

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF COWLITZ COUNTY, WASHINGTON**

**In the matter of Amending, Adding and Repealing )  
Portions of Chapter 15.50 and Chapter 16.22 )  
to Meet the Requirements of the Western )  
Washington Phase II Municipal Stormwater Permit )**

**ORDINANCE NO. 22-063**

**WHEREAS**, pursuant to RCW 90.48 and The Federal Water Pollution Control Act ‘The Clean Water Act’, the Washington State Department of Ecology has issued Cowlitz County the Western Washington Phase II Municipal Stormwater Permit that requires Cowlitz County to manage stormwater discharge within its Urbanized Area; and

**WHEREAS**, pursuant the Western Washington Phase II Municipal Stormwater Permit, the Board of County Commissioners is required to implement an ordinance or other enforceable mechanism that addresses runoff from new development, redevelopment and construction site projects; and

**WHEREAS**, the Board of County Commissioners of Cowlitz County, Washington, upon recommendation of the County Engineer, has deemed it advisable to revise the Cowlitz County Illicit Discharge Detection and Elimination Code (Chapter 15.50 Cowlitz County Code [‘CCC’] ) and Cowlitz County Drainage Code (Chapter 16.22 CCC) to meet the requirements of the Western Washington Phase II Municipal Stormwater Permit; and

**WHEREAS**, this Board finds such regulations and their codification to be in the public interest;

**NOW THEREFORE, BE IT ORDAINED** by the Board of County Commissioners that:

**Section 1.** Portions of Chapter 15.50 CCC are hereby amended, repealed and revised, as follows:

**Section 15.50.0303 Definitions**

“County” means Cowlitz County Department of Public Works or, as indicated by the context, may mean the County Engineer, or other employee or agent representing the county in the discharge of his or her duties.

“Director” means the County Engineer or his/her designee.

**Section 15.50.050 Responsibility for administration**

The Department of Public Works shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the Department of Public Works may be delegated in writing by the Director to persons or entities acting in the beneficial interest of or in the employ of the Department.

**Section 15.50.060 Discharge Prohibitions**

A. Prohibition of Illicit Discharges. All illicit or nonstormwater discharges, as defined in this chapter, made either directly or indirectly into the MS4, are prohibited and constitute a violation of this chapter.

1. Allowable Nonstormwater Discharges. The following categories of nonstormwater discharges are not prohibited:

- a. Diverted stream flows.
- b. Rising groundwaters.
- c. Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20)).
- d. Uncontaminated pumped groundwater.
- e. Foundation drains.
- f. Air conditioning condensation.
- g. Irrigation water from agricultural sources that is commingled with urban stormwater.
- h. Springs.
- i. Uncontaminated water from crawl space pumps.
- j. Footing drains.
- k. Flows from riparian habitats and wetlands.
- l. Nonstormwater discharges authorized by another NPDES permit or state waste discharge permit.
- m. Discharges from emergency firefighting activities.

2. Conditionally Allowed Nonstormwater Discharges. The following categories of nonstormwater discharges are not prohibited if the stated conditions are met, and unless they are identified as a significant source of pollution:
- a. Discharges from potable water sources, including but not limited to water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be dechlorinated 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 stormwater drainage system.
  - b. Dechlorinated swimming pool, hot tub and similar discharges. These discharges shall be dechlorinated to a total residual chlorine concentration of 0.1 ppm or less, pH-adjusted and reoxygenized if necessary, volumetrically and velocity controlled to prevent re-suspension of sediments in the MS4. Discharges shall be thermally controlled to prevent an increase in temperature of the receiving water. Swimming pool cleaning wastewater and filter backwash shall not be discharged to the MS4.
  - c. Nonstormwater discharges covered by another NPDES permit; provided, that the discharger is in compliance with that permit, waiver, or order and other applicable laws and regulations; and granted that written approval has been granted for discharge to the MS4.
  - d. Discharges specified in writing by the Director as being necessary to protect public health and safety. The discharges shall be in compliance with a storm water pollution prevention plan (SWPPP) reviewed and approved by the County Engineer, which addresses control of such discharges.
  - e. Dye testing is an allowable discharge, but requires a verbal notification to the county at least one working day prior to the date of the test.
  - f. Discharges from lawn watering and other irrigation runoff. These shall be minimized through, at a minimum, public education activities and water conservation efforts.
  - g. Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents are permitted if the amount of water used is minimized. These discharges shall be minimized through, at a minimum, public education activities and water conservation efforts.
  - h. Discharges from individual residential car washing. These shall be minimized through, at a minimum, public education activities and other water conservation efforts.

