

BOARD OF YAKIMA COUNTY COMMISSIONERS

ORDINANCE NO. 1-2010

IN THE MATTER OF AMENDING YCC CHAPTER 12.09, "STORMWATER MANAGEMENT UTILITY", YCC CHAPTER 12.10, "STORMWATER AUTHORITY", AMENDING YCC TITLE 16B, PROJECT PERMIT ADMINISTRATION, AND AMENDING YCC TITLE 20, "YAKIMA COUNTY FEE SCHEDULE".

WHEREAS, the Washington Department of Ecology issued the Eastern Washington Phase II Municipal Stormwater Permit (Permit), effective February 16, 2007 (modified June 17, 2009), authorizing the County to discharge stormwater from the County Municipal Separate Storm Sewer System (MS4) to surface waters and to ground waters of the state subject to limitations and conditions; and,

WHEREAS, implementation by the County of the stormwater pollution prevention requirements promulgated by Federal and State agencies is a necessary part of providing stormwater services and operating stormwater systems and facilities; and,

WHEREAS, the Permit requires the County through ordinance or other regulatory mechanism, to require erosion and sediment controls and other construction-phase stormwater pollution controls, and post-construction stormwater controls at new development and redevelopment projects discharging to the MS4, and,

WHEREAS, runoff from construction sites and development to the County stormwater system and facilities may adversely affect stormwater quality, generate stormwater runoff, and otherwise necessitate stormwater regulation and management and burden the stormwater systems; and

WHEREAS, County citizens benefit from the provision of stormwater management services and from the operation of the stormwater systems; and,

WHEREAS, the County, in partnership with the Cities of Yakima, Union Gap, and Sunnyside, developed model construction and post-construction ordinances to provide local consistency with minimal permit compliance, and,

WHEREAS, stakeholders have been invited to participate in the model ordinance development through an open review and comment process on two drafts and a public meeting held on October 21, 2009 to disseminate information regarding the proposed ordinances and hear public concerns; and,

WHEREAS, the model ordinances were combined with existing ordinances including illicit discharge and other drainage requirements; and,

WHEREAS, all public comments including those presented at a Public Hearing on February 9, 2010 have been considered in the ordinance; now, therefore,

BE IT HEREBY ORDAINED:

Section 1. Findings. The Board of Yakima County Commissioners finds that all minimum requirements for ensuring adequate public notification and opportunities for comment and participation in the amendment process, have been met. The Board makes the following findings:

- A. Legislative Intent. The Board of Yakima County Commissioners finds that it has fully considered the evidence presented throughout the public process of updating, adopting and amending YCC Chapters 12.09 and 12.10, Titles 16B and 20 to fulfill the requirements of State law.

Section 2. Adoption. The document attached hereto as Exhibit A and entitled *Amendment to YCC Chapter 12.09, Chapter 12.10, Title 16B, and Title 20 of Yakima County, Washington*, is hereby adopted

as an official control required by Washington Department of Ecology Eastern Washington Phase II Municipal Stormwater Permit. The Yakima County Regional Stormwater Manual is also hereby adopted.

Section 3. Severability. If any section, sentence, clause, or phrase of the adopted new YCC Chapter 12.09, Chapter 12.10, Titles 16B and 20 and amendments thereto as contained in Exhibit A to this ordinance should be held to be invalid or unconstitutional by any body or court with authority and jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, clause or phrase of the adopted YCC Chapter 12.10, Titles 16B and 20.

Section 4. Effective Date. This ordinance as amended shall be effective as described in Exhibit A.

Done this 16th day of February 2010.

BOARD OF COUNTY COMMISSIONERS



Michael D. Leita, Chairman



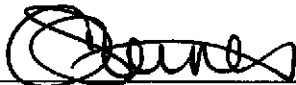
Kevin J. Bouchey, Commissioner



J. Rand Elliott, Commissioner

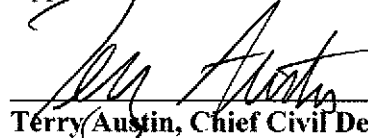


ATTEST:



Christina S. Steiner, Clerk of the Board

Approved as to form.



Terry Austin, Chief Civil Deputy
Prosecuting Attorney

YAKIMA COUNTY ORDINANCE NO. 1-2010

Exhibit A

Amendment to YCC Chapter 12.09, Chapter 12.10, Title 16B, and Title 20

Section 1. Chapter 12.09 entitled "Stormwater Management Utility" is hereby modified to contain new sections thereof, and shall read as follows:

12.09.025 Public Services Director – Powers and Duties.

The director shall supervise and be responsible for development, design, construction, excavations, repairs, connections, maintenance, of the county MS4 and for operation and administration of the Yakima County Stormwater Management Utility, and shall enforce the rules and regulations provided in this chapter. The Public Services Director may designate employees within his department to act on his behalf.

Section 2. 12.10 entitled "Stormwater Authority" is hereby modified to contain new sections thereof, and shall read as follows.

12.10.100 General Provisions

(1) ~~Purpose.~~ The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Yakima County through the regulation of non-storm water discharges to the regulated Municipal Separate Storm Sewer System (MS4) and public Underground Injection Control (UIC) wells to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the MS4 or public UICs in order to comply with requirements of the Eastern Washington Phase II Municipal Stormwater Permit process and Washington Department of Ecology's Guidance for UIC Wells that Manage Stormwater. The objectives of this ordinance are:

- (a) ~~To regulate the contribution of pollutants to the regulated municipal separate storm sewer system (MS4) and public UIC wells.~~
- (b) ~~To prohibit illicit connections and discharges to the regulated municipal separate storm sewer system and public UIC wells.~~
- (c) ~~To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance~~

(2) ~~Applicability.~~ This ordinance shall apply to all water or pollutants entering the municipal separate storm sewer system (MS4) and public UIC wells generated on any developed and undeveloped lands unless explicitly exempted by Yakima County Stormwater Utility

(3) ~~Authority.~~ This ordinance is adopted pursuant to authority conferred by and in accordance with the provisions of the State of Washington Water Pollution Control Law Chapter 90.48, Revised Code of Washington, and the Federal Water Pollution Control Act (the Clean Water Act) Title 33 United States Code, Section 1251 et seq.

(4) ~~Compatibility with Other Permit and Ordinance Requirements.~~ This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

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

(6) ~~Liability.~~ The requirements of this ordinance are minimum standards and a person's compliance with the same shall not relieve such person from the duty of enacting all measures necessary to minimize pollution of receiving waters.

(7) ~~Authority Designated.~~ The Surface Water Manager of Yakima County Public Services is hereby authorized and designated as the Official responsible for the administration of this Title. The Surface Water Manager may designate employees within his division to act on his behalf.

12.10.110 Definitions.

This chapter provides definitions for the terms and phrases used in this title. Where any of these definitions conflict with definitions used in other titles of Yakima County code, the definitions in this chapter shall prevail for the purpose of this title.

"Best Management Practices" or "BMPs" are the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices approved by Ecology that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to receiving waters.

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

~~"Construction Activity" means clearing, grading and/or excavation. These activities are required to NPDES permit coverage in accordance with 40 CFR 122.26.~~

~~"Discharge" means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of pollutants to Yakima County UIC wells, waters of the State or the MS4~~

~~"Hazardous Materials" means those wastes designated by 40 CFR Part 261, and regulated by the EPA.~~

~~"Illicit Discharge" means any discharge to a municipal separate storm sewer or public UIC that is not composed entirely of storm water except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer)~~

~~"Illicit Connection(s)" means a connection defined as either of the following:~~

~~Any drain or conveyance, but not limited to same, whether on the surface or subsurface, which allows an illicit discharge, including non-storm water discharge, sewage, process wastewater, and wash water to enter the MS4 or a public UIC and any connections to the MS4 or public UIC system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the Yakima County Stormwater Management Utility;~~

~~Any drain or conveyance connected from a commercial or industrial land use to the MS4 or a public UIC which has not been documented in plans, maps, or equivalent records and approved by the [STORMWATER AUTHORITY].~~

~~"Industrial Activity" means manufacturing, processing or raw materials storage areas at an industrial plant. These activities are required to obtain NPDES permit coverage in accordance with 40 CFR 122.26.~~

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

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

~~"Non-Storm Water Discharge" means any discharge to the MS4 or public UIC that is not composed entirely of storm water.~~

~~"Person" means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.~~

~~"Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, domestic sewage sludge (biosolids), munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and~~

industrial, municipal, and agricultural waste. This term does not include sewage from vessels within the meaning of section 312 of the CWA, nor does it include dredged or fill material discharged in accordance with a permit issued under section 404 of the CWA.

"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.

"Premise(s)" means any building, lot, parcel of land, or portion of land whether improved or unimproved including any structures thereon, adjacent sidewalks and parking strips.

"Process Wastewater" means any water which, during manufacturing or processing, comes into direct contact or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

"Public" as used in this chapter shall mean any real property, or interest therein, belonging to Yakima County or a trust or authority of which Yakima County is a beneficiary. Public development shall also include private development whenever all or a portion thereof will eventually be dedicated or provided for ownership, operation and/or maintenance to Yakima County or a public trust or authority of which Yakima County is a beneficiary.

"Stormwater" means runoff during and following precipitation and snowmelt events, including surface runoff, drainage and interflow.

"Underground Injection Control" or "UIC" or "UIC well" means a manmade sub-surface fluid distribution system designed to discharge fluids into the ground and consists of an assemblage of perforated pipes, drain tiles, or other similar mechanisms, or a dug hole that is deeper than the largest surface dimension. A public UIC is one owned, operated, and maintained by Yakima County and includes the collection system of catch basins, pipes, ditches, or other public infrastructure that collects and conveys stormwater to the UIC.

"Waters of the State" includes those waters as defined as "waters of the United States" in 40 CFR 122.2 within the geographic boundaries of Washington State and "waters of the state" as defined in Chapter 90.48 RCW which includes: lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and water courses within the jurisdiction of the State of Washington.

12.10.120 Illicit Discharges

12.10.130 Prohibition of Illicit Discharges.

(1) No person shall discharge or cause to be discharged into the MS4 or a public UIC any materials, including but not limited to pollutants or waters containing any pollutants other than storm water.

