CITY OF SEQUIM DEPARTMENT OF COMMUNITY DEVELOPMENT

SEQUIM PLANNING COMMISSION
Special Meeting / Public Meeting

Civic Center
152 West Cedar Street
Sequim, WA 98382
6:00 P.M.
Tuesday, December 13, 2016

Agenda

1. **CALL TO ORDER, PLEDGE OF ALLEGIANCE & ROLL CALL:**
   PC: Mahalick, Protze, Wiseman, Wendt, Janisse, Shah.

2. **APPROVAL OF MINUTES:**

3. **ITEMS FROM THE PUBLIC NOT ALREADY ON THE AGENDA**

4. **PUBLIC MEETINGS**:

5. **NEW BUSINESS**
   a) Sustainable Lands for Agricultural Productivity (Commission discussion)

6. **UNFINISHED BUSINESS**
   a) SMC Updates Relevant to Adopted Stormwater Plan.

7. **DIRECTOR'S REPORT**

8. **GOOD OF THE ORDER**

9. **ADJOURNMENT**

Next Meeting: January 17, 2017

Item _6_

SEQUIM PLANNING COMMISSION
AGENDA COVER SHEET

MEETING DATE: **December 13, 2016**

FROM: Ann Soule, Public Works Resource Manager acs
Initials

SUBJECT/ISSUE: **SMC Updates Relevant to Adopted Stormwater Plan**

Discussion dates	March 1, 2016 Final Plan Approval	September 6, 2016 Intro		
CATEGORY ☐ Public Meeting ☒ Unfinished Business ☐ New Business				Time Needed for Presentation 10 minutes
Reviewed by			Initials	Date
Chris Hugo, Director – DCD			CRH	12062016
David Garlington, Director – PW				
Matt Klontz, City Engineer				
Kristina Nelson-Gross, City Attorney				

PROBLEM / ISSUE STATEMENT:
The City's first stormwater plan was adopted after a public hearing in April of this year. The planning process and code analysis brought to staff's attention several sections in our municipal code that are conflicting, confusing, out of date, or inconsistently applied and in need of clarification. In some cases, clarifications made in one place rendered subsections elsewhere unnecessary, allowing the SMC to be streamlined.

The majority of suggested changes related to stormwater management are found in 13.104 and 13.108. However, enforcement subsections in these two chapters have not been revised pending a comprehensive code review by the City Attorney.

LIST OF ATTACHMENTS:
1. Mark-up versions of SMC 13.40, 13.64, 13.104 and 13.108
2. Mark-up of SMC Titles 8 and 18

DISCUSSION/ANALYSIS:
Staff worked with our stormwater grant consultant, Herrera, to identify specific language that needed to be addressed throughout the SMC; these sections are provided here in mark-up format and will be presented by staff for discussion by the Commission.

First, changes to 13.40 removes the possibility of legal connection of stormwater facilities to the municipal sewer for new development. SMC 13.64 is now reserved since it has been superseded by 13.104.

Next, the SMC needs clarification of exactly which guidance manual is to be utilized in the design and maintenance of stormwater management facilities for new and re-development. For more than two decades, 13.104.100 "adopts by reference" the "latest edition of Ecology's Stormwater Management Manual." City staff has interpreted that to mean the 2012 manual since 2012, and subsequently including 2014 amendments. However, there are other subsections that cite requirements from the 1992 edition (13.104.130 through .320), and Title 18 specifies the 2005 manual, putting the code in conflict with itself.

Clearly, the code needs to be internally consistent and a specific manual should be named. To consider whether the "latest edition" (2012 with 2014 amendments) is the best choice for the City, staff from Public Works and DCD consulted with Herrera and determined it was. We agreed that the manual should be named in one section of code, SMC 13.104.100, with all other references in the SMC pertaining to stormwater guidance pointing to that section.

With the citation of a specific state manual, specifications in 13.104 Article VII are unnecessary other than exceptions accounting for physical conditions native to Sequim.

Another concern is the enforcement language found in 13.104 and 13.108. Staff would prefer progressive severity starting with voluntary compliance to reflect the varying circumstances in which enforcement might be applied. This desire is not unique to stormwater enforcement, so clarifications and additional tools will be considered for the SMC comprehensively by the City Attorney in 2017 and updated throughout.

FINANCIAL IMPLICATIONS:
Closer attention to requirements in the SMC, such as implementation of the state stormwater manual, has potential to involve slightly more staff time in development application support and review than is currently expended. Centennial Clean Water grant funds were recently used to produce guidance materials to assist staff as well as applicants. In time, incoming applications will be expected to have more complete information and more appropriate stormwater management proposals.

STAFF RECOMMENDATION:
Staff requests the Planning Commission to announce a Public Meeting to receive input on proposed code changes at its next regularly-scheduled meeting.

MOTION:
I move to hold a Public Meeting to receive input on changes to the Sequim Municipal Code proposed to align code with the adopted Storm & Surface Water Plan.

Chapter 8.36
FLOOD DAMAGE PREVENTION

Sections:

8.36.010 Statutory authorization and findings of fact.

8.36.020 Purpose.

8.36.030 Definitions.

8.36.040 General provisions.

8.36.042 Compliance required.

8.36.044 Interpretation and application.

8.36.046 Disclaimer of liability.

8.36.050 Administration.

8.36.060 Variance procedures.

8.36.070 Permit requirements.

8.36.080 Development standards.

SMC 8.36.042 Compliance required.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter as well as all other applicable regulations including but not limited to the Stormwater Manual adopted in SMC 13.104.100. (Ord. 2006-018 § 1)

Chapter 18.80
CRITICAL AND ENVIRONMENTALLY SENSITIVE AREAS PROTECTION

Sections:

18.80.070 Development standards. **[REFER TO 12/2016 CAO AMENDMENTS]**

18.80.100 Critical aquifer recharge areas. **[REFER TO 12/2016 CAO AMENDMENTS]**

Chapter 13.40

SEWER CONNECTION REQUIRED

Sections:

13.40.010 Connection required.
13.40.020 Notice of requirement to connect.
13.40.030 Extension of time to connect.

13.40.010 Connection required.

A. Except as otherwise provided in SMC 13.40.030 and 13.102.040, the owner or occupant of any lands, premises or habitable structures shall connect ~~such lands and all buildings, habitable structures, ditches, watercourses and~~ plumbing outlets located thereon with the nearest accessible sanitary sewer~~, combined sewer system or storm drain,~~ whenever such a sewer ~~or drain~~ is located within 200 feet of the closest point of the building site or premises to be served, as measured along any public place or any easement granted for sewer purposes. The city engineer shall determine when the sanitary sewer~~, combined sewer or storm drain~~ is accessible. This requirement shall be based upon the following conditions:

1. Sanitary plumbing outlets must be connected to a ~~combined or~~ sanitary sewer~~s~~ system.

2. ~~Residences, multiple residences, churches, schools, hotels, motels, industrial and commercial buildings, planned developments, hospitals and all similar installations and appurtenances thereto; storm plumbing outlets, downspouts, parking lot drainage, footing drains, and unpolluted water must be connected to any storm drain existing on the same side of the centerline of the abutting street and within 60 feet of a side property line. In the event a natural outlet is available abutting the property, it may be used for stormwater disposal. In the event neither of the two above outlets are available, stormwater may be disposed of in dry wells or by draining the water to the street gutter, but stormwater shall not be directed over the surface of a public sidewalk or walkway.~~Storm drainage must be managed according to SMC Chapter 13.104 and must not enter the sanitary sewer system.

~~3. Residences, multiple residences, churches, schools, hotels, motels, industrial and commercial buildings, planned developments, hospitals and all similar installations or appurtenances thereto which are being connected to a combined sewer when there is no accessible storm drain: downspouts, storm plumbing outlets, parking lot drainage, unpolluted water and footing drains must be carried in a side sewer pipe separate from the sanitary side sewer pipe to the property line, as designated by the city engineer, and shall be joined with the sanitary side sewer at that point and then connected to the combined sewer; provided, that the city engineer may permit or require storm drainage to discharge upon the surface of a public place or into a natural outlet or dry wells, even though a combined sewer is accessible, when it is planned to provide a storm relief sewer in the vicinity of said combined sewer. The storm side sewer pipe shall be laid as shallow as possible with no more than a four-foot depth beneath the curb elevation, whenever possible. Footing drains are designated as stormwater drains and shall not be connected to a sanitary sewer.~~

B. The city engineer may prescribe the manner in which connections shall be made, and require plans to be submitted for his or her approval prior to the issuance of a permit or the installation of any pipe. (Ord. 2001-015 § 1; Ord. 270 § 3, 1973)

Chapter 13.64

~~STORM DRAINAGE~~(Reserved)

~~Sections:~~

~~13.64.010 Drainage required.~~

~~**13.64.010 Drainage required.**~~

~~Hard-surfaced or graded areas such as parking lots, service station yards and storage yards shall be drained in such a manner as will protect adjacent public and private property from damage and such drainage shall enter the public sewer system or other outlet approved by the city engineer and as required by SMC 13.40.010. Such storm drainage shall not be connected to enter a sanitary sewer. (Ord. 270 § 21, 1973)~~

Division V. Stormwater Management

Chapter 13.104
STORMWATER MANAGEMENT

Sections:

Article I. Findings of Fact, Need and Purpose

13.104.010 Findings of fact.
13.104.020 Need.
13.104.030 Purpose.

Article II. Definitions

13.104.040 Application.

Article III. General Provisions

13.104.050 Abrogation and greater restrictions.
13.104.060 Interpretation.
13.104.065 No liability.

Article IV. Applicability

13.104.070 Conflict.

Article V. Regulated Activities and Allowed Activities

13.104.080 Regulated activities.
13.104.090 Exemptions.

Article VI. General Requirements

13.104.100 Stormwater management manual adopted.
13.104.110 Stormwater best management practices (BMPs).
13.104.120 Illicit discharges.

