

ORDINANCE NO. 2009-14

AN ORDINANCE OF THE CITY OF EAST WENATCHEE AMENDING THE HEADING OF TITLE 13 OF THE EAST WENATCHEE MUNICIPAL CODE, ADDING NEW CHAPTERS 13.05 AND 13.20, PROVIDING STORM WATER DEFINITIONS, ESTABLISHING REGULATIONS FOR PROHIBITING ILLICIT DISCHARGES TO THE STORM WATER SYSTEM AND PROVIDING PROCEDURES FOR INSPECTION, SURVEILLANCE, MONITORING AND ENFORCEMENT INCLUDING PENALTIES FOR VIOLATIONS, CONTAINING A SEVERABILITY CLAUSE, AND ESTABLISHING AN EFFECTIVE DATE.

THE CITY COUNCIL OF THE CITY OF EAST WENATCHEE DO ORDAIN AS FOLLOWS:

Section 1: Purpose.

- (1) The City of East Wenatchee (“City”) is a non-charter code city duly incorporated and operating under the laws of the State of Washington.
- (2) The City Council finds that it is in the best interests of the City and its citizens to amend Title 13 of the East Wenatchee Municipal Code (“EWMC”) and adopt a stormwater management ordinance regulating discharges to the municipal separate storm sewer system (“MS4”) for the following reasons.
 - (a) On January 17, 2007, the Washington State Department of Ecology (DOE) issued the Eastern Washington Phase II Municipal Stormwater Permit - National Pollutant Discharge Elimination System (“NPDES”) and State Waste Discharge General Permit for Discharges from Small Municipal Separate Storm Sewers in Eastern Washington. The permit was modified on June 17, 2009. In accordance with Section S5 of the permit, the City is required to develop, implement and enforce a program to detect and eliminate illicit discharges (“IDDE”) within 30 months of the effective date of the NPDES Phase II Permit.
 - (b) An expanding population and increased development of land have led to water quality degradation through the introduction of nutrients, metals, oil and grease, toxic materials, and other detrimental substances from uncontrolled discharges of non-stormwater runoff into the City’s stormwater system.
 - (c) Continuation of non-stormwater discharges into the City stormwater system, will lead to further water quality degradation, erosion,

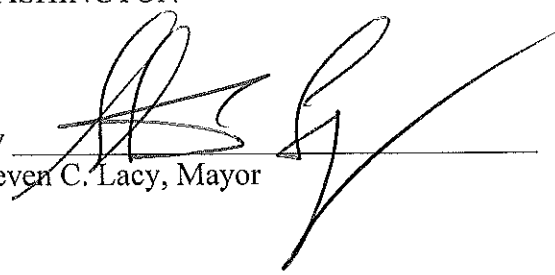
property damage, and endanger the health and safety of the inhabitants of the City.

(d) Identification and elimination of non-stormwater discharges will protect the City's stormwater system and improve water quality of surface and groundwater that may come into contact with stormwater from the City's system.

- Section 2: Authority. RCW 35A.11.020 and RCW 35A.12.190 authorize the City Council to adopt ordinances of all kinds to regulate its municipal affairs as appropriate to the good government of the City.
- Section 3: Amendment 1. The City Council amends the heading of Title 13 to read as follows:
SURFACE AND STORM WATER MANAGEMENT
- Section 4: Amendment 2. The Council adds Chapter 13.05 – Definitions to the East Wenatchee Municipal Code as set forth in Appendix "A".
- Section 5: Amendment 3. The Council adds Chapter 13.~~00~~²⁰ - Stormwater Illicit Discharge Detection and Elimination to the East Wenatchee Municipal Code as set forth in Appendix "B".
- Section 6: Findings of Fact. The City Council adopts by reference the findings of fact and conclusions as set forth in the attached Exhibit "C".
- Section 7: Severability. If a court of competent jurisdiction declares any provision in this Ordinance to be contrary to law, such declaration shall not affect the validity of the other provisions of this Ordinance.
- Section 8: Publication. The City Council directs the City Clerk to publish a summary of this Ordinance. The summary shall consist of the title of this Ordinance.
- Section 9: Effective Date. This Ordinance becomes effective five days after the date its summary is published.

