

DRAFT – 5/14/09

**ORDINANCE NO. XXX-XX**

**AN ORDINANCE** of the [City/County] of [Asotin/Clarkston], Washington relating to adoption of regulations for stormwater management at development and redevelopment sites and adding a new Chapter XX.YYY to Title XX of the [City/County] of [Asotin/Clarkston], [Municipal/County] Code.

**WHEREAS**, the [City/County] of [Asotin/Clarkston] is regulated under the Washington State Department of Ecology’s Eastern Washington Phase II Municipal Stormwater Permit (NPDES II Permit) and the Washington State Underground Injection Control Program (UIC Program); and

**WHEREAS**, the NPDES II Permit became effective in February 2007 and requires the [City/County] to adopt and enforce stormwater construction, post-construction, and operation and maintenance standards for public and private development and redevelopment projects; and

**WHEREAS**, the revised UIC Program became effective in January 2006 and requires public and private UIC systems such as dry wells and infiltration trenches to be constructed, operated and maintained in accordance with new standards; and

**WHEREAS**, to meet the conditions of the NPDES II Permit and UIC Program, a Stormwater Program Implementation Plan has been prepared that outlines all requirements and summarizes the [City’s/County’s] work program to meet NPDES II and UIC requirements, and will be updated annually to incorporate progress on implementing the Plan and changes to projected future work efforts; and

**WHEREAS**, unregulated land development, and associated land disturbance, creates erosion, increases impervious cover, and has been shown to negatively affect public and private properties, roads, drainage systems, surface waters, and groundwater by increasing the amount and rate of stormwater runoff and the level of pollutants within the runoff; and

**WHEREAS**, stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the proper regulation of stormwater runoff from development sites; now therefore

**BE IT HEREBY RESOLVED THAT THE [CITY COUNCIL/COUNTY COMMISSIONERS] OF THE [CITY/COUNTY] OF [ASOTIN/CLARKSTON], WASHINGTON, DO ORDAIN AS FOLLOWS:**

A new Chapter XX.YYY is added to Title XX of the [Asotin County/City of Asotin/City of Clarkston] [Municipal/County] Code to read as follows:

**Chapter XX.YYY - STORMWATER MANAGEMENT CONSTRUCTION AND POST-CONSTRUCTION REGULATIONS**

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Sections:

[XX.YYY.010](#) Title.

[XX.YYY.020](#) Title.....

**XX.YYY.010 Purpose.**

The provisions of this chapter are intended to guide and advise all who conduct new development or redevelopment projects within the [County/City]. The provisions of this chapter establish the minimum requirements that must be met to permit a property to be developed or redeveloped within the [County/City]. The purpose of this chapter is to:

- A. Minimize water quality degradation and sedimentation in rivers, streams, ponds, lakes, wetlands and other water bodies;
- B. Minimize the impact of increased runoff, erosion and sedimentation caused by land development and inadequate maintenance practices;
- C. Provide development regulations and construction procedures that will, to the maximum extent practicable, preserve, replace, or enhance the natural qualities of existing vegetation, lands, wetlands and water bodies, including surface water, groundwater, and recreational waters;
- D. Ensure the safety of [County/City] roads and rights-of-way;
- E. Decrease stormwater-related landslide, flood and erosion damage to public and private property;
- F. Maintain and protect the [County/City] storm water management infrastructure and downstream systems and properties;
- G. Promote site planning and construction practices that are consistent with natural topography, vegetation and hydrologic conditions;
- H. Protect the health, safety and welfare of the inhabitants of the [County/City]; and,
- I. Meet the construction and post-construction requirements of the National Pollutant Discharge Elimination System Phase II General Permit for Eastern Washington (NPDES II Permit) for development and redevelopment projects within the [County/City].

**XX.YYY.020 Definitions.**

For the purpose of this title, the words listed in this chapter shall have the following meanings unless the context clearly indicates otherwise. Terms relating to pollutants and to hazardous wastes, materials, and substances, where not defined in this title, shall be as defined in chapters 173-303, 173-340 WAC, the Uniform Building Code or the Uniform Fire Code including future amendments to those codes. Words used in the singular include the plural, and words used in the plural include the singular.

- “Administrator” means the [City/County] employee who is authorized to administer and enforce this Chapter, and their designees.
- “Agency” means any governmental entity or its subdivision.

