Title 14

STORMWATER REGULATIONS

Chapters:

14.02 Stormwater Utility

14.04 Stormwater Management and Drainage Design

Chapter 14.02

STORMWATER UTILITY*

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14.02.010 Purpose.

It is the finding of the city that the stormwater and surface water management utility is necessary in order to promote public health, safety, and welfare by establishing and operating a comprehensive approach to surface and stormwater problems. The purpose of the rates and charges established herein is to provide a method for payment of all or any part of the cost and expense of maintaining and operating stormwater control facilities, all or any part of the cost and expense of planning, designing, establishing, acquiring, developing, constructing, and improving any of such facilities, or to pay or secure the payment of all or any portion of any issue of general obligation or revenue bonds issued for such services. These rates and charges are necessary in order to promote the public health, safety and welfare by minimizing uncontrolled surface and stormwater, erosion, and water pollution, to preserve and utilize the many values of the city's natural drainage system including water quality, open space, fish and wildlife habitat, recreation, education, urban separation and drainage facilities, and to provide for the comprehensive management and administration of surface and stormwater.

(Ord. No. 901, § 9(Exh. B), 4-23-2009)

14.02.020 Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

1. "City" shall mean the City of Black Diamond, Washington.

2. "Connection charge" shall mean that fee charged by the utility to property which is developed which reflects a proportionate share of the utility's capital costs attributable to the newly developed property.

3. "Developed" shall mean that condition of real property altered from its natural state by the addition to or construction on such property of impervious ground cover or other manmade physical improvements such that the hydrology of the property or a portion thereof is affected.

4. "Drainage facility" shall mean the system of collecting, conveying, and storing surface and stormwater runoff. "Drainage facility" includes but is not limited to a constructed or engineered stream, pipeline, channel, ditch, swamp, lake, wetland, closed depression, infiltration facility, retention/detention facility, erosion/sedimentation control facility, and other drainage structures and appurtenances that provide for drainage.

5. "Equivalent residential unit" shall mean and be equal to three thousand square feet of impervious ground cover and is the measure of impervious ground cover to be used by the utility in assessing service charges and general facility charges against each parcel of property.

*Editor's note—Ord. No. 901, § 9(Exh. B), adopted April 23, 2009, amended Ch. 14.02 in its entirety to read as herein set out. Former Ch. 14.02, §§ 14.02.010—14.02.130, pertained to similar subject matter, and derived from Ord. 872, § 2 (part), adopted 2008.

6. "Impervious ground cover" shall mean those hard surfaced areas either which prevent or retard the entry of water into the soil in the manner that such water entered the soil under natural conditions preexistent to development, or which cause water to run off the surface in greater quantities or at an increased rate of flow than that present under natural conditions preexistent to development, including without limitation such surfaces as roof tops, asphalt or concrete sidewalks, paving, driveways and parking lots, walkways, patio areas, storage areas, oiled macadam or other surfaces which similarly affect the natural infiltration or runoff patterns existing prior to development, provided, gravel surfaces without an impervious surface underneath the gravel shall not be considered impervious ground cover for purposes of this chapter.

7. "Parcel" shall mean the smallest separately segregated unit or plot of land having an identified owner, boundaries and surface area which is documented for property tax purposes and given a tax lot number by the King County Assessor.

8. "Service area" means the incorporated areas of the City of Black Diamond.

9. "Service charge" shall mean the monthly rate levied by the utility upon all developed real property within the boundaries of the utility.

10. "Surface and stormwater" shall mean water originating from rainfall and other precipitation that is found on ground surfaces and in drainage facilities, streams, springs, seeps, ponds, lakes and wetlands as well as shallow ground water.

11. "Surface and stormwater management services" shall mean the services provided by the public works department, including, but not limited to, basin planning, facilities maintenance, regulation, financial administration, public involvement, drainage investigation and enforcement, aquatic resource restoration, surface and stormwater quality and environmental monitoring, natural surface water drainage system planning, intergovernmental relations and facility design and construction.

12. "System" shall mean the entire system of storm drainage facilities owned by the utility or over which the utility has control or right of use for the movement and retention of storm and surface waters, including both naturally occurring and manmade facilities.

13. "Undeveloped" shall mean that condition of real property unaltered by the construction or addition to such property by man of impervious ground cover or physical manmade improvements of any kind which change the hydrology of the property from its natural state.

14. "Utility" shall mean the City of Black Diamond Stormwater and Surface Water Management Utility.

(Ord. No. 901, § 9(Exh. B), 4-23-2009)

14.02.030 Stormwater and surface water management utility created.

The city council creates and establishes for and on behalf of the citizens of the city a stormwater and surface water management utility, in accordance with and subject to the laws of the state, including the establishment of rates and charges therefor. The city council further establishes that the stormwater and surface water management utility boundaries shall coincide with the legally established boundaries of the city's corporate limits.

