

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF SPOKANE COUNTY, WASHINGTON AMENDING SPOKANE COUNTY CODE CHAPTERS 9.14, 12.300, 12.400, 12.500, AND 12.600 AND CREATING CHAPTER 8.25 PERTAINING TO STORMWATER MANAGEMENT

WHEREAS, pursuant to the Constitution and laws of the State of Washington, Spokane County, Washington is a class A county duly organized and existing; and

WHEREAS, pursuant to RCW 36.01.030, the powers of Spokane County can only be exercised through the Board of County Commissioners of Spokane County, Washington (“Board” or “Board of County Commissioners”); and

WHEREAS, pursuant to RCW 36.32.120(6), the Board has the care of County property and the management of County funds and business; and

WHEREAS, pursuant to RCW 36.94.020, the County has the authority to control, regulate, operate, and manage a system of storm sewers; and

WHEREAS, pursuant to chapter 90.48 RCW and 33 U.S.C. 1251 *et seq.*, the County operates under the Eastern Washington Phase II Municipal Stormwater Permit issued by the Washington State Department of Ecology on July 1, 2019 (“NPDES Permit”); and

WHEREAS, Spokane County Public Works staff have reviewed the existing Spokane County Code chapters pertaining to stormwater management and have recommended certain amendments in order to achieve and maintain compliance with the NPDES Permit; and

WHEREAS, having held a public hearing and considered testimony on this matter, the Board accepts the recommendation of Public Works staff.

NOW THEREFORE BE IT ORDAINED by the Board of County Commissioners of Spokane County, Washington that Spokane County Code Chapters 9.14, 12.300, 12.400, 12.500 and 12.600 are hereby amended, and Chapter 8.25 is hereby created, as provided in the attachments hereto.

BE IT FURTHER ORDAINED by the Board that the Senior Director of Public Works and the Clerk of the Board may take any further action, at other than an open public meeting, necessary to effect said amendments.

PASSED AND ADOPTED this 19th day of March, 2024.

BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON

ATTEST:

MARY L. KUNEY, CHAIR

JOSH KERNS, VICE-CHAIR

Ginna Vasquez
Clerk of the Board

AL FRENCH, COMMISSIONER

AMBER WALDREF, COMMISSIONER

CHRIS JORDAN, COMMISSIONER

Attachment A

Amendments to Spokane County Code Chapters 9.14, 12.300, 12.400, 12.500, and 12.600, and Creating Chapter 8.25 Pertaining to Stormwater Management Effective April 1, 2024

The proposed amendments to Spokane County Code (SCC) Chapter 9.14, 12.300, 12.400, 12.500, and 12.600, and Creating Chapter 8.25 Pertaining to Stormwater Management are set forth below. In amendatory sections, new matter is underlined, moved matter is double underlined, and deleted matter is ~~lined out~~.

9.14.215 Chapter 8.25 ILLICIT DISCHARGE

Sections:

8.25.100 Discharge of unauthorized waters and non-stormwater prohibited—Penalty.

- (1) It shall be unlawful for any person to throw, drain, run or otherwise discharge or connect unauthorized water and/or non-stormwater discharges (illicit discharges) to the municipal separate storm sewer system (MS4), surface waters or ground waters of the state ~~without written permission of the public works director or authorized designee.~~
 - (A) For purposes of this chapter, unauthorized waters include, but are not limited to:
 - ~~(a) Groundwater from springs or other natural or artificial sources, foundation drains, sump pumps, and other means of discharging groundwater to the surface;~~
 - ~~(b)~~(a) Stormwater runoff containing sediment;
 - ~~(c) Discharges from swimming pools, hot tubs, detention or evaporation ponds;~~
 - ~~(d)~~(b) Other water and non-stormwater discharges (illicit discharges) posing a public health or safety hazard or that could reduce the effectiveness of stormwater control and treatment facilities, or negatively impact the MS4, surface or ground water. Illicit discharges include but are not limited to the following:
 - (i) Trash and debris;
 - (ii) Construction materials;
 - (iii) Petroleum products including but not limited to oil, gasoline, grease, fuel oil and heating oil;
 - (iv) Antifreeze and other automotive products;
 - (v) Metals, in either particulate or dissolved form;
 - (vi) Flammable or explosive materials;
 - (vii) Radioactive materials;
 - (viii) Batteries;
 - (ix) Acids, alkalis or bases;
 - (x) Paints, stains, resins, lacquers or varnishes;
 - (xi) Degreasers and/or solvents;
 - (xii) Drain cleaners;

- (xiii) Pesticides, herbicides or fertilizers;
- (xiv) Steam cleaning wastes;
- (xv) Soaps, detergents or ammonia;
- (xvi) Swimming pool or spa filter backwash;
- (xvii) Chlorine, bromine or other disinfectants;
- (xviii) Heated water;
- (xix) Domestic animal waste;
- (xx) Sewage;
- (xxi) Recreational vehicle waste;
- (xxii) Animal carcasses;
- (xxiii) Food wastes;
- (xxiv) Bark and other fibrous materials;
- (xxv) Lawn clippings, leaves or branches;
- (xxvi) Silt sediment, concrete or gravel;
- (xxvii) —Dyes;
- (xxviii) —Chemicals not normally found in uncontaminated water;
- (xxix) Any other associated process discharges, except as allowed by permit or law;
- (xxx) Any hazardous material or waste not listed above;
- (xxxi) Water discharged from the cleaning of containers or equipment used in laying, cutting, or processing concrete and mortar and the water used in such processes; and
- (xxxii) Water discharged from the cleaning of equipment or containers holding paint solvents or similar contaminants;

- (2) Discharges—Conditionally Allowed. The following types of discharges shall not be considered to be illegal discharges if the stated condition(s) is met:
- (A) Minimal discharges from lawn watering and other irrigation run-off ~~are allowed~~;
 - (B) Minimal discharges from street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents ~~are allowed~~;
 - (C) Discharges from potable water sources, including water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water, as long as discharges are dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted if necessary, and volumetrically and velocity controlled to prevent re-suspension of sediments; and
 - (D) Other non-stormwater discharges may be allowed when in compliance with the requirements of a stormwater pollution prevention plan approved by the county engineer/public works director or authorized designee(s).
 - (E) Dechlorinated swimming pool, spa, and hot tub discharges. The discharges shall be dechlorinated to a total residual chlorine concentration of 0.1 ppm or less, pH-adjusted and reoxygenated if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in the MS4. Discharges shall be thermally controlled to prevent an increase in temperature of the receiving water. Swimming pool cleaning wastewater and filter backwash shall not be discharged to the MS4.

(F) Groundwater from springs or other natural or artificial sources, foundation drains, sump pumps, and other means of discharging groundwater to the surface when written permission is granted by the public works director/designee.

(3) Discharges—exemption. The following discharges are exempt from the provisions of ~~9.14.2158.25.100:~~ 9.14.2158.25.100:

- (A) Non-stormwater discharges ~~covered~~ authorized by a National ~~Pollution~~ Pollutant Discharge Elimination System (NPDES) Permit and/or State Waste Discharge General Permit;
- (B) Discharges from emergency fire fighting activities;
- (C) Diverted stream flows not containing sediment;
- (D) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
- (E) Air conditioning condensation;
- (F) Flows from riparian habitats and wetlands; ~~and~~
- (G) Irrigation water from agricultural sources; ~~and~~
- (H) Dust control materials that are applied in compliance with local and state policy and/or law.

(4) Definitions.

"CWA" means the Federal Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended in Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, and Pub. L. 97-117, 33 U.S.C. 1251 et. seq;

"Ground water" or "groundwater" means water in a saturated zone or stratum beneath the surface of the land or below a surface water body, ~~as defined in WAC Chapter 173-200;~~

"Hazardous materials" means any ~~material, liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste or combination thereof, which because regardless of its quantity, or concentration, or that exhibits any of the physical, chemical, or infectious characteristics may cause or contribute to a substantial present or potential hazard to human health, safety and property biological properties described in WAC 173-303-090 or the environment when improperly treated, transported, or disposed of, or otherwise managed; and WAC 173-303-100;~~

"Hyperchlorinated" means water that contains more than 10 mg/liter chlorine;

"Illicit Connection" means any infrastructure connection to the municipal separate storm sewer system that is not intended, permitted, or used for collecting and conveying stormwater or allowed non-stormwater discharges, as specified in this code. Examples of illicit connections include, but are not limited to; sanitary sewer line connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to any portion of the municipal separate storm sewer system;

"Minimal Discharges" means minor infrequent discharges that occur during the normal course of lawn watering, street or sidewalk washing, exterior building washing, dust control, or irrigating that do not cause structural damage, negatively impede the function of the MS4 and are not defined as an illicit discharge. Discharges from publicly conducted or contracted street cleaning, dust control and maintenance activities that require water are classified as minimal discharges;

"Municipal Separate Storm Sewer System or MS4" means a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains): (i) owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State Law) having jurisdiction over disposal of wastes, stormwater, or other wastes, including special districts under State Law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to water of the United States; (ii) designed or

used for collecting or conveying stormwater; (iii) which is not a combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFT 122.2.

"National Pollutant Discharge Elimination System (NPDES)" means the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318 and 405 of the Federal Clean Water Act, for the discharge of pollutants to surface waters of the state from point sources. These permits are referred to as NPDES permits and, in Washington State, are administered by the Washington State Department of Ecology;

~~"Non-stormwater Connection or Illicit Connection" means any man-made conveyance that is connected to a municipal separate storm sewer system without a permit, excluding roof drains and other similar type-connections. Examples of illicit connections include, but are not limited to: sanitary sewer line connections, floor-drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the municipal separate storm sewer system;~~

"Non-stormwater Discharge or Illicit Discharge" means any discharge to a municipal separate storm sewer system that is not composed entirely of stormwater ~~except~~ or non-stormwater discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from emergency fire fighting activities; allowed in accordance with this chapter;

"Person" is an all-inclusive reference to any individual or group, firm, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity.

"Waters of the State" includes those waters as defined as "waters of the United States" in 40 CFR 122.2 within the geographic boundaries of Washington State and "'waters of the state" as defined in Chapter 90.48 RCW which includes: 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.

(5) Requirement to Implement Best Management Practices.

Private property owners and owners or operators of commercial or industrial facilities shall utilize and maintain operational or structural source control Best Management Practices (BMPs), or both, as necessary to prevent illicit discharges from the activities and land uses associated with the site. Operational BMPs and structural BMPs shall be implemented in accordance with the standards referenced in 9.14.180 or in the current version of the Stormwater Management Manual for Eastern Washington (SWMMEW) published by the Washington State Department of Ecology.

(6) Authority to Inspect.

(A) The county public works director, or authorized designee(s) shall have the authority to inspect county property and/or the municipal separate storm sewer system, surface water or ground water to discover and locate ~~illegal discharges~~ prohibited discharges or unauthorized connections to the municipal separate storm sewer system.

(67) Authority to Investigate.