(2) The commencement, conduct or continuance of any illicit discharge to the MS4 or a public UIC is prohibited except as described as follows:

(3) The following discharges are exempt:

(a) Discharges resulting from emergency fire fighting activities.

(4) The following discharges are exempt and shall only be illicit discharges if Yakima County has reason to consider that the discharge, whether singly or in combination with others, may cause or contribute to a violation of Yakima County's Eastern Washington Phase II Municipal Stormwater Permit, may cause Yakima County to violate Ecology's UIC rules, or is causing or contributing to a water quality or flooding problem.) In such cases, it shall be the responsibility of the discharger to provide evidence that the discharge is not illicit and complies with the following:

(a) Diverted stream flows;

(b) Rising ground waters;

- ~~(c) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));~~
- ~~(d) Uncontaminated pumped ground water;~~
- ~~(e) Foundation drains;~~
- ~~(f) Air conditioning condensation;~~
- ~~(g) Irrigation water from agricultural sources that is commingled with urban stormwater;~~
- ~~(h) Springs;~~
- ~~(i) Water from crawl space pumps;~~
- ~~(j) Footing drains;~~
- ~~(k) Flows from riparian habitats and wetlands.~~
- ~~(l) Discharges from lawn watering and other irrigation runoff.~~
- (5) ~~The following discharges are not exempt from discharge prohibitions established by this ordinance:~~
 - ~~(a) Discharges from potable water sources, including water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, firefighting training and pipeline hydrostatic test water.~~
 - ~~(b) Planned discharges from potable water sources may be discharged to the MS4 or public UIC provided they are de-chlorinated to a concentration of 0.1 ppm or less, pH adjusted if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in the MS4 or public UIC.~~
 - ~~(c) Swimming pool discharges. Discharges from swimming pools may be discharged to the MS4 or public UIC provided that they are dechlorinated to a concentration of 0.1 ppm or less, pH adjusted and reoxygenated if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in the MS4 or public UIC. Swimming pool cleaning wastewater and filter backwash shall not be discharged to the MS4 or public UIC.~~
 - ~~(d) Street and sidewalk wash water containing detergents, water used to control dust containing detergents, and routine external building wash down containing detergents.~~
 - ~~(e) Street and sidewalk wash water, water used to control dust, and routine external building wash down water may be discharged to the MS4 or public UIC provided:~~
 - ~~It does not contain detergents.~~
 - ~~Streets and sidewalks are swept and material removed prior to washing.~~
 - ~~At active construction sites, street sweeping shall be performed prior to washing the street.~~
 - ~~(f) Discharges specified in writing by the Washington State Department of Ecology as being a significant source of pollutants to waters of the state are prohibited.~~
- ~~(6) Dye testing is an allowable discharge, but requires a verbal notification to the Yakima County Stormwater Management Utility prior to the time of the test.~~
- ~~(7) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted from the Yakima County Stormwater Management Utility for any discharge to the MS4 or public UIC.~~
- 12.10.140 Prohibition of Illicit Connections.** ~~The construction, use, maintenance or continued existence of illicit connections to the MS4 or public UIC is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.~~
 - ~~(1) In such cases where the illicit connection was made in the past by a party other than the current person responsible for the connection, the current person shall have a period of 30 days to voluntarily remove the connection.~~
 - ~~(2) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4 or public UIC, or allows such a connection to continue.~~

~~(3) Suspension due to Illicit Discharges in Emergency Situations. The Yakima County Stormwater Management Utility may, without prior notice, suspend MS4 or public UIC discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, either illicit, or which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or public UIC or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Yakima County Stormwater Management Utility may take such steps as deemed necessary to prevent or minimize damage to the MS4, the public UIC or to minimize danger to persons.~~

~~(4) Suspension due to the Detection of Illicit Discharge or Illicit Connection. Any person discharging, or connected, to the MS4 or public UIC in violation of this ordinance may have their MS4 or public UIC access terminated if such termination would abate or reduce an illicit discharge or connection. The Yakima County Stormwater Management Utility will notify a violator of the proposed termination of its MS4 or public UIC access. Persons must respond within 15 days of said notification to propose a voluntary correction in accordance with Section 12.10.160(6) of this ordinance.~~

~~(5) A person commits a violation of this ordinance if the person reinstates MS4 or public UIC access to premises terminated pursuant to this Section, without the prior approval of the Yakima County Stormwater Management Utility.~~

12.10.150 Right of Entry. ~~When necessary to perform any of his duties under this ordinance or to investigate upon reasonable cause or complaint the existence or occurrence of a violation of this ordinance, the Yakima County Stormwater Management Utility may enter onto property to inspect the same or to perform any duty imposed or authorized by this ordinance. Provided, that if such property be occupied and not a public place he shall first present proper credentials, state the reason for entry, and request permission to enter; and if such property is unoccupied, he shall first make a reasonable effort to locate the owners or other persons having charge or control of the property and request permission to enter. If such permission is refused, the Yakima County Stormwater Management Utility shall have recourse to every remedy provided by law to secure entry. The right of entry authorized for this section extends to any employee, officer, or authorized person that accompanies the Yakima County Stormwater Management Utility or his authorized representatives. All permits and approvals issued under the provisions of this ordinance are hereby conditioned on free access by the Yakima County Stormwater Management Utility to the property involved during any period of construction, improvement, or change, for inspections to assure compliance with this ordinance and any conditions of approval for such permit or approval. The Yakima County Stormwater Management Utility may enter onto private property during any such period of construction, improvement, or change being done pursuant to a permit or approval for such purposes. Provided, that if the property is occupied he shall first notify the occupant prior to entry.~~

~~(1) If the Yakima County Stormwater Management Utility has been refused access to any part of the premises from which water is discharged, and he/she is able to demonstrate a reasonable belief that there is a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Yakima County Stormwater Management Utility may seek issuance of a search warrant, injunctive relief, warrant of abatement or other remedy provided by law from any court of competent jurisdiction. The warrant will specify what may be searched and/or seized on the property described. Such warrant will be served at reasonable hours by the Wastewater manager or designated employee in the company of a uniformed police officer of the City. In the event of an emergency affecting public health, safety or welfare, inspections will take place without the issuance of a warrant.~~

~~(2) The right of entry extends to the following matters:~~

- (a) Entry upon the premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this ordinance;
- (b) Access to and copying, at reasonable times, any records required to be kept under the conditions of this ordinance;
- (c) Inspection at reasonable times of any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this ordinance;
- (d) Sampling or monitoring for the purposes of assuring compliance with this ordinance, including any substances or parameters at any location; and
- (e) Inspection of any production, manufacturing, fabricating or storage area where pollutants, regulated under this ordinance, could originate, are stored or discharged to the sewer system, the MS4 or public UIC.

12.10.160 Notification Of Spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water or the MS4 or public UIC, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Yakima County Stormwater Management Utility in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Yakima County Stormwater Management Utility within three (3) business days of the phone notice.

12.10.170 Violations, Enforcement and Penalties

(1) **Violations.** Any person, firm, or corporation violating any of the provisions of this Title, including the provisions of the various Codes adopted by reference therein, or failing to comply therewith, or violating or failing to comply with any order issued or made pursuant to its provisions shall severally and for each and every violation and non-compliance respectively be guilty of a misdemeanor Yakima County Code 1.24.010 or shall be subject to a civil infraction as provided for by Chapter 7.80 RCW or any other remedy provided by law. Any person so convicted of a misdemeanor shall be punished for each offense by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

(2) **Continued Violations.** The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue. Any person, firm, or corporation shall be required to correct such violations or defects. Each week after notice of violation to such person, firm, or corporation shall constitute a separate offense unless time for correction is otherwise expressly extended in writing by the official enforcing this title. Provided, that where the authorized official has ordered any work or occupancy stopped or has revoked or suspended any permit or certificate, each and every day that such work or occupancy continues or is permitted to continue shall constitute a separate offense.

(2) **Persons Liable.** The owner, lessee, or tenant of any building, structure, premises, or part thereof, and any architect, engineer, builder, contractor, employee, agent, or other person who commits, authorizes, participates in, assists in, or who maintains after notice, a violation of this Title may each be found guilty of a separate offense and suffer the penalties provided in this Chapter.

12.10.180 Civil Infractions. The following shall apply to the enforcement of this title or those ordinances codified in this chapter and those ordinances which provide that the Yakima County Surface Water Manager is charged with administration of those ordinances.

(1) **Violations of the applicable codes shall be corrected under the provisions of this chapter, in coordination with existing ordinance and code provisions.**

~~(2) Only an authorized official may enforce the provisions of this chapter. For purposes of this chapter, an authorized official is defined as any one of the following:~~

- ~~(a) Yakima County Sheriff and his or her authorized representatives shall have the authority to enforce the provisions of this chapter;~~
- ~~(b) Yakima County Building Official and his or her authorized representatives shall have the authority to enforce the provisions of this chapter;~~
- ~~(c) Yakima County Yakima County Surface Water Manager and his or her authorized representatives shall have the authority to enforce the provisions of this chapter;~~
- ~~(d) Yakima County Prosecuting Attorney shall have authority to enforce the provisions of this chapter and may pursue any legal proceedings necessary to enforce the provisions of this chapter; and~~

~~(3) Whenever an authorized official determines that a violation has occurred or is occurring, he or she may pursue reasonable attempts to secure voluntary corrections, failing which he or she may issue a notice of infraction. An authorized official may issue a notice of infraction if the authorized official reasonably believes that the provisions of this chapter have been violated. A notice of infraction may be served either by:~~

- ~~(a) The authorized official serving the notice of infraction on the person named in the notice of infraction at the time of issuance; or~~
- ~~(b) The authorized official filing the notice of infraction with the court, in which case the court shall have the notice served either personally or by mail, postage prepaid, on the person named in the notice of infraction at his or her address.~~

~~(4) A notice of infraction shall be filed in district court within forty-eight (48) hours of issuance, excluding Saturdays, Sundays, and holidays. Yakima County District Court shall have Yakima County to hear and determine these matters.~~

~~(5) A person who receives a notice of infraction shall respond to the notice as provided in this section within fifteen (15) days of the date the notice was served.~~

~~(6) If the person named in the notice of infraction does not contest the determination, the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records, and a record of the response order shall be furnished to the authorized official. Failure to contest the determination and the payment of the fine does not release the person named in the notice of the infraction from their obligation to comply with the Notice or Order of the authorized official.~~

~~(7) If the person determined to have committed the civil infraction wishes to contest the determination, the person shall respond by completing the portion of the notice of civil infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be earlier than seven (7) days nor more than ninety (90) days from the date of the notice of the hearing, except by agreement.~~

~~(8) If the person determined to have committed the civil infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice of civil infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified in the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be earlier than seven (7) days nor more than ninety (90) days from the date of the notice of the hearing, except by agreement.~~

~~(9) The court shall enter a default judgment assessing the monetary penalty prescribed for the civil infraction, and may notify the prosecuting attorney of the failure to respond to the notice of~~

civil infraction or to appear at a requested hearing if any person issued a notice of civil infraction fails to respond.

