

ORDINANCE NO. 1233

CITY OF LACEY

AN ORDINANCE ADDING A NEW CHAPTER, 5A, TO THE CITY'S DEVELOPMENT GUIDELINES AND PUBLIC WORKS STANDARDS RELATING TO STORM WATER MAINTENANCE AND ADOPTING A SUMMARY FOR PUBLICATION.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, as follows:

Section 1. There is hereby added to the development guidelines and public works standards adopted by Section 12. 28.010 of the Lacey Municipal Code a new chapter, 5A, as set forth in the Storm Water Maintenance Code, attached hereto.

Section 2. Violation of the Storm Water Maintenance Code shall, as specified in said code, constitute a misdemeanor.


Section 3. The Summary attached hereto is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, at a regularly-called meeting thereof, held this 16TH day of DECEMBER, 2004.


CITY COUNCIL

By 
Mayor

Approved as to form:


City Attorney

Attest:


City Clerk

Chapter 5A

STORMWATER MAINTENANCE CODE

5A. 010 Purpose.

The provisions of this Chapter are intended to:

- A.** Provide standards and procedures for inspection, maintenance, and repair of stormwater facilities in Lacey to help contribute to an effective and functional stormwater system.
- B.** Comply with Washington Department of Ecology (Ecology) and Puget Sound Water Quality Authority (PSWQA) regulations and requirements for local governments.
- C.** Authorize the Lacey Stormwater Utility to require that stormwater facilities be inspected, maintained, and repaired in conformance with this Chapter.
- D.** Establish the minimum level of compliance, which must be met.
- E.** Guide and advise all who conduct inspection, maintenance, and repair of stormwater facilities.
- F.** Prevent harmful materials from leaking, spilling, draining, or being dumped into any public or private stormwater system.
- G.** Provide a method of enforcement for compliance with this Chapter.

5A. 020 Definitions.

For the purpose of this Chapter, the following definitions apply:

- A.** "Best management practice" or "BMP" means physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of stormwater. BMP's are listed and described in the Stormwater Management Manual.
- B.** "Harmful materials" are substances that may create a public nuisance or constitute a hazard to humans, animals, fish or fowl, or any solid, dangerous, or extremely hazardous waste, as defined by the Chapter 173-304 of the Washington Administrative Code (WAC) or Chapter 173-303 WAC. "Harmful materials" also include substances that, when released into the environment, may cause non-compliance with the following Chapters of The Washington Administrative Code: 246-290, 173-200, 173-201, 173-204, and/or 173-340.
- C.** "Non-stormwater discharges to the stormwater system" are discharges to any portion of the public or privately owned stormwater system that are not composed entirely of rainfall or snow melt. Examples may include, but are not limited to, sanitary wastewater, laundry wastewater, non-contact cooling water, vehicle wash wastewater, radiator flushing

wastewater, spills from roadway accidents, and improperly disposed motor oil, solvents, lubricants, and paints.

- D. "Person" means any individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, agency of the state, or local governmental unit, however designated.
- E. "Stormwater" means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or a constructed infiltration facility.
- F. "Stormwater facility" means a constructed component of a stormwater system, designed or constructed to perform a particular function or multiple functions. Stormwater facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, constructed wetlands, infiltration devices, catch basins, oil/water separators, and sediment basins. Stormwater facilities are described in the Stormwater Management Manual. "Stormwater facility" includes both public and privately owned facilities.
- G. "Stormwater Management Manual" or "Manual" means the Stormwater Management Manual for Western Washington prepared by the State Department of Ecology and dated August 2001, or a technically equivalent manual approved by the State Department of Ecology and adopted by the City of Lacey.
- H. "Stormwater system" means constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat, or filter stormwater. "Stormwater system" includes both public and privately owned features.

5A. 030 Maintenance Requirements.

All stormwater facilities in the City of Lacey, both Public and Private, shall be maintained according to this Chapter, maintenance guidelines specific to the stormwater facility, and the Minimum Maintenance Requirements and Standards of the Manual.

5A. 040 Minimum requirements.

- A. All stormwater facilities shall be inspected at regular intervals and maintained and repaired as needed to comply with: Section 5A.080 of this chapter, the approved designs for stormwater facilities, stormwater permits which may be issued by the City of Lacey, the State Department of Ecology or the Environmental Protection Agency (EPA), applicable construction standards, and the minimum requirements as stated in the Stormwater Management Manual.
- B. All stormwater facilities shall be inspected by the City on a periodic basis, as described in Section 5A.080. If, during an inspection, a facility is found to not be in compliance with Section 5A.080, all subsequent inspection and maintenance intervals shall be scheduled more frequently if determined by the City to be necessary in order to assure future compliance.

