

BOARD OF COUNTY COMMISSIONERS
DOUGLAS COUNTY, WASHINGTON

Ordinance No. TLS 10-02-03B

Adoption of Construction and Post-)
Construction Stormwater Amendments)
to Douglas County Code – Title 20)

TRANSPORTATION AND
LAND SERVICES -
STORMWATER

Whereas, RCW Title 36 authorizes the Douglas County Board of Commissioners to create and amend the County Code; and

WHEREAS, Douglas County (the "County") is regulated under the Washington State Department of Ecology's Eastern Washington Phase II Stormwater Permit (the "Permit"); and

WHEREAS, THE County will be adopting code, policies and procedures as needed to comply with the Permit; and

WHEREAS, the Permit requires that Construction and Post-Construction regulations be developed and adopted to reduce pollutants in stormwater runoff from construction activities; and

WHEREAS, the proposed Construction and Post-Construction regulations become an addition to Douglas County Code, intended to meet Conditions S5.B4 and S5.B.5 of the Eastern Washington Phase II Municipal Stormwater Permit with the goal of improving and maintaining water quality in compliance with the Clean Water Act; and

WHEREAS, upon the effective date of the proposed Construction and Post Construction Stormwater Chapter, Douglas County Code, 20.34 will be amended such that the design storm event is consistent; and

WHEREAS, the amendments will reduce accelerated soil erosion and control stormwater runoff resulting from earth changes both during and after construction through the use of best management practices; and

WHEREAS, the amendments will reduce the need of costly maintenance and repairs to roads, embankments, ditches, streams, wetlands, and stormwater control facilities due to inadequate soil erosion and runoff control; and

WHEREAS, the amendments provide for reduced stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management controls and to ensure that the management controls are properly maintained and pose no threat to public safety; and

WHEREAS, the County, developed these regulations, in partnership with Chelan County and the cities of Wenatchee and East Wenatchee to provide local consistency and compliance with the NPDES Phase II Municipal Stormwater Permit; and

WHEREAS, stakeholders have been invited to participate in the ordinance development; and

WHEREAS, with respect to the State Environmental Policy Act of 1971, a determination of non-significance, was issued November 5, 2009 with a 14 day comment period pursuant to WAC 197-11; and

WHEREAS, amendments were sent to the Washington State Department of Commerce on November 5, 2009, with a request for expedited review in accordance with RCW Chapter 36.70A; and

WHEREAS, the Douglas County Planning Commission conducted a duly advertised public hearing on January 20, 2010 and has reviewed the entire record including the goals and policies of the comprehensive plans and public testimony as it relates to the proposed development regulations; and

WHEREAS, the Planning Commission recommended approval of the proposed amendment addressing Construction and Post Construction Stormwater in accordance with the Department of Ecology NPDES Phase II Municipal Stormwater Permit.

NOW, THEREFORE, BE IT ORDAINED AND RESOLVED, that the Board of County Commissioners hereby adopts the above Findings of Fact and adopts the amendments to the Douglas County Code regarding Construction and Post-Construction Stormwater as set forth in the attached Exhibit A and incorporated fully herein by this reference.

This Ordinance shall become effective February 16, 2011.

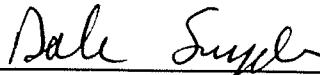
Dated this 9th day of February 2010 in Waterville, Washington.



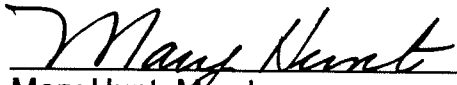
BOARD OF COUNTY COMMISSIONERS
DOUGLAS COUNTY, WASHINGTON



Ken Stanton, Chair

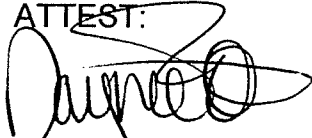


Dale Snyder, Vice Chair



Mary Hunt, Member

ATTEST:



Dayna Frewitt, Clerk of the Board

**CHAPTER XX.XX
CONSTRUCTION AND POST CONSTRUCTION STORMWATER**

SECTIONS:

- XX.XX.010 Purpose
- XX.XX.020 Definitions
- XX.XX.030 Applicability
- XX.XX.040 Responsibility for Administration
- XX.XX.050 Ultimate Responsibility
- XX.XX.X60 General Requirements
- XX.XX.X70 Specific Requirements
- XX.XX.X80 Review
- XX.XX.X90 Inspection and Monitoring
- XX.XX.100 Operation and Maintenance of Stormwater Facilities
- XX.XX.110 Right of Entry
- XX.XX.120 Requirement to Prevent, Control and Reduce Stormwater Pollutants
- XX.XX.130 Spills
- XX.XX.140 Investigation
- XX.XX.150 Violations, Enforcement and Penalties
- XX.XX.160 Fees
- XX.XX.170 Costs of Abatement – Special Assessment
- XX.XX.180 Remedies Cumulative and not Exclusive
- XX.XX.190 Other Regulations
- XX.XX.200 Severability

XX.XX.010 Purpose

- A. The purpose of this ordinance is to safeguard persons, protect property and prevent damage to the environment caused by stormwater runoff from land-disturbing activities, new development, and redevelopment. The ordinance seeks to meet that purpose through the following specific objectives:
1. Prevent accelerated soil erosion and control stormwater runoff resulting from earth changes both during and after construction through the use of best management practices.
 2. Eliminate the need for costly maintenance and repairs to roads, embankments, ditches, streams, wetlands, and stormwater control facilities due to inadequate soil erosion and stormwater runoff control.
 3. Reduce stormwater runoff rates and volumes, soil erosion and non-point source pollution, whenever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.
 4. Ensure compliance with the Eastern Washington Phase II Municipal Stormwater Permit.

XX.XX.020 Definitions

For the purposes of this chapter, the following shall mean:

1. "Best Management Practices (BMPs)" shall mean schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other

management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

2. "Certified Erosion and Sediment Control Lead" (CESCL) means an individual who is knowledgeable in the principles and practices of erosion and sediment control. The CESCL shall have the skills to assess: the site conditions and construction activities that could impact the quality of stormwater; and the effectiveness of erosion and sediment control measures used to control the quality of stormwater discharges. The CESCL shall have current certification through an approved erosion and sediment control training program that meets the minimum training standards established by Ecology.
3. "Clean Water Act" shall mean the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
4. "Construction Activity" shall mean 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. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
5. "County" shall mean Douglas County, Washington, a political subdivision of the State of Washington, acting by and through the Board of County Commissioners, unless such authority shall be delegated to other persons.
6. "Existing" shall mean all facilities completed on or before February 16, 2011 and projects with complete applications submitted on or before the aforementioned date.
7. "Hazardous Materials" shall mean 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 not properly treated, stored, transported, disposed of, or otherwise managed.
8. "Impervious Surface" shall mean a hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development and/or a hard surface area that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots, storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces that similarly impede the natural infiltration of urban runoff. See also "Non-Pollutant Generating Impervious Surface" and "Pollutant Generating Impervious Surfaces"

