

General

1.1 Purpose

The purpose of this ordinance is to establish minimum construction stormwater management requirements in order to comply with state and federal stormwater permits. This ordinance seeks to meet that purpose through the following objectives:

- 1.1.1. To enable [JURISDICTION] to comply with the National Pollution Discharge Elimination System permit, Washington Department of Ecology's Guidance for Underground Injection Control (UIC) Wells that Manage Stormwater, and applicable federal and state regulations.
- 1.1.2. To regulate the contribution of pollutants, especially sediment, to the municipal separate storm sewer system (MS4) or UICs by stormwater discharges from development and redevelopment.
- 1.1.3. To protect the condition of state (and U.S.) waters for all reasonable public uses and ecological functions.
- 1.1.4. To provide long-term responsibility for and maintenance of construction stormwater Best Management Practices (BMPs).
- 1.1.5. To facilitate the integration of stormwater management and pollution control with other ordinances, programs, policies, and the comprehensive plan of [JURISDICTION].
- 1.1.6. To establish legal authority to carry out all the inspection and monitoring procedures necessary to ensure compliance with this ordinance.
- 1.1.7. To facilitate compliance with state and federal standards and permits by owners of construction sites, developments, and permanent stormwater BMPs within [JURISDICTION].

1.2. Definitions

"Agency" means jurisdictional authority as defined herein.

"Applicant" means a person, party, firm, corporation, or other legal entity that proposes a development or redevelopment project or use on a site.

"Best management practices" or "BMPs" means schedules of activities, prohibitions of 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.

"Bioretention treatment facilities" are vegetated treatment systems (typically grass) that remove pollutants by means of sedimentation, filtration, soil sorption, and/or plant uptake. They are typically configured as swales or filter strips. These facilities are designed to remove low

Public Works 12/11/09 2:22 PM

Comment: JR – Are they applicants if they don't need stormwater permits of any kind?

Public Works 12/11/09 2:22 PM

Comment: IDDE Ordinance

concentrations and quantities of total suspended solids (TSS), heavy metals, petroleum hydrocarbons, and/or nutrients from stormwater.

Public Works 12/11/09 2:22 PM
Comment: SW manual for E WA

“Certified Erosion and Sediment Control Lead or CESCL” is the employee designated as the responsible representative in charge of erosion and spill control. The CESCL shall be qualified in construction site erosion and sediment control regulatory requirements and BMPs, and shall have thorough knowledge and understanding of the Construction Stormwater Pollution Prevention Plan (SWPPP) for the project site.

Public Works 12/11/09 2:22 PM
Comment: (E WA Stormwater Manual)

“Channel” or “Waterway” means an open conduit, either naturally or artificially created, which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water.

“Clearing” or “Site Clearing” means the removal of timber, brush, grass, ground cover or other vegetative matter from a site.

“Common Plan of Development” means a site where multiple separate and distinct construction activities may be taking place at different times on different schedules, but still under a single plan. Examples include: phased projects and projects with multiple filings or lots, even if the separate phases or filings/lots will be constructed under separate contract or by separate owners (e.g. a development where lots are sold to separate builders); a development plan that may be phased over multiple years, but is still under a consistent plan for long-term development; and projects in a contiguous area that may be unrelated but still under the same contract, such as construction of a building extension and a new parking lot at the same facility. If the project is part of a common plan of development or sale, the disturbed area of the entire plan shall be used in determining permit requirements.

Public Works 12/11/09 2:22 PM
Comment: (Municipal NPDES permit, Definitions)

“Construction site or Project site access/egress” is designated construction/project site entrances wherever traffic will be entering and leaving a construction/project site and traveling on paved roads or other paved areas within 1,000 feet of the site.

Public Works 12/11/09 2:22 PM
Comment: Adapted from SW manual for E WA

“Detention” means the release of stormwater runoff from the site at a slower rate than it is collected by the stormwater facility system, the difference being held in temporary storage with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

Public Works 12/11/09 2:22 PM
Comment: (Stormwater Management Manual for Eastern Washington & Center for Watershed Protection Model ordinance)

“Development” means new development, redevelopment, or both. See definitions below.

Public Works 12/11/09 2:22 PM
Comment: SW Manual for E WA

“Drainage control” means the management of drainage water. Drainage control is accomplished through the collection, conveyance, and discharge of drainage water, controlling the rate of discharge from a site, or separating, treating or preventing the introduction of pollutants.

Public Works 12/11/09 2:22 PM
Comment: From Otak draft ordinance.

“Drainage control facility” means any facility, including best management practices, installed or constructed for the purpose of controlling the flow, quantity, and/or quality of drainage water. Drainage control facilities include, but are not limited to, all types of catch basins, pipes, detention/retention ponds, bioswales, and other structural and nonstructural components that handle surface water.

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“Drainage control system” means a system to collect, convey and control release of only drainage water. The system may serve public or private property. It includes constructed and/or natural components such as ditches, culverts, streams and drainage control facilities.

“Drainage water” means storm water, snow melt, surface water, surface and irrigation runoff, water from footing drains and other drains approved by the public works director or installed in compliance with this title and rules which may be adopted hereunder. Other water which is not an illicit discharge as defined in [City/County] Code shall be considered drainage water if it drains from the exterior of a building or structure, a pervious or impervious surface, or undeveloped land, or by surface or shallow subsurface flow.

Public Works 12/11/09 2:22 PM
Comment: Needs further review – may be redundant

“Ecology” means the Washington State Department of Ecology.

“Enforcement Officer” means the person or persons designated or appointed by the jurisdictional authority who is authorized to administer and enforce this Chapter, and their designees.

Public Works 12/11/09 2:22 PM
Comment: IDDE ordinance

“Erosion” means the wearing away of the ground surface as a result of mass wasting or the movement of wind, water and/or ice.

Public Works 12/11/09 2:22 PM
Comment: From Otak draft ordinance

“Erosion and Sediment Control” Any temporary or permanent measures taken to reduce erosion, control siltation and sedimentation, and ensure that sediment-laden water does not leave the project site.

Public Works 12/11/09 2:22 PM
Comment: (Stormwater Management Manual for Eastern Washington)

“Erosion and Sediment Control BMPs” means BMPs that are intended to prevent erosion and sedimentation, such as preserving natural vegetation, seeding, mulching and matting, plastic covering, filter fences, sediment traps, and ponds. Erosion and sediment control BMPs are synonymous with stabilization and structural BMPs.

Public Works 12/11/09 2:22 PM
Comment: (Washington Department of Ecology, General NPDES permit for Stormwater Discharges Associated with Construction Activities)

“Erosion and Sediment Control Plan” or “ESC Plan” means a set of plans indicating the specific measures and sequencing to be used to control sediment and erosion on a project site during and after project activities. The ESC Plan shall be implemented beginning with initial soil disturbance and continue until final stabilization. Each ESC Plan shall bear the name(s) and address(es) of the applicant, owner or developer of the project site, and of any consulting firm retained by the applicant together with the name of the applicant’s principal contact at such firm and shall be accompanied by a filing fee.

Public Works 12/11/09 2:22 PM
Comment: Hybrid definition in our draft ordinance

“Grading” means any excavation, filling, or combination thereof, modification of land contours and/or modification of waterways or drainage areas. The physical manipulation of the earth’s surface and/or drainage patterns in preparation for an intended development or redevelopment. Grading may be subject to stormwater regulation whether or not development or redevelopment is planned at the project site where grading is conducted.

Public Works 12/11/09 2:22 PM
Comment: From IDDE Ordinance

“Hearing Officer” means the official appointed by the County for administrative hearings.

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“Illicit discharge” means any direct or indirect non-stormwater discharge to the stormwater drainage system, except as permitted or exempted in County/City Ordinance XXX, Illicit Discharge Detection and Elimination Ordinance in Article XXX.

Public Works 12/11/09 2:22 PM
Comment: IDDE ordinance

“Impaired Waters” means those streams, rivers and lakes that currently do not meet their designated use classification and associated water quality standards under the Clean Water Act and listed on the most current State of Washington 303(d) list.

Public Works 12/11/09 2:22 PM
Comment: (Center for Watershed Protection Model ordinance, modified to specify listing on the 303(d) list)(Stormwater Management Manual for Eastern Washington definition considered, but is very general)

“Impervious Surface” is a relatively hard surface area, which either prevents or slows down the entry of water into the soil as under natural conditions prior to development. It is a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow different than the natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, paved parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled surfaces which similarly hinder the natural infiltration of stormwater.