(A) The county public works director, or authorized designee(s) shall have the authority to investigate public or private property to determine the source of ~~illegal~~ prohibited discharges to public property, the municipal separate storm sewer system, surface water or ground water-, or unauthorized connections to the municipal separate storm sewer system.

(78) Enforcement.

(A) The county public works director-, or authorized designee(s)-, may give oral or written notice to cease and desist to any property owner or person who is discharging unauthorized waters or non-stormwater to county property, municipal separate storm sewer system, ~~or~~ public rights-of-way, surface water, or groundwater;

(B) The county public works director or authorized designee(s)-, may give oral or written notice to cease and desist to any property owner or person who has connected or is illegally connecting a pipe, culvert,

ditch, swale, stormwater pond, detention or retention facility, or other unauthorized connection to county property, municipal separate storm sewer system, public rights-of-way, surface water or ground water for the purpose of discharging unauthorized waters or non-stormwater;

~~(a) The illegal discharge or connection must~~ (C) Notice to cease and desist as soon as is effective immediately upon issuance, regardless of the manner of notice is given to the person. If oral notice is given, the county within twenty-four hours will send issue written documentation of the notice to the person within twenty-four (24) hours.

(+a) If the violation does not cease and desist immediately upon oral and/or written notice, the county engineer/public works director or authorized designee, may authorize the immediate removal of the illegal discharge and/or connection;

(9) Penalty.

~~(A) If the illegal discharge or connection~~ (D) The person issued notice to cease and desist from illicit discharge or sustaining an illicit connection is responsible for removal and proper disposal of non-stormwater material from municipal property, public right-of-way, the municipal storm sewer system, stormwater infiltration facilities, surface water, groundwater, and any other contaminated site. The person issued said notice is responsible for restoration of municipal property, public right-of-way, the municipal storm sewer system, stormwater infiltration facilities, surface water, groundwater, and any other contaminated site to design conditions. This includes, but is not limited to, cleaning of pipes and stormwater structures; replacement of soil, replacement of treatment soil, replacement of sod, grass, or other vegetation; cleaning of municipal streets, sidewalks, buildings, or any other property.

The person issued notice to cease and desist from illicit discharge or possession of an illicit connection is responsible for all costs associated with removal of the prohibited discharge and restoration of the affected property. In cases where the County incurs costs in response to an illicit discharge or illicit connection, the County is authorized to pursue financial reimbursement, by any and all legal means, for all costs incurred, including but not limited to labor, materials, equipment, disposal, and administrative expenses.

(E) Violations of this section may be referred to the prosecuting attorney's office at any time.

(9) Penalty.

(A) Notice to cease and desist. Upon discovery of an illicit discharge or illicit connection, notice to cease and desist will be issued, as stated in 8.25.100(8).(A)(B)(C). The notice will contain:

1. The name and address of the person to whom the cease and desist notice is directed; and
2. The street address, when available, or a general description of the building, lot, or land where the illicit discharge has occurred or the illicit connection is present; and
3. A description of the illicit discharge or illicit connection; and
4. If applicable, a notice that the illicit discharge must cease and desist immediately; and
5. If applicable, a notice that discharge via the illicit connection must cease and desist immediately and the illicit connection must be removed; and
6. A statement that the person receiving notice is responsible for remediation of affected sites and property; and
7. The period of time in which corrective action must be completed; and
8. A notice of penalties associated with violations of section 8.25.100.

(B) Failure to cease and desist. If a person is issued notice to cease and desist from illicit discharge and the illegal discharge does not cease and desist immediately upon notice, the person shall be guilty of a misdemeanor, and shall be subject to a fine not to exceed ~~two hundred fifty~~ five hundred dollars or

imprisonment in the county jail not exceeding ninety days or both. Each day that a violation exists shall constitute a separate offense. If a person is issued notice to remove an illicit connection and the illegal connection is not removed within the period given in the cease and desist notice, the person shall be guilty of a misdemeanor, and shall be subject to a fine not to exceed five hundred dollars or imprisonment in the county jail not exceeding ninety days or both. Each day that a violation exists shall constitute a separate offense.

- ~~(B) The county may seek legal remedy and/or financial reimbursement for enforcement and, when applicable, soil and/or water contamination clean up expenses resulting from illegal discharges and connections from the responsible party, as per the provisions of local, state and federal law.~~
- (C) Failure to remediate affected sites. If a person is issued notice as described in 8.25.100(8)(A) and fails to complete the required removal of prohibited materials and restoration of affected property within the period given in the notice, the person shall be guilty of a misdemeanor, and shall be subject to a fine not to exceed five hundred dollars or imprisonment in the county jail not exceeding ninety days or both. Each day that a violation exists shall constitute a separate offense.
- (D) Repeated violations. If any person, as defined in 8.25.100(1)(B)(ii), is found to be in violation of this chapter more than one time in a one year period, that person shall be subject to an immediate fine not to exceed five hundred dollars. This fine shall be imposed for the second and any subsequent violations of this section within the one year time period. This penalty for repeated violation shall be separate and in addition to any penalties incurred for each additional violation. It will be issued concurrent with any notices issued for the subsequent violation(s).
- (E) Penalties Due.
1. Penalties imposed under this section will become due and payable within thirty calendar days of receipt of the notice of penalty. If the amount of a penalty owed to the county is not paid within the time specified, the county may take appropriate action necessary to recover such penalty.

(Res. No. 16-0288, 4-19-2016; Res. No. 9-0672, 7-21-2009; Res. 01-1093, Exhibit A (part), 2001)

Chapter 9.14 ROADS, APPROACH AND DRAINAGE IN NEW CONSTRUCTION

Sections:

9.14.010 Preparation and administration of standards.

The county engineer/public works director is authorized and directed to prepare, revise, and administer standards describing proper controls for road construction, and access to, or drainage for building, development, or redevelopment sites, in conformance with these regulations. The standards shall be printed in manual form under the titles "Spokane County Road Standards" and "Spokane Regional Stormwater Manual" and are considered included as a part of this chapter. The purpose of this chapter is to ~~insure~~ ensure that the public's health, safety, and welfare are met.

(Res. No. 16-0288, 4-19-2016; Res. No. 10-0262, 3-16-2010; Res. 08-0356, 2008)

9.14.020 Submission of plans.

Any person, including municipal corporations and political subdivisions, applying for permits and/or final approvals shall, ~~upon recommendation of the county engineer/public works director,~~ submit for approval plans, in conformance with these standards, for proper road, approach and drainage with their applications, ~~unless written exemption is granted by the county engineer/public works director or authorized designee(s).~~ Actions requiring road, approach, and/or drainage plans include, but are not limited to:

- (1) Preliminary and final subdivision approval;

- (2) Preliminary and final short plat approval;
- (3) Preliminary and final planned unit developments;
- (4) Preliminary and final zone changes;
- (5) Permits required under RCW Chapter 90.58 (the Shorelines Management Act);
- (6) Conditional use permits;
- (7) Building permits for new construction or substantial improvement. "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:
 - (A) Before the improvement or repair is started, or
 - (B) If the structure has been damaged and is being restored, before the damage occurred;
- (8) Variances;
- (9) Exemptions to subsections (1) through (8).

(Res. No. 16-0288, 4-19-2016; Ord. 81-0726, 1981; Res. 80-1592, § 1.2, 1980)

9.14.030 Fees for inspection and plan review.

The county engineer/public works director/designee is authorized to collect a fee for plan review of development proposals listed in Section 9.14.020 and an inspection fee for review of the work done in the field in conjunction with such proposals. The fee schedule for plan review and inspection is set forth in Attachment A of Resolution 10-0107. This fee schedule is in addition to any other fee or hourly charges.

(Res. No. 16-0288, 4-19-2016; Res. 10-0107, Att. A, 1-26-2010)

9.14.040 Surety or bond.

The county engineer/public works director/designee is authorized to require the posting of a surety or bond to guarantee performance of conditions imposed on actions enumerated in Sections 9.14.020(1) through (9).

The county engineer/public works director/designee is also authorized to require the posting of a surety or bond to warranty the quality of workmanship and materials in all road, approach or drainage facility construction required by this chapter. Procedures for posting and release of bonds and amount of bond required shall be included in the "Spokane County Road Standards."

(Res. No. 16-0288, 4-19-2016; Res. No. 10-0262, 3-16-2010)

9.14.070 Permits required.

Construction work under any of the applications listed under Section 9.14.020 shall not begin until such time as final plans have been approved and permits obtained as provided in this chapter. The following permits are required for all actions listed in Section 9.14.020:

- (1) A permit to perform work on county road right-of-way, hereinafter called a "construction permit," is required for construction of roads or other facilities within the existing or proposed public right-of-way.

Application for a construction permit to do work within county road rights-of-way shall be made on forms furnished by the county engineer/public works director.
- (2) A "development and/or approach permit" is required before:
 - (A) Issuance of a building permit as outlined in Section 9.14.020; or
 - (B) Construction of a county road approach for any other action established in Section 9.14.020.

Application for a development and/or approach permit shall be made on forms furnished by the county engineer/public works director and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (i) Elevation in relation to the county road of the lowest floor (including basement and garage) of all structures;
 - (ii) Existing county road cross-section extended to and distance from the county road centerline to the structure (garage, where applicable);
 - (iii) Plan and profile of any existing or proposed modifications of storm drainage facilities on the property or in the county road right-of-way.
- (3) The county engineer/public works director shall review all applications for construction permits and development and/or approach permits to:
- (A) Determine that the permit requirements of this chapter have been satisfied;
 - (B) Impose conditions in conjunction with the approval of the permits necessary to ~~insure~~ ensure compliance with the purposes and provisions of this chapter, and ~~insure~~ ensure the public health, safety, and welfare and/or provide minor deviations to standards where conditions warrant;
 - (C) Determine if the proposed development and/or approach is subject to flooding. If subject to flooding, ~~assure~~ ensure that the provisions of Sections 9.14.160 through 9.14.220 are met.

(Res. No. 16-0288, 4-19-2016; Res. 80-1592, § 1.7, 1980)

9.14.170 Drainage—Authority to develop and administer standards.

The county engineer shall develop and administer standards for drainage control that ~~as~~ at a minimum provide:

- (1) Preservation and protection from blockage of natural or prior existing drainage ways and facilities; and
- (2) Reasonable assurance that the site and buildings thereon will be protected from damage due to drainage waters; and
- (3) Conformance with National Flood Insurance Program, Shoreline Management Act, environmentally sensitive area and critical areas ordinance restrictions; and
- (4) Reasonable assurance that properties upstream and downstream from the site being developed are protected from drainage damage resulting from site development; and
- (5) Design criteria and construction standards for drainage facilities; and
- (6) Quantity and quality standards for drainage water; and
- (7) Preservation and protection of ~~surface water~~ waters of the state pursuant to RCW 90.48.080.

(Res. No. 16-0288, 4-19-2016; Res. 01-1093, Exhibit A (part), 2001; Res. 80-1592, § 4.2, 1980)

9.14.180 Drainage—Adoption of standards.

Details of these design criteria and standards ~~shall be printed as "Guidelines for~~ are presented in the Spokane Regional Stormwater Manual (SRSM) and the Washington Department of Ecology's Stormwater Management," as attached to Resolution 80-1592 and adopted Manual for Eastern Washington (SWMM EW). If an inconsistency exists between the standards presented by the board of county commissioners concurrently with this chapter named manuals, the more stringent of the SRSM and hereafter are to be made available to the public the SWMM EW design criteria and standards shall apply.