9. "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.
10. "Maximum Extent Practicable (MEP)" is a term specified, but not yet defined by EPA, but is intended to be flexible to allow the development of site-specific conditions based upon the best professional judgment of the regulatory authority. MEP means that less effective treatment may not be substituted when it is practicable to provide more effective treatment.
11. "Municipal Separate Storm Sewer System (MS4)" shall mean the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels and storm drains) owned and operated by the County and designed or used for collecting or conveying stormwater, and that is not used for collecting or conveying sewage.
12. "New Development" is the conversion of previously undeveloped or pervious surfaces to impervious surfaces and managed landscape areas. Projects that add new lanes on an existing roadway or otherwise expand the pavement edge are included in the definition of new development.
13. "National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit" shall mean 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 or State, whether the permit is applicable to a person or group, or on a general area-wide basis.
14. "Non-Pollutant Generating Impervious Surfaces (NPGIS)" are considered to be insignificant sources of pollutants in stormwater runoff. Roofs that are subject to only atmospheric deposition or normal heating, ventilation, and air conditioning vents are considered NPGIS, unless the roofing material is uncoated metal. The following may also be considered NPGIS: paved bicycle pathways and pedestrian sidewalks that are separated from and not subject to drainage from roads for motor vehicles, fenced fire lanes, infrequently used maintenance access roads, and "in-slope" areas of roads. Sidewalks that are regularly treated with sand, salt or other de-icing/anti-icing agents are not considered NPGIS.
15. "Non-Stormwater Discharge" shall mean any discharge to the storm drain system that is not composed entirely of stormwater.
16. "Owner, occupier or operator" shall mean any individual, association, organization, partnership, firm, corporation or other entity public or private and acting as with the owner or as the owner's agent.
17. "Person" shall mean 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.

18. "Pollutant" shall mean 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 and accumulations that 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.
19. "Pollutant Generating Impervious Surfaces (PGIS)" 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 rainfall. Metal roofs are considered to be PGIS unless coated with an inert, non-leachable material. Roofs that are subject to venting of indoor pollutants from manufacturing, commercial or other operations or processes are also considered PGIS. A surface, whether paved or not, will be considered PGIS if it is regularly used by motor vehicles. The following are considered regularly-used surfaces: roads, unvegetated road shoulders, bike lanes within the traveled land of a roadway, driveways, parking lots, unfenced fire lanes, vehicular equipment storage yards, and airport runways.
20. "Premises" shall mean any building, structure, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
21. "Qualified Personnel" means staff members or contractors who have had professional training in the aspects of stormwater management for which they are responsible.
22. "Redevelopment" is the replacement or improvement of impervious surfaces on a developed site.
23. "Responsible Party" means any individual, partnership, firm, company corporation, association, 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 the operation and maintenance of one or more stormwater BMP.
24. "Storm Drainage System or storm water drainage system" shall mean private and/or 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, underground injection control facilities and other drainage structures.
25. "Stormwater" shall mean runoff during and following precipitation and snowmelt events, including surface runoff, drainage and interflow.

26. "Stormwater Management Plan (SWP)" shall mean a document which describes the Best Management Practices and activities to be implemented to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or waters of the State to the Maximum Extent Practicable.
27. "Stormwater Pollution Prevention Plan (SWPPP)" shall mean a detailed plan that identifies potential sources of pollution and describes the practices that will be used to prevent stormwater pollution. These should include erosion and sediment control, good housekeeping, conservation techniques, and infiltration practices. The plan shall identify procedures that shall be implemented and maintained throughout construction.
28. "Start of Construction" shall mean the first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.
29. "Stormwater Management Manual for Eastern Washington" (SWMMEW) shall mean the Stormwater Management Manual for Eastern Washington published by the Washington State Department of Ecology and dated September 2004 or latest edition thereof including any amendments by the County and revisions by the Washington State Department of Ecology.
30. "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.

XX.XX.030 Applicability

- A. This ordinance shall be applicable to all land-disturbing activities, new subdivisions, and re-development projects disturbing greater than or equal to one (1) acre and to projects of less than one (1) acre that are part of a common plan of development or sale.
- B. All new and existing stormwater structures shall be subject to the requirements of this Chapter as well as all enforcement remedies provided in this ordinance.
- C. Partial exemptions or exceptions may be granted in accordance with the SWMMEW. Jurisdiction-wide exemptions to the requirements in the SWMMEW shall be approved by the Washington State Department of Ecology.
- D. The following practices shall be exempted from the requirements of this ordinance:
 1. Forest practices regulated under Title 222 WAC.
 2. Commercial agriculture practices involving working the land for production.
 3. Oil and gas field activities including construction of drilling sites, waste management pipes, access roads, transportation and treatment infrastructure.
 4. Road and parking area preservation and maintenance including:
 - a. Pothole and square cut patching;

- b. Crack sealing;
- c. Resurfacing with in-kind material without expanding the road prism.
- d. Overlaying existing asphalt or concrete pavement with bituminous surface treatment (BST or "chip seal"), asphalt or concrete without expanding the area of coverage; Shoulder grading;
- e. Reshaping or re-grading drainage systems;
- f. Vegetation maintenance.