(10) Any person willfully violating his or her written and signed promise to appear in court or his or her written and signed promise to respond to a notice of civil infraction is guilty of a misdemeanor regardless of the disposition of the notice of civil infraction; provided, that a written promise to appear in court or a written promise to respond to a notice of civil infraction may be complied with by appearance of counsel.

A person who willfully fails to pay a monetary penalty or to perform community service as required by a court under this chapter may be found in civil contempt of court after notice and hearing.

(11) A person subject to proceedings under this chapter may appear or be represented by counsel but not at public expense.

(12) The prosecuting attorney representing Yakima County may, but need not, appear in any proceedings under this chapter, notwithstanding any statute or court rule to the contrary.

(13) A hearing held to contest the determination that an infraction has been committed shall be without a jury.

(14) The court may consider the notice of infraction and any sworn statements submitted by the authorized representative who issued and served the notice in lieu of his or her personal appearance at the hearing. The person named in the notice may subpoena witnesses, including the authorized representative who has issued and served the notice, and has the right to present evidence and examine witnesses present in court.

(15) The burden of proof is on Yakima County to establish the commission of the infraction by a preponderance of evidence.

(16) After consideration of the evidence and argument, the court shall determine whether the infraction was committed.

(17) An appeal from the court's determination or order shall be to the Superior Court in the manner provided by the Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ).

(18) A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of an infraction shall be an informal proceeding. The person may not subpoena witnesses. The determination that a civil infraction has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances.

(19) After the court has heard the explanation of the circumstances surrounding the commission of the civil infraction, an appropriate order shall be entered in the court's records.

(20) There shall be no appeal from the court's determination or order.

(21) A person found to have committed a civil infraction shall be assessed a monetary penalty. All violations of this chapter shall be denominated Class I civil infractions. The maximum penalty and default amount for a Class I civil infraction shall be two hundred fifty dollars (\$250), not including statutory assessments.

(22) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time, the court may grant an extension of the period of time in which the penalty may be paid. If the penalty is not paid on or before the time established for payments the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the prosecuting attorney of the failure to pay. The court shall also notify the department of the failure to pay the penalty, and the department shall not issue the person any future permits for any work until the monetary penalty has been paid.

42.10.190 Violation – Civil Remedies. In addition to any criminal proceedings brought to enforce this Title and in addition to any fine or imprisonment provided for therein, continuing violations of this Title may be enjoined or ordered abated in a civil proceeding for injunction or for abatement. For purposes of abatement actions, such violations are declared to be public nuisances. Any person, firm, or corporation violating the provisions of this Title shall be liable for all costs of

~~such proceedings, including reasonable attorney's fees and expenses of abatement. The provisions of this subsection are in addition to any other remedies available at law or equity.~~

~~(1) The Prosecuting Attorney's Office on behalf of Yakima County and the public may pursue civil remedies to enforce compliance with the provisions of the Title. A private person directly affected by a violation of this Title may pursue civil remedies to enforce compliance with its provisions or to recover damages for its violation.~~

~~12.10.200 Appeals. The decisions or orders of the Yakima County Stormwater Management Utility or Yakima County shall be final. Further relief shall be to a court of competent jurisdiction.~~

~~12.10.210 Remedies Not Exclusive. The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state or local law.~~

~~12.10.220 Injunctive Relief. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the Yakima County Stormwater Management Utility may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.~~

~~12.10.230 Compensatory Action. In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the Yakima County Stormwater Management Utility may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.~~

~~(1) The Yakima County Stormwater Management Utility may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.~~

~~12.10.240 Effective Date. The ordinance codified in this chapter shall go into effect within Yakima County on August 16, 2009.~~

12.10 Stormwater Authority

12.10.100 General Provisions

(1) Purpose. The purpose of this ordinance is to provide for the health, safety, and welfare of the citizens of Yakima County through the regulation of discharges to county stormwater control facilities and Underground Injection Control (UIC) wells consistent with local, federal and state law. All new development and redevelopment shall provide for drainage such that it does not conflict with present drainage patterns, or create a drainage or water quality problem within itself, for its neighbors, or to county stormwater control facilities.

(2) Authority. This ordinance is adopted pursuant to authority conferred by and in accordance with the provisions of the State of Washington Revised Code of Washington (RCW) Chapter 36.89, Stormwater Control, Revised Code of Washington Chapter 90.48, Water Pollution Control Law, and the Federal Water Pollution Control Act (the Clean Water Act) Title 33 United States Code, Section 1251 et seq. The powers and authority conferred upon the county under the provisions of RCW 36.89 shall be construed as in addition and supplemental to powers or authority conferred by any other law, and nothing contained herein shall be construed as limiting any other powers or authority of such governmental agencies.

(3) Compatibility with Other Permit and Ordinance Requirements. This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

(4) Severability. If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order

of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this ordinance.

(5) Liability. The requirements of this ordinance are minimum standards and a person's compliance with the same shall not relieve such person from the duty of enacting all measures necessary to minimize pollution of receiving waters.

(6) Authority Designated. The public services director of Yakima County Public Services is hereby authorized and designated as the Official responsible for the administration of this Title. The public services director may designate employees within his division to act on his behalf.

(7) Enhanced Criteria for Impaired Waters. Any activity that discharges via the county stormwater control facility to impaired waters and wetlands with a stormwater waste load allocation, as designated in an EPA approved Maximum Daily Load (TMDL) or Water Cleanup Plan developed by Washington State Department of Ecology, shall meet the enhanced criteria for the impaired waters. The public services director may require additional storage, treatment, filtering, infiltration, or other techniques to meet the enhanced criteria. The use of non-structural practices shall be used to the maximum extent practical to meet the enhanced criteria. Where an applicable Total Maximum Daily Load (TMDL) specifically precludes or prohibits discharges otherwise authorized by this Ordinance, the applicant is not eligible for discharge to the county stormwater control facility under this Ordinance.

(8) Stormwater Manual. Stormwater practices shall be designed, constructed, and maintained in accordance with the design and sizing criteria in the Yakima County Regional Stormwater Manual (regional manual). Use of the regional manual will be presumed to meet the minimum water quality performance standards of the Eastern Washington NPDES Phase II Municipal Stormwater Permit requirements. The use of BMPs from other stormwater manuals or emerging technologies approved by Ecology shall be consistent with Yakima County climate, soils, and specific site conditions appropriate for said BMP use and shall be subject to public services director approval. The public services director may require monitoring of said BMP performance in order to demonstrate that they meet the minimum water quality performance standards of the Eastern Washington NPDES Phase II Municipal Stormwater Permit requirements.

(a) Amendments to Regional Manual. The regional manual may be updated periodically by the public services director. Where referenced by this ordinance, the most current version of the regional manual posted on the county website is to be used. Stormwater site plans submitted for county review and approval shall conform to the posted version. Updates to the regional manual shall be publicized and made available for review and comment prior to adoption.

12.10.110 Definitions.

This chapter provides definitions for the terms and phrases used in this title. Where any of these definitions conflict with definitions used in other titles of Yakima County code, the definitions in this chapter shall prevail for the purpose of this title.

(1) "ADT" or "Average Daily Traffic" means the expected number of vehicles using a roadway as described in the regional manual glossary, Section 1.7.

(2) "Applicant" means a person, party, firm, corporation, owner, or other legal entity that proposes a development, construction or use on a site.

(3) "BMPs" or "Best Management Practices" are the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices approved by Ecology that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to receiving waters.

(4) "Building" means any structure built for the support, shelter or enclosure of persons, animals, uses or property of any kind.

(5) "CESCL" or "Certified Erosion and Sediment Control Lead" means a person who has current certification through an approved erosion and sediment control training program that meets the minimum training standards established by Ecology.

(6) "Channel" means an open conduit, either naturally or artificially created, which periodically or continuously contains moving water, or which forms a connecting link between two (2) bodies of water.

(7) "Clearing" means the removal of timber, brush, grass, ground cover or other vegetative matter from a site.

(8) "Construction Activity" or "Construction" means clearing, grading and/or excavation or the assembly, placement, or installation of structures, roadways, transmission lines, and other improvements within a project site.

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

(10) "Design Storm" means a prescribed hyetograph or precipitation distribution, and the total precipitation amount for a specific duration recurrence frequency to be used in design calculations.

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

(12) "Development" means new development, redevelopment, or both. See definitions for each.

(13) "Discharge" means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of pollutants to Yakima County UIC wells, waters of the State or county stormwater facilities

(14) "Drainageway." Means an open linear depression, whether constructed or natural, which functions for the collection and drainage of surface water. It may be permanently or temporarily inundated and may or may not contain aquatic vegetation or aquatic life.

(15) "Easement" is a grant by a property owner to specific persons or to the public to use land for a specific purpose or purposes.

(16) "Ecology" means the Washington State Department of Ecology.

(17) "Flood" means an overflow or inundation that comes from a river or any other source, or any high stream flow overtopping the natural or artificial banks in any reach of a stream.

(18) "Grading" means any excavation, filling, or combination thereof.

(19) "Hazardous Materials" means those wastes designated by 40 CFR Part 261, and regulated by the EPA.

(20) "High ADT Roadways and Parking Areas" means any road with ADT greater than 30,000 vehicles per day; and parking areas with more than 100 trip ends per 1,000 SF of gross building area or greater than 300 total trip ends are considered to be high-use traffic areas.

(21) "High-Use Sites" generate high concentrations of oil due to high traffic turnover or the frequent transfer of oil and/or other petroleum products as described in the regional manual glossary, Section 1.7.

