

**CITY OF SPOKANE VALLEY  
SPOKANE COUNTY, WASHINGTON  
ORDINANCE NO. 08-005**

**AN ORDINANCE OF THE CITY OF SPOKANE VALLEY, SPOKANE COUNTY, WASHINGTON MODIFYING SECTION 22.150 STORMWATER MANAGEMENT REGULATIONS OF THE SPOKANE VALLEY UNIFORM DEVELOPMENT CODE, ADOPTING NEW STORMWATER REGULATION, CLARIFYING LANGUAGE, PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE AND MINOR MODIFICATIONS TO THE GLOSSARY.**

**WHEREAS**, Congress enacted the Safe Drinking Water Act (SDWA) and the Federal Clean Water Act (CWA) to protect public health by regulating the nation's drinking water supply. These Acts authorized the Environmental Protection Agency (EPA) to protect surface and groundwater supplies;

**WHEREAS**, under the SDWA, EPA determined that the Spokane Valley-Rathdrum Prairie Aquifer was the sole or principal source of drinking water in this region (Sole Source Aquifer or SSA). The SDWA also established the Underground Injection Control (UIC) Program to provide safeguards for underground sources of drinking water. EPA delegated UIC authority to the Washington Department of Ecology (Ecology); and,

**WHEREAS**, the CWA established the National Pollutant Discharge Elimination System (NPDES) permitting program. EPA delegated the authority to Ecology to administer the NPDES permit program. Under this authority, Ecology issued the Eastern Washington Phase II Municipal Stormwater Permit in February 2007 and the City of Spokane Valley is subject to the requirements of this permit; and,

**WHEREAS**, the City of Spokane Valley previously adopted Ordinance 03-032 which adopted the Spokane County Guidelines for Stormwater Management, as interim stormwater guidelines; and,

**WHEREAS**, the City of Spokane Valley previously adopted Ordinance 05-013 which provide authority for stormwater review, establish maintenance responsibility, and prohibit illicit discharges into the stormwater system; and,

**WHEREAS**, the City of Spokane Valley adopted the UDC pursuant to Ordinance 07-015, on the 24th day of September, 2007; and

**WHEREAS**, the UDC became effective on October 28, 2007;

**WHEREAS**, in order to provide for the continued management and control of stormwater within the City it is necessary to update stormwater regulations that relate to the construction and maintenance of stormwater facilities within the City; and,

**WHEREAS**, Ecology determined in October 2007 that the Spokane Regional Stormwater Manual meets the minimum requirements from the Eastern Washington Phase II Municipal permit and provides design criteria for design, installation, operation, and maintenance of best management practices to protect water quality, reduce discharge of pollutants to surface waters and groundwaters of the State.

**NOW THEREFORE**, the City Council of the City of Spokane Valley, Washington do ordain as follows:

**Section 1. Changes to Section 22.150.** The purpose of this ordinance is to adopt new regulations for stormwater management that protect groundwater and surface water. Section 22.150 of the Spokane Valley Uniform Development Code is hereby established to read as follows:

**22.150 Stormwater Management Regulations**

**22.150.010 Finding and Purpose**

The increased flow of surface water from the use and development of real property within the City must be managed to protect persons, property, and the environment. Stormwater facilities are a common feature of urban development which must be constructed and maintained when property is developed or redeveloped within a geographic area. The City shall implement policies and procedures to:

1. Minimize the degradation of water quality in surface and groundwater;
2. Reduce the impact from increased surface water flow, erosion and sedimentation caused by the development of property;
3. Promote site planning and land development practices that are consistent with the topographical and hydrological conditions; and
4. Maintain and protect public and private property that is used and dedicated for stormwater management.

**22.150.020 Regulated Activities**

No person on any public or private real property located within the City, shall engage in the following regulated activities without first obtaining stormwater control approval from the City. The regulated activities for development are:

1. Grading of land in excess of five hundred (500) cubic yards so as to require environmental review pursuant to the State Environmental Policy Act (SEPA);
2. Construction of, or addition to, a building (except a single-family or duplex residence) or placement of impervious surfaces that exceed 5,000 square feet. For projects that are implemented in incremental stages, the threshold applies to the total amount of impervious surfaces replaced or added at full build-out;
3. Disturbance of one (1) acre or more;
4. The subdivision, short subdivision and binding site plan process as defined in RCW 58.17 and SVMC Title 20, and
5. Construction of drywells or other UIC wells regulated by WAC 173-218 UIC Program.

**22.150.030 Authority to Develop and Administer Standards**

The Development Services Senior Engineer shall develop and administer City Standards that relate to best management practices and the threshold requirements for the development of stormwater control facilities. The Development Services Senior Engineer is further authorized to develop policies that relate to the submission and modification of stormwater, erosion and sediment control plans.

Requirements and performance standards that include best management practices shall be designed to control and contain stormwater, reduce soil erosion and sedimentation through the use of temporary and permanent practices and facilities. The requirements shall be designed to permit flexibility in the choice of stormwater erosion and sediment control methods that meet the specific circumstances of each site and intended use.

