

**ORDINANCE NO. 248**

**AN ORDINANCE OF THE TOWN OF BEAUX ARTS VILLAGE,  
WASHINGTON, RELATING TO STORM WATER MANAGEMENT,  
ADOPTING THE WASHINGTON STATE DEPARTMENT OF ECOLOGY  
STORMWATER MANAGEMENT MANUAL FOR THE PUGET SOUND  
BASIN AND CREATING MINIMUM REQUIREMENTS FOR  
STORMWATER MAINTENANCE.**

**WHEREAS** Chapter 90.70 ROW requires all jurisdictions to develop a comprehensive stormwater management program, which calls for the adoption of the Stormwater Management Manual for the Puget Sound Basin as prepared by the Washington State Department of Ecology, or its equivalent, and the development of a stormwater maintenance program; **NOW THEREFORE**

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BEAUX ARTS VILLAGE, WASHINGTON, AS FOLLOWS:**

**Section 1.** The Stormwater Management Manual for the Puget Sound Basin as prepared by the Washington State Department of Ecology, including any subsequent amendments thereto, is hereby adopted by reference and is hereinafter referred to as the “Manual”.

1.1 The Manual consists of four(4) volumes as follows:

- |        |     |  |
|--------|-----|--|
| Volume | I   | — Minimum Technical Requirements           |
| Volume | II  | — Erosion and Sediment Control             |
| Volume | III | — Runoff Control                           |
| Volume | IV  | — Urban Land Use Best Management Practices |

**Section 2.** All new development and redevelopment within the Town of Beaux Arts Village (Town) shall comply with the requirements of the Manual as well as all other drainage requirements described in the Beaux Arts Village Municipal Code, hereinafter referred to as “Code”

2.1 Where there may be a conflict between the requirements outlined in the Manual and the Code, the document imposing the greater restrictions shall prevail.

**Section 3. Stormwater Maintenance**

3.1 The Town Council hereby finds that:

3.1.1 In order for stormwater facilities to function properly so that they will perform as designed to prevent or remove pollution and/or to reduce flooding, said facilities must be regularly inspected and maintained.

3.1.2 If not regularly maintained, stormwater facilities can become sources of pollutants to surface water and groundwater.

3.1.3 If not adequately maintained, stormwater facilities can fail and cause considerable damage to the public welfare.

3.1.4 In order to ensure maintenance of the stormwater facilities within the Town it is necessary to establish a stormwater maintenance program, setting forth the minimum standards for the inspection and maintenance of stormwater facilities.

3.2 The provisions of Section 3 are intended to:

3.2.1 Provide for the inspection and maintenance of stormwater facilities in the Town to provide for an effective, functional stormwater drainage system.

3.2.2 Authorize the Town Council or its designee to require that stormwater facilities be operated, maintained and repaired in conformance with Section 3.

3.2.3 Establish the minimum level of compliance which must be met.

3.2.4 Guide and advise all who conduct inspection and maintenance of stormwater facilities.

3.3 Definitions. For the purposes of Section 3, 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. 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 the 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/or natural features which function together, or independently, 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, constructed wetlands, infiltration devices, catch basins, oil/water separators, sediment basins and modular pavement. Stormwater facilities are

described in the Manual.

“Town Council” means the Town Council of the Town of Beaux Arts Village, Washington.

3.4 Applicability. When any provision of any chapter of the Code conflicts with Section 3, that which provides more environmental protection shall apply unless specifically provided otherwise in Section 3.

### 3.5 General Requirements

3.5.1 Maintenance Required. All stormwater facilities shall be maintained in accordance with Section 3 and the Manual. Systematic, routine preventive maintenance is preferred.

3.5.2 Minimum Standards. The following are the minimum standards for the maintenance of stormwater facilities:

3.5.2.1 Facilities shall be inspected annually and cleared of debris, sediment and vegetation when they affect the functioning and/or design capacity of the facility.

3.5.2.2 Grassy swales and other biofilters shall be inspected monthly and mowed or replanted as necessary.

3.5.2.3 Where lack of maintenance is causing or contributing to a water quality problem, immediate action shall be taken to correct the problem.

3.5.3 Disposal of Waste from Maintenance Activities. Disposal of waste from maintenance activities shall be conducted in accordance with the minimum Functional Standards for 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.

3.5.4 Compliance. Property owners are responsible for the maintenance, operation or repair of stormwater drainage systems and BMPs, where said facilities are for the specific benefit of privately owned property, or where said facilities were constructed or developed as part of an approved subdivision and the facilities were not dedicated to the Town as part of the public stormwater drainage system, regardless of whether the drainage facilities are located on public or private property. All stormwater facilities dedicated for public use shall be maintained by the Town. All stormwater facilities shall be maintained, operated and repaired in compliance with Section 3, the Manual, and the Code.