**Comment [j1]:** May still need some added and might be able to remove a couple.

- 1    **“Basin plan”** means an existing or future plan to manage the quality and quantity of storm water in  
2    drainage basins.
- 3    **“Best management practice (BMP)”** means a physical, chemical, structural or managerial practice  
4    or device that prevents, reduces, or treats contamination of water or which prevents or reduces  
5    soil erosion. When the Administrator develops rules and/or manuals prescribing best  
6    management practices for particular purposes, whether or not those rules and/or manuals are  
7    adopted by ordinance, BMPs prescribed in the rules and/or manuals shall be the BMPs required  
8    for compliance with this title. Nonstructural best management practices are those which require  
9    modified or additional operational or behavioral practices, such as sweeping a parking lot or  
10   having spill response equipment on-site. Structural best management practices are those which  
11   require the construction of a structure or other physical modification on the site. (Ord. 1273 § 2,  
12   1994).
- 13   **“Cause or contribute”** to a violation includes acts or omissions that create a violation, that  
14   increase the duration, extent, or severity of a violation, and that aid or abet a violation.
- 15   **“Damages”** means monetary compensation for harm, loss, costs, or expenses incurred by the  
16   [City/County] including, but not limited to, costs of abating violations of this title or public  
17   nuisances; fines or penalties by the city incurred as a result of a violation of this title; and costs to  
18   repair or clean the public drainage control system as a result of a violation. For the purposes of  
19   this title, it does not include compensation to any person other than the [City/County].
- 20   **“Design storm”** means a rainfall event used in the analysis and design of drainage facilities.
- 21   **“Designated receiving waters”** means the receiving waters designated by the Administrator as  
22   having the capacity to receive drainage discharges.
- 23   **“Detention”** refers to temporary storage of drainage water.
- 24   **“Developed parcel”** means a parcel of real property which has been altered by developmental  
25   coverage.
- 26   **“Development”** – see “new development” and “redevelopment.”
- 27   **“Developmental coverage”** means all areas within a site planned to be developed or redeveloped  
28   including, but not limited to, rooftops; driveways; carports; accessory buildings; parking areas;  
29   areas in which soils, slopes and vegetation have been altered; and roadways and other pervious  
30   and impervious surfaces.
- 31   **“Discharge point”** means the location to which drainage water from a specific site is released.
- 32   **“Discharge rate”** means the rate at which drainage water is released from a specific site. The  
33   discharge rate is expressed as volume per unit of time, such as cubic feet per second.
- 34   **“Downstream Analysis”** Means an engineering analysis to identify any negative impacts post-  
35   project runoff on properties and drainage systems downstream of a development site, and  
36   identification of measures that will be implemented to mitigate or prevent identified impacts.
- 37   **“Drainage basin”** means the tributary area through which drainage water is collected, regulated,  
38   transported, and discharged to receiving waters.

- 1    **“Drainage control”** means the management of drainage water. Drainage control is accomplished  
2    through the collection, conveyance, and discharge of drainage water, controlling the rate of  
3    discharge from a site, or separating, treating or preventing the introduction of pollutants.
- 4    **“Drainage control facility”** means any facility, including best management practices, installed or  
5    constructed for the purpose of controlling the flow, quantity, and/or quality of drainage water.  
6    Drainage control facilities include, but are not limited to, all types of catch basins, pipes,  
7    detention/retention ponds, bioswales, and other structural and nonstructural components that  
8    handle surface water.
- 9    **“Drainage control plan”** means a plan for collecting, controlling, transporting and disposing of  
10    drainage water falling upon, entering, flowing within, and exiting the site, including designs for  
11    drainage control facilities.
- 12   **“Drainage control system”** means a system to collect, convey and control release of only drainage  
13    water. The system may serve public or private property. It includes constructed and/or natural  
14    components such as ditches, culverts, streams and drainage control facilities.
- 15   **“Drainage water”** means storm water, snow melt, surface water, surface and irrigation runoff,  
16    water from footing drains and other drains approved by the public works director or installed in  
17    compliance with this title and rules which may be adopted hereunder. Other water which is not  
18    an illicit discharge as defined in [City/County] Code shall be considered drainage water if it  
19    drains from the exterior of a building or structure, a pervious or impervious surface, or  
20    undeveloped land, or by surface or shallow subsurface flow.
- 21   **“Erosion”** means the wearing away of the ground surface as a result of mass wasting or the  
22    movement of wind, water and/or ice.
- 23   **“Erosivity waiver”** means the allowance in the NPDES Construction Stormwater General Permit  
24    for a reduction in erosion and sediment control requirements for construction sites meeting  
25    criteria as described in the permit.
- 26   **“Fish and wildlife habitat conservation areas”** is as defined in the [City/County] critical areas  
27    code.
- 28   **“Flood prone area”** is as defined in the [City/County] critical areas code.
- 29   **“Illicit discharge”** means a discharge not composed entirely of stormwater runoff and considered  
30    by the Administrator to be contributing to a water quality problem.
- 31   **“Impervious surface”** means any surface from which most water runs off including, but not  
32    limited to, paved streets, graveled or paved areas such as driveways, parking areas, packed earth  
33    material, oiled macadam or other treated surfaces, walkways, roof surfaces, pervious pavement,  
34    patios and formal planters.
- 35   **“Inspector”** means the [City/County] inspector, inspection agency, or licensed civil engineer  
36    performing the inspection work on behalf of the [City/County].
- 37   **“Land disturbing activity”** means any activity that results in a change in the existing soil cover  
38    (both vegetative and non-vegetative) or the existing topography. Land disturbing activities  
39    include, but are not limited to clearing, grading, filling and excavation.
- 40   **“Land use permit”** means a document issued by the [City/County] giving permission for  
41    development or use of land or street right-of-way in accordance with the zoning code.

