

AGENDA
LACEY PLANNING COMMISSION MEETING
Tuesday, July 18, 2017 – 7:00 p.m.
Lacey City Hall Council Chambers, 420 College Street SE

Call to Order: 7:00 p.m.

- A. Roll Call
- B. Approval of Agenda & Consent Agenda Items*
Approval of the June 20, 2017, Planning Commission Meeting Minutes

Public Comments: 7:01 p.m.

Commission Members Reports: 7:03 p.m.

Director's Report: 7:05 p.m.

Old Business: 7:10 p.m.

Affordable Housing White Paper—Non-Profit Providers: Ryan Andrews, Planning Manager. The Planning Commission will hear information on the state of the housing market from the City's non-profit partners. Each provider will describe the agency's role in providing affordable housing, discuss any barriers to providing the type of housing, and identify what the city might do to reduce or eliminate those barriers. The information provided will help inform development of a housing white paper that will provide analysis of the current housing market and ways the City can take action to make housing more affordable.

New Business: 8:25 p.m.

Stormwater Management Regulations: Doug Christenson, Stormwater Engineer; Samra Seymour, Associate Planner. The Planning Commission will review a draft Lacey Municipal Code chapter pertaining to stormwater management. The draft requirements are the last piece of the implementation legislation associated with the NPDES Phase II permit requirement for Low Impact Development integration. The draft regulations will be scheduled for a public hearing at the next meeting on August 1.

Communications and Announcements: 8:55 p.m.

Next Meeting: July 18, 2017.

Adjournment: 9:00 p.m.

7/3/17

CITY OF LACEY PLANNING COMMISSION WORK SCHEDULE

**Planning Commission Meeting
July 18, 2017**

1. **Work Session:** Housing White Paper—Non-profit Perspective
2. **Work Session:** Stormwater Ordinance

Packets due: July 13th

**Planning Commission Meeting
August 1, 2017**

1. **Public Hearing:** Stormwater Ordinance
2. **Work Session:** Development Code Audit

Packets due: July 27th

**Planning Commission Meeting
August 15, 2017**

1. **Public Hearing:** Parks and Recreation Comprehensive Plan

Packets due: August 10th

**Planning Commission meeting
September, 5, 2017**

1. **Work Session:** Development Code Audit

Packets due: August 31st

Thursday, August 3rd: City Council Work Session on Village Center Drive-Thru Amendment

MINUTES

Lacey Planning Commission Meeting
Tuesday, June 20, 2017 – 7:00 p.m.
Lacey City Hall Council Chambers, 420 College Street SE

Meeting was called to order at 7:00 p.m. by Carolyn Cox.

Planning Commission members present: Carolyn Cox, Mike Beehler, David Lousteau, Sharon Kophs, and Paul Enns. Staff present: Ryan Andrews, Christy Osborn, Tom Stiles, Doug Christenson, Jen Burbidge, and Leah Bender.

Carolyn Cox noted a quorum present.

Paul Enns made a motion, seconded by David Lousteau, to approve the agenda for tonight's meeting. All were in favor, the motion carried. Sharon Kophs made a motion, seconded by Mike Beehler, to approve the June 6, 2017, meeting minutes. All were in favor, the motion carried.

1. **Public Comments:** None.

2. **Commission Member's Report:**

- Mike Beehler and Carolyn Cox reported on their attendance at the Intercity Transit open house held on June 12.

3. **Director's Report:**

- Ryan Andrews discussed the IT open house. Ryan noted that the maps and data were outdated and did not capture the growth that has occurred in Lacey since 2010. Ryan also reported that participants voted for key improvements - extending routes to underserved areas was number one.

