

**RESOLUTION NO. 2010- 18**

Re: Adoption of the Stormwater Management Manual for Eastern Washington

**WHEREAS**, Chelan County is designated as a National Pollution Discharge Elimination System (NPDES) Phase II primary permittee by the State of Washington, and

**WHEREAS**, Chelan County has applied for and received *an Eastern Washington Phase II Municipal Stormwater Permit* from the Washington State Department of Ecology, and

**WHEREAS**, the *Eastern Washington Phase II Municipal Stormwater Permit* requires Chelan County to adopt a set of regulations that will manage stormwater to a level that meets or exceeds the standards defined by the *Stormwater Management Manual for Eastern Washington* within the applicable NPDES Phase II boundary as depicted in Appendix A, and

**WHEREAS**, the county will benefit from having a single manual to regulate stormwater management for the entire county, and

**WHEREAS**, on January 11, 2010, the Chelan County Planning Commission did hold a hearing and have forwarded to the Board of County Commissioners for further consideration a resolution for the adoption of the Stormwater Management Manual for Eastern Washington,

**NOW, THEREFORE BE IT RESOLVED** that Resolution 97-055 is rescinded, and

**NOW, THEREFORE BE IT FURTHER RESOLVED** by the Chelan County Board of County Commissioners, that Chelan County adopts by reference the *Stormwater Management Manual for Eastern Washington*, as now or hereafter amended, along with additional provisions for Stormwater Management for Chelan County as follows:

Stormwater Management for Chelan County

**13.16.010 GENERAL PROVISIONS**

**1) Purpose**

The purpose of this chapter is to establish stormwater regulations, standards and guidelines for use in Chelan County. They will be used by the development community and others who will create stormwater runoff through land-disturbing activities. The purpose of this chapter will be met through the following:

- a) Adopting the *Stormwater Management Manual for Eastern Washington (SWMMEW)* as now and hereafter amended, for use within Chelan County.
- b) Prevent accelerated soil erosion and control stormwater runoff resulting from land-disturbing activities both during and after construction through the use of best management practices.
- c) 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.

- d) Reduce stormwater runoff rates and volumes, soil erosion, sediment, and nonpoint source pollution from development and redevelopment to Municipal Separate Storm Sewer System (MS4) or Underground Injection Controls (UIC) through stormwater Best Management Practices (BMP).
- e) Provide long-term responsibility for and maintenance of stormwater BMPs.
- f) Protect the condition of state (and U.S.) waters for all reasonable public uses and ecological functions.
- g) Facilitate compliance with state and federal standards and permits by owners of construction sites, developments, and permanent stormwater BMPs within Chelan County.
- h) Enable Chelan County to comply with the *Eastern Washington Phase II Municipal Stormwater Permit*, Washington Department of Ecology's *Guidance for UIC Wells that Manage Stormwater*, and applicable federal and state regulations.
- i) Facilitate the integration of stormwater management and pollution control with other resolutions, programs, policies, and the comprehensive plan of Chelan County.

## 2) **Applicability**

- a) This chapter shall be applicable to all land-disturbing activities including land developments and redevelopments that are within the boundary of unincorporated Chelan County that meet one (1) or more of the following criteria:
  - i) All land-disturbing activities within the Chelan County National Pollution Discharge Elimination System (NPDES) Phase II boundary that meet the applicability section of Chelan County Code Chapter 13.18.010(2).
  - ii) New development or redevelopment that results in 5,000 square feet or more of new pollutant generating impervious surfaces (PGIS); as applicable in Section 13.18.040.
  - iii) New development or redevelopment that results in 10,000 square feet or more of new impervious surfaces; as applicable in Section 13.18.040.
- b) Exemptions or exceptions may be granted in accordance with Chelan County Code Chapter 13.18, the SWMMEW, the Highway Runoff Manual (*HRM*) for linear projects, and by the county engineer.
  - i) Exemptions or exceptions to the requirements in the *SWMMEW* within the NPDES Phase II boundary and not specifically allowed by the *SWMMEW* shall be approved by the Washington State Department of Ecology.
  - ii) Exemptions or exceptions outside of the NPDES Phase II boundary shall be authorized by the county engineer.

## 3) **Authority**

This resolution is adopted pursuant to authority conferred by and in accordance with the provisions of the State of Washington Water Pollution Control Law Chapter 90.48, Revised

Code of Washington, and the Federal Water Pollution Control Act (the Clean Water Act) Title 33 United States Code, Section 1251 et seq.