(Ord. No. 901, § 9(Exh. B), 4-23-2009)

14.02.040 Utility administration authority.

The city's stormwater and surface water management utility herein created shall be administered by the city's public works department in such a manner as the city council shall provide.

(Ord. No. 901, § 9(Exh. B), 4-23-2009)

14.02.050 Future growth.

It is the finding of the city that effective and comprehensive management of surface and stormwater runoff must include anticipation of future growth and development in the city, and that this growth and development shall guide the design and improvement of the surface and

stormwater management system. Service charge revenue needs shall be based upon both the present and future requirements of the surface and stormwater management system, and these needs shall be considered when determining the rates and charges of the utility.
(Ord. No. 901, § 9(Exh. B), 4-23-2009)

14.02.060 Developed properties.

It is the finding of the city that developed properties contribute to an increase in surface and stormwater runoff to the surface and stormwater management system. This increase in surface and stormwater runoff results in the need to establish rates and charges to finance the city's activities in stormwater and surface water management. Developed properties shall be subject to the rates and charges of the surface water management utility based on their contribution to increased runoff based on the amount of impervious surface areas.
(Ord. No. 901, § 9(Exh. B), 4-23-2009)

14.02.070 Calculation of impervious ground cover—ERUs.

A. The city shall calculate the impervious ground cover of each parcel of developed real property, except single-family residential, duplex, triplex, and fourplex, to determine the number of equivalent residential units contained therein; three thousand square feet of impervious ground cover shall equal one equivalent residential unit (ERU). Each developed parcel of property shall be deemed to contain a minimum of one ERU.

B. Classification of a given developed property shall depend on its actual use, not its zoned use, according to the following:

1. All detached single-family homes, manufactured homes and mobile homes, when each is used only as a residence, are considered "single-family residential" for purposes of this section and shall be deemed to contain one equivalent residential unit.

2. All duplexes, triplexes and fourplexes, when each is used only as a residence, are deemed to contain one equivalent residential unit for each unit within the complex.

3. All other developed real properties within the utility boundaries shall have the number of ERUs contained thereon determined by dividing the number of square feet of impervious ground cover on each property by three thousand square feet/ERU; the total thus obtained will be rounded to the nearest half.

4. Where a property is being used for both residential and non-residential purposes, the property shall be classified based on which type of use is dominant on the site. Dominant use shall be determined based on factors including, but not limited to, the amount of square footage devoted to the use, and whether the non-residential use involves customers or employees coming to the site and/or storage of commercial materials onsite.

5. For purposes of this section, any developed property that is unoccupied shall be classified according to the use to which the property was most recently put prior to becoming unoccupied.
(Ord. No. 901, § 9(Exh. B), 4-23-2009)

14.02.080 Undeveloped real property.

Properties remaining in an undeveloped condition are deemed not to make use of the services of the utility or of the facilities of the system beyond that used by such property in the natural state. Therefore, no service charge shall be imposed upon undeveloped real property.
(Ord. No. 901, § 9(Exh. B), 4-23-2009)

14.02.090 Public street rights-of-way.

City, county, and/or state roadway rights-of-way are exempt from service charges and general facility charges.
(Ord. No. 901, § 9(Exh. B), 4-23-2009)

14.02.100 Connection charges.

A connection charge shall be assessed against an owner of real property at the time of issuance of a development permit for any onsite storm or surface water drainage structure or facilities which attach or connect to, or otherwise drain into, the system of drainage facilities or where any addi-

tional surface or stormwater runoff is generated and delivered or transported through either natural or person-made watercourses to the utility's system of storm and surface water facilities.
(Ord. No. 901, § 9(Exh. B), 4-23-2009)

14.02.110 Service charge rates.

A. Service charges are hereby imposed on each parcel of real property within the city served by or to which is available for service the stormwater and surface water management utility.

B. The following service charge rate is hereby established for all parcels of real property in the city, subject to any credits as described in subsection (C), below:

1. *For fiscal year 2009:* The rate is amended from thirteen dollars to ten dollars per ERU per month, effective April 1, 2009; provided, customers will receive a credit from the city for the difference in cost for the months of January, February, and March 2009 between the original rate and the new rate.

2. *For fiscal year 2010:* Eleven dollars and fifty cents per ERU per month.

3. *For fiscal year 2011:* Thirteen dollars per ERU per month.

C. Credits. Where applicable, the following credits may be applied in calculating the service rate for a parcel of real property within the City of Black Diamond:

1. *Department of ecology permit credit.* Any customer within the City of Black Diamond that is required to obtain a general or individual wastewater permit from the Washington State Department of Ecology shall receive a credit, prorated monthly, in the amount paid each year for such permit toward the amount owed to the City of Black Diamond under this chapter. In order to qualify for this credit, the business must provide the city with a copy of the department of ecology permit and proof of payments along with a letter to the city utility clerk requesting the credit.