4. **Public Hearing:**

Development Guidelines & Public Works Standards LID Integration:

- Tom Stiles gave some background information.
- Doug Christenson discussed the NPDES provisions that require Stormwater Manual updates. Doug noted that the Stormwater Manual formerly was an insert in the DG&PWS, but due to additional regulations, standards, and criteria, it is now a much larger, stand-alone document.
- Tom went over the housekeeping revisions that have been made to Chapter 5. Tom noted that the revisions were reviewed by several agencies and no comments were received.
- No public testimony was given.
- After a brief discussion, the public hearing was closed.
- **Paul Enns made a motion, seconded by Sharon Kophs, to refer Chapter 5: Storm Drainage of the DG&PWS to Council. All were in favor, the motion carried.**

5. **New Business:**

Parks and Recreation Comprehensive Plan:

- Jen Burbidge gave a PowerPoint presentation outlining the Parks and Recreation Comp Plan and explained that the Plan is in need of its six-year update.
- There was a discussion about how wildlife uses will be addressed when developing parks.
- Some clarification was given regarding the master plan.
- There was a discussion as to whether or not the City partners with nature conservancy groups.
- Jen went over the timeline and noted that a public hearing will be held on August 1.

6. **Old Business:**

Title 15 Development Code Audit:

- Christy Osborn went over the proposed revisions to the land division code:
 - Language was added regarding application and recording requirements for plat alterations.
 - Sewage disposal provisions were clarified.
 - Language was revised regarding front yard setbacks per International Fire Code.
 - Allowances to maintain common amenities have been added.
 - A provision has been added to allow reviews by departments with expertise when needed.
- There was a brief discussion and a typo was pointed out in 15.16.020 A.

7. **Communications and Announcements:**

- Paul Enns asked if there will be a bus tour. Ryan noted it will happen in August, and will be a joint tour with Thurston County Planning Commission.

8. **Next meeting:** July 18, 2017.

9. **Adjournment:** 9:00 p.m.



PLANNING COMMISSION STAFF REPORT July 18, 2017

SUBJECT: New Code Sections for Stormwater and Illicit Discharges

RECOMMENDATION: No Action is needed at this time. This is an initial briefing to introduce and discuss the proposed additions to LMC Title 14 of two new code chapters, titled "Stormwater Management" and "Illicit Discharges."

TO: Lacey Planning Commission

STAFF CONTACTS: Rick Walk, Director of Community Development *RW*
Ryan Andrews, Planning Manager
Samra Seymour, Senior Planner *SS*
Doug Christenson, Water Resources Engineer *DC*

ATTACHMENT(S): 1. Draft LMC Chapter 14.xx - Stormwater Management
2. Draft LMC Chapter 14.xy - Illicit Discharges

**PRIOR COUNCIL/
COMMISSION/
COMMITTEE REVIEW:**

None. This is the first Planning Commission briefing on this topic, although it is related to the LID Code Revisions and Stormwater Design Manual Update that were discussed during several meetings in 2016.

BACKGROUND:

The NPDES Phase 2 Municipal Stormwater Permit required the City of Lacey to make revisions to our local stormwater-related codes, rules and standards by December 31, 2016, and this was accomplished by adoption of the LID Code Revisions and 2016 Stormwater Design Manual. During that process, City staff reviewed and revised all of the pertinent City regulations and documents, including the Lacey Municipal Code, the 2014 Development Guidelines & Public Works Standards, and the 2010 Stormwater Design Manual.

From this comprehensive review, it became clear that two issues needed to be addressed with new sections of the LMC. First, some stormwater management policies and provisions were not clearly articulated anywhere; and second, some regulatory language was obscurely located and poorly organized. To resolve these two issues, two new chapters are proposed for inclusion within LMC Title 14 - Buildings and Construction: Chapter 14.xx Stormwater Management, and Chapter 14.xy Illicit Discharges.

PROBLEMATIC EXISTING CODE

The “Stormwater Maintenance Code” was adopted under Ordinance No. 1332 in 2009 per state requirements, and ended up in the Development Guidelines & Public Works Standards. It contains two disparate topics: (1) requirements for the inspection and maintenance of stormwater facilities, and (2) listings of which specific types of discharges to stormwater systems are allowable, conditionally allowable, or prohibited. These two topics are being excerpted and moved to the proposed new LMC chapters. The former (inspection and maintenance) will now be more logically located within the new Stormwater Management chapter of the LMC, while the latter (discharges to storm systems) will occupy the new Illicit Discharges chapter. The original code language has been modified and updated in the new chapters for clarity and compliance with current requirements. With these changes, the “Stormwater Maintenance Code” will be removed from the Development Guidelines and will no longer exist as a stand-alone code, instead becoming part of the LMC.