Passed by the City Council of East Wenatchee, at a regular meeting thereof on 25th day of August, 2009.

CITY OF EAST WENATCHEE,
WASHINGTON

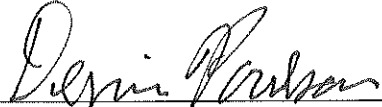
By 
Steven C. Lacy, Mayor

ATTEST:

ORDINANCE NO. 2009-14
Draft 8/10/09
Page 2

Dana Barnard, City Clerk

Approved as to form only:



Devin Poulson, City Attorney

FILED WITH THE CITY CLERK: 08/20/09
PASSED BY THE CITY COUNCIL: 08/25/09
PUBLISHED: 08/28/09
EFFECTIVE DATE: 09/02/09
ORDINANCE NO: 2009-14

SUMMARY OF ORDINANCE NO. 2009-14
Of the City of East Wenatchee, Washington

On the 25th day of August, 2009, the City Council of the City of East Wenatchee, Washington, passed Ordinance No. 2009-14. A summary of the content of said Ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EAST WENATCHEE AMENDING THE HEADING OF TITLE 13 OF THE EAST WENATCHEE MUNICIPAL CODE, ADDING NEW CHAPTERS 13.05 AND 13.20, PROVIDING STORM WATER DEFINITIONS, ESTABLISHING REGULATIONS FOR PROHIBITING ILLICIT DISCHARGES TO THE STORM WATER SYSTEM AND PROVIDING PROCEDURES FOR INSPECTION, SURVEILLANCE, MONITORING AND ENFORCEMENT INCLUDING PENALTIES FOR VIOLATIONS, CONTAINING A SEVERABILITY CLAUSE, AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

Dated: August 25, 2009

CITY CLERK, DANA BARNARD

**Chapter 13.05
DEFINITIONS**

13.05.010 Purpose and applicability

The purpose of this chapter is to provide a primary source for the definition of terms used in Titles 13, 15, 16, 17, and 18 of the East Wenatchee Municipal Code. The definitions herein are applicable to those titles within the context of their use. These definitions do not supersede or replace the definitions of other terms found in the enumerated titles.

13.05.020 Definitions

A. "A" Definitions

1. "All Known, Available, and Reasonable" ("AKART") means methods of prevention, control, and Treatment. The most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. The concept of AKART applies to both point and nonpoint sources of pollution. Best Management Practices (BMPs) typically applied to nonpoint source pollution controls are considered a subset of the AKART requirement. The Stormwater Management Manual for Eastern Washington may be used as a guideline, to the extent appropriate, for developing best management practices to apply AKART for storm water discharges. AKART and Best Available Treatment (BAT) are roughly equivalent state and federal terms for the same concept.

B. "B" Definitions

1. "Best Management Practices (BMPs)" means schedules of activities, prohibitions of practices, general good housekeeping practices, maintenance procedures, and structural and/or managerial practices approved by the City that, when used singly or in combination, prevent or reduce the release of pollutants directly or indirectly to stormwater, receiving waters or stormwater conveyance systems.

C. "C" Definitions

1. "City" means the city of East Wenatchee, Washington, a municipal corporation of the state of Washington, acting by and through its city council, unless such authority shall be delegated to other persons.

2. "Clean Water Act" means the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

3. "Construction Activity" means activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more and projects less than one acre that have the potential to discharge runoff to the County's storm drain system. Such activities

include but are not limited to clearing and grubbing, grading, excavating, and demolition.

D. "D" Definitions

1. "Director" means the city of East Wenatchee public works director who is charged with certain duties and responsibilities by this chapter, or any other person the director may appoint.

