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Walla Walla County, WA

ORD

2009-11001

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**BOARD OF COUNTY COMMISSIONERS
WALLA WALLA COUNTY, WASHINGTON**

ORDINANCE NO. 374

APPROVING A REQUEST BY WALLA WALLA COUNTY PUBLIC WORKS DEPARTMENT FOR THE ADOPTION OF NEW STORMWATER CODE PROVISIONS, TO GUIDE THE MANAGEMENT, DESIGN AND CONSTRUCTION OF STORMWATER FACILITIES, TO PROTECT STORMWATER QUALITY DURING AND AFTER CONSTRUCTION, TO CREATE A STORMWATER MANAGEMENT UTILITY TO FUND, MANAGE, AND GOVERN THE STORMWATER MANAGEMENT PROGRAM, AND TO COMPLY WITH STATE AND FEDERAL ENVIRONMENTAL REGULATIONS, RESULTING IN AN AMENDMENT TO WALLA WALLA COUNTY CODE TO INCLUDE TITLE 11 STORMWATER.

Whereas, the Federal Clean Water Act, 33 U.S.C. 1251 et seq., requires the Environmental Protection Agency (EPA) to implement stormwater management programs within prescribed time frames; and

Whereas the State Department of Ecology has promulgated Phase II rules that extend coverage under the National Pollutant Discharge Elimination System (NPDES) to certain small municipal separate stormwater sewerage systems, such as Walla Walla County;

Whereas, Part C of the Federal Safe Drinking Water Act (SDWA) 42 U.S.C. § 300h et seq. as administered in Washington State by Chapter 173-218 of the Washington Administrative Code (WAC) – Underground Injection Control Program – requires the location, registration, and proper operation of existing and new subsurface stormwater infiltration systems to ensure that the quality of underground sources of drinking water is not endangered;

Whereas, Chapter 90.48 of the Revised Code of Washington (RCW) – the Water Pollution Control Act of Washington – establishes that it is the public policy of the State of Washington to maintain the highest possible standards to ensure the purity of all waters of the state consistent with public health and public enjoyment thereof, the propagation and protection of wild life, birds, game, fish and other aquatic life, and the industrial development of the state, and to that end requires the use of all known available and reasonable methods to prevent and control the pollution of the surface waters of the state of Washington from discharges including those arising from stormwater runoff;

Whereas, In Washington State, the EPA has delegated primacy for the Federal Safe Drinking Water Act and the Federal Clean Water Act to the Washington State Department of Ecology;



Whereas, The Washington Department of Ecology issued the Eastern Washington Phase II Municipal Stormwater Permit (Phase II Permit), effective February 16, 2007, authorizing Walla Walla County to discharge stormwater from the County's municipal separate stormwater sewerage system to surface and ground waters of the state subject to limitations and conditions;

Whereas, implementation by Walla Walla County of the stormwater management requirements promulgated by Federal and State agencies is a necessary part of providing stormwater services and operating stormwater systems and facilities;

Whereas, the Phase II Permit requires Walla Walla County to prohibit, through ordinance or other regulatory mechanism, non-stormwater discharges into the municipal separate stormwater sewerage system;

Whereas, the Phase II Permit requires Walla Walla County to manage, through ordinance or other regulatory mechanism, construction phase and post-construction phase stormwater discharges from projects meeting certain thresholds defined within the Phase II Permit;

Whereas, Walla Walla County is authorized to own and operate a Stormwater Management Utility, and to impose charges pursuant to RCW Chapters 36.94 and 36.89;

NOW THEREFORE,

BE IT ORDAINED, by the Walla Walla County Board of County Commissioners that:

Section I. The Board of County Commissioners Makes the Following Findings of Fact:

1. The standards and remedies in the current Walla Walla County Code do not sufficiently address stormwater management in Walla Walla County.
2. The Board of County Commissioners held a workshop open to the public on the proposed amendments to the Walla Walla County Code on 21 July 2009.
3. The County issued a SEPA Determination of Non-Significance on 7 August 2009. No comments were received on the Determination of Non-Significance. No appeals were received on the Determination of Non-Significance.
4. On September 3 and 10, 2009 a Notice of Public Hearing was published in the Waitsburg Times. On September 4 and 11, 2009 a Notice of Public Hearing was published in the Tri-City Herald. On September 4 and 11, 2009 a notice of Public Hearing was published in the Walla Walla Union Bulletin.
5. The Board of County Commissioners held a public hearing on September 15 2009 for the purpose of receiving testimony on the proposed revisions.



Section II. The Board of County Commissioners Makes the Following Conclusions of Law:

1. Staff has reviewed and evaluated comments received from the public and the Board has reviewed staff report dated October 21, 2009 and concurs with the changes described therein and adopts them as its own.
2. The proposed amendments to Walla Walla County Code Title 11 are necessary to regulate stormwater discharges in Walla Walla County, and to provide for the funding, management, and governance of Walla Walla County's municipal separate stormwater sewerage system.
3. The proposed amendments to Walla Walla County Code Title 11 appropriately fulfill the requirements of the Eastern Washington Phase II Municipal Stormwater Permit.

Section III. Adoption of Title 11. The amendments to Walla Walla County Code resulting in Title 11, Stormwater are **adopted** as presented to the Board of County Commissioners on this date as attached in Exhibit A.

Section IV. Effective Date. This ordinance is effective immediately upon adoption.

Section V. Savings and Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

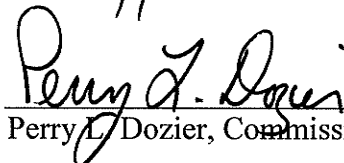
Section VI. Publication. This ordinance will be published by an approved summary consisting of the title.

PASSED by the Walla Walla County Board of County Commissioners in regular session at Walla Walla, Washington, then signed by its membership and attested by its Clerk in authorization of such passage this 2nd day of November, 2009.