Article VII. Approval Standards

~~13.104.130 Small parcel minimum requirements.~~
~~13.104.140 Small parcel requirement #1—Construction access route.~~
~~13.104.150 Small parcel requirement #2—Stabilization of denuded areas.~~
~~13.104.160 Small parcel requirement #3—Protection of adjacent properties.~~
~~13.104.170 Small parcel requirement #4—Maintenance.~~
~~13.104.180 Small parcel requirement #5—Other BMPs.~~
~~13.104.190 Large development minimum requirements.~~
~~13.104.200 New development.~~
~~13.104.210 Redevelopment.~~
~~13.104.220 Minimum requirement #1—Erosion and sediment control.~~
~~13.104.230 Minimum requirement #2—Preservation of natural drainage systems.~~
~~13.104.240 Minimum requirement #3—Source control of pollution.~~
~~13.104.250 Minimum requirement #4—Runoff treatment BMPs.~~
~~13.104.260 Minimum requirement #5—Streambank erosion control.~~
~~13.104.270 Minimum requirement #6—Wetlands.~~
~~13.104.280 Minimum requirement #7—Water quality sensitive areas.~~
~~13.104.290 Minimum requirement #8—Off-site analysis and mitigation.~~
~~13.104.300 Minimum requirement #9—Basin planning.~~
~~13.104.310 Minimum requirement #10—Operation and maintenance.~~
~~13.104.320 Minimum requirement #11—Financial liability.~~
13.104.330 Exceptions to ~~stormwater~~ manual.

Article VIII. Administration

13.104.340 Director.
13.104.350 Review and approval.
13.104.360 Enforcement authority.
13.104.370 Construction and installation i~~I~~nspections.

Article IX. Enforcement

13.104.380 General.
13.104.390 Stop work order.
13.104.400 Civil penalty.
13.104.410 Penalties due.
13.104.420 Penalties recovered.

Article X. Exceptions

13.104.430 City council.
13.104.440 Findings of fact.
13.104.450 Prior approval.
13.104.460 Duration of exception.
13.104.470 Right of appeal.

Article I. Findings of Fact, Need and Purpose

13.104.010 Findings of fact.

The city council of the city hereby finds that:

A. Stormwater pollution is a problem associated with land utilization and development and the common occurrence of potential pollutants, particularly ~~such as~~ sediment, metals, pesticides, fertilizers, petroleum products, and pet wastes ~~and numerous others~~.

Land utilization and development is also known to increase both the volume and duration of peak flows. The resulting erosion, scouring, and deposition of sediment affect the ecological balance in the stream or other receiving water body.

Sedimentation and stormwater pollution cause diversity of species to decrease and allows ~~more tolerant (and usually~~ less desirable~~)~~ species to remain.

Stormwater pollution can cause or contribute to closures of shellfish beds and swimming beaches and other restrictions on public use of the waters within the city.

Contaminants introduced on the land surface can leach into ground water with infiltrating stormwater.

B. An expanding population and increased development of land have led to:

Surface and ground ~~W~~water quality degradation through pollutants carried by stormwater including sediments, ~~discharge of~~ nutrients, metals, oils ~~and grease~~, and other contaminants~~toxic materials, and other detrimental substances including, without limitation, insect and weed control compounds~~;~~Drainage and storm and surface water runoff problems~~ localized flooding or ponding and erosion, causing street and other property damage within the city; and ~~P~~public ~~S~~safety hazards and nuisances ~~to both lives and property~~ posed by uncontrolled water runoff on streets and highways.

C. ~~Continuation of present stormwater management practices, to the extent that they exist, will lead to water quality degradation, erosion, property damage, and endanger the health and safety of the inhabitants of the city~~Stormwater is an important source of water which can benefit Sequim and the region if controlled, treated, and managed effectively.

D. ~~In the future such problems and dangers will be reduced or avoided if existing properties and future developers, both private and public, provide for stormwater quality and quantity controls~~The City's stormwater program should follow the goals and implement the activities outlined in the Storm and Surface Water Master Plan adopted by Resolution R2016-09.
~~E. Stormwater quality and quantity controls can be achieved when land is developed or redeveloped by implementing appropriate best management practices (BMPs).~~
E~~F~~. Best management practices can be expected to perform as intended only when properly designed, constructed and maintained. (Ord. 95-003 § 1.1)

13.104.020 Need.
The city council finds that this chapter is necessary in order to:
A. ~~Minimize or eliminate water quality degradation~~Reduce localized flooding or ponding causing street and other property damage.
B. ~~Prevent erosion and sedimentation in creeks, streams, ponds, lakes and other water bodies~~Reduce the level of pollutants carried by stormwater including sediments, nutrients, metals, oils, and other contaminants.
C. Protect property owners adjacent to existing and developing lands from increased runoff rates which could cause erosion~~ of abutting property~~.
D. Preserve and enhance to the extent feasible fish and wildlife habitat and the suitability of waters for contact recreation, fishing, and other beneficial uses.
E. Preserve and enhance to the extent feasible the ~~aesthetic~~ quality of ~~the~~ surface and ground water.
F. Promote sound development policies which respect and preserve city surface water, ground water, drinking water supply and all water resources, and which provide resilience from drought ~~and sediment~~.
G. Ensure the safety of the city roads and rights-of-way.
H. Decrease stormwater-related damage to public and private property from existing and future runoff.
I. ~~To p~~Protect the health, safety and welfare of the inhabitants of the city. (Ord. 95-003 § 1.2)

13.104.030 Purpose.
The provisions of this chapter are intended to guide and advise all who conduct new development or redevelopment within the city. The provisions of this chapter establish the minimum level of compliance which must be met to permit a property to be developed or redeveloped within the city.
It is the purpose of this chapter to:
A. Minimize water quality degradation and sedimentation in streams, ponds, lakes, wetlands and other water bodies, including ground water;
B. Minimize the impact of increased runoff, erosion and sedimentation caused by land development and maintenance practices;
C. Maintain and protect ground water resources;
D. Minimize adverse impacts of alterations on ground and surface water quantities, locations and flow patterns;
E. Decrease potential landslide, flood and erosion damage to public and private property;
F. Promote site planning principles and construction practices that retain native vegetation and minimize impervious surfaces and are consistent with natural topography and hydrologic

conditions to the extent feasibleare consistent with natural topographical, vegetational and hydrological conditions;
G. Maintain and protect the city stormwater management infrastructure and those downstream;
H. Provide a means of rRegulateing clearing and grading of private and public land while minimizing water quality impacts in order to protect public health and safety and water quality; and
I. Provide minimum requirements and best management practices for new development and redevelopment to control the quantity and quality of stormwater runoff to comply with water quality standards and contribute to the protection of beneficial uses of the city's ground and surface water resources. regulations and construction procedures which will preserve, replace or enhance, to the maximum extent practicable, existing vegetation to preserve and enhance the natural qualities of lands, wetlands and water bodies. (Ord. 95-003 § 1.3)

Article II. Definitions

13.104.040 Application.
For the purposes of this chapter, the following definitions shall apply:
1. "American Public Works Association" or "APWA" means the adopted edition of the Washington State Chapter of the American Public Works Association.
12. "Approval" means the proposed work or completed work conforms to this chapter in the opinion of the administrator identified in SMC 13.104.340.
3. "As-graded" means the extent of surface conditions on completion of grading.
4. "Basin plan" means a plan and all implementing regulations and procedures including but not limited to land use management adopted by ordinance for managing surface and stormwater management facilities and features within individual subbasins.
5. "Bedrock" means the more or less solid rock in place either on or beneath the surface of the earth. It may be soft, medium, or hard and have a smooth or irregular surface.
6. "Bench" means a relatively level step excavated into earth material on which fill is to be placed.
27. "Best management practice" or "BMP" means the schedule of activities, prohibition of practices, maintenance procedures, and physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce the release of pollutantsion of and other adverse impacts to waters of Washington State. BMPs are listed and described in the manual as well as in guidance materials available from the City.
8. "Civil engineer" means a professional engineer licensed in the state of Washington who is experienced and knowledgeable in the practice of soils engineering.
9. "Civil engineering" means the application of the knowledge of the forces of nature, principles of mechanics and the properties of materials to the evaluation, design and construction of civil works for the beneficial uses of mankind.
310. "Clearing" means the destruction and removal of vegetation by manual, mechanical, or chemical methods.
411. "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 and retailcommercial 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.