**4) Liability**

- a) Any person who undertakes or causes to be undertaken any land development shall ensure that soil erosion, sedimentation, increased pollutant loads and changed water flow characteristics resulting from the activity are controlled so as to minimize pollution of receiving waters. The requirements of Chapter 13.16 are minimum standards and a person's compliance with the same shall not relieve such person from the duty of enacting all measures necessary to minimize pollution of receiving waters.
- b) By approving a plan under this regulation, Chelan County does not accept responsibility for the design, installation, and operation and maintenance of stormwater BMPs.

**5) Authority Designated**

The county engineer is hereby authorized and designated as the Official responsible for the enforcement and administration of Chapter 13.16. The county engineer may designate employees within his division to act on his/her behalf. The use of the terms "Stormwater Authority," "Administrative Authority," "Code Official," "Authority Having Jurisdiction" and similar such terms as contained in this resolution and in the codes and standards adopted by reference under this resolution shall be construed as referring to the county engineer and their designees.

**6) Design Manuals**

- a) The county engineer will utilize information including technical specifications of the latest edition of the *SWMMEW*, as the basis for decisions about design, implementation, maintenance, and performance of structural and non-structural stormwater BMPs.
  - i) For linear projects, such as roadways, the county engineer will utilize information including technical specifications of the latest edition of the *WSDOT Highway Runoff Manual (HRM)*.
- b) The *SWMMEW* 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 Chelan County climate, soils, and specific site conditions appropriate for said BMP use. 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.
  - i) Amendments to Design Manuals
    - (1) The *SWMMEW* 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. The most current version of the *SWMMEW* is to be used where referenced by this chapter.

- (2) If the specifications, guidelines, or other information in the *SWMMEW* are amended subsequent to the submittal of an application for approval pursuant to this chapter but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this chapter with regard to the application.
- c) Use of BMPs not designed, constructed, and maintained in accordance with the approved manuals shall be subject to the county engineer's approval and must be monitored for performance to demonstrate that they meet the minimum water quality performance standards of the *Eastern Washington Phase II Municipal Stormwater Permit* requirements.
- d) For land development or redevelopment projects outside of the NPDES Phase II boundary, other technical stormwater management manuals may be used as approved by the county engineer.

### 13.16.020 DEFINITIONS

For the purpose of this chapter the definitions provided in the *Stormwater Management Manual for Eastern Washington* shall apply. In addition, the following shall mean:

- 1) "Applicant" means a person, party, firm, corporation, or other legal entity that proposes a development, construction or use on a site
- 2) "Best Management Practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other physical, structural and/or managerial practices to prevent or reduce the pollution of waters of the state. BMPs include treatment systems, operating procedures, and practices to control: stormwater associated with construction activity, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- 3) "Certified Erosion and Sediment Control Lead or CESCL" means a person who has current certification through an approved erosion and sediment control training program that meets the minimum training standards established by Ecology.
- 4) "Clearing" or "Site Clearing" means the removal of timber, brush, grass, ground cover or other vegetative matter from a site.
- 5) "Common plan of development or sale" means a site where multiple separate and distinct construction activities may be taking place at different times on different schedules, but still under a single plan. Examples include: phased projects and projects with multiple filings or lots, even if the separate phases or filings/lots will be constructed under separate contract or by separate owners (e.g. a development where lots are sold to separate builders); a development plan that may be phased over multiple years, but is still under a consistent plan for long-term development; and projects in a contiguous area that may be unrelated but still under the same contract, such as construction of a building extension and a new parking lot at the same facility. If the project is part of a common plan of development or sale, the disturbed area of the entire plan shall be used in determining permit requirements.