Gregory A. Tompkins, Chairman, District 3


Gregg C. Honey, Commissioner, District 1


Perry L. Dozier, Commissioner, District 2

Constituting the Board of County Commissioners of Walla Walla County, Washington



Attest:

Connie R Vinti
Connie R. Vinti, Clerk of the Board

Approved as to form

Jesse D Nolte
Jesse D. Nolte, Deputy Prosecuting Attorney



Title 11 Stormwater

- 11.01 General Provisions.**
 - 11.01.010 Purpose.**
 - 11.01.020 Stormwater Management Manual Adopted.**
 - 11.01.030 Applicability.**
 - 11.01.040 Interpretation.**
 - 11.01.050 Administrative Procedures.**
 - 11.01.060 Administrative Interpretation.**
 - 11.01.070 Enforcement and Penalties.**
 - 11.01.080 Appeal Procedure.**
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 - 11.04.100 Annexations and Incorporations**
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- 11.05 Illicit Discharge Detection and Elimination.**
 - 11.05.010 Purpose.**
 - 11.05.020 Illicit Discharges and Connections Prohibited.**
 - 11.05.030 Allowable Discharges.**
 - 11.05.040 Conditional Discharges.**
- 11.07 Stormwater Management**
 - 11.07.010 Purpose.**
 - 11.07.020 Application and Fees.**
 - 11.07.030 Requirements for All Drainage Improvements.**
 - 11.07.040 Review and Approval of Plans.**
 - 11.07.050 Inspections – Construction.**
 - 11.07.060 Bonds and Liability Insurance Required.**



- 11.07.070 Maintenance of Drainage Facilities by Owner.
- 11.07.080 Minimum Stormwater Facility Maintenance Standards.
- 11.07.090 Inspection of Permanent Drainage Facilities.

11.09 Severability

11.01 General Provisions.

11.01.010 Purpose.

Walla Walla County has adopted this Title to guide the management, design and construction of the stormwater facilities, to protect stormwater quality during and after construction, to fund Stormwater Management activities, to achieve the goals and objectives of the Comprehensive Plan, in compliance with state and federal law.

11.01.020 Stormwater Management Manual Adopted.

The 2004 State Department of Ecology's Stormwater Management Manual for Eastern Washington (SMMEW) and any successor document is hereby adopted as a guidance document. Where conflicts exist, this Title shall prevail.

11.01.030 Applicability.

This Title shall apply to all land within the unincorporated areas of the county except where superseded by other governmental jurisdiction.

11. 01.040 Interpretation.

Interpretation of this Ordinance shall be according to the purpose and intent as outlined in Section 11.01.010.

11. 01.050 Administrative Procedures.

Administrative procedures may be adopted by the county engineer to facilitate implementation of the purpose and intent of this Title.

11. 01.060 Administration Interpretation.

Upon request or as determined necessary, the county engineer may interpret the meaning or application of the provisions of said Title and issue a written administrative interpretation. Requests for interpretation shall be written and shall concisely identify the issue and desired interpretation.

11. 01.070 Enforcement and Penalties

Enforcement and penalties for violations of Chapters 11.05 and 11.07 shall be as provided for in this section. Enforcement and penalties for violations of Chapter 11.04 shall be as provided for within that chapter.

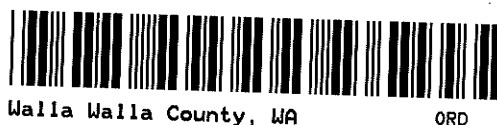
A. Compliance required.

1. No person, corporation, partnership, association or other legal entity shall fail or refuse to comply with, or interfere with or resist the enforcement of, the provisions of WWCC Title 11.05 and 11.07 and/or any condition of approval



imposed by the Walla Walla County Board of County Commissioners, hearing examiner, or a land use order, directive or decision of the county engineer. Any such act or failure to act shall constitute a violation under this section.

2. Actions under this section may be taken in any order deemed necessary or desirable by the county to achieve the purpose of this chapter.
 3. Proof of a violation shall constitute prima facie evidence that the violation is that of the applicant and/or owner of the property upon which the violation exists. An enforcement action under this chapter shall not relieve or prevent enforcement against any other responsible person.
- B. Enforcing official. The county engineer shall be responsible for enforcing WWCC Chapters 11.05 and 11.07 and may adopt administrative rules to meet that responsibility. The county engineer may delegate enforcement responsibility as appropriate.
- C. Enforcing official liability. The county engineer charged with the enforcement of Chapters 11.05 and 11.07, acting in good faith and without malice in the discharge of the duties required by this title or other applicable laws, shall not thereby be rendered personally liable for damages that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties. A suit brought against the county engineer or designee because of such act or omission performed by the administrator or designee in the enforcement of any provision of such codes or other pertinent laws or regulations implemented through the enforcement of this chapter shall be defended by the county until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by the county.
- D. Right of entry. When it is necessary to make an inspection to enforce the provisions of 11.05 and 11.07, or when the county engineer has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this code which makes the building or premises unsafe, dangerous or hazardous, the county engineer or designee may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this chapter, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the county engineer shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the county engineer shall have recourse to the remedies provided by law to secure entry.
- E. Responsibilities defined. Owners remain liable for violations of duties imposed by this code, even though an obligation is also imposed on the occupants of the building and/or premises, and even though the owner has, by agreement, imposed on the occupant the duty of complying with all or portions of this code.
- F. Voluntary correction agreements. Voluntary correction agreements shall follow the procedure outlined in Chapter 14.13.070 with the exception that the county



- engineer is the enforcing official and the Department of Public Works is the department responsible for entering into voluntary correction agreements.
- G. Notice of violation and order. Notices of violation and order shall be issued per the procedure outlined in Chapter 14.13.080, with the exception that the county engineer is the enforcing official.
 - H. Civil enforcement and penalties. Civil enforcement and penalties shall be administered per the procedure outlined in Chapter 14.13.090, with the exception that the county engineer is the enforcing official.
 - I. Violation – Criminal penalties. Criminal penalties shall be administered per the procedure outlined in Chapter 14.13.100.
 - J. Approval revocation, suspension and modification. Approval revocations, suspensions, and modifications shall be as provided for in Chapter 14.13.110, with the exception that the county engineer is the enforcing official.