5A. 050 Disposal of waste from maintenance activities.

- A. Disposal of waste from maintenance activities shall be conducted in accordance with Chapters 173-304 and 173-303 of the WAC, the State Department of Ecology guidelines for disposal of waste materials from stormwater maintenance activities, and the Stormwater Management Manual.
- B. In addition to any of the above mentioned existing regulations and guidelines, the Stormwater Utility may develop additional requirements for handling and disposal of waste generated from maintenance activities within Lacey which, upon adoption, shall also apply. Additional requirements shall be placed in the Stormwater Management Manual.

5A. 060 Compliance required.

Unless otherwise specified by agreement, property owners are responsible for the maintenance, operation, and repair of stormwater systems and BMP's within their property. Property owners shall maintain, operate, and repair these facilities in compliance with the requirements of this Chapter and the Stormwater Management Manual.

5A. 070 Inspection authority.

During routine maintenance inspections to determine compliance with the provisions of Section 5A.080 or whenever there is cause to believe that a violation of this Chapter has been or is being committed, the City is authorized to inspect during regular working hours and at other reasonable times, all stormwater systems within Lacey to determine compliance with the provisions of this Chapter.

5A. 080 Inspection and Minimum Maintenance Requirements

These maintenance standards are intended to give support and guidance to all persons and property owners who must comply with the Drainage Design and Erosion Control Manual. All privately owned stormwater systems shall be maintained by the owner at his/her expense. The City of Lacey Public Works will complete and file a status report with the property owner or his/her designee after inspections have been completed. The minimum requirements listed herein will be subject to review and revision by the City on an annual basis in January.

- A. All parts of privately owned stormwater systems shall be maintained and/or restored to assure performance as designed and intended. All physical parts of the stormwater system shall be repaired and maintained per the City of Lacey, Development Guidelines & Public Works Standards, Stormwater Section, Appendix K and any guidelines specific to the respective facility.

- B. Stormwater system modifications or major repairs must be reviewed and approved by the City of Lacey prior to implementation. This is required to ensure that the intent of the originally approved stormwater system is achieved. The City may require the property owner to submit detailed drawings and/or specifications regarding proposed modifications and/or repairs.
- C. The City may require either partial or complete cleaning of a stormwater system whenever a prohibited substance (see item I, this section) is found to be present in a stormwater system.
- D. A licensed, bonded, and insured contractor must accomplish all maintenance of privately owned stormwater systems except for normal vegetation maintenance activities.
- E. All State and Federal confined space entry regulations and requirements must be followed.
- F. All maintenance work shall be completed in accordance with Section 5A.040-C.
- G. All privately owned pipes, catch basins, manholes, inlets, ditches, swales/bioswales, detention/retention systems, vaults, water quality facilities, flow control oil/water separators, sedimentation ponds, and stream channels located on (or running through) commercial properties, multi-family developments, private plats, and private short plats shall be inspected every three (3) years by the City and/or property owner and shall be maintained by the property owner.
- H. At a minimum, the following stormwater system maintenance shall be required:
 - 1. Pipes and piped detention/retention systems, which are 10% or more obstructed, must be cleaned. Catch basins, manholes, and inlets must be cleaned when an accumulation of material in the catchment reaches a volume of 60% capacity (the volume from the bottom of the structure to the bottom of the outfall pipe).
 - 2. All surface inlets must be cleared of leaves and debris so that they can readily accept water.
 - 3. All surface areas must be maintained to ensure runoff can flow directly to the catch basin as designed and approved.
 - 4. Ditches, swales/bioswales, detention/retention ponds, sedimentation ponds, vaults, and water quality facilities shall be cleaned and/or obstructions removed when flow is impeded; and/or the capacity of the ditch, swale, or water quality facility has been reduced by 20 % or more.
 - 5. Flow control oil/water separators shall be maintained when sediment/debris reaches a volume of 20% capacity or visible oil sheen is found to be present.
 - 6. Constructed stream channels shall be cleaned and/or have obstructions removed when flow is impeded and/or the capacity has been reduced by 20% or more.