PROPOSED CODES

Chapter 14.xx Stormwater Management

This proposed new section of the Lacey Municipal Code addresses stormwater management requirements related to construction sites, new developments, and redevelopment projects. This section will provide basic overarching information on intent, applicability and vesting, authority, exemptions, and enforcement that supplements the 2016 Stormwater Design Manual. In addition, language regarding inspection and maintenance of stormwater facilities is being moved to this new chapter, excerpted from the “Stormwater Maintenance Code” in the Development Guidelines & Public Works Standards as described above.

Chapter 14.xy Illicit Discharges

This proposed new section of the Lacey Municipal Code addresses discharges to public or private stormwater systems. It lists numerous specific types of liquids and/or sources as being either allowable, conditionally allowable, or prohibited. These lists are excerpted almost verbatim from the “Stormwater Maintenance Code” in the Development Guidelines & Public Works Standards, with some minor modifications and rearrangement. New language for this chapter relates to purposes, definitions, spill hotline and response, and enforcement.

RECOMMENDATION:

Request the Planning Commission review the draft codes and provide input and feedback.

Chapter 14.XX
STORMWATER MANAGEMENT

Sections:

- 14.XX.000 Purposes.
- 14.XX.010 Definitions.
- 14.XX.020 Applicability/Regulated Activities.
- 14.XX.030 Exemptions.
- 14.XX.040 Administration and Authority.
- 14.XX.050 Requirements for New and Redevelopment.
- 14.XX.060 Inspection and Maintenance of Stormwater Facilities.
- 14.XX.070 Applicability to Government Entities.
- 14.XX.080 Related Requirements.
- 14.XX.090 Appeals.
- 14.XX.100 Enforcement.
- 14.XX.110 Conflict.
- 14.XX.120 Severability.

14.XX.000 Purposes.

The provisions of this Chapter are intended to:

- A. Set forth standards for managing stormwater runoff from construction and development sites to minimize:
 - 1. Degradation of surface water quality by controlling the scouring and sedimentation of creeks, streams, wetlands, ponds, lakes, and other water bodies.
 - 2. Degradation of groundwater quality.
 - 3. Damage to adjacent and other downstream private properties from erosion or other impacts from stormwater runoff.
 - 4. Damage of city-owned parcels, city roads, rights-of-way, and associated infrastructure.
- B. Establish the minimum level of compliance that must be met, and provide standards and procedures for inspection, maintenance, and repair of stormwater facilities in Lacey to help contribute to an effective and functional stormwater system.
- C. Control stormwater runoff generated by development, redevelopment, construction sites, or modifications to existing stormwater systems that directly or indirectly discharge to the city stormwater system, in a manner that complies with requirements in the National Pollutant Discharge Elimination System (NPDES) Phase II Municipal Stormwater Permit as issued by the Washington State Department of Ecology (Ecology).
- D. Complement site planning activities that minimize:
 - 1. Impervious surfaces area.
 - 2. The loss of native or non-native site vegetation.
 - 3. The generation of stormwater runoff.
- E. Make low impact development (LID) the preferred and commonly used approach to site development; to require LID be considered at the site planning stage; and to implement LID BMPs unless they are infeasible.

- F. Require that all publicly-owned and privately-owned Stormwater Treatment and Flow Control best management practices (BMPs)/Facilities are operated, maintained and repaired in manner that conforms to this chapter.
- G. Guide and advise all who conduct inspection, maintenance, or repair of stormwater facilities, and provide the authority for the city to inspect privately-owned Stormwater Treatment and Flow Control BMPs/Facilities.
- H. To provide enforcement procedures for ensuring compliance with this chapter.

14.XX.010 Definitions.

For the purposes of this chapter, the following definitions shall apply. See also the definitions within the Glossary of the *Stormwater Design Manual*.

“Best management practices (BMPs)” means the physical, structural, and/or managerial practices 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.

“Flow Control BMP or Facility” means a drainage facility designed to mitigate the impacts of increased surface and stormwater runoff flow rates generated by development. Flow control facilities are designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration, and/or infiltration into the ground, or to hold runoff for a short period of time, releasing it to the conveyance system at a controlled rate.