11.01.080 Appeal Procedure.

Appeal of administrative interpretations and decisions. Administrative interpretations and administrative decisions pursuant to Chapters 11.05 and 11.07 of this title may be appealed, by applicants or parties of record, to the hearing examiner as provided for in Title 14, Chapter 11. Administrative interpretations and administrative decisions pursuant to Section 11.04 of this title may be appealed, by applicants or parties of record, to the Board of County Commissioners.

11.01.090 Variances.

- A. Submittal Requirements. A request for a variance from the Chapters 11.05 or 11.07 must be submitted in writing to the county engineer. A complete application for a variance shall consist of:
 - 1. Variance application;
 - 2. Two sets of the site plan;
 - 3. A letter describing the variance requested, explaining the reasons for the requested variance, and addressing each of the criteria for approval;
 - 4. A filing fee as established by the county.
- B. Processing. The county engineer will review the variance, render a decision and forward same to the director of community development for reference in the event of an appeal. A variance from the standards shall not be subject to any deadlines for issuance of a final decision although every attempt will be made to expedite the matter as quickly as possible.
- C. Criteria for Approval. Variances from the standards may be granted by the county engineer if the applicant presents substantial evidence to demonstrate that all of the following criteria for approval are satisfied:
 - 1. Strict compliance with the Stormwater code is not appropriate because of impracticality, undesirable or unusual conditions.
 - 2. The proposed variation(s) are functionally equivalent to and are consistent with the intent of the Stormwater code, and/or provide compensating benefits to the county and the public.



3. The proposed variation(s) are based on sound engineering judgment.
 4. The proposed variations have not been made necessary by actions of the applicant, property owner or agent(s) thereof.
 5. Safety, function, appearance and economical maintenance requirements are met with the proposed variation(s).
- D. Final Decision. The county engineer shall issue his or her findings and conclusions on the variance in writing. If the application does not satisfy all of the above criteria, the county engineer shall deny the application. A variance may be conditioned to the extent necessary to address any engineering, public health, safety or welfare concerns, and as allowed by applicable law.
- E. Appeals. Appeals of a variance shall be as provided for in 11.01.080.

11.03 Definitions.

Unless the context clearly indicates otherwise, the words used in this Title shall have the meaning given in this section:

AKART – all known, available, and reasonable methods of prevention, control, and treatment. See also the State Water Pollution Control Act, sections 90.48.010 RCW and 90.48.520 RCW.

Best management practices (BMPs) – schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and structural or managerial practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act – the federal Water Pollution Control Act (33 USC Section 1251 et seq.), and any subsequent amendments thereto.

Equivalent residential unit (ERU) – a unit equal to the average area covered by impervious surfaces on an average single-family residential lot in unincorporated Walla Walla County. This area equals 5000 square feet.

Groundwater – water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

Hazardous materials – any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.



Hyperchlorinated – water that contains more than 10mg/liter chlorine.

Illicit discharge – any direct or indirect non-stormwater discharge to a storm drainage system, except as expressly allowed by this chapter.

Illicit connection – any man-made conveyance that is connected to a storm drainage system without a permit, excluding roof drains and other similar type connections. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the storm drainage system.

Impervious surface – a hard surface area which either prevents or retards the entry of water into the soil mantle as it entered under natural conditions preexistent to development, which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions preexistent to development. Common impervious surfaces include, but are not limited to, roofs, walkways, driveways, patios, parking lots or storage areas, concrete or asphalt paving, and oiled surfaces or other surfaces which similarly impede the natural infiltration of stormwater.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit – a permit issued by the Environmental Protection Agency (EPA) (or by the Washington Department of Ecology under authority delegated pursuant to 33 USC Section 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

New development – the conversion of previously undeveloped or pervious surfaces to impervious surfaces and managed landscape.

Non-stormwater discharge – any discharge to the storm drainage system that is not composed entirely of stormwater.

Person – any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner of a premises or as the owner's agent.

Pollutant – anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and



particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Pollution-generating land use activities – any activity that results in prohibited contaminants entering the storm drainage system and/or surface or ground waters.

Premises – any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

Redevelopment – the replacement or improvement of impervious surfaces at a developed site.

Storm drainage system – publicly owned facilities, by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, catch basins, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, ditches, reservoirs, and other drainage structures.

Stormwater – runoff during and following precipitation and snowmelt events, including surface runoff and drainage.

Stormwater pollution prevention plan or SWPPP – a document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a premises and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

'X' Year Storm - A storm representing an intensity of magnitude that has a probability of recurrence as follows:

<u>2-Year</u>	<u>50 times</u>
<u>10-Year</u>	<u>10 times</u>
<u>25-Year</u>	<u>4 times</u>
<u>50-Year</u>	<u>2 times</u>
<u>100-Year</u>	<u>1 time</u>

11. 04 Stormwater Management Utility

11.04.010 Purpose

The Board of County Commissioners finds that establishing and operating a comprehensive stormwater management program is necessary for Walla Walla County in order to promote public health, safety, and welfare, and to comply with state and federal regulations. The purpose of this chapter is to create a methodology for providing the financing and governance necessary to regulate, plan, manage, construct, maintain, use, and where necessary, alter the stormwater runoff systems within the unincorporated Walla Walla County.



