

**CITY OF STANWOOD  
WASHINGTON**

**ORDINANCE NO. 1472**

**AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON, AMENDING STANWOOD MUNICIPAL CODE (SMC) SECTION 12.14.040 ENTITLED "AUTHORITY" AND RELATING TO OWNERSHIP AND MAINTENANCE OF STORMWATER FACILITIES; ESTABLISHING SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, The City Council of Stanwood has authority under Title 35A, RCW to adopt plans and regulations related to development and operations within the City of Stanwood; and

**WHEREAS**, Stormwater facilities are part of the overall City drainage system which includes but is not limited to catch basins, conveyance piping and appurtenances in the public right of way; and

**WHEREAS**, SMC 12.14.040(1) requires that all newly constructed detention ponds, water quality facilities and appurtenant structures for residential plats and short plats be transferred to the City for ownership and maintenance at the time of final plat; and

**WHEREAS**, SMC 12.14.040(2) also requires that existing facilities outside of the city be transferred to City at the time of annexation; and

**WHEREAS**, There are approximately eight stormwater facilities in the City that are under private ownership; and

**WHEREAS**, The City desires to create an option to transfer private stormwater systems to the City by deed or easement consistent with current City policy; and

**WHEREAS**, the City of Stanwood SEPA Responsible Official has reviewed the amendments proposed to SMC 12.14.040 and determined that the amendments are procedural in nature and are exempt from environmental review; and

**WHEREAS**, the City Council Public Works Committee reviewed the proposed language and amendments set forth in this Ordinance at their August 6, 2018, September 10, 2018 and January 7, 2019 meetings; and

**WHEREAS**, the City Council held their first reading of the draft code amendment on March 14, 2019 and their second and final reading on March 28, 2019 and accepted public comment; and

**WHEREAS**, pursuant to RCW 36.70A.106, the City has notified the Washington

State Department of Commerce of the City's intent to adopt the proposed amendments to Title 12, Drainage System Regulations; and

**WHEREAS**, the City Council has determined that in appropriate circumstances it is in the best interest of the City to allow for the transfer of detention systems from private ownership to the City of Stanwood to ensure proper and continuous maintenance of such facilities.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1.** SMC 12.14.040 entitled "Authority" is hereby amended to read as follows:

**12.14.040 Authority.**

- (1) Newly constructed stormwater facilities, including conveyance systems, detention and water quality facilities and their appurtenant structures, for residential plats and short plats shall be transferred to the city for ownership and maintenance at the time of final plat.
- (2) Existing stormwater facilities may be transferred to the city for ownership and/or maintenance by contract, right of entry, deed or easement with agreement of the city.
- (3) Existing publicly owned stormwater facilities included in an annexation petition shall be transferred to the city for ownership and maintenance at the time of annexation. Privately owned facilities shall be subject to SMC12.14.040(2).
- (4) Stormwater facilities for commercial developments and multifamily developments shall be maintained by the property owner(s); however, the facilities shall be located within easements that allow emergency maintenance by the city.
- (5) Emergency maintenance performed by the city on private stormwater facilities shall be at the cost of the owner(s).
- (6) The city shall own and maintain conveyance systems that serve public streets and are located in the public right-of-way or easements dedicated to and accepted by the city of Stanwood.

**Section 2. Findings of Fact and Conclusions.** In support of the amendment approved in this Ordinance the Stanwood City Council adopts the Findings of Fact and Conclusions attached hereto as Exhibit "A" and incorporated herein by reference and the analysis contained in the Staff Report on the amendments.

**Section 3. Severability.** The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

**Section 4. Authority to Make Necessary Corrections.** The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's clerical errors, references, ordinance numbers, section/subsection numbers and any references thereto.

**Section 5. Conflict.** In the event that there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

**Section 6. Effective Date.** This Ordinance shall take effect from and after five (5) days after its passage and publication as required by law.

**PASSED AND APPROVED** by the Stanwood City Council this 28th day of March 2019.

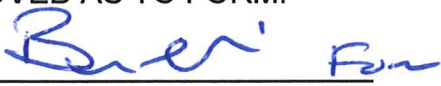
CITY OF STANWOOD

  
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Leonard Kelley, Mayor

ATTEST:

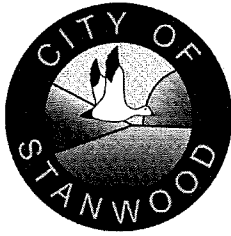
By:   
\_\_\_\_\_  
David A. Hammond, City Clerk

APPROVED AS TO FORM:

By:   
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Grant Weed, City Attorney

Date of Publication: 4-2-2019  
Effective Date: 4-7-2019

**Exhibit A**  
**Findings of Fact and Conclusions**



City of Stanwood, Washington  
Findings of Fact and Conclusions of Law

Stanwood City Council  
Transfer of Private Drainage Systems Code Amendment

**A. GENERAL INFORMATION**

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File Number(s): Code Amendment 2019-0015

Project Summary: The Public Hearing is to consider a code amendment to amend portions of Stanwood Municipal Code Title 12, creating a regulatory method to transfer private stormwater systems to the City of deed or easement consistent with City policy.

Applicant: City of Stanwood

Location: The code amendment applies city wide.

