptions

Assistance Bulletin

# #86

Effective September 30, 2010

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**Keyword: Assistance Bulletins**

This bulletin provides information about stormwater regulations and rules effective September 30, 2010, and explains what development and redevelopment activities are exempt from an LDA permit. Stormwater definitions are found in chapter 30.91 SCC.

On September 30, 2010, except for projects vested to prior drainage, grading and low impact development regulations in title 30 SCC, all land disturbing activity unless exempted in SCC 30.63B.070 that meet permit thresholds require an application for, and the issuance of, an LDA permit prior to commencement of work, pursuant to chapter 30.63B SCC (Land Disturbing Activity).

This information applies to projects vested on or after September 30, 2010. If your project is vested to regulations in effect prior to September 30, 2010, please see the appropriate bulletin (Grading Bulletin # 35).

**Q: What is “land disturbing activity”?** (See SCC 30.91L.025)

**A:** “Land disturbing activity” is any activity that results in earth movement or a change in the existing soil cover or soil topography (both vegetative and non-vegetative). It includes the creation and/or replacement of impervious surfaces.

**Q: What are common land disturbing activities?** (See SCC 30.91L.025)

**A:** Land disturbing activities include, but are not limited to:

- Clearing
- Grading
- Compaction associated with stabilization of structures and road construction
- Creation and/or replacement of impervious surfaces

**Q: Are maintenance activities land disturbing activity?**

**A:** Vegetation and drainage facility maintenance practices are not land disturbing activities, provided that the maintenance is performed according to standards adopted by Snohomish County.

**Q: Are traditional agricultural practices land disturbing activity?**

**A:** Land disturbing activities do not include agricultural plowing and tilling exempt from stormwater regulations pursuant to SCC 30.63A.200. There is additional information in this bulletin on commercial agriculture exemptions.

**This bulletin is intended only as an information guide. The information may not be complete and is subject to change. For complete legal information, refer to Snohomish County Code.**

**Q: What drainage review requirements must be addressed with a land disturbing activity?**

**A:** All LDA requires compliance with chapter 30.63A SCC drainage requirements. Some LDA that is exempt under chapter 30.63B SCC requires compliance with Minimum Requirement 2 in chapter 30.63A SCC to address soil erosion and sedimentation control. When MR 2 compliance is required, a stormwater pollution prevention plan (SWPPP) must be developed and implemented.

**Q: What is a stormwater pollution prevention plan (SWPPP)?**

**A:** A “Stormwater pollution prevention plan” or “SWPPP” is a documented plan that identifies measures to prevent and control contamination of point source discharges of stormwater.

**Q: What clearing can I do without a permit?**

**A:** Unless it is in a critical area, clearing of less than 7,000 square feet is usually permitted without an LDA permit, however, compliance with chapter 30.63A SCC (Drainage) Minimum Requirement 2 soil erosion and sediment controls is required for some exempt projects.

**Q: What are some examples of clearing that can be done without an LDA permit?**

**A:** The following land disturbing activities would generally not require an LDA permit:

- Clearing less than 7,000 square feet outside of a critical area (except a floodplain and aquifer recharge areas of low or moderate sensitivity to groundwater contamination), and critical area buffer or setback.
- Clearing less than 7,000 square feet in a Class IV General Forest Practice.
- Class IV Special Forest Practices (non-conversion).
- Typical urban/rural driveway less than 100 cubic yards.
- Some road maintenance.
- Some utility maintenance and repairs

**Q: What are some exempt grading activities that can I do without getting a LDA permit pursuant to SCC 30.63B.070(1)?**

**A:** If the LDA occurs outside all critical areas, and their buffers and setbacks (except floodplains and aquifer recharge areas of low or moderate sensitivity to groundwater contamination), you may do the following exempt activities if:

- The LDA is set back at least two feet from all property lines.
- The existing drainage course or pattern is not obstructed or altered.
- The LDA disturbs less than 7,000 square feet of land.
- The LDA creates or replaces less than 2,000 square feet of new, replaced, or new plus replaced impervious surface.
- The property on which the land disturbing activity will occur collects or concentrates stormwater from 5,000 square feet or less of drainage area.
- The amount of land disturbing activity is consistent with one of the following thresholds:
  - 100 cu. yds. or less of grading on a site in any 18 consecutive months (except fills and associated compaction intended to support structures or private roads).
  - 500 cu. yds. or less of excavation in any 18 consecutive months for a basement foundation, or for improvements to a single-family dwelling and/or accessory structures, provided that excess excavated material shall be disposed of at a permitted site approved by PDS. The activity shall only commence after a building permit is secured.
  - 500 cu. yds. or less of grading in any 18 consecutive months for construction of underground drainage systems. Construction shall only commence after a right-of-way use, utility, single-family or commercial building permit is obtained.