2. *Storm pond investment credit.* Any customer that is assessed a stormwater utility fee under Section 14.02.070.B.4 and that constructs and has approved by the city a storm water detention/retention facility shall be eligible for a credit toward the storm water utility rate for the site served by the facility, subject to the following:

(a) To qualify for a credit, the detention/retention pond and associated facilities must adequately perform storm water treatment functions through the use of such methods as oil/water separators, bioswales, wet ponds, cartridge filter systems, or other means. The city may revoke any credit granted under this section upon a determination that the facilities are out of compliance with this section.

(b) The owner of record must provide the city's public works department with a copy of the facility's "as built" plans, stamped and signed by the owner's engineer, to verify that the drainage system has adequate capacity to meet the design criteria for which the owner is requesting a credit. The engineer shall also provide a stamped and signed operations manual for the retention/detention pond. New capacity calculations, "as built" plans, and a new operations manual shall be provided to the city if the retention/detention pond is increased or decreased in size.

(c) Annually by January 1 of the year preceeding the year for which the credit is being requested, each owner of record shall provide a certified statement on a form provided by the city verifying that all required maintenance has been performed in accordance with the operations manual. Once every five years, the certified statement shall be stamped and signed by the owner's engineer.

(d) The owner of record shall provide the city with a "hold harmless" statement on a form provided by the city that indemnifies the city from any loss arising from the construction and maintenance and operation of the retention/detention pond and associated private drainage facilities for both the quantity and quality of water runoff from the owner's property. This statement shall be signed by the owner and will be recorded with the county auditor by the owner of record. The owner of record shall provide a copy to the city showing the county auditor's recording number stamped on it before the credit will be given by the city.

(e) Each owner of record must enter into an agreement that allows the city to enter upon the owner's property to inspect the retention/detention pond and associated drainage facilities and verify all information submitted by the owner and his or her engineer. The agreement shall be on a form provided by the city and shall be recorded with the county auditor by the owner. The owner shall provide a copy to the city showing the county auditor's recording number stamped on it before the credit will be given by the city.

(f) Credit shall be given as follows:

(1) *Retention facilities:*

a. One hundred-year storage: Eighty-five percent credit.

b. Fifty-year storage: Forty percent credit.

c. Twenty-five-year storage: Twenty percent credit.

d. Ten-year storage: Ten percent credit.

(2) *Detention facilities:*

a. One hundred-year storage facility with release rate of fifty percent of the predevelopment discharge rate for a two-year storm: Eighty-five percent credit.

b. Fifty-year storage facility with release rate of fifty percent of the predevelopment discharge rate for a two-year storm: Forty percent credit.

c. Twenty-five-year storage facility with release rate of fifty percent of the predevelopment discharge rate for a two-year storm: Twenty percent credit.

d. Ten-year storage facility with release rate of fifty percent of the predevelopment discharge rate for a two-year storm: Ten percent credit.

(Ord. No. 901, § 9(Exh. B), 4-23-2009)

14.02.120 Billing—Interest added to past due accounts—Collections authorized.

A. Stormwater and surface water management utility charges shall be computed on a monthly basis. The amount billed shall be included on the city utility bill.

B. In addition to any other fees or charges authorized by law, the city is authorized to add interest to the amount of any delinquent stormwater utility charges and associated fees at the rate of six percent per annum, as computed on a monthly basis.

C. Pursuant to chapter 19.16 RCW, as currently enacted or hereafter amended, the city may assign any delinquent charges and associated fees to a collections agency; the collections agency may add fees or charges to the original amount assigned to collections as allowed by law. No debt may be assigned to collections until at least thirty calendar days have elapsed from the time that the city attempts to notify the person responsible for the debt of the existence of the debt and that the debt may be assigned to collections if the debt is not paid. Notice of potential assignment to collections shall be made by personal service or regular first class mail to the last known address of the person responsible for the debt, provided, inability to ascertain a current mailing address shall not prohibit the debt from being assigned to collections.

(Ord. No. 901, § 9(Exh. B), 4-23-2009)

14.02.130 Periodic review of charges and fees.

The charges and fees established by this ordinance and any other ordinances of the city council establishing charges and fees for the stormwater and surface water management utility shall be reviewed periodically by the mayor or his or her designee. As part of such review, the finance director, in conjunction with the public works director, shall present to the city council a yearly budget for the utility and propose amendments to any rates and charges necessary to enable the city to pay all costs to be incurred by the utility.

(Ord. No. 901, § 9(Exh. B), 4-23-2009)

Title 14

STORMWATER REGULATIONS

Chapters:

14.02 Stormwater Utility

14.04 Stormwater Management and Drainage Design

Chapter 14.04

STORMWATER MANAGEMENT AND DRAINAGE DESIGN*

Sections:

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*Editor's note—Ord. No. 914, §§ 1—15, adopted June 25, 2009, amended Chapter 14.04 in its entirety to read as herein set out. Former Chapter 14.04 pertained to similar subject matter and derived from Ord. No. 523, § 2, 1995.