11.04.020 Creation of a Stormwater Management Utility

Pursuant to the Revised Code of Washington Chapter 36.89, there is hereby created a Walla Walla County Stormwater Management Utility for all properties lying within the unincorporated Walla Walla County. The Stormwater Management Utility, under the legislative policy, supervision and control of the Board of County Commissioners, and under the administration of the county engineer, shall perform the following activities within the service area.

- A. Administer the acquisition, design, construction, maintenance and operation of the stormwater system;
- B. Administer and enforce WWCC Title 11 and all regulations and procedures adopted thereto relating to the design, construction, maintenance, operation and alteration of the stormwater system, including but not limited to the quantity, quality, and/or velocity of the stormwater conveyed thereby;
- C. Advise the county's governing body and other county departments and divisions on matters relating to stormwater management;
- D. Prepare and periodically revise, as determined by state and federal law, comprehensive stormwater management plans;
- E. Develop standards and ordinances relating to stormwater drainage and treatment to apply to new development and redevelopment;
- F. Enforce regulations to protect and maintain water quality and quantity within the stormwater system in compliance with receiving body water quality standards, such as Total Maximum Daily Loads, as established by state, regional, and/or federal agencies, as now adopted or hereafter amended;
- G. Annually analyze the cost of services and benefits provided to and burden imposed by different classes of customers, and the system and structure of fees, charges, civil penalties and other revenues of the utility, and prepare budgets for adoption by the county's governing body; and
- H. Perform all other activities allowable by law and required to ensure compliance with state and federal water quality laws.

11.04.030 Funding of the Stormwater Management Utility

Funding for the Stormwater Management Utility's services and facilities may include, but not be limited to, the following:

- A. Stormwater service charges;
- B. Civil penalties and damage assessments imposed for or arising from the violation of Title 11;
- C. Permit and inspection fees;
- D. Revenue bonds;
- E. County Road Fund; and



- F. Other funds or income obtained from federal, state, local, or private grants.

11.04.040 Stormwater Service Charge

Pursuant to the Revised Code of Washington Chapter 36.89, charges shall be imposed for furnishing stormwater management services and benefits to all developed properties lying within the unincorporated Walla Walla County, unless otherwise exempted in WWCC chapter 11.04.060. The service charges collected pursuant to this chapter shall be used solely for the purposes listed in 11.04.020.

11.04.050 Rate Structure

Service charges imposed by this chapter shall be based on the relative contribution of increased stormwater runoff from a given parcel to the stormwater management system, as determined by the amount of impervious surface area on that parcel. Rates shall be set by resolution of the Board of County Commissioners. For purposes of determining the stormwater user's service charge, all developed parcels in the county are classified into one of the following general classes, based on land use:

- A. Residential. The average area of impervious surfaces of single-family residential parcels in Walla Walla County was determined by digital measurement of aerial photographs and statistical extrapolation and is set at 5000 square feet. This shall equal the base rate for one equivalent residential unit (ERU). Single-family residential parcels as defined in this chapter shall receive a flat rate service charge equal to the base rate, as set by resolution of the Board of County Commissioners. Condominium parcels shall also be charged the base rate.
- B. Commercial/industrial. The stormwater service charge for commercial, industrial, institutional, agricultural, apartments, mobile home parks, schools, and governmental facilities shall be based on impervious surface area. The impervious surface areas on these parcels shall be calculated and the parcel shall be assigned an ERU count by dividing the amount of impervious surface (in square feet) on the parcel by the ERU. ERUs shall be rounded to the nearest tenth of an ERU. The minimum charge for commercial/industrial parcels shall be the base rate.
- C. Exempt. There shall be no stormwater service charge for exempt parcels.

11.04.060 Exemptions

Parcels that meet any of the following special conditions are exempt from stormwater service charges. If the owner of a parcel subject to this ordinance believes they may be exempt from stormwater service charges they shall apply to the Stormwater Management Utility on the form provided by the county engineer, and shall submit substantiating documentation. Exemptions must be granted by the county engineer by October 15 of a given year to be in effect for the following billing year. Exemptions may be in effect for



multiple years provided that ongoing qualifying criteria are met. The decision of the county engineer regarding an exemption shall be final and conclusive, unless an appeal of such decision is filed in writing within thirty days. Appeals of decisions may be filed, by applicants or parties of record, to the Board of County Commissioners.

- A. Zoned private timberlands;
- B. Properties remaining in undeveloped condition, containing no man-made impervious surfaces such as buildings, structures, pavement, compacted ground, or other constructed improvements;
- C. Street, roadway, and alley rights-of-way functioning as public access and serving 3 or more parcels;
- D. State of Washington highway rights-of-way, provided the state of Washington shall agree to maintain, construct and improve all drainage facilities contained within such rights-of-way in conformance with local, state, and federal water quality standards;
- E. Railroad rights-of-ways, provided each railroad exempted by this section shall agree to maintain, construct and improve all drainage facilities contained within such rights-of-way in conformance with local, state, and federal water quality standards;
- F. Publically-owned parks, provided each park exempted by this section shall agree to maintain, construct and improve all drainage facilities contained within such rights-of-way in conformance with local, state, and federal water quality standards;
- G. Facilities operating under a valid NPDES Stormwater Permit that requires compliance with the Stormwater Management Manual for Eastern Washington that do not contribute stormwater into the storm drainage system of the county. Substantiating documentation may include a stormwater site plan demonstrating, through spot elevations, elevation contours, stormwater calculations, or similar data, that stormwater is retained and dispersed onsite. A copy of the permit and the Stormwater Pollution Prevention Plan (SWPPP) shall be submitted to the county engineer; and
- H. Parcels which have been conclusively proven not to contribute stormwater into the storm drainage or surface water system of the county. Such proof may include a stormwater site plan demonstrating, through spot elevations, elevation contours, stormwater calculations, or similar data, that stormwater is retained and dispersed onsite.

