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ORDINANCE #385

AN ORDINANCE RELATING TO THE REGULATION OF STORMWATER FACILITY MAINTENANCE WITHIN THE TOWN OF YACOLT.

WHEREAS: The Town Council of Yacolt, Washington, in regular session this 7th day of June, 1999; and

WHEREAS: All members of the Town Council have had notice of time, place, and purpose of said meeting; and

WHEREAS: The Town Council has previously adopted a stormwater management plan by Town Ordinance #355; and

WHEREAS: The Town Council members having considered all of the foregoing; and

NOW THEREFORE: BE IT ORDAINED BY THE TOWN COUNCIL OF YACOLT, WASHINGTON, as follows:

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STORMWATER FACILITY MAINTENANCE ORDINANCE #385

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## **SECTION 1: FINDINGS OF FACT, NEED AND PURPOSE**

### 1.1 Findings of fact

The Council of the Town of Yacolt hereby finds that:

- A. Stormwater facilities are a common feature of urban development.
- B. In order to function properly so that they will perform as designed to prevent or remove pollution and/or to reduce flooding, stormwater facilities must be regularly inspected and maintained.
- C. If not adequately maintained, stormwater facilities can become sources of pollutants to surface water and groundwater.
- D. If not adequately maintained, stormwater facilities could fail and cause considerable damage to the public.

### 1.2 Need

The Council finds that this ordinance is necessary in order to ensure maintenance of all stormwater facilities within the Town by setting minimum standards for the inspection and maintenance of stormwater facilities.

### 1.3 Purpose

The provisions of this ordinance are intended to:

- A. Provide for inspection and maintenance of stormwater facilities in Town to provide for an effective, functional stormwater drainage system.
- B. Authorize the Town Council to require that stormwater facilities be operated, maintained and repaired in conformance with this Ordinance.
- C. Establish the minimum level of compliance which must be met.
- D. Guide and advise all who conduct inspection and maintenance of stormwater facilities.

## **SECTION 2: DEFINITIONS**

For the purposes of this ordinance, the following definitions shall apply:

- A. "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 Stormwater Management Manual.
- B. "Person" means any individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, agency of the state, or local government unit, however designated.

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- C. "Interflow" means that portion of precipitation that infiltrates into the soil and moves laterally through the upper soil horizons until intercepted by a stream channel or until it returns to the surface; for example, in a wetland, spring or seep.
  - D. "Stormwater" means 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.
  - E. "Stormwater Drainage 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.
  - F. "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, retention basins, constructed wetlands, infiltration devices, catch basins, oil/water separators, sediment basins and modular pavement. Stormwater facilities are described in the Manual.
  - G. "Stormwater Management Manual" or "Manual" means the Manual adopted by reference and prepared by Ecology that contains BMPs to prevent or reduce pollution (or a technically equivalent Manual approved by Ecology). The Stormwater Management Manual contains BMPs to prevent or reduce pollution and maintenance provisions for all BMPs.

### **SECTION 3: GENERAL PROVISIONS**

#### 3.1 Abrogation and greater restrictions

It is not intended that this ordinance repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

#### 3.2 Interpretation

The provisions of this ordinance shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this ordinance.

### **SECTION 4: APPLICABILITY**

#### 4.1 More strict prevails

When any provision of any other ordinance of the Town of Yacolt conflicts with this ordinance, that which provides more environmental protection shall apply unless specifically provided otherwise in this ordinance.

#### 4.2 Written procedures

The Town of Yacolt's Mayor or a designee is authorized to adopt written procedures for the purpose of carrying out the provisions in this ordinance.

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## **SECTION 5: GENERAL REQUIREMENTS**

### 5.1 Maintenance required

All stormwater facilities shall be maintained in accordance with this Ordinance and the Stormwater Management Manual. Systematic, routine preventive maintenance is preferred.

