

ORDINANCE NO 1638

CITY OF LACEY

AN ORDINANCE OF THE CITY OF LACEY RELATED TO STORMWATER REGULATIONS, AMENDING SECTIONS 14.29.010, 14.29.040-050, 14.29.070-080, 14.29.100, 14.36.030, 14.36.060, 14.36.090-110, 14.36.140, 14.36.160-180 AND 14.36.200, AND REPEALING SECTION 14.36.130, ALL OF THE LACEY MUNICIPAL CODE, AND ADOPTING A SUMMARY FOR PUBLICATION.

WHEREAS, The 2019-2024 Western Washington Phase II Municipal Stormwater Permit (Permit), issued by the Washington State Department of Ecology, includes two significant mandates that affect Lacey's Stormwater Management Program; and

WHEREAS, the first mandate required an update to the City's Stormwater Design Manual (SDM), which the city updated in June 2022 with the adoption of Ordinance 1620; and

WHEREAS, the 2022 SDM includes definitions, terminology, and a new section regarding underground injection control wells that require amendments to the Lacey Municipal Code for consistency; and

WHEREAS, the second mandate requires the city to implement a new "Source Control Program for Existing Development (Program);" and

WHEREAS, the Permit specifies four key parts to this new Program summarized as follows: (1) an ordinance or other enforceable document requiring the application of source control BMPs for pollutant-generating sources associated with existing land uses and activities; (2) an inventory of publicly- and privately-owned institutional, commercial, and industrial sites in Lacey; (3) implementation of an inspection program; and (4) a progressive enforcement policy that requires sites to comply with stormwater requirements within a reasonable time period; and

WHEREAS, The inventory has been established, and the inspection program is being initiated, leaving only the requirements for an “enforceable document” and “progressive enforcement” requirements; and

WHEREAS, proposed updates to LMC Chapter 14.29 Illicit Discharges will address these final two items; and

WHEREAS, the City Council finds that adopting the proposed amendments to the Lacey Municipal Code contained in this ordinance will be in the public interest;

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

Section 1: Section 14.29.010 of the Lacey Municipal Code is hereby amended to read as follows:

For the purposes of this chapter, the following shall mean:

“AKART” means all known, available, and reasonable methods of prevention, control, and treatment (AKART). See also the State Water Pollution Control Act, RCW [90.48.010](#) and [90.48.520](#).

“Allowable discharges” means types of discharges that are not considered illegal discharges for the purposes of this chapter unless the city determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater.

“Best management practices (BMPs)” means schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices approved by the Department of Ecology that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State.

“City” means city of Lacey, Washington.

“Conditionally allowable discharges” means types of discharges that are not considered illegal discharges for the purposes of this chapter if they meet the stated conditions, or unless the city determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution to surface water or groundwater.

“Groundwater” means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

“Hazardous materials” means 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 Chapter [173-303](#) or [173-304](#) WAC. Harmful materials also include substances that, when released into the environment, may cause non-compliance with the following chapters of the WAC: 246-290, 173-200, 173-201, 173-204, and/or 173-340.

“Hyperchlorinated” means water that contains more than 10 mg/liter chlorine.

“Illicit discharge” means ~~all any direct or indirect~~ non-stormwater discharges ~~to the city’s stormwater drainage systems that cause or contribute to a violation of state water quality, sediment quality or groundwater quality standards, including but not limited to sanitary sewer connections, industrial process water, interior floor drains, car washing, and greywater systems, except as expressly allowed by this chapter.~~

“Illicit connection” means any ~~infrastructure connection~~ ~~man-made conveyance that is connected to the MS4 that is not intended, permitted, or used for collecting and conveying stormwater or non-stormwater discharges allowed as specified in the City’s NPDES Municipal Stormwater Permit~~ ~~a municipal separate storm sewer system without a permit, excluding roof drains and other similar type connections.~~ Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the ~~MS4~~ municipal separate storm sewer system.

“Municipal separate storm sewer system (MS4)” means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

1. Owned or operated by the city of Lacey;
2. Designed or used for collecting or conveying stormwater;
3. Which is not part of a publicly owned treatment works (POTW). “POTW” means any device or system used in treatment of municipal sewage or industrial wastes of a liquid nature which is publicly owned;
4. Which is not a combined sewer. “Combined sewer” means a system that collects sanitary sewage and stormwater in a single sewer system; and
5. Which is defined as “large” or “medium” or “small” or otherwise designated by ~~the~~ Ecology pursuant to [40](#) CFR [122.26](#).

“National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit” means a permit issued by the Environmental Protection Agency (EPA) (or by the Washington Department of Ecology under authority delegated pursuant to [33](#) U.S.C. [1342\(b\)](#)) that

authorizes discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

“Non-stormwater discharges to the stormwater system” means discharges to any portion of the public or privately owned stormwater system that are not composed entirely of stormwater (i.e., 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.

“Person” means any individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, agency of the state, or local governmental unit, however designated.

“Pollutant” means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes, sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

“Source control BMP” means a structure or operation that is intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants. Source control BMPs are classified as structural or operational. Structural source control BMPs are physical, structural, or mechanical devices or facilities that are intended to prevent pollutants from entering stormwater. Operational BMPs are non-structural practices that prevent or reduce pollutants from entering stormwater.