- 1    **“Large project”** means a project disturbing 1 acre or more of ground and/or adding 5,000 square  
2    feet or more of impervious surface.
- 3    **“NPDES”** means National Pollutant Discharge Elimination System, the national program for  
4    controlling discharges under the federal Clean Water Act.
- 5    **“NPDES II permit”** means the National Pollutant Discharge Elimination System Phase II Permit  
6    for Eastern Washington issued by the Washington State Department of Ecology to implement the  
7    requirements of the NPDES program.
- 8    **“NPDES Construction Stormwater General Permit”** means the statewide general permit for  
9    construction activities administered by the Department of Ecology. All projects disturbing 1 acre  
10   or more of ground and having the potential to discharge directly or indirectly to waters of the  
11   state must seek coverage under the permit or meet erosivity waiver criteria.
- 12   **“New development”** means any of the following activities: structural development, including  
13   construction of a new building or other structure; expansion or alteration of an existing structure  
14   that results in an increase in the footprint of the building or structure; land disturbing activities;  
15   creation or expansion of impervious surface; demolition; subdivision and short subdivision of  
16   land as defined in [City/County] Subdivision Code; Class IV general forest practices, as defined  
17   in WAC 22-16-050 that are conversions from timber land to other uses. No other forest practices  
18   or commercial agriculture are considered new development.
- 19   **“Owner”** means any person having title to and/or responsibility for, a building or property,  
20   including a lessee, guardian, receiver or trustee and the owner’s duly authorized agency.
- 21   **“Parcel”** means the smallest separately segregated unit or plot of land having an identified owner,  
22   boundaries, and surface area which constitutes a separate lot or tract capable of being conveyed  
23   without further subdivision.
- 24   **“Person”** means an individual, firm, partnership, corporation, municipal corporation, and  
25   government, and the individual’s or entity’s heirs, successors and assigns.
- 26   **“Plan”** means, for the purposes of this title, and unless a different meaning is set forth or clearly  
27   required, a graphic or schematic representation, with accompanying notes, schedules,  
28   specifications and other related documents.
- 29   **“Plot plan”** is a scaled map of a site and adjacent public rights-of-way showing locations and  
30   dimensions of various existing and proposed features, such as buildings, curbs, driveways,  
31   sidewalks, trees, grades and drainage patterns.
- 32   **“Public drainage system, Public drainage control system”** means a drainage control system  
33   owned or used by the [City/County] serving public streets and adjacent property.
- 34   **“Public storm drain”** means the part of a public drainage control system which is wholly or  
35   partially piped, is owned or operated by a public entity, and is designed to carry only drainage  
36   water.
- 37   **“Qualified engineer, licensed”** means a person who is a licensed by the state of Washington to  
38   practice civil or environmental engineering and who has specialized stormwater engineering  
39   experience.
- 40   **“Redevelopment”** means any of the following activities: replacement or alteration of a building or  
41   structure that does not result in an increase in the footprint of the building or structure;

- 1 replacement, alteration, or upgrade of an impervious surface that is not part of a routine  
2 maintenance activity; and does not result in expansion of the impervious surface.
- 3 **“Responsible party”** means all of the following persons: 1) owners and occupants of property  
4 within the city of Burlington; and 2) any person causing or contributing to a violation of the  
5 provisions of this title.
- 6 **“Riparian corridor”** is as defined in the [City/County] critical areas code.
- 7 **“Rules”** means administrative rules promulgated by the Administrator in accordance with the State  
8 Administrative Procedures Act.
- 9 **“Service drain”** means a privately owned and maintained drainage control facility or system which  
10 carries only drainage water. Service drains include, but are not limited to, conveyance pipes,  
11 catch basin connections, downspout connections, pipes, and subsurface drain connections.
- 12 **“Single-family residential parcel”** means a parcel which has been actually developed with a  
13 single-family residence.
- 14 **“Site”** means any lot, parcel of land, street or highway right-of-way, or contiguous combination  
15 thereof, where a permit for new development, redevelopment, land disturbing activity, or grading  
16 has been issued or where any such work is proposed or performed.
- 17 **“Small project”** means a project disturbing less than 1 acre of ground and adding less than 5,000  
18 square feet of impervious surface.
- 19 **“Standard design”** is a design approved by the Administrator for drainage and erosion control for  
20 a typical site.
- 21 **“Storm drain”** – see “public storm drain” and “service drain”.
- 22 **“Stormwater”** means water originating from rainfall and other precipitation, and from footing  
23 drains and other subsurface drains approved by the Administrator or installed in compliance with  
24 rules which may be adopted hereunder.
- 25 **“Stormwater Site Plan”** means the stormwater documentation submitted to the [City/County] to  
26 allow the Administrator to determine if the proposed stormwater construction and post-  
27 construction methods meet the requirements of this chapter. Documentation is typically  
28 composed of narratives, maps, engineering calculations, modeling input and output, construction  
29 drawings, details, and specifications.
- 30 **“Uncontaminated”** means, for the purposes of this title, not containing sediment or other  
31 pollutants, or contaminants, above natural background levels when referring to surface or ground  
32 water.
- 33 **“Underground Injection Control Program, or UIC Program”** means the Federal Safe Drinking  
34 Water Act program to protect existing and future underground sources of drinking water from  
35 contamination by injection of waste fluids, such as stormwater, into the ground. The UIC  
36 Program is administered under WAC 173-218 by the Washington State Department of Ecology.
- 37 **“UIC device”** means a system used to inject stormwater into the sub-surface, including dry wells,  
38 and infiltration trenches.



1 **“Undeveloped parcel”** means any parcel of real property which has not been altered by grading or  
2 filling of the ground surface, or by construction of any improvement or other impervious surface  
3 area which affects the hydraulic properties of the parcel.

4 **“Watercourse”** means the route, constructed or formed by humans or by natural processes,  
5 generally consisting of a channel with bed, banks, or sides, in which surface waters flow,  
6 including lakes, bogs, streams, sloughs, and intermittent artificial components (including ditches  
7 and culverts) but not including receiving waters.