11.04.070 Credits

Credits allowed under this section shall not be cumulative. If the owner of a parcel subject to this ordinance believes they may be eligible for a credit towards stormwater



service charges they shall apply to the Stormwater Management Utility on the form provided by the county engineer, and shall submit substantiating documentation. Credits must be granted by the county engineer by October 15 of a given year to be in effect for the following billing year. Credits may be in effect for multiple years provided that ongoing qualifying criteria are met. The decision of the county engineer regarding a credit shall be final and conclusive, unless an appeal of such decision is filed in writing within thirty days. Appeals of decisions may be filed, by applicants or parties of record, to the Board of County Commissioners. Parcels or portions of parcels with facilities that meet one of the criteria below shall receive a service charge reduction for the portion of the site providing the credit, as follows:

- A. Any parcel that has an active and valid NPDES Stormwater permit that requires compliance with the Stormwater Management Manual for Eastern Washington shall be eligible for a 20% credit applied toward that portion of their stormwater service charge arising from the property for which the permit is issued. A copy of the permit and Stormwater Pollution Prevention Plan (SWPPP) shall be submitted to the county engineer.
- B. Credit for rainwater harvesting systems. New or remodeled commercial buildings that use a properly constructed and maintained permissive rainwater harvesting system shall be eligible for a 10% credit applied toward that portion of their stormwater service charge arising from the building on which the system is used. The county shall consider additional rate reductions in individual cases dependent upon the amount of rainwater harvested.
- C. Credit for stormwater outreach, education, and involvement. Public and private schools, colleges, and universities shall be eligible for a 20% credit for including stormwater education in their curriculum, and/or for assisting the county with elements of the county's Stormwater Management Plan. Educational institutions shall contact the Stormwater Management Utility to develop a qualifying outreach, education, and involvement plan.

11.04.080 Property Owners to Pay Fees

The owner of each non-exempt parcel shall pay the stormwater service charges as provided in this ordinance. Property owners seeking credits, exemptions, or adjustments shall pay the full fee until such time that the credit or waiver is granted by the county engineer, after which the reduced fees will be applied.

11.04.090 Billing Procedure and Penalties for Delinquent Payments

- A. Rates and charges fixed by this chapter shall be billed and collected annually. One-half of the annual stormwater service charge shall be paid on or before the thirtieth day of April and the remainder of such charge shall be due and payable on or before the thirty-first day of October and shall be delinquent after that date.



- B. Delinquent service charges shall bear interest as provided for in RCW 36.89.092 at the rate of twelve percent per annum, or such rate as may be hereafter authorized by law, computed on a monthly basis from the date of delinquency until paid.
- C. Pursuant to RCW 36.89.065, the county shall have a lien for delinquent charges, including interest, penalties, and costs of foreclosure thereon, against any property subject to service charges. The lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments of Walla Walla County. Pursuant to RCW 36.89.093, the lien shall be effective for one year's delinquent service charges without the necessity of any writing or recording of the lien with the county auditor. To make the lien effective for more than one year's charges, the county treasurer shall record a notice of lien with the county auditor in substantially the same form prescribed by RCW 35.67.210. Provided, that satisfaction of such lien shall promptly be recorded with the county auditor by the county treasurer after full payment is made.
- D. In accordance with RCW 36.89.094, the county may commence to foreclose a delinquent account lien after three years from the date the account became delinquent, in lieu of the provisions provided for in RCW 35.67.230. In addition to the costs and disbursement provided by statute, the court may allow the county a reasonable attorney's fee.

11.04.100 Annexations and Incorporations

Whenever a city or town annexes an area, or a city or town incorporates an area and the county has issued revenue bonds or general obligation bonds to finance stormwater control facilities that are payable in whole or in part from rates or charges imposed in the area, the county shall continue imposing all portion of the rates or charges that are allocated to payment of the debt service on bonds in that area after the effective date of the annexation or official date of the incorporation until:

- A. The debt is retired;
- B. Any debt that is issued to refinance the underlying debt is retired; or
- C. The city or town reimburses the county an amount that is sufficient to retire that portion of the debt borne by the annexed or incorporated area.

11.04.110 Adjustment of Service Charge Rates

- A. Any person receiving a billing statement for stormwater management charges and making a timely payment thereof may file an application for a rate adjustment if there is an alleged error in billing. This request shall be filed with the Stormwater Management Utility on the form provided by the county engineer, and a



stormwater service charge adjustment fee as established by the county shall be paid.

- B. Applications for rate adjustment may be granted only when:
1. The impervious area of the property as defined by its number of ERUs is incorrect;
 2. The recipient of the billing statement is not the owner or the responsible party of the property charged; or
 3. A computational error was made in calculating the amount charged.
- C. The Stormwater Management Utility shall re-measure the impervious area of the parcel in question and verify computations. Beyond this, the burden of proof shall be on the applicant to show that the rate adjustment sought should be granted. The applicant may submit any information they consider relevant to support their position.
- D. An application for rate adjustment and refund filed within thirty days of the billing statement date, if granted, shall be effective for the current billing year. Otherwise, rate adjustment applications filed after thirty days of the billing statement date, if granted, shall be effective only for subsequent years.
- E. Decisions on rate adjustments shall be made within thirty days of the application date, except when additional information is needed.
- F. The decision of the county engineer regarding a rate adjustment shall be final and conclusive, unless an appeal of such decision is filed in writing within thirty days. Appeals of decisions may be filed, by applicants or parties of record, to the Board of County Commissioners.

11.04.120 Investments

Moneys in the fund not needed for immediate expenditure shall be invested for the benefit of the Stormwater Management Utility pursuant to the first paragraph of RCW 36.89.020 and such procedures and limitations contained in county ordinances.

