

**CITY OF SNOHOMISH
SNOHOMISH, Washington**

ORDINANCE 2173

**AN ORDINANCE OF THE CITY OF SNOHOMISH, WASHINGTON,
ADOPTING AND REVISING STORMWATER MANAGEMENT
REGULATIONS PURSUANT TO THE WESTERN WASHINGTON
PHASE II MUNICIPAL STORMWATER PERMIT ISSUED TO THE
CITY BY THE WASHINGTON STATE DEPARTMENT OF ECOLOGY
AND AMENDING CHAPTERS 14.90, 14.215, 15.12, AND 15.13, AND
ADOPTING CHAPTER ~~15.14~~ (15.16 due to Scribner error), OF THE
SNOHOMISH MUNICIPAL CODE**

WHEREAS, the Federal Clean Water Act, 33 U.S.C. 1251 *et seq.* (the Act), requires certain local governments such as the City of Snohomish to implement stormwater management programs and regulations within prescribed time frames, and pursuant to said Act the United States Environmental Protection Agency (EPA) has adopted rules for such stormwater programs and regulations; and

WHEREAS, the EPA has delegated authority to the Washington State Department of Ecology (Ecology) to administer such stormwater programs and regulations, and Ecology has issued the Western Washington Phase II Municipal Stormwater Permit, effective January 17, 2007 through February 15, 2012, which requires local governments such as the City of Snohomish to implement numerous stormwater management requirements, including adopting Ecology's 2005 Stormwater Management Manual for Western Washington and related regulations by February 16, 2010, and adopting illegal discharge and connection regulations by August 16, 2009; and

WHEREAS, in 2004, the City Council adopted Ordinance 2060, which established a stormwater utility to be responsible for the operation, construction, and maintenance of stormwater facilities, as set forth in Ch. 15.13 SMC; and

WHEREAS, in 1993, the City Council adopted Ordinance 1730, which required all new construction or reconstruction within the City to provide stormwater control in accordance with the current City Engineering and Construction Standards, pursuant to SMC 15.12.210; and

WHEREAS, in order to comply with the currently effective Western Washington Phase II Municipal Stormwater Permit, the City has prepared proposed Stormwater Management regulations, which amend and update the City's current stormwater regulations and related municipal code provisions, as primarily set forth in the City Engineering and Construction Standards; and

WHEREAS, on June 16, 2009 the City's SEPA Responsible Official complied with the State Environmental Policy Act (SEPA) by issuing a Determination of Nonsignificance (DNS) for the adoption of the proposed Stormwater Management regulations and by complying with SEPA's procedural requirements for issuing the DNS; and

WHEREAS, on August 4, 2009, the City Council conducted a duly noticed public hearing on the proposed Stormwater Management regulations, as set forth below and in the attached Exhibit A; and

WHEREAS, the City Council has determined that it is in the public interest and in furtherance of the public health and welfare to adopt the proposed Stormwater Management regulations, as set forth below and in the attached Exhibit A;

NOW THEREFORE, the City Council of the City of Snohomish, Washington do ordain as follows:

Section 1. Title 15 of the Snohomish Municipal Code is hereby amended by adopting Chapter ~~15.14~~ (15.16 due to Scribner error) SMC Stormwater Management, to read as set forth in Exhibit A, which is attached hereto and is incorporated herein by this reference.

Section 2. Chapter 15.12 of the Snohomish Municipal Code is hereby amended by amending SMC 15.12.210 to read as follows:

15.12.210 Discharge of Stormwater, etc. into Sanitary Sewer. No new construction shall be built so as to discharge or cause to be discharged any stormwater, surface water, ground water, roof runoff, subsurface drainage, cooling water, or unpolluted industrial process water to any sewer which is built solely for sanitary sewage. In combined sewer areas all remodeling or reconstruction that changes the use of the property or building or increases the impervious area may be required to install a stormwater system to mitigate the impact of stormwater on the City sanitary sewer system. All new construction, substantial remodel, or reconstruction shall be required to provide stormwater control in accordance with Chapters 15.13 and ~~15.14~~16 SMC.