8 **“Wetland”** is as defined in the [City/County] critical areas code.

9  
10 **XX.YYY.030 Authority.**

11 The [insert name of responsible job title here – City Engineer, Public Works Director, Development  
12 Review Engineer, etc] or his/her designee (hereafter referred to as “The Administrator”) shall  
13 develop and administer [County/City] standards that relate to stormwater, drainage, and erosion  
14 control, including inspection and enforcement authority for temporary drainage and erosion control  
15 measures.

16 The Administrator shall take actions necessary to implement the provisions of this chapter including,  
17 but not limited to: developing guidance and policy documents; amending rules and regulations;  
18 reviewing required submittals and applications for approvals and permits; prescribing best  
19 management practices (BMPs); establishing and conducting inspection programs; establishing and  
20 conducting monitoring programs; sampling of discharges from drainage control facilities, the public  
21 drainage control system, or surface water; taking enforcement action; and abating nuisances.

22 **XX.YYY.040 Compliance with other laws.**

23 The requirements of this chapter are minimum requirements. They do not replace, repeal, abrogate,  
24 supersede or affect any other more stringent requirements, rules, regulations, covenants, standards,  
25 or restrictions. Where this chapter imposes requirements which are more protective of human health  
26 or the environment than those set forth elsewhere, the provisions of this chapter shall prevail.

27 Approvals and permits granted under this chapter are not waivers of the requirements of any other  
28 laws. Compliance is still required with all applicable federal, state, and local laws and regulations.

29 **XX.YYY.050 Regulated activities.**

30 No person on any public or private real property located within the [County/City] shall engage in the  
31 following regulated activities without first obtaining a **stormwater control approval permit** from  
32 the [County/City]. The regulated activities for development are:

33 **A.** Grading of land in excess of 500 cubic yards so as to require environmental review pursuant to  
34 the State Environmental Policy Act (SEPA);

35 **B.** All new development and re-development sites that disturb [5000 sf] or more or are part of a  
36 common plan of development or sale that will have [5000 sf] or more of total land disturbing  
37 activity. Submittal and review procedures will vary depending on total land disturbance and the  
38 amount of proposed impervious surface being constructed or reconstructed. Projects disturbing less  
39 than 1 acre and constructing less than 5000 sf of impervious surface shall be designated as a **Small**

**Comment [j2]:** NPDES Coverage  
Area? Entire County? UIC is Countywide.

1 **Project.** Projects disturbing 1 acre or more and/or constructing 5000 sf or more of impervious  
2 surface shall be designated as a **Large Project**;

3 **C.** The subdivision, short subdivision and binding site plan process as defined in Chapter 58.17  
4 RCW and [County/City Code Section]; and

5 **D.** Construction of drywells or other UIC wells regulated by Chapter 173-218 WAC, UIC Program.

## 6 **XX.YYY.060 Exemptions**

7 The following practices are exempted from the stormwater control approval requirements outlined in  
8 this code:

9 **A.** Forest Practices regulated under Title 222 WAC are exempt. Conversions of forest lands to other  
10 uses are not exempt.

11 **B.** Commercial agriculture practices involving working the land for production are generally exempt.  
12 The construction of impervious surfaces is not exempt.

13 **C.** Construction of drilling sites, waste management pits, and access roads, as well as construction of  
14 transportation and treatment infrastructure such as pipelines, natural gas treatment plants, natural gas  
15 pipeline compressor stations, and crude oil pumping stations are exempt.

16 **D.** The following road and parking area maintenance practices are exempt:

- 17 1. Pothole and square cut patching;
- 18 2. Crack sealing;
- 19 3. Resurfacing with in-kind material without expanding the road prism;
- 20 4. Overlaying existing asphalt or concrete pavement with bituminous surface treatment (BST or  
21 chip seal), asphalt, or concrete without expanding the area of coverage;
- 22 5. Shoulder grading;
- 23 6. Reshaping/regrading drainage systems; and
- 24 7. Vegetation maintenance.

25 **E.** Partial exemptions are available for some underground utility projects, road and parking area  
26 preservation projects, and safety improvement projects as outlined in the Stormwater Management  
27 Manual for Eastern Washington section 2.1.4.

## 28 **XX.YYY.070 Standards for stormwater management.**

### 29 ***XX.YYY.071 Stormwater Standards for All Projects.***

30 **A.** All new stormwater connections, or increases in runoff in existing connections, from [non  
31 City/County] property to [City/County] owned and operated storm drains must be approved in  
32 writing by the Administrator.

**Comment [j3]:** Heard from  
Cities/County that one acre is too large.  
Need to know what minimum size should  
be regulated at some level.



1 **B.** All stormwater management facilities, construction plans, and design reports, shall be designed,  
 2 prepared, and stamped by a qualified engineer registered in the state of Washington unless otherwise  
 3 approved by the Administrator. Accepted engineering practices shall be employed in the design of  
 4 all drainage facilities.

5 **C.** Requirements and performance standards that include best management practices shall be  
 6 designed to control and contain stormwater, and reduce soil erosion and sedimentation through the  
 7 use of temporary and permanent practices and facilities. The requirements shall be designed to  
 8 permit flexibility in the choice of stormwater, erosion and sediment control methods that meet the  
 9 specific circumstances of each site and intended use. All projects shall:

10 1. Control erosion and prevent the transport of sediment from the site through measures such as  
 11 mulching, matting, covering, silt fences, sediment traps, stabilized access points, and other  
 12 methods as necessary.

