

Title 12 – Building and Construction

Chapter 5 – Stormwater Management

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Legislative History

Enacted:

Building and Construction, Ord. 222 (10/5/04), BIA (10/15/04).

Repealed or Superseded:

Stormwater, Ord. 181 (9/30/03), BIA (10/7/03).

12-05.010 Title.

This Chapter may be referred to as the “Swinomish Stormwater Management Code.”

[History] Ord. 222 (10/5/04); Ord. 181 (9/30/03).

12-05.020 Purpose.

The purpose of the Swinomish Stormwater Management Code is to preserve and enhance the quality and ecological functioning of the lands and waters of the Reservation by establishing standards, requirements, and procedures for managing stormwater discharge resulting from improvements to, or subdivision of, lands and waters subject to tribal jurisdiction.

[History] Ord. 222 (10/5/04); Ord. 181 (9/30/03).

12-05.030 Authority.

This Chapter is enacted pursuant to authority provided by Article VI, Sections 1(h), (k)(1), (l), (r) and (s), and Section 5(a) of the Swinomish Constitution, as most recently amended.

[History] Ord. 222 (10/5/04); Ord. 181 (9/30/03).

12-05.040 Jurisdiction.

Tribal jurisdiction over the activities subject to this Chapter shall extend to all lands and waters within the exterior boundaries of the Reservation to the maximum extent permitted by law.

[History] Ord. 222 (10/5/04); Ord. 181 (9/30/03).

12-05.050 Construction.

- (A) In the event that a provision of this Chapter is in conflict with any other provision of this Title, the provision(s) in this Chapter shall control.
- (B) In the event that a provision of this Chapter is in conflict with any other provision of the Swinomish Tribal Code, the provision that is more protective of the environment shall control.

[History] Ord. 222 (10/5/04)

12-05.060 Definitions.

- (A) Unless explicitly stated otherwise, the following words and phrases shall have the following meanings:
 - (1) **“County”** means Skagit County.
 - (2) **“Director”** means the Director of the Office of Planning and Community Development of the Swinomish Indian Tribal Community.
 - (3) **“Low impact development practices”** means methods and techniques of stormwater management designed to reduce runoff and promote infiltration of stormwater. Low impact development practices are designed to mimic, enhance, and preserve natural hydrologic processes that recharge aquifers, maintain wetlands and in-stream flows, and promote high ecological function. Low impact development practices may also reduce the construction and maintenance costs of stormwater management systems and contribute to the biodegradation of certain pollutants.

- (4) **“Planning Commission”** means the Planning Commission of the Swinomish Indian Tribal Community.
- (5) **“Planning Department”** means the Office of Planning and Community Development of the Swinomish Indian Tribal Community.
- (6) **“Reservation”** means all lands and waters within the exterior boundaries of the Swinomish Indian Reservation of the Swinomish Indian Tribal Community.
- (7) **“Senate”** means the Swinomish Indian Senate.
- (8) **“Stormwater management plan”** means a plan developed under the terms and provisions of this Chapter that is designed to manage the surface water runoff of a particular lot or development.
- (9) **“Stormwater manual”** means the *Stormwater Management Manual for Western Washington*, prepared by the Washington State Department of Ecology, August 2001 edition.
- (10) **“Tribe”** or **"tribal"** means or refers to the Swinomish Indian Tribal Community.

(B) All other words and phrases shall have their ordinary and customary meanings.

[History] Ord. 222 (10/5/04); Ord. 181 (9/30/03).

12-05.070 Adoption of State Standards.

Except as otherwise provided in this Chapter, the Senate hereby adopts and incorporates as tribal law as if fully set out herein the *Stormwater Management Manual for Western Washington*, prepared by the Washington State Department of Ecology, August 2001 edition, as the official set of rules, guidelines, regulations, and procedures for managing stormwater within the Reservation.

[History] Ord. 222 (10/5/04); Ord. 181 (9/30/03).

12-05.080 Amendments to State Standards.

(A) The following words and phrases in the Stormwater Manual shall have the following meanings:

- (1) **“Local government”** means the Swinomish Indian Tribal Community.

- (2) **“Local government agency with jurisdiction”** means the Office of Planning and Community Development of the Swinomish Indian Tribal Community.
 - (3) **“Stormwater manual administrator”** means the Planning Director or his/her Designee charged with responsibility for implementing and enforcing the Stormwater Manual and the terms of this Chapter.
- (B) All other words and phrases shall have the meanings ascribed to them in the Stormwater Manual.