“Stormwater” means surface runoff due to precipitation or snowmelt. That portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, ~~channels, or pipes,~~ and other features of the stormwater drainage system to into a defined a surface water ~~body~~channel or a constructed BMPinfiltration facility.

“Stormwater Design Manual” means the city of Lacey Stormwater Design Manual as currently adopted.

“Stormwater BMP/facility” means a constructed component of a stormwater drainage system, designed or constructed to perform a particular function or multiple functions. Stormwater BMPs/facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention pondsbasins, retention basinsponds, constructed wetlands, infiltration devices, catch basins, oil/water separators, bioretention, permeable pavement, and sediment basinsbiofiltration swales. Stormwater BMPs/facilities are described in the Stormwater

Design Manual. “Stormwater BMP/facility” includes both public and privately owned facilities.

“Stormwater pollution prevention plan (SWPPP)” means a document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a premises and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

“Stormwater drainage system” means any stormwater facilities, including the city's municipal separate storm sewer system, by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures. “Stormwater drainage system” includes both public and privately owned features.

“Waters of the state” means those waters defined as “waters of the United States” in 40 CFR Subpart 122.2 within the geographic boundaries of Washington State and “waters of the state” as defined in Chapter 90.48 RCW which includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and water courses within the jurisdiction of the state of Washington.

“Water body” means surface waters, ~~feature, whether standing or flowing, including rivers, streams, but not limited to, sounds, lakes, marine waters, estuaries, and wetlands. ponds, rivers, streams, and creeks including waters of the state.~~

Section 2: Section 14.29.040 of the Lacey Municipal Code is hereby amended to read as follows:

A. *Prohibition of Illicit Discharges.* No person shall discharge or cause to be discharged into the city’s stormwater drainage system, groundwater, or a water body any materials (including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable ~~state State of Washington Department of Ecology~~ water quality standards) other than stormwater. This prohibition of the discharge of pollutants shall include discharges from a stormwater BMP/facility that is not maintained properly by the owner per the city of Lacey maintenance standards. Pollutants include, but are not limited to, the following:

1. All non-stormwater discharges to the stormwater drainage system, unless such discharges are authorized in accordance with Chapter 173-216 (State Waste Discharge Permit Program) or 173-220 WAC (National Pollutant Discharge Elimination System Permit Program);

2. Any solid, dangerous, or extremely hazardous waste, as defined by Chapter [173-304](#) (Minimum Functional Standards for Solid Waste Handling) or [173-303](#) WAC (Dangerous Waste Regulations);
3. Any substance that, when released into the environment, may cause non-compliance with Chapter [246-290](#) (Public Water Supplies); [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), [173-204](#) (Sediment Management Standards); or [173-340](#) WAC (The Model Toxics Control Act Cleanup Regulation);
4. Trash or debris;
5. Construction materials and residues;
6. Petroleum products, including but not limited to; oil, gasoline, grease, fuel oil and heating oil;
7. Antifreeze and other automotive products;
8. Metals in either particulate or dissolved form;
9. Flammable or explosive materials;
10. Radioactive material;
11. Batteries;
12. Acids, alkalis, or bases;
13. Paints, stains, resins, lacquers, or varnishes;
14. Degreasers and/or solvents;
15. Drain cleaners;
16. Pesticides, herbicides, or fertilizers;
17. Steam cleaning wastes;
18. Uncured concrete wash water (generated during cleaning, finishing or during exposure of aggregate);
19. Soaps, detergents, or ammonia;
20. Swimming pool, ~~or~~ spa, or hot tub drainage, cleaning wastewater, or filter backwash;

21. Chlorine, bromine, or other disinfectants;
22. Heated water;
23. Animal wastes;
24. Sewages;
25. Recreational vehicle waste;
26. Animal carcasses;
27. Earth in quantities which cause violation of state water quality standards;
28. Wash water, sediment, and debris from street sweeping and street washing;
29. Food wastes;
30. Bark and other fibrous materials;
31. Lawn clippings, leaves, or branches;
32. Silt, sediment, concrete, cement or gravel;
33. Dyes (except as described in subsection C of this section under “Allowable Discharges”);
34. Chemicals, including suspected metals, not normally found in uncontaminated water;
35. Any other process-associated discharge except as otherwise allowed in this section;
36. Any hazardous material or waste not listed above.

B. Prohibition of Illicit Connections.

1. The construction, use, maintenance or continued existence of illicit connections to the stormwater drainage system is prohibited.
2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3. A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the municipal separate storm sewer system, or allows such a connection to continue.

C. *Allowable Discharges.* The following types of discharges shall not be considered illicit discharges for the purposes of this chapter unless the city determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of groundwater or a water body:

1. Diverted stream flows;
2. Rising groundwaters;
3. Uncontaminated groundwater infiltration (as defined in [40 CFR 35.2005\(b\)\(20\)](#));
4. Uncontaminated pumped groundwater;
5. Discharge from foundation drains;
6. Air conditioning condensation;
7. Irrigation water from agricultural sources that is commingled with urban stormwater;
8. Springs;
9. Uncontaminated water from crawl space pumps;
10. Water from footing drains;
11. Flows from riparian habitats and wetlands;
12. Discharges resulting from dye testing authorized by the city;
13. Non-stormwater discharges covered by another NPDES permit;
14. Discharges from emergency firefighting activities by a fire department or a fire district.