5. "Construction Stormwater Pollution Prevention Plan" (Construction SWPPP) means a document that describes the potential for pollution problems on a construction project and explains and illustrates the measures to be taken on the construction site to control those problems.

~~12. "Compaction" means densification of a fill by mechanical means.~~

~~13. "Critical areas" means, at a minimum, areas which include wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, including unstable slopes, and associated areas and ecosystems.~~

~~14. "Design storm" means a prescribed hyetograph and total precipitation amount (for a specific duration recurrence frequency) used to estimate runoff for a hypothetical storm of interest or concern for the purposes of analyzing existing drainage, designing new drainage facilities or assessing other impacts of a proposed project on the flow of surface water. (A hyetograph is a graph of percentages of total precipitation for a series of time steps representing the total time during which the precipitation occurs.)~~

6~~15~~. "Detention" means the release of stormwater runoff from the site at a slower rate than it is collected by the stormwater facility system, the difference being held in temporary storage.

~~16. "Detention facility" means an above or below ground facility, such as a pond or tank, that temporarily stores stormwater runoff and subsequently releases it at a slower rate than it is collected by the drainage facility system. There is little or no infiltration of stored stormwater.~~

7~~17~~. "Drainage basin" means a geographic and hydrologic subunit of a watershed.

8~~18~~. "Earth material" means any rock, natural soil or fill and/or any combination thereof. Earth material shall not be considered topsoil used for landscape purposes, which shall comply with ASTM specifications.

9~~19~~. "Ecology" means the Washington State Department of Ecology.

~~20. "Engineering geologist" means a geologist experienced and knowledgeable in engineering geology.~~

~~21. "Engineering geology" means the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.~~

10~~22~~. "Erosion" means 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.

11~~23~~. "Excavation" means the mechanical removal of earth material.

~~24. "Existing site conditions" means:~~

~~a. For developed sites with stormwater facilities that have been constructed to meet the standards in the minimum requirements of this manual, existing site conditions shall mean the existing conditions on the site.~~

~~b. For developed sites that do not have stormwater facilities that meet the minimum requirements, existing site conditions shall mean the conditions that existed prior to the city adoption of a stormwater management program. If in question, the existing site conditions shall be documented by aerial photograph records, or other appropriate means.~~

~~c. For all sites in water quality sensitive areas as identified under Minimum Requirement #7, Water Quality Sensitive Areas, existing site conditions shall mean undisturbed forest, for the purpose of calculating runoff characteristics.~~

~~d. For all undeveloped sites outside of water quality sensitive areas, existing site conditions shall mean the existing conditions on the site.~~
~~e. For undeveloped sites or redevelopment of existing sites that have a city-approved development plan or have submitted a complete application for a regulated activity prior to the city adoption of this stormwater management plan shall mean the conditions that existed prior to the city adoption of this stormwater management plan, as amended by the approved development plan; or shall mean the conditions that existed as amended by the approved regulated activity for an application being processed by the city prior to the city adoption of this stormwater management plan. This status for an existing site condition shall be valid for the lessor of the permit duration or two years from the approval date, except subdivisions which shall be three years from the approval date.~~
12~~25~~. "Experimental BMP" means a BMP that has not been tested and evaluated by the Department of Ecology in collaboration with local governments and technical experts.
13~~26~~. "Fill" means a deposit of earth material placed by artificial means.
14. "Flood" means an overflow or inundation that comes from a river or any other source, including (but not limited to) streams, tides, wave action, storm drains, or excess rainfall. Any relatively high stream flow overtopping the natural or artificial banks in any reach of a stream.
15~~27~~. "Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:
a. Road and trail construction.
b. Harvesting, final and intermediate.
c. Precommercial thinning.
d. Reforestation.
e. Fertilization.
f. Prevention and suppression of diseases and insects.
g. Salvage of trees.
h. Brush control.
~~28. "Frequently flooded areas" means the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.~~
~~29. "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake or other geological events, are not suited to the siting of commercial, residential or industrial development consistent with public health or safety concerns.~~
~~30. "Grade" means the slope of a road, channel, or natural ground. The finished surface of a canal bed, roadbed, top of embankment, or bottom of excavation; any surface prepared for the support of construction such as paving or the laying of a conduit.~~
~~a. Existing Grade. The grade prior to grading.~~
~~b. Rough Grade. The stage at which the grade approximately conforms to the approved plan.~~
~~c. Finish Grade. The final grade of the site which conforms to the approved plan.~~
~~31. "Gradient terrace" means an earth embankment or a ridge-and-channel constructed with suitable spacing and an acceptable grade to reduce erosion damage by intercepting surface runoff and conducting it to a stable outlet at a stable nonerosive velocity.~~
~~32. (To) "Grade" means to finish the surface of a canal bed, roadbed, top of embankment or bottom of excavation.~~
16~~33~~. "Ground water" means water in a saturated zone or stratum beneath the land surface ~~of land~~ or a surface water body.
17. "Hard surface" means an impervious surface, a permeable pavement, or a vegetated roof.

~~34. "Hydroperiod" means the seasonal occurrence of flooding and/or soil saturation; it encompasses depth, frequency, duration, and seasonal pattern of inundation.~~
18. "Illicit discharge" means all non-stormwater discharges to stormwater drainage systems that cause or contribute to a violation of state water quality, sediment quality or ground water quality standards, including but not limited to sanitary sewer connections, industrial process water, interior floor drains, car washing and greywater systems.
19~~35~~. "Impervious surface" means a ~~hard~~ non-vegetated surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development.~~, and/or a hard~~ A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purposes of determining whether the thresholds for application of minimum requirements area exceeded. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of runoff modeling.
20. "Infiltration" means the downward movement of water from the land surface to the subsoil.
~~36~~15. ~~"Illicit discharge" means all nonstormwater discharges to stormwater drainage systems that cause or contribute to a violation of state water quality, sediment quality or ground water quality standards, including but not limited to sanitary sewer connections, industrial process water, interior floor drains, car washing and greywater systems.~~
21~~37~~. "Interflow" means that portion of rainfall that infiltrates into the soil and moves laterally through the upper soil horizons until intercepted by a stream channel or until it returns to the surface, for example, in a roadside ditch, wetland, spring or seep. Interflow is a function of the soil system depth, permeability, and water-holding capacity.
22~~38~~. "Land disturbing activity" 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 and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land-disturbing activity. Stormwater facility maintenance is not considered land disturbing if conducted according to established standards and procedures.
~~39. "Large parcel erosion and sediment control plan" or "large parcel ESC plan" means a plan to implement BMPs to control pollution generated during land disturbing activity. Guidance for preparing a large parcel ESC plan is contained in the manual.~~
23~~40~~. "Mitigation" means, in the following order of preference:
a. Avoiding the impact altogether by not taking a certain action or part of an action;
b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
c. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and
e. Compensating~~on~~ for the impact by replacing, enhancing, or providing substitute resources or environments.
~~41. "Natural location" means the location of those channels, swales, and other nonmanmade conveyance systems as defined by the first documented topographic contours existing for the subject property, either from maps or photographs, or such other means as appropriate.~~

2442. "New development" means the following activities: land disturbing activities, including Class IV–general forest practices that are conversions from timber land to other uses; structural development, including construction, or installation or expansion of a building or other structure; creation of impervious hard surfaces; Class IV – general forest practices that are conversions from timber land to other uses; and subdivision, and short subdivision and binding site plans of land as defined and applied in RCW Chapter 58.17.020 RCW. All other forest practices and commercial agriculture are Projects meeting the definition of redevelopment shall not be considered new development.

2514143. "Permanent Sstormwater quality Ceontrol Plan (PSQCPSCP) plan" means a plan which includes permanent facilities and BMPs for the control of runoff and pollution from stormwater runoff after construction and/or land disturbing activity has been completed. For small sites, this requirement is met by implementing a small parcel erosion and sediment control plan. Guidance on preparing a PSQC plan is contained in the manual.

2644. "Person" means any individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, agency of the state, or local government unit, however designated.

2745. "Pollution" means contamination or other alteration of the physical, chemical, or biological properties, of waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

28. "Receiving waterbody" means naturally occurring and/or reconstructed surface water bodies, such as creeks, streams, rivers, lakes, wetlands, estuaries, and marine waters, or groundwater, to which a stormwater drainage system discharges.

2946. "Redevelopment" means, on an site that is already substantially developed site (i.e., has 35% of more of existing hard surface coverage), the creation or addition of impervious hard surfaces;, the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure;, and/or replacement of impervious hard surface that is not part of a routine maintenance activity;, and land disturbing activities associated with structural or impervious redevelopment.

30. "Retention" means the process of collecting and holding surface water and stormwater runoff with no surface outflow.

31. "Runoff" means water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, puddles, lakes and wetlands as well as shallow ground water.

47. "Regional retention/detention system" means a stormwater quantity control structure designed to correct existing excess surface water runoff problems of a basin or subbasin. The area downstream has been previously identified as having existing or predicted significant and regional flooding and/or erosion problems. This term is also used when a detention facility is used to detain stormwater runoff from a number of different businesses, developments or areas within a catchment.