- 6) "Construction" means the assembly, placement, or installation of structures, roadways, transmission lines, and other improvements within a project site.
- 7) "County" means Chelan County, Washington, a municipal corporation of the state of Washington, acting by and through its Board of county commissioners, unless such authority shall be delegated to other persons.
- 8) "County Engineer" means the County Engineer for Chelan County who is charged with certain duties and responsibilities by this chapter, or any other person the county engineer may appoint. "Development" means new development, redevelopment, or both. See definitions for each.
- 9) "Ecology" means the Washington State Department of Ecology.
- 10) "Erosion and Sediment Control" Any temporary or permanent measures taken to reduce erosion, control siltation and sedimentation, and ensure that sediment-laden water does not leave the site.
- 11) "Erosion and Sediment Control BMPs" means current and widely accepted BMPs that are intended to prevent erosion and sedimentation, such as preserving natural vegetation, seeding, mulching and matting, plastic covering, filter fences, sediment traps, and ponds. Erosion and sediment control BMPs are synonymous with stabilization and structural BMPs.
- 12) "Existing" means all facilities completed on or before February 16, 2011 and projects with complete applications submitted on or before the aforementioned date.
- 13) "Finish Grade" means the final grade of the site which reasonably conforms to an approved plan.
- 14) "Grading" means any excavation, filling, or combination thereof.
- 15) "Impervious Surface" means a hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. For purposes of determining whether thresholds for application of Core Elements are exceeded, open, uncovered retention or detention facilities shall not be considered as impervious surfaces. Open, uncovered retention or detention facilities shall be considered impervious surfaces for purposes of runoff modeling.
- 16) "Land Development" or "Development" means the division of land into lots or parcels in accordance with the Chelan County Code, and any clearing, grading, excavation, dredging, drilling, filling, dumping, stockpiling of fill material, removal of earth and mineral materials, or other permanent or temporary modification of a site up to, but not including, construction as defined in this chapter. For the purpose of this chapter,

“development” also means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling, temporary or permanent storage of equipment and works defined in this chapter.

- 17) “Land Disturbing Activity” means any activity that result 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.
- 18) “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 Chelan County and designed or used for collecting or conveying stormwater, and that is not used for collecting or conveying sewage.
- 19) “Municipal Separate Storm Sewer System” or “MS4” means a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains): (i) owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State Law) having jurisdiction over disposal of wastes, storm water, or other wastes, including special districts under State Law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; (ii) designed or used for collecting or conveying stormwater; (iii) which is not a combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2. (Municipal NPDES permit, Definitions) In the County, the MS4 is that portion regulated by the Eastern Washington Phase II Municipal Stormwater Permit.
- 20) “National Pollutant Discharge Elimination System” or “NPDES” means the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the Federal Clean Water Act, for the discharge of pollutants to surface waters of the state from point sources. These permits are referred to as NPDES permits and, in Washington State, are administered by the Washington State Department of Ecology.
- 21) “New Development” means land disturbing activities, including Class IV general forest practices that are conversions from timber land to other uses; structural development, including construction or installation of a building or other structure; creation of impervious surfaces; and subdivision, short subdivision and binding site plans, as defined and applied in Chapter 58.17 RCW. Projects meeting the definition of redevelopment shall not be considered new development.

- 22) “Non-Pollutant Generating Impervious Surface” (NPGIS) are considered to be insignificant sources of pollutants in stormwater runoff. Roofs that are subject only to 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.
- 23) “Non-Stormwater Discharge” means any discharge to the storm drain system that is not composed entirely of stormwater.
- 24) “NPDES Phase II Boundary” means the Chelan County NPDES Phase II boundary as shown in Appendix A as now and hereafter amended.
- 25) “Owner(s)” or “Property owner(s)” means the legal owner or owners of the property. As used herein, owner also refers to, in the appropriate context: (i) any other person authorized to act as the agent for the owner; (ii) any person who submits a stormwater management concept or design plan for approval or requests issuance of a permit, when required, authorizing land development to commence; and (iii) any person responsible for complying with an approved stormwater management design plan.
- 26) “Permanent Stormwater BMP” means a stormwater best management practice (BMP) that will be operational after the construction phase of a project and that is designed to become a permanent part of the site for the purposes of managing stormwater runoff.
- 27) “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.
- 28) “Pollutant Generating Impervious Surface” (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 of 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 lane of a roadway, driveways, parking lots, unfenced fire lanes, vehicular equipment storage yards, and airport runways.
- 29) “Pre-Development” or “Pre-Developed” means the existing conditions as follows: 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 2004 *SWMMEW*. These conditions can be verified by record aerial photography, or other methods.