**Q: What other LDA are exempt from a permit pursuant to SCC 30.63B.070(2)?**

**A:** The following LDA are exempt from an LDA permit when the activity is at least two feet from all property lines. For this exemption to apply, development activities must occur outside all critical areas and their buffers and setbacks (except floodplains and aquifer recharge areas of low or moderate sensitivity to groundwater contamination):

- Operation of a solid waste disposal site subject to a solid waste permit pursuant to chapter 70.95 RCW (except that expansion, relocation, closure, or capping of a solid waste disposal site is not exempt).
- Mineral resource operations including mining, quarrying, excavating, or processing and associated stockpiling when authorized by a conditional use permit, except that the following are not exempt:
  - Reclamation pursuant to SCC 30.63B.170.
  - An operation that may destabilize or undermine any adjacent or contiguous property.
  - An operation that may result in an adverse downstream drainage impact.
- Site investigative work necessary for land use application submittals pursuant to title 30 SCC, such as surveys, soil borings, test pits, percolation tests, non-mechanical survey monument placement, data collection by non-mechanical means and other related activities, if performed in accordance with state-approved sampling protocols or sections 7 and 10 of the Federal Endangered Species Act. The land disturbing activity may be no greater than necessary to complete the work.
- Drilling or excavation of a well for a single family dwelling.
- Digging, excavating, or filling cemetery graves.
- Repair or installation of underground or overhead utility facilities that replace ground surfaces with in-kind materials or materials with similar runoff characteristics.

**Q: What Additional Exemptions LDA activities are exempt from a permit pursuant to SCC 30.63B.070(3)?**

**A:** The following land disturbing activities are exempt from obtaining a land disturbing activity permit:

- Repair or installation of underground or overhead facilities performed by a utility that only replaces ground surfaces with in-kind materials or materials with similar runoff characteristics. For this exemption to apply, development activities must occur outside all critical areas and the buffers and setbacks (except floodplains and aquifer recharge areas of low or moderate sensitivity).
- Facility maintenance and repairs performed by a utility that replace ground surfaces with in-kind materials or materials with similar runoff characteristics. They must not add impervious surface and adversely impact any critical areas or upstream or downstream properties.
- Remodeling or tenant improvements that are not new development or redevelopment.
- Forest practice Classes I, II, III and Class IV special non-conversion forest practices regulated by title 222 WAC.
- Oil and gas field activities or operations, including the construction of drilling sites, waste management pits, access roads, and transportation and treatment infrastructure (such as pipelines, natural gas treatment plants, natural gas pipeline compressor stations and crude oil pumping stations).
- These road maintenance activities: pothole and square cut patching, overlaying existing asphalt or concrete without expanding the coverage area, shoulder grading, reshaping and/or re-grading drainage systems, crack sealing, resurfacing with in-kind material without expanding the road prism and vegetation maintenance.

**Q: What exemptions from a LDA permit are there for commercial agricultural operations pursuant to SCC 30.63B.070(4)?**

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

- Tilling, soil preparation, fallow rotation, planting, harvesting and other commercial agricultural activities involving working the land. For this exemption to apply, development activities must occur outside all critical areas, their buffers and setbacks (except floodplains and aquifer recharge areas of low or moderate sensitivity);
- Maintenance or repair of existing commercial agricultural facilities including drainage facilities, ponds, animal stock flood sanctuaries, animal waste management facilities, agricultural buildings, fences, roads and bridges;
- New construction of drainage ditches (including enlargement of existing drainage ditches) that requires 500 cubic yards or less of grading. Such ditches shall not adversely impact critical areas or upstream or downstream properties, be located within 100 feet of streams, wetlands, lakes, marine waters, fish and wildlife habitat conservation areas, and erosion hazard areas, or contain water on-site for retention, infiltration or evaporation. For this exemption to apply, development activities must occur outside all critical areas, their buffers and setbacks (except that such activities may occur within floodplains and aquifer recharge areas of low or moderate sensitivity).

**Q: Do the right to farm provisions still apply to the Chapter 30.63A SCC (LDA) and Chapter 30.63A SCC (Drainage), effective September 30, 2010?**

**A:** Yes, the right to farm exemptions are provided in SCC 30.63B.070(5). Agricultural activities defined in chapter 30.32B SCC, SCC 30.91A.090 or SCC 30.62.015 are exempt from obtaining a land disturbing activity permit, provided that:

- The activity occurs on property on which agriculture is a legal use of the property.
- The activity requires no other permit or project approval from Snohomish County except for a flood hazard permit under chapter 30.43 SCC.
- The activity does not occur in a wetland as defined by state law, unless:
  - The activity is exempt from wetlands regulations under section 404(f) of the federal Clean Water Act.
  - The activity occurs on designated agricultural or rural lands and the wetland area is no greater than 5,000 square feet of non-riparian Category 2 or 3 wetlands or 10,000 square feet of non-riparian Category 4 wetlands, pursuant to chapter 30.62 SCC.
  - The activity occurs in a UGA or on designated forest lands, and the wetland is an area of no greater than 5,000 square feet of non-riparian wetland Categories II or III or 10,000 square feet of non-riparian Category IV wetlands, pursuant to SCC 30.62A.230(2).

**Q: What if I have other questions?**

**A:** Call (425) 388-3311 or submit questions online at [AskPermitTech@snoco.org](mailto:AskPermitTech@snoco.org). Remember, asking questions first can save lots of headaches, heartaches and money!

**Q: What are other sources of information related to this topic?**

**A:** Please see the following Bulletins:

- Bulletin #85 Land Disturbing Activity Terms
- Bulletin #87 Land Disturbing Activity Permits
- Bulletin #88 Land Disturbing Activity Emergency Actions