

EXHIBIT C

Chapter 14.40

STORMWATER MAINTENANCE

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14.40.011 Findings of fact.

The city council adopts the findings of the model stormwater maintenance ordinance provided by the Department of Ecology that:

- (1) Stormwater facilities are a common feature of urban development.
- (2) In order to function properly so that they will perform as designed to prevent or remove pollution and/or to reduce flooding, stormwater facilities must be regularly inspected and maintained.
- (3) If not adequately maintained, stormwater facilities can become sources of pollutants to surface water and ground water.
- (4) If not adequately maintained, stormwater facilities could fail and cause considerable damage to the public.

14.40.012 Need.

The city council adopts the need provision of the model stormwater maintenance ordinance provided by the Department of Ecology that this chapter is necessary in order to ensure maintenance of all stormwater facilities within Buckley by setting minimum

standards for the inspection and maintenance of stormwater facilities. In addition, the City is required to comply with the Western Washington Phase II Municipal Stormwater Permit. The permit requires the City to establish maintenance standards that are as protective, or more protective, of facility function than those specified in Chapter 4 of Volume V of the 2005 Stormwater Management Manual for Western Washington.

14.40.013 Purpose.

The city council adopts the purposes set forth in the model stormwater maintenance ordinance provided by the Department of Ecology that the provisions of this chapter are intended to:

- (1) Provide for inspection and maintenance of stormwater facilities in Buckley to provide for an effective, functional stormwater drainage system;
- (2) Authorize the public works department to require stormwater facilities be operated, maintained and repaired in conformance with this chapter;
- (3) Establish the minimum level of compliance which must be met;
- (4) Guide and advise all who conduct inspection and maintenance of stormwater facilities.

14.40.020 Definitions.

For the purposes of this chapter, the following definitions shall apply:

“Best management practice” or “BMP” means physical, structural and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, and have been approved by Ecology. BMPs are listed and described in the manual.

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

“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.

“Stormwater drainage 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 facility” means a constructed component of a stormwater drainage 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, catchbasins, oil/water separators, sediment basins and modular pavement.

“Stormwater management manual” or “manual” means the 2005 Stormwater Management Manual for Western Washington prepared by Ecology that contains BMPs to prevent or reduce pollution.

14.40.031 Abrogation and greater restrictions.

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

14.40.032 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.

14.40.040 Applicability.

When any provision of any other chapter of the Buckley Municipal Code conflicts with this chapter, that which provides more environmental protection shall apply unless specifically provided otherwise in this chapter.

The city is authorized to adopt written procedures for the purpose of carrying out the provisions of this chapter.

14.40.051 Maintenance required.

All stormwater facilities shall be maintained in accordance with this chapter and the stormwater management manual. Systematic, routine preventive maintenance is preferred.

14.40.052 Minimum standards.

The following are the minimum performance measures for the maintenance of stormwater facilities:

- (1) The maintenance standards specified in Chapter 4 of Volume V of the 2005 Stormwater Management Manual for Western Washington shall be followed. The purpose of the maintenance standard is to determine if maintenance is required. The maintenance standard is not a measure of the facilities required condition at all times between inspections. Exceeding the maintenance standard between inspections and/or maintenance is not a permit violation.
- (2) Unless there are circumstances beyond the City's control, when an inspection identifies an exceedence of the maintenance standards, maintenance shall be performed:
 - Within 1 year for typical maintenance of facilities, except catch basins..
 - Within 6 months for catch basins.
 - Within 2 years for maintenance that requires capital construction of less than \$25,000.
- (3) All municipally owned or operated or privately owned permanent stormwater treatment and flow control facilities, other than catch basins, shall be inspected annually and cleared of debris, sediment and vegetation when they affect the functioning and/or design capacity of the facility.
- (4) All catch basins and inlets owned or operated by the City or privately owned or operated shall be inspected at least once during the five year cycle of the Phase II NPDES permit.
- (5) A reduction of the inspection frequency shall be based on maintenance records of double the length of time of the proposed inspection frequency. In the absence of maintenance records, the City may substitute written statements to document a specific less frequent inspection schedule. Written statements shall be based on actual inspection and maintenance experience.

14.40.053 Disposal of waste from maintenance activities.

Disposal of waste from maintenance activities shall be conducted in accordance with Appendix 6 of the Western Washington Phase II Municipal Stormwater Permit the minimum functional standards for solid waste handling, Chapter 173-304 WAC, guidelines for disposal of waste materials from stormwater maintenance activities, and, where appropriate, the dangerous waste regulations, Chapter 173-303 WAC.

14.40.054 Compliance.

Property owners are responsible for the maintenance, operation or repair of stormwater drainage systems and BMPs. Property owners shall maintain, operate and repair these facilities in compliance with the requirements of this chapter and the stormwater management manual.

14.40.061 Director.

The City Administrator shall administer this chapter and shall be referred to as the director. The director shall have the authority to develop and implement administrative procedures to administer and enforce this chapter.

14.40.062 Inspection authority.

The director is directed and authorized to develop an inspection program for stormwater facilities in Buckley.

14.40.063 Enforcement authority.

The director shall enforce this chapter.

14.40.071 Inspection.

Whenever implementing the provisions of the inspection program or whenever there is cause to believe that a violation of this chapter has been or is being committed, the inspector is authorized to inspect during regular working hours and at other reasonable times all stormwater drainage systems within Buckley to determine compliance with the provisions of this chapter.

14.40.072 Procedures.

Prior to making any inspections, the inspector shall present identification credentials, state the reason for the inspection and request entry.

(1) 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.

(2) 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 drainage system creates an imminent hazard to persons or property, the inspector may enter.

(3) Unless entry is consented to by the owner or person(s) in control of the property or portion of the property or unless conditions are reasonably believed to exist which

create imminent hazard, the inspector shall obtain a search warrant, prior to entry, as authorized by the laws of the state of Washington.

(4) The inspector may inspect the stormwater drainage system without obtaining a search warrant provided for in subsection (3) of this section, provided the inspection can be conducted while remaining on public property or other property on which permission to enter is obtained.

14.40.073 Inspection schedule.

The director shall establish a master inspection and maintenance schedule to inspect appropriate stormwater facilities that are not owned by the city. Inspections shall be annual. Critical stormwater facilities may require a more frequent inspection schedule.

14.40.074 Inspection and maintenance records.

As existing stormwater facilities are encountered, they shall be added to the master inspection and maintenance schedule. Records of new stormwater facilities shall include the following:

- (1) As-built plans and locations;
- (2) Findings of fact from any exemption granted by the local government;
- (3) Operation and maintenance requirements and records of inspections, maintenance actions and frequencies;
- (4) Engineering reports, as appropriate.

14.40.075 Reporting requirements.

The director shall report annually to the city council about the status of the inspections. The annual report may include, but need not be limited to, the proportion of the components found in and out of compliance, the need to upgrade components, enforcement actions taken, compliance with the inspection schedule, the resources needed to comply with the schedule, and comparisons with previous years.

14.40.080 Enforcement, violations and penalties.

Any person violating or failing to comply with any of the provisions of this title shall be subject to the notice requirements, enforcement, violations and/or penalty provisions of Chapter 1.12 BMC.

14.40.090 Severability.

If any provision 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.