(Res. 80-1592, § 4.3, 1980)

9.14.183 Drainage—Authority to recommend and enforce conditions relating to drainage and stormwater management on land use actions, property divisions and any county permits.

- (a) The county engineer and the public works director/designee are authorized to recommend conditions of approval, and to interpret and enforce ~~their~~ the respective conditions related to drainage and stormwater imposed through the State Environmental Policy Act and/or by actions of the board of county commissioners, hearing body and/or the division of planning.
- (b) The county engineer and/or the public works director/designee may cause to be recorded a title notice for each lot within new subdivisions and private property complexes, where drainage swale facilities and systems ~~and/or drainage ditches~~ are required. The title notice shall state:
 - Drainage swale facilities and systems, drainage ditches, drainage and stormwater easements and maintenance access easements are necessary for the control and treatment of stormwater runoff. The property owner shall be responsible for repair, restoration, and perpetual maintenance of drainage swale-facilities and systems or drainage ditches installed on private property including residential lots, meeting the standards as adopted in Section 9.14.180. The property owner shall be responsible for keeping open drainage and stormwater easements and maintenance access easements serving drainage facilities and drainage systems and their respective easements. Upon the transfer of a residential lot ownership, this title notice shall serve to notify the successor in interest of the above duties to maintain, repair and restore the drainage swale facilities and/or drainage ditches systems on the property and to keep open drainage and stormwater and maintenance access easements.
- (c) In order to enforce the provisions and requirements of this chapter, the conditions of approval shall grant authority for the county engineer and/or public works director/designee to access and inspect all drainage facilities, including those on private property.

(Res. No. 16-0288, 4-19-2016; Res. 01-1093, Exhibit A (part), 2001)

9.14.185 Erosion and sediment control.

- (+) Purpose and Intent. The purpose of the requirements and performance standards of this chapter are intended is to control soil erosion and sedimentation through the use of temporary and permanent structural as well as non-structural erosion and sediment control (ESC) practices. The purpose intention of the requirements is to allow flexibility in choice of erosion and sediment control methods through the requirement of applicants to prepare an erosion and sediment control (ESC) implement a stormwater pollution prevention plan (SWPPP) that meets the specific needs of each site and employs appropriate measures to meet the performance standards for erosion and sediment control. The performance standards are intended to determine if the erosion and sediment control practices are effective.
- (1) The purpose of this chapter is to:
 - (a) Protect and prevent damage to Spokane County's stormwater management infrastructure;
 - (b) Minimize erosion, ~~and~~ sedimentation, and the impact of increased runoff, ~~onto that are caused by~~ land-disturbing activities onto public and private property, public roads and rights-of-way, and water bodies caused by land-disturbing activities; and
 - (c) Protect the health, safety and welfare of the general public and shall not be construed to establish any duties to protect or benefit any particular person or class of persons.

(2) General Provisions.

(a) Administration. The county engineer and/or public works director/designee, is along with the director of the department issuing a permit as required by section 9.14.070, if different, are responsible for interpretation, administration, and enforcement of the requirements of this chapter. In order to enforce the provisions and requirements of this chapter, said department director or authorized designee(s) is hereby granted access, for inspection purposes, to any site for which the permit application process has been initiated, or a permit has been issued.

(b) Applicability. This chapter applies to all major land-disturbing activities, ~~and all minor land-disturbing activities that are part of a larger common plan of development or sale,~~ all minor land-disturbing activities for which a permit is required by county ordinances, and the locations of support activities related to such land-disturbing activities, within the unincorporated areas of Spokane County, unless exempted in this chapter.

All major land-disturbing activities which do not require a permit or approval by Spokane County, remain subject to the performance standards and enforcement provisions of this chapter. Although a land-disturbing activity may not require a permit from Spokane County, a permit may be required from state and/or federal agencies.

The performance standards and other requirements of this chapter apply to other activities allowed by county ordinances relating to land-disturbing activities.

(c) Exemptions. The provisions of this chapter do not apply to the following:

- (1) Commercial agriculture as regulated under Revised Code of Washington (RCW) Chapter 84.34.020;
- (2) Forest practices regulated under Washington Administrative Code (WAC) Title 222, except for Class IV General Forest Practices that are conversions from timber land to other uses;
- (3) Actions by a public utility or any other governmental agency to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic, provided the public utility or governmental agency cleans and/or removes any erosion and sedimentation after the emergency condition is alleviated, utility service restored or the thoroughfare is reopened, pursuant to the performance standards in subsection (5)(b) of this section;
- (4) Issuance of permits and/or approvals for land divisions, interior improvements to an existing structure, or other approvals for which there is no physical disturbance to the surface of the land;
- (5) Minor land-disturbing activities which do not require a permit under county ordinances.

(d) All references in this chapter to the Stormwater Management Manual for Eastern Washington (SWMM EW) also include the option to reference another Ecology approved stormwater manual unless noted otherwise.

~~(de) ESC Best Management Practices (BMPs). ESC BMPs should shall be used to comply with the requirements in this chapter. Examples-~~ In order to reduce the discharge of pollutants to the maximum extent practicable, and Sediment Control BMP Manual to provide all known, available and reasonable methods of prevention, control, and treatment, BMPs shall be consistent with the Spokane Regional Stormwater Manual (SRSW) and SWMM EW. at the Spokane County public works building. The intent of the BMP manual is to provide an example of available BMPs which property owners can choose from, to help meet the requirements contained in this chapter. Use of BMPs from the manual is at the discretion of the property owner, permit applicant, or their agent.

~~It is not the intent of the BMP manual to limit any innovative or creative effort to effectively control erosion and sedimentation. In those instances where appropriate BMPs are not in the BMP~~

~~manual, experimental management practices can be considered. Experimental management practices are encouraged as a means of solving problems in a manner not addressed by the BMP Manual, in an effort to improve erosion control technology and meet the purpose and intent of this chapter. All experimental management practices are required to meet the performance standards identified in subsection (5)(b) of this section.~~

- (e-f) Interpretation. The provisions of this chapter will be held to be minimum requirements in their interpretation and application.
- (f-g) Abrogation and Greater Restrictions. This chapter is not intended to repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions for erosion and sediment control, the provisions of this chapter will prevail.
- (g-h) Severability. If any provision of this chapter or its application to any person, entity, or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons, entities, or circumstances shall not be affected.

(3) Definitions.

"Best Management Practices (BMPs)" means physical, structural, and/or managerial practices that, when used singularly or in combination, have been shown to prevent or reduce erosion and sediment transport.

"Class IV Forest Practices" are defined as forest practices other than those contained in Class I or II: (a) on lands platted after January 1, 1960; (b) on lands being converted to another use; (c) on lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development; and/or, (d) which have a potential for a substantial impact on the environment and therefore require an evaluation by the Department as to whether or not a detailed statement must be prepared pursuant to the State Environmental Policy Act, chapter 43.21.C RCW (RCW 76.09.050), as amended.

"Commercial agriculture" means those activities conducted on lands defined in RCW 84.34.020(2), and activities involved in the production of crops or livestock for wholesale trade. An activity ceases to be considered commercial agriculture when the area on which it is conducted is proposed for conversion to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity.

"Common plan of development or sale" means a site where multiple separate and distinct construction activities may be taking place at different times on different schedules and/or by different contractors but still under a single plan. Examples include (1) 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); (2) a development plan that may be phased over multiple years but is still under a consistent plan for long-term development; and (3) 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.

"Earthen material" means any rock, natural soil or fill and/or any combination thereof.

"Erosion" is the wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep. Detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

"Land-disturbing activities" means any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to: demolition, construction, clearing, grading, filling, logging, compaction, and excavation.

"Major land-disturbing activity" means a land-disturbing activity greater than or equal to one acre of disturbed area or the creation or addition of impervious surface area greater than or equal to five thousand square feet.

"Minor land-disturbing activity" means a land-disturbing activity of less than one acre of disturbed area; an individual, detached, single-family residence or duplex; or the creation or addition of impervious surface areas less than five thousand square feet.

~~"Major land-disturbing activity" means a land-disturbing activity greater than or equal to one acre of disturbed area or the creation or addition of impervious surface area greater than or equal to five thousand square feet.~~

"Permanent erosion and sediment control measures" are erosion and sediment control devices that replace any temporary devices and provide for long-term, permanent stabilization of a site.

"Permitted activity" means any activity for which a permit is required under county ordinances.

"Person" is an all-inclusive reference to any individual or group, firm, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity.

"Public works director" means that person, or his/her designee, who has been appointed to direct the activities of the Spokane County public works department.

"Sediment" means earthen material moved by wind, water, ice and tracking.

"Sedimentation" means the gravitational deposit of transported material in flowing or standing water.

"Site" means the piece of property which is directly subject to land-disturbing activities.

"Soil" means the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

"Stormwater" means that portion of precipitation or snow melt that has not naturally percolated into the ground or evaporated, but is flowing via overland flow, interflow, channels or pipes into a defined surface water channel, or a constructed detention and/or infiltration facility.

"Support Activity" means off-site acreage that will be disturbed as a direct result of the land-disturbing activities subject to this chapter and will discharge stormwater. Examples include, but are not limited to: off-site equipment staging yards, material storage areas, borrow areas, or parking areas.

"Temporary erosion and sediment control measures" means erosion and sediment control devices used to provide temporary stabilization of a site, usually during construction or land disturbing activities, before permanent devices are installed.

"Tracking" means the deposit of sediment on to paved surfaces from the wheels of vehicles.

"Water body" shall include those water bodies that are defined as surface waters of the state or waters defined as waters of the state under Revised Code of Washington (RCW) chapter 90.48.020, as amended.

"Wetland or wetlands" means those areas in Spokane County that are inundated or saturated by surface or ground water at a frequency and a duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands, if permitted by the county or city (RCW 36.70A.030), as amended. For identifying and delineating a wetland, Spokane County will rely on the methodology contained in the wetland delineation manual.

(4) ~~Erosion and Sediment Control~~ Stormwater Pollution Prevention Plans.

- (a) ~~Submittal of Plans. An ESC plan~~ Submittal of Plans. A Stormwater Pollution Prevention Plan (SWPPP) and its implementation is required for major land-disturbing activities and for minor land-disturbing activities that are part of a larger common plan of development or sale, that require a permit or plan acceptance by Spokane County. An ESC A SWPPP plan is not required for minor land-disturbing activities that are not part of a larger common plan of development or sale; however, the other provisions of this chapter apply to minor land-disturbing activities for which a permit is required by county ordinances, and the

permit holder may wish to prepare and implement a SWPPP to ensure that such activity protects adjacent and surrounding public and private roads, public and private properties, stormwater management facilities, and waterbodies.