11.04.130 Reserve Accounts

- A. An operating reserve account shall be maintained. Fifteen percent of the annual operating expense, excluding capital appropriations, shall be reserved as unappropriated operating reserve to accommodate cash flow variations and react to special circumstances.
- B. An emergency reserve fund shall be maintained at two hundred thousand dollars. This account shall be accrued over a five-year period at forty thousand dollars per year. This account shall be available to fund initial response to emergencies and to provide coverage for bond debt service to finance any major capital improvement.



11.04.140 Bad Debts

The Stormwater Management Utility is authorized to write off debts upon specific approval by resolution of the Board of County Commissioners after a determination of uncollectability using collection process concluding with the use of a collection agency if needed.

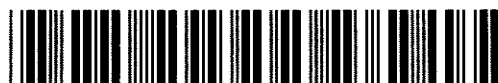
11.05 Illicit Discharge Detection and Elimination

11.05.010 Purpose. The purpose of this chapter is to protect the county's surface and groundwater quality by providing minimum requirements for reducing and controlling the discharge of contaminants, in compliance with the provisions of the state of Washington Water Pollution Control Law 90.48 RCW and the Federal Clean Water Act, 33 USC 1251 et seq.

11.05.020 Illicit Discharges and Connections Prohibited.

Prohibition of illicit discharges and connections.

- A. No person shall throw, drain, or otherwise discharge, cause or allow others under their control to throw, drain or otherwise discharge into the storm drainage system and/or surface and groundwaters any materials other than stormwater. Existing pollution-generating land use activities shall implement operational or structural best management practices (BMPs) to prevent illicit discharges. Approved operational and structural BMPs are those contained in chapter 8 of the Washington State Department of Ecology's Stormwater Management Manual for Eastern Washington. Examples of prohibited contaminants include but are not limited to the following:
1. Trash or debris.
 2. Construction materials.
 3. Petroleum products including but not limited to oil, gasoline, grease, fuel oil and heating oil.
 4. Antifreeze and other automotive products.
 5. Metals in either particulate or dissolved form.
 6. Flammable or explosive materials.
 7. Radioactive material.
 8. Batteries.
 9. Acids, alkalis, or bases.
 10. Paints, stains, resins, lacquers, or varnishes.
 11. Degreasers and/or solvents.
 12. Drain cleaners.
 13. Pesticides, herbicides, or fertilizers.
 14. Steam cleaning wastes.
 15. Soaps, detergents, or ammonia.
 16. Swimming pool or spa filter backwash.
 17. Chlorine, bromine, or other disinfectants.
 18. Heated water.
 19. Domestic animal wastes.



20. Sewage.
 21. Recreational vehicle waste.
 22. Animal carcasses.
 23. Food wastes.
 24. Bark and other fibrous materials.
 25. Lawn clippings, leaves, or branches.
 26. Silt, sediment, concrete, cement or gravel.
 27. Dyes.
 28. Chemicals not normally found in uncontaminated water.
 29. Any other process-associated discharge except as otherwise allowed in this section.
 30. Any hazardous material or waste not listed above.
- B. The construction, use, maintenance, or continued existence of illicit connections, to the storm drainage system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the storm drainage system, or allows such a connection to continue.

11.05.030 Allowable discharges

The following types of discharges shall not be considered illicit discharges for the purposes of this chapter unless the county engineer determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

- A. Diverted stream flows.
- B. Rising ground waters.
- C. Uncontaminated ground water infiltration –as defined in 40 CFR 35.2005(20).
- D. Uncontaminated pumped ground water.
- E. Foundation drains.
- F. Air conditioning condensation.
- G. Irrigation water from agricultural sources that is commingled with urban stormwater.
- H. Springs.
- I. Water from crawl space pumps.
- J. Footing drains.
- K. Flows from riparian habitats and wetlands.
- L. Discharges from emergency fire fighting activities.
- M. Other types of discharges as determined by the county engineer.



11.050.40 Conditional Discharges

The following types of discharges shall not be considered illicit discharges for the purposes of this chapter if they meet the stated conditions, or unless the county engineer determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

- A. Potable water, including water from water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system;
- B. Lawn watering and other irrigation runoff are permitted but shall comply with WWCC Title 12;
- C. De-chlorinated swimming pool discharges. These discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system;
- D. Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents are permitted if in compliance with WWCC Title 12, and if the amount of street wash and dust control water used is no more than necessary to clean or control dust. At active construction sites, street sweeping must be performed prior to washing the street;
- E. Non-stormwater discharges covered by another NPDES permit, provided, that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations; and provided, that written approval has been granted from the Department of Ecology for any discharge to the storm drainage system;
- F. Other non-stormwater discharges. The discharges shall be in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the county, which addresses control of such discharges by applying AKART to prevent contaminants from entering surface or ground water.

11.07 Stormwater Management

11.07.010 Purpose.

Walla Walla County finds that future storm drainage problems may be reduced or avoided if developers, both private and public, provide for storm and surface drainage of their respective properties. Construction and post-construction stormwater management standards and guidelines are set forth to: minimize water quality degradation and control discharge of sediments to creeks, streams, ponds, lakes, and other water bodies; to protect the life, health, and property of the general public; to preserve and enhance the suitability of waters for contact recreation and fish habitat; to preserve and enhance the aesthetic quality of the waters; to maintain and protect valuable ground water quantities, locations, and flow patterns; to ensure the safety of county roads and rights-of-way; to decrease



drainage-related damages to public and private property; and to meet state and federal water quality regulations.