### 3.6 Administration

3.6.1 The Town Council or its designee shall administer and enforce Section 3, and

shall have the authority to develop and implement administrative procedures to administer and enforce said section.

3.6.2 The Town Council or its designee is directed and authorized to develop an inspection program for stormwater facilities in the Town.

### 3.7 Inspection Program

3.7.1 Whenever implementing the provisions of the inspection program or whenever there is cause to believe that a violation of Section 3 has been or is being committed, the inspector is authorized to inspect all stormwater drainage systems within the Town to determine compliance with the provisions of Section 3.

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

3.7.2.1 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 person(s) having charge or control of the property or portions of the property and request entry.

3.7.2.2 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.

3.7.2.3 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, as authorized by laws of the State of Washington.

3.7.2.4 The inspector may inspect the stormwater drainage system without obtaining the search warrant provided for in 3.7.2.3 above, provided the inspection can be conducted while remaining on public property or other property for which permission to enter is obtained.

3.7.3 Inspection Schedule. The Town Council or its designee shall establish a master inspection and maintenance schedule to inspect appropriate stormwater facilities that are not owned by the Town. Inspections shall be annual. Critical stormwater facilities may require a more frequent inspection schedule.

3.7.4 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:

3.7.4.1 As-built plans and locations.

3.7.4.2 Findings of fact from any exemption granted by the Town.

3.7.4.3 Operation and maintenance requirements and records of inspections, maintenance actions and frequencies.

3.7.4.4 Engineering reports, as appropriate.

3.7.5 Reporting Requirements. The Town Council shall cause to be prepared an annual report about the status of the inspections. The annual report shall include, but 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.

#### **Section 4. Enforcement**

4.1 General. Enforcement action shall be taken whenever a person has violated any provision of this Ordinance. The choice of enforcement action taken and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the degree of bad faith of the persons subject to the enforcement action.

4.2 Orders. The Town Council or its designee shall have the authority to issue to an owner or person an order to maintain or repair a component of a stormwater facility or BMP to bring it in compliance with Section 3, the Manual or the Code. This order shall include:

4.2.1 A description of the specific nature, extent and time of the violation and the damage or potential damage that reasonably might occur; and

4.2.2 A Notice that the violation or the potential violation cease and desist; and

4.2.3 The specific corrective actions to be taken; and

4.2.4 A reasonable time to comply, not to exceed 60 days.

4.3 Civil Penalty. Any person who fails to comply with the provisions of this ordinance shall be subject to a civil penalty.

4.3.1 Amount of Penalty. The penalty shall be as established by resolution of the Town Council.

4.3.2 Notice of Penalty. Notice of the penalty imposed shall be in writing and served either by certified mail with return receipt requested or by personal service, to the person incurring the penalty. The notice shall describe the violation, the date(s) of violation and penalty imposed.

4.3.3 Request for Mitigation or Reduction of Penalty. Any person receiving a notice of an imposed penalty may, within 14 days of receipt of the notice, request a mitigation of penalty. This request for mitigation of penalty shall be in writing and shall be filed with the Deputy Town Clerk for placement on the Town Council agenda. The Town Council shall review and act upon the request for mitigation of penalty at their next regularly scheduled meeting.

4.3.4 Appeal of Town Council Action. Any person wishing to appeal the Town Council's decision on the request for mitigation of penalty shall make said appeal to a court of competent jurisdiction within 30 days of the final action taken by the Town Council.

4.4 Penalties Due. Penalties imposed for violation of this ordinance shall become due and payable upon receiving notice of penalty unless application for mitigation is made or an appeal is filed. Whenever an application for mitigation is made, penalties shall become due and payable upon receipt of the decision regarding the mitigation.

**Section 5. Severability.** If any portion of this ordinance or its application to any person, entity, or circumstance is held invalid, the remainder of this ordinance or the application of the provision to other persons, entities, or circumstances shall not be affected.

**Section 6. Validity.** If any section, paragraph, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Town Council hereby declares that they would have passed this ordinance and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one may be found subsequently by competent authority to be unconstitutional or invalid.

**Section 7.** This ordinance shall take effect and be in force immediately upon its passage, approval, and publication.

**PASSED BY THE TOWN COUNCIL** on the 11th day of April 1995, and signed in authentication of its passage on the 11<sup>th</sup> day of April, 1995.

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Charles Lowry, Mayor

ATTEST:

APPROVED AS TO FORM:

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Sue Ann Spens, Deputy Town Clerk

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Wayne Stewart, Town Attorney