~~An ESC plan.~~ A SWPPP, when required, shall be submitted with a permit application prior to any land-disturbing activity. ~~ESC plans including clearing.~~ SWPPPs are ~~only~~ required to address the area of land that is subject to the land-disturbing activity for which a permit is being requested as well as related support activities (for example, an on-site portable rock crusher, off-site equipment staging yards, material storage areas, borrow areas, etc.). Although others may prepare the ~~ESC plan~~ SWPPP, the permit applicant is responsible for ensuring that all requirements are addressed in the ~~SWPPPESC plan.~~ The ~~ESC plan is required to~~ SWPPP shall be ~~on file at~~ included as part of the County, ~~although it will~~ Stormwater Site Plan submitted for subdivision development (including but not be reviewed limited to plats, short plats, or ~~approved by the County~~ binding site plans.

- (b) ~~Content~~ When a stormwater pollution prevention is required, a copy of the SWPPP is to be immediately accessible at the site at all times.
- (c) Modification to Plans. SWPPPs may be modified after submittal to the County for approval. An amended plan should be submitted to illustrate any modifications to the techniques and methods used to prevent and control erosion and sedimentation. The copy of the SWPPP available at the site is to include all updates and amendments.
- (d) Stormwater Pollution Prevention Plan Requirements for Major Land-Disturbing Activities - General. At a minimum, all ~~ESC plans must be legible, reproducible, and contain the following information:~~

SWPPPs must be legible, reproducible, and contain the following information:

- (i) Title block;
- (ii) Name of property owner;
- (iii) Name of permit applicant;
- (iv) Name of contact person at project site;
- (v) Project address;
- (vi) Legal description;
- (vii) Name of person preparing plan;
- (viii) Professional seal ~~(required for major land-disturbing ESC plans)~~ of person preparing the SWPPP;
- (ix) Description of project;
- (x) Description of ESC measures as listed in subsection (e) of this section;
- (xi) Description of existing vegetation on the site;
- (xii) Location of any existing water bodies;
- (xiii) Location of discharge points;
- (xiv) Date plan was prepared;
- ~~(xiv xv)~~ Scale of drawing;
- (xvi) North arrow;
- (xvii) Property boundary and dimensions;
- (xviii) Vicinity map;

- ~~(xviii-xiv)~~ List of soils on-site (information may be obtained at the county soil conservation district);
- (xix) Certification statement by the person preparing the plan that the plan meets the SWPPP ESC plan requirements as listed in Chapter 4.5 of the Guidelines for Stormwater Management the SWMMEW.
- ~~(e) ESC Requirements for Minor Land Disturbing Activities. Though an ESC plan is not required to be submitted for minor land disturbing activities for which a permit is required by Spokane County, the performance standards and other provisions of this section shall remain in effect. The provisions of this section shall not govern minor land disturbing activities for which no permit is required. However, individuals/property owners undertaking minor land disturbing activities for which a permit is not required may desire to ensure that such activity protects adjacent and surrounding private properties.~~
- ~~(d e)~~ ESC Stormwater Pollution Prevention Plan Requirements for Major Land-Disturbing Activities - Detail. All ESC plans SWPPPs for major land-disturbing activities shall be prepared and have a seal affixed by either a licensed professional engineer (PE) or a licensed landscape architect (LA). Both the professional engineer and the landscape architect must be licensed in the State of Washington and be knowledgeable in both hydrology and ESC practices.

SWPPPs shall include a narrative, drawings and details that explain and illustrate the measures to be taken on the construction site to control erosion, sedimentation, and any other potential pollution from construction activity. The SWPPP shall address the area of land that is subject to the land-disturbing activity as well as the location of related support activities (for example, an on-site portable rock crusher, off-site equipment staging yards, material storage areas, borrow areas, etc.).

The following ~~fifteen~~ eighteen items shall be addressed in ~~ESC plans~~ SWPPPs for major land-disturbing activities. As site conditions dictate, additional measures relating to ESC, as determined by the licensed professional engineer (PE) or licensed landscape architect (LA) preparing the plan, shall be addressed in order to meet the intent and purpose of this chapter and to comply with stated performance standards contained in subsection (5)(b) of this section. Special site conditions may include, but are not limited to, steep slopes, slope length, soil type, or vegetative cover.

- (i) Construction Sequence. Project work should be sequenced in an order to best minimize the potential for erosion and sedimentation control problems.
- (ii) Clearing Limits Delineation. Field identification and delineation of all clearing limits, sensitive/critical areas, buffers, trees to be preserved, and drainage courses.
- ~~(iii) Construction Access Route.~~ Access for construction vehicles should be limited to one route whenever possible. The access route must be stabilized to minimize the tracking of sediment onto public roads.
- ~~(ii) Stabilization of Denuded Areas.~~ Stabilization of all exposed soils to prevent soils from eroding and depositing sediment downstream.
- ~~(iii) Protection of Adjacent Properties/Water Bodies/Public and Private Roads.~~ Protection of adjacent properties, water bodies, public and private roads from erosion and sediment deposition. The intent is to keep sediment on the project site and not allow it to reach adjacent properties, water bodies, and public and private roads.
- ~~(iv) Protection of Inlets.~~ Protection of downstream inlets to drywells, catch basins and other stormwater management facilities.
- ~~(v) Increased Runoff from Construction Sites.~~ Consideration and mitigation of the effects and impacts of increased and concentrated runoff from land disturbing activities on downstream properties, water bodies, and public and private roads.

- ~~(vi) Washout Site for Concrete Trucks and Equipment. Designate the location of a slurry pit where concrete trucks and equipment can be washed out. Slurry pits shall not be located in a swale, drainage area, stormwater facility, or water body nor in an area where a stormwater facility is proposed.~~
- ~~(vii) Material Storage/Stockpile. Identify location for storage/stockpile areas, within the proposed ESC plan boundaries, for any soil, earthen and landscape material which is used or will be used on-site.~~
- ~~(viii) Maintenance and Permanent BMPs. Maintenance of all erosion and sediment control BMPs is required during the land disturbing activity. Regular inspection and maintenance of all erosion and sediment control BMPs is required to ensure successful performance of the BMPs. Permanent BMPs shall be included in the plan to ensure that successful transition from temporary BMPs to permanent BMPs occurs.~~
- ~~(ix) Clearing Limits Delineation. Field identification and delineation of all clearing limits, sensitive/critical areas, buffers, trees to be preserved, and drainage courses.~~
- ~~(x) Sediment Trapping Measures. Design and construction of sediment ponds and traps, perimeter dikes, sediment barriers, and other onsite sediment trapping BMPs as necessary prior to the start of other land disturbing activities.~~
- ~~(xi) (v) Stabilization of Denuded Areas. Stabilization of all exposed soils to prevent soils from eroding and depositing sediment downstream.~~
- ~~(vi) Protection of Inlets. Protection of downstream inlets to drywells, catch basins and other stormwater management facilities.~~
- ~~(vii) Increased Runoff from Construction Sites. Consideration and mitigation of the effects and impacts of increased and concentrated runoff from land-disturbing activities on downstream properties, water bodies, and public and private roads.~~
- ~~(viii) Washout Site for Concrete Trucks and Equipment. Designation of the location of a slurry pit where concrete trucks and equipment can be washed out. Slurry pits shall not be located in or flow to a swale, drainage area, stormwater facility, or water body nor in an area where a stormwater facility is proposed.~~
- ~~(ix) Material Storage/Stockpile. Identification of the location for storage/stockpile areas, within the proposed SWPPP boundaries, for any soil, earthen and landscape material which is used or will be used on-site.~~
- ~~(x) Cut and Fill Slopes. Design and construction of cut and fill slopes in a manner that will minimize erosion.~~
- ~~(xi) Stabilization of Temporary Conveyance Channels and Outlets. Design, construction, and stabilization of all temporary on-site conveyance channels to prevent erosion from the velocity of runoff from storms under developed conditions. Design, construction, and stabilization of all temporary conveyance system outlets to prevent erosion of: stormwater facilities, adjacent stream banks, slopes and downstream reaches.~~
- ~~(xii) Dewatering Construction Site. Discharge of dewatering devices to appropriately designed sediment traps or sediment ponds.~~
- ~~(xiii) Control of Pollutants Other Than Sediment on Construction Sites. Control of all on-site pollutants other than sediment, including discarded building materials, chemicals, litter, or sanitary waste at a construction site, in a manner that does not cause contamination of stormwater, surface water, or groundwater.~~
- ~~(xiv) Removal of Temporary BMPs. Removal of all temporary sediment control BMPs within thirty days after final site stabilization or after the temporary BMPs are no longer needed. Trapped sediment~~

shall be removed from the project site or stabilized on-site. Stabilization of disturbed soil areas resulting from removal of the temporary BMPs.

- (xv) Maintenance and Permanent BMPs. Maintenance of all erosion and sediment control BMPs is required during the land-disturbing activity. Regular inspection and maintenance of all erosion and sediment control BMPs is required to ensure successful performance of the BMPs. Permanent BMPs shall be included in the plan to ensure that successful transition from temporary BMPs to permanent BMPs occurs.
 - (xvi) Protection of Adjacent Properties/Water Bodies/Public and Private Roads. Protection of adjacent properties, water bodies, public and private roads from erosion and sediment deposition. The intent is to keep sediment on the project site and not allow it to reach adjacent properties, water bodies, and public and private roads.
 - (xvii) Project Management. Project site management shall take into account seasonal work limitations; conduct documented inspections of the site to ensure SWPPP adherence.
 - (xviii) Protect Low Impact Development (LID) BMPs (Infiltration BMPs). Protect all infiltration BMPs from sedimentation and/or compaction during construction. Infiltration BMPs that are found to have been compromised upon construction completion shall be restored to the fully functioning condition meeting the design specification.
- (f) Stormwater Pollution Prevention Plan Requirements for Minor Land-Disturbing Activities that are part of a larger common plan of development or sale - General. At a minimum, all SWPPPs must be legible, reproducible, and contain the following information:
- (i) Title block;
 - (ii) Name of property owner;
 - (iii) Name of permit applicant;
 - (iv) Name of contact person at project site;
 - (v) Project address;
 - (vi) Legal description;
 - (vii) Name of person preparing plan;
 - (viii) Professional license of person preparing plan;
 - (ix) Description of project;
 - (x) Description of ESC measures as listed in subsection (g) of this section;
 - (xi) Location of any existing water bodies;
 - (xii) Location of stormwater discharge points;
 - (xiii) Date plan was prepared;
 - (xiv) North arrow;
 - (xv) Property boundary and dimensions;
 - (xvi) Statement indicating if highly erodible soils are on-site (information may be obtained from larger common plan SWPPP or through County soil Conservation District);
 - (xvii) Certification statement by the person preparing the plan that the plan meets the SWPPP requirements as listed in the SWMMEW.
- (g) Stormwater Pollution Prevention Plan Requirements for minor land-disturbing activities that are part of a larger common plan of development or sale - Detail. SWPPPs shall include a narrative, drawings and

details that explain and illustrate the measures to be taken on the construction site to control erosion, sedimentation, and any other potential pollution from construction activity. The SWPPP shall address the area of land that is subject to the land-disturbing activity as well as the location of related support activities (for example, an on-site portable rock crusher, off-site equipment staging yards, material storage areas, borrow areas, etc.).