Public Works 12/11/09 2:22 PM
Comment: Definition used in outreach materials.

Jurisdictional Authority means the (city/county) that has the responsibility to enforce this ordinance.

“Land Development” or “Development” means the division of land into lots or parcels in accordance with the [JURISDICTION] Subdivision Ordinance, and any clearing, excavation, dredging, drilling, filling, dumping, removal of earth and mineral materials, or other permanent or temporary modification of a project or construction site. For the purpose of this chapter, “development” also means any manmade change to improved or unimproved real estate located within the special flood hazard area, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling, temporary or permanent storage of equipment and works defined in this chapter.

“Land Disturbing Activity” means any activity that results in movement of earth, or a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to clearing, grading, filling, stockpiling materials and excavation. Compaction associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices are not considered land-disturbing activity.

Public Works 12/11/09 2:22 PM
Comment: (Stormwater Management Manual for Eastern Washington)

“Large Projects” are land development or redevelopment projects that disturbs one acre or more, or projects of less than one acre that are part of a common plan of development or sale, with ground disturbing activities resulting from clearing, grading, excavating, or stockpiling of fill material, including the cumulative acreage of the entire project whether in a single or in a multiphase project. A Local SW Permit is required for large projects. Additionally, Large Projects must also determine whether they are subject to the requirements of Ecology’s Stormwater Construction Permit.

Public Works 12/11/09 2:22 PM
Comment: (Should this definition include a statement about inspections?)

“Local Stormwater Permit” is a permit issued at the local level for medium and large projects and for projects that have additional environmental conditions described in Section 1.3.4.

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“Medium Projects” are land development or redevelopment projects that disturbs more than 2500 square feet but less than one acre through clearing, grading, excavating, or stockpiling of fill material, including the cumulative acreage of the entire project whether in a single or in a multiphase project and/or has the potential to change natural drainage patterns. A local stormwater permit is required. If the project has the potential to directly affect impaired waters the jurisdictional authority has the discretion to require a SWPPP. Post-construction stormwater management tracking is waived.

Public Works 12/11/09 2:22 PM
Comment: (Should this definition include a statement about inspections?)

“Municipal Separate Storm Sewer System (MS4)” or “Stormwater drainage system” includes, but is not limited to, the system of conveyances including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, street gutters, ditches, dry wells, retention and detention ponds, manmade channels, or storm drains owned and operated by the County.

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Comment: IDDE Ordinance

“National Pollutant Discharge Elimination System (NPDES) Phase II Permit” means the “Eastern Washington Phase II Municipal Stormwater Permit” issued by the Washington State Department of Ecology with an effective date of February 16, 2007 and subsequent reissues.

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Comment: IDDE Ordinance

“NPDES Construction Stormwater General Permit” means the statewide general permit for construction activities administered by the Department of Ecology. All projects disturbing 1 acre or more of ground and having the potential to discharge directly or indirectly to waters of the state must seek coverage under the permit or meet erosivity waiver criteria.

Public Works 12/11/09 2:22 PM
Comment: From Otak draft ordinance

“New development” means any of the following activities: structural development, including construction of a new building or other structure; expansion or alteration of an existing structure that results in an increase in the footprint of the building or structure; land disturbing activities; creation or expansion of impervious surface; demolition; subdivision and short subdivision of land as defined in [City/County] Subdivision Code; Class IV general forest practices, as defined in WAC 22-16-050 that are conversions from timber land to other uses. No other forest practices or commercial agriculture are considered new development.

Public Works 12/11/09 2:22 PM
Comment: From Otak draft ordinance

“Non-Stormwater Discharge” means any discharge to the storm drain system that is not composed entirely of stormwater.

Public Works 12/11/09 2:22 PM
Comment: IDDE Ordinance

Owner or property owner means any person, agent, firm or corporation having a legal or equitable interest in the property.

Public Works 12/11/09 2:22 PM
Comment: IBC definition

Person means an individual, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

Public Works 12/11/09 2:22 PM
Comment: IBC definition

“Point Source” means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, and container from which pollutants are or may be discharged to surface waters of the state. This term does not include return flows from irrigated agriculture.

Public Works 12/11/09 2:22 PM
Comment: (Washington Department of Ecology, General NPDES permit for Stormwater Discharges Associated with Construction Activities)
Not in IDDE

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“Pollutant” or “Pollution” shall be construed to mean such contamination or other alteration of the physical, chemical, or biological properties of any of the waters of the state including, change in temperature, taste, color, turbidity, or odor of the waters or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious, to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life; as defined in RCW 90.48.020 as now existing or hereafter amended.

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Comment: IDDE Ordinance

“Project Site” means any lot, parcel of land, street or highway right-of-way, or contiguous combination thereof, where new development, redevelopment, land disturbing activity, or grading work is proposed or performed.

Public Works 12/11/09 2:22 PM
Comment: From Otak draft ordinance

“Licensed professional engineer or PE” means a person who is licensed by the state of Washington to practice engineering.

“Receiving Water” means bodies of water or surface water systems to which surface runoff is discharged via a point source of stormwater or via sheet flow.

Public Works 12/11/09 2:22 PM
Comment: (Stormwater Management Manual for Eastern Washington)

“Redevelopment” means a site that is already substantially developed, the replacement or improvement of impervious surfaces, including buildings and other structures, and replacement or improvement of impervious parking and road surfaces that is not part of a routine maintenance activity. Any new impervious surfaces, or any increase to existing impervious surface created by a redevelopment project are subject to the requirements for new development.

Public Works 12/11/09 2:22 PM
Comment: (Stormwater Management Manual for Eastern Washington)

“Responsible Party” means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns that is named on a stormwater maintenance agreement as responsible for long-term operation and maintenance of one or more stormwater BMPs.

Public Works 12/11/09 2:22 PM
Comment: (Center for Watershed Protection Model ordinance)
Not in IDDE
Add reference to construction phase.

“Retention” is the process of collecting and holding surface and stormwater runoff with no release or outflow.

Public Works 12/11/09 2:22 PM
Comment: (Stormwater Management Manual for Eastern Washington)

“Retention/Detention Facility” is a type of drainage facility designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration, and/or infiltration into the ground; or to hold surface and stormwater runoff for a short period of time and then release it to the surface and stormwater management system.

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Comment: (Stormwater Management Manual for Eastern Washington)

“Rough Grade” means a stage where grade conforms approximately to an approved plan.

Public Works 12/11/09 2:22 PM
Comment: (Stormwater Management Manual for Eastern Washington)

Sheet Erosion: The removal of a layer of exposed soil by the action of raindrop splash and runoff, as water moves in broad sheets over the land and is not confined in small depressions

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“Small Projects” are single family development or re-development project where land disturbing activities are less than 2500 square feet and/or ground disturbing activity does not have the potential to disturb or change existing drainage patterns. A local stormwater permit is not required. Post-construction stormwater management tracking is waived.

Public Works 12/11/09 2:22 PM
Comment: (should this definition include a statement about inspections?)

“Source Control BMPs” A structure or operation intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants. This manual separates source control BMPs into two types. *Structural source control BMPs* are physical, structural, or mechanical devices or facilities that are intended to prevent pollutants from entering stormwater. *Operational BMPs* are non-structural practices that prevent or reduce pollutants from entering stormwater. See Chapter 8 for details.

Public Works 12/11/09 2:22 PM
Comment: (Stormwater Management Manual for Eastern Washington)

“Stabilization” means the use of practices that prevent exposed soil from eroding.

Public Works 12/11/09 2:22 PM
Comment: Not used in this ordinance

“Start of Project/Construction” The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

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Comment: (EPA Model Construction Ordinance)

“Stop Work Order” means an order issued that requires that all activity violating this ordinance or a permit granted under this ordinance on a project/construction site be stopped.