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

“Low Impact Development (LID)” means a stormwater and/or land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

“MS4” means a municipal separate stormwater sewer system. A system of conveyances (including streets, curbs, gutters, catch basins, pipes and ditches) owned or operated by a city or other public entity, that is used for collecting or conveying stormwater (excluding combined sewers).

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

“Started construction” means, at a minimum, issuance of a grading permit and the site work associated with and directly related to the approved project has begun.

“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 into a defined surface water channel or a constructed infiltration facility.

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

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

“Stormwater facility” includes both public and privately owned facilities.

“Stormwater system” means constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat, or filter stormwater. “Stormwater system” includes both public and privately owned features.

“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.

14.XX.020 Applicability/Regulated Activities.

- A. This chapter applies to applications submitted on or after January 1, 2017, and applications submitted prior to January 1, 2017, which have not started construction by January 1, 2022.

Additional language to be added to clarify vesting of projects that have been designed to go to regional or shared facilities

- B. This chapter applies to the following actions on sites that discharge to the city’s MS4 or discharges to waters of the state whether or not a city-issued permit is required:
1. Land-disturbing activity, or
 2. Creation of new hard surfaces, or
 3. Replacement of existing hard surfaces, or
 4. Conversion of pervious surfaces, or
 5. New connections to the city’s MS4, or
 6. Any other actions that can increase the volume or rate of stormwater runoff, or cause the generation of pollutants, from the site.

14.XX.030 Exemptions.

- A. Exemptions. Unless otherwise indicated in this section, the practices described in this section are exempt from the core requirements, even if such practices meet the definition of new development or redevelopment.
1. Forest Practices. Forest practices regulated under Title 222 WAC, except for Class IV General Forest Practices that are conversions from timberland to other uses, are exempt.
 2. Commercial Agriculture. Commercial agriculture practices involving working the land for production are generally exempt; however, the conversion from timberland to agriculture, and the construction of impervious surfaces are not exempt.
 3. Pavement Maintenance. The following pavement maintenance practices are exempt from the core requirements, but shall use appropriate BMPs to minimize erosion and sediment transport: pothole and square cut patching, grinding/inlays, overlaying existing asphalt or concrete pavement with asphalt or concrete without expanding the area of coverage, shoulder grading, reshaping/reggrading drainage systems, crack sealing, resurfacing with in-kind material without expanding the road prism, and vegetation maintenance. The following pavement maintenance practices are not categorically exempt:
 - a. Removing and replacing a paved surface to base course or lower, or repairing the pavement base. If impervious surfaces are not expanded, Core Requirements #1 through #5 apply.
 - b. Extending the pavement edge without increasing the size of the road prism, or paving graveled shoulders. These are considered new impervious surfaces and are subject to the core requirements that are triggered when the thresholds identified for new or redevelopment projects are met.

- c. Resurfacing by upgrading from dirt to gravel, asphalt, or concrete; upgrading from gravel to asphalt, or concrete; or upgrading from a bituminous surface treatment (“chip seal”) to asphalt or concrete. These are considered new impervious surfaces and are subject to the core requirements that are triggered when the thresholds identified for new or redevelopment projects are met.
4. Underground Utility Projects. Underground utility projects that replace the ground surface with in-kind material or materials with similar runoff characteristics are only subject to Core Requirement #2: Construction Stormwater Pollution Prevention.

14.XX.040 Administration and Authority.