The following eighteen items shall be addressed in SWPPPs for minor land-disturbing activities that are part of a larger common plan of development or sale. As site conditions dictate, additional measures relating to ESC, as determined by the licensed professional preparing the plan, shall be addressed in order to meet the intent and purpose of this chapter and to comply with stated performance standards contained in subsection (5)(b) of this section. Special site conditions may include, but are not limited to, steep slopes, slope length, soil type, or vegetative cover.

For minor land-disturbing activities that are part of a larger common plan of development or sale, the SWPPP may indicate that it is not necessary to include an item, provided the SWPPP includes written justification identifying the reason an item is not applicable.

- (i) Construction Sequence. Project work should be sequenced in an order to best minimize the potential for erosion and sedimentation control problems.
- (ii) Clearing Limits Delineation. Field identification and delineation of all clearing limits, sensitive/critical areas, buffers, trees to be preserved, and drainage courses.
- (iii) Construction Access Route. Access for construction vehicles should be limited to one route whenever possible. The access route must be stabilized to minimize the tracking of sediment onto public roads.
- (iv) Sediment Trapping Measures. Design and construction of sediment ponds and traps, perimeter dikes, sediment barriers, and other onsite sediment trapping BMPs as necessary prior to the start of other land disturbing activities.
- (v) Stabilization of Denuded Areas. Stabilization of all exposed soils to prevent soils from eroding and depositing sediment downstream.
- (vi) Protection of Inlets. Protection of downstream inlets to drywells, catch basins and other stormwater management facilities.
- (vii) Increased Runoff from Construction Sites. Consideration and mitigation of the effects and impacts of increased and concentrated runoff from land-disturbing activities on downstream properties, water bodies, and public and private roads.
- (viii) Washout Site for Concrete Trucks and Equipment. Designation of the location of a slurry pit where concrete trucks and equipment can be washed out. Slurry pits shall not be located in or flow to a swale, drainage area, stormwater facility, or water body nor in an area where a stormwater facility is proposed.
- (ix) Material Storage/Stockpile. Identification of the location for storage/stockpile areas, within the proposed SWPPP boundaries, for any soil, earthen and landscape material which is used or will be used on-site.
- (x) Cut and Fill Slopes. Design and construction of cut and fill slopes in a manner that will minimize erosion.
- (xi) Stabilization of Temporary Conveyance Channels and Outlets. Design, construction, and stabilization of all temporary on-site conveyance channels to prevent erosion from the velocity of runoff from storms under developed conditions. Design, construction, and stabilization of all temporary conveyance system outlets to prevent erosion of: stormwater facilities, adjacent stream banks, slopes and downstream reaches.

- (xii) Dewatering Construction Site. Discharge of dewatering devices to appropriately designed sediment traps or sediment ponds.
 - (xiii) Control of Pollutants Other Than Sediment on Construction Sites. Control of all on-site pollutants other than sediment, including discarded building materials, chemicals, litter, or sanitary waste at a construction site, in a manner that does not cause contamination of stormwater, surface water, or groundwater.
 - (xiv) Removal of Temporary BMPs. Removal of all temporary sediment control BMPs within thirty days after final site stabilization or after the temporary BMPs are no longer needed. Trapped sediment shall be removed from the project site or stabilized on-site. Stabilization of disturbed soil areas resulting from removal of the temporary BMPs.
 - ~~(xiv)~~(xv) Maintenance and Permanent BMPs. Maintenance of all erosion and sediment control BMPs is required during the land-disturbing activity. Regular inspection and maintenance of all erosion and sediment control BMPs is required to ensure successful performance of the BMPs. Permanent BMPs shall be included in the plan to ensure that successful transition from temporary BMPs to permanent BMPs occurs.
 - (xvi) Protection of Adjacent Properties/Water Bodies/Public and Private Roads. Protection of adjacent properties, water bodies, public and private roads from erosion and sediment deposition. The intent is to keep sediment on the project site and not allow it to reach adjacent properties, water bodies, and public and private roads.
 - (xvii) Project Management. Project site management shall take into account seasonal work limitations; conduct documented inspections of the site to ensure SWPPP adherence.
 - (xviii) Protect Low Impact Development (LID) BMPs (Infiltration BMPs). Protect all infiltration BMPs from sedimentation and/or compaction during construction. Infiltration BMPs that are found to have been compromised upon construction completion shall be restored to the fully functioning condition meeting the design specification.
 - (h) ESC Requirements for Other Minor Land-Disturbing Activities. Though a SWPPP is not required to be submitted for minor land-disturbing activities that are not part of a larger common plan of development or sale for which a permit is required by Spokane County, the performance standards and other provisions of this section shall remain in effect. The permit holder may wish to prepare and implement a SWPPP to ensure that such activity protects adjacent and surrounding public and private roads, public and private properties, stormwater management facilities, and waterbodies. The provisions of this section shall not govern minor land-disturbing activities for which no permit is required. However, individuals/property owners undertaking minor land-disturbing activities for which a permit is not required may desire to ensure that such activity protects adjacent and surrounding private properties.
 - ~~(xiv) Dewatering Construction Site. Discharge of dewatering devices to appropriately designed sediment traps or sediment ponds.~~
 - ~~(xv) Control of Pollutants Other Than Sediment on Construction Sites. Control of all on-site pollutants other than sediment in a manner that does not cause contamination of stormwater or groundwater.~~
 - ~~(e) Modifications to Plans. ESC plans may be modified after submittal to the county. An amended plan should be submitted to illustrate any modifications to the techniques and methods used to prevent and control erosion and sedimentation.~~
- (5) Maintenance, Performance Standards, and Enforcement.

- (a) Maintenance Responsibility. During any land-disturbing activity subject to this ordinance, the property owner(s) or permit applicant, if different from the property owner(s), engaged in the land-disturbing activity is responsible for preventing erosion and sedimentation through the use of BMPs. The property owner(s) or permit applicant, if different from the property owner(s), is subject to the enforcement and penalty provisions provided herein, and it is their responsibility to inspect their site, ensure BMPs are used and maintained, and the performance standards are met. After any land-disturbing activity is complete and the site has been permanently stabilized, maintenance and the prevention of erosion and sedimentation is the sole responsibility of the property owner.
- (b) Performance Standards. The performance standards set forth below are intended to provide a minimum threshold for controlling soil erosion and sedimentation caused by land disturbing activities and will be used to determine if the ~~requirements of this chapter have been met~~ BMPs included in the Stormwater Pollution Prevention Plan are effective:

Implement the Stormwater Pollution Plan;

Minimize tracking onto public, private, and future public roads;

Protection of public roads and stormwater facilities;

Proper washout of concrete trucks and equipment;

Protection of private properties;

Protection of water bodies and wetlands;

The following criteria will be used to determine if the performance standards listed above have not been met.

- (i) Implement the Stormwater Pollution Prevention Plan. The performance standard for implementing the SWPPP has not been met if, upon inspection by the County representative, the site operator fails to present documentation of the site's SWPPP, if BMPs included in the SWPPP are not in use, or if BMPs in the SWPPP have not been maintained according to the standards provided by the manufacturer or an Ecology-approved stormwater manual.
- (ii) Minimize Tracking Onto Public, Private, and Future Public Roads. The performance standard for minimizing tracking onto public, private, or future public roads has not been met if soil, dirt, mud or debris is tracked onto a public, private, or future public road ~~and there is no evidence of reasonably trying to control it through the use of ESC BMPs or experimental BMPs (i.e., sweeping), both as defined in subsection (2)(d) of this section.~~
- (iii) Protection of Public Roads and Stormwater Facilities. The performance standard for protecting public roads and stormwater facilities has not been met if there is deposition, other than tracking, of more than two gallons (0.27 cubic feet) per day of soil, dirt, mud or debris from the project site onto adjacent public roads and/or a stormwater system within a public right-of-way, and/or future public stormwater systems.
- (iiiiv) Proper Washout of Concrete Trucks and Equipment. The performance standard for ensuring the proper washout of concrete trucks and equipment has not been met if there is observation or evidence of concrete washout in any location other than the designated location indicated by SWPPP item (viii) - Washout Site for Concrete Trucks and Equipment. material within a drainage area, stormwater facility, or water body, nor in an area where a stormwater facility is proposed.
- (iv) Protection of Private Properties. ~~Spokane County does not presently have sufficient resources to enforce the provisions of this section~~ The performance standard for violations that affect protection of private properties. Therefore, no performance standards have has not been established with respect to the deposit of soil, dirt, mud or debris from a project

~~site material onto adjacent private property. Private property owners, however, may have the ability to seek judicial redress for such actions.~~

- (vi) Protection of Water Bodies and Wetlands. The performance standard for protection of water bodies has not been met if there is deposition of soil, dirt, mud, or debris from the project site, site entrance, site access points, or location of construction-support activity, into adjacent water bodies.

(c) Enforcement.

- (i) General. Enforcement and penalties will be in accordance with this section whenever there is a violation of the project's ~~erosion and sediment control stormwater pollution prevention plan~~ or any performance standard(s) contained herein, as they relate to public facilities- or future public facilities. Failure to submit ~~an erosion and sediment control a stormwater pollution prevention plan~~ will result in nonissuance of underlying permit. ~~The public works director/designee has the authority to assess penalties only related to public facilities including but not limited to, swales, drainage areas, or stormwater facilities. Violations related to private property are a civil matter and are not enforceable by Spokane County.~~

(ii) If a land-disturbing activity has been found to be in violation of this chapter, the enforcement actions will be initiated in the following sequence:

- (A) Notice of Noncompliance. A notice of noncompliance shall be issued in accordance with subsection (5)(c)(ii) of this section.
- (B) Civil Penalty. A civil penalty shall be issued in accordance with subsection (5)(c)(iii) of this section.
- (C) Repeated violations. Civil penalties issued as a result of repeated failure to meet the performance standards of this chapter shall be doubled, in accordance with subsection (5)(c)(iv) of this section.

If necessary to fulfill the purpose and intent of this chapter, violations may be referred to the prosecuting attorney's office at any time.

- (ii) Notice of Noncompliance. The ~~public works director/~~ of the department issuing the permit or his/her designee will have the authority to issue a notice of noncompliance and penalty to the property owner(s), or permit applicant if different than the property owner(s), engaged in the land-disturbing activity, if an action is being undertaken that does not comply with ~~all the~~ Stormwater Pollution Prevention Plan or performance standard(s) of this chapter.

- (A) Content of Notice of Noncompliance. A notice of noncompliance will contain:

1. The name and address of the property owner(s) or permit applicant to whom the notice of noncompliance is directed; and
2. The street address, when available, or a general description of the building, lot, or land upon which the noncompliance is occurring; and
3. A description of the specific nature, extent, and date of noncompliance; and
4. A notice that the noncompliant activity cease and desist, and corrective action be undertaken to correct the activity within twenty-four hours; and
5. A statement that a cumulative civil penalty in the amount of ~~two~~ five hundred ~~fifty~~ dollars per day for minor land-disturbing activities or ~~one~~ two thousand dollars per day for major land-disturbing activities, will be assessed for each and every day following the date set for correction on which the noncompliant activity continues; and
6. A statement regarding the appeal process.