D. *Conditionally Allowable Discharges.* The following types of discharges shall not be considered illicit discharges for the purposes of this chapter if they meet the stated conditions, or unless the city determines that the type of discharge, whether singly or in combination with others, is causing or likely to cause pollution of surface water or groundwater:

1. Potable water, including water from water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be dechlorinated to a concentration of 0.1 parts per million (ppm) or less, pH-adjusted, if necessary, and in volumes and velocities controlled to prevent resuspension of sediments in the stormwater [drainage](#) system.
2. Lawn watering and other irrigation runoff are permitted but shall be minimized through, at minimum, public education and water conservation efforts.

3. De-chlorinated swimming pool, spa and hot tub discharges. These discharges shall be de-chlorinated to a total residual chlorine concentration of 0.1 ppm or less, pH-adjusted, and re-oxygenated, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater drainage system. Discharge shall be thermally controlled to prevent increase in temperature of the receiving water.

4. Street and sidewalk wash water, used to control dust, and routine external building wash down that does not use detergents are permitted if the amount of street wash and dust control water used is minimized. At active construction sites, street sweeping must be performed prior to washing the street.

5. Non-stormwater discharges covered by another NPDES permit; provided, that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations; and provided, that written approval has been granted for any discharge to the stormwater drainage system.

6. Other non-stormwater discharges. The discharges shall be in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the city which addresses control of such discharges by applying AKART to prevent pollutants from entering the ~~municipal storm drainage~~MS4 system, groundwaters, or a water body. A permit is required for all construction site dewatering and may be required by the city for other non-stormwater discharges approved by the city in a SWPPP.

Section 3: Section 14.29.050 of the Lacey Municipal Code is hereby amended to read as follows:

A. ~~Access to Facilities.~~

1. As a condition of service, all persons and premises connected to the municipal storm drainage system shall allow the city to:

a. Enter onto a person's property at reasonable times after notice to, and with the permission of, the property owner to inspect on-site stormwater drainage~~the~~ system, potential pollutant generating sources, source control BMPs,~~and~~ any connection made to the on-site stormwater drainage system by the property owner or to install appropriate monitoring equipment. This provision shall not be interpreted to limit the city's rights under any easement, license or right arising from public right-of-way.

b. Inspect records of the person relating to discharges to the city stormwater drainage system upon request and at reasonable times.

2. Failure to permit entry or inspection may result in the following actions or consequences:

a. The city may at its sole option seek a search warrant from a court of competent jurisdiction.

b. If it is later determined that a violation of this chapter has occurred, the violation shall be assumed to have been occurring from the date of the city's original request and to have continued until discovered by the city. Each and every day shall be a separate violation. This presumption may be overcome by the presumed violator only by clear and convincing evidence that the violation began at a later date.

B. *Confidential information.* Information and data furnished to the city with respect to the nature and frequency of discharge into the stormwater drainage system shall be available to the public or to other governmental agencies without restriction unless the person specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets or proprietary information of the person. When requested by a person furnishing a report, the portions of a report or other information which may disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to these regulations, the NPDES permit and/or other programs as amended; however, such portions of a report or other information shall be available for use by the city, the state, or any other public agency in enforcement proceedings involving the person furnishing the report. The constituents and characteristics of the stormwater will not be recognized as confidential information. Information accepted by the city as confidential shall not be transmitted to any governmental agency or to the general public by the city until and unless a ten-day notification is given to the person to the extent permitted by law.

C. The city may require either partial or complete cleaning of a stormwater drainage system whenever a prohibited substance (see LMC 14.29.040(A)) is found to be present in a stormwater drainage system.

Section 4: Section 14.29.070 of the Lacey Municipal Code is hereby amended to read as follows:

The city of Lacey has developed a Stormwater Design Manual that outlines requirements identifying best management practices, including pollutant source control for any activity, operation, or facility that may cause or contribute to pollution or contamination of stormwater, the stormwater drainage system, or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at its own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the ~~municipal storm drainage system~~MS4 or water body through the use of ~~these~~ structural and ~~operational source control~~~~nonstructural~~ BMPs. Further, any person responsible for a premises which is, or may be, the source of an illicit discharge may be required to implement, at said person's expense, additional structural and ~~operational source control~~~~nonstructural~~ BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated

with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of a SWPPP as necessary for compliance with requirements of the NPDES permit. ~~¶Outreach, education, and technical assistance materials and information~~ may be provided by the city upon reasonable request.