Public Works 12/11/09 2:22 PM
Comment: (EPA Model Construction Ordinance)

“Stormwater Management” means the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

Public Works 12/11/09 2:22 PM
Comment: (Center for Watershed Protection Model ordinance)
Not in IDDE

“Stormwater Pollution Prevention Plan” or “SWPPP” or “Construction SWPPP” means a set of plans prepared indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction. As required by WAC 173-240, plans and specifications that involve “structures, equipment, or processes required to collect, carry away, treat, reclaim or dispose of industrial wastewater”, including contaminated stormwater, must be prepared under the supervision of a licensed professional engineer (P.E.). However, aspects of the SWPPP that do not directly pertain to BMPs that collect, carry away, treat, reclaim or dispose of stormwater associated with construction activity (e.g. mulching, nets, blankets, seeding, etc.) do not need to be prepared under the supervision of a P.E..

Public Works 12/11/09 2:22 PM
Comment: (EPA Model Construction Ordinance)

“Stormwater” means that portion of precipitation that does not naturally percolate into the ground or evaporates, but flows via overland flow, interflow, pipes and other features of a stormwater drainage system into a defined surface water body, or a constructed infiltration facility.

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Comment: SW Manual for E WA

Public Works 12/11/09 2:22 PM
Comment: IDDE Ordinance

“Stream” means an area where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is an area that demonstrates clear evidence of the passage of water including, but not limited to, hydraulically sorted sediments, or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals,

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stormwater runoff devices or other entirely artificial watercourses, unless they are used to convey streams naturally occurring prior to construction. Those topographic features that resemble streams but have no defined channels (i.e., swales) shall be considered streams when hydrologic and hydraulic analyses done pursuant to a development proposal predict formation of a defined channel after development.

Public Works 12/11/09 2:22 PM
Comment: (Stormwater Management Manual for Eastern Washington)

“Surface Waters” includes lakes, rivers, ponds, streams, inland waters, salt waters, wetlands, other surface waters, and water courses as well as shallow ground water.

Public Works 12/11/09 2:22 PM
Comment: IDDE Ordinance

“Structure” means anything constructed or erected which requires location on the ground or attached to something having a location on the ground.

“Underground Injection Control Program, or UIC Program” means the Federal Safe Drinking Water Act program to protect existing and future underground sources of drinking water from contamination by injection of waste fluids, such as stormwater, into the ground. The UIC Program is administered under WAC 173-218 by the Washington State Department of Ecology.

“UIC device” means a system used to inject stormwater into the sub-surface, including dry wells, and infiltration trenches.

Public Works 12/11/09 2:22 PM
Comment: From Otak draft ordinance

“Watercourse” and “river or stream” means any portion of a channel, bed, bank, or bottom below the ordinary high water line of waters of the state including areas in which fish may spawn, reside, or through which they may pass, and tributary waters with defined bed or banks, which influence the quality of fish habitat downstream. This includes watercourses which flow on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition does not include irrigation ditches, canals, stormwater run-off devices, or other entirely artificial watercourses, except where they exist in a natural watercourse which has been altered by humans.

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Comment: IDDE Ordinance

“Waters of the state” means all lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and water courses within the jurisdiction of the state of Washington as defined in RCW 90.48.

Public Works 12/11/09 2:22 PM
Comment: IDDE Ordinance

“Wetlands” are areas characterized by saturated or nearly saturated soils most of the year that form an interface between terrestrial (land-based) and aquatic environments. Wetlands include marshes around lakes or ponds and along river or stream channels.

Public Works 12/11/09 2:22 PM
Comment: SW Manual for E WA

1.3. Applicability

Any person who undertakes or causes to be undertaken any grading, land disturbing activity, new development or redevelopment shall ensure that soil erosion, sedimentation, increased pollutant loads and changed water flow characteristics resulting from the activity are controlled so as to minimize pollution of receiving waters. The requirements of this ordinance are minimum standards and a person's compliance with the same shall not relieve such person from

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the duty of enacting all measures necessary to minimize pollution of receiving waters.

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Comment: (Center for Watershed Protection Model ordinance)

This ordinance shall be applicable to all land disturbing activity, including, but not limited to, site plan applications, subdivision applications, and grading applications. These provisions apply to any land disturbing activities from new development or redevelopment sites within [JURISDICTION] that meets one or more of the following criteria:

- 1.3.1 Small Projects are single family development or re-development project where land disturbing activities are less than 2500 square feet and/or ground disturbing activity does not have the potential to disturb or change existing drainage patterns. A Local SW Permit is not required, but projects must comply with this ordinance, especially project/construction site access/egress control and management. Off-site tracking of materials is prohibited. Failure to conform to this requirement or the IDDE ordinance may result in a stop work order and/or fines or abatement proceedings. Post-construction stormwater management tracking is waived.
- 1.3.2 Medium Projects are land development or redevelopment that disturbs more than 2500 square feet but less than one acre through clearing, grading, excavating, or stockpiling of fill material, including the cumulative acreage of the entire project whether in a single or in a multiphase project and/or has the potential to change natural drainage patterns. A Local SW Permit is required for medium size projects. If the project has the potential to directly affect impaired waters the jurisdictional authority has the discretion to require a SWPPP. Post-construction stormwater management tracking is waived.
- 1.3.3 Large Projects are land development or redevelopment projects that disturbs one acre or more, or projects of less than one acre that are part of a common plan of development or sale, with ground disturbing activities resulting from clearing, grading, excavating, or stockpiling of fill material, including the cumulative acreage of the entire project whether in a single or in a multiphase project. A Local SW Permit is required for large projects. Additionally, Large Projects must also determine whether they are subject to the requirements of Ecology's Stormwater Construction Permit.
- 1.3.4 The jurisdictional authority may require any land disturbing project of any size obtain a local stormwater permit and be subject to developing an ESC or SWPPP if any of the following conditions are met:
 - A design that does not adhere to the criteria specified in this ordinance,
 - Slopes with surface water flow,
 - Slopes greater than 2:1,
 - In areas of questionable soils conditions, (definition?)
 - When extensive fill is proposed,
 - Where the length of the slope requires terracing,

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- When unusual conditions are encountered,
- In other situations where slope stability could be in question, as determined by the County, or
- In cases where the project may negatively affect down stream or neighboring parcels.

1.4. Exemptions

Activities Exempt: The following activities are exempt from this ordinance:

- 1.4.1. Construction activities which discharge all stormwater and non-stormwater to ground water, and have no point source discharge to surface water or a storm water system (MS4) that drains to surface waters of the state. UIC wells must be protected from sediment in runoff generated during construction.
- 1.4.2. Stormwater from any site covered under an existing NPDES individual permit, at the time of adoption of this ordinance, in which stormwater management and/or treatment requirements are included for all stormwater discharges associated with construction activity.
- 1.4.3. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources. The responsible party shall clean and/or remove any eroded material and sediment immediately after the emergency situation is alleviated.
- 1.4.4. Forest practices regulated under Title 222 WAC. Conversions of forest lands to other uses are not exempt. Silvicultural roads that are used to access other land uses subject to this ordinance are not exempt.
- 1.4.5. Commercial agriculture practices involving working the land for production. Construction of impervious surfaces are not exempt.
- 1.4.6. Oil and gas field activities such as construction of drilling sites, waste management pits, and access roads, as well as construction of transportation and treatment infrastructure such as pipelines natural gas treatment plants, natural gas pipeline compressor stations, and crude oil pumping stations.
 - 1.4.6.1 Discharge of sediment or other stormwater pollution from an oil or gas field activity is subject to the illicit discharge ordinance of [JURISDICTION], [Chapter/title]
- 1.4.7. Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility that conforms to this ordinance.
 - 1.4.7.1 Discharge of sediment from a routine maintenance activity is subject to the illicit discharge ordinance of [JURISDICTION], [Chapter/title]

Public Works 12/11/09 2:22 PM
Comment: (Washington Department of Ecology, General NPDES permit for Stormwater Discharges Associated with Construction Activities)

Public Works 12/11/09 2:22 PM
Comment: (DOE Guidance for UIC Wells That Manage Stormwater)

Public Works 12/11/09 2:22 PM
Comment: (Washington Department of Ecology, General NPDES permit for Stormwater Discharges Associated with Construction Activities)

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Comment: (EPA Model Construction Ordinance)

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Comment: (Spokane County ordinance)

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Comment: (Municipal NPDES permit, App 1)

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Comment: (Washington Department of Ecology, General NPDES permit for Stormwater Discharges Associated with Construction Activities)

1.5. Compatibility with Other Permit and Ordinance Requirements

This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be

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considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

Public Works 12/11/09 2:22 PM
Comment: (Center for Watershed Protection Model ordinance)

1.6. Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this ordinance.