### 5.2 Minimum standards

The following are the minimum standards for the maintenance of stormwater facilities:

- A. Facilities shall be inspected quarterly and cleared of debris, sediment, and vegetation when it affects the functioning and/or design capacity of the facility.
- B. Grassy swales and other biofilters shall be inspected monthly and mowed or replanted as necessary. Clippings are to be removed and properly disposed of.
- C. Where lack of maintenance is causing or contributing to a water quality problem, immediate action shall be taken to correct the problem. Within 1 month, the Public Works Supervisor shall revisit the facility to assure that it is being maintained.

### 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 Solid 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.

### 5.4 Compliance

Property owners are responsible for the maintenance, operation or repair of stormwater drainage systems and BMPs. Property owners shall maintain, operate and repair these facilities in compliance with the requirements of this Ordinance and the Stormwater Management Manual.

## **SECTION 6: ADMINISTRATION**

### 6.1 Director

The Town of Yacolt's Mayor or a designee/inspector shall administer this Ordinance and shall be referred to as the director. The director shall have the authority to develop and implement administrative procedures to administer and enforce this Ordinance.

### 6.2 Inspection authority

The Mayor or designee is directed and authorized to develop an inspection program for stormwater facilities in the Town of Yacolt.

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### 6.3 Enforcement authority

The Mayor shall enforce this Ordinance.

## **SECTION 7: INSPECTION PROGRAM**

### 7.1 Inspection

Whenever implementing the provisions of the inspection program or whenever there is cause to believe that a violation of this Ordinance has been or is being committed, the Public Works Supervisor is authorized to inspect during regular working hours and at other reasonable times all stormwater drainage systems within the Town to determine compliance with the provisions of this Ordinance.

### 7.2 Procedures

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

- A. 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.
- B. 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.
- C. 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, prior to entry, as authorized by the laws of the State of Washington.
- D. The inspector may inspect the stormwater drainage system without obtaining a search warrant provided for in Subsection C above, provided the inspection can be conducted while remaining on public property or other property on which permission to enter is obtained.

### 7.3 Inspection schedule

The Director shall establish a master inspection and maintenance schedule to inspect appropriate stormwater facilities that are not owned by the Town of Yacolt. Inspections shall be annual. Critical stormwater facilities may require a more frequent inspection schedule.

### 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:

- A. As-built plans and locations.
- B. Findings of fact from any exemption granted by the local government.

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- C. Operation and maintenance requirements and records of inspections maintenance actions and frequencies.
  - D. Engineering reports, as appropriate.

#### 7.5 Reporting requirements

The Public Works Supervisor shall report annually to the Town Council about the status of the inspections. The annual report may include, but need 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 8: ENFORCEMENT**

#### 8.1 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.

#### 8.2 Orders

The Director 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 this Ordinance, the Stormwater Water Manual and/or Town regulations. The order shall include:

- A. A description of the specific nature, extent and time of the violation and the damage or potential damage that reasonably might occur;
- B. A notice that the violation or the potential violation cease and desist and, in appropriate cases, the specific corrective actions to be taken; and
- C. A reasonable time to comply, depending on the circumstances.

#### 8.3 Civil penalty

A person who fails to comply with the requirements of this Ordinance or who fails to conform to the terms of an approval or order issued shall be subject to a civil penalty.

- A. Amount of Penalty. The penalty shall not be less than \$50.00 or exceed \$250.00 for each violation. Each day of continued violation or repeated violation shall constitute a separate violation.
- B. Aiding or Abetting. Any person who, through an act of commission or omission, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.

- C. Notice of Penalty. A civil penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the local government. The notice shall describe the violation, the date(s) of violation, and shall order the acts constituting the violation to cease and desist, and, in appropriate cases, require necessary corrective action within a specific time.
- D. Application for Remission of Mitigation. Any person incurring a penalty may apply in writing within 10 days of receipt of the penalty to the Town of Yacolt for remission or mitigation of such penalty. Upon receipt of the application, the Town Council may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty.
- E. Appeal of Civil Penalty. Persons incurring a penalty imposed by the Council may file an appeal with the Superior Court within 10 days of the receipt of the penalty.