The following Stormwater Management standards are intended to reduce and prevent adverse storm water impacts. They represent the minimum design standards for the construction and operation of storm water facilities within Walla Walla County. Compliance with these standards does not relieve the designer, owner or developer of the responsibility to apply conservative and sound professional judgment to protect the health, safety and welfare of the general public. Special site conditions and environmental constraints and considerations, and federal and state regulations, may require a greater level of protection than would normally be required under these standards.

11.07.020 Application and Fees

Application Required. Any person desiring to construct, improve or restore a public or private drainage facility, to disturb ground through construction activities, or to engage in new construction or redevelopment activities meeting the thresholds defined in 11.07.030 shall submit an application therefore on forms prescribed by the county engineer.

- A. Applicants for approvals shall pay to the Public Works Department the applicable fees identified on the Public Works Department Fee Schedule in WWCC Title 3.
- B. Fees shall be paid upon the filing of an application. The county engineer shall have the authority to waive the fees when waiver of a fee is in the best interest of the public safety, health and welfare.
- C. All fees shall be paid in full prior to issuance of a permit and approval of plans.

11.07.030 Requirements for All Drainage Improvements.

- A. All new development and redevelopment which has the potential for significant stormwater impacts shall submit a Stormwater Site Plan prepared in accordance with Chapter 3 of the SMMEW, and shall comply with the following provisions:
 - 1. Stormwater designs shall protect the public against flooding. All public and private roads shall include stormwater facilities conservatively sized to accept the full 25-year post-development stormwater discharge of all contributing areas. All stormwater management designs shall address management of stormwaters in excess of the 25-year storm.
 - 2. Impact to up- and down-gradient parcels shall be considered in the design of all stormwater management facilities.
 - 3. All new development and redevelopment shall preserve natural drainage systems to the extent possible. The manner in which runoff is discharged from the project site must not cause a significant adverse impact to downstream



receiving waters and down-gradient properties. All outfalls must address energy dissipation as necessary.

4. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse, and may be of such additional width or construction or both, as will be adequate for the purpose as determined by the county engineer. Wherever possible, it is desirable that the drainage be maintained as an open channel with natural banks.
 5. Stormwater facilities shall be designed to eliminate interference from underground utilities and from conditions which exceed design loads for any pipe or other structural element.
 6. The designer of any stormwater element shall consider system reliability in terms of layout, specifications of materials and methods of installation.
 7. The impact of a system failure should be analyzed both in terms of on-site and off-site effects. The impacts may be to adjacent properties or to elements of the public drainage system or other private systems.
- B. New on-site storm water improvements shall be sufficient to mitigate impacts due to flooding, erosion, sedimentation or pollution. Any existing on-site storm water improvements that are insufficient to mitigate storm water resulting in flooding, erosion, sedimentation, or pollution and all new on-site storm water improvements shall comply with the following provisions:
1. To the maximum extent practicable, all stormwater shall be retained and dispersed on site. The preferred method of stormwater disposal shall be infiltration.
 2. No drainage originating inside of a building or structure shall be connected to the storm water or surface water systems.
 3. Culverts under streets and/or road approaches shall be of a size to be determined by the county engineer and shall be designed and constructed in compliance with Title 12 Streets, Sidewalks, and Public Places. The minimum culvert size shall be twelve inches in diameter.
- C. Construction Site Runoff Control.
1. Construction sites disturbing greater than or equal to one acre, including construction sites of less than one acre that are part of a common plan of development or sale that is greater than one acre, shall prepare a Stormwater Site Plan and Stormwater Pollution Prevention Plan (SWPPP) in accordance with Chapters 3 and 7 of the SMMEW.
 - a. Construction operators shall provide erosion and sediment control BMPs and implement source control BMPs during construction to protect water quality, reduce discharge of pollutants, and satisfy state AKART requirements. Erosion and sediment control BMPs and source control BMPs shall be selected, designed, installed, operated and maintained in accordance with the standards in the SMMEW.



- b. Erosivity waiver. Construction projects disturbing between one and five acres during the period between June 15 and October 15 may apply for an erosivity waiver using the forms prescribed by the Washington State Department of Ecology. Projects granted an erosivity waiver do not need to submit a SWPPP. If construction activity extends beyond the certified waiver period for any reason, the construction operator must either reapply for a waiver using revised dates, or submit a stormwater site plan and SWPPP for the portion of work to be performed outside the certified waiver period.
 - 2. Construction sites disturbing greater than or equal to one acre, including construction sites of less than one acre that are part of a common plan of development or sale that is greater than one acre, shall obtain coverage under the Construction Stormwater General Permit issued by the State of Washington Department of Ecology.
- D. Post-Construction Stormwater Management for New Development and Redevelopment.
- 1. All new development and redevelopment projects that disturb one acre or more, and projects of less than an acre that are part of a common plan of development or sale that is greater than one acre shall apply all known, available, and reasonable source control BMPs. Operational and structural source control BMPs shall be selected, designed, and maintained according to Chapter 8 of the SMMEW.
 - 2. All new development and redevelopment projects that disturb one acre or more, and projects of less than an acre that are part of a common plan of development or sale that is greater than one acre, and that create more than 5,000 square feet of pollutant-generating impervious area shall include basic runoff treatment facilities. Metals treatment, oil treatment, and phosphorus treatment facilities are required in addition to basic runoff treatment, where required by the SMMEW. Treatment facilities shall be selected, sized, designed, constructed, operated, and maintained in accordance with Chapters 2, 4, and 5 of the SMMEW.
 - a. A bypass must be included for all treatment BMPs unless the facility is able to convey the 25-year short-duration storm without damaging the BMP or dislodging pollutants from within it.
 - b. Stormwater treatment facilities are not allowed within a wetland or its natural vegetated buffer unless a variance is approved by the county engineer.
 - 3. All new development projects that disturb one acre or more, and projects of less than an acre that are part of a common plan of development or sale that is greater than one acre and that result in 10,000 square feet or more of new impervious surfaces shall construct stormwater flow control facilities for any discharge of stormwater directly, or through a conveyance system, into surface water. The stormwater flow control facility shall be designed to protect stream morphology and associated instream habitat from adverse