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Comment: (Center for Watershed Protection Model ordinance)

1.7. Liability

By approving a plan under this regulation, [JURISDICTION] does not accept responsibility for the design, installation, and operation and maintenance of stormwater BMPs.

Public Works 12/11/09 2:22 PM
Comment: (Center for Watershed Protection Model ordinance)

1.8. Design Manuals

To guide stormwater standards for new development and redevelopment, the [County/City] adopts, by reference, definitions, minimum requirements and exceptions, adjustment and variance criteria found in Appendix 1 of the National Pollutant Discharge Elimination Phase II General Stormwater Permit (Phase II Permit) for Eastern Washington, including the mandatory incorporated provisions of the Stormwater Management Manual for Eastern Washington, as amended. The regulatory thresholds are as described in Appendix 1 of the Phase II Permit except where superseded within **XX.YYY.050** of this chapter. All **Large Projects** shall follow all requirements of the Stormwater Management Manual for Eastern Washington except where superseded in Appendix 1 of the Phase II Permit, or this chapter. Unless the context requires otherwise, references to the local jurisdiction shall be construed to mean the [County/City Name]. The [County/City] shall maintain a copy of current Stormwater Management Manual for Eastern Washington and NPDES II Permit Appendix 1 materials on file.

Public Works 12/11/09 2:22 PM
Comment: Guidelines?

Public Works 12/11/09 2:22 PM
Comment: From Otak draft ordinance. Permit requires us to adopt a stormwater manual.

Other Ecology approved Stormwater Manuals may be used as guidance, as long as applicant references the other manual.

The [County/City] adopts, by reference, the Guidance for UIC Wells that Manage Stormwater, and the UIC Guidance for Infiltration Trench Design, both published by the Washington State Department of Ecology (latest edition). These documents replace Chapter 5.6 of the Stormwater Management Manual for Eastern Washington. In addition to meeting the Core Elements described above, the construction of all drywells and infiltration trenches shall conform to the Guidance for UIC Wells that Manage Stormwater, and the UIC Guidance for Infiltration Trench Design, and shall comply with the requirements of WAC 173-218 Underground Injection Control Program. The [County/City] shall maintain a copy of current UIC reference materials on file.

Public Works 12/11/09 2:22 PM
Comment: We are also required by Permit to adopt UIC regs.

Use of BMPs not designed, constructed, and maintained in accordance with manuals identified in the preceding section (insert section number) shall be subject to [STORMWATER AUTHORITY] approval and must be monitored for performance to demonstrate that they meet the minimum water quality performance standards of the Eastern Washington NPDES Phase II

Michelle Witthaus 9/8/10 12:41 PM
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Municipal Stormwater Permit Requirements

1.9. Amendments to Design Manuals

The Stormwater Management Manual for Eastern Washington, (or Ecology approved equivalent), may be updated and expanded from time to time, based on advancements in technology and engineering, improved knowledge of local conditions, or local monitoring or maintenance experience. The most current version of the Stormwater Management Manual for Eastern Washington, (or Ecology approved equivalent) is to be used where referenced by this ordinance.

Public Works 12/11/09 2:22 PM
Comment: (Verify with Ecology that we can approve BMPs at local level that are not approved by Ecology)

Prior to amending or updating the [approved local equivalent] manual, proposed changes shall be publicized and made available for review, and an opportunity for comment by interested persons shall be provided.

Public Works 12/11/09 2:22 PM
Comment: (Center for Watershed Protection Model ordinance)

If the specifications, guidelines, or other information in the Stormwater Management Manual for Eastern Washington, (or Ecology approved equivalent), are amended subsequent to the submittal of an application for approval pursuant to this ordinance but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this ordinance with regard to the application.

Public Works 12/11/09 2:22 PM
Comment: (Burlington, North Carolina ordinance)

1.10. Right of entry

Where it is necessary to make an inspection to enforce the provisions of this ordinance, or where the enforcement officer has reasonable cause to believe that there exists a violation of this ordinance or permit issued under this ordinance the enforcement officer is authorized to enter the project/construction site at reasonable times to inspect or to perform the duties imposed by this ordinance, provided that if such project/construction site be occupied that credentials be presented to the occupant and entry requested. If such project/construction site is unoccupied, the enforcement officer shall first make a reasonable effort to locate the owner or other person having charge or control of the project/construction site and request entry. If entry is refused, the enforcement officer shall have recourse to the remedies provided by law to secure entry.

Public Works 12/11/09 2:22 PM
Comment: (Burlington, North Carolina ordinance modified for Eastern WA)

2. Permit Requirements

2.1 Medium Projects - Erosion and Sediment Control Plans

Projects meeting the Medium Project threshold shall prepare an Erosion and Sediment Control (ESC) Plan for construction activity. The ESC Plan shall be implemented beginning with initial soil disturbance and continue until final stabilization.

Public Works 12/11/09 2:22 PM
Comment: International Building Code Section 104.6

Each ESC Plan shall bear the name(s) and address(es) of the applicant, owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm and shall be accompanied by a filing fee.

Public Works 12/11/09 2:22 PM
Comment: (Adapted from EPA Model Construction Ordinance for SWPPP)

Michelle Witthaus 9/8/10 12:41 PM
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Each ESC Plan shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the ESC Plan.

The ESC Plan and inspection records shall be maintained at the site during the progress of work.

2.1.1 ESC Plan Elements

The ESC Plan shall include the following elements:

- 2.1.1.1 Project Schedule including sequencing/phasing a project as appropriate and plan for site stabilization
- 2.1.1.2 Boundary of clearing and land disturbing activities (including access and egress).
- 2.1.1.3 project/construction Site access/egress control and management. Off-site tracking of materials is prohibited.
- 2.1.1.4 Stabilize soils during and after project activities, including disturbed areas and stockpiles. Plan for erosion and sediment controls utilizing BMPs, acknowledging site run-on and run-off and dust control.
- 2.1.1.5 Identify and protect stormwater control facilities (MS4 and UIC) that may be impacted.
- 2.1.1.6 Control of pollutants such as demolition debris, waste materials, oils, greases, concrete wastes and chemicals.
- 2.1.1.7 Maintenance of BMPs and the ESC Plan.

2.1.2 ESC Plan – Map Contents and Requirements

- 2.1.2.1 The ESC Plan shall also include a legible site map (or maps) showing the entire construction site. The following features shall be identified, unless not applicable due to site conditions:
 - The direction of north, property lines, and existing structures and roads;
 - Cut and fill slopes indicating the top and bottom of slope catch lines;
 - Approximate slopes, contours, and direction of stormwater flow before and after major grading activities;
 - Areas of soil disturbance and areas that will not be disturbed;
 - Locations of structural and nonstructural controls (BMPs) identified in the ESC Plan
 - Locations of off-site material, stockpiles, waste storage, borrow areas, and vehicle/equipment storage areas;
 - Locations of all adjacent surface water bodies, including wetlands;

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- Locations where stormwater or non-stormwater discharges off-site and/or to a surface water body, including wetlands;
- Location of stormwater facilities

2.2 Large Projects Permits

Large Projects shall prepare a Stormwater Pollution Prevention Plan (SWPPP) for land disturbing activity. The SWPPP shall be implemented beginning with initial soil disturbance and continue until final stabilization.

Public Works 12/11/09 2:22 PM
Comment: (municipal NPDES permit, Appendix 1)

Each SWPPP shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm and shall be accompanied by a filing fee.

Public Works 12/11/09 2:22 PM
Comment: (EPA Model Construction Ordinance)

Each SWPPP shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the SWPPP and that a Certified Erosion and Sediment Control Lead (CESCL) shall be on site or on call on all days when construction or grading activity takes place.