(22) "Illicit Connection" means a connection defined as either of the following: 1) Any drain or conveyance, which allows an illicit discharge to enter the county stormwater facility or a public UIC and any connection from an indoor source, regardless of whether said drain or connection had been previously allowed, permitted, or approved by Yakima County, or, 2) Any drain or conveyance connected from a commercial or industrial land use to the county stormwater facility or a public UIC which has not been documented in plans, maps, or equivalent records and approved by Yakima County.

(23) "Illicit Discharge" means any discharge to a municipal separate storm sewer or public UIC that is not composed entirely of storm water except discharges pursuant to a NPDES permit other than the NPDES permit for discharges from the municipal separate storm sewer.

(24) "Impervious surface" means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water. It includes most conventionally surfaced streets, roofs, sidewalks, driveways, parking lots, patios and other similar structures.

(25) "Industrial Activity" means manufacturing, processing or raw materials storage areas at an industrial plant. These activities are required to obtain NPDES permit coverage in accordance with 40 CFR 122.26.

(26) "Infiltration" means the downward movement of water from the land surface to the subsoil.

(27) "Land Development" or "Development" means the division of land into lots or parcels in accordance with YCC Title 14 (Subdivision Ordinance), and any clearing, excavation, dredging, drilling, filling, dumping, removal of earth and mineral materials, or other permanent or temporary modification of a site up to, but not including, construction as defined in this chapter. For the purpose of this chapter, "development" also means any manmade change to improved or unimproved real estate located within the special flood hazard area, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling, temporary or permanent storage of equipment and works defined in this chapter.

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

(29) "Low ADT Roadways and Parking Areas" means urban roads with ADT fewer than 7,500 vehicles per day; rural roads and freeways with ADT less than 15,000 vehicles per day; and parking areas with less than 40 trip ends per 1,000 SF of gross building area or fewer than 100 total trip ends per day are considered to be low-use traffic areas.

(30) "Moderate ADT Roadways and Parking Areas" means urban roads with ADT between 7,500 and 30,000 vehicles per day; rural roads and freeways with ADT between 15,000 and 30,000 vehicles per day; and parking areas with between 40 and 100 trip ends per 1,000 SF of gross building area or between 100 and 300 total trip ends per day are considered to be moderate-use traffic areas.

(31) "Municipal Separate Storm Sewer System" or "MS4" means a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains): (i) owned or operated by Yakima County that discharges to waters of the United States; (ii) designed or used for collecting or conveying stormwater; (iii) which is not a combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2 Yakima County. In the County, the MS4 is that portion of county stormwater control facilities regulated by the Eastern Washington Phase II Municipal Stormwater Permit.

(32) "New Development" means land disturbing activities, including Class IV general forest practices development, including construction or installation of a building or other structure; creation of impervious surfaces; and subdivision, short subdivision and binding site plans, as defined and applied in Chapter 58.17 RCW. Projects meeting the definition of redevelopment shall not be considered new development.

(33) "Non-Storm Water Discharge" means any discharge to county stormwater facilities or public UIC that is not composed entirely of storm water.

(34) "Non-Structural Measure" means a stormwater control and treatment technique that uses natural processes, restoration or enhancement of natural systems, or design approaches

to control runoff and/or reduce pollutant levels. Such measures are used in lieu of or to supplement structural practices on a land development site.

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

(36) "Owner(s)" or "Property owner(s)" means the legal owner or owners of the property. As used herein, owner also refers to, in the appropriate context: (i) any other person authorized to act as the agent for the owner; (ii) any person who submits a stormwater management concept or design plan for approval or requests issuance of a permit, when required, authorizing land development to commence; and (iii) any person responsible for complying with an approved stormwater site plan.

(37) "Permanent Stormwater BMP" means a stormwater best management practice (BMP) that will be operational after the construction phase of a project and that is designed to become a permanent part of the site for the purposes of managing stormwater runoff.

(38) "Person" means any individual, party, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent. The singular shall include the plural.

(39) "PGIS" or "Pollutant Generating Impervious Surfaces" are surfaces that are considered to be significant sources of pollutants in stormwater runoff. Such surfaces include those that are subject to vehicular use, industrial activities, or storage of erodible or leachable materials that receive direct rainfall or run-on or blow-in of rainfall. Metal roofs are considered to be PGIS unless coated with an inert, non-leachable material. Roofs that vent manufacturing, commercial or other indoor pollutants are also considered PGIS. A surface, whether paved or not, shall be considered PGIS if it is regularly used by motor vehicles.

(40) "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, domestic sewage sludge (biosolids), munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste. This term does not include sewage from vessels within the meaning of section 312 of the CWA, nor does it include dredged or fill material discharged in accordance with a permit issued under section 404 of the CWA.

(41) "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.

(42) "Premise(s)" means any building, lot, parcel of land, or portion of land whether improved or unimproved including any structures thereon, adjacent sidewalks and parking strips.

(43) "Project Site" means that portion of a property, properties, or right of way subject to land disturbing activities, and new or replaced impervious surfaces.

(44) "Public services director" means the duly appointed Director of the Yakima County Department of Public Services or his or her designee.

(45) "Public" as used in this chapter shall mean any real property, or interest therein, belonging to Yakima County or a trust or authority of which Yakima County is a beneficiary. Public development shall also include private development whenever all or a portion thereof will eventually be dedicated or provided for ownership, operation and/or maintenance to Yakima County or a public trust or authority of which Yakima County is a beneficiary.

(46) "Receiving Water" means the body of water or conveyance into which stormwater runoff is discharged.

(47) "Redevelopment" means on a site that is already substantially developed, the replacement or improvement of impervious surfaces, including buildings and other structures, and replacement or improvement of impervious parking and road surfaces, that is not part of a routine maintenance activity. Any new impervious surfaces created by a redevelopment project are subject to the requirements for new development.

(48) "Responsible Party" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns that is named on a stormwater maintenance agreement as responsible for long-term operation and maintenance of one (1) or more stormwater BMPs.

(49) "Retention" means the process of collecting and holding surface and stormwater runoff with no surface outflow.

(50) "Rural Roads" means roads located outside designated Urban Growth Management Areas.

(51) "Source Control BMPs" means physical, structural or mechanical devices or facilities that are intended to prevent pollutants from entering stormwater.

(52) "Stormwater Control Facility(ies)" means any facility, improvement, development, property or interest therein, made, constructed or acquired for the purpose of controlling, or protecting life or property from, any storm, waste, flood or surplus waters wherever located within the county, and shall include but not be limited to the improvements and authority described in RCW 86.12.020 and chapters 86.13 and 86.15 RCW.

(53) "Stormwater" means runoff during and following precipitation and snowmelt events, including surface runoff, drainage and interflow.

(54) "Stream" means an area where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is an area that demonstrates clear evidence of the passage of water including, but not limited to, hydraulically sorted sediments, or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, stormwater runoff devices or other entirely artificial drainageways, unless they are used to convey streams naturally occurring prior to construction.

(55) "Structure" means anything constructed or erected, even partially, including buildings, which requires location on the ground or attached to something having a location on the ground.

(56) "UIC" or "UIC well" or "Underground Injection Control" means a manmade sub-surface fluid distribution system designed to discharge fluids into the ground and consists of an assemblage of perforated pipes, drain tiles, or other similar mechanisms, or a dug hole that is deeper than the largest surface dimension. A public UIC is one owned, operated, and maintained by Yakima County and includes the collection system of catch basins, pipes, ditches, or other public infrastructure that collects and conveys stormwater to the UIC.

(57) "Upland flow" means runoff from lands upslope of a project site.

(58) "Urban Roads" means roads located within designated Urban Growth Management Areas. Partially controlled limited access highways located inside of Urban Growth Management Areas are considered urban roads.

(59) "Waters of the State" includes those waters as defined as "waters of the United States" in 40 CFR 122.2 within the geographic boundaries of Washington State and "waters of the state" as defined in Chapter 90.48 RCW which includes: lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and water courses within the jurisdiction of the State of Washington.

(60) "Wetland" or "Wetlands" means that area inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances

does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites unless those artificial wetlands are to mitigate conversion of wetlands, if permitted by the county.

12.10.120 Stormwater Requirements

(1) Site plan. A land development application shall include a stormwater site plan prepared by an engineer registered in the state of Washington and submitted to the public services department for review and approval for any proposed land development or redevelopment greater than one acre. Failure to submit a stormwater site plan, begin construction without the public services director's approval of a submitted stormwater site plan, or implement actions other than those actions described in an approved stormwater site plan shall constitute a violation of this Ordinance.

(2) Ultimate land development considered. Hydrologic parameters used in calculations shall reflect the runoff conditions for the ultimate land development and shall be used in all engineering calculations. All pre-development calculations shall consider open space, woods and fields to be in good condition, regardless of actual conditions at the time of application.

(3) Exemptions. The following activities are exempt from this section of this Ordinance:

- (a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
- (b) Forest practices regulated under Title 222 WAC. Conversions of forest lands to other uses are not exempt. Silvicultural roads that are used to access other land uses subject to this Ordinance are not exempt.
- (c) Commercial agriculture practices involving working the land for production. Construction of impervious surfaces are not exempt.
- (d) Oil and gas field activities such as construction of drilling sites, waste management pits, and access roads, as well as construction of transportation and treatment infrastructure such as pipelines natural gas treatment plants, natural gas pipeline compressor stations, and crude oil pumping stations.
- (e) Short plat applications that disturb less than one acre of ground provided natural drainage easements are identified on the short plat site plan and are recorded on the plat.

(4) Application. Stormwater site plans shall be submitted in accordance with YCC 16B, Project Permit Administration and accompany forms and/or checklists furnished by the county. Grading or building permits shall not be issued for land development subject to this Ordinance without County approval of a stormwater site plan.

(5) Application Fees. The public services director may adopt reasonable administrative fees and technical review fees for construction stormwater pollution prevention plans, stormwater site plans, administration, review, inspection, and monitoring of projects subject to this Ordinance.

- (a) Applicants must pay review fees before the review process may begin.
- (b) Application fees are payable at the time of application and are non-refundable.
- (c) Application fees shall be calculated by the public services director in accordance with the fee schedule described in YCC Title 20,
- (d) These fees are in addition to any other local or state fees that may be charged under any other law, bylaw, or local Ordinance.