8.4 Penalties due

Penalties imposed under this Section shall become due and payable 30 days after receiving notice of penalty unless application for remission or mitigation is made or an appeal is filed. Whenever an application for remission or mitigation is made, penalties shall become due and payable 15 days after receipt of the decision regarding the remission or mitigation. Whenever an appeal of a penalty is filed, the penalty shall become due and payable after all review proceedings and a final decision has been issued confirming all or part of the penalty. If the amount of a penalty owed is not paid within the time specified in this Section, the Town may take actions necessary to recover such penalty.


**SECTION 9: SEVERABILITY**

If any provision 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.

PASSED at a regular meeting of the Town Council of the Town of Yacolt, Washington this 7th day June, 1999.

  
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 KENNETH CASE, Mayor

Attest:

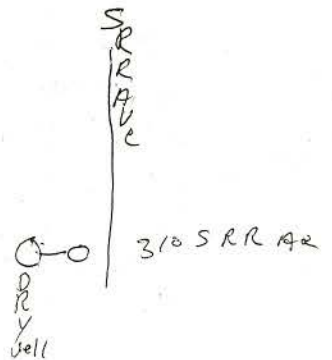
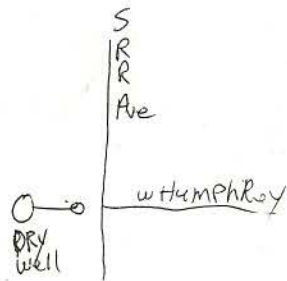
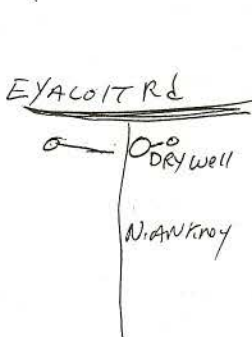
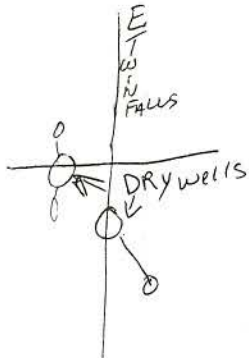
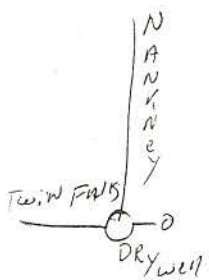
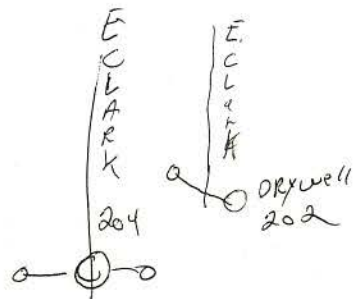
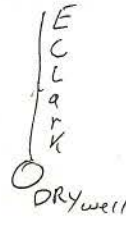
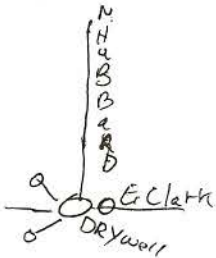
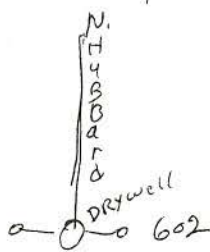
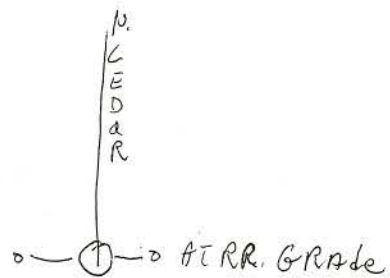
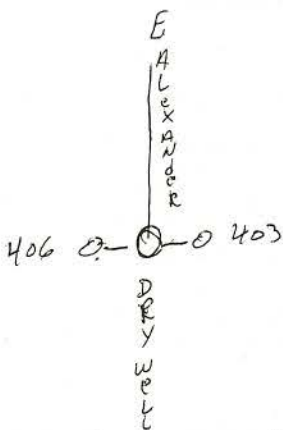
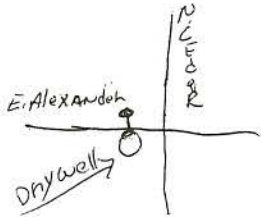
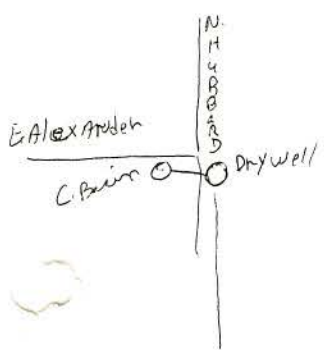
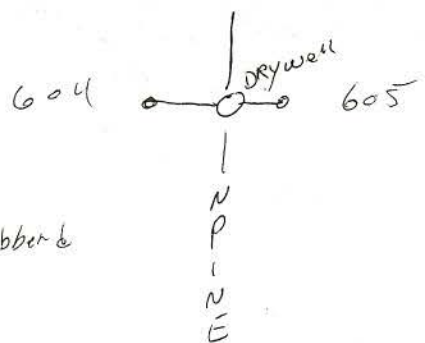
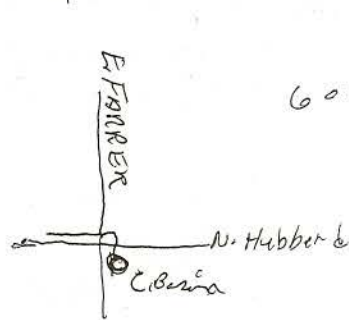
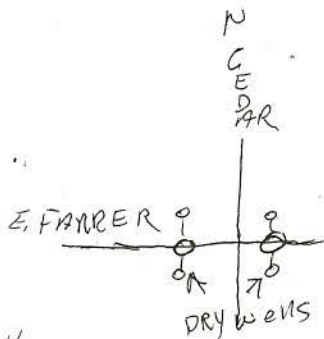
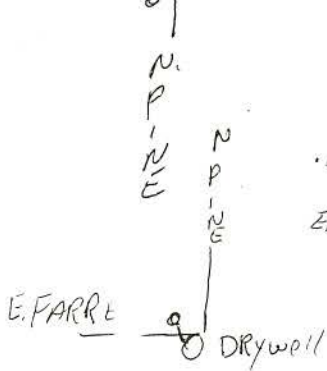
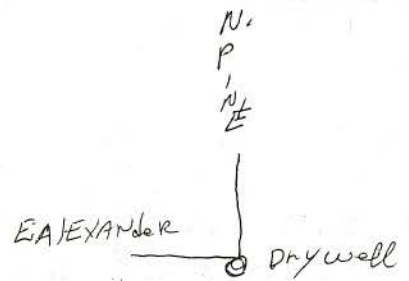
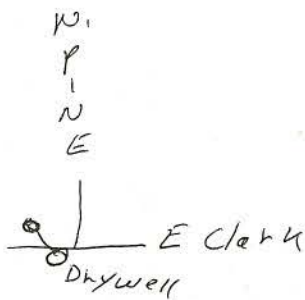
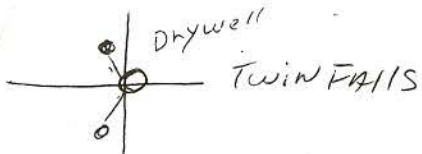
  
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 BRENDA FINNEGAN, Clerk/Treasurer

Ayes Milman, Kaski, Messer, Robertson, Smith

Nayes None

Absent None





SRR