7. Unstable and eroding stream channels and sedimentation ponds shall require maintenance and/or repair.
 8. Vegetation in and around the facility shall be maintained to prevent any impedance to performance of the system. Because the presence of vegetation can be both integral to water quality treatment and aesthetics, facility owners are expected to maintain established, healthy vegetation.
- I. The following materials/substances will not be allowed to enter any surface or sub-surface part of the public and/or private stormwater system. All listed prohibited materials shall be stored, handled and disposed of in a manner that will prevent them from entering any part of the public, private stormwater system, or groundwater system:
- ◆ All non-stormwater discharges to the stormwater system, unless such discharges are authorized in accordance with Chapter 173-216 of the Washington Administrative Code. (WAC) (*State Waste Discharge Permit Program*) or Chapter 173-220 WAC (*National Pollutant Discharge Elimination System Permit Program*).
 - ◆ Any solid, dangerous, or extremely hazardous waste, as defined by Chapters 173-304 WAC (*Minimum Functional Standards for Solid Waste Handling*) or Chapter 173-303 WAC (*Dangerous Waste Regulations*).
 - ◆ Any substance that, when released into the environment, may cause non-compliance with Chapters 246-290 WAC (*Public Water Supplies*); 173-200 WAC (*Water Quality Standards for Ground Waters of the State of Washington*), 173-201 WAC (*Water Quality Standards for Surface Waters of the State of Washington*), 173-204 WAC (*Sediment Management Standards*); or 173-340 WAC (*The Model Toxics Control Act Cleanup Regulation*)
 - ◆ Petroleum products including, but not limited to oil, gasoline, grease, fuel oil and heating oil.
 - ◆ Trash and debris
 - ◆ Chemicals and/or paint.
 - ◆ Animal waste
 - ◆ Steam cleaning waste.
 - ◆ Uncured concrete wash water (generated during cleaning, finishing or during exposure of aggregate).
 - ◆ Laundry wastes or other soaps
 - ◆ Pesticides, herbicides or fertilizers
 - ◆ Sewage
 - ◆ Heated water
 - ◆ Chlorinated water
 - ◆ Degreasers and/or solvents
 - ◆ Bark or other fibrous or organic material
 - ◆ Antifreeze and/or other automotive products
 - ◆ Animal carcasses or any portion thereof
 - ◆ Earth in quantities which cause violation of State water Quality standards

- ◆ Acids or alkalis
- ◆ Recreational vehicle wastes
- ◆ Dyes unless prior permission has been granted by the Director
- ◆ Construction materials and residues
- ◆ Wash water, sediment, and debris from street sweeping and street washing.

5A. 090 Inspection procedures.

- A. Inspection procedures will be maintained and updated as necessary in the "Private Stormwater Facilities Inspection Program" standard operating procedure within Public Works Operations.
- B. Prior to making any inspections on private property that has no dedicated access easements to the City, the inspector shall present identification credentials, state the reason for the inspection, and request entry.
- C. If the property or any building or structure on the property is unoccupied, the inspector shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the property or portions of the property and request entry.
- D. If after reasonable effort the inspector is unable to locate the owner or other person(s) having charge or control of the property and has reason to believe the condition of the stormwater system creates an imminent hazard to persons or property, the inspector may enter the property.
- E. Unless entry is consented to by the owner or person(s) in control of the property or portion of the property, conditions are reasonably believed to exist which create imminent hazard, or an access easement to the storm facility was dedicated to the City, the inspector shall obtain a search warrant prior to entry as authorized by the laws of the state of Washington.
- F. The inspector may inspect the stormwater system without obtaining a search warrant provided for in Subsection D, provided the inspection can be conducted while remaining on public property or other property on which permission to enter is obtained.

5A. 100 Inspection and maintenance records.

Owners of storm drainage systems will be required to provide the City with all existing inspection, maintenance, and repair records, as well as any record drawings or diagrams that they may have for their storm drainage systems when requested.

5A. 110 Enforcement authority.

The City of Lacey is obligated to monitor and enforce water quality standards in conformance with the Clean Water Act of 1972. In addition, the State Department of Ecology requires a public as well as private stormwater inspection and maintenance program under the NPDES phase II

program. The City or its designee shall administer and enforce this Chapter and shall have the authority to adopt and implement administrative procedures for such enforcement.

5A. 120 Enforcement policy.

- A. Where maintenance and repair is found necessary to correct health or safety problems, to control harmful materials entering the stormwater system, or to remove harmful materials that have entered the stormwater system, such work shall be completed by the owner or operator of the stormwater system or stormwater facility within twenty four (24) hours of notification of the person or entity responsible for maintenance of the non-compliance. When maintenance and repair is found necessary to prevent water quality degradation, such work shall be completed within seven (7) calendar days of notification, unless there is a severe water quality hazard, in which case such work shall be completed immediately. Other related problems, maintenance, or repairs shall be completed within thirty (30) calendar days of notification of the person or entity responsible for such maintenance of the non-compliance.
- B. In the event a valid response is not received nor the violations corrected, a second letter describing the violations shall be sent in accordance with the procedures set forth above. This second notice shall allow fourteen (14) calendar days for abatement of the violation, or a valid response, to negotiate a schedule as noted in Subsection A., above.
- C. Failure to abate the violation or negotiate a schedule as noted in Subsection B., above within fourteen (14) calendar days of the issuance of the second letter shall be deemed a misdemeanor.