(6) Approval. Approval of a stormwater site plan shall expire in one (1) year from the date of approval unless:

- (a) A final plat is recorded and all improvements have been financially guaranteed or installed;
- (b) A final decision on a plat or land development has not expired, the project or development has not changed and, in the opinion of the public services director, there are

no substantive changes in underlying regulations that would materially impact the effectiveness of the stormwater site plan; or

(c) Work has actually begun on the site.

A stormwater site plan may be prepared to address a land use action or plat that is proposed to be developed in phases. In the event of subsequent changes to development plans phases or sequencing, the applicant shall submit a report to the public services director documenting that said changes do not materially impact the effectiveness of the stormwater site plan. The public services director has the sole discretion to make said determination. The recording of a final plat for a section of a subdivision (or initiation of construction in a section) or the completion of a land development project phase does not vest the approval of the stormwater site plan for the remainder of the subdivision or project, unless it is consistent with section 12.10.120(6)(b) above. If the stormwater site plan expires, the applicant shall file for re-approval of the stormwater site plan.

(7) As-built plans. Applicants shall submit as-built plans for any permanent stormwater management facilities. The plans must show the final design specifications for all stormwater management facilities, meet the criteria for final corrected plans in the regional manual section 3.2, and be sealed by a registered professional engineer. A final inspection by the public services director is required before any performance bond or guarantee will be released.

12.10.130 Stormwater Design Criteria

(1) General. The design of stormwater BMPs shall consider public health, safety, and general welfare. These considerations include, but are not limited to: preventing flooding of structures and travelways; preventing standing water in facilities, manholes, inlets, and other structures in a manner that promotes breeding of mosquitoes; preventing attractive nuisance conditions and dangerous conditions due to velocity or depth of water and/or access to orifices and drops; and preventing aesthetic nuisances due to excessive slopes, cuts and fills, and other conditions. All stormwater facilities and conveyance systems shall be designed in compliance with all applicable state and federal laws and regulations, including the Federal Clean Water Act and all applicable erosion and sediment control and flood plain regulations. All development and redevelopment shall apply source control BMPs selected, designed, and maintained in accordance with the regional manual, Chapter 5.

(2) Entire project considered. Residential, commercial or industrial developments shall apply these stormwater criteria to land development as a whole. Individual residential lots in new subdivisions shall not be considered separate land development projects, but rather the entire subdivision shall be considered a single land development project.

(3) Ownership of facilities. Stormwater facilities within residential subdivisions that serve multiple lots and/or a combination of lots and roadways shall be on a lot owned and maintained by an entity of common ownership. Stormwater practices located on individual lots shall be maintained by the lot owner, or, at the discretion of the public services director, be placed within an easement and maintained by an entity of common ownership.

(4) Floodplains, critical areas, and jurisdictional waters. Construction of stormwater measures or facilities within a Federal Emergency Management Agency (FEMA) designated floodplain shall be avoided to the extent possible. When this is unavoidable, all stormwater BMP construction shall be in compliance with all applicable requirements of YCC Titles 13 through 16D. To the extent practical, stormwater facilities shall not be located in areas determined to be jurisdictional waters through Section 404 of the Federal Clean Water Act and/or applicable state regulations (RCW 79.105).

(5) Conveyance. All development and redevelopment shall provide the passage of upland flow and site runoff. Conveyance of upland flow shall maintain natural drainage patterns. Discharges from project sites should occur at the natural location to the maximum extent or, where altered, must be situated or directed to where it would have overflowed under the conditions existing prior to proposed development. Capacity of the drainage course

downstream of the development may not be exceeded. The preferred order of options for discharge of excess stormwater are described in the regional manual, Section 2.3.

(a) Drainage Improvement District facilities shall not be used for new development or redevelopment drainage.

(b) Design calculations for passage of upland flow and site runoff shall use the 100 year, 24 hour design storm.

(6) Site runoff and flow control. Discharges from all new development and redevelopment must not cause a significant adverse impact to downstream receiving waters and down-gradient properties. Stormwater site plans shall provide for the on-site detention and/or retention of the total water intercepted and collected by the development and the areas (improved or unimproved) lying and draining presently to and through the proposed development, for the design storm, unless other natural or manmade systems are available for use. Site runoff flow control to mitigate downstream impacts is required for new development and redevelopment projects creating 10,000 square feet or more of new impervious surfaces for any discharge of stormwater. Flow control facilities shall be selected, designed, constructed, operated and maintained consistent with guidance found in the regional manual, Chapter 7, and criteria herein. Energy dissipation at the point of discharge is required for all projects unless exempt.

(a) Exemptions. Direct discharges to the following surface waters are exempt from flow control requirements:

(i) Any river or stream that is:

Fifth order or greater as determined from a 1:24,000 scale map; or

Fourth order or greater as determined from a 1:100,000 or larger scale map.

The maps should be standard USGS maps or GIS data sets derived from USGS base maps.

(ii) Any lake or reservoir with a contributing watershed area greater than 100 square miles.

(iii) Reservoirs with outlet controls that are operated for varying discharges to the downstream reaches as for hydropower, flood control, irrigation, or drinking water supplies. Uncontrolled, flow-through impoundments are not exempt.

(iv) Streams that flow only during runoff-producing events. The runoff carried by the stream following the 2-year, Type IA rainfall event must not discharge via surface flow to a non-exempt surface water. To be exempt, the stream may carry runoff during an average annual snowmelt event but must not have a period of baseflow during a year of normal precipitation.

(b) Site runoff design and flow control facility design calculations for peak flow and peak volume detention requirements shall be based on full retention of the post-development condition for the stated design storm, and the contributing basin size, where contributing basin size refers to the total area above the inlet or hydraulic element.

(i) In Ahtanum Creek, Cowiche Creek, Satus Creek, Toppenish Creek & Wide Hollow Creek watersheds, the 25-year, 24-hour design storm shall be used.

(ii) In all other watersheds, the 10-year, 24-hour design storm shall be used.

(c) Hydrologic modification of a wetland shall not be allowed if the wetland is classified as Category 1 or Category 2 according to the Eastern Washington Wetland Rating System unless the applicant demonstrates that preferred methods of excess stormwater disposal (e.g., infiltration) are not possible at the site and that other options (e.g., evaporation) would result in more damage to the wetland by limiting inflow. Mitigation shall be required for the impact of hydrologic modification to a wetland

12.10.140 Stormwater site plan contents. Stormwater site plans must contain those items identified in the regional manual stormwater site plan checklist, Appendix 3-A. In addition:

(1) The Stormwater Site Plan shall incorporate all calculations for the determination of the required size of the systems. Such calculations shall be based on required criteria hereinafter stated and upon an analysis of estimated runoff from areas contributing runoff to those facilities.

(2) Larger scale projects or those located in areas of sufficient relief, such as a large lot subdivision, may use the best available topographic information; this may involve contours on a scale larger than the 2-foot minimum at the discretion of Yakima County.

(3) A geotechnical site characterization and report is required to demonstrate suitability of a site for stormwater disposal in accordance with criteria identified in the regional manual, Section 3-1. In areas where there has been a long-standing record of satisfactory performance of standard subsurface disposal facilities this requirement may be reduced or waived by formal written request to the public services director. When infiltration is proposed, field exploration is required as follows:

(a) Test borings and/or test pits shall be located within the footprint of proposed stormwater disposal facilities;

(b) For each facility, a minimum of one (1) subsurface exploration shall be performed for up to 1200 square feet of disposal area. Another subsurface exploration shall be performed for each additional 15,000 square feet, or fraction thereof, of disposal area. For a linear roadside swale, a minimum of one (1) subsurface exploration shall be performed every 500 feet, staggered on both sides of the road, unless site conditions or test results indicate that additional explorations are necessary. Subsurface explorations and sampling shall be conducted according to applicable standards of the American Society for Testing and Materials (ASTM);

(c) Unless otherwise recommended by the geotechnical engineer, subsurface explorations shall extend to a depth of H plus 5 feet below the stormwater facility, where H is equivalent to the maximum head of water within the facility.

(4) A Permanent Stormwater Control Plan shall include a drainage report containing items identified in the regional manual site plan checklist, Appendix 3-A.

(5) Development and redevelopment greater than one (1) acre and not qualifying for an Erosivity Waiver shall prepare a SWPPP for construction activity in accordance with the regional manual, Chapter 9, or Ecology's *General NPDES Permit for Stormwater Discharges Associated with Construction Activities*. The plan shall include a schedule of erosion and sediment control activities, and information on the sequence/phasing of construction, temporary stabilization measures, and temporary structures that will be converted into permanent stormwater controls. Submission of a SWPPP and Notice of Intent (NOI) application form prepared for Ecology shall satisfy this requirement.

(a) Development or redevelopment greater than one (1) acre and less than five (5) acres may qualify for an Erosivity Waiver in lieu of a construction SWPPP. Submittal of a completed and signed Erosivity Waiver Certification prepared for Ecology shall satisfy this requirement.

(b) A construction SWPPP is not required for the following activities:

(i) Construction activities which discharge all stormwater and non-stormwater to ground water, and have no point source discharge to surface water or a storm sewer system that drains to surface waters of the state. UIC wells must be protected from sediment in runoff generated during construction.

(ii) Stormwater from any site covered under an existing NPDES individual permit in which stormwater management and/or treatment requirements are included for all stormwater discharges associated with construction activity.

12.10.150 Treatment.

(1) Applicability. The provisions of this section shall apply to any new development or redevelopment within the unincorporated portion of Yakima County designated as the Yakima

County NPDES permit boundary by Ecology. The current permit boundary is described as the larger of the growth management area or Federal Census urban area around those cities having a municipal stormwater NPDES permit or as shown on the Yakima County website.

(2) New Development. Basic treatment to remove solids is required for all new development projects creating 5,000 square feet or more of pollutant-generating impervious surface (PGIS) areas within the Yakima County Stormwater Utility boundary described in YCC 12.09.

Treatment is required for discharges to all surface waters of the state, including perennial and seasonal streams, lakes and wetlands where the PGIS threshold is met. Runoff treatment is also required for discharges of stormwater to ground where the vadose zone does not provide adequate treatment capacity as identified in the regional manual, Section 6.4, and Chapter 5.6 the Stormwater Management Manual for Eastern Washington (2004).