- A. The city shall administer, implement, and enforce the provisions of this chapter.
- B. The city shall have the authority to develop, implement, and enforce policies and procedures to administer and enforce this chapter per LMC 14.XX.
- C. Application, Submittals, and Review.
 1. The city of Lacey shall review and approve all plans and all other submittals required for compliance with this chapter when:
 - a. An application for a city permit is required under all other chapters of LMC, or
 - b. Stormwater management is required and shall comply with the current *City of Lacey Stormwater Design Manual*, or
 - c. In all other situations when actions under LMC 14.XX.020 apply to a project site, review shall be under a city stormwater permit. The stormwater permit shall follow the procedure for limited administrative review described in Chapter 1 of the Development Guidelines and Public Works Standards.
 2. All stormwater review submittals shall contain, in addition to the information required under any other applicable city code, a Stormwater Site Plan as described in the *Stormwater Design Manual* and any other information required by the city of Lacey.
- D. Inspections.
 1. The city shall inspect projects at various stages of the work to determine if they comply with the requirements of this chapter, and enforcement actions shall be taken as necessary. These inspections will include, but not be limited to, the following:
 - a. Prior to site clearing and construction to assess site erosion potential, and
 - b. During construction to verify proper installation and maintenance of required erosion and sediment controls and other approved plan components, and
 - c. All permanent stormwater treatment and flow control BMPs/facilities and catch basins in new residential developments every six months until 90 percent of the lots are constructed (or when construction is stopped and the site is fully stabilized) to identify maintenance needs and enforce compliance with maintenance standards as needed, and
 - d. Upon completion of construction and prior to final approval to ensure proper installation of permanent stormwater control facilities and verify that a maintenance plan is completed and responsibility for maintenance is assigned for stormwater treatment and flow control BMPs/facilities, and
 2. When reasonably required by the city to accomplish the purpose of this chapter or to comply with local, state or federal law or regulation on stormwater, special inspection or testing shall be performed by the applicant.
- E. Fees. Application, review and inspection fees as set in **LMC Chapter XX** shall be paid.

14.XX.050 Requirements for New and Redevelopment.

- A. All projects shall comply with the *Stormwater Design Manual*. See Chapter 2 of the *Stormwater Design Manual* for details and applicability of the 9 Core Requirements:

Core Requirement #1: Preparation of stormwater site plans.

Core Requirement #2: Construction stormwater pollution prevention plan (SWPPP).

Core Requirement #3: Source control of pollution.

Core Requirement #4: Preservation of natural drainage systems and outfalls.

Core Requirement #5: On-site stormwater management.

Core Requirement #6: Runoff treatment.

Core Requirement #7: Flow control.

Core Requirement #8: Wetlands protection.

Core Requirement #9: Operation and maintenance.

14.XX.060 Inspection and Maintenance of Stormwater Facilities.

These maintenance standards are intended to give support and guidance to all persons and property owners who must comply with local stormwater management requirements. All privately owned stormwater systems, including flow control and water quality treatment facilities, shall be inspected annually and maintained by the owner at his/her expense. The stormwater system owner shall complete and file an inspection and maintenance form with the city following inspection and maintenance.

- A. All parts of the privately owned stormwater systems shall be inspected annually and maintained and/or restored to assure performance as designed and intended. All physical parts of the stormwater system shall be repaired and maintained per the *Stormwater Design Manual*, Development Guidelines and Public Works Standards, and any guidelines specific to the respective facility.
- B. Stormwater system modifications or major repairs must be reviewed and approved by the city of Lacey prior to implementation. This is required to ensure that the intent of the originally approved stormwater system is achieved. The city may require the property owner to submit detailed drawings and/or specifications regarding proposed modifications and/or repairs.
- C. A licensed, bonded, and insured contractor must accomplish all maintenance of privately owned stormwater systems except for normal vegetation maintenance of facilities.
- D. All State and Federal confined space entry regulations and requirements must be followed.
- E. All privately owned pipes, catch basins, manholes, inlets, ditches, swales/bioswales, flow control facilities, vaults, water quality facilities, oil/water separators, sedimentation ponds, and stream channels located on (or running through) commercial properties, multi-family developments, private plats, and private short plats shall be inspected annually unless vested under a different frequency of inspection by the city and/or property owner and shall be maintained by the property owner when inspection identifies maintenance needs.
- F. Stormwater system maintenance shall be required and performed in accordance with the *Stormwater Design Manual* or other standards identified by the city within one year for typical maintenance of facilities, within six months for catch basins, and within two years for maintenance that requires capital construction of greater than \$25,000.
- G. Stormwater Maintenance Inspection Procedures.