- i. Discharges from car washing events of less than two consecutive days for charity and nonprofit fund-raising. These shall be minimized through, at a minimum, public education activities and other water conservation efforts such as pump kits, wash bays, coupon sales and locating the car washing event where the discharge will disperse across a grassy area and filter into the ground.

#### **15.50.110 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 illicit discharges or pollutants discharging into stormwater, the MS4, the stormwater drainage system, or waters of the state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release, so as to minimize the impacts of the discharge.

In the event of a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services, and shall also notify the Director. In the event of a release of nonhazardous materials, said person shall notify the Director 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 Director within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. Failure to provide notification of a release as provided above is a violation of this chapter.

#### **15.50.130 Cost of abatement of the violation by the county**

Within 30 days after abatement of the violation by the county, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 30 days of issuance of the abatement cost notification. If the amount due is not paid within a timely manner as determined by the decision of the Director or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment pursuant to the provisions of RCW 36.32.120(10).

**Section 2.** Portions of Chapter 16.22 CCC are hereby amended, repealed and revised, as follows:

**Sections:**

\* \* \* \* \*

- 16.22.060 Source control best management practices (BMPs)
- 16.22.070 Minimum requirements for construction and development
- 16.22.080 Modifications, variances, and appeals
- 16.22.090 Ownership, inspection and maintenance
- 16.22.100 Easements, deeds, and covenants
- 16.22.110 Enforcement
- 16.22.120 Interpretation
- 16.22.130 Liability
- 16.22.140 Ultimate responsibility
- 16.22.150 Conflict with other regulations

**16.22.020 Authority and purpose.**

Implementation of this chapter is required under the Western Washington Phase II Municipal Stormwater Permit (Phase II Permit) issued by the Washington State Department of Ecology under Sections 307, 318, 402 and 405 of the Federal Clean Water Act, 33 U.S.C. 1251 et seq. Under the authority granted to Cowlitz County in Chapters 36.70 and 90.48 RCW and the provisions of the Phase II Permit and Clean Water Act, Cowlitz County hereby establishes minimum requirements regulating stormwater discharge from construction and development activities into the surface waters and municipal stormwater facilities of Cowlitz County.

The purpose of this chapter is to:

- A. Promote public awareness;
- B. Prevent accelerated soil erosion, prevent sedimentation and control stormwater runoff resulting from earth changes proposed within Cowlitz County, both during and after construction activities;
- C. Ensure that property owner's control the volume and rate of stormwater runoff originating from their property so that surface water and groundwater quality is protected, soil erosion minimized, off-site sedimentation prevented and flooding potential reduced;
- D. Promote site planning, construction and maintenance practices that are consistent with natural geological, topographical, vegetative, and hydrological conditions;
- E. Maintain and protect the county's municipal stormwater facilities and the stormwater facilities located downstream of development and construction activities;
- F. Establish legal authority for the inspection, surveillance and monitoring procedures necessary

to ensure compliance with this chapter; and

- G. Define the responsible person and to place the obligation of complying with the requirements of this chapter upon that person. [Ord. 17-062 § 1 (Exh. A), 7-18-17.]
- H. Promote stormwater best management practices (BMPs) by the residents and businesses of Cowlitz County.

**16.22.030 Definitions.**

“AKART”\_All known, available, and reasonable methods of prevention, control, and treatment.

“Source Control BMP” shall mean a structure or operation intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants. A Structural Source Control BMPs are physical, structural, or mechanical devices or facilities that are intended to prevent pollutants from entering stormwater. Operational Source Control BMPs are non-structural practices that prevent or reduce pollutants from entering stormwater.

“Stormwater Management Manual for Western Washington (SWMMWW)” means the 2019 Edition of the manual prepared by Ecology, containing BMPs to prevent, control or treat pollution in stormwater and reduce other stormwater-related impacts to waters of the state. The SWMMWW is intended to serve as a reference and supplement to this chapter to control the quantity and quality of stormwater runoff from new development, redevelopment and construction activities.

\* \* \* \* \*

**16.22.060 Source Control Best Management Practices (BMPs)**

- A. Application. Existing development, current activities, and new development activities that are not listed in the exemptions of this subsection are required to apply stormwater BMPs listed in the Department of Ecology Stormwater Management Manual for Western Washington, Volume IV. A BMP not included in this manual may be approved by the responsible official if the proponent demonstrates that it provides equivalent effectiveness. An exemption from the requirement to use BMPs does not provide an exemption allowing prohibited discharges.
- B. Implementation. In applying the Department of Ecology Stormwater Management Manual for Western Washington for existing development, the responsible official shall first require the implementation of nonstructural source control BMPs. If these are not sufficient to prevent contaminants from entering surface and stormwater or groundwater, the responsible official may require implementation of structural source control BMPs or treatment BMPs, using AKART.