Public Works 12/11/09 2:22 PM
Comment: (EPA Model Construction Ordinance)

2.2.1 SWPPP Elements

B. To guide stormwater standards for new development and redevelopment, the [County/City] adopts, by reference, definitions, minimum requirements and exceptions, adjustment and variance criteria founding Appendix 1 of the Phase II Stormwater Permit, including the mandatory incorporated provisions of the Stormwater Management Manual for Eastern Washington, as amended. The regulatory thresholds are as described in Appendix 1 of the Phase II Permit except where superseded within **XX.YYY.050** of this chapter. All **Large Projects** shall follow all requirements of the Stormwater Management Manual for Eastern Washington except where superseded by Appendix 1 of the Phase II Permit, or this chapter. Unless the context requires otherwise, references to the local jurisdiction shall be construed to mean the [County/City Name]. The [County/City] Stormwater Authority shall maintain a copy of current Stormwater Management Manual for Eastern Washington and Phase II Permit Appendix 1 materials on file. The minimum technical requirements include the following Core Elements:

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Comment: From Otak draft ordinance

1. Core Element #1: Preparation of a Stormwater Site Plan
2. Core Element #2: Construction Stormwater Pollution Prevention
3. Core Element #3: Source Control of Pollution
4. Core Element #4: Preservation of Natural Drainage Systems
5. Core Element #5: Runoff Treatment
6. Core Element #6: Flow Control

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7. Core Element #7: Operation and Maintenance

8. Core Element #8: Any Additional Local Requirements

The applicability, requirements, and design details for each core requirement are outlined in the Stormwater Management Manual for Eastern Washington and Appendix 1 of the Phase II Permit.

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Comment: Guidelines

The Construction SWPPP shall include the 12 elements of a Construction SWPPP. Guidance for design and implementation of the 12 elements in a Construction SWPPP are found in the Stormwater Management Manual for Eastern Washington dated 2004 (or approved local equivalent). The SWPPP and inspection records shall be maintained at the site during the progress of work.

Public Works 12/11/09 2:22 PM

Comment: We discussed deleting the detail in the Yakima ordinance. This will reduce the document by 5 pages.

(Numbers need to be changed if we keep this detail)

Public Works 12/11/09 2:22 PM

Comment: (EPA Model Construction Ordinance)

3.2.1. Preserve Vegetation/Mark Clearing Limits

- 3.2.1.1 Prior to beginning land disturbing activities, including clearing and grading, clearly mark all clearing limits, sensitive areas and their buffers, and trees that are to be preserved within the construction area.
- 3.2.1.2 The duff layer, native top soil, and natural vegetation shall be retained in an undisturbed state to the maximum degree practicable.

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Comment: (WDOE, General NPDES permit for Stormwater Discharges Associated with Construction Activities) (through Section 3.4, Map Contents & Requirements)

3.2.2. Establish Construction Access

- 3.2.2.1 Construction vehicle access and exit shall be limited to one route, if possible.
- 3.2.2.2 Access points shall be stabilized with a pad of quarry spalls, crushed rock, or other equivalent BMP, to minimize the tracking of sediment onto public roads.
- 3.2.2.3 Wheel wash or tire baths shall be located on site, if the stabilized construction entrance is not effective in preventing sediment from being tracked onto public roads.
- 3.2.2.4 If sediment is tracked off site, public roads shall be cleaned thoroughly at the end of each day, or more frequently during wet weather. Sediment shall be removed from roads by shoveling or pickup sweeping and shall be transported to a controlled sediment disposal area.
- 3.2.2.5 Street washing is allowed only after sediment is removed in accordance with 3.2.1.2.4. Street wash wastewater shall be controlled by pumping back on site or otherwise be prevented from discharging into systems tributary to waters of the state.

3.2.3. Control Flow Rates

- 3.2.3.1 Properties and waterways downstream from development sites shall be protected from erosion due to increases in the velocity and peak volumetric flow rate of stormwater runoff from the project site, as required by local plan approval authority.
- 3.2.3.2 Where necessary to comply with 3.2.1.3.1., stormwater retention or detention facilities shall be constructed as one of the first steps in grading. Detention facilities shall be functional prior to construction of site improvements (e.g.,

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impervious surfaces).

- 3.2.3.3 If permanent infiltration ponds are used for flow control during construction, these facilities shall be protected from siltation during the construction phase.

3.2.4. Install Sediment Controls

- 3.2.4.1 Stormwater runoff from disturbed areas shall pass through a sediment pond or other appropriate sediment removal BMP, prior to leaving a construction site or prior to discharge to an infiltration facility. Runoff from fully stabilized areas may be discharged without a sediment removal BMP, but shall meet the flow control performance standard of 3.2.2.3.1.
- 3.2.4.2 Sediment control BMPs (sediment ponds, traps, filters, etc.) shall be constructed as one of the first steps in grading. These BMPs shall be functional before other land disturbing activities take place.
- 3.2.4.3 BMPs intended to trap sediment on site shall be located in a manner to avoid interference with the movement of juvenile salmonids attempting to enter off-channel areas or drainages.

3.2.5. Stabilize Soils

- 3.2.5.1. Exposed and unworked soils shall be stabilized by application of effective BMPs that prevent erosion. Applicable BMPs include, but are not limited to: temporary and permanent seeding, sodding, mulching, plastic covering, erosion control fabrics and matting, soil application of polyacrylamide (PAM), the early application of gravel base on areas to be paved, and dust control.
- 3.2.5.2. No soils shall remain exposed and unworked for more than the time periods set forth below to prevent erosion:
 - 3.2.5.2.1. For areas with mean annual precipitation 12 inches or greater:
 - During the dry season (July 1 - September 30): 10 days
 - During the wet season (October 1 - June 30): 5 days
 - 3.2.5.2.2. For areas with mean annual precipitation less than 12 inches:
 - During the dry Season (July 1 - September 30): 30 days
 - During the wet season (October 1 - June 30): 15 days
- 3.2.5.3. Soils shall be stabilized at the end of the shift before a holiday or weekend if needed based on the weather forecast.
- 3.2.5.4. Soil stockpiles shall be stabilized from erosion, protected with sediment trapping measures, and where possible, be located away from storm drain inlets, waterways, and drainage channels.

3.2.6. Protect Slopes

- 3.2.6.1 Design and construct cut and fill slopes in a manner that will minimize erosion. Applicable practices include, but are not limited to, reducing continuous length of slope with terracing and diversions, reducing slope steepness, and

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roughening slope surfaces (e.g., track walking).

- 3.2.6.2 Off-site stormwater (run-on) or groundwater shall be diverted away from slopes and disturbed areas with interceptor dikes, pipes, and/or swales. Off-site stormwater should be managed separately from stormwater generated on the site.
- 3.2.6.3 At the top of slopes, collect drainage in pipe slope drains or protected channels to prevent erosion. Temporary pipe slope drains and channels shall handle the expected peak flow velocity from a 6-month, 3-hour storm for the developed condition, referred to as the short duration storm.
- 3.2.6.4 Check dams shall be placed at regular intervals within constructed channels that are cut down a slope.
- 3.2.6.5 Excavated material shall be placed on the uphill side of trenches, consistent with safety and space considerations.

3.2.7 Protect Drain Inlets

- 3.2.7.1 All storm drain inlets made operable during construction shall be protected so that stormwater runoff does not enter the conveyance system without first being filtered or treated to remove sediment.
- 3.2.7.2 Inlet protection devices shall be cleaned or removed and replaced when sediment has filled one-third of the available storage (unless a different standard is specified by the product manufacturer).

3.2.8 Stabilize Channels and Outlets

- 3.2.8.1 All temporary on-site conveyance channels shall be designed, constructed, and stabilized to prevent erosion from the following expected peak flows:
 - 3.2.8.1.2 Channels shall handle the expected peak flow velocity from a 6-month, 3-hour storm for the developed condition, referred to as the short duration storm.
- 3.2.8.2 Stabilization, including armoring material, adequate to prevent erosion of outlets, adjacent stream banks, slopes, and downstream reaches shall be provided at the outlets of all conveyance systems.

3.2.9 Control Pollutants

- 3.2.9.1 All pollutants, including waste materials and demolition debris, that occur onsite shall be handled and disposed of in a manner that does not cause contamination of stormwater.
- 3.2.9.2 Cover, containment, and protection from vandalism shall be provided for all chemicals, liquid products, petroleum products, and other materials that have the potential to pose a threat to human health or the environment. On-site fueling tanks shall include secondary containment.