Section 3. Title 14 of the Snohomish Municipal Code is hereby amended by amending SMC 14.90.080, 14.210.300, and 14.215.020 to read as follows:

14.90.080 Substantive Authority. The City may condition or deny a permit application, even though it may conform to this Development Code, as necessary to mitigate environmental impacts pursuant to WAC 197-11-660, provided said condition or denial is based on the Comprehensive Plan, the Development Code, the Shoreline Management Master Program, the Design Standards (both inside and outside the Historic District), the Building Codes, the City's Utility Extension Policy, the City's Stormwater Management regulations (Ch. ~~15.14~~16 SMC), or the agency responsibilities established by RCW 43.21C.020 (2), which are hereby adopted by reference.

14.210.300 Infrastructure Improvements Required as a Condition of Building Permit. As a condition of issuing a building permit for substantial improvements on the site, the City may require improvements or repairs to: the adjacent curb, gutters, sidewalks, water, wastewater and stormwater utilities, and stormwater facilities as required pursuant to Ch. ~~15.14~~16 SMC.

14.215.020 Preliminary Plat Approval Criteria.

- A. Preliminary subdivisions are Type 6 permits under Chapter 14.50 SMC. The preliminary subdivision application information shall include the following requirements: a title certificate, SEPA checklist, and the required fees related to the review of the preliminary plat.

- B. The approval criteria for approval of preliminary plats shall be as follows:
 - 1. The criteria stated in RCW 58.17.110.
 - 2. Consistency with the Comprehensive Plan.
 - 3. Consistency with this Development Code and the City’s Public Works Engineering Standards Manual adopted by Resolution 1096, May 4, 2004.
 - 4. Consistency with the concurrency requirement of SMC 14.55.030.
 - 5. Provision of off-site improvements or dedications of land to the public which are needed to mitigate the development’s impacts and which are proportional to those impacts.
 - 6. Compliance with the Stormwater Management requirements of Ch. ~~15.14~~ 15.16 SMC.

Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase, or word of this ordinance.

Section 5. Effective Date. This ordinance shall take effect on August 16, 2009.

ADOPTED by the City Council and **APPROVED** by the Mayor this 4th day of August, 2009.

CITY OF SNOHOMISH

By _____
E. Lynn Schilaty, Mayor Pro-tem

Attest:

Approved as to form:

By _____
Torchie Corey, City Clerk

By _____
Grant K. Weed, City Attorney

Date of Publication:

Effective Date:

EXHIBIT A

CHAPTER 15.14-16 (due to Scribner error) STORMWATER MANAGEMENT

Sections:

- 15.16.010 Purpose
- 15.16.020 Stormwater Management Manual Adopted
- 15.16.030 Stormwater Management Review Required
- 15.16.040 Standards, Definitions, and Requirements
- 15.16.050 Adjustments and Exceptions
- 15.16.060 Low Impact Development – Alternative Standards
- 15.16.070 Construction and Maintenance of Stormwater Facilities
- 15.16.080 Bonding and Insurance for Stormwater Facilities
- 15.16.090 Prohibited, Allowable, and Conditional Discharges and Connections
- 15.16.100 Administration, Inspection, and Fees
- 15.16.110 Enforcement
- 15.16.120 Appeals

15.16.010 Purpose. The City Council finds that this chapter is necessary in order to promote the public health, safety, and welfare by providing for the comprehensive management of surface and storm waters, erosion control, and flooding. The Council also finds that this chapter is necessary in order to minimize water quality degradation; to prevent flood damage, siltation, and habitat destruction in the City’s creeks, streams, and other water bodies; to protect property owners adjacent to developing land from increased runoff rates which could cause stream erosion and damage to public and private property; to promote sound development and redevelopment policies which respect and preserve the City’s watercourses and aquatic habitat; to promote low impact development strategies that reduce impervious surface and stormwater runoff; to ensure the safety of City streets and rights-of-way; and to prevent water quality degradation and promote ground water recharge through the implementation of comprehensive and thorough permit review, construction inspection, enforcement, and maintenance programs, in order to promote the effectiveness of the requirements contained in this chapter.

15.16.020 Stormwater Management Manual Adopted. The 2005 State Department of Ecology Stormwater Management Manual for Western Washington, as amended by Sections 1-6 of Appendix 1 of the Western Washington Phase II Municipal Stormwater Permit, as now or hereafter amended, is hereby adopted as the City’s minimum stormwater regulations and as a technical reference manual and is hereinafter referred to as the “Stormwater Manual.”