XX.XX.040 Responsibility for Administration

Administration, implementation, interpretation and enforcement of this chapter shall be the responsibility of the County Engineer or the County Engineer's designated representative. The County Engineer may adopt, and revise as necessary, such instructions, policies and forms as are necessary to carry out the provisions of this title. Any powers granted or duties imposed upon the County may be delegated by the County Engineer to persons or entities acting in the beneficial interest of or in the employ of the County.

XX.XX.050 Ultimate Responsibility

Any person who undertakes or causes to be undertaken any land development shall ensure that soil erosion, sedimentation and increased pollutant loads and changed water flow characteristics resulting from the activity are controlled so as to minimize pollution. The standards set forth herein and promulgated pursuant to this chapter are minimum standards and are not intended to ensure compliance by any person or to ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

XX.XX.X60 General Requirements

All land disturbing activities, new development and redevelopment unless otherwise exempted shall be required to comply with the standards and requirements set forth by this ordinance and the:

1. Douglas County Stormwater Manual; and
2. Stormwater Management Manual for Eastern Washington (SWMMEW), as now exists or is hereafter amended, including specified local options approved by the County Engineer.

Projects meeting the regulatory threshold and not qualifying for an Erosivity Waiver from the Washington State Department of Ecology, shall prepare a Stormwater Pollution Prevention Plan (SWPPP),

The Stormwater Management Manual for Eastern Washington (latest edition), including technical specifications, (or approved local equivalent), shall be utilized as the basis for decisions about design, implementation, maintenance and performance of structural and non-structural post-construction stormwater BMPs. The Stormwater Management Manual for Eastern Washington, (or approved local equivalent), includes a list of acceptable stormwater treatment practices, including specific design criteria for each stormwater practice. Use of BMPs from other technical stormwater manuals approved by Ecology shall be consistent with Douglas County climate, soils, and specific site conditions appropriate for said BMP use may be accepted upon approval of the County Engineer. Stormwater practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Eastern Washington Phase II Municipal Stormwater Permit requirements.

Use of BMPs not designed, constructed and maintained in accordance with the Stormwater Management Manual for Eastern Washington (or approved local equivalent) as noted above, shall be subject to Douglas County and Department of Ecology approval and must be monitored for performance to demonstrate that they meet the minimum water quality performance standards of the Eastern Washington NPDES Phase II Municipal Stormwater Permit requirements.

The Stormwater Management Manual for Eastern Washington, (or approved local equivalent), may be updated and expanded from time to time, based on advancements in technology and engineering, improved knowledge of local conditions, or local monitoring or maintenance experience.

XX.XX.X70 Specific Requirements

The following specific requirements apply to all land-disturbing activities, new development and redevelopment unless otherwise exempted. The following core elements shall be implemented in accordance with the SWMMEW.

A. Core Element #1: Prepare a Stormwater Site Plan

The SWPPP shall be implemented beginning with initial soil disturbance and continue until final stabilization

The SWPPP shall bear the names(s) and address(es) of the owner(s) or developer(s) of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm and shall be accompanied by associated fees.

The SWPPP shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the SWPPP. As required the plan shall note that a Certified Erosion and Sediment Control Lead (CESCL) be onsite or on call on all days when construction or grading activity takes place.