(3) Redevelopment. Basic runoff treatment is required for redevelopment projects creating 5,000 square feet or more of PGIS within the Yakima County Stormwater Utility boundary, where:

(a) The project takes place at an industrial site as defined by EPA (40 CFR 122.26(b)(14)) with outdoor handling, processing, storage, or transfer of solid raw materials or finished products, or

(b) The project takes place at a commercial site with outdoor storage or transfer of solid raw materials or treated wood products, or

(c) A need for additional stormwater control measures has been identified through a TMDL or other water cleanup plan or other planning process, or

(d) The project takes place at a high-use site, or

(e) The project takes place in an area subject to vehicular traffic under any of the following conditions:

(i) The project improves a soft shoulder to a curb and gutter roadway with projected ADT of 7,500 or more vehicles.

(ii) The project replaces and/or improves the surface of a parking area where the projected number of trip ends exceeds 40 per 1,000 square feet of building area or 100 total trip ends per day.

(iii) The project replaces and/or improves the surface of an urban road where the projected ADT is 7,500 or more vehicles per day.

(iv) The project replaces and/or improves the surface of a freeway or rural road where the projected ADT is 15,000 or more vehicles per day.

(v) The project affects the area within 500 feet of a controlled intersection on a limited access control highway with projected ADT of 7,500 or more vehicles per day. Only this area must be treated.

(4) Basic Treatment Exemptions. Non-pollutant generating impervious surface (NPGIS) areas are exempt from basic treatment requirements unless the runoff from these areas is not separated from the runoff generated from PGIS areas. All runoff treatment facilities must be sized for the entire flow that is directed to them. Projects that meet the requirements for dispersal and infiltration and do not meet the thresholds for requiring oil treatment are exempt from basic treatment requirements. Discharges to surface water and the county stormwater facility from projects with a total PGIS area <5,000 square feet are exempt from basic treatment requirements unless those areas are subject to the storage or handling of hazardous substances, materials or wastes as defined in 49 CFR 171.8, RCW 70.105.010, and/or RCW 70.136.020. Private new development and redevelopment that demonstrate retention of the treatment design storm volume(s) on site are also exempt from basic treatment requirements.

(5) Metals treatment. Metals treatment is required in addition to basic treatment for new development projects creating 5,000 square feet or more of pollutant-generating impervious surface (PGIS) areas with moderate-use sites, high-use sites, and sites that meet any of the following definitions:

- (a) Industrial sites as defined by EPA (40 CFR 122.26(b)(14)) with benchmark monitoring requirements for metals; or industrial sites subject to handling, storage, production, or disposal of metallic products or other materials, particularly those containing arsenic, cadmium, chromium, copper, lead, mercury, nickel or zinc.
 - (b) On-street parking areas of municipal streets in commercial and industrial areas.
 - (c) Highway rest areas.
 - (d) Runoff from metal roofs not coated with an inert, non-leachable material.
 - (e) Metals treatment is required in addition to basic treatment for redevelopment projects with high-use sites or high ADT roadways and parking areas and for projects where:
 - (f) An additional need for stormwater control measures to remove metals has been identified through a TMDL or other water cleanup plan, or
 - (g) The project takes place at an industrial site that is subject to benchmark monitoring for metals.
- (6) Metals treatment exemptions.** Unless a specific water quality problem has been identified by Ecology, the following discharges are exempt from metals treatment requirements:
- (a) Discharges to non-fish-bearing streams.
 - (b) Direct discharges to the main channels of the following rivers: Naches River, and Yakima River.
 - (c) Subsurface discharges, unless identified as hydraulically connected to surface waters of the State.
 - (d) Restricted residential and employee-only parking areas, unless subject to through traffic.
- (7) Oil treatment.** Oil treatment is required in addition to basic treatment for all high-use sites and high ADT roadways and parking areas at new development and redevelopment projects creating 5,000 square feet or more of pollutant-generating impervious surface (PGIS) area. Uncovered fuel islands shall have a spill control type of oil control facility for source control separately from or in addition to this treatment requirement. Oil treatment/control is required in addition to any other runoff treatment required. Separator technologies for oil treatment are required only for the following high-use sites:
- (a) High-density intersections with expected ADT of 25,000 or more vehicles on main roadway and 15,000 or more vehicles on any intersecting roadway,
 - (b) Non-employee parking areas of commercial or industrial sites with trip end counts greater than 100 vehicles per 1,000 SF gross building area,
 - (c) Areas of commercial and industrial sites subject to use, storage, or maintenance of a fleet of 25 or more vehicles that are over ten (10) tons gross weight, • Fueling stations and facilities, and
 - (d) Sites subject to petroleum transfer in excess of 1,500 gallons per year, not including routinely delivered heating oil.
 - (e) A catch basin preceded by passive oil control vault may be applied in lieu of an approved separator technology at the following sites as long as they are inspected/maintained/cleaned at least once per year or more frequently as needs are identified:
 - (i) A customer or visitor parking lot with an expected trip end count equal to or greater than 300 vehicles (best professional judgment should be used in comparing this criterion with the preceding criterion); and
 - (ii) Commercial on-street parking areas on streets with an expected total ADT count equal to or greater than 7,500;
 - (f) At all other high-use sites and high ADT traffic areas subject to the oil treatment requirement, sorptive technologies, not separators, are required. Basic treatment methods with sorptive properties, such as swales or filters, may be selected to fulfill this requirement; or catch basin inserts may be used at these sites. A catch basin preceded by passive oil control vault, such as a chamber with a turned-down elbow, may be applied at sites with ADT greater than 30,000 as long as they are inspected/maintained/cleaned at least once per year

or more frequently as needs are identified. High-use roadway intersections shall treat lanes where vehicles accumulate during the signal cycle, including left and right turn lanes and through lanes, from the beginning of the left turn pocket. If no left turn pocket exists, the treatable area shall begin at a distance equal to three (3) car lengths from the stop line. If runoff from the intersection drains to more than two (2) collection areas that do not combine within the intersection, treatment may be limited to any two (2) of the collection areas where the cars stop.

High-use sites and high ADT roadways and parking areas must treat runoff from the high-use portion of the site using oil control treatment options in Chapter 6 of the regional manual prior to discharge or infiltration. For high-use sites located within a larger project area, only the impervious area associated with the high-use site is subject to oil control treatment, but the flow from that area must be separated; otherwise the treatment controls must be sized for the entire area.

(8) Treatment BMP Design Storm. Each treatment BMP shall be sized based on a water quality design volume, or a water quality design flow rate.

(a) Treatment Design Volume. Volume-based facilities shall be designed to capture and treat 0.5 inch predicted runoff produced for the proposed development condition from all impervious surface areas that contribute flow to the treatment facility.

(b) Treatment Design Flow Rate: Flow based treatment BMPs shall be designed to treat the water quality flow, computed as follows:

(c) Flow based treatment BMPs located upstream of detention facilities shall be designed to treat the runoff flow rate predicted for the proposed development condition from the short-duration storm with a 6-month return frequency., computed in accordance with the Stormwater Management Manual for Eastern Washington, or approved local equivalent. Flow based treatment BMPs located downstream of detention facilities shall be designed to treat the runoff flow rate for the proposed development condition calculated by the Rational Method using the 2-year mean recurrence interval. This method may only be used to design facilities based on instantaneous peak flow rates.

(9) Bypass. A bypass must be provided for all treatment BMPs unless the facility is able to convey the 25-year 3-hour storm without damaging the BMP or dislodging pollutants from within it.

(10) Wetlands. Stormwater treatment facilities are not allowed within a wetland or its natural vegetated buffer, or to provide treatment, except for:

(a) Necessary conveyance systems approved by the local government; or

(b) As allowed in a wetland mitigation plan.

(c) When permitted, Critical Areas and Shorelines codes will also apply.

12.10.160 Drainage Easements.

Drainage easements shall be required where a development or redevelopment is traversed by a drainageway, channel or stream. The following conditions shall apply to all easements:

(1) A stormwater easement or drainage right-of-way shall conform substantially with the lines of the drainageway, channel or stream.

(2) Measures shall be taken to prevent down-gradient impacts as a result of new development or redevelopment where no conveyance system exists at the adjacent down-gradient property line or stream, and the discharge was previously un-concentrated flow or significantly lower concentrated flow.

(3) Easements may not be obstructed by structures, including fences, or filled.

(4) Easements shall be of a width for construction, or maintenance, or both, as will be adequate for the purpose. Width must be able to convey the 100 year - 24 hour storm and shall be no less than 20' wide. Parallel streets or parkways may be required in connection therewith.

(5) The costs of repairs, maintenance, removing structures or other drainage impediments shall be the responsibility of Grantor. Easement terms will allow for Yakima County to perform maintenance and repairs on said storm water management facility(s) should the Grantor neglect to do so. For the purpose of inspection, maintenance and repair, the easement must ensure access from public right-of-way to stormwater facilities and drainageways.

(6) Easements shall be approved by the planning division of the Yakima County public services department prior to approval of a final plat and shall be recorded with the Yakima County and on all property deeds.

(7) A deed of easement shall be recorded prior to the stormwater certificate of completion.

12.10.170 Performance

A performance bond or guarantee shall be required of applicants developing public stormwater control facilities. Yakima County may take action at the applicant's expense should the applicant fail to initiate or maintain those measures identified in the approved stormwater site plan after being given proper notice and within the time specified by the public services director. Yakima County shall collect from the applicant the difference should the amount of reasonable cost of such action exceed the amount of the security held.

(1) The performance bond or guarantee shall be secured prior to approval of the stormwater site plan.

(2) The performance bond or guarantee, or the unexpended or unobligated portion thereof, shall be returned to the applicant within 60 days of issuance by the public services director of a Stormwater Certificate of Completion, OR the final acceptance of the permanent stormwater BMP by the public services director.

(3) At the discretion of the public services director, the performance bond or guarantee may be extended beyond the time period specified above to cover a reasonable period of time for testing the practices during storm events and for initial maintenance activities. For the purposes of this section, the time shall not exceed two (2) years.

(4) The public services director shall have the discretion to adopt provisions for a partial pro-rata release of the performance bond or guarantee on the completion of various stages or phases of development.