2. "Discharge" means runoff leaving the premises via overland flow, built conveyance systems, or infiltration facilities. A hydraulic rate of flow, specifically fluid flow; a volume of fluid passing a point per unit of time, commonly expressed as cubic feet per second, cubic meters per second, gallons per minute, gallons per day, or millions of gallons per day.

E. "E" Definitions

1. "Existing condition" means the impervious surfaces, drainage systems, land cover, native vegetation and soils that exist at the site with approved permits and engineering plans when required. If sites have impervious areas and drainage systems that were built without approved permits, then the existing condition is defined as those that existed prior to the adoption of this Manual. These conditions can be verified by record aerial photography, or other methods

F. "F" Definitions

1. "Flow path" means the route that stormwater runoff follows between two points of interest.

G. "G" Definitions

1. "Good Housekeeping Practices" means simple common sense, Best Management Practices which tend to focus more on the human side versus the technical side. Such activities include but are not limited to waste segregation, preventative maintenance, training and awareness, tidiness and safety.

2. "Groundwater" means Water in a saturated zone or stratum beneath the surface of the land or below a surface water body

H. "H" Definitions

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

2. "Hyperchlorinated" means water that contains more than 10 mg/Liter of chlorine.

I. "I" Definitions

1. "Illicit Discharge" means any direct or indirect discharge to the municipal separate storm sewer system that is not composed entirely of storm water, except discharges pursuant to a NPDES permit and discharges exempted in EWMC 13.20.050.

2. "Illicit Connection" means either of the following:

a. Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the city or,

b. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by the city.

3. "Industrial Activity" means manufacturing, processing or raw materials storage areas at an industrial plant. These activities are subject to NPDES Industrial Stormwater Permits as defined in 40 CFR, Section 122.26 (b)(14).

J. "J" Definitions- reserved

K. "K" Definitions- reserved

L. "L" Definitions- reserved

M. "M" Definitions- reserved

1. "Material Storage Facilities" means an uncovered area where bulk materials (liquid, solid, granular, etc.) are stored in piles, barrels, tanks, bins, craters, or other means.

2. "Maximum Extent Practicable" ("MEP") refers to paragraph 402(p)(3)(B)(iii) of the federal Clean Water Act, which reads as follows: "Permits for discharges from municipals storm sewers shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques, and system, design, and engineering methods, and other such provisions as the Administrator or the State determines appropriate for the control of such pollutants.

3. "Municipal Separate Storm Sewer System (MS4)" means the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City of East Wenatchee and designed or used for collecting or conveying stormwater, and that is not used for collecting or conveying sewage.

N. "N" Definitions

1. "National Pollutant Discharge Elimination System (NPDES) Permit" means the national a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

2. "New development" means the conversion of previously undeveloped or pervious surfaces to impervious surfaces and managed landscape areas not specifically exempt. Projects that add new lanes on an existing roadway or otherwise expand the pavement edge are included in the definition of new development.

3. "Non-Stormwater Discharge" means any discharge to the storm drain system that is not composed entirely of stormwater.

O. O Definitions

1. "Outfall" means point source as defined in 40 CFR 122.2 at the point where a municipal separate storm sewer discharges to waters of the State and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels, or other conveyances with connect segments of the same stream or other waters of the State and are used to convey water of the State.

P. "P" Definitions

1. "Person" means any individual, association, organization, partnership, firm, corporation or other entity public or private and acting as either the owner or as the owner's agent.

2. "Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: Paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

3. "Premises" means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Q. "Q" Definitions

1. "Qualified Personnel" means staff members or contractors who have had professional training in the aspects of stormwater management for which they are responsible and are under the function control of the City.

R. "R" Definitions

1. "Runoff" means water that travels across the land surface, or laterally thought the ground near the land surface, and discharges to water

bodies either directly or through a collection and conveyance system. Runoff includes stormwater and water from other sources that travels across the land surface.