14.04.005 Definitions.

As used in this chapter, unless the context or subject matter clearing requires otherwise, the works or phrases defined in this section shall have the indicated meanings:

"AKART" means All Known, Available, and Reasonable methods of prevention, control, and Treatment. See also the State Water Pollution Control Act, Sections 90.48.010 RCW and 90.48.520 RCW.

"Black Diamond waterway" means a lake, wetland, creek, stream and secondary channels leading to these water features.

"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.

"Hyperchlorinated" means water that contains more than ten mg/liter chlorine.

"Illicit connection" means any man-made conveyance that is connected to a municipal separate storm sewer without a permit, excluding roof drains and other similar type connections. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the municipal separate storm sewer system.

"Illicit discharge" means any discharge to a municipal separate storm sewer or Black Diamond waterway that is not composed entirely of stormwater except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.

"Municipal separate storm sewer system" (MS4) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

1. Owned and operated by the city;

2. Designed or used for collecting or conveying stormwater;

3. Which is not part of a publicly owned treatment works (POTW). "POTW" means any device or system used in treatment of municipal sewage or industrial wastes of a liquid nature which is publicly owned; and

4. Which is not a combined sewer. "Combined sewer" means a system that collects sanitary sewage and stormwater in a single sewer system.

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

"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; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects 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 or any kind.

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

"Storm drainage system" means publicly owned facilities, including the city's municipal separate storm sewer system, by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention or detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

"Stormwater pollution prevention plan" means a document which describes the best management practices and activities to be implemented by a person 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 receiving waters to the maximum extent practicable.
(Ord. No. 917, § 1, 8-6-2009)

14.04.020 Adoption of manual—Applicability.

A. Stormwater Management Manual Adopted. The February 2005 Edition of the Department of Ecology's Stormwater Management Manual for Western Washington ("SWMMWW"), as modified and amended in subsection B of this section, is hereby adopted by reference (the "Stormwater Manual"). Stormwater management measures shall be designed, constructed and maintained in accordance with the standards and specifications as set forth in the Stormwater Manual.

B. Amendments to SWMMWW. Volume 1, Chapter 2 of the SWMMWW, titled "Minimum Requirements for New Development and Redevelopment" is not adopted. Appendix 1 of the NPDES Phase II Municipal Stormwater Permit, titled "Minimum Technical Requirements for New Development and Redevelopment" is hereby adopted by reference, replacing Volume 1, Chapter 2 of the SWMMWW. Any conflict between Appendix 1 of the NPDES permit and the remainder of the SWMMWW shall be resolved in favor of Appendix 1.

C. All development and redevelopment within the city shall comply with the provisions of this chapter and the Stormwater Manual.
(Ord. No. 914, § 1, 6-25-2009)

14.04.030 Responsible city official.

The city public works director (the "director") shall have general charge of and supervision over the administration and enforcement of this chapter. The director is authorized to adopt policies and procedures for the purposes of implementing the provisions of this chapter.
(Ord. No. 914, § 2, 6-25-2009)

14.04.060 All government entities must comply.

All utilities, port, irrigation, drainage and flood control districts, cities, towns, counties and other

local, state and federal government entities which are proponents of projects within the city shall be subject to and comply with all of the requirements of this chapter. (Ord. 523 § 2 (part), 1995)

14.04.130 Maintenance and source control.

A. For residential subdivisions, after the director has released bonds for the project pursuant to Section 14.04.360, all stormwater drainage, conveyance and treatment facilities shall be maintained by the individual lot owners and/or the property owners' association unless the facilities are dedicated to and accepted by the City of Black Diamond as part of final plat approval. The maintenance duties shall be in accordance with the conditions and requirements of final plat approval, and shall at a minimum include those maintenance obligations as set forth in: (1) the operation and maintenance manual approved for the project's storm drainage, treatment and conveyance facilities; and (2) the SWMMWW, including but not limited to the BMPs for maintenance of storm drainage and treatment systems set forth in Volume IV, Chapter 2, and the maintenance standards for drainage facilities set forth in Volume 5, Chapter 4 and of the SWMMWW. Further, the property owner's association shall in all cases have principal responsibility for source control for practices of its members that may impact quality of runoff.

B. For all projects other than residential subdivisions, the project proponent or successors thereto shall operate and maintain stormwater drainage facilities in compliance with the requirements of the approved operation and maintenance manual for the project's storm drainage, treatment and conveyance facilities; and (2) the SWMMWW, including but not limited to the BMPs for maintenance of storm drainage and treatment Systems set forth in Volume IV, Chapter 2, and the maintenance standards for drainage facilities set forth in Volume 5, Chapter 4 and of the SWMMWW.

C. The articles of the property owners' association shall include by reference the project's operation and maintenance manual.

D. A covenant stating the property owners' or property owners' association's specific responsibilities shall be included on the face of the plat and recorded against each lot in the subdivision.