48. "Retention/detention facility (R/D)" means a type of drainage facility designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration,

~~and/or infiltration into the ground; or to hold surface and stormwater runoff for a short period of time and then release it to the surface and stormwater management system.~~

32~~49~~. "Site" means the area defined by the legal boundaries of a parcel or parcels of land that is (are) ~~portion of a piece of property which is directly~~ subject to new development or redevelopment. For road projects, the length of the project site and the right-of-way boundaries define the site.

~~50. "Slope" means the degree of deviation of a surface from the horizontal; measured as a numerical ratio, percent, or in degrees. Expressed as a ratio, the first number is the horizontal distance (run) and the second is the vertical distance (rise), as 2:1. A 2:1 slope is a 50 percent slope. Expressed in degrees, the slope is the angle from the horizontal plane, with a 90° slope being vertical (maximum) and 45° being a 1:1 or 100 percent slope.~~

~~51. "Small parcel erosion and sediment control plan" or "small parcel ESC plan" means a plan for small sites to implement temporary BMPs to control pollution generated during the construction phase only, primarily erosion and sediment. Guidance for preparing a small parcel ESC plan is contained in the manual.~~

33~~52~~. "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.

~~53. "Source control BMP" means a BMP that is intended to prevent pollutants from entering stormwater. A few examples of source control BMPs are erosion control practices, maintenance of stormwater facilities, constructing roofs over storage and working areas, and directing wash water and similar discharges to the sanitary sewer or a dead end sump.~~

34~~54~~. "Stormwater" means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, ~~channels or~~ pipes and other features into a defined surface water body ~~channel~~, or a constructed infiltration facility.

35~~55~~. "Stormwater drainage system" means constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat or filter stormwater.

36~~56~~. "Stormwater facility" means a constructed component of a stormwater drainage system, designed or constructed to perform a particular function, or multiple functions. Stormwater facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, constructed wetlands, infiltration devices, catchbasins, oil/water separators, permeable pavement, ~~sediment basins~~ biofiltration swales and bioretention systems~~modular pavement~~.

37~~57~~. "Stormwater Management Manual" or "manual" means the stormwater design, management, and maintenance guidance manual ~~Stormwater Management Manual for the Puget Sound Basin, adopted by reference and prepared by Ecology and~~ named in SMC 13.104.100~~, that contains BMPs to prevent or reduce pollution~~.

38~~58~~. "Stormwater site plan" means the comprehensive report containing all of the technical information and analysis necessary for regulatory agencies to evaluate a proposed new development or redevelopment project for compliance with stormwater requirements. Contents of the Stormwater Site Plan will vary with the type and size of the project, and individual site characteristics. It includes a~~n~~ Construction Stormwater Pollution Prevention Plan (Construction SWPPP) ~~erosion and sediment control (ESC) plan~~ and~~/or~~ a ~~p~~Permanent ~~s~~Stormwater ~~quality~~ Ceontrol P~~p~~lan (PSCP~~PSQCP~~). ~~For small sites, this plan is the equivalent of a small parcel erosion and sediment control plan.~~ Guidance on preparing a stormwater site plan is contained in the manual.

~~59. "Toe of slope" means a point or line of slope in an excavation or cut where the lower surface changes to horizontal or meets the exiting ground slope.~~
~~60. "Top of slope" means a point or line on the upper surface of a slope where it changes to horizontal or meets the original surface.~~
~~61. "Treatment BMP" means a BMP that is intended to remove pollutants from stormwater. A few examples of treatment BMPs are detention ponds, oil/water separators, biofiltration swales and constructed wetlands.~~
~~62. "Unstable slopes" means those sloping areas of land which have in the past exhibited, are currently exhibiting, or will likely in the future exhibit, mass movement of earth.~~
39. "Vegetation" means all organic plant life growing on the surface of the earth.
40~~63~~. "Water body" means surface waters including rivers, streams, lakes, marine waters, estuaries, and wetlands.
~~64. "Watershed" means a geographic region within which water drains into a particular river, stream, or body of water as identified and numbered by the State of Washington Water Resource Inventory Areas (WRIAs) as defined in Chapter 173-500 WAC.~~
41~~65~~. "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. ~~This includes wetlands created, restored or enhanced as part of a mitigation procedure. This~~ Wetlands do~~es~~ not include those ~~constructed~~ artificial wetlands ~~or the following surface waters of the state~~ intentionally ~~constructed~~ created from non-wetland sites, ~~that are not wetlands:~~ including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, ~~agricultural~~ detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. ~~This includes w~~Wetlands may include those artificial wetlands intentionally created~~, restored or enhanced as part of a~~ from non-wetland areas to mitigate~~ion procedure~~the conversion of wetlands.
~~66. "Vegetation" means all organic plant life growing on the surface of the earth.~~ (Ord. 95-003 § 2)

Article III. General Provisions

13.104.050 Abrogation and greater restrictions.

It is not intended that this chapter repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. (Ord. 95-003 § 3.1) Where the Manual specified in SMC 13.104.100 is more restrictive than provisions of SMC Chapter 13.104, the Manual shall control, except for amendments specified in SMC 13.104 Article VII. This Chapter requires compliance with all applicable provisions of the Manual specified in SMC 13.104.100, except amendments specified in SMC 13.104 Article VII.

13.104.060 Interpretation.

The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this chapter. (Ord. 95-003 § 3.2)

13.104.065 No liability.
A. Administration of this chapter shall not be construed to impose or create a basis for any liability on the part of the City, its appointed and elected officials, officers, agents, or employees, nor shall this chapter be construed to create any special relationship with or otherwise protect any specific person or class of persons.

B. The City is not responsible for the accuracy of plans (preliminary or final) submitted for approval. The City expressly disclaims any responsibility for design or implementation of a drainage plan. The design and implementation of a drainage plan is the responsibility of the person or firm submitting the application.

Article IV. Applicability

13.104.070 Conflict.
When any provision of any other ordinance of the city conflicts with this chapter, that which provides more environmental protection shall apply unless specifically provided otherwise in this chapter. The public works director or his/her designee is authorized to adopt written procedures for the purpose of carrying out the provisions of this chapter. Prior to fulfilling the requirements of this chapter, the city shall not grant any approval or permission to conduct a regulated activity including but not limited to the following:
A. Building permit, commercial or residential; conditional use permit; franchise right-of-way construction permit; grading and clearing permit; master plan development; ~~planned unit development;~~ right-of-way permit; shoreline substantial development permit; shoreline variance; shoreline conditional use permit; shoreline environmental redesignation; unclassified use permit; variance; zone reclassification; subdivision; short subdivision; special use permit; utility and other use permit; zone reclassification; or any subsequently adopted permit or required approval not expressly exempted by this chapter.
B. Regulated activities shall be conducted only after the public works director approves a S~~s~~tormwater ~~s~~Site ~~p~~Plan which includes ~~one or more of~~ the following as required or excepted by this chapter:
~~A~~1. ~~Small parcel erosion and sediment control plan~~Construction Stormwater Pollution Prevention Plan (SWPPP);
~~B. Large parcel erosion and sediment control plan;~~
~~B~~2~~C~~. Permanent ~~s~~Stormwater ~~quality c~~Control Plan (PSCP~~PSQC) plan~~. (Ord. 95-003 § 4)

Article V. Regulated Activities and Allowed Activities

13.104.080 Regulated activities.
Consistent with the ~~minimum~~ requirements contained in this chapter, the public works director or his/her designee shall approve or disapprove the following activities, unless exempted in SMC 13.104.090 below:
A. New Development.
1. Land disturbing activities;

2. Structural development, including construction; installation or expansion of a building or other structure;
3. Creation of impervious surfaces;
4. Class IV general forest practices that are conversions from timber land to other uses;
5. Subdivision, short subdivision and binding site plans, as defined in RCW 58.17.020.
B. Redevelopment.
1. On an already developed site, the creation or addition of impervious surfaces, structural development including construction, installation or expansion of a building or other structure, land disturbing activity, and/or replacement of impervious surface that is not part of a routine maintenance activity, and land disturbing activities associated with structural or impervious redevelopment. (Ord. 95-003 § 5.1)

13.104.090 Exemptions.
All new development and redevelopment is subject to the minimum requirements of this chapter, except the following activities, which are exempt:
A. Commercial agriculture, and forest practices regulated under Title 222 WAC, except for Class IV general forest practices that are conversions from timber land to other uses.
B. Development undertaken by the Washington State Department of Transportation in state highway rights-of-way regulated by Chapter 173-270 WAC, the Puget Sound Highway Runoff Program.
~~C. Completion of existing one-half developed streets to city standards are except from Minimum Requirement #4 only.~~ (Ord. 95-003 § 5.2)

Article VI. General Requirements

13.104.100 Stormwater management manual adopted.
The ~~latest~~ 2012 (as amended in 2014) edition of Ecology's Stormwater Management Manual for Western Washington is hereby adopted by reference and is hereinafter referred to as the manual. (Ord. 95-003 § 6.1)

13.104.110 Stormwater best management practices (BMPs).
General: BMPs shall be used to control pollution from stormwater. BMPs shall be used to comply with the standards in this chapter. BMPs are in the manual.
Experimental BMPs: In those instances where appropriate BMPs are not in the manual, experimental BMPs should be considered. Experimental BMPs are encouraged as a means of solving problems in a manner not addressed by the manual in an effort to improve stormwater ~~quality~~ management technology. Experimental BMPs must be approved in accordance with the approval process outlined in the manual. (Ord. 95-003 § 6.2)

13.104.120 Illicit discharges.
Illicit discharges to stormwater drainage systems are prohibited. (Ord. 95-003 § 6.3)

Article VII. Approval Standards

For specific details, refer to manual named in SMC 13.104.100.