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- 3.2.9.3 Maintenance, fueling, and repair of heavy equipment and vehicles shall be conducted using spill prevention and control measures. Contaminated surfaces shall be cleaned immediately following any spill incident.
- 3.2.9.4 Wheel wash or tire bath wastewater shall be discharged to a separate on-site treatment system or to the sanitary sewer with local sewer district approval.
- 3.2.9.5 Application of fertilizers and pesticides, shall be conducted in a manner and at application rates that will not result in loss of chemical to stormwater runoff. Manufacturers' label requirements for application rates and procedures shall be followed.
- 3.2.9.6 BMPs shall be used to prevent or treat contamination of stormwater runoff by pH modifying sources. These sources include, but are not limited to: bulk cement, cement kiln dust, fly ash, new concrete washing and curing waters, waste streams generated from concrete grinding and sawing, exposed aggregate processes, dewatering concrete vaults, concrete pumping and mixer washout waters. Responsible Parties shall adjust the pH of stormwater if necessary to prevent violations of water quality standards.
- 3.2.9.7 Responsible Parties shall obtain written approval from Ecology prior to using chemical treatment, other than CO₂ or dry ice to adjust pH.

3.2.10. Control De-Watering

- 3.2.10.1 Foundation, vault, and trench de-watering water, which have similar characteristics to stormwater runoff at the site, shall be discharged into a controlled conveyance system prior to discharge to a sediment trap or sediment pond.
- 3.2.10.2 Clean, non-turbid de-watering water, such as well-point ground water, can be discharged to systems tributary to, or directly into surface waters of the state, as specified in Ecology's Construction Stormwater General Permit (November, 2005) at S9.D.8, provided the de-watering flow does not cause erosion or flooding of receiving waters. Clean de-watering water should not be routed through stormwater sediment ponds.
- 3.2.10.3 Other de-watering disposal options may include:
 - infiltration
 - transport offsite in a vehicle, such as a vacuum flush truck, for legal disposal in a manner that does not pollute state waters,
 - Ecology-approved on-site chemical treatment or other suitable treatment technologies,
 - sanitary sewer discharge with local sewer district approval, if there is no other option, or

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- use of a sedimentation bag with outfall to a ditch or swale for small volumes of localized de-watering.
- Highly turbid or contaminated dewatering water shall be handled separately from stormwater.

3.2.11. Maintain BMPs

3.2.11.1 All temporary and permanent erosion and sediment control BMPs shall be maintained and repaired as needed to assure continued performance of their intended function in accordance with BMP specifications.

3.2.11.2 All temporary erosion and sediment control BMPs shall be removed within 30 days after final site stabilization is achieved or after the temporary BMPs are no longer needed.

3.2.12 Manage the Project

Development projects shall be phased to the maximum degree practicable and shall take into account seasonal work limitations.

3.2.13 Inspection and Monitoring

All BMPs shall be inspected, maintained, and repaired as needed to assure continued performance of their intended function. The SWPPP shall identify an inspection and maintenance schedule for the BMPs contained in the SWPPP. Specific BMP inspection and maintenance guidance is contained in the latest version of the Stormwater Management Manual for Eastern Washington, other Ecology approved stormwater manuals, (or approved local equivalent).

3.3. Maintenance of the SWPPP

The Construction SWPPP shall be retained on-site or within reasonable access to the site. The Construction SWPPP shall be modified whenever there is a significant change in the design, construction, operation, or maintenance of any BMP.

3.4. SWPPP Map Contents and Requirements

3.4.1. The SWPPP shall also include a vicinity map or general location map (e.g. USGS Quadrangle map, a portion of a county or city map, or other appropriate map) with enough detail to identify the location of the construction site and receiving waters within one mile of the site.

3.4.2. The SWPPP shall also include a legible site map (or maps) showing the entire construction site. The following features shall be identified, unless not applicable due to site conditions:

- The direction of north, property lines, and existing structures and roads;
- Cut and fill slopes indicating the top and bottom of slope catch lines;
- Approximate slopes, contours, and direction of stormwater flow before and after major grading activities;
- Areas of soil disturbance and areas that will not be disturbed;
- Locations of structural and nonstructural controls (BMPs) identified in the

Public Works 12/11/09 2:22 PM
Comment: (Stormwater Management Manual for Eastern Washington)

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SWPPP

- Locations of off-site material, stockpiles, waste storage, borrow areas, and vehicle/equipment storage areas;
- Locations of all surface water bodies, including wetlands;
- Locations where stormwater or non-stormwater discharges off-site and/or to a surface water body, including wetlands;
- Location of water quality sampling station(s), if sampling is required by state or local permitting authority; and
- Areas where final stabilization has been accomplished and no further construction-phase requirements apply.

4. Enhanced Criteria for Impaired Waters

Land disturbing activity that discharges via the Jurisdictional Authority MS4 to impaired waters and wetlands with a stormwater waste load allocation, as designated in the most recent Eastern Washington Phase II Municipal Stormwater Permit, or individual municipal stormwater permit issued to [Jurisdictional Authority], by the Washington State Department of Ecology, shall meet enhanced criteria.

- 4.1 In these cases, the [Jurisdictional Authority] may require additional storage, treatment, filtering, infiltration, or other techniques. The use of non-structural practices shall be used to the maximum extent practical to meet enhanced criteria.
- 4.2 Where an applicable Total Maximum Daily Load (TMDL) specifically precludes or prohibits discharges from construction activity, the applicant is not eligible for discharge to the MS4 under this ordinance.

5. Procedures and Requirements

- 5.1 **Application Requirements:** Applications shall be submitted and considered in the manner established by Jurisdictional Authority subdivision code, [SECTION] and as follows: [Look at subdivision codes for Asotin and Clarkston.](#)
- 5.2 **Substantive Changes to Plan:** No substantive changes shall be made to an approved plan without review and written approval by the Jurisdictional Authority. The Jurisdictional Authority may request additional data with a plan amendment as may be necessary for a complete review of the plan and to ensure that changes to the plan will comply with the requirements of this ordinance.
- 5.3 **Expiration of Plan Approval:** The ESC Plan and SWPPP's approval expires in one year from the date of approval unless a final plat is recorded or unless work has actually begun on the site. The recordation of a final plat for a section of a subdivision (or initiation of construction in a section) does not vest the approval of the SWPPP for the remainder of the subdivision. If the ESC Plan or SWPPP expires, the applicant shall file with the Jurisdictional Authority for re-approval of the Construction SWPPP.

Public Works 12/11/09 2:22 PM
Comment: (Center for Watershed Protection Model ordinance)(NPDES permit requires adherence to impaired water (TMDL) requirements when implemented. This language clarifies that the municipality may require more stringent standards in the future if TMDLs are designated in the NPDES permit)

Public Works 12/11/09 2:22 PM
Comment: (Washington Department of Ecology, General NPDES permit for Stormwater Discharges Associated with Construction Activities)

Public Works 12/11/09 2:22 PM
Comment: (The municipal NPDES permit only requires that permittees develop a process for review and approval of construction SWPPPs. The process does not have to be codified, however, doing so provides consistency and clarity to the requirements)

Public Works 12/11/09 2:22 PM
Comment: (existing County Ordinance 15.12.020) (All municipalities have some type of review process codified. Referring to these sections for a review process will necessitate changes to those codes to apply to this ordinance. The specific sections are: County 16B; Yakima, 16; Union Gap, 18; and Sunnyside, 19)

Public Works 12/11/09 2:22 PM
Comment: (Center for Watershed Protection Model ordinance)

Public Works 12/11/09 2:22 PM
Comment: (Center for Watershed Protection Model ordinance)

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6. Inspection for Permanent Stormwater BMPs.

6.1 **Notice of Project Commencement** : The applicant must notify the Jurisdictional Authority before the commencement of land disturbing activities. In addition, the applicant must notify the Jurisdictional Authority in advance of construction of critical components of the stormwater practices on the approved stormwater management design plan. The Jurisdictional Authority may, at its discretion, issue verbal or written authorization to proceed with critical construction steps, such as installation of permanent stormwater practices based on stabilization of the drainage area and other factors.

Public Works 12/11/09 2:22 PM
Comment: (Center for Watershed Protection Model ordinance)

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Comment: (this language included to ensure that the stormwater authority is made aware of projects under construction to facilitate record-keeping, construction inspection, and permit compliance)

6.2 **Construction Inspections by Jurisdictional Authority or its Representatives:** The Jurisdictional Authority or its representatives shall conduct periodic inspections of the stormwater practices shown on the approved stormwater management design plan, and especially during critical installation and stabilization steps. All inspections shall be documented in writing. The inspection shall document any variations or discrepancies from the approved plan, and the resolution of such issues. Additional information regarding inspections can be found in the Stormwater Design Manual. A final inspection by the Jurisdictional Authority is required before any performance bond or guarantee, or portion thereof, shall be released.