1. City inspection procedures will be maintained and updated as necessary in the “Private Stormwater Facilities Inspection Program” standard operating procedure within Public Works Operations.
2. Prior to making any inspections on private property that has no dedicated access easements to the city, the inspector shall present identification credentials, state the reason for the inspection, and request entry.
3. 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.
4. If, after reasonable effort, the inspector is unable to locate the owner or other person(s) having charge or control of the property and has reason to believe the condition of the stormwater system creates an immediate hazard to persons or property, the inspector may enter the property.
5. Unless entry is consented to by the owner or person(s) in control of the property or portion of the property, the city inspector shall obtain a search warrant prior to entry as authorized by the laws of the State of Washington except where one of the following conditions exist:
 - a. conditions are reasonably believed to exist which create imminent hazard, or
 - b. an access easement to the stormwater facility was dedicated to the city.
6. The inspector may inspect the stormwater system without obtaining a search warrant provided for above, provided the inspection can be conducted while remaining on the public property or other property on which permission to enter is obtained.

H. Inspection and maintenance records.

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

14.XX.070 Applicability to Government Entities.

All municipal corporations and governmental entities shall be required to comply with the terms of this chapter when developing and/or improving land, including but not limited to road building and widening, within the areas of the city.

14.XX.080 Related Requirements.

It is recognized that many other city, county, state and federal permit conditions may apply to the proposed action and that compliance with the provisions of this chapter does not constitute compliance with such other requirements.

14.XX.090 Appeals.

Any decision of the city of Lacey in the administration of this chapter may be appealed in accordance with Chapter 1D of the *City of Lacey Development Guidelines and Public Works Standards*.

14.XX.100 Enforcement.

If any person violates or fails to comply with any of these provisions, Chapter 14.40 LMC regarding civil violations shall be applied.

14.XX.110 Conflict.

In the event of a conflict between this chapter and any other provision of any Lacey Municipal Code, the most restrictive shall apply.

14.XX.120 Severability.

If any one or more sections, subsections, or sentences of this chapter are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this chapter and the same shall remain in full force and effect.

DRAFT

Chapter 14.XY
ILLICIT DISCHARGES

- 14.XY.000 Purposes.
- 14.XY.010 Definitions.
- 14.XY.020 Applicability.
- 14.XY.030 Administration.
- 14.XY.040 Stormwater Discharges.
- 14.XY.050 Inspections and monitoring of discharges.
- 14.XY.060 Industrial or Construction Activity Discharges.
- 14.XY.070 Source Control Requirements.
- 14.XY.080 Spill Hotline and Response.
- 14.XY.090 Appeals.
- 14.XY.100 Enforcement.
- 14.XY.110 Conflict.
- 14.XY.120 Severability.

14.XY.000 Purposes.

The purposes of this chapter are:

- A. To provide for the health, safety, and general welfare of the citizens of the City of Lacey, Washington, through the regulation of non-stormwater discharges to the city's municipal separate storm sewer system (MS4), as well as to all groundwaters and waterbodies, to the maximum extent practicable as required by federal and state law.
- B. To establish methods for controlling the introduction of pollutants into the city's MS4 in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.
Specifically:
 - 1. To regulate the contribution of pollutants to the MS4 by stormwater discharges from any user.
 - 2. To prohibit illicit connections and illegal discharges to the MS4, as well as to all groundwaters and waterbodies.
 - 3. To define the city's legal authority to carry out all inspection, surveillance and monitoring necessary to effectuate said purposes.
- C. To protect and enhance water quality and aquatic wildlife and its habitat by preventing harmful discharges to local waterbodies.

14.XY.010 Definitions.

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, sections 90.48-010 RCW and 90.48.520 RCW.

"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 the Chapter 173-304 of the Washington Administrative Code (WAC) or Chapter 173-303 WAC. Harmful materials also include substances that, when released into the environment, may cause non-compliance with the following Chapters of the WAC: 246-290, 173-200, 173-201, 173-204, and/or 173-340.

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

“Illicit Discharge” means any direct or indirect non-stormwater discharge to the city’s stormwater system, except as expressly allowed by this chapter.