S. "S" Definitions

1. "Storm Drainage System" means publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

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

3. "Stormwater Management Manual for Eastern Washington" means the technical manual (Publication No. 04-10-076) published by the Department of Ecology in September 2004.

4. "Stormwater Management Program" means a set of actions and activities designed to reduce the discharge of pollutants from the regulated small MS4 to the maximum extent practicable and to protect water quality, and comprising the components listed in S5 or S6 of the NPDES Phase II Permit and any additional actions necessary to meet the requirements of applicable TMDLs.

T. "T" Definitions

1. "Total Maximum Daily Load" ("TMDL"), also known as a "Water Cleanup Plan." A TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL is the sum of the allowable loads of a single pollutant from all contributing point and nonpoint sources. The calculation shall include a margin of safety to ensure that the water body can be used for the purposes the state has designated. The calculation must also account for reasonable variation in water quality. Water quality standards are set by states, territories, and tribes. They identify the uses for each water body, for example, drinking water supply, contact recreation (swimming), and aquatic life support (fishing), and the scientific criteria to support that use. The Clean Water Act, section 303, establishes the water quality standards and TMDL programs.

U. "U" Definitions

1. "Underground Injection Control" ("UIC") means the federal regulatory program established to protect underground sources of drinking water from UIC well discharges. A UIC well is defined as a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or a dug hole whose depth is greater than the largest surface dimension; or an improved sinkhole; or a subsurface fluid distribution system which includes an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground. Examples of UIC wells or a subsurface

infiltration systems are drywells, drain fields, catch basins, pipe or french drains, and other similar devices that discharge to ground.

V. "V" Definitions- reserved

W. "W" Definitions

1. "Water quality" is a term used to describe the chemical, physical, and biological characteristics of water, usually in respect to its suitability for a particular purpose.

2. "Water quality standards" means the minimum requirements of purity of water for various uses; levels or measures of water quality considered necessary to protect a beneficial use. In Washington State, the Department of Ecology sets water quality standards.

3. "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 with includes: lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, wetlands, and all other surface waters and watercourses within the jurisdiction of the state of Washington

X. "X" Definitions - reserved

Y. "Y" Definitions- reserved

Z. "Z" Definitions- reserved

**Chapter 13.20
STORMWATER ILLICIT DISCHARGE
DETECTION AND ELIMINATION**

13.20.010 PURPOSE

13.20.020 APPLICABILITY.

13.20.030 RESPONSIBILITY FOR ADMINISTRATION.

13.20.040 DISCHARGE PROHIBITIONS.

13.20.050 COMPLIANCE MONITORING

**13.20.060 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE
STORMWATER POLLUTANTS BY THE USE OF BEST
MANAGEMENT PRACTICES.**

13.20.070 SPILLS.

13.20.080 VIOLATIONS, ENFORCEMENT, AND PENALTIES.

13.20.090 COST OF ABATEMENT OF THE VIOLATION.

13.20.100 REMEDIES NOT EXCLUSIVE.

13.20.110 COMPATIBILITY WITH OTHER REGULATIONS.

13.20.120 ULTIMATE RESPONSIBILITY.

13.20.010 PURPOSE

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the city of East Wenatchee through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The purposes of this chapter are:

- To maintain and improve the quality of surface water and groundwater within the city.
- To prohibit illicit connections and discharges to the MS4.
- To prevent the discharge of contaminated stormwater runoff from industrial, commercial, residential, and construction sites into the municipal separate storm sewer system (MS4) and natural waters within the city
- To establish legal authority to regulate the contribution of pollutants to the MS4 through inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this chapter.
- To promote public awareness of the hazards involved in the improper discharge of hazardous substances, petroleum products, household hazardous waste, industrial waste, sediment from construction sites,

pesticides, herbicides, fertilizers, and other contaminants into the storm sewers of the city.