13 2. Permanently stabilize exposed soils that are not being actively worked, through such methods as  
 14 the installation of permanent vegetative cover and installation of slope protection materials; and,

15 3. Control and prevent the introduction of contaminants and pollutants into stormwater, surface  
 16 waters, groundwater, and public drainage systems using methods such as: covering of  
 17 stockpiles; proper storage and disposal of chemicals; proper cleaning of catchbasins; proper  
 18 washing and cleaning of equipment, concrete trucks, gravel trucks; prompt repair of leaking  
 19 equipment and clean-up of spills; proper application of landscaping materials and chemical; and  
 20 any other applicable methods.

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

29 **E.** The minimum requirements for **hydraulic** analysis and design of stormwater collection,  
 30 conveyance, outfalls, energy dissipation, and armoring facilities shall be as described in the WSDOT  
 31 Hydraulics Manual or as follows:

32 1. Storm drainage conveyance facilities (open channels, ditches, pipe systems, gutters, and  
 33 drainage inlets) shall be designed for a storm frequency of 10 years with 0.5 feet of freeboard in  
 34 open channels and ditches and 0.5 feet of freeboard between the projected water surface and the  
 35 rim of any inlet or structure in pipe systems.

36 2. Culverts shall be designed for a storm frequency of 25 years and follow the WSDOT Hydraulics  
 37 Manual for other design requirements.

38 3. The minimum catch basin lateral pipe size shall be **eight** inches in diameter and the minimum  
 39 storm main size shall be **twelve** inches in diameter.

**Comment [j4]:** Are these acceptable?  
 What's local experience shown?

- 1 4. Manholes in truck sewers shall have a maximum spacing of 400 feet.
- 2 5. Construction materials and methods shall be in accordance with the Standards and  
3 Specifications for Municipal Public Works Construction prepared by the American Public  
4 Works Association, latest edition.

5 **XX.YYY.072 Stormwater Standards for Large Projects.**

6 **A.** The standards for All Projects as described in **XX.YYY.071 Stormwater Standards for All**  
7 **Projects** also apply to **Large Projects**.

8 **B.** To guide stormwater standards for new development and redevelopment, the [County/City]  
9 adopts, by reference, definitions, minimum requirements and exceptions, adjustment and variance  
10 criteria founding Appendix 1 of the National Pollutant Discharge Elimination Phase II General  
11 Permit (NPDES II Permit) for Eastern Washington, including the mandatory incorporated provisions  
12 of the Stormwater Management Manual for Eastern Washington, as amended. The regulatory  
13 thresholds are as described in Appendix 1 of the NPDES II Permit except where superseded within  
14 **XX.YYY.050** of this chapter. All **Large Projects** shall follow all requirements of the Stormwater  
15 Management Manual for Eastern Washington except where superseded Appendix 1 of the NPDES II  
16 Permit, or this chapter. Unless the context requires otherwise, references to the local jurisdiction  
17 shall be construed to mean the [County/City Name]. The [County/City] clerk shall maintain a copy  
18 of current Stormwater Management Manual for Eastern Washington and NPDES II Permit Appendix  
19 1 materials on file. The minimum technical requirements include the following Core Elements:

- 20 1. Core Element #1: Preparation of a Stormwater Site Plan
- 21 2. Core Element #2: Construction Stormwater Pollution Prevention
- 22 3. Core Element #3: Source Control of Pollution
- 23 4. Core Element #4: Preservation of Natural Drainage Systems
- 24 5. Core Element #5: Runoff Treatment
- 25 6. Core Element #6: Flow Control
- 26 7. Core Element #7: Operation and Maintenance
- 27 8. Core Element #8: Any Additional Local Requirements

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

30 **C.** All **Large Projects** shall conduct a Downstream Analyses for storm events up to a 100 year  
31 return frequency, and design storms for storm drainage collection, conveyance, detention, and  
32 retention facilities shall be increased as needed to prevent downstream property damages or  
33 accommodate downstream capacity restrictions.

34 **D.** All Large Projects shall, upon the Administrators request, provide documentation to the  
35 [City/County] that the site is in compliance with the requirements of the Washington State NPDES  
36 Construction Stormwater General Permit.

1 **XX.YYY.073 Standards for Small Projects.**

2 The standards for Small Projects shall be those described in **XX.YYY.071 Standards for All Projects**,  
3 plus any additional requirements imposed by this chapter, or the Administrator based on the size,  
4 complexity, and setting of the project, and the need meet the purpose of this chapter. Due to the  
5 range in type and complexity of small projects, and the need to minimize impacts on property  
6 owners, the Administrator shall establish any additional standards for **Small Projects** on a project by  
7 project basis while also striving for consistency of requirements for similar project types.

8 **XX.YYY.080 Basin Plans.**

9 The Administrator is authorized to develop drainage basin plans for managing surface water,  
10 drainage water, and erosion within individual subbasins. Compliance with an adopted drainage basin  
11 plan may modify the requirements of this chapter, provided the level of protection for human health,  
12 safety and welfare, the environment, water quality, and the public or private property will equal or  
13 exceed that which would otherwise be achieved.