6.3. Inspection by Certified Inspector

6.3.1 At its discretion, the Jurisdictional Authority may authorize the use of private inspectors to conduct and document inspections during construction. Such private inspectors shall submit all inspection documentation in writing to the Jurisdictional Authority. All costs and fees associated with the use of private inspectors shall be the responsibility of the applicant.

6.3.2 If the use of private inspectors is authorized, the Jurisdictional Authority shall maintain a training and certification program, authorize inspectors trained by an Ecology approved training program, or authorize another entity to maintain such a program. All private inspectors shall be certified prior to conducting any inspections or submitting any inspection documentation to the Jurisdictional Authority.

6.3.3. If private inspectors are utilized, then inspections by the Jurisdictional Authority or its representatives may be reduced in frequency. However, the Jurisdictional Authority shall remain the responsible entity for ultimate inspection, approval, and acceptance of all stormwater BMPs, and for issuance of the Certificate of Completion in accordance with the following section.

6.4. **Stormwater Certificate of Completion:** Subsequent to final installation and stabilization of all stormwater BMPs shown on the stormwater management design plan, submission of all necessary as-built plans, and final inspection and approval by the Jurisdictional Authority, the Jurisdictional Authority shall issue a Stormwater

Public Works 12/11/09 2:22 PM
Comment: This language included to provide an end point for the regulated community

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Certificate of Completion for the project. In issuing such a certificate, the Jurisdictional Authority shall determine that all work has been satisfactorily completed in conformance with this Ordinance.

7. Post-construction

7.1 Stormwater facility construction and certification

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Comment: From Otak draft ordinance.

Construction and stabilization of all stormwater facilities shall be completed prior to any final plat, short plat, binding site plan, or the issuance of certificate of completion. At the discretion of the Jurisdictional Authority, a test of the facility may be performed to demonstrate adequate performance. The test shall be performed in the presence of development engineering personnel and Enforcement Officer.

Acceptance of performance sureties, in lieu of completed improvements, shall be permitted only when completion of improvements prior to final land action or permanent certificate of occupancy is impractical (i.e., due to construction season delays or other factors beyond the proponent's control).

In the event that a performance surety is accepted by the Jurisdictional Authority, the proponent will complete the following measures prior to the release of the surety:

7.1.1 All aspects of the drainage facility, including landscaping, irrigation, and establishment of specified vegetation, shall be completed in accordance with the accepted plans on file with the Jurisdictional Authority. The proponent's engineer shall certify the improvements and request an oversight inspection from Enforcement Officer.

7.1.2. An exception may be granted for single-family or two-family dwellings where the completion of stormwater facilities is not practical until such time as the dwellings are constructed. The **proponent** shall rough-grade any stormwater retention, detention, or treatment swales to the required volume and install any drywells, infiltration trenches, inlets, curb drops and other structures in accordance with the accepted plans on file with the Jurisdictional Authority. Erosion control measures shall be implemented to protect the installed drainage structures and to prevent erosion and/or failure of the rough graded stormwater components. This includes, but is not limited to, lining facilities such as swales with geo-fabric that can be removed along with accumulated silt, until final-grading and vegetation.

A warranty surety shall be submitted to the Jurisdictional Authority upon successful completion and certification of all stormwater related improvements to guarantee against defects in construction. The warranty surety will be for a period of two years from the date the facility is accepted by the Jurisdictional Authority.

7.2 Maintenance.

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- 7.2.1** Property owners are responsible for the maintenance, operation and repair of all stormwater drainage systems and BMPs serving their property unless the Jurisdictional Authority has accepted maintenance responsibility in writing and a written easement exists granting the an adequate and sufficient right, in the Jurisdictional Authority 's discretion, to enter the property and conduct these activities. Property owners shall maintain, operate and repair the facilities in compliance with the requirements of this chapter and the Stormwater Management Manual for Eastern Washington (current edition) or WSDOT Highway Runoff Manual (current edition).
- 7.2.2** The Jurisdictional Authority is required to ensure that public and private stormwater BMPs are properly maintained and operated in order to comply with the Phase II Permit. The Administrator may periodically request documentation from property owners that verifies that proper operation and maintenance has occurred.
- 7.2.3** The following are the minimum standards for the maintenance of stormwater facilities:
- 7.2.3.1 Facilities shall be inspected annually and cleared of debris, sediment and vegetation when they affect the functioning and/or design capacity of the facility.
 - 7.2.3.2 Grassy swales and other biofilters shall be inspected monthly and mowed or replanted as necessary. Clippings are to be removed and properly disposed of.
 - 7.2.3.3 Maintenance of stormwater facilities including Low Impact Development facilities, which may include, but are not limited to, bioretention, dispersion, and infiltration facilities, amended soils, pervious systems, vegetated roofs, or roof water harvesting, shall be maintained consistent with conditions of approval, and recorded agreements against subject properties, and Jurisdictional Authority standards as enacted at the time of approval.
 - 7.2.3.4 Where lack of maintenance is causing or contributing to a water quality problem or violation, immediate action shall be taken by the subject property owner to correct the problem.
 - 7.2.3.5 Proper access routes shall be constructed and maintained to allow equipment to access and carry out maintenance and repair work on all stormwater systems. Access routes shall include an easement, covenant, or restriction.
 - 7.2.3.6 Prior to issuance of a local stormwater permit by the Jurisdictional Authority to proceed with construction of a **Large Project**, the property

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owner shall demonstrate to the Administrator that the financial means exists, or will exist prior to first use of the stormwater system, to ensure full and proper funding for on-going operation and maintenance of private stormwater systems. – further review

7.2.3.7 Upon completion of a **Large Project**, property owners shall submit to the Jurisdictional Authority a stormwater system operation and maintenance plan (O&M Plan).

7.2.3.8 Property owners who fall under the **Large Project** category, shall keep records of stormwater system operation and maintenance activities.

8. Property owner responsibilities.

8.1. The property owner shall comply with provisions of this chapter and Jurisdictional Authority standards. The property owner shall be responsible for repair, restoration, and perpetual maintenance of the stormwater facility installed on private property and any portion of the facility situated in a public right-of-way adjacent to their respective properties.

8.2. The property owners within single-family and two-family residential subdivisions are not responsible for maintenance of structures such as drywells, trenches, inlets, pipes, and ditches that receive runoff from public right-of-way and conform to Jurisdictional Authority access standards and are located within the public right-of-way or a border easement dedicated to the Jurisdictional Authority. The Jurisdictional Authority will maintain the stormwater facilities upon acceptance of the public infrastructure. The Jurisdictional Authority may require financial consideration from a property owners in order to assume responsibility for operation and maintenance of facilities that serve the private property. Financing shall be adequate to cover the Jurisdictional Authority ongoing costs for conducting proper operation and maintenance.

8.3. The property owner is responsible for keeping open the drainage and stormwater easements on their property. If a drainage or stormwater easement is unlawfully encroached upon or the function of a designated drainage or stormwater easement is reduced, the property owner is responsible for removing the encroachment or detriment.

8.4. The property owner is responsible for keeping open maintenance access easements serving drainage facilities and drainage easements.

8.5. The property owner shall not place or permit, and shall immediately remove, vehicles, equipment, objects, refuse, garbage or litter from the stormwater facility.

9. Fees

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9.1. Fee Authority. The Jurisdictional Authority may obtain with each submission an application fee as established by the Jurisdictional Authority in separate resolution Jurisdictional Authority to cover expenses connected with the review of the ESC Plan and/or SWPPP and a technical review fee sufficient to cover professional review services for the project. The Jurisdictional Authority is authorized to retain a Registered Professional Engineer or other professional consultant to advise the Jurisdictional Authority on any or all aspects of these plans.

- 9.1.1 Applicants must pay review fees before the review process may begin.
- 9.1.2 Application fees are payable at the time of application and are non-refundable.
- 9.1.3 Application fees shall be calculated by the Jurisdictional Authority in accordance with the fee schedule below.
- 9.1.4 These fees are in addition to any other local or state fees that may be charged under any other law, bylaw, or local ordinance.
- 9.1.5 When an ESC Plan or SWPPP is submitted as part of a stormwater site plan required by [JURISDICTION] Post-construction Stormwater Ordinance (insert ordinance number), fees from the Post-construction Stormwater Ordinance apply in lieu of fees required by this ordinance. **Please review**
- 9.1.6 Fees for review of engineered practices in complex projects will be paid by the contractor/developer.