~~13.104.130 Small parcel minimum requirements.~~

~~The following new development shall be required to control erosion and sediment during construction, to permanently stabilize soil exposed during construction, to comply with Small Parcel Requirements 1 through 5 (SMC 13.104.140 through 13.104.180) below:~~

~~A. Individual, detached, single-family residences and duplexes.~~

~~B. Creation or addition of less than 5,000 square feet of impervious surface area.~~

~~C. Land disturbing activities of less than one acre.~~

~~Compliance shall be demonstrated through the implementation of an approved small parcel erosion and sediment control plan. (Ord. 95-003 § 7.1)~~

~~13.104.140 Small parcel requirement #1 – Construction access route.~~

~~Construction vehicle access shall be, whenever possible, limited to one route. Access points shall be stabilized with quarry spell or crushed rock to minimize the tracking of sediment onto public roads. (Ord. 95-003 § 7.1.1)~~

~~13.104.150 Small parcel requirement #2 – Stabilization of denuded areas.~~

~~Soil Stabilization. All exposed soils shall be stabilized by suitable application of BMPs, including but not limited to sod or other vegetation, plastic covering, mulching, or application of ground base on areas to be paved. All BMPs shall be selected, designed and maintained in accordance with an approved manual. From October 15th through March 31st, no soils shall remain exposed for more than two days. From April 1st through October 14th, no soils shall remain exposed for more than seven days. (Ord. 95-003 § 7.1.2)~~

~~13.104.160 Small parcel requirement #3 – Protection of adjacent properties.~~

~~Adjacent properties shall be protected from sediment deposition by appropriate use of vegetative buffer strips, sediment barriers or filters, dikes or mulching, or by a combination of these measures and other appropriate BMPs. (Ord. 95-003 § 7.1.3)~~

~~13.104.170 Small parcel requirement #4 – Maintenance.~~

~~All erosion and sediment control BMPs shall be regularly inspected and maintained to ensure continued performance of their intended function. (Ord. 95-003 § 7.1.4)~~

~~13.104.180 Small parcel requirement #5 – Other BMPs.~~

~~As required by the local plan approval authority, other appropriate BMPs to mitigate the effects of increased runoff shall be applied. (Ord. 95-003 § 7.1.5)~~

~~13.104.190 Large development minimum requirements.~~

~~13.104.200 New development.~~

~~A. All new development that includes the creation or addition of 5,000 square feet, or greater, of new impervious surface area, and/or land disturbing activity of one acre or greater, shall comply with Minimum Requirements #1 through #11 in SMC 13.104.220 through 13.104.320.~~

~~Compliance shall be demonstrated through the implementation of an approved stormwater site plan consisting of a large parcel ESC plan and a PSQC plan, as appropriate.~~

~~B. All new development that includes the creation or addition of 5,000 square feet, or greater, of new impervious surface area, and land disturbing activity of less than one acre, shall comply with Minimum Requirements #2 through #11 in SMC 13.104.230 through 13.104.320 and the small parcel minimum requirements found in SMC 13.104.130 through 13.104.180 above.~~

~~Compliance shall be demonstrated through the implementation of an approved stormwater site plan that includes a small parcel erosion and sediment control plan and a PSQC plan.~~

~~This section does not apply to the construction of individual, detached, single-family residences and duplexes. Those types of new development are included in the small parcel minimum requirements. (Ord. 95-003 § 7.2.1)~~

~~13.104.210 Redevelopment.~~

~~A. Where redevelopment of ≥5,000 square feet occurs:~~
~~New development Minimum Requirements #1 through #11 in SMC 13.104.220 through 13.104.320, shall apply to that portion of the site that is being redeveloped, and source control BMPs shall be applied to the entire site, including adjoining parcels if they are part of the project.~~
~~B. In addition to the above requirements, where one or more of the following conditions apply, a stormwater management plan shall be prepared that includes a schedule for implementing the minimum requirements to the maximum extent practicable, for the entire site, including adjoining parcels if they are part of the project. An adopted and implemented basin plan (Minimum Requirement #9) may be used to develop redevelopment requirements that are tailored to a specific basin.~~
~~1. Existing sites greater than one acre in size with 50 percent or more impervious surface.~~
~~2. Sites that discharge to a receiving water that has a documented water quality problem. Subject to local priorities, a documented water quality problem includes but is not limited to water bodies:~~
~~a. Listed in reports required under Section 305(b) of the Clean Water Act, and designated as not supporting beneficial uses;~~
~~b. Listed under Section 304(I)(1) (A)(i), 304(I)(1)(A)(ii), or 304(I)(1)(B) of the Clean Water Act as not expected to meet water quality standards or water quality goals;~~
~~c. Listed in Washington State's Nonpoint Source Assessment required under Section 319(a) of the Clean Water Act that, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain water quality standards.~~
~~3. Sites where the need for additional stormwater control measures have been identified through a basin plan, the watershed ranking process under Chapter 400-12 WAC, or through Growth Management Act planning. (Ord. 95-003 § 7.2.2)~~
~~**13.104.220 Minimum requirement #1 – Erosion and sediment control.**~~
~~All new development and redevelopment that includes land disturbing activities of ≥ one acre shall comply with Erosion and Sediment Control Requirements #1 through #14, below. Compliance with the Erosion and Sediment Control Requirements shall be demonstrated through implementation of an approved large parcel erosion and sediment control plan.~~
~~The following erosion and sediment control requirements shall be met:~~
~~A. Erosion and Sediment Control Requirement #1: Stabilization and Sediment Trapping. All exposed and unworked soils shall be stabilized by suitable application of BMPs. From October 15th to March 31st, no soils shall remain unstabilized for more than two days. From April 1st to October 14th, no soils shall remain unstabilized for more than seven days. Prior to leaving the site, stormwater runoff shall pass through a sediment pond or sediment trap, or other appropriate BMPs.~~
~~B. Erosion and Sediment Control Requirement #2: Delineate Clearing and Easement Limits. In the field, mark clearing limits and/or any easements, setbacks, sensitive/critical areas and their buffers, trees and drainage courses.~~
~~C. Erosion and Sediment Control Requirement #3: Protection of Adjacent Properties. Properties adjacent to the project site shall be protected from sediment deposition.~~
~~D. Erosion and Sediment Control Requirement #4: Timing and Stabilization of Sediment Trapping Measures. Sediment ponds and traps, perimeter dikes, sediment barriers, and other BMPs intended to trap sediment on-site shall be constructed as a first step in grading.~~

~~These BMPs shall be functional before land disturbing activities take place. Earthen structures such as dams, dikes, and diversions shall be seeded and mulched according to the timing indicated in Erosion and Sediment Control Requirement #1.~~

~~E. Erosion and Sediment Control Requirement #5: Cut and Fill Slopes. Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion. In addition, slopes shall be stabilized in accordance with Erosion and Sediment Control Requirement #1.~~

~~F. Erosion and Sediment Control Requirement #6: Controlling Off-Site Erosion. Properties and waterways downstream from development sites shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of stormwater runoff from the project site.~~

~~G. Erosion and Sediment Control Requirement #7: Stabilization of Temporary Conveyance Channels and Outlets. All temporary on-site conveyance channels shall be designed, constructed and stabilized to prevent erosion from the expected velocity of flow from a two-year, 24-hour frequency storm for the developed condition. Stabilization adequate to prevent erosion of outlets, adjacent streambanks, slopes and downstream reaches shall be provided at the outlets of all conveyance systems.~~

~~H. Erosion and Sediment Control Requirement #8: Storm Drain Inlet Protection. All storm drain inlets made operable during construction shall be protected so that stormwater runoff shall not enter the conveyance system without first being filtered or otherwise treated to remove sediment.~~

~~I. Erosion and Sediment Control Requirement #9: Underground Utility Construction. The construction of underground utility lines shall be subject to the following criteria:~~

~~1. Where feasible, no more than 500 feet of trench shall be opened at one time.~~

~~2. Where consistent with safety and space considerations, excavated material shall be placed on the uphill side of trenches.~~

~~3. Trench dewatering devices shall discharge into a sediment trap or sediment pond.~~

~~J. Erosion and Sediment Control Requirement #10: Construction Access Routes. Wherever construction vehicle access routes intersect paved roads, provisions must be made to minimize the transport of sediment (mud) onto the paved road. If sediment is transported onto a road surface, the roads shall be cleaned thoroughly at the end of each day. Sediment shall be removed from roads by shoveling or sweeping and be transported to a controlled sediment disposal area. Street washing shall be allowed only after sediment is removed in this manner.~~