15.16.030 Stormwater Management Review and Approval Required. Stormwater Management review and approval by the City is required when any development or proposed project meets or exceeds the threshold conditions defined in the Stormwater Manual (e.g., new impervious area, drainage system modifications, redevelopments, etc.) and is subject to a City development permit or approval requirement.

15.16.040 Standards, Definitions, and Requirements.

- A. Unless otherwise specified in this chapter, all standards, definitions, and requirements shall be in accordance with the Stormwater Manual.
- B. Plan and Report Submittal. Stormwater site plans, supporting technical analyses, and other required documentation shall conform to the requirements contained in the Stormwater Manual.
- C. Where to Submit. All stormwater site plans prepared in connection with any of the permits and/or approvals set forth in this chapter shall be submitted to the Department of Planning and Development Services.
- D. All plans, drawings, and calculations designed to control surface water and subsurface water, submitted to the City, will be prepared by a licensed professional engineer, registered in the State of Washington, or by a qualified person as set forth in the Stormwater Manual, and those plans, drawings, and calculations will be stamped showing that engineer's registration, if applicable.
- E. Interpretation. The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this chapter.
- F. More Strict Standard Applies. When any provision of any other ordinance of the City's regulations conflicts with this chapter, that which provides greater environmental protection shall apply unless otherwise provided for in this chapter.
- G. Determining Construction Site Sediment Damage Potential. Any person submitting a stormwater site plan must also determine the Construction Site Sediment Damage Potential. Qualified personnel must use the rating system described in Appendix 7 of the Western Washington Phase II Municipal Stormwater Permit to determine the site's potential to discharge sediment.

15.16.050 Adjustments and Exceptions. Adjustments and exceptions to the minimum standards and requirements may be granted as set forth in the Stormwater Manual.

15.16.060 Low Impact Development – Alternative Standards.

- A. The City allows and encourages low impact development (LID) best management practices (BMPs), as an alternative to conventional stormwater management systems that rely on detention ponds and closed conveyance. Low impact development is intended to manage runoff close to the source of generation and to mimic the predeveloped hydrologic condition of a site.
- B. Low impact development is accomplished first through minimizing the impervious surface coverage and second by managing runoff through dispersion, infiltration, evapotranspiration, or a combination of these approaches. Use of LID BMPs may reduce or

eliminate the need for conventional detention facilities but does not remove the obligation to comply with the minimum requirements of the Stormwater Manual.

- C. A variety of BMPs to minimize impervious surfaces and to manage stormwater have been developed and tested for use in Western Washington. These BMPs and the overall LID approach are described in the LID Technical Guidance Manual for Puget Sound (LID Manual).
- D. The menu of LID BMPs identified in the LID Manual are accepted by the City for use in stormwater site plans to address the minimum requirements for flow control and runoff treatment in this chapter, subject to the specifications, performance standards, and design criteria in the LID Manual and review and approval under this chapter.
- E. A covenant or easement shall be recorded with the Snohomish County Auditor's office for each lot containing or served by bioretention facilities in a form approved by the City Attorney. The covenant shall identify requirements and liability for preservation and maintenance of low impact development facilities approved under this chapter and privately held in individual or undivided ownership or intended for public ownership, shall restrict conversion of LID facilities, and shall grant the City access to low impact development facilities on private property to allow inspection, maintenance, and repair.

15.16.070 Construction and Maintenance of Stormwater Facilities.

- A. All stormwater facilities required under this chapter shall be constructed and maintained as set forth in the Stormwater Manual and the permits and/or approvals of the City.
- B. Maintenance of private stormwater facilities.
 - 1. The person or persons holding title to the property and the applicant required to construct a stormwater facility shall remain responsible for the facility's continual performance, operation, and maintenance in accordance with the standards and requirements of the Stormwater Manual, this chapter, and the permits and/or approvals of the City and shall remain responsible for any liability as a result of these duties. Language designating the responsible parties shall be printed on the face of the plat documents. The requirements of this subsection B shall apply to all new facilities constructed in the City.
 - 2. The City shall have authority to periodically enter upon the property and inspect the facilities to ensure such compliance and to issue orders requiring maintenance and/or repair. In event that the titleholders or other responsible parties do not effect such maintenance and/or repairs, the City may perform such work, and the cost thereof shall be recoverable by the City from said titleholders or other responsible parties and/or by filing a lien against the property.
 - 3. When an inspection identifies an exceedence of the maintenance standard, maintenance shall be performed in accordance with the following schedule:
 - Within 1 year for typical maintenance of facilities, except catch basins.