- (B) Notification. The notice of noncompliance will be issued in writing, either by ~~certified mail service with return receipt requested~~ delivery confirmation, or by personal service, to the property owner(s) or permit applicant. If the notice of noncompliance is not issued to the property owner(s), the property owner will be given a copy of the notice of noncompliance so that the property owner(s) is informed that a notice of noncompliance has been issued to the permit applicant. A copy of the notice of noncompliance may also be given to the contact person at the project site. If delivery by personal service is required, the recipient shall be responsible for any and all costs of the service(s) rendered.
- (C) Effective Date. The notice of noncompliance issued under this section will become effective immediately upon receipt.
- (D) Compliance. Failure to comply with the terms of a notice of noncompliance will result in the issuance of a civil penalty.
- (iii) Civil Penalty. A person who fails to meet the performance standards of this chapter and who fails to comply with a notice of noncompliance issued under this chapter will be subject to a civil penalty.
- (A) Amount of Penalty. The penalty will be ~~two a maximum of five hundred fifty~~ two thousand dollars per day for each violation associated with a minor land disturbing activity and ~~one a maximum of~~ two thousand dollars per day for each violation associated with a major land-disturbing activity. Each day of continued violation or repeated violation will constitute a separate violation. Any costs associated with clean-up or other corrective actions shall be the sole responsibility of the violator.
- (B) Notice and Assessment of Penalty. A civil penalty will be imposed by a written notice of penalty either by ~~certified mail will return receipt requested~~ service with delivery confirmation or by personal service. A notice of penalty will contain:
1. The name and address of the property owner(s) or permit applicant to whom the notice of penalty is directed; and
 2. The street address, when available, or a general description of the building, lot, or land upon which the violation is occurring; and
 3. A description of the specific nature, extent, and date of violation; and
 4. A statement that the corrective action ordered in the notice of noncompliance was not undertaken; and
 5. The amount of the penalty; and
 6. A statement that the penalty shall be assessed for each and every day the violation continues; and
 7. A statement that the penalty is due within thirty days.
 8. A statement of the appeal process will also be included.
- (C) Penalties Due.
1. Penalties imposed under this section will become due and payable within thirty calendar days of receipt of the notice of penalty. If the amount of a penalty owed to the county is not paid within the time specified, the county may take appropriate action necessary to recover such penalty.
 2. If an appeal of a notice of noncompliance is filed, the thirty-day time frame does not apply. A penalty will not be assessed if the decision of an appeal is that a violation of the performance standards did not occur.

- (D) Penalty Recovered. All penalties will be deposited in a fund created with the Spokane County treasurer's office and may be appropriated for education, administration, and enforcement of this chapter.
- (iv) Repeated violations. In instances when a land-disturbing activity has failed to meet the performance standards of this chapter and a failure to comply with a notice of noncompliance has occurred as well, such that a civil penalty has been issued, any subsequent violations after the initial civil penalty shall be subject to doubled fine amounts. A "subsequent violation" is defined as a failure to meet any performance standard of this chapter.
- (A) Enforcement will proceed in the same manner for subsequent violations as for initial violations. A notice of noncompliance will precede issuance of a notice of penalty. The notice of noncompliance will contain a statement of the increased penalty amount.
- (B) Amount of Penalty. The penalty will be one thousand dollars per day for each violation associated with a minor land disturbing activity and four thousand dollars per day for each violation associated with a major land-disturbing activity. Each day of continued violation or repeated violation will constitute a separate violation. Any costs associated with clean-up or other corrective actions shall be the sole responsibility of the violator.
- (v) Appeals. A notice of noncompliance may be appealed in writing to the ~~public works county engineer/department director/designee~~ public works county engineer/department director administering the enforcement action within fourteen calendar days of receipt of the notice. The ~~public works county engineer/department director/designee~~ public works county engineer/department director administering the enforcement action shall have the authority to approve or deny the appeal. A reduction or waiver of a penalty may be granted, if the ~~public works county engineer/department director/designee~~ public works county engineer/department director administering the enforcement action determines that there is substantial evidence that ~~reasonable ESC BMPs, or experimental BMPs, were used~~ the Stormwater Pollution Plan was implemented prior to the notice of noncompliance, and that damage to public facilities did not occur.

The decision of the ~~public works director/designee~~ public works director/designee ~~county engineer/department director~~ county engineer/department director administering the enforcement action may be appealed to the board of county commissioners. This appeal must be filed within fourteen calendar days of the decision of the ~~public works county engineer/department director~~ public works county engineer/department director administering the enforcement action. The board of county commissioners will hear the appeal and make a final decision on the notice of noncompliance and penalties due.

(Res. 98-0201 Attachment A (part), 1998)

9.14.190 Drainage—Denial of permit.

The county engineer/public works director or authorized designee is authorized to deny approval of a development and/or approach permit if, after review of an application, s/he finds that the site cannot be developed without drainage hazard.

(Res. No. 16-0288, 4-19-2016; Res. 80-1592, § 4.4, 1980)

9.14.200 Stormwater drainage facilities—Bonds or sureties.

All stormwater drainage facilities included in the site drainage plan accepted by the county engineer/public works director/designee shall be installed or covered by bonds or sureties as follows:

- (1) For drainage facilities to be located within the county right-of-way, the sponsor shall post a performance bond in conformance with Section 9.14.040.
- (2) For drainage facilities to be located outside the county right-of-way, and receiving drainage from public and/or private roads, except drainage swale systems on residential lots as described in subsection (3)

below, the sponsor shall post a performance bond in conformance with Section 9.14.040, and shall also provide a perpetual maintenance plan, in accordance with the standards in the SWMM EW, for these facilities prior to final approval. The perpetual maintenance plan is to notify the property owner of the responsibilities defined in 9.14.202, and the penalties described in 9.14.205. Facilities outside public rights-of-way requiring further maintenance shall be located within public easements or separate tracts if required by the county.

- (3) For all drainage swale systems and/or drainage ditches required to be installed in or on residential lots, the sponsor shall provide to the county public works department, plans prepared by a civil engineer, showing the location and design of the drainage swale system along with an eight-and-one-half-inch by eleven-inch plan for each lot having a drainage swale, showing the specific location and design of the swale and/or ditches for that lot, prior to final plat approval. The plans shall clearly show the location of all maintenance access easements for drainage facilities. The sponsor shall also install drywells and drainage ditches and rough grade drainage swales in accordance with the plans, or post a bond or other security accepted by the county engineer or public works director therefor.
- (4) For all drainage swale systems and/or drainage ditches required to be installed in or on residential lots, the applicant/permittee for a building permit shall be responsible for providing the county public works department with a site plan drawn on the eight-and-one-half-inch by eleven-inch lot plan required under subsection (3) above, showing the location of the drainage swale system, drainage ditches and maintenance access easements for drainage facilities and other proposed site improvements at the time of application for the building permit. The applicant/permittee shall provide a deposit with to the county public works department one thousand dollars, in the form of cash, surety bond, postal money order, cashier's check, certified check, letter of credit or savings assignment in the amount specified on the application, in the form of cash, surety bond, postal money order, cashier's check, certified check, letter of credit or savings assignment. The deposit shall serve to guarantee completion of the fine-grading, landscaping and installation of sod required for the drainage swale system and acceptable performance of the drainage swales and ditches in a field test as described in the following paragraph within six months of final inspection approval of the residence constructed on the lot by Spokane County building and planning department. The deposit is also a guarantee that the swale will function as designed. Prior to the issuance of the building permit, the applicant/permittee shall agree that should the drainage swale system and ditches not be completed in accordance with accepted plans, and/or fail to pass a test as described in the following paragraph within six months of final inspection approval by the building and planning department, the deposit shall be forfeited to Spokane County, who may then use the monies forfeited to bring the drainage swale facility into conformance with accepted plans on file with Spokane County. The applicant/permittee shall also agree to be responsible for any costs incurred by Spokane County in bringing the drainage swale facility and ditches into conformance with accepted plans which are in excess of the deposit.

The applicant/permittee shall request or cause to be requested a final inspection of the drainage swale system and ditches by Spokane County and shall perform a field test of the drainage swale, by flooding the swale to the design volume of the original plans, in the presence of the county inspector. If the drainage swale and ditches conform to the plans on file with and accepted by Spokane County, and performs as designed in the field test, Spokane County shall release the deposit back to the applicant/permittee.

(Res. No. 16-0288, 4-19-2016; Res. 01-1093, Exhibit A (part), 2001; Res. 91-0882 (part), 1991; Res. 80-1592, § 4.5, 1980)

9.14.202 Property owner responsibilities.

- (a) The property owner shall be responsible for repair, restoration, operation and perpetual maintenance of drainage facilities installed on lots, and any drainage swale systems and/or drainage ditches installed on residential lots in Spokane County right-of-way adjacent to lots, except in cases where Spokane County specifically assumes that responsibility in writing. This includes repair, restoration, perpetual maintenance,

and any associated costs. For purposes of this chapter, "repair and restoration" shall mean putting the drainage ~~swale system or drainage ditch~~ facility into conformance with the plans on file and the approved maintenance plan on file with the Spokane County public works department, including area, volume, configuration and function. "Maintenance" means preservation of the original condition, area, volume, configuration and function of the drainage ~~swale system or drainage ditch~~ facility as described in the plans on file. This responsibility to repair, restore and maintain said drainage ~~swale systems and drainage ditches~~ facility shall be imposed without regard to any fault or wrongful intention on the part of the property owner. If the property owner fails to maintain the drainage facilities in conformance with the accepted drainage plans and/or the perpetual operations and maintenance plan, notice of noncompliance will be given to the property owner, establishing a time period wherein the property owner is required to restore the drainage facility to approved conditions. If not corrected within the period indicated on said notice, Spokane County has the authority to correct the maintenance failure, or have it corrected, at the property owner's expense, in accordance with 9.14.205.