~~K. Erosion and Sediment Control Requirement #11: Removal of Temporary BMPs. All temporary erosion and sediment control BMPs shall be removed within 30 days after final site stabilization is achieved or after the temporary BMPs are no longer needed. Trapped sediment shall be removed or stabilized on site. Disturbed soil areas resulting from removal shall be permanently stabilized.~~

~~L. Erosion and Sediment Control Requirement #12: Dewatering Construction Sites. Dewatering devices shall discharge into a sediment trap or sediment pond.~~

~~M. Erosion and Sediment Control Requirement #13: Control of Pollutants Other Than Sediment on Construction Site. All pollutants other than sediment that occur on-site during construction shall be handled and disposed of in a manner that does not cause contamination of stormwater.~~

~~N. Erosion and Sediment Control Requirement #14: Maintenance. All temporary and permanent erosion and sediment control BMPs shall be maintained and repaired as needed to assure continued performance of their intended function. All maintenance and repair shall be conducted in accordance with an approved manual.~~

~~O. Erosion and Sediment Control Requirement #15: Financial Liability. Performance bonding, or other appropriate financial instruments, shall be required for all projects to ensure compliance with the approved erosion and sediment control plan. (Ord. 95-003 § 7.2.3)~~

~~**13.104.230 Minimum requirement #2 – Preservation of natural drainage systems.**~~
~~Natural drainage patterns shall be maintained, and discharges from the site shall occur at the natural location to the maximum extent practicable. (Ord. 95-003 § 7.2.4)~~
~~**13.104.240 Minimum requirement #3 – Source control of pollution.**~~
~~Source control BMPs shall be applied to all projects to the maximum extent practicable. Source control BMPs shall be selected, designed, and maintained according to an approved manual. An adopted and implemented basin plan (Minimum Requirement #9) may be used to develop source control requirements that are tailored to a specific basin, however, in all circumstances, source control BMPs shall be required for all sites. (Ord. 95-003 § 7.2.5)~~
~~**13.104.250 Minimum requirement #4 – Runoff treatment BMPs.**~~
~~All projects shall provide treatment of stormwater. Treatment BMPs shall be sized to capture and treat the water quality design storm, defined as the six-month, 24-hour return period storm. The first priority for treatment shall be to infiltrate as much as possible of the water quality design storm, only if site conditions are appropriate and ground water quality will not be impaired. Direct discharge of untreated stormwater to ground water is prohibited. All treatment BMPs shall be selected, designed, and maintained according to an approved manual.~~
~~Stormwater treatment BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the local government.~~
~~An adopted and implemented basin plan (Minimum Requirement #9) may be used to develop runoff treatment requirements that are tailored to a specific basin. (Ord. 95-003 § 7.2.6)~~
~~**13.104.260 Minimum requirement #5 – Streambank erosion control.**~~
~~The requirement below applies only to situations where stormwater runoff is discharged directly or indirectly to a stream, and must be met in addition to meeting the requirements in Minimum Requirement #4, Runoff Treatment BMPs:~~
~~Stormwater discharges to streams shall control streambank erosion by limiting the peak rate of runoff from individual development sites to 50 percent of the existing condition two-year, 24-hour design storm while maintaining the existing condition peak runoff rate for the 10-year, 24-hour and 100-year, 24-hour design storms. As the first priority, streambank erosion control BMPs shall utilize infiltration to the fullest extent practicable, only if site conditions are appropriate and ground water quality is protected. Streambank erosion control BMPs shall be selected, designed, and maintained according to an approved manual.~~
~~Stormwater treatment BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the local government.~~
~~An adopted and implemented basin plan (Minimum Requirement #9) may be used to develop streambank erosion control requirements that are tailored to a specific basin. (Ord. 95-003 § 7.2.7)~~
~~**13.104.270 Minimum requirement #6 – Wetlands.**~~
~~The requirements below apply only to situations where stormwater discharges directly or indirectly through a conveyance system into a wetland, and must be met in addition to meeting the requirements in Minimum Standard #4, Runoff Treatment BMPs.~~
~~A. Stormwater discharges to wetlands must be controlled and treated to the extent necessary to meet the State Water Quality Standards, Chapter 173-201 WAC, or Ground Water Quality Standards, Chapter 173-200 WAC, as appropriate.~~
~~B. Discharges to wetlands shall maintain the hydroperiod and flows of existing site conditions to the extent necessary to protect the characteristic uses of the wetland. Prior to discharging to a wetland, alternative discharge locations shall be evaluated, and natural water storage and infiltration opportunities outside the wetland shall be maximized.~~

~~C. Created wetlands that are intended to mitigate for loss of wetland acreage, function and value shall not be designed to also treat stormwater.~~

~~D. In order for constructed wetlands to be considered treatment systems, they must be constructed on sites that are not wetlands and they must be managed for stormwater treatment. If these systems are not managed and maintained in accordance with an approved manual for a period exceeding three years these systems may no longer be considered constructed wetlands. Discharges from constructed wetlands to waters of the state (including discharges to natural wetlands) are regulated under Chapter 90.48 RCW, Chapter 173-201 WAC, and Chapter 173-200 WAC.~~

~~E. Stormwater treatment BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the local government.~~

~~An adopted and implemented basin plan (Minimum Requirement #9) may be used to develop requirements for wetlands that are tailored to a specific basin. (Ord. 95-003 § 7.2.8)~~

~~13.104.280 Minimum requirement #7 – Water quality sensitive areas.~~

~~Where local governments determine that the minimum requirements do not provide adequate protection of water quality sensitive areas, either on-site or within the basin, more stringent controls shall be required to protect water quality.~~

~~Stormwater treatment BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the local government.~~

~~An adopted and implemented basin plan (Minimum Requirement #9) may be used to develop requirements for water quality sensitive areas that are tailored to a specific basin. (Ord. 95-003 § 7.2.9)~~

~~13.104.290 Minimum requirement #8 – Off-site analysis and mitigation.~~

~~All development projects shall conduct an analysis of off-site water quality impacts resulting from the project and shall mitigate these impacts. The analysis shall extend a minimum of one-fourth of a mile downstream from the project. The existing or potential impacts to be evaluated and mitigated shall include, at a minimum, but not be limited to:~~

~~A. Excessive sedimentation;~~

~~B. Streambank erosion;~~

~~C. Discharges to ground water contributing to recharge zones;~~

~~D. Violations of water quality standards;~~

~~E. Spills and discharges of priority pollutants. (Ord. 95-003 § 7.2.10)~~

~~13.104.300 Minimum requirement #9 – Basin planning.~~

~~Adopted and implemented watershed-based basin plans may be used to modify any or all of the minimum requirements; provided that the level of protection for surface or ground water achieved by the basin plan will equal or exceed that which would be achieved by the minimum requirements in the absence of a basin plan. Basin plans shall evaluate and include, as necessary, retrofitting of BMPs for existing development and/or redevelopment in order to achieve watershed-wide pollutant reduction goals. Standards developed from basin plans shall not modify any of the above requirements until the basin plan is formally adopted and fully implemented by local government.~~

~~Basin plans shall be developed according to an approved manual. (Ord. 95-003 § 7.2.11)~~

~~13.104.310 Minimum requirement #10 – Operation and maintenance.~~

~~An operation and maintenance schedule shall be provided for all proposed stormwater facilities and BMPs, and the party (or parties) responsible for maintenance and operation shall be identified. (Ord. 95-003 § 7.2.12)~~

~~13.104.320 Minimum requirement #11 – Financial liability.~~

~~Performance bonding or other appropriate financial instruments shall be required for all projects to ensure compliance with these standards. (Ord. 95-003 § 7.2.13)~~

13.104.330 Exceptions to the ~~stormwater~~ manual.

Physical conditions including well-drained soils found in the central Sequim area, combined with the desirability of infiltration in recharging groundwater supplies and protecting surface water quality, merit special consideration for stormwater management.

A. For Building Permit applicants for "small" and "very small" projects (as defined in City stormwater guidance), when the subject property is at least 90% located within USDA soil type 6/Carlsborg or 63/Sequim, the proposed land use does not involve storage of hazardous materials, and where plat notes don't otherwise provide specificity, the following options are available to such applicants at their own risk:

1. Such applicants are not required to conduct infiltration testing related to feasibility criteria found in the manual.
2. Such applicants may choose from the manual's on-site stormwater management BMP lists which method to implement and are not required to follow a prioritized flowchart found in the manual.

B. For any application involving off-site release of runoff, the City requires optional guidance contained in the ~~stormwater~~ manual regarding off-site analysis and mitigation.