14 **XX.YYY.090 Review process.**

15 **A.** All proposals for land disturbing activity and/or construction of stormwater management facilities  
16 and conveyance improvements that meet the regulatory thresholds in **XX.YYY.050 Regulated**  
17 **Activities** shall require preparation and submittal of a stormwater site plan. Submittals for **Large**  
18 **Projects** shall demonstrate compliance with the standards **Large Projects**, including conformance to  
19 the requirements of Chapter 3 of the Stormwater Management Manual for Eastern Washington,  
20 Appendix 1 of the NPDES II Permit, and other applicable requirements of this Chapter. Submittals  
21 for **Small Projects** shall demonstrate compliance with the requirements for **Small Projects** as set  
22 forth in this Chapter. All projects proposing to use UIC systems shall include documentation in  
23 submittals to the [City/County] showing that the design meets Washington State Department of  
24 Ecology standards and has been, or will be, registered with Ecology as required by WAC 173-218.

25 **B.** Following submittal of a request to engage in a regulated activity, the Administrator shall review  
26 the proposed regulated activity, including any plans or other submitted material. The Administrator  
27 shall determine whether the regulated activity is exempt from review based upon the threshold  
28 requirements or, alternatively, whether the regulated activity complies with the standards,  
29 specifications and requirements contained in the [County/City] standards. The Administrator may  
30 require the submission of additional material and/or analysis to allow the proponent to demonstrate  
31 compliance with [County/City] standards.

32 **XX.YYY.100 Conditions of approval.**

33 The Administrator is authorized to impose development requirements or conditions of approval for  
34 the regulated activities. The stormwater requirements or conditions may be placed on the  
35 subdivision, binding site plan, issued permit, or a recorded maintenance covenant and agreement  
36 may be placed upon a parcel or lot where drainage facilities will be developed.

37 Conditions of approval shall be based on the [County/City] standards, the preliminary site drainage  
38 plan, engineering reports or other relevant data that promotes stormwater control, protection of  
39 adjacent properties, utilities or other stormwater facilities, slope stabilization and the environment.

1 **XX.YYY.110 Deviations and appeals.**

2 **A. Authority.** The Administrator may grant a deviation from the requirements of this chapter or  
3 [County/City] standards. In granting any deviation, the Administrator may prescribe conditions that  
4 are deemed necessary or desirable for the public interest.

5 **B. Deviation Criteria.** No deviation shall be granted unless the applicant demonstrates, to the  
6 satisfaction of the Administrator, the following:

7 1. Deviations are based upon sound engineering principles, best management practices and are not  
8 inconsistent with the public interest in stormwater control and environmental protection;

9 2. The granting of the deviation will not be unduly detrimental or injurious to other properties in  
10 the vicinity and downstream;

11 3. The proposed deviation does not conflict with or modify a condition of approval; and

12 4. Deviations meet requirements for safety, function, appearance, and maintainability.

13 **C. Prior Approval.** Any deviation shall be approved prior to acceptance of residential and  
14 commercial construction plans and issuance of any building, approach, or site work permits.

15 **D. Right of Appeal.** All actions of the Administrator in the administration and enforcement of this  
16 chapter shall be final and conclusive, unless within 15 days from notice of the Administrator's action  
17 the applicant or an aggrieved party files a notice of appeal with the hearing examiner.

18 **XX.YYY.120 Stormwater facility construction and certification.**

19 Construction and stabilization of all stormwater facilities shall be completed prior to any final plat,  
20 short plat, binding site plan, or the issuance of a permanent certificate of occupancy or final  
21 inspection for any associated building. At the discretion of the Administrator, a test of the facility  
22 may be performed to demonstrate adequate performance. The test shall be performed in the presence  
23 of development engineering personnel.

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

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

29 **A.** All aspects of the drainage facility, including landscaping, irrigation, and establishment of  
30 specified vegetation, shall be completed in accordance with the accepted plans on file with the  
31 [County/City]. The proponent's engineer shall certify the improvements and request an oversight  
32 inspection from development engineering personnel.

33 **B.** An exception may be granted for single-family or two-family residential subdivisions where the  
34 completion of stormwater facilities is not practical until such time as the dwellings are constructed.  
35 The proponent shall rough-grade any stormwater retention, detention, or treatment swales to the  
36 required volume and install any drywells, infiltration trenches, inlets, curb drops and other structures

1 in accordance with the accepted plans on file with the [County/City]. Erosion control measures shall  
2 be implemented to protect the installed drainage structures and to prevent erosion and/or failure of  
3 the rough graded stormwater components. This includes, but is not limited to, lining facilities such as  
4 swales with geo-fabric that can be removed along with accumulated silt, until final-grading and  
5 vegetation. The completion of the landscaping, irrigation, and establishment of specified vegetation  
6 shall be required prior to issuance of the permanent certificate of occupancy or final inspection for  
7 any associated dwelling.

8 A warranty surety shall be submitted to the [County/City] upon successful completion and  
9 certification of all public improvements to guarantee against defects in construction. The warranty  
10 surety will be for a period of two years from the date the facility is accepted by the [County/City].

### 11 **XX.YYY.130 Maintenance.**

12 **A.** Property owners are responsible for the maintenance, operation and repair of all stormwater  
13 drainage systems and BMPs serving their property unless the [County/City] has accepted  
14 maintenance responsibility in writing and a written easement exists granting the [County/City] an  
15 adequate and sufficient right, in the [County/City]'s discretion, to enter the property and conduct  
16 these activities. Property owners shall maintain, operate and repair the facilities in compliance with  
17 the requirements of this chapter and the Stormwater Management Manual for Eastern Washington  
18 (current edition) or WSDOT Highway Runoff Manual (current edition).