Section 5: Section 14.29.080 of the Lacey Municipal Code is hereby amended to read as follows:

Notwithstanding other requirements of law, as soon as any person responsible for a premises or operation, or responsible for emergency response for a premises or operation, has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the storm~~water~~ drainage system, or water bodies, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify:

- A. Emergency response agencies of the occurrence via emergency dispatch services; and
- B. The city of Lacey spill response hotline at (360) 491-5644, Monday through Friday 7:00 a.m. to 3:30 p.m. After hours, leave a voicemail at the number above, or select the option to be connected to Thurston County central dispatch, who will notify the city of Lacey's stand-by spill response staff.

In the event of a release of nonhazardous materials, said person shall notify the city in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city of Lacey within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Section 6: Section 14.29.100 of the Lacey Municipal Code is hereby amended to read as follows:

~~A progressive approach is typically implemented to assist businesses and other entities, persons, and residents in achieving and maintaining compliance with this chapter. This approach emphasizes outreach, education, and technical assistance before taking further enforcement actions or assessment penalties, unless a flagrant, serious, or purposeful violation has occurred. If any person violates or fails to comply with any of these provisions, Chapter 14.40 LMC regarding civil violations shall be applied. The City's NPDES Municipal Stormwater Phase II permit requires escalating progressive enforcement for illicit connections, illicit discharges, and source control violations., and Chapter 14.40 LMC~~

~~includes addresses this enforcement actions that may be applied if issues are not addressed following outreach, education, and technical assistance.~~

Section 7: Section 14.36.030 of the Lacey Municipal Code is hereby amended to read as follows:

A. “AKART” means all known, available, and reasonable methods of ~~treatment~~, prevention, ~~and control, and treatment~~ and is one component of pollution prevention plan development and implementation. AKART refers to technology-based treatments of pollutant sources that are implemented along with BMPs to treat, prevent and control the release of contaminants to surface water and groundwater. See also the State Water Pollution Control Act, RCW 90.48.010 and 90.48.520 WAC 173-201A-020.

B. “*Applicant*” means a person who files an application for approval under this chapter and who is either the owner of the land on which that proposed activity would be located, a contract vendee, a lessee of the land, the person who would actually control and direct the proposed activity, or the authorized agent of such a person.

C. “*Application*” as defined in Section 1.030(A) of the City of Lacey Development Guidelines and Public Works Standards.

D. “*Aquifer*” means a geologic stratum containing groundwater that can be withdrawn and used for human purposes.

E. “Best management practices (BMPs)” means schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices approved by the Department of Ecology best management practices for physical, structural, and/or managerial practices that, when used singularly or in combination, prevent or reduce the release of pollutants and other adverse impacts discharges to waters of Washington State. ~~These may include, but are not limited to, the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices~~ See WAC 173-200-020.

F. “*Category I critical aquifer recharge areas*” means those areas with extreme aquifer sensitivity due to the presence of soils that provide very rapid recharge with little natural water quality treatment. Category I areas contain coarse soil textures and soil materials, and are derived from glacial outwash materials. The predominant soil series in Category I CARAs are listed in LMC 14.36.070(B).

G. “*Category II critical aquifer recharge areas*” are those areas with high aquifer sensitivity due to soils which provide slightly lower recharge than Category I, but provide little protection and natural water quality treatment. Category II soils are derived from materials of glacial deposit. The predominant soil series in Category II CARAs are listed in LMC 14.36.070(B).

H. “*Category III critical aquifer recharge areas*” are those areas with aquifers present but have moderate aquifer sensitivity due to surface soil material that encourages run-off and slows water entry into the ground. The predominant soil series in Category III CARAs are listed in LMC 14.36.070(B).

I. “*Category IV low aquifer sensitivity areas*” are those areas of low ground water availability and whose soils series are derived from basaltic or andesitic rock or ancient glacial till (more consolidated, more clay at surface), and which have not formed geological strata that provide abundant ground water.

J. “*Critical aquifer recharge areas (CARA)*” means those areas that overlay aquifers that are used for potable water supply, and have soils and geologic characteristics that allow precipitation and runoff to infiltrate and replenish natural groundwater systems and aquifers. CARAs are further designated into Categories I, II, and III based on soil type, texture, and origin as listed in LMC 14.36.070(B), with these categories determining the stringency of land use management controls needed to be protective of underlying aquifers.

K. “*Hazardous materials*” means ~~those 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, debris, and waste which are a physical or health hazard, chemical substances that are ignitable, corrosive, reactive or toxic, consistent with~~ Chapter 173-303 or 173-304 WAC ~~and the International Fire Code, as amended.~~ Harmful materials also include substances that, when released into the environment, may cause non-compliance with the following chapters of the WAC: 246-290, 173-200, 173-201, 173-204, and/or 173-340.

L. “*Health expert*” means a person employed or contracted by the city of Lacey and licensed by the state as a registered sanitarian and with the necessary expertise and experience to provide information required by this chapter relating to health issues and concerns.

M. “*Health officer*” means the Thurston County health officer as defined in Chapter 70.05 RCW or his or her authorized representative.

N. “*Hydrogeology*” means the study of the interrelationships of geologic materials and processes with water, especially groundwater. Hydrogeology is a science that involves the study of the waters of the Earth, and the collection of data concerning waters and their interaction with other materials in the atmosphere, on the Earth’s surface, or in the interior of the Earth.