[History] Ord. 222 (10/5/04); Ord. 181 (9/30/03).

12-05.090 Permit.

- (A) All persons who propose to commence building, construction, or other soil-disturbing activities that meet the threshold criteria in Section 2.4, “Applicability of the Minimum Requirements” of the Stormwater Manual shall obtain a stormwater discharge permit from the Planning Department before commencing the activity. Such permit may be issued as an endorsement to a building permit or as a separate stormwater discharge permit.
- (B) No person shall receive a stormwater discharge permit without first obtaining final approval of a stormwater management plan from the Planning Department.

[History] Ord. 222 (10/5/04); Ord. 181 (9/30/03).

12-05.100 Stormwater Management Plan.

- (A) **Threshold Criteria.** The Planning Department shall determine whether a person needs to develop a stormwater management plan based on the threshold criteria in the Stormwater Manual.
- (B) **Contents.**
 - (1) The stormwater management plan shall follow the standards and requirements of the Stormwater Manual, subject to Subsections 12-06.090(B)(2) and (3) and Section 12-06.090(C) below.
 - (2) The stormwater management plan shall use low impact development practices wherever practicable, consistent with the best available technology.
 - (3) The stormwater management plan shall include provisions for operating and maintaining any stormwater management design features, infrastructure or equipment that may be required by the plan.

(C) **Waiver.** The Director may waive the minimum requirements of the Stormwater Manual when he or she makes a written finding that the waiver:

- (1) Would be in the best interest of the Tribe;
- (2) Is based on best available science; and
- (3) Would provide equivalent environmental protection and safety.

(D) **Restriction.**

- (1) The stormwater management plan shall be an encumbrance or restriction upon the property to which it pertains and shall run with the land so that it becomes part of any instrument that conveys the subject property from one owner to the next owner.
- (2) The encumbrance or restriction shall be recorded with the Tribe and the County for fee land and with the Tribe and BIA for trust land.

[History] Ord. 222 (10/5/04); Ord. 181 (9/30/03).

12-05.110 Fees.

- (A) The Planning Department shall charge a reasonable fee for a stormwater discharge permit.
- (B) Stormwater discharge permit fees may be updated from time to time.
- (C) The stormwater discharge permit fees shall be published the Office of Planning and Community Development's schedule of fees and shall be made available for public inspection during regular business hours.

[History] Ord. 222 (10/5/04); Ord. 181 (9/30/03).

12-05.120 Operations and Maintenance.

- (A) The stormwater discharge permit holder shall be liable for (1) managing stormwater and (2) operating and maintaining the stormwater management design features, infrastructure, and equipment, both in accordance with the terms and provisions of the stormwater management plan required by Section 12-06.100 above.
- (B) If the stormwater discharge permit holder fails to comply with the provisions and terms of the stormwater management plan required by Section 12-06.100 above, the Tribe may assume responsibility for implementing the plan and collect from the permit holder all reasonably related costs associated with the assumption of

responsibility, including the costs of operations and maintenance, enforcement, and collection.

[History] Ord. 222 (10/5/04); Ord. 181 (9/30/03).

12-05.130 Public Inspection.

An official copy of the Swinomish Stormwater Management Code shall be placed on file in the Office of Planning and Community Development where it shall be available for public review and copying during business hours, subject to reasonable administrative costs and restrictions.

[History] Ord. 222 (10/5/04).

12-05.140 Dispute Resolution.

- (A) All disputes arising under the terms of this Chapter shall be heard by the Planning Commission.
- (B) Final decisions of the Planning Commission may be appealed first to the Senate and then to the Tribal Court.

[History] Ord. 222 (10/5/04); Ord. 181 (9/30/03).

12-05.150 Repealer.

This Chapter repeals and supersedes Ordinance 181.

[History] Ord. 222 (10/5/04).

12-05.160 Severability.

The provisions of this Chapter are severable. If a court of competent jurisdiction finds any of the provisions of this Chapter invalid, the remaining provisions shall be unaffected and remain in full force and effect.

[History] Ord. 222 (10/5/04); Ord. 181 (9/30/03).

12-05.170 Effective Date.

This Chapter shall be effective immediately upon approval by the Secretary of the Interior or his or her designee.

[History] Ord. 222 (10/5/04).