19 **B.** The [City/County] is required to ensure that public and private stormwater BMPs are properly  
20 maintained and operated in order to comply with the NPDES II Permit. The Administrator may  
21 periodically request documentation from property owners that verifies that proper operation and  
22 maintenance has occurred.

23 **C.** The following are the minimum standards for the maintenance of stormwater facilities:

- 24 1. Facilities shall be inspected annually and cleared of debris, sediment and vegetation when they  
25 affect the functioning and/or design capacity of the facility.
- 26 2. Grassy swales and other biofilters shall be inspected monthly and mowed or replanted as  
27 necessary. Clippings are to be removed and properly disposed of.
- 28 3. Maintenance of stormwater facilities including Low Impact Development facilities, which may  
29 include, but are not limited to, bioretention, dispersion, and infiltration facilities, amended soils,  
30 pervious systems, vegetated roofs, or roof water harvesting, shall be maintained consistent with  
31 conditions of approval, and recorded agreements against subject properties, and [City/County]  
32 standards as enacted at the time of approval.
- 33 4. Where lack of maintenance is causing or contributing to a water quality problem or violation,  
34 immediate action shall be taken by the subject property owner to correct the problem.
- 35 5. Proper access routes shall be constructed and maintained to allow equipment to access and carry  
36 out maintenance and repair work on all stormwater systems. Access routes shall include an  
37 easement, covenant, or restriction.

1 6. Prior to issuance of a **stormwater control approval permit** by the [County/City] to proceed  
2 with construction of a **Large Project**, the property owner shall demonstrate to the  
3 Administrator that the financial means exists, or will exist prior to first use of the stormwater  
4 system, to ensure full and proper funding for on-going operation and maintenance of private  
5 stormwater systems.

6 7. Upon completion of construction of a **Large Project**, but before issuance of occupancy permits,  
7 property owners shall submit to the Administrator a stormwater system operation and  
8 maintenance plan (O&M Plan). The O&M Plan must be approved by the Administrator in  
9 order to receive occupancy permits.

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

#### 12 **XX.YYY.140 Property owner responsibilities.**

13 **A.** The property owner shall comply with provisions of this chapter and [County/City] standards.  
14 The property owner shall be responsible for repair, restoration, and perpetual maintenance of the  
15 stormwater facility installed on private property and any portion of the facility situated in a public  
16 right-of-way adjacent to their respective properties.

17 **B.** The property owners within single-family and two-family residential subdivisions are not  
18 responsible for maintenance of structures such as drywells, trenches, inlets, pipes, and ditches that  
19 receive runoff from public right-of-way and conform to [County/City] access standards and are  
20 located within the public right-of-way or a border easement dedicated to the [County/City]. The  
21 [County/City Name] will maintain the stormwater facilities upon acceptance of the public  
22 infrastructure. The [County/City Name] may require financial consideration from a property owners  
23 in order to assume responsibility for operation and maintenance of facilities that serve the private  
24 property. Financing shall be adequate to cover the [County/City Name] ongoing costs for  
25 conducting proper operation and maintenance.

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

30 **D.** The property owner is responsible for keeping open maintenance access easements serving  
31 drainage facilities and drainage easements.

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

#### 34 **XX.YYY.150 Inspection.**

35 Stormwater construction and operation and maintenance inspections for public and private facilities  
36 are required in order for the [City/County] to comply with the NPDES II Permit. The Administrator  
37 shall develop and administer an inspection and enforcement program for public and private  
38 stormwater facilities in [County/City].



1 Acceptance of a [City/County] approval or permit to construct stormwater facilities by a property  
2 owner shall constitute the property owner's approval for the [City/County] to enter such property to  
3 conduct inspections of the facility to ensure compliance with the construction standards and  
4 operation and maintenance requirements of this chapter. Such approvals shall transfer to future  
5 property owners.

6 Whenever implementing the provisions of the inspection program or whenever there is cause to  
7 believe that a violation of this chapter has been or is being committed, the inspector is authorized to  
8 inspect stormwater drainage systems within the [County/City] to determine compliance with  
9 [County/City] standards, the conditions of approval, and the provisions of this chapter.

#### 10 **XX.YYY.160 Failure to comply – Nuisance.**

11 The following is declared to be unlawful and a public nuisance:

12 **A.** The placement, construction, or installation of any structure within, or the connection to, a public  
13 stormwater facility without written permission of the Administrator; or

14 **B.** The discharge of stormwater to a public stormwater facility without permission of the  
15 Administrator; or

16 **C.** Engaging in a regulated activity as listed in XX.YYY.000 [Regulated Activities] without  
17 obtaining prior stormwater control approval from the [County/City].

18 **D.** The failure to construct or maintain the stormwater facility as required in the permit or site  
19 drainage plan; or

20 **E.** The placement or allowing the placement of vehicles, equipment, objects, refuse, garbage, or litter  
21 within the stormwater facility.