O. “*MPCs*” means reasonable methods of prevention and control. Examples of MPCs include but are not limited to pollution prevention plan development and implementation, routine maintenance, secondary containment, and measures to eliminate contaminant pathways to the source water.

P. “*Pollution prevention plan*” means a site-specific plan that addresses the avoidance of unplanned chemical release in the air, water, or land. It is based upon deliberate waste management planning, site design, and operational practices.

Q. “*Sanitary control area*” means the one-hundred-foot radius around any potable water supply well that shall be established and protected from all potential sources of contamination as required under WAC [246-290-135](#).

R. “Stormwater BMP/facility” means a constructed component of a stormwater drainage system, designed or constructed to perform a particular function, or multiple functions. Stormwater BMPs/facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention ponds, retention ponds, constructed wetlands, infiltration devices, catch basins, oil-water separators, bioretention, permeable pavement, and biofiltration swales. Stormwater BMPs/facilities are described in the Stormwater Design Manual. “Stormwater BMP/facility” includes both public and privately owned facilities.

S. “Underground injection control well” (UIC well) means a structure built to discharge fluids from the ground surface into the subsurface; a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or an improved sinkhole, which is a natural crevice that has been modified; or a subsurface fluid distribution system that includes an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground. Examples of UIC wells or subsurface infiltration systems include drywells, drain fields, infiltration trenches with perforated pipe, storm chamber systems with the intent to infiltrate, French drains, bioretention systems intended to distribute water to the subsurface by means of perforated pipe installed below the treatment soil, and other similar devices that discharge to the ground.

T. “Wellhead protection area (WHPA)” means the surface and subsurface area surrounding a well or well field, through which contaminants are reasonably likely to move toward and reach such water well or well field within 6-months, one, five, and ten years. WHPAs for Lacey’s water supply wells are adopted in Lacey’s Water System Comprehensive Plan which is approved by the Washington State Department of Health.

Section 8: Section 14.36.060 of the Lacey Municipal Code is hereby amended to read as follows:

Maps of soils in the Lacey area are located on the Web Soil Survey (Natural Resource Conservation District). The soil survey maps, as amended, are the basis for the CARA categories referenced in this chapter. The standards of this chapter shall apply to all lots or parcels which include Category I or II critical aquifer recharge areas, within the jurisdiction of the city of Lacey. Maps relating to city of Lacey wellhead protection areas and critical aquifer recharge areas can be found in the City of Lacey Water System Comprehensive-Plan, as amended. In the event that any of the critical aquifer recharge areas or wellhead protection areas shown on the maps conflict with the criteria set forth in this chapter, the criteria in this chapter shall control.

Section 9: Section 14.36.090 of the Lacey Municipal Code is hereby amended to read as follows:

When more than one application for a proposed development is required, the applicant may elect to have all applications submitted for review at one time in conformance with Section 1B.030 of the City of Lacey Development Guidelines and Public Works Standards; applications for proposed development and planned actions subject to the provisions of the State Environmental Policy Act (SEPA) shall be reviewed concurrently and in accordance with state and local laws, regulations and ordinances.

Section 10: Section 14.36.100 of the Lacey Municipal Code is hereby amended to read as follows:

Unless the city of Lacey waives one or more of the following information requirements, nonexempt applications for activities undertaken in a critical aquifer recharge area or wellhead protection area must provide the following information:

A. A site development plan drawing that shows the entire parcel of land owned by the applicant and features that are relevant to groundwater source protection, including but not limited to:

1. The exact boundary and description of wellhead protection areas, including the source well and sanitary control area, on site and on adjacent properties within specified setbacks if applicable;
2. Locations of Category I and II soils on the site;
3. Groundwater contours indicating the direction of shallow groundwater flow, shown in relation to the wellhead and its wellhead protection area if applicable, and existing and proposed stormwater BMPs/facilities;
4. Any existing drinking water well(s) and/or septic systems on site, both active and whether in-use-or abandoned;
5. All potential sources of soil or groundwater contamination on the site; and
6. Locations of proposed test pits and/or soil borings, temporary construction dewatering wells or other resource protection wells anticipated for gathering project data.

B. A description of the proposed use of the site, and descriptions of the types and quantities of hazardous materials and other pollutants that would be used or stored on the site including fuels and fuels associated with mechanical equipment and retail products.

C. A description of the engineering design and planned operation and maintenance of the projects that will mitigate impacts to groundwater quality and quantity at the development site. The description shall also identify specific limitations of the site, such as soils and geology, for mitigating impacts to site development. See requirements in ~~special reports~~ LMC 14.36.140.

Section 11: Section 14.36.110 of the Lacey Municipal Code is hereby amended to read as follows:

A. To protect the public health and safety, prevent aquifer contamination, and preserve the ground-water resource for continual beneficial use, uses ~~and activities~~ shall be most limited in those areas which have the highest degree of risk.