- To enable the city to comply with all federal and state laws and regulations applicable to its NPDES permit for stormwater discharges

13.20.020 APPLICABILITY.

This chapter shall apply to all discharges entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by this chapter.

13.20.030 RESPONSIBILITY FOR ADMINISTRATION.

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

13.20.040 DISCHARGE PROHIBITIONS.

A. Prohibition of Illicit Discharges and Exceptions.

Except as provided below, all discharges which are not composed entirely of stormwater are illicit discharges. No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge either directly or indirectly into the MS4 any pollutants or waters containing any pollutants, other than stormwater. The commencement, conduct or continuance of any illicit discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this chapter:

- 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. Emergency firefighting activities but not from activities not related to firefighting such as the maintenance or cleaning of firefighting equipment .

2. The prohibitions in this chapter shall not apply to any non-stormwater discharge permitted under an NPDES permit issued to the discharger and administered under the authority of the Washington State Department of Ecology, provided that the discharger is in full compliance with all requirements of the permit and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system by the city.

3. The following non-stormwater discharges shall not be considered illegal discharges for the purposes of this chapter if they meet the stated conditions, or unless the director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

a. Discharges from potable water sources, including water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted if necessary, and volumetrically and velocity controlled to prevent re-suspension of sediments in the MS4;

b. Discharges from lawn watering and other irrigation runoff shall be kept to a minimum and shall not cause damage to public streets or sidewalks;

c. Swimming pool discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted and re-oxygenated if necessary, and volumetrically and velocity controlled to prevent re-suspension of sediments in the MS4. Swimming pool cleaning wastewater and filter backwash are prohibited from discharge to the MS4;

d. Street and sidewalk wash water, water used to control dust, and routine external building wash down shall not contain soaps or detergents and shall be kept to a minimum. Practices shall be implemented prior to washing to reduce pollutants entering the MS4 including but not limited to sweeping, picking up litter and controlling velocity of discharge.

e. Other non-stormwater discharges shall be in compliance with the requirements of a stormwater pollution prevention plan reviewed by the city which addresses control of such discharges.

4. The non-stormwater discharges from the sources listed above shall be considered illicit discharges if the Director determines that the type of discharge, whether singly or in combination with others, is causing or contributing to a violation of the City's NPDES stormwater permit or is causing or contributing to a water quality problem, such as those which contain more contamination than typical discharges in the City, or which contain a type of contamination that is

more toxic or is otherwise a more serious problem than typical discharges in the City.

B. Prohibition of Illicit Connections.

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

2. 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.

3. A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

4. Improper connections in violation of this chapter must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the city.

5. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the city requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the city.

13.20.050 COMPLIANCE MONITORING

A. Right of Entry: Inspection and Sampling.

The director shall be permitted to enter and inspect premises subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter.

1. The director shall be allowed ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

2. The director shall have the right to set up on any premise such devices as are necessary to conduct monitoring and/or sampling of discharges from the site.

3. The director has the right to require the owner or operator to install monitoring equipment as necessary. The sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator. All devices used to measure flow and quality shall be calibrated to ensure accuracy.

4. Any temporary or permanent obstruction to safe and easy access to the premises shall be promptly removed by the owner or operator at the written or oral request of the city and shall not be replaced. The costs of clearing such access shall be borne by the owner of the premise.

B. Search Warrants.

If the director has been refused access to any part of the premises from which a discharge has occurred or is likely to occur, and the director is able to demonstrate probable cause to believe that there may be 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 chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction.

13.20.060 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The owner or operator of such activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater or the storm drainage system shall provide, at his or her own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of structural and non-structural BMPs. Further, any person responsible for a property or premises that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater, to the extent practicable, shall be deemed compliance with the provisions of this section.

13.20.070 SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible 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 storm drain system, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence. In the event of a release of non-hazardous materials, said person shall notify the City's Public Works Department in person or by phone, email or facsimile.