- (b) Upon purchasing a residential lot, a property owner shall assume responsibility to maintain and repair and restore the drainage ~~swale and/or drainage ditches~~ facility(s) on the property in accordance with the original plans on file with the Spokane County public works department.
- (c) The dedicatory language and/or conditions of approval of all new subdivisions, where drainage ~~swale systems and/or drainage ditches~~ facility(s) are required, shall state ~~that the property owner shall be responsible~~ owner's responsibility for repair, restoration, and perpetual maintenance of drainage ~~swale systems or drainage ditches~~ facilities installed on residential lots.
- (d) Prior to any alteration of a drainage ~~swale or drainage ditch~~ facility not in conformance with the plan on file with the Spokane County public works department, the property owner shall submit, or cause to be submitted, to the Spokane County public works department a revised plan for the drainage ~~swale or drainage ditch~~ facility; however, the area, volume of water that may be conveyed, stored and infiltrated, and the water quality treatment capability of the drainage ~~swale and drainage ditch~~ facility must remain the same as the original plan. If Spokane County accepts the revised plan and drainage analysis, the property owner shall alter the drainage ~~swale or drainage ditch~~ facility according to the revised plan within the time limit specified by the Spokane County. Spokane County may require the property owner to have performed a field test of the drainage ~~swale~~ facility, by flooding the ~~swale~~ facility to the design volume of the original plans, in the presence of a county inspector. The property owner shall notify the Spokane County public works department when the field test is to be performed, if required, or when work on the ~~swale~~ facility has been completed if the field test is not required.
- (e) If all or any portion of a drainage ~~swale or drainage ditch~~ facility altered as provided in the preceding subsection is located outside the original public easement for the facility, the owner shall grant a revised easement that includes the entire ~~drainage swale or ditch~~ facility as altered. The revised easement shall grant Spokane County, and its authorized agents, the right of ingress and egress to the drainage ~~facility swale or ditch~~ facility. If the altered drainage ~~swale or ditch~~ facility and revised easement are accepted by Spokane County, the property owner shall record the revised easement with the Spokane county auditor, and provide the Spokane County public works department with a copy of the revised easement.
- (f) If the drainage facility has not been maintained according to the approved perpetual operations and maintenance plan to meet water quality standards, enforcement may be issued. If any portion of a drainage facility is found to be in violation of the code herein, the property owner responsible for its operation and maintenance is subject to enforcement and penalties in accordance with Spokane County Code Section 9.14.205.

(Res. No. 16-0288, 4-19-2016; Res. 01-1093, Exhibit A (part), 2001)

9.14.205 Failure to maintain drainage facilities—Penalties.

- (a) ~~Staff from the Spokane County public works department shall contact affected persons to try to achieve informal resolution of violations of this chapter whenever feasible in the county's judgment. If the violations~~

~~cannot be resolved informally, then the matter shall be referred to the prosecuting attorney's office for further action.~~

~~(b-a)~~ Establishment of misdemeanor charge

It shall be a misdemeanor for:

- (1) Any person, as defined in 9.14.185(3), to willfully damage, alter, or remove any stormwater drainage facilities; or
- (2) Any person or property owner to fail to maintain or repair and restore stormwater drainage facilities, including any portion of a drainage swale system, which said person is responsible for maintaining under this chapter. ~~Any person found guilty under this subsection shall be guilty of a misdemeanor and shall be subject to a fine not to exceed two hundred fifty dollars or imprisonment in the county jail not exceeding ninety days or both. Each day that a violation exists, shall constitute a separate offense.~~

The Spokane County public works director or authorized designee may contact affected persons to try to achieve informal resolution of violations of this chapter whenever feasible in the county's judgment.

~~(b-b)~~ Notice to be issued

(i) The public works director or authorized designee(s) will give oral or written notice of noncompliance to any person or property owner who fails to maintain the drainage facilities in conformance with the accepted drainage plans and/or the perpetual operations and maintenance plan.

(ii) The Public works director or authorized designee(s), will give oral or written notice of noncompliance to any person who has willfully damaged, altered, or removed any stormwater drainage facilities.

(iii) Notice of noncompliance is effective immediately upon issuance, regardless of the manner of notice. If oral notice is given, the County will follow up with written documentation of the notice and issue this documentation to the property owner or person.

(iv) The person or property owner issued notice of noncompliance is responsible for any maintenance and/or restoration of the facility(s) as described in the notice of noncompliance, and per 9.14.202. This includes, but is not limited to, cleaning and repairing of pipes and stormwater structures, replacement of soil or treatment soil, replacement of sod, grass, or other vegetation. The person or property owner issued notice of noncompliance is responsible for all costs associated with maintenance and/or repair and restoration of the affected facilities.

(c) Enforcement and Penalty.

(A) Notice of noncompliance. Upon identification of facilities requiring maintenance and/or repair and restoration, notice of noncompliance will be issued as stated in 9.14.205(b). The notice will contain:

1. The name and address of the person to whom the notice of noncompliance is directed; and
2. The street address or parcel when available, and/or a general description of the location that requires maintenance; and
3. A description of the type of maintenance that is required; and
4. A statement that the person receiving notice is responsible for maintenance and/or repair and restoration of affected facilities, as well as costs incurred for such actions; and
5. The period of time in which corrective action must be completed.

(B) If the violation is not corrected in the time period indicated on the notice of noncompliance, the county engineer/public works director or authorized designee has the authority to correct the damage, alteration, or maintenance failure, or have it corrected, at the property owner's expense; In cases where the County incurs costs in response to failure to maintain, repair, or restore the facilities, the County is authorized to pursue financial reimbursement, by any and all legal means, for all costs incurred, including but not limited to labor, materials, equipment, disposal, and administrative expenses.

(C) Violations of this section may be referred to the prosecuting attorney's office at any time.

(D) Penalty. If a person is issued notice of noncompliance and the facilities are not maintained and/or repaired and restored in the time period given in the notice of noncompliance, the person shall be guilty of a misdemeanor, and shall be subject to a fine not to exceed five hundred dollars or imprisonment in the county jail not exceeding ninety days or both. Any penalties imposed shall not alter the person or property owner's responsibility for costs of maintenance, repair, or restoration of the stormwater facility.

(E) In addition to the above penalties assessed by the court, Spokane County public works may record with the county auditor a title notice stating that the stormwater drainage facilities on the premises have not been maintained or repaired and restored in compliance with the plans filed with the Spokane County public works department, and that any owner of the premises shall be responsible for repair and restoration, as well as maintenance, of the stormwater drainage facilities as provided in Spokane County Code Sections 9.14.202~~00~~ and 9.14.202. Spokane County may continue to pursue any and all enforcement actions to have the drainage swale or drainage ditch facility(s) constructed and/or repaired.

(Res. No. 16-0288, 4-19-2016; Res. 01-1093, Exhibit A (part), 2001; Res. 91-0882 (part), 1991)

9.14.207 Stormwater or drainage easements and maintenance access easements penalty.

- (a) The property owner is responsible for keeping open drainage and stormwater easements on his/her property. If a drainage or stormwater easement is unlawfully encroached upon or the drainage functionality of a designated drainage or stormwater easement is reduced, the property owner is responsible for removing the encroachment or detriment. The county may give a notice to the property owner. If the encroachment or other detriment is not removed and drainage facility within the easement restored by the time limit designated in the notice, the property owner shall be guilty of a misdemeanor and shall be subject to a fine not to exceed ~~two~~ five hundred ~~fifty~~ dollars or imprisonment in the county jail not exceeding ninety days, or both, and any and all expenses incurred by the county to clear or restore the drainage or stormwater easement. Each day that a violation exists, shall constitute a separate offense.
- (b) The property owner is responsible for keeping open maintenance access easements serving drainage facilities and drainage easements. If a maintenance access easement is not kept open and maintained, Spokane County may give notice to the property owner. If the access is not opened by the time designated in the County-issued notice, the property owner shall be guilty of a misdemeanor and shall be subject to a fine not to exceed ~~two~~ five hundred ~~fifty~~ dollars or imprisonment in the county jail not exceeding ninety days, or both, and any and all expenses incurred by the county to clear or restore the maintenance access easement(s) serving drainage facilities or drainage easement(s). Each day that a violation exists, may constitute a separate offense.
- (c) Drainage and stormwater easements and maintenance access easements shall be recorded with the Spokane County auditor, and shall run with the land. Under no circumstances shall a property owner modify such easements or the drainage access facilities within them without prior approval from the Spokane County public works department.

(Res. No. 16-0288, 4-19-2016)

9.14.209 Failure to comply with approval conditions related to drainage and stormwater management—Penalty.

Any person who fails to comply with drainage and/or stormwater management condition of approval for county permits, property divisions and land use actions, or State Environmental Policy Act conditions imposed by actions of the board of county commissioners, hearing body and/or building and planning department which said person is responsible for following, shall be guilty of a misdemeanor and shall be subject to a fine not to exceed ~~two~~ five hundred ~~fifty~~ dollars or imprisonment in the county jail not exceeding ninety days, or both. Each day that a violation exists, shall constitute a separate offense.

(Res. No. 16-0288, 4-19-2016; Res. 01-1093, Exhibit A (part), 2001)

9.14.210 Drainage facilities—Maintenance by county when road is established.

Property owners shall maintain drainage swale systems and or/drainage ditches situated within the county right-of-way adjacent to their respective properties. The county will assume maintenance responsibility for all drainage facilities, except drainage swale systems, constructed within county right-of-way at the time the road is established. During the warranty period, as defined in the Spokane County standards for road and sewer construction, any repair costs due to defects in material and workmanship shall be the responsibility of the sponsor and shall be an obligation against the bond specified in Section 9.14.040.

(Res. 01-1093, Exhibit A (part), 2001; Ord. 81-0726 (part), 1981; Res. 80-1592, § 4.6, 1980)

9.14.215 Discharge of unauthorized waters and non-stormwater prohibited—Penalty.

~~(1) It shall be unlawful for any person to throw, drain, run or otherwise discharge or connect unauthorized water and/or non-stormwater discharges (illicit discharges) to the municipal separate storm sewer system (MS4), surface waters or ground waters of the state without written permission of the public works director or authorized designee.~~

~~(A) For purposes of this chapter, unauthorized waters include, but are not limited to:~~

- ~~(a) Groundwater from springs or other natural or artificial sources, foundation drains, sump pumps, and other means of discharging groundwater to the surface;~~
- ~~(b) Stormwater runoff containing sediment;~~
- ~~(c) Discharges from swimming pools, hot tubs, detention or evaporation ponds;~~
- ~~(d) Other water and non-stormwater discharges (illicit discharges) posing a public health or safety hazard or that could reduce the effectiveness of stormwater control and treatment facilities, or negatively impact the MS4, surface or ground water. Illicit discharges include but are not limited to the following:~~
 - ~~(i) Trash and debris;~~
 - ~~(ii) Construction materials;~~
 - ~~(iii) Petroleum products including but not limited to oil, gasoline, grease, fuel oil and heating oil;~~
 - ~~(iv) Antifreeze and other automotive products;~~
 - ~~(v) Metals, in either particulate or dissolved form;~~
 - ~~(vi) Flammable or explosive materials;~~
 - ~~(vii) Radioactive materials;~~
 - ~~(viii) Batteries;~~

- (ix) Acids, alkalis or bases;
- (x) Paints, stains, resins, lacquers or varnishes;
- (xi) Degreasers and/or solvents;
- (xii) Drain cleaners;
- (xiii) Pesticides, herbicides or fertilizers;
- (xiv) Steam cleaning wastes;
- (xv) Soaps, detergents or ammonia;
- (xvi) Swimming pool or spa filter backwash;
- (xvii) Chlorine, bromine or other disinfectants;
- (xviii) ~~Heated water;~~
- (xix) Domestic animal waste;
- (xx) Sewage;
- (xxi) Recreational vehicle waste;
- (xxii) Animal carcasses;
- (xxiii) ~~Food wastes;~~
- (xxiv) ~~Bark and other fibrous materials;~~
- (xxv) Lawn clippings, leaves or branches;
- (xxvi) ~~Silt sediment, concrete or gravel;~~
- (xxvii) ~~Dyes;~~
- (xxviii) ~~Chemicals not normally found in uncontaminated water;~~
- (xxix) ~~Any other associated process discharges, except as allowed by permit or law;~~
- (xxx) ~~Any hazardous material or waste not listed above;~~
- (xxxi) ~~Water discharged from the cleaning of containers or equipment used in laying, cutting, or processing concrete and mortar and the water used in such processes; and~~
- (xxxii) ~~Water discharged from the cleaning of equipment or containers holding paint solvents or similar contaminants;~~

(2) Discharges—Conditionally Allowed. The following types of discharges shall not be considered to be illegal discharges if the stated condition(s) is met:-

- (A) ~~Minimal discharges from lawn watering and other irrigation run-off are allowed;~~
- (B) ~~Minimal discharges from street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents are allowed;~~
- (C) ~~Discharges from potable water sources, including water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water, as long as discharges are de-chlorinated to a concentration of 0.1 ppm or less, pH adjusted if necessary, and volumetrically and velocity controlled to prevent re-suspension of sediments; and~~
- (D) Other non-stormwater discharges may be allowed when in compliance with the requirements of a stormwater pollution prevention plan approved by the county engineer/public works director.