B. *Stormwater Runoff.* Stormwater impacts shall be mitigated through the application of the most current version of the City of Lacey Stormwater Design Manual. To minimize the potential for groundwater contamination, ~~stormwater runoff may require maximum treatment of metals enhanced treatment and/or phosphorous treatment may be required~~ prior to infiltration or discharge. ~~Determinations will be made on a case by case basis, in accordance with the City of Lacey Stormwater Design Manual.~~

C. *Agricultural Activities.* Agricultural activities within the city are primarily associated with urban agriculture, as allowed under Chapter 16.21 LMC, which includes limits and requirements for small farm animals. Agricultural impacts shall be mitigated through implementation of the Northern Thurston County Ground Water Management Plan (1991) as revised and updated, where applicable. In designated critical areas, the city of Lacey in consultation with the health officer or other qualified health expert shall require an applicant to employ methods that result in protection from aquifer contamination.

D. *Solid Waste.* Solid waste disposal facilities shall comply with Chapters 173-304 and 173-200 WAC. Solid waste landfills, and other solid waste disposal facilities likely to produce leachate shall be prohibited in Critical Aquifer Recharge Area Categories I and II. Handling and transfer facilities within these two categories may be placed with source control ~~BMPs measures~~ appropriate to the facility. Special care shall be employed to avoid the impacts of spills and leachate.

E. *Hazardous Materials.* Projects within sites that utilize, store, or dispose of hazardous substances may be required to prepare and implement a ~~Spill, Prevention, Control, and Countermeasures Plan (SPCC Plan) source control and spill prevention plan~~ that is specific to the hazardous substances on the site, or hazardous materials management plan as described in LMC 14.36.160.

F. ~~Fertilizer and Pesticides. Reserved.~~ Landscaping and Irrigation. Requirements for landscaping and associated irrigation are addressed in LMC Chapter 16.80. All land use projects located within a wellhead protection area will be required to develop and implement

an integrated pest management (IPM) plan that addresses plant selection, irrigation, and maintenance practices for minimizing the need for pesticides and fertilizers, and for preventing the leaching of soluble fertilizers and other contaminants into groundwater. IPM Plans are expected to include the elements described in Thurston County’s Integrated Pest Management Plan Guidance, and IPM plans as required by Thurston County for any projects located within a City of Lacey wellhead protection area shall also be submitted to the City of Lacey.

G. *Onsite Septic Systems.* Onsite septic systems for new or expanding uses within the city are addressed in service policies in the City of Lacey Wastewater Comprehensive Plan. The following provisions do not apply to septic tank effluent pumping (STEP) systems that are part of the city sewer system.

1. New individual or community onsite septic systems are not allowed within the city.
2. Individual onsite septic systems for expanding uses are discouraged and will only be considered on a case by case basis, generally as exceptional cases when connection to city sewer is not feasible. The city may require annual testing of septic systems as a condition of approval.

H. *Abandoned Wells.* Wells that cease to be used as a water source or as a resource protection well, are unmaintained, or are in such disrepair as to be unusable, shall be decommissioned consistent with Chapter 173-160 WAC to prevent ground-water contamination and remove any public safety hazards.

Section 12: Section 14.36.130 of the Lacey Municipal Code is hereby repealed.

Section 13: Section 14.36.140 of the Lacey Municipal Code is hereby amended to

read as follows:

A. The city shall require a hydrogeological report for a project located in a wellhead protection area or Category I or II critical aquifer recharge area if:

1. There is insufficient ~~ground-water~~hydrogeological information to perform an adequate review to assure aquifer protection; or
2. The project is likely to possess, store, use, transport, or dispose of hazardous materials.

B. This report shall be prepared, signed, and dated by a professional who is licensed in the state of Washington in hydrogeology or geology.

C. The report shall identify and characterize the aquifer recharge area as it relates to the development site, assess impacts of the development proposal on the aquifer protection and assess the impacts of any alteration proposed for the aquifer recharge or wellhead protection area.

D. The report shall propose adequate protection mechanisms and include mitigation, maintenance and monitoring plans and financial security measures if appropriate.

E. The hydrogeological report shall contain the information required under LMC 14.36.100, and the following:

1. Information sources;
2. Site geology and hydrostratigraphy, supported by project-specific well logs or borings and data from other nearby wells;
3. Available data on wells and springs located within one-quarter mile of the site;
4. Location and depth of perched water tables;
5. Groundwater elevations, flow direction, and gradient;
6. Recharge potential of facility site, including aquifer permeability and transmissivity;
7. Background water quality;
8. Identification of all hazardous materials to be used or stored on the site;
9. Analysis of the increase or change in nitrate concentrations predicted to occur in groundwater beneath the site as a result of the project;
10. A description of site conditions prior to project development, including vegetation and other conditions relating to existing and historic groundwater recharge at the site;
11. An analysis of site conditions as they are likely to exist during and after construction of the proposed project, and their cumulative impacts on ground-water quantity and quality;
12. Discussion of proposed mitigation measures to minimize impacts to groundwater quality and quantity, including training, maintenance and monitoring plans, and proposed mechanisms and financial measures that will ensure long-term implementation of mitigation measures; and
13. Any other information as required by the city.

F. The city of Lacey may retain health experts and other consultants with applicable expertise at the applicant's expense to assist in the review of special studies outside the range of staff expertise.

G. Review and evaluation of the report may be delegated to other city departments and to qualified private consultants at the applicant's expense.