13.20.080 VIOLATIONS, ENFORCEMENT, AND PENALTIES.

A. Violations.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. Any person who has violated or continues to violate the provisions of this chapter, may be subject to the

enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law. In the event the violation constitutes an immediate danger to public health or public safety, the city is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The city is authorized to seek costs of the abatement in accordance with EWMC 8.20.120.

B. Enforcement

Enforcement action shall be taken in accordance with the provisions of Chapter 8.20 EWMC.

C. Compensatory Action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the city may impose alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, cleanup, or other alternative actions deemed appropriate by the city.

D. Suspension of MS4 Access.

1. Emergency Cease and Desist Orders

When the city finds that any person has violated, or continues to violate, any provision of this chapter, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the city may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

a. Immediately comply with all chapter requirements; and

b. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge. Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the city may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

2. Suspension due to Illicit Discharges in Emergency Situations

The city may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge 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 waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the city may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

3. Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the city.

13.20.090 COST OF ABATEMENT OF THE VIOLATION.

The owner of the property or person responsible for the violation will be notified of the cost of abatement, including administrative costs. Payment in full shall be due within thirty (30) days and on the 31st day interest may be applied at a rate of eight percent per annum. After ninety (90) days, if payment in full has not been received, a lien may be filed on the property and foreclosed as provided in Chapter 35.67 RCW. The director may approve a payment plan of equal payments evenly spaced over no more than twelve (12) months.

13.20.100 REMEDIES NOT EXCLUSIVE.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the city to seek cumulative remedies. The city may recover all attorneys' fees, court costs and other expenses associated with enforcement of this chapter, including but not limited to sampling and monitoring expenses.

13.20.110 COMPATIBILITY WITH OTHER REGULATIONS.

This chapter is not intended to modify or repeal any other chapter, rule, regulation, or other provision of law. The requirements of this chapter are in addition to the requirements of any other chapter, rule, regulation, or other provision of law, and where any provision of this chapter imposes restrictions different from those imposed by any other chapter, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

13.20.120 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore this chapter does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

Findings of Fact

1. The City of East Wenatchee is regulated under the National Pollutant Discharge Elimination System ("NPDES") Phase II Program administered by the Washington State Department of Ecology (DOE). The City's Eastern Washington Phase II Municipal Stormwater Permit - and State Waste Discharge General Permit for Discharges from Small Municipal Separate Storm Sewers in Eastern Washington was issued on January 17, 2007 and was subsequently modified on June 17, 2009. In accordance with Section S5 of the permit, the City is required to develop, implement and enforce a program to detect and eliminate illicit discharges ("IDDE") within 30 months of the effective date of the NPDES Phase II Permit.
2. Public Involvement. The City, in partnership with Chelan County, Douglas County and the City of Wenatchee adopted a Public Involvement, Education and Outreach Plan in February 2008.
 - a) A public open house was held on March 4, 2008 at the Wenatchee Convention Center.
 - b) A Steering Committee was formed involving a diverse group of people representing various businesses, agencies and local citizens. The Steering Committee held meetings in 2008 (March 26, April 16, and December 3) to review various documents related to the Wenatchee Valley Stormwater Program including the draft of the IDDE ordinance.
 - c) A duly advertised public hearing was held by the City Council on August 25, 2009 to obtain public comment on the proposed ordinance.
3. Environmental Review. An Environmental Checklist was prepared on July 20, 2009. A threshold determination and environmental review pursuant to RCW 43.21C the State Environmental Policy Act was completed and a Determination of Non-significance was issued on July 23, 2009. The comment period deadline for the DNS is August 10, 2009. No comments were received indicating that the proposal would have a probable significant adverse impact on the environment.
4. Discharges from non-stormwater sources and other illicit discharges and connections to the city stormwater system may damage the city's storm water system and adversely impact surface and ground water quality.