- Within 6 months for typical maintenance.
- Within 2 years for maintenance that requires capital construction of less than \$25,000.

15.16.080 Bonding and Insurance for Stormwater Facilities.

- A. The City may require all persons constructing stormwater facilities under this chapter to post with the City cash or surety bonds to cover the cost of defects in materials, workmanship, and installation and also to correct maintenance deficiencies during the initial 2-year maintenance period following satisfactory completion of the facilities. Posting of such bonds shall be consistent with the City’s policy for security deposits and subject to review by the City Attorney.
- B. The person constructing the stormwater facility and/or the property owner shall maintain a liability policy during the construction period and the initial 2-year maintenance period or until the point in time if and when the City assumes maintenance responsibilities, with limits no less than \$1,000,000 combined single limit per occurrence and \$2,000,000 aggregate for personal injury, bodily injury, and property damage, and with the City named as an additional insured. A copy of the endorsement naming the City as additional insured shall be attached to the certificate of insurance, which shall be provided to the City prior to commencement of the work.

15.16.090 Prohibited, Allowable, and Conditional Discharges and Connections.

- A. Definitions. The following definitions shall be applicable to this section:
1. AKART – All Known, Available, and Reasonable methods of prevention, control, and Treatment. See also the State Water Pollution Control Act, RCW 90.48.010 and RCW 90.48.520.
 2. “Ground water” means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.
 3. “Hazardous materials” means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
 4. “Hyperchlorinated” means water that contains more than 10mg/L chlorine.
 5. “Illicit discharge” means any direct or indirect non-stormwater discharge to the City's storm drain system, except as expressly exempted by this chapter.
 6. “Illicit connection” means any man-made conveyance that is connected to a municipal separate storm sewer 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 municipal separate storm sewer system.

7. “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, which are:
 - a. Owned or operated by the City of Snohomish;
 - b. Designed or used for collecting or conveying stormwater;
 - c. 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); and
 - d. Not a combined sewer (“Combined sewer” means a system that collects sanitary sewage and stormwater in a single sewer system).
8. “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 USC Section 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
9. “Non-stormwater discharge” means any discharge to the storm drain system that is not composed entirely of stormwater.
10. “Person” means any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner of a premises or as the owner's agent.
11. “Pollution” means any pollutants which cause or contribute 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.
12. “Storm” or “stormwater drainage system” means publicly owned 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.

13. “Stormwater” means runoff during and following precipitation and snowmelt events, including surface runoff and drainage.
14. “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.

B. Prohibited discharges.

1. No person shall throw, drain, or otherwise discharge, cause or allow others under his/her control to throw, drain or otherwise discharge into the municipal storm drain system any materials other than stormwater.
2. Examples of prohibited contaminants include but are not limited to the following:
 - a. Trash or debris.
 - b. Construction materials.
 - c. Petroleum products including but not limited to oil, gasoline, grease, fuel oil, and heating oil.
 - d. Antifreeze and other automotive products.
 - e. Metals in either particulate or dissolved form.
 - f. Flammable or explosive materials.
 - g. Radioactive material.
 - h. Batteries.
 - i. Acids, alkalis, or bases.
 - j. Paints, stains, resins, lacquers, or varnishes.
 - k. Degreasers and/or solvents.
 - l. Drain cleaners.
 - m. Pesticides, herbicides, or fertilizers.
 - n. Steam cleaning wastes.
 - o. Soaps, detergents, or ammonia.
 - p. Swimming pool cleaning wastewater or filter backwash.
 - q. Chlorine, bromine, or other disinfectants.
 - r. Heated water.
 - s. Domestic animal wastes.
 - t. Sewage.
 - u. Recreational vehicle waste.
 - v. Animal carcasses.
 - w. Food wastes.
 - x. Bark and other fibrous materials.
 - y. Lawn clippings, leaves, or branches.
 - z. Silt, sediment, concrete, cement, or gravel.