5A. 130 Orders.

The City shall have the authority to issue to an owner or person(s) representing an owner an order to maintain or repair a component of a stormwater facility or BMP to bring it into compliance with this Chapter, the Stormwater Management Manual, and/or other City regulations. The order shall include:

- A. A description of the specific nature, extent and time of the violation, and the damage or potential damage that reasonably might occur.
- B. A notice that the violation or the potential violation cease and desist, and in appropriate cases, the specific corrective action to be taken.
- C. A reasonable time to comply, in conformance with Section 13.66.040 of the Lacey Municipal Code.
- D. Penalties that may be incurred by any owner of a stormwater system not in compliance with this Chapter.

E. An order to the owner to provide to the City a detailed plan which may include drawings and steps that will be taken to achieve compliance within a specified time. This plan is subject to approval by the City.

5A. 140 Penalty for violations.

A. **Persons Subject to Penalty.** Any person who violates or fails to comply with the requirements of this Chapter or who fails to conform to the terms of an approval or order issued by the City may be charged with a misdemeanor. Each day of continued violation shall constitute a separate violation for purposes of this penalty.

B. **Aiding and Abetting.** Any person who, through an act of commission or omission, aids or abets in the violation shall be considered to have committed a violation of the Chapter, and be subject to enforcement action.

C. **Re-inspection Fees.** In addition to the penalties to be imposed, the City may impose a re-inspection fee for any account or storm drainage facility found to be not compliance with this Chapter. This inspection fee shall be independent of any current or future penalties that may be incurred by the property owner for noncompliance with this Chapter.

5A. 150 Severability.

If any portion of this Chapter or its application to any person, entity, or circumstance is held invalid, the remainder of this Chapter or the application of the provision to other persons, entities, or circumstances shall not be affected.

5A. 160 Abrogation and restrictions.

It is not intended that this Chapter repeal, abrogate, or impair any existing regulation, easements, covenants, or deed restrictions. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.

5A. 170 State statutes and regulations.

The following state statutes and administrative regulations should be reviewed in conjunction with this Chapter to ensure that all state requirements are satisfied:

A. Revised Code of Washington (RCW)

Title	
43.20	Drinking Water
70.95	Dangerous and Solid Waste
70.105	Dangerous Waste, MTCA, Sediment Standards
90.48	Ground Water, Surface Water, Sediment
90.54	Ground Water

90.70

Sediment

B. Washington Administrative Code (WAC)

Title

173-200	Water Quality Standards for Ground Waters of the State of Washington
173-201	Water Quality Standards for Surface Waters of the State of Washington
173-216	State Waste Discharge Permit Program
173-220	National Pollutant Discharge Elimination
173-204	Sediment Management Standards
173-303	Dangerous Waste Regulations
173-304	Minimum Functional Standards for Solid Waste Handling
173-340	The Model Toxics Control Act Cleanup Regulation
246-290	Public Water Supplies

5A. 180 Violation deemed misdemeanor.

Any violation of the provisions of this Chapter as adopted is a misdemeanor.

SUMMARY FOR PUBLICATION

ORDINANCE 1233

CITY OF LACEY

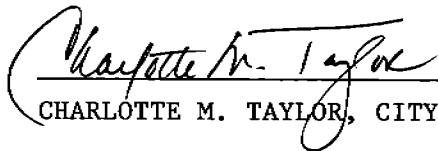
The City Council of the City of Lacey, Washington, passed on 12/16/04, Ordinance No. 1233, entitled "AN ORDINANCE ADDING A NEW CHAPTER, 5A, TO THE CITY'S DEVELOPMENT GUIDELINES AND PUBLIC WORKS STANDARDS RELATING TO STORM WATER MAINTENANCE."

The main points of the Ordinance are described as follows:

- 1. The Ordinance adopts a Storm Water Maintenance Code as a new chapter 5A to the city's development guidelines and public works standards.
- 2. The Ordinance declares the violation of the provision of said code to be a misdemeanor.
- 3. The Ordinance adopts this Summary for publication.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: DECEMBER 20, 2004.
MONDAY



 CHARLOTTE M. TAYLOR, CITY CLERK