- 30) "Redevelopment" means on a site that is already substantially developed, the replacement or improvement of impervious surfaces, including buildings and other structures, and replacement or improvement of impervious parking and road surfaces, that is not part of a routine maintenance activity including any clearing, grading, excavating, or stockpiling of fill material. (Any new impervious surfaces created by a redevelopment project are subject to the requirements for new development.) See Chapter 2.1.2 of the *SWMMEW* for a complete detail of requirements for redevelopment projects.
- 31) "Responsible Party" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns that is named on a stormwater maintenance agreement as responsible for long-term operation and maintenance of one (1) or more stormwater BMPs.
- 32) "Rough Grade" means a stage where grade conforms approximately to an approved plan.
- 33) "Sediment Control" means measures that prevent eroded sediment from leaving the site.
- 34) "Source Control BMPs" means physical, structural or mechanical devices or facilities that are intended to prevent pollutants from entering stormwater. A few examples of source control BMPs are erosion control practices, maintenance of stormwater facilities, constructing roofs over storage and working areas, and directing wash water and similar discharges to the sanitary sewer or a dead end sump.
- 35) "Stabilization" means the use of practices that prevent exposed soil from eroding.
- 36) "Start of Construction" means 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.
- 37) "Stormwater Authority" means the department or agency, and its authorized agents, which is responsible for coordinating the review, approval, and permit process as defined by this resolution.
- 38) "Stormwater Best Management Practice (BMP)" means the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices approved by Ecology that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to receiving waters.
- 39) "Stormwater Management" means the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.
- 40) "*Stormwater Management Manual for Eastern Washington*" (*SWMMEW*) means the *Stormwater Management Manual for Eastern Washington* published by the Washington State Department of Ecology and dated September 2004 as now and hereafter amended by the Washington State Department of Ecology.



- 41) “Underground Injection Control” or “UIC” or “UIC well” means a manmade sub-surface fluid distribution system designed to discharge fluids into the ground and consists of an assemblage of perforated pipes, drain tiles, or other similar mechanisms, or a dug hole that is deeper than the largest surface dimension.

### **13.16.030 PROCEDURES AND REQUIREMENTS**

Applicants and others who initiate activities that meet the applicability of Section 13.16.010 and are not exempt from this chapter shall meet the requirements of Chelan County Code Section 13.18.030 and this chapter.

- 1) Each project shall have a stormwater site plan and construction plans prepared that will be reviewed by the county engineer. The report shall address the procedures and requirements of Chelan County Code Chapter 13.18 and all of the applicable core elements as defined by the *SWMMEW* and this chapter.
- 2) **Ongoing Maintenance for Stormwater BMPs**
  - a) **Maintenance Responsibility.** The responsible party named in the recorded stormwater maintenance agreement as set forth in Chapter 13.18 shall maintain in good condition and promptly repair and restore all structural and non-structural stormwater BMPs and all necessary access routes and appurtenances (grade surfaces, walls, drains, dams and structures, vegetation, erosion and sedimentation controls, and other protective devices). Such repairs or restoration and maintenance shall be in accordance with the approved stormwater management design plan, the stormwater maintenance agreement, and the stormwater maintenance plan.
  - b) **Maintenance Inspection by County Engineer or its Representatives.** The county engineer or its representatives shall conduct periodic inspections for all stormwater management control for which a Stormwater Certificate of Completion has been issued in accordance with Section 13.18.030(9)(c). All inspections shall be documented in writing. The inspection shall document any maintenance and repair needs and any discrepancies from the stormwater maintenance agreement and stormwater maintenance plans.
  - c) **Records of Maintenance Activities.** The responsible party shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least five (5) years. These records shall be made available to the county engineer during inspection of the practice and at other reasonable times upon request.
  - d) **Failure to Provide Adequate Maintenance**
    - i) In the event that the stormwater BMP has not been maintained and/or becomes a danger to public safety or public health, the county engineer shall notify the responsible party by registered or certified mail. The notice shall specify the measures needed to comply with the maintenance agreement and the maintenance plan and shall specify that the responsible party has thirty

(30) days or other time frame mutually agreed to between the county engineer and the responsible party, within which such measures shall be completed. If such measures are not completed, then the county engineer shall pursue enforcement procedures pursuant to Chelan County Code Chapter 13.14.

- ii) If a responsible person fails or refuses to meet the requirements of an inspection report, maintenance agreement, or maintenance plan the county engineer, after thirty (30) days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hours notice shall be sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the practice in proper working condition. The county engineer may assess the responsible party of the practice for the cost of repair work which shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by Chelan County.
- 3) For exemptions or exception outside of the NPDES Phase II boundary, the applicant may request a variance addressed to the county engineer.
- a) **Applications Required.** Applications for any variance shall be submitted in writing. The application shall state fully all substantiating facts and evidence pertinent to the request.
  - b) **Variance Requirements.** The county engineer may grant a variance from the requirements of these standards and regulations when, in his opinion, undue hardship may be created as a result of strict compliance with the provisions of these procedures and requirements. The county engineer may recommend conditions that he deems necessary to be desirable for the public interest. No variance shall be granted unless it can be shown that the granting of the variance will not be detrimental to the public welfare or injurious to other property in the vicinity.
  - c) **Criteria.** Before a variance is granted a determination shall be made by the applicant that shall include, but not be limited to, the following criteria:
    - iii) Adequate capacity of downstream facilities;
    - iv) Acceptability of receiving bodies of water (including TMDL Plans, exemptions as permitted in Section 13.18.040(6));
    - v) Possibility of adverse effects of retention; and
    - vi) Adequate maintenance capability.