- impacts due to increased peak flows and flow durations following development. Direct discharges to the Snake River do not require flow control facilities. Flow control facilities shall be selected, sized, designed, constructed, operated, and maintained in accordance with Chapters 2, 4, and 5 of the SMMEW and applicable administrative guidelines.
- a. Flow control facilities shall limit the peak rate of runoff to no greater than 50% of the pre-development 2-year peak runoff peak flow and shall maintain the pre-development 25-year peak runoff rate.
 - b. Energy dissipation at the point of discharge is required.
4. Projects required to include runoff treatment or flow control facilities shall develop and submit for County approval an operation and maintenance (O & M) plan that is prepared in accordance with Chapters 5 and 6 of the SMMEW. The O & M plan shall address all proposed stormwater facilities and BMPs, and identify the party or parties responsible for maintenance and operation. A copy of the O & M plan shall be retained onsite or within reasonable access to the site, and shall be transferred with the property to a new owner.
- E. Exemptions. The following practices are exempted by the Eastern Washington Phase II Municipal Stormwater Permit and are therefore exempt from the Requirements for All Drainage Improvements:
1. Forest Practices. Forest practices regulated under Title 222 WAC are exempt. Conversions of forest lands to other uses are not exempt.
 2. Commercial Agriculture. Commercial agriculture practices involving working the land for production are generally exempt. However, the construction of impervious surfaces is not exempt.
 3. Oil and Gas Field Activities or Operations. Construction of drilling sites, waste management pits, and access roads, as well as construction of transportation and treatment infrastructure are exempt
 4. Road and Parking Area Preservation/Maintenance. The following road and parking area maintenance practices are exempt:
 - a. Pothole and square cut patching;
 - b. Crack sealing;
 - c. Resurfacing with in-kind material without expanding the road prism;
 - d. Overlaying existing asphalt or concrete pavement with bituminous surface treatment (BST or "chip seal"), asphalt or concrete without expanding the area of coverage;
 - e. Shoulder grading;
 - f. Reshaping/regrading drainage systems; and
 - g. Vegetation maintenance.
- F. Noncompliant BMPs. BMP designs that are not compliant with the SMMEW may be considered for review by the county; however, non-compliant designs may be subject to additional review time and fees, and will require documentation by the applicant of the following:
1. How BMPs were selected;
 2. The pollutant removal expected from the BMPs;



3. The technical basis which supports the performance claims; and
4. How the BMPs will comply with applicable state water quality standards and satisfy state requirements to apply AKART prior to discharge.

11.07.040 Review and Approval of Plans.

Stormwater site plans, SWPPPs, Drainage plans with appropriate calculations, and operation and maintenance plans shall be submitted by the applicant to the county engineer prior to construction. All submittals shall be prepared by a civil engineer licensed in the State of Washington and bear a certification by the applicant's design engineer that they were prepared in conformance with and meet county design requirements and all other applicable laws and regulations. The county engineer or authorized representative will review and approve the construction plans. Any changes in the approved plans will be approved by the county engineer or authorized representative prior to construction. Prior to construction of drainage improvements, the applicant shall obtain the appropriate permit for construction.

11.07.050 Inspections – Construction. The county will provide general monitoring of the construction and the developer or owner will be responsible for all engineering, testing requirements, construction staking, construction inspection and production of record drawings. The engineer of record shall certify that the drainage improvements were constructed in conformance with county standards and the approved plans and that the record drawings are an accurate representation of the drainage improvements along with documentation of any changes made during construction

11.07.060 Bonds and Liability Insurance Required.

The construction of any new storm drainage facilities in connection with a development permit requires a bond to ensure adequate performance, and to guarantee maintenance, operation and freedom from defect in accordance with the terms and procedures of WWCC Title 12 and/or Title 16..

11.07.070 Maintenance of Drainage Facilities by Owner.

Maintenance of stormwater facilities on private property shall be the responsibility of the owner(s); this responsibility and the provision for maintenance shall be clearly stated on subdivision and short plat plans, property conveyance documents, and/or drainage improvement plans. In the event the owner(s) does not provide property maintenance and the county engineer determines the stormwater facility represents a public safety threat the county engineer will give 30-day notice to the owner(s) to correct the deficiencies. If the deficiencies are not corrected within 30-days the county may enter upon the property to perform the necessary maintenance at the owner(s) expense. This provision for access will be included as a provision of plat or plan approval.

11.05.080 Minimum Stormwater Facility Maintenance Standards.



Where structural BMPs are required under 11.07.030, property owners shall operate and maintain the facilities in accordance with an operation and maintenance (O & M) plan that is prepared in accordance with the provisions in Chapters 5 and 6 of the SMMEW.

11.05.090 Inspection of Permanent Drainage Facilities.

Structural BMPs shall be inspected annually, or more frequently as determined by the county engineer to be necessary to prevent adverse water quality impacts, to ensure that adequate maintenance is being performed.

- A. The county engineer or appointed designee, is authorized to enter at all reasonable times in or upon any property, public or private, for the purpose of inspecting and investigating any conditions relating to the provisions of this chapter or any regulation adopted under this chapter, provided that the county shall first obtain from the owner or person responsible for such premises permission to enter. If entry is refused, the county shall have recourse to every remedy provided by law to secure entry.
- B. In lieu of providing continued access to private BMPs, private property owners may submit to the county engineer annual certification by a qualified third party that adequate maintenance has been performed and the facilities are operating as designed to protect water quality.

11.09 Severability

If any section, subsection, sentence, clause, phrase, or portion of this Title is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