#### 22 **XX.YYY.170 Enforcement.**

23 The Administrator shall have the authority to issue to an owner or person an order to install,  
24 maintain or repair a component of a stormwater facility or BMP to bring it in compliance with this  
25 chapter. The order shall include:

26 1. A description of the specific nature, extent and time of the violation and the damage or potential  
27 damage that reasonably might occur;

28 2. A notice that the violation or the potential violation cease and desist and, in appropriate cases,  
29 the specific corrective actions to be taken; and

30 3. A reasonable time to comply, depending on the circumstances.

#### 31 **XX.YYY.180 Civil Penalty.**

32 **A.** In addition to any other remedy or sanction available, a person who fails to comply with  
33 conditions of approval or a final order issued by the Administrator or [City Council/County

1 **Commissioners]** pursuant to this chapter, or who fails to conform to the terms of an approval issued,  
2 shall be subject to a civil penalty.

3 **B. Amount of Penalty.** The penalty shall be not less than \$100 or exceed \$5,000 for each violation.  
4 Each day of continued violation or repeated violation shall constitute a separate violation.

5 **C. Aiding or Abetting.** Any person who, through an act of commission or omission, aids or abets in  
6 the violation shall be considered to have committed a violation for the purposes of the civil penalty.

7 **D. Notice of Penalty.** A civil penalty shall be imposed by the Administrator, by a notice in writing,  
8 which shall be served either by certified mail with return receipt requested or by personal service, to  
9 the person incurring the same. The notice shall describe the violation, the date(s) of violation, and  
10 shall order the acts constituting the violation to cease and desist, and, in appropriate cases, require  
11 necessary corrective action within a specific time.

12 **E. Application for Remission or Mitigation.** Any person incurring a penalty may apply in writing  
13 within 10 days of receipt of the penalty to the Administrator for remission or mitigation of such  
14 penalty. Upon receipt of the application, the Administrator may remit or mitigate the penalty only  
15 upon a demonstration of extraordinary circumstances, such as the presence of information or factors  
16 not considered in setting the original penalty. The Administrator's decision may be appealed to the  
17 Hearing Examiner within 10 days of the decision.

18 **F. Appeal of Civil Penalty.** Persons incurring a penalty imposed by the Administrator may appeal in  
19 writing within 10 days of the receipt of the notice of penalty to the Hearing Examiner. The Hearing  
20 Examiner shall hold a de novo hearing to consider the appeal and may affirm, modify or reverse the  
21 penalty. The decision of the Hearing Examiner may be appealed to Superior Court within 10 days of  
22 the date of the Hearing Examiner's decision.

23 **G. Penalties due:** Penalties imposed under this Chapter shall become due and payable 10 days after  
24 notice of the penalty is mailed or delivered, whichever occurs first, unless application for remission  
25 or mitigation is made or an appeal is filed. Whenever an application for remission or mitigation is  
26 made or an appeal to the Hearing Examiner filed (including payment of all applicable Hearing  
27 Examiner fees), penalties shall become due and payable 10 days after the date of the decision  
28 regarding the remission or payable after all review proceedings and a final decision has been issued  
29 confirming all or part of the penalty. If the amount of a penalty owed is not paid within the time  
30 specified in this Chapter, the [County/City] may take actions necessary to recover such penalty.

31 **XX.YYY.190 [County/City] Action.**

32 In addition to any other remedies the [County/City] may have under this Chapter or at law or in  
33 equity, nothing in this Chapter or elsewhere within this Code shall prevent the [County/City] from  
34 effecting repairs or maintenance to stormwater facilities if the Administrator determines that  
35 imminent danger to public safety, health or welfare, or public or private property, or critical areas or  
36 habitat is likely as a result of the actions or inaction of the property owner(s). If the [County/City]  
37 affects repairs or maintenance, the cost will be charged to the property owner(s) together with any  
38 penalties incurred under this chapter and any costs of collection (including attorneys' fees), all of  
39 which shall be considered a lien against the subject property and also collectable as a in personal  
40 debt against the property owner(s).

1 **XX.YYY.200 Infractions – Penalty.**

2 A violation of any provision of this chapter, other than as set forth in Section  
3 [XX.YY.000\[Misdemeanors-Penalty\]](#) of this chapter, shall be considered an infraction, punishable by  
4 a fine not to exceed \$250. This penalty shall be in addition to any civil penalty or other remedy or  
5 sanction provided in this chapter or by other law or in equity.

6 The court may order, in addition to any fine imposed, that a person found to have committed an  
7 infraction shall make restitution to any person damaged by the violation.

8 **XX.YYY.210 Misdemeanors – Penalty.**

9 Any violation of this chapter which results in damage to public or private property, other than the  
10 property of the violator, in an amount greater than \$250, or which results in any physical injury to a  
11 person shall be a misdemeanor. For purposes of this chapter "damage" shall include cost to restore as  
12 well as loss of value.

13 Each second or subsequent violation of this chapter by any person within a period of three years  
14 shall be a misdemeanor.

15 Each misdemeanor shall be punishable by a fine not to exceed \$1,500. This penalty shall be in  
16 addition to any civil penalty, infraction, or other remedy or sanction provided in this chapter or by  
17 other law or in equity.

18 The court may order, in addition to any fine imposed, that a person found to have committed a  
19 misdemeanor shall make restitution to any person damaged by the violation.

20 **XX.YYY.220 Severability.**

21 If any provision of this Chapter or its application to any person, entity, or circumstance is held  
22 invalid, the remainder of this Chapter or the application of the provision to other persons, entities, or  
23 circumstances shall not be affected.

24