#### **13.16.040 PERFORMANCE CRITERIA FOR STORMWATER MANAGEMENT**

The following performance criteria apply to all land development, and redevelopment unless exemptions or exceptions are approved in accordance with Chelan County Code Chapter 13.18 and this chapter.

- 1) Core element #4 shall apply to all projects meeting the applicability of Section 13.16.010.
- 2) All storage facilities should include a provision for control of overflows from the 100-year event, and the 100-year event must be checked so as to not cause system failure, downstream flooding and property damage.
- 3) New discharges from land development subject to this chapter, including from stormwater practices and upland flow, shall not be discharged onto adjacent property without written approval from the affected property owner and/or adequate conveyance in a natural stream channel or storm sewer system. The county engineer may require drainage easements where stormwater discharges must cross an adjacent or off-site property before reaching an adequate conveyance.
- 4) Projects are encouraged to utilize any additional BMPs that become available and are adopted and made a part of the *SWMMEW* including Low Impact Development (LID) BMPs.
- 5) The design standards and BMPs of the *SWMMEW* as adopted shall be utilized to meet the goals of this chapter.
- 6) The design standards and BMPs of the latest edition of the WSDOT Highway Runoff Manual (HRM) shall be utilized to meet the goals of this chapter for linear projects.
- 7) Alternate methods of analysis may be utilized for small projects when specifically approved by the county engineer. Examples of these methods are the SCS TR-55 method and the rational method.
- 8) The following requirements shall be implemented in accordance with the *SWMMEW* and Chelan County Code Section 13.18.040.
  - a) Core Element #1: Prepare a Stormwater Site Plan.
  - b) Core Element #2: Construction Stormwater Pollution Prevention. Prepare and maintain a Construction Stormwater Pollution Prevention Plan.
  - 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.
  - e) Core Element #5: Runoff Treatment. Projects that result in 5,000 square feet or more of new pollutant generating impervious surfaces shall design, size, construct, operate and maintain runoff treatment at the site.
  - f) Core Element #6: Flow Control. Projects that result in 10,000 square feet or more of new impervious surfaces shall design, size, construct, operate and maintain stormwater flow control facilities at the site.
    - i) Proposed development shall control the peak rate and the volume of runoff so as to not exceed the pre-development peak rate and volume for the site. The pre-development rate and volume of runoff may only be increased as allowed for in the

SWMMMEW and if it is demonstrated that it will not impact or damage the natural or man-made environment and is approved by the county engineer.

- ii) Using a single-event model, flow control design requirements for projects must maintain the pre-developed 2-year, 10-year, and 25-year peak runoff rates. All other requirements of Section 13.18.040(6) shall apply.
- g) Core Element #7: Operation and Maintenance. Projects that utilize structural BMPs shall prepare an operation and maintenance plan that is prepared in accordance with Chapter 13.18 and the *SWMMMEW*.
- h) Core Element #8: Local Requirements. Projects that meet the requirements of Chapter 13.18 will meet any optional requirements that are adopted as a part of this chapter.
- i) Conveyance systems shall be analyzed and designed to manage the 25-year peak flows from core element #5 and #6.

### **13.16.050 PERFORMANCE BOND OR GUARANTEE**

#### **1) Performance Bond or Guarantee Required**

- a) No stormwater site plans shall be approved for projects subject to this chapter unless the applicant furnishes a satisfactory performance bond or guarantee. This is to ensure that action can be taken by Chelan County, at the applicant's expense, should the applicant fail to initiate or maintain those measures identified in the approved stormwater site plan (after being given proper notice and within the time specified by the county engineer). If Chelan County takes such action upon such failure by the applicant, Chelan County shall collect from the applicant the difference should the amount of reasonable cost of such action exceed the amount of the security held.
- b) Applicants constructing storm drainage facilities shall post with the county surety and cash bonds or certified check in the amount of one hundred twenty five percent (125%) of the estimated construction cost. Whenever the applicant is required to post other bonds on the project or on construction related to the facility, the bonds may, with the permission of the county engineer, be combined into a single bond to the extent allowed by law; provided, that the amount thus bonded shall not at any time be less than the amount that would be required under separate bonds. The single bond shall clearly specify on its face those separate bonds which it is intended to replace.
- c) Prior to commencing construction the owner or person constructing the facility shall post a construction bond, or, in lieu of a bond the applicant may establish a cash escrow account with his/her bank or with the County Treasurer in the amount specified above. The amount of the bond or cash account shall be sufficient to reimburse the county if it should become necessary for the county to enter the property for the purpose of correcting and/or eliminating hazardous conditions relating to soil stability, erosion and/or drainage control. The instructions to the escrow agent shall specifically provide that after prior written notice unto the owner and the owners failure to correct and/or eliminate existing or potential hazardous conditions in a timely manner, the escrow agent shall be authorized without any further notice to the owner or his consent to disburse the

