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ORDINANCE NO. 816

AN ORDINANCE OF THE CITY OF CARNATION, WASHINGTON, AMENDING CHAPTER 15.64 CMC FLOODWAYS, FLOODPLAINS, DRAINAGE AND EROSION; REVISING AND UPDATING THE CITY'S STORMWATER MANAGEMENT REGULATIONS; CLARIFYING THE PURPOSE AND INTENT OF SAID REGULATIONS; ADDING NEW DEFINITIONS; REVISING AND CLARIFYING CERTAIN REGULATORY STANDARDS; SETTING FORTH LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City has adopted standards and regulations governing drainage and stormwater management at Chapter 15.64 CMC; and

WHEREAS, the City Council desires to update and amend said regulations; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF CARNATION, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council hereby adopts the above recitals as findings in support of the regulations set forth in this ordinance. The City Council further adopts by reference the findings of the Planning Board dated August 29, 2012, together with the following:

A. The City is authorized by State law, including but not limited to Chapter 35A.11 RCW, Chapter 35A.63 RCW and Chapter 36.70A RCW, to enact local regulations governing the development and use of real property.

B. The Planning Board conducted a public hearing on the substance of this ordinance on August 28, 2012, and recommended adoption by the City Council. The City Council held a public hearing on this ordinance on October 2, 2012.

C. The regulations set forth in this ordinance have been processed and considered by the City in material compliance with all applicable procedural requirements, including but not limited to requirements related to public notice and comment.

D. All relevant requirements of SEPA have been satisfied with respect to this ordinance.

E. The City Council has carefully considered, and the regulations set forth in this ordinance satisfy, the review criteria codified at CMC 15.100.030(E).

F. The regulations set forth in this ordinance will advance the public health, safety and welfare.

Section 2. Amendment of CMC 15.64.160. Section 15.64.160 of the Carnation Municipal Code is hereby amended to provide in its entirety as follows:

15.64.160 Purpose; intent.

The purpose of this part is to establish drainage standards governing the development and redevelopment of land within the city. The City of Carnation does not own or operate a stormwater utility or any other comprehensive system for the collection and treatment of storm runoff. As such, insuring adequate drainage of storm runoff must be accomplished exclusively through on-site retention and/or infiltration. The primary component of these standards is

the requirement that the rate of stormwater discharge resulting from new development or redevelopment sites will not exceed the predeveloped condition rate of stormwater discharge. Another critical aspect of the following regulations is to place the financial and legal responsibility for the design, maintenance, operation and repair of private drainage facilities exclusively upon the owner(s) of the underlying property. Unless otherwise expressly provided in this part, the following provisions shall be interpreted in furtherance of these objectives.

Section 3. Amendment of Chapter 15.64 CMC. Chapter 15.64 of the Carnation Municipal Code is hereby amended by the addition of a new Section 15.64.165 to provide in its entirety as follows:

15.64.165 Definitions

A. "Predeveloped condition" shall mean the existing condition prior to submission of development application.

B. "Rate of stormwater discharge" shall mean the rate of stormwater surface runoff from the site as modeled using the current version of the Department of Ecology Western Washington Hydrology Model which is based on continuous simulation hydrologic modeling.

Section 4. Amendment of CMC 15.64.190. Subsections 15.64.190(C) and (F) of the Carnation Municipal Code are hereby amended to provide in their respective entirety as follows:

15.64.190 Developments must drain properly.

....

C. Stormwater infiltration drainage shall be provided, on site, for all new development and redevelopment as defined in this chapter. Retention or detention of stormwater shall be provided, as required by this chapter, to ensure that stormwater discharge from new development and redevelopment does not exceed the predeveloped condition rate of stormwater discharge.

1. For purposes of determining the rate, stormwater discharges shall match developed discharge durations to predeveloped durations for the range of predeveloped discharge rates from 50% of the 2-year peak flow up to the full 50-year peak flow.

.....

F. For sites within the central business district, or in the mixed use zone if the property has frontage on Tolt Avenue, with insufficient space for on-site stormwater infiltration facilities, the director, in his or her sole discretion, may authorize construction of infiltration facilities within the public rights-of-way when design of the facility is acceptable to the director and the director determines sufficient space would remain to accommodate future buried utilities requirements. Such authorization may be granted pursuant to the following criteria:

1. The facility is properly sized for both the stormwater runoff from the site plus the runoff from the right-of-way tributary to the site.