“Illicit connection” means any man-made conveyance that is connected to 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 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):

- a. Owned or operated by the city of Lacey;
- b. Designed or used for collecting or conveying stormwater;
- c. Which is not part of a Publicly Owned Treatment Works (POTW). “POTW” means any device or system used in treatment of a municipal sewage or industrial wastes of a liquid nature which is publicly owned; and
- d. Which is not a combined sewer. “Combined sewer” means a system that collects sanitary sewage and stormwater in a single sewer system.
- e. 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 USC Section 1342(b)) that authorizes 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”. 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-contract 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

Commented [MF1]: DG&PWS Chapter 5B used the terms “municipal separate storm sewer system (MS4)” and “stormwater system” and we don’t see a clear distinction between when one term is used versus the other – was stormwater system intended to be used only when referring to both public and private system components?

We maintained use of both terms in the code. However, consider whether you should replace all “stormwater system” references with “MS4”

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; animals wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

“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 into a defined surface water channel or a constructed infiltration facility.

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

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

“Stormwater 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 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 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.

“Waterbody” means surface water feature, whether standing or flowing, including, but not limited to, sounds, lakes, ponds, rivers, streams, and creeks including waters of the state.

14.XY.020 Applicability.

This chapter shall apply to all non-stormwater discharges entering the MS4, groundwaters, or a waterbody from any developed or undeveloped lands, unless explicitly exempted by the city.

14.XY.030 Administration.

The city shall administer, implement, and enforce the provisions of this chapter.

14.XY.040 Stormwater Discharges.

- A. **Prohibition of Illicit Discharges.** No person shall discharge or cause to be discharged into the city’s storm drainage system, groundwater, or a waterbody any materials (including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable 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 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 system, unless such discharges are authorized in accordance with Chapter 173-216 of the Washington Administrative Code. (WAC) (State Waste Discharge

- Permit Program) or Chapter 173-220 WAC (National Pollutant Discharge Elimination System Permit Program).
2. Any solid, dangerous, or extremely hazardous waste, as defined by Chapters 173-304 WAC (Minimum Functional Standards for Solid Waste Handling) or Chapter 173-303 WAC (Dangerous Waste Regulations).
 3. Any substance that, when released into the environment, may cause non-compliance with Chapters 246-290 WAC (Public Water Supplies); 173-200 WAC (Water Quality Standards for Ground Waters of the State of Washington), 173-201 WAC (Water Quality Standards for Surface Waters of the State of Washington), 173-204 WAC (Sediment Management Standards); or 173-340 WAC (The Model Toxics Control Act Cleanup Regulation).
 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 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 storm drain 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 waterbody:
1. Diverted stream flows;
 2. Rising groundwaters;
 3. Uncontaminated groundwater infiltration (as defined in 40 CFR 35.2005(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 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 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 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 storm drain 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 system, groundwaters, or a waterbody. 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.

14.XY.050 Inspections and monitoring of discharges.

- 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 the system and any connection made to the 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 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 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 10-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 system whenever a prohibited substance (see subsection 14.27.040.A) is found to be present in a stormwater system.

14.XY.060 Industrial or Construction Activity Discharges.

Any person or activity subject to an NPDES stormwater discharge permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the federal Environmental Protection Agency or Washington State Department of Ecology, shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the city of Lacey prior to allowing discharges to the MS4.

14.XY.070 Source Control Requirements.

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 storm drain 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 or waterbody through the use of these structural and 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 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. Technical assistance materials and information may be provided by the city upon reasonable request.

14.XY.080 Spill Hotline and Response.

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 drainage system, or waterbodies, 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 am to 3:30 pm. 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.

14.XY.090 Appeals.

Any decision of the city of Lacey in the administration of this chapter may be appealed in accordance with Chapter 1D of the *City of Lacey Development Guidelines and Public Works Standards*.

14.XY.100 Enforcement.

If any person violates or fails to comply with any of these provisions, Chapter 14.40 LMC regarding civil violations shall be applied. The NPDES Phase II permit requires escalating enforcement, and LMC 14.40 addresses this enforcement action.

14.XY.110 Conflict.

In the event of a conflict between this chapter and any other provision of any Lacey Municipal Code, the most restrictive shall apply.

14.XY.120 Severability.

If any one or more sections, subsections, or sentences of this chapter are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this chapter and the same shall remain in full force and effect.