necessary funds to the county for the purpose of correcting and/or eliminating such conditions as specified in the county complaint. Following issuance of the Stormwater Certification of Completion, as described in Section 13.18.030(9)(c), the construction bond shall be released.

**2) Term of Performance Bond or Guarantee**

The performance bond or guarantee furnished pursuant to the preceding section 13.18.050(1), or the unexpended or unobligated portion thereof, shall be returned to the applicant within thirty (30) days of issuance by the county engineer of a Stormwater Certificate of Completion, OR the final acceptance of the permanent stormwater BMP by the county engineer.

**3) Partial Release of Bond**

The county engineer shall have the discretion to adopt provisions for a partial pro-rata release of the performance bond or guarantee on the completion of various stages or phases of development.

**13.16.060 VIOLATIONS, ENFORCEMENT, AND PENALTIES**

**1) 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 county 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 county is authorized to seek costs of the abatement in accordance with all applicable laws and resolutions authorizing such actions.

**2) Enforcement**

Enforcement action for a first violation shall be taken in accordance with Chelan County Code Chapter 16.06.

**3) Compensatory Action**

In lieu of 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, cleanup, or other alternative actions deemed appropriate by the county.

**4) Suspension of MS4 Access**

a) 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 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 county shall issue an order to the violator directing the person to immediately to cease and desist all such violations and directing the violator to:

- i) Immediately comply with all resolution requirements; and
- ii) 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 MS4 or waters of the United States, 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.

**5) Suspension due to Illicit Discharges in Emergency Situations**

The county 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 county 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.

**6) Criminal Prosecution**

Any person who has violated or continues to violate this resolution two or more times shall be liable to criminal prosecution to the fullest extent of the law, and shall be guilty of a misdemeanor punishable by a fine of not more than \$1000 per violation per day and/or imprisonment for a period of time not to exceed ninety (90) days per violation per day. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

**7) 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 31<sup>st</sup> 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. The county engineer may approve a payment plan of equal payments evenly spaced over no more than twelve (12) months.

**8) Remedies Not Exclusive**

The remedies listed in this resolution are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the county to seek

cumulative remedies. The county may recover all attorneys' fees, court costs and other expenses associated with enforcement of this resolution, including but not limited to sampling and monitoring expenses.

**13.16.070 COMPATIBILITY WITH OTHER REGULATIONS**

This resolution is not intended to modify or repeal any other resolution, resolution, rule, regulation, or other provision of law. The requirements of this resolution are in addition to the requirements of any other resolution, resolution, rule, regulation, or other provision of law, and should be considered minimum requirements, and where any provision of this resolution imposes restrictions different from those imposed by any other resolution, resolution, 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.

**13.16.080 ULTIMATE RESPONSIBILITY**

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

**13.16.090 SEVERABILITY**

The provisions of this resolution are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this resolution or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this resolution.


**13.16.100 EFFECTIVE DATE**


This resolution shall take effect on February 16, 2010 as provided by law.

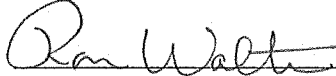
Dated at Wenatchee, Washington this 16<sup>th</sup> day of February 2010.



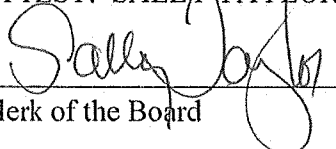
BOARD OF COUNTY COMMISSIONERS

  
\_\_\_\_\_  
KEITH W. GOEHNER, Chairman

  
\_\_\_\_\_  
DOUG ENGLAND, Commissioner

  
\_\_\_\_\_  
RON WALTER, Commissioner

ATTEST: SALLY TAYLOR

  
\_\_\_\_\_  
Clerk of the Board



CHELAN COUNTY NPDES PHASE II BOUNDARY, Appendix A