B. Core Element #2: Construction Stormwater Pollution Prevention. Prepare and maintain a Construction Stormwater Pollution Prevention Plan (SWPPP). The SWPPP shall be implemented beginning with initial soil disturbance and be maintained until final stabilization. Elements of a SWPPP include the following:

1. Preserve Vegetation/Mark Clearing Limits
2. Establish Construction Entrance
3. Control Flow Rates
4. Install Sediment Controls
5. Stabilize Soils
6. Protect Slopes
7. Protect Inlets
8. Stabilize Channels and Outlets
9. Control Pollutants
10. Control De-Watering
11. Maintain BMPs
12. Manage the Project

- C. Core element #3: Source Control of Pollution. Apply all known, available and reasonable source control BMPs. Operational and structural source control BMPs shall be selected, designed and maintained according to the SWMMEW.
- D. Core Element #4: Preservation of Natural Drainage Systems. Preserve natural drainage systems to the extent possible at the site. All outfalls must address energy dissipation as necessary.
- E. Core Element #5: Runoff Treatment. When the technical thresholds/requirements for basic treatment, metals, treatment, oil treatment or phosphorus treatment are met, the property owners shall select, design, size, construct, operate and maintain stormwater quality and flow control facilities for any discharge of stormwater to a storm drainage system or into surface water. Methods for runoff treatment are subject to review and approval by the County.
- F. Core element #6: Flow Control. Projects that result in 10,000 square feet or more of new impervious surfaces shall construct stormwater flow control facilities for any discharge of stormwater to a stormwater drainage system or into surface water. Methods for flow control are subject to review and approval by the County.
- G. Core element #7: Operation and Maintenance. Where structural BMPs are required, property owners shall operate and maintain the facilities in accordance with an approved Operation and Maintenance plan, prepared in accordance with the Stormwater Management Manual for Eastern Washington. The Operation and Maintenance Plan shall address all stormwater facilities and BMPs, and identify the party(s) responsible for maintenance and operation and the long term funding mechanism that will support proper maintenance.
- H. Core element #8: Local Requirements.
 - 1. Design Standards
 - a. Design Event : 100-Year 24 hour Type II SCS synthetic rainfall event
 - b. Site runoff Design: Full Retention
 - c. Treatment Flow: 6 month short duration storm
 - d. Treatment bypass is required
 - 2. Additional requirements for all land-disturbing activities:
 - a. Construction site operators shall control all waste including but not limited to discarded building materials, concrete truck washout, chemicals, litter and sanitary waste at construction sites to prevent stormwater pollution and non-stormwater discharges.
 - b. Construction site operators shall implement and maintain erosion and sediment control BMPs to reduce or eliminate stormwater pollution.

XX.XX.X80 Review

The County shall review documents required under this Chapter and submitted as part of an application of a proposed land-disturbing activity, development or redevelopment project. Required documents must be reviewed and accepted as complete by the County prior to the start of construction.

XX.XX.X90 Inspection and Monitoring

All BMPs shall be inspected, maintained, and repaired as needed to assure the continued performance of their intended function. The SWPPP shall identify an inspection and maintenance schedule. Specific BMP inspection and maintenance guidance is contained in the SWMMEW.

The SWPPP shall be retained on-site or within reasonable access to the site. The SWPPP shall be modified whenever there is a significant change in the design, construction or maintenance of any BMP.

The responsible party or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule identified in the approved SWPPP. The purpose of such inspections will be to determine the overall effectiveness of the SWPPP and the need for additional control measures. All inspections shall be documented in written form and submitted to the County upon request or as specified in the approved SWPPP.