Public Hearing Date: March 14, 2019

Location: Stanwood-Camano School District Administration Board Room  
26920 Pioneer Highway, Stanwood, WA 98292

Staff Contact: Kevin Hushagen, Public Works Director  
Patricia Love, Community Development Director

**B. BACKGROUND AND DESCRIPTION OF PROPOSAL**

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In reviewing requests to transfer private detention systems over to the City for long term maintenance, it was noted that there are no municipal code provisions allowing the City to accept an application or officially take over the facility. This code amendment establishes a process allowing owners of private drainage systems to petition the City and request that their private drainage facilities be transferred to City ownership.

**C. COMPLIANCE WITH THE COMPREHENSIVE PLAN**

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Stanwood's Comprehensive Plan envisions a strong community that balances the needs of residents and business; protects the environment; encourages economic development and preservation of the City's small town rural character. While the Comprehensive Plan does not contain specific policies regarding ownership of stormwater detection systems, the 2015

Stormwater Comprehensive Plan notes:

“An effective operation and maintenance program aims to protect public health and safety, ensure drainage system integrity and function, reduce infrastructure repair and life cycle costs, enhance water quality and achieve future regulatory compliance”.

The purpose of the proposed code amendment is to provide both property owners and the City the option to turn over and accept the maintenance responsibilities of the few remaining privately owned stormwater facilities. It will be at the City’s discretion to accept or not accept the facility. If the City decides to accept the facility, Public Works will have quality control of the maintenance and assurances of long term integrity of the system as envisioned in the Stormwater Comprehensive Plan.

#### **D. FINDINGS OF FACT**

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1. Stormwater facilities are part of the overall City drainage system which includes: catch basins, conveyance piping and appurtenances in the public right of way.
2. Stanwood Municipal Code requires that all newly constructed detention ponds, water quality facilities and appurtenant structures for residential plats and short plats be transferred to the City for ownership and maintenance at the time of final plat approval.
3. Stanwood Municipal Code also requires that existing facilities outside of the city be transferred to City at the time of annexation.
4. There are approximately eight stormwater facilities in the City that are under private ownership.
5. The City desires to create an option to transfer private stormwater systems to the City by deed or easement consistent with current City policy.
6. This proposed code amendment does not require the City to accept private facilities; it does however allow owners of private facilities the option to submit a request to the City to consider transferring their facilities to the City for long term ownership and maintenance.
7. By proving this option in the code, the City can then look at each individual request and conduct a cost / benefit analysis to determine if it is in the City’s best interest to own those facilities or not.
8. Stanwood's 2015 – 2035 Comprehensive Plan envisions a strong community that balances the needs of residents and business; protects the environment; encourages economic development and preservation of the City’s small town rural character. While the Comprehensive Plan does not contain specific policies regarding ownership of stormwater detection systems, the 2015 Stormwater Comprehensive Plan notes:

“An effective operation and maintenance program aims to protect public health and safety, ensure drainage system integrity and function, reduce

infrastructure repair and life cycle costs, enhance water quality and achieve future regulatory compliance”.

9. The purpose of the proposed code amendment is to provide both property owners and the City the option to turn over and accept the maintenance responsibilities of the few remaining privately owned stormwater facilities; if the City decides to accept the facility, Public Works will have quality control of the maintenance and assurances of long term integrity of the system as envisioned in the Stormwater Comprehensive Plan.
10. On January 8, 2019 the proposed amendments were transmitted to the State of Washington Department of Commerce for state agency review in accordance with RCW 36.70A.106.
11. Notice of the Public hearing was published in the Stanwood Camano News on February 26, 2019.
12. The proposed code change is procedural in nature and contains no substantive changes to development standards or the environment therefore a State Environmental Policy Act (SEPA) Exemption was issued on the proposed amendment on January 9, 2019.
13. Staff prepared a report summarizing the proposed code amendment. This report is part of the public record and was presented to the City Council at the public hearing on March 14, 2019 for their consideration.

#### **E. CONCLUSIONS OF LAW**

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1. The City Council of Stanwood has authority under RCW Title 35A, to adopt plans and regulations related to development and operations within the City of Stanwood.
2. The proposal is consistent with the Comprehensive Plan and meets the requirements and intent of the Plan, including the 2015 Stormwater Comprehensive Plan.
3. The City Council has determined that it is in the best interest of the City to provide property owners with the option to transfer private detention systems to the City of Stanwood.
4. The code amendment itself does not require transfer of private facilities to City ownership.
5. Once an application requesting that a facility be transferred to the City, an assessment would be completed to determine if the City has capacity to take ownership and long term maintenance responsibilities of the facility. Upon finalizing the assessment, the Council would either accept or deny the transfer.
6. Once in the system, any increased costs would be built into the rate structure and spread out to all the rate payers as what currently occurs when the City accepts a detention pond upon recording of a subdivision.

7. After considering staff comments and public testimony the Stanwood City Council determined the draft code amendment is consistent with the Comprehensive Plan and should be adopted.

Now therefore the City Council of the City of Stanwood hereby **ADOPTS** the Findings of Fact and Conclusions of Law contained herein.

Dated this 28<sup>th</sup> date of March 2019.

  
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Leonard Kelley, Mayor  
City of Stanwood