- aa. Dyes. Unless approved by the City.
- bb. Chemicals not normally found in uncontaminated water.
- cc. Any other process-associated discharge except as otherwise allowed in this section.
- dd. Any hazardous material or waste not listed above.

C. Allowable discharges. The following types of discharges shall not be 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:

- 1. Diverted stream flows.
- 2. Rising ground waters.
- 3. Uncontaminated ground water infiltration – as defined in 40 CFR 35.2005(20).
- 4. Uncontaminated pumped ground water.
- 5. Foundation drains.
- 6. Air conditioning condensation.
- 7. Irrigation water from agricultural sources that is commingled with urban stormwater.
- 8. Springs.
- 9. Water from crawl space pumps.
- 10. Footing drains.
- 11. Flows from riparian habitats and wetlands.
- 12. Discharges from emergency fire fighting activities.

D. Conditional Discharges. The following types of discharges shall not be 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 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. These planned discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system.
- 2. Lawn watering and other irrigation runoff. These types of discharges shall be permitted if the amount of runoff is minimized through water conservation efforts.
- 3. De-chlorinated swimming pool discharges. These discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted and reoxygenized if necessary, volumetrically and velocity controlled to prevent re-suspension of sediments in the stormwater system.
- 4. Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents. These discharges shall be

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. These discharges shall be in full compliance with all requirements of the permit, waiver, or order, and other applicable laws and regulations.
6. Other non-stormwater discharges. These 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 contaminants from entering surface or ground water.

E. Prohibited Connections.

1. The construction, use, maintenance, or continued existence of illicit connections to the stormwater 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 section, if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.

15.16.100 Administration, Inspection, and Fees.

A. Administration.

1. This chapter shall be primarily administered by the Director of Public Works or a designee, hereafter referred to as the Director, with the cooperation and assistance of the Department of Planning and Development Services. The Director of Public Works and the Director of Planning and Development Services shall have the authority to develop and implement administrative procedures to administer and enforce this chapter.
2. The Director may approve, conditionally approve, or deny activities regulated by this chapter.

B. Inspections.

1. The Director is authorized to gain access to private property as provided by law and in this chapter, to make such inspections of stormwater facilities, and take such actions as may be required to enforce the provisions of this chapter.
2. Inspection prior to clearing and construction will apply to sites with a high potential for sediment damage, as identified by the applicant during civil review

based on definitions and requirements of Appendix 7 of the Western Washington Phase II Municipal Stormwater permit.

3. Whenever necessary to make an inspection to enforce any of the provisions of this chapter or to monitor for proper function of stormwater facilities, or whenever the Director has reasonable cause to believe that violations of this chapter are present or operating on a subject property or portion thereof, the Director or a designee may enter such premises at all reasonable times to inspect the same or perform any duty imposed upon the Director by this chapter; provided, that if such premises or portion thereof is occupied, the Director shall first make a reasonable effort to locate the owner or other person having charge or control of the premises or portion thereof and request entry. If after reasonable effort, the inspector is unable to locate the owner or other person having charge or control of the premises or portion thereof and has reason to believe an imminent hazard exists, the inspector may enter.
 4. Property owners shall provide proper ingress and egress to any stormwater facility to the Director or a designee to inspect, monitor, or perform any duty imposed upon the Director by this chapter. The Director shall notify the responsible party in writing of failure to comply with this access requirement. Failing to obtain a response within 7 days from the receipt of notification, the Director may order the work required completed or otherwise address the cause of improper access. The obligation for the payment of all costs that may be incurred or expended by the City in causing such work to be done shall thereby be imposed on the person holding title to the subject property and/or imposed against the subject property by filing a lien.
- C. Fees. Fees for all reviews, inspections, permits and/or approvals, and appeals, which are set forth in this chapter, shall be set by resolution of the City Council.

15.16.110 Enforcement. Enforcement of the provisions of this chapter shall be as set forth in Chapter 1.14 SMC. The violation or failure to comply with any of the provisions of this chapter shall be considered a civil violation pursuant to SMC 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein. The remedies provided in Chapter 1.14 SMC shall be cumulative and shall be in addition to any other remedy provided by law.

15.16.120 Appeals. The decisions of the Director may be appealed by an aggrieved party to the Hearing Examiner by filing written notice of appeal, including an appeal fee as set by resolution of the City Council, with the City Clerk within 10 days of notice of the Director's decision.