H. The city of Lacey may waive the hydrogeological report requirements if the nature of the project and its impacts are generally known, or the impacts of the project have been mitigated by source control ~~strategies~~ BMPs.

Section 14: Section 14.36.160 of the Lacey Municipal Code is hereby amended to read as follows:

A. Any new project located within a wellhead protection area that uses, stores, handles or disposes of hazardous materials above the minimum cumulative quantities listed in this section shall submit a hazardous materials management (spill) plan that will ensure adequate protection of the aquifer and any domestic water supply. This plan shall be reviewed and updated as needed, and conditions under this plan shall be met on an ongoing basis.

B. The city in consultation with the Thurston County health officer may request that an owner of any existing use located within a wellhead protection area which uses, stores, handles or disposes of hazardous materials above the minimum cumulative quantities listed within this section to submit a hazardous materials management (~~spill~~) and spill prevention plan. This plan shall be reviewed and updated as needed, and conditions under this plan shall be met on an ongoing basis.

C. Hazardous materials management (~~spill~~) and spill prevention plans shall include, at a minimum, the following:

1. A brief description of business activities and a list and map of the locations, amounts, and types of hazardous materials, hazardous waste and petroleum products, stored on site;
2. A pollution prevention evaluation that reviews whether the risk from hazardous substances could be reduced through modifying production processes, utilizing nontoxic or less toxic substances, implementing conservation techniques, or reusing materials rather than putting them in the waste stream;
3. A description of inspection procedures for hazardous material storage areas and containers and the minimum inspection intervals. An inspection logbook shall be maintained for periodic review by the city or county;
4. Provision of an appropriate spill kit with adequate spill supplies and protective clothing;

5. Detailed spill cleanup and emergency response procedures identifying how the applicant will satisfy the requirements of the Dangerous Waste Regulations, Chapter 173-303 WAC, in the event that hazardous material is released into the ground, ground water, or surface water;

6. Procedures to report spills immediately to the Department of Ecology and the Environmental Health Division of the Thurston County Public Health and Social Services Department, in that order;

7. A list of emergency phone numbers (e.g., the local fire district and ambulance);

8. Procedures to ensure that all employees with access to locations where hazardous materials are used or stored receive adequate spill training. A training logbook shall be maintained for periodic review by the city or county;

9. A map showing the location of all floor drains and any hazardous material and petroleum product transfer areas; and

10. Additional information determined by the approval authority to be necessary to demonstrate that the use or activity will not have an adverse impact on ground water quality.

D. Any existing use which uses, stores, handles or disposes of hazardous materials above these minimum cumulative quantities will meet requirements described in subsection A of this section:

1. Chemical substances that are ignitable, corrosive, reactive or toxic, consistent with WAC 173-303-090, as amended, except as provided for below. Minimum cumulative quantity: one hundred sixty pounds or the equivalent of twenty gallons.

2. Cleaning substances for janitorial use or retail sale in the same size, packaging and concentrations as a product packaged for use by the general public. Chlorinated solvents and nonchlorinated solvents which are derived from petroleum or coal tar will not be considered a cleaning substance under this subsection, but rather a chemical substance identified in subsection (D)(1) of this section. Minimum cumulative quantity: eight hundred pounds (or the equivalent one hundred gallons), not to exceed fifty-five gallons for any single package.

3. *Businesses which use, store, handle or dispose of chemicals listed in WAC as "P" chemicals.* Minimum cumulative quantity: two and two-tenths pounds.

Section 15: Section 14.36.170 of the Lacey Municipal Code is hereby amended to read as follows:

A. Every application for a non-exempt development permit for a new use or expansion of an existing use within a wellhead protection area shall meet these minimum standards for mitigation:

1. If the proposal indicates the use, storage, handling or disposal of hazardous materials above the minimum quantity thresholds listed in LMC 14.36.160, the applicant shall submit a hazardous materials management (spill) plan as outlined in LMC 14.36.160.
2. Any existing wells on the site that are not actively used for domestic water use, irrigation or monitoring, or are not maintained and in such disrepair as to be unusable, will be decommissioned by the applicant following the procedures in WAC 173-160-381.
3. The city may require dedicated groundwater monitoring wells to be installed for the project in situations where groundwater contamination risks or monitoring needs are identified. The wells will be installed and equipped by the applicant to city standards.
4. The proposal must ensure compliance with the city of Lacey stormwater maintenance requirements, as described in Section 5B-5.100 of the City of Lacey Development Guidelines and Public Works Standards, and in LMC 14.27.060.
5. The city may allow alternatives to the minimum mitigation standards described in this section in unique conditions and on a case-by-case basis when the applicant demonstrates that:
 - a. The project has been evaluated by a hydrogeological report as described in LMC 14.36.140; and
 - b. Based upon the hydrogeological report and the best available science the proposed alternative mitigation measures will be adequate to protect the drinking water source.

Section 16: Section 14.36.180 of the Lacey Municipal Code is hereby amended to read as follows:

The following standards for new uses within designated wellhead protection areas are established to minimize risk to potable water supplies.