(3) Discharges—exemption. The following discharges are exempt from the provisions of 9.14.215:

- ~~(A) Non-stormwater discharges covered by a National Pollution Discharge Elimination System (NPDES) Permit and/or State Waste Discharge General Permit;~~
- ~~(B) Discharges from emergency fire fighting activities;~~
- ~~(C) Diverted stream flows not containing sediment;~~
- ~~(D) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));~~
- ~~(E) Air conditioning condensation;~~
- ~~(F) Flows from riparian habitats and wetlands; and~~
- ~~(G) Irrigation water from agricultural sources.~~
- ~~(H) Dust control materials that are applied in compliance with local and state policy and/or law.~~

(4) Definitions.

~~"CWA" means the Federal Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended in Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, and Pub. L. 97-117, 33 U.S.C. 1251 et. seq;~~

~~"Ground water" means water in a saturated zone or stratum beneath the surface of the land or below a surface water body;~~

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

~~"Hyperchlorinated" means water that contains more than 10 mg/liter chlorine;~~

~~"Minimal Discharges" means minor infrequent discharges that occur during the normal course of lawn watering, street or sidewalk washing, exterior building washing, dust control, or irrigating that do not cause structural damage, negatively impede the function of the MS4 and are not defined as an illicit discharge. Discharges from publicly conducted or contracted street cleaning, dust control and maintenance activities that require water are classified as minimal discharges;~~

~~"Municipal Separate Storm Sewer System or MS4" means a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains): (i) owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State Law) having jurisdiction over disposal of wastes, stormwater, or other wastes, including special districts under State Law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to water of the United States; (ii) designed or used for collecting or conveying stormwater; (iii) which is not a combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFT 122.2.~~

~~"National Pollutant Discharge Elimination System (NPDES)" means the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318 and 405 of the Federal Clean Water Act, for the discharge of pollutants to surface waters of the state from point sources. These permits are referred to as NPDES permits and, in Washington State, are administered by the Washington State Department of Ecology;~~

~~"Non-stormwater Connection or Illicit Connection" means any man-made conveyance that is connected to a municipal separate storm sewer system without a permit, excluding roof drains and other similar type connections. Examples of illicit connections include, but are not limited to: sanitary sewer line connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the municipal separate storm sewer system;~~

~~"Non-stormwater Discharge or Illicit Discharge" means any discharge to a municipal separate storm sewer system that is not composed entirely of stormwater except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from emergency fire fighting activities;~~

~~"Waters of the State" includes those waters as defined as "waters of the United States" in 40 CFR 122.2 within the geographic boundaries of Washington State and "'waters of the state" as defined in Chapter 90.48 RCW which includes: 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.~~

~~(5) Authority to Inspect.~~

~~(A) The county public works director, or authorized designee(s) shall have the authority to inspect county property and/or the municipal separate storm sewer system, surface water or ground water to discover and locate illegal discharges.~~

~~(6) Authority to Investigate.~~

~~(A) The county public works director or authorized designee(s) shall have the authority to investigate public or private property to determine the source of illegal discharges to public property, the municipal separate storm sewer system, surface water or ground water.~~

~~(7) Enforcement.~~

~~(A) The county public works director or authorized designee(s), may give oral or written notice to any property owner or person who is discharging unauthorized waters or non-stormwater to county property, municipal separate storm sewer system or public rights-of-way;~~

~~(B) The county public works director, or authorized designee(s), may give oral or written notice to any property owner or person who has connected or is illegally connecting a pipe, culvert, ditch, swale, stormwater pond, detention or retention facility, or other unauthorized connection to county property, municipal separate storm sewer system, public rights-of-way, surface water or ground water for the purpose of discharging unauthorized waters or non-stormwater.~~

~~(a) The illegal discharge or connection must cease and desist as soon as notice is given to the person. If oral notice is given, the county within twenty-four hours will send written notice to the person.~~

~~(i) If the violation does not cease and desist immediately upon oral and/or written notice, the county engineer/public works director or authorized designee, may authorize the immediate removal of the illegal discharge and/or connection;~~

~~(8) Penalty.~~

~~(A) If the illegal discharge or connection does not cease and desist immediately upon notice, the person shall be guilty of a misdemeanor, and shall be subject to a fine not to exceed two hundred fifty dollars or imprisonment in the county jail not exceeding ninety days or both. Each day that a violation exists shall constitute a separate offense;~~

~~(B) The county may seek legal remedy and/or financial reimbursement for enforcement and, when applicable, soil and/or water contamination clean-up expenses resulting from illegal discharges and connections from the responsible party, as per the provisions of local, state and federal law.~~

~~(Res. No. 16-0288, 4-19-2016; Res. No. 9-0672, 7-21-2009; Res. 01-1093, Exhibit A (part), 2001)~~

Editor's note — Res. No. ##-####, adopted Month ##, ####, amended the Code by repealing former § 9.14.215 in its entirety. Former § 9.14.215 pertained to illicit discharge, and derived from Res. No. 09-0672 of 7-21-2009. Former § 9.14.215 is presently located in § 8.25.100

9.14.225 Stormwater drainage facilities—Fixing of rates and charges by county—Creation of lien for delinquent charges.

For those drainage facilities operated and maintained by the county under Section 9.14.200 or 9.14.220, service charges shall be applicable for each property served or ~~benefitted~~ benefitted thereby, according to the schedule of charges listed in the written agreement or as established or revised by resolution of the board of county commissioners after notice and hearing. Pursuant to RCW Chapter 36.89.092, delinquent charges shall bear interest at the rate of twelve percent per year, computed on a monthly basis from the date of delinquency as said date is fixed by resolution.

Pursuant to RCW 36.89.090, the county shall have a lien for delinquent service charges, including interest thereon, against any property against which they were levied for drainage facilities, which lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. Said lien shall be effective for a period of one year without the necessity of any writing or recording of the lien with the county auditor, and shall be effective and be enforced in the manner provided by RCW 36.89.090.

The service charges collected shall be deposited in a special fund in the county treasury to be used only for the purpose of paying the cost and expense of maintaining, operating and replacing the facilities.

(Res. 91-0882 (part), 1991; Res. 88-1110 (part), 1988)

9.14.240 Authority to inspect for conformance.

The county engineer/public works director/designee is ~~also~~ authorized to review road construction, redevelopment, site improvement and building site approach and drainage proposals and to deny those that are found to be not in conformance with these regulations and the herein authorized county standards. The county engineer/public works director/designee is authorized hereby granted access to field inspect, ~~as appropriate, all sites for which the permit application or developmental approval process has been initiated including but not limited to road and construction, building site approach construction~~ and drainage construction to verify conformance with the conditions of approval. Refusal to allow access for field inspection will be considered a violation of conditions of approval, and the county engineer/public works director/designee shall be authorized to withdraw any and all permits associated with the site.

(Res. No. 16-0288, 4-19-2016; Res. 80-1592, § 5.2, 1980)

9.14.250 Actions authorized when conditions of approval are not met.

Should the public works director find that the conditions of approval have not been met, s/he is authorized to:

- (1) Withdraw the permit; and/or
- (2) Draw upon the applicant's bond to complete the work in accordance with the original approval.

(Res. No. 16-0288, 4-19-2016; Ord. 81-0726 (part), 1981; Res. 80-1592, § 5.3, 1980)

9.14.300 Appeals—Considerations.

In passing upon such appeals, the development/approach appeal board shall consider, but not be limited to, the recommendations of the county engineer/public works director/designee, all technical evaluations, all relevant factors, standards specified in other sections of this chapter, including the specifics of Sections 9.14.110 through 9.14.220, and:

- (1) The danger to public health, life, ~~and~~ property, and the environment due to noncompliance with the requirements of this chapter;

- (2) The danger to life, ~~and property,~~ and the environment due to location and/or flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations, for the proposed use which are not subject to flooding, erosion damage, or hazardous approach;
- (7) The compatibility of the proposed use with existing and anticipated development, approaches, traffic control and/or drainage facilities;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safety of approach to the property including times of snow, ice or flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (11) The costs of providing governmental services during and after flood conditions and including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

As used in this chapter "flood" or "flooding" shall include, but not be limited to, surface waters, drainage, runoff and ponding.

(Res. No. 16-0288, 4-19-2016; Res. 80-1592, § 6.5, 1980)

9.14.350 Applicability.

The standards of design adopted in this chapter shall not be applied as measures of adequacy in any investigation of existing county roads nor are the standards of design intended to be applied to minor improvement undertakings by the county maintenance and/or day labor construction forces. The standards of design shall serve as a guide only to the design of County Road Projects (CRPs). The county engineer/public works director may authorize deviations from the standards of design for improvements undertaken by the county as CRPs when a finding has been made that warrants such deviation.

(Res. No. 16-0288, 4-19-2016; Res. 80-1592 (part), 1980)

12.300.128 Stormwater runoff.

Provisions for stormwater runoff shall be in compliance with the Spokane Regional Stormwater Manual County guidelines for stormwater management.

(Res. 96-1224 Attachment A (part), 1996)

12.400.130 Stormwater runoff.

Provisions for stormwater runoff shall be in compliance with the Spokane Regional Stormwater Manual County guidelines for stormwater management.

(Res. 96-1224 Attachment A (part), 1996)

12.500.128 Stormwater runoff.

Provisions for stormwater runoff shall be in compliance with the Spokane Regional Stormwater Manual
~~County guidelines for stormwater management.~~

(Res. 96-1224 Attachment A (part), 1996)

12.600.130 Stormwater runoff.

Provisions for stormwater runoff shall be in compliance with the Spokane Regional Stormwater Manual
~~County guidelines for stormwater management.~~

(Res. 96-1224 Attachment A (part), 1996)