E. Unless there are circumstances beyond the control of the person responsible for maintenance under this section, maintenance identified as necessary as a result of any inspections required by the SWMMWW or Section 14.04.365 of this code shall be performed within one year of the date of said inspection, for typical maintenance of facilities other than catch basins, in which case maintenance shall be performed within six (6) months. Maintenance that requires capital construction of less than $25,000 shall be performed within two (2) years of the date of the inspection. "Circumstances beyond the control" include denial or delay of necessary permits or approvals, or unexpected reallocation of maintenance staff to perform emergency work. A person responsible for maintenance who claims the existence of circumstances beyond their control must document each such instance in writing to the director, and explain why circumstances were beyond their control.
(Ord. No. 914, § 3, 6-25-2009; Ord. No. 945, § 1, 7-15-2010)

14.04.170 Review and acceptance.

A. The director shall review all drainage related submittals for compliance with the specific criteria set forth in this chapter. Incomplete submittals shall be returned to the proponent without being reviewed. An acceptance of a stormwater site plan or construction stormwater pollution prevention plan by the director does not relieve the proponent or the project engineer from responsibility for ensuring that all facilities are safe and that calculations, plans, specifications, construction and drawings of record comply with normal engineering standards, this chapter and applicable federal, state and local laws and codes.

B. The city shall not issue any underlying permit (e.g., preliminary plat, building permit) until the director has determined that all require-

ments of this chapter have been met. The implementation of the applicable minimum requirements shall be a condition of said permit.
(Ord. No. 914, § 4, 6-25-2009)

14.04.200 Easements for stormwater facilities and natural channels.

A. All manmade drainage facilities and conveyances and all natural channels, including swales, streams, lake shores, wetlands, potholes, estuaries, gullies and ravines shall be located within easements. Easements shall contain the natural features and the facilities plus a minimum of fifteen feet or more as necessary, for access, and bordering and/or surrounding the feature. The easements shall allow the city access for purposes of inspection, maintenance, flood control, water quality monitoring and other activities permitted by law.

B. A minimum, fifteen-foot wide access easement shall be provided to access drainage facilities from a public street or right-of-way. Access easements shall be surfaced with a minimum twelve-foot width of lattice block pavement, crushed rock or other approved surface sufficient to allow year-round access by equipment to the facility in its entirety without affecting the structural integrity of the facility. Easements dedicated to the city shall preclude structures or improvements to be placed upon the easement area. Beyond requirements for erosion control the city will not be required to restore landscaping disturbed by maintenance activities.

C. Reserved.
(Ord. No. 914, § 15, 6-25-2009)

14.04.210 Minimum setbacks from infiltration facilities.

The minimum setbacks for infiltration facilities shall be as follows:

Site Feature	Infiltration Facility Setback (ft)		Roof Downspout Drywells (ft)	
	Up[1]	Down[1]	Up	Down
Onsite septic system	100	30	30	10
Water supply well	100	100	30	10
Building foundation[2]	100	20	50	10
Slopes over 15%	50	n/a	25	n/a

NOTES:

1. For purposes of this section, "up" means the infiltration facility is up-gradient of the site feature. "Down" means the facility is down-gradient of the site feature.

2. The project engineer shall show calculations that ensure that the line of saturation, measured from the design storm elevation in the facility at a gradient acceptable to the administrator, falls a minimum of one foot below the lowest floor elevation. The administrator may adjust setbacks to buildings, up or down, based on these calculations.
(Ord. No. 914, § 5, 6-25-2009)

14.04.330 Director may modify minimum requirements.

A. This chapter presents minimum standards for achieving the city's goals. The Director has the authority to increase requirements to protect the public interest on the basis of reports pertaining to threatened water quality, erosion, habitat destruction, protection of uninterruptible services and endangerment to property.

B. Alternatives to standard plans, specifications and design details found in the Stormwater Manual may be accepted by the administrator if they meet or exceed the performance of the standards set forth herein.

C. Where requirements in this chapter are covered in any other law, ordinance, resolution, rule or regulation, the more restrictive of the two shall govern.
(Ord. No. 914, § 6, 6-25-2009)

14.04.340 Variances from these standards.

A. Variances from the minimum requirements may be granted by the director pursuant to the procedures and criteria set forth in the Stormwater Manual.