XX.XX.100 Operation and Maintenance of Stormwater Facilities

- A. The property owner(s) shall be responsible for the continual performance, operation and maintenance of all stormwater facilities in accordance with the standards and requirements of the County and remain responsible for any liability as a result of these duties.
- B. New stormwater facilities shall have a written operation and maintenance (O&M) plan. Furthermore, existing facilities may be required to develop a written O&M Plan.
 1. The O&M plan shall at a minimum address all stormwater facilities and BMPs at the site and address the long-term funding mechanism to support O&M.
 2. The O&M plan shall be retained onsite or within reasonable access to the site, and shall be transferred with the property to the new owner(s). As such the O&M plan shall be recorded and filed with the County Auditor.
 3. The property owner(s) shall maintain a log of inspection and maintenance activities, and shall provide a copy of the inspection and maintenance log upon request by the County or other agency with jurisdiction. At a minimum a copy of these records shall be submitted to the County annually.
- C. All stormwater facilities, BMPs, O&M plans, and records shall be subject to inspection by the County.
- D. The County may assume ownership of privately owned residential facilities only if the following conditions have been met:
 1. The facility shall be located entirely upon a parcel or tract, which must be transferred to county ownership.
 2. All necessary easements or dedications entitling the County to properly access and maintain the facility have been conveyed to the County.
 3. The County has determined that the facility is in the dedicated public road right-of-way or that maintenance of the facility will contribute to protecting or improving the health, safety and welfare of the community based upon review of the existence of or potential for:
 - a. Flooding
 - b. Downstream erosion
 - c. Property damage due to improper function of the facility
 - d. Safety hazard associated with the facility
 - e. Degradation of water quality
 - f. Degradation to the general welfare of the community, and
 4. The County has inspected the facility and any construction deficiencies have been repaired at the property owner(s) expense prior to the County assuming ownership.
- E. The County may, in its sole discretion, decline acceptance of a facility after considering costs associated with maintenance by the County, and the protection of

or improvements to the health, safety and welfare of the community based upon review of the existence of, or potential for:

- a. Flooding
- b. Downstream erosion
- c. Property damage due to improper function of the facility
- d. Safety hazard associated with the facility
- e. Degradation of water quality
- f. Degradation to the general welfare of the community

XX.XX.110 Right of Entry

A. Inspection and Sampling

The County shall be permitted to enter and inspect premises subject to regulation under this chapter as often as may be necessary to determine compliance. Inspections may occur before, during and after construction.

- (1) The County shall have access to all parts of the premises for the purposes of inspection, sampling and examination of discharges to the stormwater system, and the performance of any additional duties as defined by State and Federal law.
- (2) The County has the right to set up such devices as are necessary to conduct monitoring and/or sampling of the premises' stormwater discharge.
- (3) The County has the right to require an owner or occupier of premises to install such sampling and monitoring equipment, as the County deems necessary. Sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or occupier at its own expense. All devices used to measure stormwater 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 occupier upon the written or oral request of the County and shall not be replaced. The costs of clearing such access shall be paid by the owner or occupier.
- (5) Property owner(s) shall upon request provide the County access to all records related to the operation and maintenance of the stormwater facilities and BMPs including but not limited to Stormwater Site Plans, Stormwater Pollution Prevention Plans, and Operation and Maintenance Plans and records.

B. Search Warrants

If the County has been refused access to any part of the premises from which stormwater is discharged, and the County is able to demonstrate probable cause to believe that there is a violation of this chapter, 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 County shall obtain a search warrant from the Superior Court authorizing entry for the purpose of implementing the requirements of this chapter.

C. Emergency Access

In the event the violation constitutes an immediate danger to public health or public safety, the County is authorized to enter upon private property, without giving prior notice, to take any and all measures necessary to abate the violation. The County shall be entitled to recover all costs of abatement from the owner(s) or occupier.

XX.XX.120 Requirement to Prevent, Control and Reduce Stormwater Pollutants

The owner(s) or occupier of any activity, operation or facility that may cause or contribute to pollution or contamination of stormwater or the storm drainage system shall provide, at the owner's or occupier's 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 property that is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

XX.XX.130 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 that are resulting or may result in pollutants discharging into stormwater, the storm drain system, or waters of the State, the 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, the responsible person shall immediately notify emergency response agencies and the County of the occurrence. In the event of a release of non-hazardous materials, the responsible person shall immediately notify the County.

XX.XX.140 Investigation

The County shall investigate reports of discharges from construction sites and stormwater facilities. The County's first priority for investigation and resolution are health and safety. Investigation of a violation of this chapter may be initiated by the County upon observation or report of any suspected violation.