~~Exceptions to Minimum Requirements #1 through #11 may be granted prior to permit approval and construction. An exception may be granted following a public hearing; provided that a written finding of fact is prepared that addresses the following:~~

~~A. The exception provides equivalent environmental protection and is in the overriding public interest; and that the objectives of safety, function, environmental protection and facility maintenance, based upon sound engineering, are fully met;~~

~~B. That there are special physical circumstances or conditions affecting the property such that the strict application of these provisions would deprive the applicant of all reasonable use of the parcel of land in question, and every effort to find creative ways to meet the intent of the minimum standards has been made;~~

~~C. That the granting of the exception will not be detrimental to the public health and welfare, nor injurious to other properties in the vicinity and/or downstream, and to the quality of waters of the state; and~~

~~D. The exception is the least possible exception that could be granted to comply with the intent of the minimum requirements.~~ (Ord. 95-003 § 7.2.14)

Article VIII. Administration

13.104.340 Director.

The public works director or a designee shall administer this chapter and shall be referred to as the director. The director shall have the authority to develop and implement administrative procedures to administer and enforce this chapter. (Ord. 95-003 § 8.1)

13.104.350 Review and approval.

The director may approve, conditionally approve or deny an application for activities regulated by this chapter. (Ord. 95-003 § 8.2)

13.104.360 Enforcement authority.

The director shall enforce this chapter. (Ord. 95-003 § 8.3)

13.104.370 Construction and installation ~~I~~nspections.
All activities regulated by this chapter, except those exempt in SMC 13.104.090, shall be inspected by or reported in a timely fashion to the director, using checklists provided by the city. ~~The director shall inspect~~ Pprojects shall be inspected at various stages ~~of the work requiring approval~~ to determine that adequate control is being exercised and enforcement actions taken as necessary. ~~Stages of work requiring~~ These inspections will include, but ~~are~~ not be limited to, the following:

1. Prior to site clearing and construction to assess site erosion potential~~preconstruction~~;
2. During construction to verify proper installation and maintenance of required erosion and sediment control BMPs and other approved plan components~~;~~ ~~land disturbing activities;~~ such as installation of utilities, landscaping, and retaining walls; ~~and~~
3. Upon completion of ~~project~~construction and prior to final approval to ensure proper installation of permanent stormwater facilities and verify that a maintenance plan is completed and responsibility for maintenance is assigned for stormwater facilities. When required by the director, a special inspection and/or testing shall be performed.
4. All permanent stormwater facilities after final approval, to ensure system performance, once during winter (January-March) and once during summer (July-September) until 90 percent of the lots are constructed (or when construction is stopped and the site is fully stabilized) to identify maintenance needs and enforce compliance with maintenance standards as needed. (Ord. 95-003 § 8.4)

Article IX. Enforcement [REFERRED TO CODE EVALUATION IN 2017]

13.104.380 General.
Enforcement action shall be in accordance with this chapter whenever a person has violated any provision of this chapter. The choice of enforcement action and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the degree of bad faith of the person subject to the enforcement action. (Ord. 95-003 § 9.1)

13.104.390 Stop work order.
The director shall have the authority to serve a person a stop work order if an action is being undertaken in violation of this chapter.
A. Content of Order. The order shall contain:
1. A description of the specific nature, extent, and time of violation and the damage or potential damage; and
2. A notice that the violation or the potential violation cease and desist and, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty under SMC 13.104.400 through 13.104.420 below may be issued with the order.
B. Notice. A stop work order shall be imposed by a notice in writing, either by certified mail with return receipt requested, or by personal service, to the person incurring the same.
C. Effective Date. The stop work order issued under this section shall become effective immediately upon receipt by the person to whom the order is directed.
D. Compliance. Failure to comply with the terms of a stop work order shall result in enforcement actions including, but not limited to, the issuance of a civil penalty. (Ord. 95-003 § 9.2)

13.104.400 Civil penalty.

A person who fails to comply with the requirements of this chapter, who fails to conform to the terms of an approval or order issued, who undertakes new development without first obtaining city approval, or who fails to comply with a stop work order issued under these regulations shall be subject to a civil penalty.

A. Amount of Penalty. The penalty shall be $100.00 for each violation. Each day of continued violation or repeated violation shall constitute a separate violation.

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

C. Notice of Penalty. A civil penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the city/county. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist and, in appropriate cases, require necessary corrective action within a specific time.

D. Application for Remission or Mitigation. Any person incurring a penalty may apply in writing within 10 days of receipt of the penalty to the city/county for remission or mitigation of such penalty. Upon receipt of the application, the city council may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty.

E. Appeal of Civil Penalty. Persons incurring a penalty imposed by the director may appeal in writing within 10 days of the receipt of the penalty to the city council. The city council decision may be appealed to the Supreme Court within 10 days of the decision. (Ord. 95-003 § 9.3)

13.104.410 Penalties due.

Penalties imposed under this section shall become due and payable 30 days after receiving it unless application for remission or mitigation is made or an appeal is filed. Whenever an application for remission or mitigation is made, penalties shall become due and payable 30 days after receipt of the decision regarding the remission or mitigation. Whenever an appeal of a penalty is filed, the penalty shall become due and payable after all review proceedings and a final decision has been issued confirming all or part of the penalty. If the amount of a penalty owed the city/county is not paid within the time specified, the city/county may take actions necessary to recover such penalty. (Ord. 95-003 § 9.3.1)

13.104.420 Penalties recovered.

Penalties recovered shall be paid to a fund dedicated to enforcement and/or enhancement of the stormwater management program. (Ord. 95-003 § 9.3.2)

Article X. Exceptions

13.104.430 City council.

After a public hearing, the city council may grant an exception from the requirements of this chapter. In granting any exception, the city council may prescribe conditions that are deemed necessary or desirable for the public interest and consistent with the ~~adopted~~ Manual ~~as set forth below~~. (Ord. 95-003 § 10.1)

13.104.440 Findings of fact.

Exceptions to ~~Minimum Requirements #1 through #11~~ this chapter may be granted prior to permit approval and construction. An exception may be granted following a public hearing; provided that a written finding of fact is prepared that addresses the following:

A. The exception provides equivalent environmental protection and is in the overriding public interest; and that the objectives of safety, function, environmental protection and facility maintenance, based upon sound engineering, are fully met;

B. That there are special physical circumstances or conditions affecting the property such that the strict application of these provisions would deprive the applicant of all reasonable use of the parcel of land in question, and every effort to find creative ways to meet the intent of the minimum standards has been made;

C. That the granting of the exception will not be detrimental to the public health and welfare, nor injurious to other properties in the vicinity and/or downstream, and to the quality of waters of the state; and

D. The exception is the least possible exception that could be granted to comply with the intent of the ~~minimum requirements~~manual named in SMC 13.104.100. (Ord. 95-003 § 10.2)

13.104.450 Prior approval.

Any exception shall be approved prior to permit approval and construction. (Ord. 95-003 § 10.3)

13.104.460 Duration of exception.

Exceptions granted shall be valid for two years, unless granted for a shorter period. (Ord. 95-003 § 10.4)

13.104.470 Right of appeal.

All actions of the city council shall be final and conclusive, unless within 10 days of the date of the city council action, the original applicant or an adverse party gives written notice of appeal to the Superior~~Supreme~~ Court for review of the action. (Ord. 95-003 § 10.5)

Chapter 13.108
STORMWATER MAINTENANCE

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Article I. Findings of Fact, Need and Purpose

13.108.010 Findings of fact.

City council of the city hereby finds that:

A. Stormwater facilities are a common feature of urban development.

B. In order to function properly so that they will perform as designed to prevent or remove pollution and/or to reduce flooding, stormwater facilities must be regularly inspected and maintained.

C. If not adequately maintained, stormwater facilities can become sources of pollutants to surface water and ground water.
D. If not adequately maintained, stormwater facilities could fail and cause considerable damage to the public. (Ord. 95-004 § 1.1)

13.108.020 Need.
The city council finds that this chapter is necessary in order to ensure maintenance of all stormwater facilities within the city by setting minimum standards for the inspection and ongoing maintenance of stormwater facilities. (Ord. 95-004 § 1.2)

13.108.030 Purpose.
The provisions of this chapter are intended to:
A. Provide for inspection and maintenance of stormwater facilities in the city to provide for an effective, functional stormwater drainage system.
B. Authorize the public works director to require that stormwater facilities be operated, maintained and repaired in conformance with this chapter.
C. Establish the minimum level of compliance that must be met.
D. Guide and advise all who conduct inspection and maintenance of stormwater facilities. (Ord. 95-004 § 1.3)

Article II. Definitions

13.108.040 Application.
For the purposes of this chapter, the following definitions shall apply:
A. "Best management practice" or "BMP" means the schedule of activities, prohibition of practices, maintenance procedures, and ~~physical,~~ structural, and/or managerial practices that, when used singly or in combination, prevent or reduce the release of pollutants~~ion~~ and other adverse impacts to~~of~~ waters of the Washington State. BMPs are listed and described in the manual and in guidance materials from the City.
~~E~~B. "Inspection" means the examination and reporting of the condition of stormwater facilities according to criteria established by the city.
~~F~~C. "Inspector" means a city employee or a qualified private contractor trained in stormwater facility O&M and authorized by the director to perform the duties of an inspector as described in this chapter.
~~G~~D. "Maintenance" means actions intended to prolong the effective utilization of a stormwater facility.
~~B~~E. "Person" means any individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, agency of the state, or local government unit, however designated.
~~C~~F. "Stormwater" means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, ~~channels or~~ pipes and other features into a defined surface waterbody ~~channel~~, or a constructed infiltration facility.
~~D~~G. "Stormwater drainage system" means constructed and natural features that function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert,~~,~~ treat or filter stormwater.