B. All requests for variances must be submitted in writing to the director, and must clearly state the specific requirements from which a variance is requested and the reasons for said requested variance.
(Ord. No. 914, § 7, 6-25-2009)

14.04.350 Standard plans and specifications.

The most recent editions of Standard Specifications for Road, Bridge and Municipal Construction and Standard Plans for Road, Bridge and Municipal Construction, published by the Washington State Department of Transportation shall be the standards used for the design and construction of all drainage and erosion control facilities not explicitly described herein, or in the Black Diamond Engineering Design and Construction Standards. In the event of a conflict between the Standard Specifications, Standard Plans, Black Diamond Engineering Design and Construction Standards, and the Stormwater Manual, the order of preference shall be (1) Stormwater Manual, (2) Black Diamond Engineering Design and Construction Standards, (3) Standard Specifications, (4) Standard Plans.
(Ord. No. 914, § 8, 6-25-2009)

14.04.360 Performance and maintenance bond required.

A. Performance bonding or other appropriate financial guarantees in the amount of one hundred fifty percent of the director's estimate of the construction costs, shall be required for all projects to ensure construction of drainage facilities in compliance with this chapter. In addition, a project applicant shall post a two-year financial guarantee of the satisfactory performance and maintenance of any drainage facilities that are scheduled to be assumed by the city for operation, and maintenance. Upon completion and before acceptance of the stormwater facilities the developer shall provide the city with a two-year maintenance bond or an assignment of funds for 15% of the construction cost of the stormwater facility. At the end of the two-year period, the director may use any portion of the bond (or funds in an escrow account) to correct facilities constructed with design flaws, restore facilities that have been damaged during the two-year period, or perform maintenance necessary to the operation of facilities. If in the judgment of the administrator, no such corrective work is necessary, the director will release the bond (or funds in an escrow account).

B. The director may approve combining this bond with other bonds associated with the project into a single bond; provided, that at no time shall the amount of the bond be less than the amount which would have been required by separate bonds; and provided, that such a bond on its face shall identify those separate bonds that it is intended to replace; and provided, that the portion of the bond for storm drainage and erosion control facilities may be released at a different time than the portions bonding other facilities.
(Ord. No. 914, § 9, 6-25-2009)

14.04.365 Inspections, right of entry, access.

A. The director is authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the director has reasonable cause to believe that violations of this chapter are present or operating on a subject property or portion thereof, the director may enter such premises at all reasonable times to inspect the same or perform any duty imposed upon the director by this chapter; provided, that if such premises or portion thereof is

occupied, the director shall first make a reasonable effort to locate the owner or other person having charge or control of the premises or portion thereof and demand entry. Proper ingress and egress shall be provided to the director to inspect or perform any duty imposed upon the director by this chapter. The director shall notify the responsible party in writing of a failure to provide access. If the responsible party fails to respond within seven days from the receipt of notification, the director may order the work required completed or otherwise address the cause of improper access. The obligation for the payment of all cost that may be incurred or expended by the city in causing such work to be done shall be imposed on the person holding title to the subject property.

B. Persons responsible for maintenance pursuant to Section 14.04.130 shall inspect storm water drainage, treatment and conveyance facilities as required by the City of Black Diamond Engineering Design and Construction Standards and the SWMMWW. Further, such facilities shall be inspected at a minimum annually, unless a different inspection schedule is approved by the director in writing, based on maintenance records collected over double the length of the proposed maintenance frequency, or upon actual inspection and maintenance experience as certified in accordance with Section G19 of the Western Washington Phase II municipal stormwater permit. Records documenting the results of inspections required by this section shall be provided to the director within thirty days of the date of the inspection.

(Ord. No. 914, § 10, 6-25-2009; Ord. No. 945, § 2, 7-15-2010)

14.04.370 Immediate correction of drainage problems.

A. When the director determines that immediate action is required to remedy an erosion or drainage problem, the city may perform the necessary construction or remedial work and bill the property owner, the property owner's association, or project proponent for all costs associated with said work.

B. The director may order the removal, correction or replacement of any improperly constructed or maintained storm drainage or erosion control system that the administrator has previously reviewed and approved. All costs associated with said removal, correction or replacement shall be billed to the property owner, the property owner's association, or project proponent.

C. The property owner, the property owners' association, and project proponent are jointly and severally liable for all costs, including a reasonable attorney's fee, incurred in any remedial action performed by the city under this chapter. The city may record a lien on the property owned by such jointly and severally liable entities for payment of costs plus reasonable attorney's fees. Interest shall accrue on costs and fees at the same rate as for real estate tax delinquencies and shall commence on the date of completion of remedial action.

D. The city assumes no liability for performing any action authorized under this section.

(Ord. No. 914, § 11, 6-25-2009)

14.04.380 Appeals.

A. Any final decision of the director with respect to the enforcement or administration of this chapter and the Stormwater Manual shall be final unless timely appealed to the hearing examiner by any person aggrieved thereby. Said appeal must be in writing and shall briefly describe the basis of the appeal. Said written appeal must be filed with the city clerk-treasurer within fifteen days of the date of the decision being appealed. Upon receipt of a timely written appeal, the city clerk-treasurer shall advise the hearing examiner of the pendency of said appeal.

B. Any person who deems himself aggrieved by a final decision of the healing examiner under this chapter may appeal said decision to King County Superior Court; provided, that said appeal must be filed within twenty-one days of the date of the hearing examiner's final decision. Any decision of the hearing examiner not so appealed shall be deemed final and conclusive.