XX.XX.150 Violations, Enforcement and Penalties

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 requirements of this chapter may be subject to the enforcement actions outlined in this chapter. The issuance of a notice of violation shall not excuse the violation or permit it to continue.

A. Notice of Violation and Order

The County Engineer shall issue a notice of violation and order if it is reasonably believed that a violation of this chapter has been committed. The notice of violation and order shall include the date, time and location of the violation, the name and address of the property owner(s), the name and address of the person(s) believed to have committed the violation, a description of the violation, and an order describing the actions required to comply with this chapter, together with a date when such actions must be completed. The notice of violation and order shall be served on the owner(s) or

occupier of the property and the person believed to have committed the violation by certified mailed, return receipt requested, with an additional copy served by regular mail. A copy shall also be posted on the property.

B. Enforcement

- (1) The County shall pursue reasonable attempts to secure voluntary compliance or corrections failing which, a notice of violation shall be issued.
- (2) Civil Infraction: Any person who fails to comply with a notice of violation and order commits a civil infraction subject to a maximum civil penalty of \$250. Each day of non-compliance shall constitute a separate offense.
- (3) Civil Relief: Any person who fails to comply with a notice of violation and order shall be subject to a civil action for injunctive relief, abatement of the violation, and/or a civil penalty of \$50 per day for each day on non-compliance.
- (4) In lieu of or in conjunction with enforcement proceedings, penalties and remedies authorized by this chapter, the County may impose alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, or other alternative actions deemed appropriate.

C. Appeals:

- 1) An appeal of the notice of violation and order may be made to the Hearing Examiner by filing a notice of appeal within fourteen (14) days after issuance of the notice of violation and order, and payment of the applicable appeal fees. The request must contain a copy of the written notice, and the name, address and telephone number of the person requesting the hearing. The request must also include a brief description of the reason the person believes there is no violation. This request will be mailed to the County, who will set the hearing date.
- 2) Failure of any person to file a timely appeal or failure of any person, who has filed an appeal to attend the scheduled hearing, shall constitute a waiver of his or her right to an appeal hearing.
- 3) Filing of an appeal shall stay the enforcement of any notice of civil violation, order to abate, collection of fine, penalties or assessments during the pendency of such appeal except as otherwise provided.

D. Suspension of Access

1. Emergency Cease and Desist Orders

When the County 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 which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the County 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 code 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 County may take such steps as deemed necessary to prevent or minimize harm to the storm water system or waters of the State, and/or endangerment to persons or to the environment. 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 in Emergency Situations

The County may, without prior notice, suspend 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 storm water system or waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the County may take such steps as deemed necessary to prevent or minimize damage or to minimize danger to persons.

3. Suspension due to the Detection of Illicit Discharge

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

XX.XX.160 Fees

Application, review and inspections fees for Stormwater Pollution Prevention Plans and Stormwater Plans shall be established by resolution of the Board of Commissioners. Fees established by Douglas County are in addition to any other local or state fees that may be charged under any other regulation.

Fees are payable at the time of application and are non refundable. Applicants shall submit review fees before the review process may begin.

XX.XX.170 Costs of Abatement – Special Assessment

A person violating this chapter shall pay all abatement expenses incurred by the County, including attorney's fees and court costs. Where the violation of this chapter occurs as a result of activity on real property, such abatement expenses shall also constitute a lien upon the real property real property as a special assessment that shall be due and payable in the same manner as real property taxes.

XX.XX.180 Remedies Cumulative and not Exclusive

All remedies provided by this chapter are in addition to any other remedy provided by law, and all remedies are cumulative.

XX.XX.190 Other Regulations

This chapter is not intended to modify or repeal any other rule, regulation or 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. Where a conflict arises, whichever provision is more restrictive or imposes greater protection of health, welfare, public safety or the environment shall control.

XX.XX.200 Severability

The provisions of this chapter are hereby declared to be severable and if any provision of this chapter or the application thereof shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.