#### **22.150.040 Standards for Stormwater Management**

The City adopts, by reference, the Spokane Regional Stormwater Manual, as amended. Unless the context requires otherwise, references to the local jurisdiction shall be construed to mean the City of Spokane Valley. The City Clerk shall maintain a copy on file.

#### **22.150.050 Review Process**

Following submittal of a request to engage in a regulated activity, the Development Services Senior Engineer shall review the proposed regulated activity including any plans or other submitted material. The Development Services Senior Engineer shall determine whether the regulated activity is exempt from review based upon the threshold requirements, or alternatively, whether the regulated activity complies with the standards, specifications and requirements contained in the City standards. The Development Services Senior Engineer may require the submission of additional material and/or analysis to allow the proponent to demonstrate compliance with City Standards.

#### **22.150.060 Conditions of Approval**

The Development Services Senior Engineer is authorized to impose development requirements or conditions of approval for the regulated activities. The stormwater requirements or conditions may be placed on the subdivision, binding site plan, issued permit, or a recorded maintenance covenant and agreement may be placed upon a parcel or lot where drainage facilities will be developed.

Conditions of approval shall be based on the City Standards, the preliminary Site Drainage Plan, engineering reports or other relevant data that promotes stormwater control, protection of adjacent properties, utilities or other stormwater facilities, slope stabilization and the environment.

#### **22.150.070 Deviations and Appeals**

1. Authority. The Development Services Senior Engineer may grant a deviation from the requirements of this ordinance or City standards. In granting any deviation, the Development Services Senior Engineer may prescribe conditions that are deemed necessary or desirable for the public interest.
2. Deviation Criteria. No deviation shall be granted unless the applicant demonstrates, to the satisfaction of the Development Services Senior Engineer, the following:
  - a. Deviations are based upon sound engineering principles, best management practices and are not inconsistent with the public interest in stormwater control and environmental protection;
  - b. The granting of the deviation will not be unduly detrimental or injurious to other properties in the vicinity and downstream;
  - c. The proposed deviation does not conflict with or modify a condition of approval; and
  - d. Deviations meet requirements for safety, function, appearance, and maintainability.
3. Prior approval. Any deviation shall be approved prior to acceptance of residential and commercial construction plans and issuance of any building, approach, or site work permits.
4. Right of appeal. All actions of the Development Services Senior Engineer in the administration and enforcement of this chapter shall be final and conclusive, unless within fifteen (15) days from notice of the Development Services Senior Engineer's action, the applicant or an aggrieved party files a Notice of Appeal with the Hearing Examiner.

#### **22.150.080 Stormwater Facility Construction and Certification**

All stormwater facilities shall be completed and certified by the proponent's engineer prior to any final plat, short plat, binding site plan, or the issuance of a permanent Certificate of Occupancy or final

inspection for any associated building. At the discretion of the Development Services Senior Engineer, a test of the facility may be performed to demonstrate adequate performance. The test shall be performed in the presence of Development Engineering personnel.

Acceptance of performance sureties, in lieu of completed improvements, shall be permitted only when completion of improvements prior to final land action or permanent Certificate of Occupancy is impractical (i.e., due to construction season delays or other factors beyond the proponent's control).

In the event that a performance surety is accepted by the Development Services Senior Engineer, the proponent will complete the following measures prior to the release of the surety:

1. All aspects of the drainage facility, including landscaping, irrigation, and establishment of specified vegetation, shall be completed in accordance with the accepted plans on file with the City. The proponent's engineer shall certify the improvements and request an oversight inspection from Development Engineering personnel.
2. An exception may be granted for single-family or two-family residential subdivisions where the completion of the swales is not practical until such time as the dwellings are constructed. The proponent shall rough-grade the swales to the required volume and install all drywells, inlets, curb drops and other structures in accordance with the accepted plans on file with the City. Erosion control measures shall be implemented to protect the installed drainage structures and to prevent erosion and/or failure of the swale side slopes. This includes, but is not limited to, lining the swale with geo-fabric that can be removed along with accumulated silt, until the swale is final-graded and vegetated. The completion of the landscaping, irrigation, and establishment of specified vegetation shall be required prior to issuance of the permanent Certificate of Occupancy or final inspection for any associated dwelling.

A warranty surety shall be submitted to the City upon successful completion and certification of all public improvements to guarantee against defects in construction. The warranty surety will be for a period of two (2) years from the date the facility is accepted by the City.

#### **22.150.090 Inspection**

The Development Services Senior Engineer is authorized to field inspect, as appropriate, street, building site, and drainage construction to verify conformance with City standards and the conditions of approval.

#### **22.150.100 Property Owner Responsibilities**

1. The property owner shall comply with provisions of this section and City standards. The property owner shall be responsible for repair, restoration, and perpetual maintenance of the stormwater facility installed on private property and any portion of the swale situated in a public right-of-way adjacent to their respective properties.
2. For purposes of this chapter, "repair and restoration" shall mean conforming the stormwater facility to the plans on file with the City. This responsibility to repair, restore and maintain shall be imposed without regard to any fault or wrongful intention on the part of the property owner.
  - a. Maintenance means preservation of the original area, volume, configuration and function of the stormwater facility as described in the plans.
  - b. Maintenance also includes mowing, irrigating, and replacing when necessary, the lawn turf within the swales.