9.2. Application Fees

9.2.3 The Jurisdictional Authority will adopt a nonrefundable fee for ESC and/or stormwater pollution prevention plans, administration, review, inspection, and monitoring of projects subject to this ordinance. These fees will be established by resolution.

9.3. Revision Of Fee Schedules And Regulations Governing Fees

- 9.3.1 The Jurisdictional Authority may review and propose revision to its regulations and fee schedules periodically as it sees fit.
 - 9.3.1.1 Amendments shall be preceded by a public hearing.
 - 9.3.1.2 The schedule of fees and charges proposed by the Jurisdictional Authority shall be adopted by the [GOVERNING BOARD OF JURISDICTION] and established in this chapter and may be altered or amended only by the [GOVERNING BOARD OF JURISDICTION].

10. Violations, Enforcement and Penalties

10.1 Violation 10.1.1 The first violation of this ordinance resulting from conduct made unlawful by this chapter shall result in a written Notice of Violation describing the illegal nature of *the violation*. The person will be required to develop a plan within 20 days of receipt of written notice of violation to be approved by the County designated official to eliminate *violation* and remove *violation*. The notice of violation will contain verbiage that informs the recipient

Public Works 12/11/09 2:22 PM
Comment: From IDDE ordinance. Will penalties be the same for small, medium and large projects?
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Deleted: the discharge or connection

Public Works 12/11/09 4:02 PM
Comment: This is contrary to language in stop work order.

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Deleted: the illicit discharge or illicit connection

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Deleted: the illicit discharge or illicit connection

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that if the violation is not abated, a fine of up to \$1000 per day may be imposed until the violation is abated. The written notice will also contain instructions on how to appeal the notice of violation. The enforcement officer will request a signature from the person, acknowledging receipt of the written notice of violation. The written notice may also be mailed, by regular and return receipt required to the alleged violator and deemed served three days from date of mailing. Proof of this mailing and proof of posting the notice at the property will be required at any appeal.

10.1.2 Second and subsequent violations within 12 months constitutes a misdemeanor pursuant to RCW 9A.20.010(2). The penalty for second violations will increase. The first day of a violation, the fine will be up to \$100, 2nd day the violation continues, the fine will be up to \$200, the 3rd day and every subsequent day the violation continues the fine will be \$300 up to \$1,000 and 30 days in the county jail. The County may elect to prosecute under any possible violations of the Federal Clean Water Act, NPDES Phase II Permit, and /or RCW 90.48 and will report second and subsequent violations to the Washington State Department of Ecology

10.1.3 The Enforcement Officer has the right to install or require the property owner to install monitoring equipment as is reasonably necessary in the opinion of the Enforcement Officer to conduct appropriate monitoring and/or sampling of the facility's stormwater discharge. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the property owner at his/her own expense. All devices used to measure stormwater flow and quality shall be calibrated according to industry standards to ensure their accuracy

All data shall be collected in accordance with a sampling and analysis plan that is approved by the Enforcement Officer.

10.1.4 The County may elect to implement an ordinance authorizing enforcement of this ordinance by in rem actions.

10.2 Hearing Request.

10.2.1 "Hearing Officer" means the official appointed by the County for administrative hearings.

10.2.1.1 The hearing officer shall hear all appeals of decisions under this ordinance.

10.2.1.2 The hearing officer shall hear evidence presented by whomever the County designates.

10.2.1.3 The hearing officer shall likewise hear evidence presented by the person appealing the decision or interpretation.

10.2.1.4 In the case of an appeal of a notice of civil violation and/or order to abate issued by the Enforcement Officer, the burden of proof at the hearing shall rest with the County. If the decision of the enforcement

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officer is found to be supported by a preponderance of the evidence, the decision shall be affirmed.

- 10.2.1.5 Formal rules of evidence need not be followed, but witnesses shall be sworn by the hearing officer and a written order issued.
 - 10.2.1.6 A person may appeal the written notice of violation entered by the Hearing Officer to the District Court within twenty (20) days of the hand delivered notice or within twenty (20) days of the postmark of the mailed notice. The request must contain a copy of the written notice, and the name, address and telephone number of the person requesting the hearing. The request must also include a brief description of the reason the person believes there is no violation. This request will be mailed to the enforcement agency that will set the hearing date. The District Court will review the matter de novo.
 - 10.2.1.7 The County is not required to pay the hearing officer if a decision on a hearing has not been rendered within 30 days of the date of the hearing.
- 10.2.2 A person may appeal the written notice of violation before the Hearing Officer within twenty (20) days of the hand delivered notice or within twenty (20) days of the postmark of the mailed notice. The request must contain a copy of the written notice, and the name, address and telephone number of the person requesting the hearing. The request must also include a brief description of the reason the person believes there is no violation. This request will be mailed to the enforcement agency that will set the hearing date.
- A notification giving the time, location and date of such hearing on the questions of abatement and removal of the illicit discharge or connection will be sent to the person requesting the hearing or his/her authorized representative by certified mail with a five (5) day return receipt requested.
- 10.2.3 Failure of any person to file a timely appeal or failure of any person who has filed an appeal to attend the scheduled hearing, shall constitute a waiver of his or her right to an appeal hearing.
 - 10.2.4 Filing of an appeal shall stay the enforcement of any notice of civil violation, order to abate, collection of fine, penalties or assessments or termination of service during the pendency of such appeal except as otherwise provided.
 - 10.2.5 A copy of the final order of the hearing officer shall be mailed to the appellant(s) within three (3) working days following the entry of a written order under this section. Unless otherwise stated in the order, such order shall be final and conclusive ten (10) days from the date of mailing thereof unless any party of record makes application to a court of competent jurisdiction for judicial review and stay of enforcement.

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The result of this hearing may be appealed to the Municipal Court. The court may consider mitigating factors to reduce or suspend fines and jail time.

10.3 Additional Remedies.

10.3.1 In addition to any other remedy provided by this chapter, the County may initiate injunction or abatement proceedings or any other appropriate action in courts against any person who violates or fails to comply with any provision of this chapter to prevent, enjoin, abate, and/or terminate violations of this chapter and/or to restore a condition which existed prior to the violation. In any such proceeding, the person violating and/or failing to comply with any provisions of this chapter shall be liable for the costs and reasonable attorneys' fees incurred by the County in bringing, maintaining and/or prosecuting such action.

10.3.2 Stop Work Order

10.3.2.1 Authority - Whenever the Enforcement Officer finds any work regulated by this code being performed in a manner contrary to the provisions of this code the Enforcement Officer is authorized to issue as stop work order.

10.3.2.2 Issuance – The stop work order shall be in writing and shall be given to the owner or the property involved, or the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work will be permitted to resume.

10.3.2.3 Unlawful Continuance – Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

10.4 Reimbursement of Enforcement Costs – add to additional remedies

If it becomes necessary for the ja to take enforcement actions as a result of violation the responsible party shall reimburse the ja costs, including Restoration costs, management and administrative costs and the costs of collection and reasonable attorney's fees incurred with such enforcement.

2.9. Denial of Permit

The Jurisdictional Authority may deny a permit for failure to meet the requirements and conditions of this ordinance or if the County determines that the denial is necessary to protect the health, safety, and welfare. The county may withhold issuance of a permit until conditions of the previous permit are complied with in full.

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Comment: Asotin County Right-of-Way Policy.
Needs review.

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2.10. Appeal

A Person that: (1) has been denied a (2) has had permit revoked; or (3) believes that the fees imposed are invalid, may have the denial revocation, or fee imposition reviewed, upon written request, by the Hearings Officer. The Hearings Officer shall act on a timely written request at its next regularly scheduled meeting. A decision by the Hearings Officer affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

9. Effective Date

9.1.1. The ordinance codified in this chapter shall go into effect within [JURISDICTION] on January 1, 2011.

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Comment: (The NPDES permit does not require an effective date in the ordinance, however, an adoption date and effective date are specified in the permit. One is included here for clarity and provide consistency in adoption by multiple jurisdictions)

Public Works 12/11/09 2:22 PM

Comment: (existing Yakima County code, 12.09.210)

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