2. The cost of facilities construction and right-of-way restoration is paid by the property owner.

3. A written covenant in a form approved by the city attorney has been recorded against the title of the underlying property containing without limitation the following provisions:

a. A city-approved maintenance and operation plan for the facility.

b. A permanent right of access for city personnel to inspect the facility.

c. A detailed construction design clearly depicting the location, depth, and operation of the facility.

d. The landowner agrees to indemnify, protect, defend, and hold harmless the city, its officers, employees, and volunteers, from any and all damages, injuries, costs, expenses, including attorneys fees, resulting from or otherwise arising out of, directly or

indirectly, the location, installation, construction, operation, and/or repair of the facility.

e. An authorization, but not an obligation, for the city to perform any emergency maintenance or repair work necessary to insure the proper functioning of the facility and to charge all expenses therefrom to the landowner.

f. An agreement to relocate the facility at the landowner's exclusive expense to an alternative location within the public right-of-way whenever such relocation is deemed reasonably necessary by the director. Such relocation shall be completed within one hundred and twenty days of receipt of notice of the city's intent from the city; provided, however, that in the event of an emergency requiring relocation of the facility within a shorter time period, as determined by the director, the landowner shall relocate said facility in accordance with the director's instruction.

Section 5. Amendment of Chapter 15.64 CMC. Chapter 15.64 of the Carnation Municipal Code is hereby amended by the addition of a new Section 15.64.235 to provide in its entirety as follows:

15.64.235 Compliance with State Regulations

All stormwater drainage shall, in addition to compliance with the provisions of this Chapter, comply fully with all applicable state and/or federal regulations, specifically including without limitation the following:

A. Underground injection wells shall be registered with the Washington State Department of Ecology in accordance with WAC Chapter 173-218, Underground Injection Control Program.

B Discharge of storm water runoff into groundwater shall comply with the provisions of WAC Chapter 173-200 Water Quality Standards for Groundwaters of the State of Washington.

Section 6. Amendment of CMC 15.64.300. Section 15.64.300 of the

Carnation Municipal Code is hereby amended to provide in its entirety as follows:

15.64.300 Flexibility in administration permitted.

A. Purpose. The city recognizes that the wide variety of types of development, natural systems and unique topography in the city weighs against the inflexible enforcement of standards set forth in this chapter. The purpose of this section is to authorize the director to permit deviations from the strict adherence to certain requirements and to either require more intensive or allow less intensive requirements or alternatives whenever the director finds that such deviations or alternatives will alternately achieve the purposes of this chapter without imposing unnecessary costs.

B. Areas with Seasonal High Groundwater or Flooding. The city recognizes that in areas with exceptionally high seasonal groundwater levels, seasonal variations in the groundwater table, including those associated with high riparian water levels, may temporarily decrease the normal capacity and effectiveness of stormwater facilities. In some situations, it would be unreasonably onerous to require stormwater infiltration designs that are guaranteed to always comply with the runoff standards established in this chapter during extreme weather events or temporary high groundwater conditions. Therefore, in areas where seasonal groundwater levels rise to within seven (7) feet of the surface for residential development or nine (9) feet of the surface for nonresidential development, the director may approve stormwater infiltration facilities that may be expected to experience temporarily reduced capacity and/or performance if such facilities are designed and constructed in a manner that ensures any off-site runoff will occur at a rate and volume that will not cause property damage. The applicant shall demonstrate to the satisfaction of the director that: (i) an on-site drainage system cannot practicably be designed and constructed to ensure complete compliance with the requirements of this chapter, and (ii) under the applicant's alternative proposal, resulting stormwater runoff will not cause property damage or violate applicable state or federal regulations, including

without limitation any applicable runoff or discharge standards.

C. Deviations and Mitigation. Whenever the director authorizes a deviation from the requirements set forth in this chapter, he/she shall enter on the face of the permit the requirement that it imposes to meet the standard and the reasons for allowing or requiring the deviation. Any such decision shall be entirely at the discretion of the director, and nothing in this chapter shall be construed as requiring the director to approve any deviation. The director may condition any such decision upon the imposition of such reasonable mitigation measures as deemed necessary by the director. Without limitation of the foregoing, the director may require an applicant requesting a deviation to execute a recorded covenant indemnifying, protecting, defending, holding harmless the city, its officers, employees, and volunteers, from any and all damages, injuries, claims, costs, expenses, including attorneys fees, resulting from, relating to or otherwise arising out of stormwater runoff from the applicant's property.

Section 7. Copy to Commerce. Pursuant to RCW 36.70A.106, the Planning Director is hereby authorized and directed to provide a copy of this ordinance to the Washington Department of Commerce within 10 days of adoption.

Section 8. Severability. If any section, sentence, clause or phrase of this ordinance should 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 9. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

APPROVED by the Carnation City Council this 2nd day of October,

2012.


MAYOR, JIM BERGER

ATTEST/AUTHENTICATED:


CITY CLERK, MARY MADOLE

FILED WITH THE CITY CLERK: 08/30/2012
PASSED BY THE CITY COUNCIL: 10/02/2012
PUBLISHED: 10/10/2012
EFFECTIVE DATE: 10/15/2012
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