The property owners within single-family and two-family residential subdivisions are not responsible for maintenance of structures such as drywells, inlets, and pipes that receive runoff from public right-of-way and conform to City access standards and are located within the public right-of-way or a border easement dedicated to the City. The City of

Spokane Valley will maintain the drywells, inlets and pipes upon acceptance of the public infrastructure.

3. The property owner is responsible for keeping open the drainage and stormwater easements on their property. If a drainage or stormwater easement is unlawfully encroached upon or the function of a designated drainage or stormwater easement is reduced, the property owner is responsible for removing the encroachment or detriment.
4. The property owner is responsible for keeping open maintenance access easements serving drainage facilities and drainage easements.
5. The property owner shall not place or permit, and shall immediately remove, vehicles, equipment, objects, refuse, garbage or litter from the stormwater facility.

#### **22.150.110 Public Drainage Facilities**

It shall be unlawful for any person to throw, drain, pour or otherwise discharge unauthorized waters or other liquids onto City property, rights-of-way, or border easements, without written permission of the Director of Public Works. For purposes of this chapter, unauthorized waters include, but are not limited to:

1. Groundwater from springs or other natural or artificial sources, foundation drains, sump pumps, and other means of discharging groundwater to the surface;
2. Surface water containing sediment;
3. Discharges from swimming pools, hot tubs, detention or evaporation ponds;
4. Water discharged from the cleaning of containers or equipment used in laying, cutting, or processing concrete and mortar and the water used in such processes;
5. Water discharged from the cleaning of equipment or containers holding paint solvents or similar contaminants; and
6. Other water posing a safety hazard in the travel way or that could reduce the effectiveness of stormwater control and treatment facilities.

#### **22.150.120 Failure to Comply – Nuisance**

The following is declared to be unlawful and a public nuisance:

1. The placement, construction, or installation of any structure within, or the connection to, a public stormwater facility without written permission of the Director of Public Works; or
2. The discharge of stormwater to a public stormwater facility without permission of the Director of Public Works; or
3. The failure to construct or maintain the stormwater facility as required in the permit or site drainage plan; or
4. The placement or allowing the placement of vehicles, equipment, objects, refuse, garbage, or litter within the stormwater facility.

#### **22.150.130 Enforcement**

Enforcement of this chapter shall be pursuant to SVMC 17.100.

**Section 2. Changes to Appendix A.** This ordinance also minor makes changes to the Spokane Valley Uniform Development Code Appendix A – Definitions for consistency with the Comprehensive Plan, UDC, and the Spokane Regional Stormwater Manual. The following definitions are hereby modified to read as follows:

**Appendix A**

**Definitions**

**Aquifer:** The underground layer of rock and sand that contains usable quantities of water.

**Bedrock:** The more or less solid rock in place on or beneath the surface of the earth. It may be soft, medium, or hard and have a smooth or irregular surface.

**Critical Areas:** Any of the following areas and ecosystems: wetlands, areas with a critical recharge effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas.

**Easement:** A right to use the land of others. The right may be from the common law or may be acquired, usually by purchase or condemnation and occasionally by prescription or inverse condemnation. The right is not exclusive, but subject to rights of others in the same land, the lesser right being subservient to a prior right which is dominant.

**Special Flood Hazard Areas (SFHA):** The land area covered by the floodwaters of the base flood is the SFHA on the National Flood Insurance Program (NFIP) maps. The SFHA is the area where the NFIP's floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.

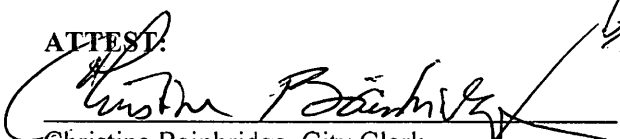
**Wetland:** An area characterized by saturated or nearly saturated soils most of the year that forms an interface between terrestrial (land based) and aquatic environments. Wetlands include marshes around lakes or ponds and along river or stream channels.

**Section 3. Severability.** If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

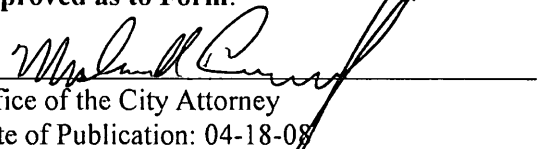
**Section 4. Effective Date.** This Ordinance shall be in full force and effect thirty (30) days after date of publication of this Ordinance or a summary thereof in the official newspaper of the City.

PASSED by the City Council this 8<sup>th</sup> day of April, 2008.

ATTEST:

  
Christine Bainbridge, City Clerk

Approved as to Form:

  
Office of the City Attorney

Date of Publication: 04-18-08

Effective Date: 05-18-08

  
Richard Munson, Mayor