- C. **Monitoring.** The County inspection and monitoring of the implementation of stormwater BMPs shall be consistent with CCC 15.50.090.
- D. **Exemptions.** The following persons or entities are exempt from the provisions of this section unless the responsible official determines the alternative BMPs to be ineffective at reducing the discharge of contaminants or activities are causing a prohibited discharge:
1. Persons implementing BMPs through another applicable regulatory or resource management program; provided the responsible official may perform inspections to ensure compliance with this chapter. If the other program requires the development of a best management practices plan, the person shall make that plan available to Cowlitz County upon request;
  2. Persons engaged in forest practices regulated under WAC Title 222, except for Class IV general forest practices as defined under Chapter 222-16 WAC; and
  3. Persons conducting normal residential activities at property containing a single-family detached dwelling, duplex or triplex and modifications to it on a lot approved for such use, unless the responsible official determines that these activities pose a hazard to public health, safety or welfare; endanger any property; or adversely affect the safety and operation of county right-of-way, utilities, and/or other property owned or maintained by the county.

\* \* \* \* \*

**16.22.090 Ownership, inspection and maintenance.**

E. **Operations and Maintenance Manual and Covenants.**

4. The stormwater operations and maintenance covenants shall detail the continued performance of inspection and maintenance obligations required by this chapter. An operations and maintenance manual shall be submitted as an attachment to the actual operations and maintenance covenants. Information required for the operations and maintenance manual and covenants includes:
  - d. **Inspection and Maintenance Standards.** The manual shall include inspection and maintenance standards for each stormwater and conveyance facility and BMP, as documented in Volume V, Chapter 4 of the 2019 SWMMWW. In addition, the manual shall include a list of inspection and maintenance tasks, a schedule for routine inspection and maintenance and actions to be taken when maintenance is required. Initial inspection frequencies shall be defined according to the following:

**Section 3. Severability.** The provisions of this ordinance are declared separate and severable. If any section, paragraph, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Commissioners hereby declares that it would have passed this ordinance and each section, paragraph subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraph subsections, clauses or phrases may subsequently be found to be unconstitutional or invalid.

**Section 4. Repeal and Savings Clause.** The above-enumerated sections of Chapter 15.50 and Chapter 16.22 CCC, are hereby amended, repealed and revised as set forth above, and the remaining sections and provisions of Chapter 15.50 and Chapter 16.22 CCC not expressly amended repealed or revised in sections 1 and 2 herein, shall remain in full force and effect.

Such amendments, repeals, and revisions shall not be construed as affecting any existing right or registration acquired under the ordinances or portions of ordinances repealed or amended, nor as affecting any proceeding instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor the administrative action taken thereunder. Notwithstanding the foregoing actions, obligations under such ordinances or as to such registrations issued thereunder and in effect on the effective date of this ordinance shall continue in full force and effect, and no liability thereunder, civil or criminal, shall be in any way modified. Further, it is not the intention of these actions to reenact any ordinance or portions or sections of ordinances previously revised, repealed or amended, unless this ordinance specifically states intent to reenact such revised, repealed or amended ordinances.

**Section 5. Codification.** Code adoptions and amendments in Section 1 and 2 above shall be codified.

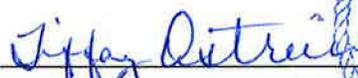
**Section 6. Effective Date.** These regulations are in the public interest and shall take effect on June 30, 2022.

**PASSED IN REGULAR SESSION THIS 14<sup>th</sup> day of June, 2022, after a public hearing was held on June 14, 2022, pursuant to Notice published in the Longview Daily News on June 1, 2022.**

**APPROVED AS TO FORM:  
RYAN JURVAKAINEN, Prosecuting Attorney**

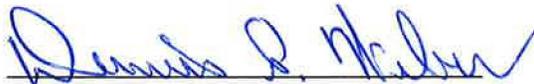
By: Douglas E. Jensen, Chief Civil Deputy

ATTEST:

  
Tiffany Ostreim, Clerk of the Board



**BOARD OF COUNTY COMMISSIONERS  
COWLITZ COUNTY, WASHINGTON**

  
Dennis P. Weber, Chairman

  
Arne Mortensen, Commissioner

  
John Jabusch, Commissioner