(Ord. No. 914, § 12, 6-25-2009)

14.04.390 Protection of storm drainage systems.

A. Damage or Obstruction. It shall be considered a violation of this chapter to:

1. Cause or permit damage to public or private storm drainage facilities;

2. Cause or permit horses, cattle or other domestic animals to enter drainage systems or waters of the United States;

3. Cause or permit grading, clearing, grubbing, filling or any other land surface changes such as traversing in a motor vehicle to take place in such a way as to allow sediment from the property to directly or indirectly enter into a drainage system or waters of the United States;

4. Cause or permit work that would transmit sediment from one part of a drainage system to another;

5. Unless approved by the administrator, cause or permit the placement of any obstructions, in waters of the United States, which would prohibit free fish passage under all flow conditions; or

6. Unless approved by the administrator, cause or permit the removal from waters of the United States, except under emergency conditions, of any naturally occurring woody debris. Emergency conditions may consist of flow blockage which, in the discretion of the administrator, threatens life or property.

B. Illicit Discharges.

1. Prohibited Discharges. Prohibition of illegal discharges. No person shall throw, drain, or otherwise discharge, cause or allow others under its control to throw, drain or otherwise discharge into the municipal storm drain system and/or surface and ground waters any materials other than stormwater. Examples of prohibited contaminants include but are not limited to the following:

a. Trash or debris.

b. Construction materials.

c. Petroleum products including but not limited to oil, gasoline, grease, fuel oil and heating oil.

d. Antifreeze and other automotive products.

e. Metals in either particulate or dissolved form.

f. Flammable or explosive materials.

g. Radioactive material.

h. Batteries.

i. Acids, alkalis, or bases.

j. Paints, stains, resins, lacquers, or varnishes.

k. Degreasers and/or solvents.

l. Drain cleaners.

m. Pesticides, herbicides, or fertilizers.

n. Steam cleaning wastes.

o. Soaps, detergents, or ammonia.

p. Swimming pool or spa filter backwash.

q. Chlorine, bromine, or other disinfectants.

r. Heated water.

s. Domestic animal wastes.

t. Sewage.

u. Recreational vehicle waste.

v. Animal carcasses.

w. Food wastes.

x. Bark and other fibrous materials.

y. Lawn clippings, leaves, or branches.

z. Silt, sediment, concrete, cement or gravel.

aa. Dyes.

bb. Chemicals not normally found in uncontaminated water.

cc. Any other process-associated discharge except as otherwise allowed in this section.

dd. Any hazardous material or waste not listed above.

2. Allowable Discharges. The following types of discharges shall not be considered illegal discharges for the purposes of this chapter 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. Diverted stream flows.

b. Rising ground waters.

c. Uncontaminated ground water infiltration, as defined in 40 CFR 35.2005(20).

d. Uncontaminated pumped ground water.

e. Foundation drains.

f. Air conditioning condensation.

g. Irrigation water from agricultural sources that is commingled with urban stormwater.

h. Springs.

i. Water from crawl space pumps.

j. Footing drains.

k. Flows from riparian habitats and wetlands.

l. Discharges from emergency fire fighting activities.

3. Conditional Discharges. The following types of 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. Potable water, including water from water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system;

b. Lawn watering and other irrigation runoff are permitted but shall be minimized;

c. De-chlorinated swimming pool discharges. These discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system;

d. Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents are permitted if the amount of street wash and dust control water used is minimized. At active construction sites, street sweeping must be performed prior to washing the street;

e. Non-stormwater discharges covered by another NPDES permit, provided, that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations; and provided, that written approval has been granted for any discharge to the storm drain system;

f. Other non-stormwater discharges. The discharges shall be in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the city, which addresses control of such discharges by applying AKART to prevent contaminants from entering surface or ground water.

C. 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 section if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

D. Enforcement. In addition to any other remedies set forth in this chapter or available at law, the city shall have the remedies set forth in this subsection for any violation of the provisions of this section. The choice of enforcement action and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the degree of bad faith of the person subject to the enforcement action.

1. Notice of Violation/Cease and Desist Order. The director shall have the authority to serve a person a notice of violation/cease and desist order if an action is being undertaken or a condition exists in violation of this section.

a. Content of Notice and Order. The notice and order shall contain:

i. A description of the specific nature, extent, and time of violation and the damage or potential damage; and

ii. A notice that the violation or the potential violation cease and desist, and, in appropriate cases, the specific corrective action to be taken

within a given time. A civil penalty under subsection (D)(2) of this section may be issued with the order.

b. Notice. The order shall be posted at the subject property and a letter containing the Notice and Order sent by certified mail, return receipt requested, to the property owner and any other person violating this chapter.

c. Effective Date. The order issued under this section shall become effective immediately upon posting of the stop work order on the premises.

d. Compliance. Failure to comply with the terms of a notice of violation/cease and desist order shall result in enforcement actions including, but not limited to, the issuance of a civil penalty.