12.10.180 Completion

The public services director shall issue a Stormwater Certificate of Completion for projects following final installation and stabilization of all stormwater BMPs shown on the stormwater site plan, submission of all necessary as-built plans, and final inspection and approval by the public services director. In issuing such a certificate, the public services director shall determine that all work has been satisfactorily completed in conformance with this Ordinance.

12.10.190 Inspections

(1) The public services department shall make at least one inspection during construction and shall notify the applicant wherein the SWPPP fails to address all required elements appropriate for the site or the work fails to comply with the SWPPP. The SWPPP and inspection record shall be maintained and available for inspection at the site during the progress of the work. Structural BMPs shall be inspected during construction to ensure compliance with the stormwater site plan.

(2) The public services department shall conduct periodic inspections for all stormwater practices for which a Stormwater Certificate of Completion has been issued. All inspections shall be documented in writing. The inspection shall document any maintenance and repair needs and any discrepancies from the stormwater maintenance agreement and stormwater maintenance plans.

(a) At his discretion, the public services director may authorize the use of private inspectors to conduct and document ongoing maintenance inspections. Such private inspectors shall submit all inspection documentation in writing to the public services director. All costs and

fees associated with the use of private inspectors shall be the responsibility of the responsible party. If the use of private inspectors is authorized, the public services director shall maintain a training and certification program, authorize inspectors trained by an Ecology approved training program, or authorize another entity to maintain such a program. All private inspectors shall be certified prior to conducting any inspections or submitting any inspection documentation to the public services director. The public services director shall remain the responsible entity for ultimate inspection of stormwater practices and any enforcement actions necessary under of this Ordinance.

(b) **Records of Maintenance Activities.** The responsible party shall make records of the installation and of all maintenance and repairs to stormwater BMPs, and shall retain the records for at least five (5) years. These records shall be made available to the public services director during inspection of the practice and at other reasonable times upon request.

(c) **Failure to Provide Adequate Maintenance.** In the event that the stormwater BMP has not been maintained and/or becomes a danger to public safety or public health, the public services director shall notify the responsible party by registered or certified mail. The notice shall specify the measures needed to comply with the maintenance agreement and the maintenance plan and shall specify that the responsible party has 30 days or other time frame mutually agreed to between the public services director and the responsible party, within which such measures shall be completed. If such measures are not completed, then the public services director shall pursue enforcement procedures pursuant to section 12.10.240 of this Ordinance.

(d) If a responsible party fails or refuses to meet the requirements of an inspection report, maintenance agreement, or maintenance plan the public services director, after 30 days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the practice in proper working condition. The public services director may assess the responsible party of the practice for the cost of repair work which shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by Yakima County.

12.10.200 Prohibition of Illicit Discharges.

(1) No person shall discharge or cause to be discharged into county stormwater facilities or a public UIC any materials, including but not limited to pollutants or waters containing any pollutants other than storm water.

(2) The commencement, conduct or continuance of any illicit discharge to county stormwater facilities or a public UIC is prohibited except as described as follows:

(3) The following discharges are exempt:

(a) Discharges resulting from emergency fire fighting activities.

(4) The following discharges are exempt and shall only be illicit discharges if the public services director has reason to consider that the discharge, whether singly or in combination with others, may cause or contribute to a violation of Yakima County's Eastern Washington Phase II Municipal Stormwater Permit, may cause Yakima County to violate Ecology's UIC rules, or is causing or contributing to a water quality or flooding problem. In such cases, it shall be the responsibility of the discharger to provide evidence that the discharge is not illicit and complies with the following:

(a) Diverted stream flows;

(b) Rising ground waters;

(c) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));

(d) Uncontaminated pumped ground water;

(e) Foundation drains;

- (f) Air conditioning condensation;
 - (g) Irrigation water from agricultural sources that is commingled with urban stormwater;
 - (h) Springs;
 - (i) Water from crawl space pumps;
 - (j) Footing drains;
 - (k) *Flows from riparian habitats and wetlands.*
 - (l) Discharges from lawn watering and other irrigation runoff.
- (5) The following discharges are not exempt from discharge prohibitions established by this ordinance:
- (a) Discharges from potable water sources, including water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, firefighting training and pipeline hydrostatic test water.
 - (b) Planned discharges from potable water sources may be discharged to county stormwater facilities or public UIC provided they are de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in county stormwater facilities or public UIC.
 - (c) Swimming pool discharges. Discharges from swimming pools may be discharged to county stormwater facilities or public UIC provided that they are dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted and reoxygenated if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in county stormwater facilities or public UIC. Swimming pool cleaning wastewater and filter backwash shall not be discharged to county stormwater facilities or public UIC.
 - (d) Street and sidewalk wash water containing detergents, water used to control dust containing detergents, and routine external building wash down containing detergents.
 - (e) Street and sidewalk wash water, water used to control dust, and routine external building wash down water may be discharged to county stormwater facilities or public UIC provided:
 - (i) It does not contain detergents.
 - (ii) Streets and sidewalks are swept and material removed prior to washing.
 - (iii) At active construction sites, street sweeping shall be performed prior to washing the street.
 - (f) Discharges specified in writing by the Washington State Department of Ecology as being a significant source of pollutants to waters of the state are prohibited.
- (6) Dye testing is an allowable discharge, but requires a verbal notification to Yakima County public services department prior to the time of the test.
- (7) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted from the public services director for any discharge to county stormwater facilities or public UIC.

12.10.210 Prohibition of Illicit Connection.

The construction, use, maintenance or continued existence of illicit connection to the county stormwater facility or public UIC is prohibited. This prohibition expressly includes, without limitation, illicit connection made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

- (1) In such cases where the illicit connection was made in the past by a party other than the current person responsible for the connection, the current person shall have a period of 30 days to voluntarily remove the connection or enter into a correction agreement specifying an *extended time, but no longer than that required for the County to remove the illicit connection* within 180 days in accordance with the municipal stormwater NPDES permit limit.

(2) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the county stormwater facility or public UIC, or allows such a connection to continue.

(3) Suspension due to Illicit Discharges in Emergency Situations. The public services director may, without prior notice, suspend county stormwater facility or public UIC discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, either illicit, or which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the county stormwater facility or public UIC or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the public services director may take such steps as deemed necessary to prevent or minimize damage to the MS4, the public UIC or to minimize danger to persons.

(4) Suspension due to the Detection of Illicit Discharge or Illicit Connection. Any person discharging, or connected, to the county stormwater facility or public UIC in violation of this ordinance may have their county stormwater facility or public UIC access terminated if such termination would abate or reduce an illicit discharge or connection. The public services director will notify a violator of the proposed termination of its county stormwater facility or public UIC access. Persons must respond within 15 days of said notification to propose a voluntary correction in accordance with Section 12.10.250(3) of this ordinance.

(5) A person commits a violation of this ordinance if the person reinstates county stormwater facility or public UIC access to premises terminated pursuant to this Section, without the prior approval of the public services director.

12.10.220 Notification Of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water or the county stormwater facility or public UIC, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Yakima County public services department in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Yakima County public services department within three (3) business days of the phone notice.

12.10.230 Right of Entry.

When necessary to perform any of his duties under this ordinance or to investigate upon reasonable cause or complaint the existence or occurrence of a violation of this ordinance, the public services director or his authorized representatives may enter onto property to inspect the same or to perform any duty imposed or authorized by this ordinance. Provided, that if such property be occupied and not a public place he shall first present proper credentials, state the reason for entry, and request permission to enter; and if such property is unoccupied, he shall first make a reasonable effort to locate the owners or other persons having charge or control of the property and request permission to enter. If such permission is refused, the public services director shall have recourse to every remedy provided by law to secure entry. The right of entry for this section shall only be an authorized employee, officer, or person designated by the public services director. All permits and approvals issued under the provisions of this ordinance are hereby conditioned on free access by the public services director or his authorized representatives to the property involved during any period of construction, improvement, or change, for inspections to assure compliance with this ordinance and any conditions of approval for such permit or approval. The public services director or his authorized representatives may enter onto private property during any such period of construction, improvement, or change

being done pursuant to a permit or approval for such purposes. Provided, that if the property is occupied he shall first notify the occupant prior to entry.

(1) If the public services director or his authorized representatives have been refused access to any part of the premises from which water is discharged, and he/she is able to demonstrate a reasonable belief that there is a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the public services director may seek issuance of a search warrant, injunctive relief, warrant of abatement or other remedy provided by law from any court of competent jurisdiction. The warrant will specify what may be searched and/or seized on the property described. Such warrant will be served at reasonable hours by the Wastewater manager or designated employee in the company of a uniformed police officer of the City. In the event of an emergency affecting public health, safety or welfare, inspections will take place without the issuance of a warrant.

(2) The right of entry extends to the following matters:

- (a) Entry upon the premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this ordinance;
- (b) Access to and copying, at reasonable times, any records required to be kept under the conditions of this ordinance;
- (c) Inspection at reasonable times of any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this ordinance;
- (d) Sampling or monitoring for the purposes of assuring compliance with this ordinance, including any substances or parameters at any location; and
- (e) Inspection of any production, manufacturing, fabricating or storage area where pollutants, regulated under this ordinance, could originate, are stored or discharged to the sewer system, the MS4 or public UIC.

12.10.240 Violations, Enforcement and Penalties

(1) Violations. Any person, firm, or corporation violating any of the provisions of this Title, including the provisions of the various Codes adopted by reference therein, or failing to comply therewith, or violating or failing to comply with any order issued or made pursuant to its provisions shall severally and for each and every violation and non-compliance respectively be guilty of a misdemeanor Yakima County Code 1.24.010 or shall be subject to a civil infraction as provided for by Chapter 7.80 RCW or any other remedy provided by law. Any person so convicted of a misdemeanor shall be punished for each offense by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

(2) Continued Violations. The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue. Any person, firm, or corporation shall be required to correct such violations or defects. Each week after notice of violation to such person, firm, or corporation shall constitute a separate offense unless time for correction is otherwise expressly extended in writing by the official enforcing this title. Provided, that where the authorized official has ordered any work or occupancy stopped or has revoked or suspended any permit or certificate, each and every day that such work or occupancy continues or is permitted to continue shall constitute a separate offense.