~~E. "Inspection" means the examination and reporting of the condition of stormwater facilities according to criteria established by the city.~~
~~F. "Inspector" means a city employee or a qualified private contractor authorized by the director to perform the duties of an inspector as described in this chapter.~~
~~G. "Maintenance" means actions intended to prolong the effective utilization of a stormwater facility.~~
~~E~~H. "Stormwater facility" or "facility" means a constructed component of a stormwater drainage system, designed or constructed to perform a particular function, or multiple functions. Stormwater facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, constructed wetlands, infiltration devices, catch basins, oil/water separators, permeable pavements~~sediment basins~~, biofiltration swales and bioretention systems~~modular pavement~~. ~~Stormwater facilities are described in the manual.~~ Stormwater facilities that control flow and treat runoff are also known as BMPs.
~~F~~I. "Stormwater Management Manual" or "manual" means the stormwater design, management, and maintenance guidance manual named in SMC 13.104.100~~Stormwater Management Manual for the Puget Sound Basin, adopted by reference and prepared by Ecology and that contains BMPs to prevent or reduce pollution. The Stormwater Management Manual contains BMPs to prevent or reduce pollution and maintenance provisions for all BMPs.~~ (Ord. 95-004 § 2)

Article III. General Provisions

13.108.050 Abrogation and greater restrictions.
It is not intended that this chapter repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. (Ord. 95-004 § 3.1)

13.108.060 Interpretation.
The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this chapter. (Ord. 95-004 § 3.2)

Article IV. Applicability

13.108.070 Conflict.
When any provision of any other ordinance of the city conflicts with this chapter, that which provides more environmental protection shall apply unless specifically provided otherwise in this chapter. (Ord. 95-004 § 4)

Article V. General Requirements

13.108.080 Inspection and ~~M~~maintenance required.
All stormwater facilities shall be inspected and maintained by the property owner in accordance with this chapter and the ~~Stormwater Management~~ Manual. ~~Systematic, routine preventive maintenance is preferred.~~ (Ord. 95-004 § 5.1)

13.108.090 Minimum standards.
The following are the minimum standards for the inspection and maintenance of stormwater facilities:
A. Facilities shall be inspected ~~annually~~ and cleared of debris, sediment and vegetation ~~when they~~ to ensure ~~affect~~ the functioning and/or design capacity of the facility, or as otherwise authorized in writing by the director.
B. ~~Grassy swales and other biofilters~~ Vegetated stormwater facilities shall be inspected at least monthly during the growing season and mowed or replanted as necessary. Clippings are to be removed and properly disposed of.
C. Where lack of maintenance is causing or contributing to a water quality or flooding problem, immediate action shall be taken to correct the problem. Within one month, the director shall revisit the facility to assure that it is being maintained. (Ord. 95-004 § 5.2)

13.108.100 Disposal of waste from maintenance activities.
Disposal of waste from maintenance activities shall be conducted in accordance with the minimum Functional Standards for Solid Waste Handling, Chapter 173-304 WAC, guidelines for disposal of waste materials from stormwater maintenance activities, and where appropriate, the Dangerous Waste Regulations, Chapter 173-303 WAC. (Ord. 95-004 § 5.3)

13.108.110 Compliance.
Property owners are responsible for the inspection, maintenance, operation or repair of stormwater drainage systems and BMPs. Property owners shall maintain, operate and repair these facilities in compliance with the requirements of this chapter and the ~~Stormwater Management~~ Manual. (Ord. 95-004 § 5.4)

Article VI. Administration

13.108.120 Director.
The public works director or a designee/inspector shall administer this chapter and shall be referred to as the director. (Ord. 95-004 § 6.1)

13.108.130 Inspection program authority.
The director is directed and authorized to develop and implement an inspection program for stormwater facilities in the city. (Ord. 95-004 § 6.2)

13.108.140 Enforcement authority.
The director shall have the authority to develop and implement administrative procedures to administer and enforce this chapter. (Ord. 95-004 § 6.3)

Article VII. Inspection Program

~~13.108.150 Inspection.~~ [MOVED TO ARTICLE VIII.]
~~Whenever implementing the provisions of the inspection program or whenever there is cause to believe that a violation of this chapter has been or is being committed, the inspector is authorized~~

~~to inspect, during regular working hours and at other reasonable times, all stormwater drainage systems within the city to determine compliance with the provisions of this chapter. (Ord. 95-004 § 7.1)~~

~~13.108.160 Procedures.~~ [MOVED TO ARTICLE VIII.]

~~Prior to making any inspections, the inspector shall present identification credentials, state the reason for the inspection, and request entry.~~

~~A. If the property, or any building or structure on the property, is unoccupied, the inspector shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the property or portions of the property and request entry.~~

~~B. If after reasonable effort, the inspector is unable to locate the owner or other person(s) having charge or control of the property, and has reason to believe the condition of the stormwater drainage system creates an imminent hazard to persons or property, the inspector may enter.~~

~~C. Unless entry is consented to by the owner or person(s) in control of the property or portion of the property, or unless conditions are reasonably believed to exist that create imminent hazard, the inspector shall obtain a search warrant prior to entry, as authorized by the laws of the state of Washington.~~

~~D. The inspector may inspect the stormwater drainage system without obtaining a search warrant provided for in subsection C above; provided the inspection can be conducted while remaining on the public property or other property on which permission to enter is obtained. (Ord. 95-004 § 7.2)~~

13.108.170 Inspection schedule.

The director ~~shall~~ may establish a master inspection, ~~and~~ maintenance and reporting schedule ~~to inspect~~ for appropriate stormwater facilities that are not owned by the city. ~~Inspections shall be annual for facilities constructed under provisions of the manual. Inspection of existing facilities shall be annual upon the city adopting a stormwater utility that funds an inspection program. Critical stormwater facilities may require a more frequent inspection schedule.~~ (Ord. 95-004 § 7.3)

13.108.180 Inspection and maintenance records.

~~As existing stormwater facilities are encountered, they shall be added to the master inspection and maintenance schedule.~~ The director shall maintain ~~R~~records of ~~new~~ appropriate stormwater facilities ~~shall~~ includinge the following to the maximum extent possible:

A. As-built plans and locations.

B. Findings of fact from any exemption granted by the local government.

C. Operation and maintenance requirements and records of inspections, maintenance actions and frequencies.

D. Engineering reports, as appropriate. (Ord. 95-004 § 7.4)

13.108.190 Public ~~R~~reporting requirements.

The director shall report ~~annually~~ as necessary to the city council about the status of the inspections. The ~~annual~~ report may include, but need not be limited to, the proportion of the components found in and out of compliance, the need to upgrade components, enforcement actions taken, compliance with the inspection schedule, the resources needed to comply with the schedule, and comparisons with previous years. (Ord. 95-004 § 7.5)

Article VIII. Enforcement [REFERRED TO CODE EVALUATION IN 2017]

13.108.200 General.

Enforcement action shall be taken whenever a person has violated any provision of this chapter. The choice of enforcement action taken and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the degree of bad faith of the persons subject to the enforcement action. (Ord. 95-004 § 8.1)

13.108.210 Orders.

The director shall have the authority to issue to an owner or person an order to maintain or repair a component of a stormwater facility or BMP to bring it in compliance with this chapter, the Stormwater Management Manual and/or city regulations. The order shall include:

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

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

C. A reasonable time to comply, depending on the circumstances. (Ord. 95-004 § 8.2)

13.108.220 Civil penalty.

A person who fails to comply with the requirements of this chapter or who fails to conform to the terms of an approval or order issued shall be subject to a civil penalty.

A. Amount of Penalty. The penalty shall be $100.00 for each violation. Each day of continued violation or repeated violation shall constitute a separate violation.

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

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

D. Application for Remission or Mitigation. Any person incurring a penalty may apply in writing within 10 days of receipt of the penalty to the city for remission or mitigation of such penalty. Upon receipt of the application, the city council may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty.

E. Appeal of City Penalty. Persons incurring a penalty imposed by the director may appeal in writing within 10 days of the receipt of the penalty to the city council. The city council's decision may be appealed to the Supreme Court within 10 days of the decision. (Ord. 95-004 § 8.3)

13.108.230 Penalties due.

Penalties imposed under this section shall become due and payable 30 days after receiving notice of penalty, unless application for remission or mitigation is made or an appeal is filed. Whenever an application for remission or mitigation is made, penalties shall become due and payable 30 days after receipt of the decision regarding the remission or mitigation. Whenever an appeal of a penalty is filed, the penalty shall become due and payable after all review proceedings and a final decision has been issued confirming all or part of the penalty. If the amount of a penalty owed is

not paid within the time specified in this section, the city may take actions necessary to recover such penalty. (Ord. 95-004 § 8.4)

13.108.240 Penalties recovered.

Penalties recovered shall be paid to a fund dedicated to enforcement and/or enhancement of the stormwater management program. (Ord. 95-004 § 8.5)