2. Civil Penalty. Any violation of the provisions of this section shall subject the offender to a civil penalty of up to fifty dollars for each of the first five days that a violation exists and up to one hundred dollars for each subsequent day of violation from the sixth day of the violation. The civil penalty constitutes a personal obligation of the person to whom the civil penalty is directed. The debt shall be collectible in the same manner as any other civil debt owing to the city. The city shall be entitled to recover its attorneys' fees and costs if litigation is necessary to collect the civil penalty. Payment of any monetary penalty in accordance with this chapter shall not relieve any person of the duty to correct the violation as set forth in the applicable notice of violation/cease and desist order.

E. In addition to the enforcement provisions set forth in this chapter, a violation of this section shall constitute a nuisance and shall be subject to the procedures of Chapter 8.16 of this code. Notwithstanding any other provisions of this chapter, whenever it appears to the director that unsafe conditions exist causing pollution in the surface water system which can be immediately identified and which requires emergency action to protect the public health or safety, the director is authorized to enter at all reasonable times in or upon any property, public or private, for the purpose of inspecting and investigating such unsafe conditions.

(Ord. No. 917, § 2, 8-6-2009)

14.04.400 Enforcement and sanctions.

A. Any person or entity which violates any of the provisions of this chapter shall be guilty of a misdemeanor punishable by a fine of one thousand dollars per offense or a jail term of up to ninety days per offense or both. Each day during any portion of which any such person is in violation of this chapter is a separate offense and shall be punishable as provided in this section.

B. When a project fails to comply with the terms of this chapter, the director may issue a written order immediately stopping all work except that which is necessary to bring the project into compliance with this chapter. If the proponent fails to comply with such an order, the proponent shall be guilty of a misdemeanor punishable by a fine of one thousand dollars per offense or a jail term of up to ninety days per offense or both. Each day during any portion of which any such person is in violation of this chapter is a separate offense and shall be punishable as provided in this section. If the person does not comply with any such order within thirty working days of its issuance, the director may revoke the underlying permit or approval as set forth in Section 14.04.170(B).

C. In addition to any other remedies set forth in this chapter or available at law, the city shall have the additional remedies set forth in this subsection for any violation of the provisions of this chapter. The choice of enforcement action and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the degree of bad faith of the person subject to the enforcement action.

1. Notice of Violation/Cease and Desist Order. The director shall have the authority to serve a

person a notice of violation/cease and desist order if an action is being undertaken or a condition exists in violation of this section.

a. Content of Notice and Order. The notice and order shall contain:

i. A description of the specific nature, extent, and time of violation and the damage or potential damage; and

ii. A notice that the violation or the potential violation cease and desist, and, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty under subsection (D)(2) of this section may be issued with the order.

b. Notice. The order shall be posted at the subject property and a letter containing the notice and order sent by certified mail, return receipt requested, to the property owner and any other person violating this chapter.

c. Effective Date. The order issued under this section shall become effective immediately upon posting of the stop work order on the premises.

d. Compliance. Failure to comply with the terms of a notice of violation/cease and desist order shall result in enforcement actions including, but not limited to, the issuance of a civil penalty.

2. Civil Penalty. Any violation of the provisions of this chapter, or any violation of any notice of violation, cease and desist order or order stopping work issued pursuant to this section, shall subject the offender to a civil penalty of up to fifty dollars for each of the first five days that a violation exists and up to one hundred dollars for each subsequent day of violation from the sixth day of the violation. The civil penalty constitutes a personal obligation of the person to whom the civil penalty is directed. The debt shall be collectible in the same manner as any other civil debt owing to the city. The city shall be entitled to recover its attorneys' fees and costs if litigation is necessary to collect the civil penalty. Payment of any monetary penalty in accordance with this chapter shall not relieve any person of the duty to correct the violation as set forth in any applicable notice of violation, cease and desist order or order stopping work.

(Ord. No. 914, § 13, 6-25-2009; Ord. No. 945, § 3, 7-15-2010)

14.04.410 Fees.

A. The city's fee for review of storm drainage and erosion control plans and facilities and on-site inspection of facilities during construction shall be based on the actual amount of time expended at an hourly rate not to exceed seventy-five dollars per hour. If such fees are not paid when due, the administrator may revoke or refuse to grant the underlying permit or approval. If as a result of such action work is not completed, the director may judge the incomplete work to constitute a drainage problem subject to sanctions described in Section 14.04.400. Additional fees may be assessed according to the city's fee schedule.

B. A connection fee will be charged to the proponent if the designed system will discharge from the site. Said fee shall be adopted by resolution and amended from time to time. Such fee will represent the estimated proportionate share of the proposed connection necessary to cover the cost of public capital stormwater facilities including but not limited to conveyance, treatment, detention/retention systems, and/or comprehensive planning, stream protection and rehabilitation, public education and outreach programs and other activities associated with construction of stormwater facilities or the avoidance of such construction, impacted by that parcel or parcels of property.

(Ord. No. 914, § 14, 6-25-2009)

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