- A. The following uses shall be prohibited within the designated one-year time of travel zone:
1. Land spreading disposal facilities (as defined by Chapters 13-304 and 173-308 WAC--disposed above agronomic rates);
 2. Direct groundwater recharge or surface percolation using reclaimed water (as defined under Chapter 90.46.010 RCW);

3. *Animal operations with over two hundred animal units.* For purposes of this section, one animal unit is the equivalent number of livestock and/or poultry as defined by the U.S. Department of Agriculture Natural Resource Conservation Service Animal Waste Field Handbook;

4. ~~Gas stations, p~~Petroleum products refinement, reprocessing, and storage (except underground storage of heating oil or agricultural fueling in quantities less than one thousand one hundred gallons for consumptive use on the parcel where stored), and liquid petroleum products pipelines;

5. Retail gas stations and non-retail fueling stations, and mobile on-site fueling of commercial or residential vehicles;

65. Automobile wrecking and salvage yards;

76. Dry cleaning and garment care facilitiesers, excluding drop-off only facilities, that utilize solvents (including but not limited to perchloroethylene (PERC), trichloroethylene (TCE), toluene, methyl ethyl ketone (MEK), glycol ethers, liquid silicone, liquid carbon dioxide, or brominated solvents) as part of their service;

8. Deep underground injection control (UIC) wells that extend below an upper confining layer and discharge stormwater into the underlying vadose zone;

97. Asphalt and asphalt recycling plants, and /cement concrete plants; and

108. Machine shops, metal finishing/fabricating, metal plating and electroplating.

B. The following uses shall be prohibited within the designated one-, five- and ten-year time of travel zones:

1. Landfills (municipal sanitary solid waste and hazardous waste), demolition (inert), and wood waste;

2. Chemical/hazardous waste manufacturing, reprocessing, transfer, storage and disposal facilities;

3. Wood and wood products preserving; and

4. ~~Retail G~~gas stations and non-retail fueling stations without attendant (i.e., operated with no attendant on site to respond to fuel spills related to the dispensing of gasoline or equipment failure).

C. The following uses may be restricted on a case-by-case basis in the designated five-year time of travel zone:

1. Deep underground injection control (UIC) wells that extend below an upper confining layer and discharge stormwater into the underlying vadose for a production well that is rated as having a higher susceptibility to contamination, by the water system or by the Washington State Department of Health.

Section 17: Section 14.36.200 of the Lacey Municipal Code is hereby amended to read as follows:

The following shall apply to existing uses located within the designated wellhead protection areas defined in LMC 14.36.030:

A. For any existing use identified by the contaminantpollution source inventory in approved wellhead protection plans within the one-, five- and ten-year time of travel zones which produces, uses, stores, handles or disposes of hazardous materials, the owner, upon request of the health officer shall submit a hazardous materials management (spill) plan as described under LMC 14.36.160 that will ensure adequate protection of the source water supply. The health officer, in consultation with the water purveyor in which the use is located, shall review this plan to determine whether the plan shall be approved, or approved with conditions to ensure adequate protection of the source water supply.

B. The health officer at the health officer's discretion, for good cause and with reasonable expectation of risk to ground water, may require pollution prevention plans and MPCs on any use proposed within the one-, five-, and ten-year time of travel zones.

C. For any existing agricultural use located within the designated one-, five- and ten-year time of travel zones, the owner, upon request of the health officer, at the health officer's discretion, for good cause and with reasonable expectation of risk to ground water and with consultation with the Thurston Conservation District, shall develop a farm conservation plan in conformance with the U.S. Natural Resources Conservation Service Field Office Technical Guide and obtain approval of the Thurston Conservation District board of supervisors.

Section 18: Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Ordinance, or its application to any person, is for any reason declared invalid in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.


Section 19: Corrections. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the

correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

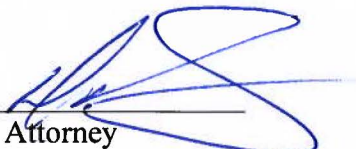
Section 20: The Summary attached hereto is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY,
WASHINGTON, at a regularly-called meeting thereof, held this 1st day of June, 2023.

CITY COUNCIL

By: 
Mayor

Approved as to form:


City Attorney

Attest:


City Clerk

SUMMARY FOR PUBLICATION
ORDINANCE NO 1638
CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on June 1, 2023, Ordinance No. 1638, entitled “AN ORDINANCE OF THE CITY OF LACEY RELATED TO STORMWATER REGULATIONS, AMENDING SECTIONS 14.29.010, 14.29.040-050, 14.29.070-080, 14.29.100, 14.36.030, 14.36.060, 14.36.090-110, 14.36.140, 14.36.160-180 AND 14.36.200, AND REPEALING SECTION 14.36.130, ALL OF THE LACEY MUNICIPAL CODE, AND ADOPTING A SUMMARY FOR PUBLICATION.”

The main points of the Ordinance are described as follows:

1. The Ordinance amends certain provisions of LMC 14.29 related to Illicit Discharges.
2. The Ordinance amends certain provisions of LMC 14.36 related to Wellhead Protection and Critical Aquifer Recharge Areas.
3. The Ordinance approves 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: June 5, 2023.