(2) Persons Liable. The owner, lessee, or tenant of any building, structure, premises, or part thereof, and any architect, engineer, builder, contractor, employee, agent, or other person who commits, authorizes, participates in, assists in, or who maintains after notice, a violation of this Title may each be found guilty of a separate offense and suffer the penalties provided in this Chapter.

12.10.250 Civil Infractions.

The following shall apply to the enforcement of this title or those ordinances codified in this chapter and those ordinances which provide that the Yakima County Surface Water Manager is charged with administration of those ordinances.

(1) Violations of the applicable codes shall be corrected under the provisions of this chapter, in coordination with existing ordinance and code provisions.

(2) Only an authorized official may enforce the provisions of this chapter. For purposes of this chapter, an authorized official is defined as any one of the following:

(a) Yakima County Sheriff and his or her authorized representatives shall have the authority to enforce the provisions of this chapter;

(b) Yakima County Building Official and his or her authorized representatives shall have the authority to enforce the provisions of this chapter;

(c) Yakima County Surface Water Manager and his or her authorized representatives shall have the authority to enforce the provisions of this chapter;

(d) Yakima County Prosecuting Attorney shall have authority to enforce the provisions of this chapter and may pursue any legal proceedings necessary to enforce the provisions of this chapter; and

(3) Whenever an authorized official determines that a violation has occurred or is occurring, he or she may pursue reasonable attempts to secure voluntary corrections, failing which he or she may issue a notice of infraction. An authorized official may issue a notice of infraction if the authorized official reasonably believes that the provisions of this chapter have been violated. A notice of infraction may be served either by:

(a) The authorized official serving the notice of infraction on the person named in the notice of infraction at the time of issuance; or

(b) The authorized official filing the notice of infraction with the court, in which case the court shall have the notice served either personally or by mail, postage prepaid, on the person named in the notice of infraction at his or her address.

(4) A notice of infraction shall be filed in district court within forty-eight (48) hours of issuance, excluding Saturdays, Sundays, and holidays. Yakima County District Court shall have Yakima County to hear and determine these matters.

(5) A person who receives a notice of infraction shall respond to the notice as provided in this section within fifteen (15) days of the date the notice was served.

(6) If the person named in the notice of infraction does not contest the determination, the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records, and a record of the response order shall be furnished to the authorized official. Failure to contest the determination and the payment of the fine does not release the person named in the notice of the infraction from their obligation to comply with the Notice or Order of the authorized official.

(7) If the person determined to have committed the civil infraction wishes to contest the determination, the person shall respond by completing the portion of the notice of civil infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be earlier than seven (7) days nor more than ninety (90) days from the date of the notice of the hearing, except by agreement.

(8) If the person determined to have committed the civil infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice of civil infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified in the notice. The court shall notify the person in writing of the time, place, and date of the

hearing, and that date shall not be earlier than seven (7) days nor more than ninety (90) days from the date of the notice of the hearing, except by agreement.

(9) The court shall enter a default judgment assessing the monetary penalty prescribed for the civil infraction, and may notify the prosecuting attorney of the failure to respond to the notice of civil infraction or to appear at a requested hearing if any person issued a notice of civil infraction fails to respond.

(10) Any person willfully violating his or her written and signed promise to appear in court or his or her written and signed promise to respond to a notice of civil infraction is guilty of a misdemeanor regardless of the disposition of the notice of civil infraction; provided, that a written promise to appear in court or a written promise to respond to a notice of civil infraction may be complied with by appearance of counsel.

A person who willfully fails to pay a monetary penalty or to perform community service as required by a court under this chapter may be found in civil contempt of court after notice and hearing.

(11) A person subject to proceedings under this chapter may appear or be represented by counsel but not at public expense.

(12) The prosecuting attorney representing Yakima County may, but need not, appear in any proceedings under this chapter, notwithstanding any statute or court rule to the contrary.

(13) A hearing held to contest the determination that an infraction has been committed shall be without a jury.

(14) The court may consider the notice of infraction and any sworn statements submitted by the authorized representative who issued and served the notice in lieu of his or her personal appearance at the hearing. The person named in the notice may subpoena witnesses, including the authorized representative who has issued and served the notice, and has the right to present evidence and examine witnesses present in court.

(15) The burden of proof is on Yakima County to establish the commission of the infraction by a preponderance of evidence.

(16) After consideration of the evidence and argument, the court shall determine whether the infraction was committed.

(17) An appeal from the court's determination or order shall be to the Superior Court in the manner provided by the Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ).

(18) A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of an infraction shall be an informal proceeding. The person may not subpoena witnesses. The determination that a civil infraction has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances.

(19) After the court has heard the explanation of the circumstances surrounding the commission of the civil infraction, an appropriate order shall be entered in the court's records.

(20) There shall be no appeal from the court's determination or order.

(21) A person found to have committed a civil infraction shall be assessed a monetary penalty. All violations of this chapter shall be denominated Class I civil infractions. The maximum penalty and default amount for a Class I civil infraction shall be two hundred fifty dollars (\$250), not including statutory assessments.

(22) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time, the court may grant an extension of the period of time in which the penalty may be paid. If the penalty is not paid on or before the time established for payments the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the prosecuting attorney of the failure to pay. The court shall also notify the department of the failure to pay the penalty, and the department shall not issue the person any future permits for any work until the monetary penalty has been paid.

12.10.260 Violation – Civil Remedies.

In addition to any criminal proceedings brought to enforce this Title and in addition to any fine or imprisonment provided for therein, continuing violations of this Title may be enjoined or ordered abated in a civil proceeding for injunction or for abatement. For purposes of abatement actions, such violations are declared to be public nuisances. Any person, firm, or corporation violating the provisions of this Title shall be liable for all costs of such proceedings, including reasonable attorney's fees and expenses of abatement. The provisions of this subsection are in addition to any other remedies available at law or equity.

(1) The Prosecuting Attorney's Office on behalf of Yakima County and the public may pursue civil remedies to enforce compliance with the provisions of the Title. A private person directly affected by a violation of this Title may pursue civil remedies to enforce compliance with its provisions or to recover damages for its violation.

12.10.270 Appeals.

(1) Appeals of stormwater site plan review decisions can be appealed to the public services director in accordance with YCC chapter 16.09.

(2) All other decisions or orders of the public services director shall be final. Further relief shall be to a court of competent jurisdiction.

12.10.280 Remedies Not Exclusive.

The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state or local law.

12.10.290 Injunctive Relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the public services director may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

12.10.300 Compensatory Action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the public services director may negotiate with the violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

(1) The public services director may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

12.10.310 Effective Date.

The ordinance codified in this chapter shall go into effect within Yakima County on August 16, 2010, except as follows:

(1) Ordinance sections 12.10.120, 12.10.130, 12.10.140, and 12.10.160 through 12.10.190 shall go into effect within Yakima County on April 16, 2010.

(2) Ordinance sections 12.10.150 and construction SWPPP requirements identified in section 12.10.140 shall go into effect within Yakima County on February 16, 2011.

Section 3. Title 16B entitled "Project Permit Administration" is hereby modified to contain new sections thereof, and shall read as follows:

16B.01.020 Applicability.

The provisions of this title shall apply to all applications for land use or environmental permits subject to review under the following chapters of the Yakima County Code:

- (1) Title 12.10 - Stormwater Authority
- (2) Title 14 – Subdivisions.
- (23) Title 15 – Yakima County Zoning.
- (34) Title 15A – Yakima Urban Area Zoning.
- (45) Title 16A – Critical Areas.
- (56) Title 16 – SEPA.

Section 3. Title 20 entitled "YAKIMA COUNTY FEE SCHEDULE" " is hereby modified to contain new sections thereof, and shall read as follows:

16B.01.020 Applicability

The schedule of fees and charges adopted by the board of county commissioners and established in this chapter for the processing of the numerous and variety of applications required by the county, pursuant to the Yakima County Code, may be altered or amended only by the board of county commissioners.

No application shall be accepted, processed or approved unless or until such fees and charges listed in this title have been paid in full.

(A) YAKIMA COUNTY CODE
CHAPTER 12.10 - STORMWATER AUTHORITY

<u>2.</u>	<u>Stormwater Site Plan review with treatment: One(1) pre-project planning meeting, one (1) completeness review, one (1) plan review, one (1) pre-construction conference, one (1) construction inspection, one post-construction inspection for acceptance, one (1) As built review and bond close-out.</u>	<u>\$800.00</u>
<u>3</u>	<u>Stormwater Site Plan without treatment: One(1) pre-project planning meeting, one (1) completeness review, one (1) plan review, one post-construction inspection for acceptance, one (1) As built review and bond close-out.</u>	<u>\$600.00</u>
<u>4.</u>	<u>Additional agreement drafts, plan reviews, meetings, or inspections required in addition to (2) or (3).</u>	<u>100% Processing Cost*.</u>
<u>5.</u>	<u>Appeals</u>	<u>See subsection (G)</u>
	<u>* "Processing cost" means actual costs including but not limited to staff wages, benefits, overhead, consultant services or other expenses incurred in the processing of the review of the project subject to YCC Title 12.10. The hourly rate listed below includes wages, benefits, and overhead for planning, managerial, and clerical staff, and is assessed based on the time expended by Yakima County staff only.</u>	

(AB) YAKIMA COUNTY CODE
TITLE 14 - SUBDIVISION ORDINANCE

Table unchanged. Omitted for clarity

(BC) YAKIMA COUNTY CODE
TITLE 15 - ZONING ORDINANCE

Table unchanged. Omitted for clarity

(ED) YAKIMA COUNTY CODE
TITLE 15A - YAKIMA URBAN AREA ZONING ORDINANCE

Table unchanged. Omitted for clarity

(DE) YAKIMA COUNTY CODE
TITLE 16 - SEPA

Table unchanged. Omitted for clarity

(EF) YAKIMA COUNTY CODE - TITLE 16A
CRITICAL AREAS ORDINANCE AND
YAKIMA COUNTY SHORELINE MANAGEMENT MASTER PROGRAM

Table unchanged. Omitted for clarity

(EG) YAKIMA COUNTY OPEN SPACE TAX PROGRAM

Table unchanged. Omitted for clarity

(EH) APPEALS

Table unchanged. Omitted for clarity

(HI) MAJOR APPLICATIONS

Table unchanged. Omitted for clarity