

Project title: Adopting New Chapter 14.28 Surface and Storm Drainage of the Everett Municipal Code

Council Bill #

CB 2206-20

Agenda dates requested:

June 8, 2022 (Briefing)
June 15, 2022 (Reading)
June 29, 2022 (Adoption)

Briefing 6/8/2022

Proposed action 6/15/2022

Consent

Action 6/29/2022

Ordinance X

Public hearing

Yes X No

Budget amendment:

Yes X No

PowerPoint presentation:

X Yes No

Attachments:

Summary of Changes
Ordinance
New EMC Chapter 14.28

Department(s) involved:

Public Works, Legal

Contact person:

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Initialed by:

RLS

Department head

Administration

Council President

Project: Surface and Stormwater Ordinance repealing EMC 14.28 and 14.56 and adding new chapter EMC 14.28

Partner/Supplier : NA

Location: City of Everett Municipal Surface Water Service Area (City Limits)

Preceding action: NA

Fund: 401 Water/Sewer/Stormwater Utilities Fund

Fiscal summary statement:

The cost was funded from Utilities Fund 401 Surface Water Management budget.

Project summary statement:

An Ordinance Relating to Surface and Stormwater Drainage, Repealing Chapters 14.28 and 14.56 of the Everett Municipal Code, and Adding a New Chapter 14.28 to the Everett Municipal Code.

The City of Everett was issued the Phase II Municipal Stormwater Permit (Permit) by the Washington State Department of Ecology (Ecology) under delegated authority from the Environmental Protection Agency to implement the Clean Water Act National Pollutant Discharge Elimination System (NPDES) program. Ecology updated and reissued the Permit July 1, 2019, which was effective August 1, 2019. The City is subject to the Permit and must update stormwater-related regulations to maintain consistency with the most current Permit requirements.

The current Permit requires the adoption of source control best management practices for pollution generating sources associated with existing land uses and activities. Permit requirements also include the adoption of a progressive enforcement policy that requires sites to comply with stormwater requirements.

The city has also adopted the most current Washington State Department of Ecology Stormwater Management Manual for Western Washington, and the requirements within new EMC 14.28 reflect definitions and minimum requirements to control runoff from new development, redevelopment and construction sites.

Recommendation (exact action requested of Council):

Adopt Ordinance EMC 14.28 Surface and Storm Drainage to be effective August 1, 2022.

Surface and Storm Drainage (EMC 14.28) Code Update Summary of Changes

An Ordinance relating to Surface and Storm Drainage, Repealing Chapters 14.28 and 14.56 of the Everett Municipal Code, and Adding a New Chapter 14.28 to the Everett Municipal Code. The two original code sections split stormwater information related to private stormwater inspections and prohibited spills and discharges. Consolidating into one code makes it easier to find maintenance and enforcement provisions.

The City’s Phase II Municipal Permit (Permit) with the Washington State Department of Ecology includes requirements for inspection and enforcement for private stormwater facilities, source control, and illicit discharges. The existing EMC 14.56 was not included in the code enforcement section EMC 1.20, thus private storm maintenance and corrections of illicit discharges did not have code enforcement support.

The City’s Permit also includes a new requirement for source control inspections to occur at existing commercial and industrial business. A progressive enforcement policy that requires sites or business to comply with the stormwater requirements within a reasonable time period was added to the code.

Code Section	Summary of Changes
14.28.020 Definitions	Definitions were updated to reflect changes in the New Stormwater Management Manual for Western Washington (SWMMWW) and the Phase II Municipal Stormwater Permit (Permit). Definitions used in Chapter 14.28 are reflected in the definitions.
	Revised “City Engineer” and added “Director” to the definition. The Director shall mean Director of Public Works and/or his or her designees.
14.28.030 Requirements for development, redevelopment and construction activities	Removed previous code sections: <ul style="list-style-type: none"> • Redevelopment applicability • New development applicability • Additional requirements for re-development project sites, and • Minimum technical requirements • Adjustments • Exceptions-variance All of this information is in the City’s adopted SWMWW by reference, thus does not need to be repeated in code.
	Applicability section has been included to provide reference/clarity of authority to City Regulations when there is confusion of precedence in the following order: <ol style="list-style-type: none"> 1) EMC 14.28, 2) The Design and Construction Standards and Specifications (DCSS), and 3) The Stormwater Management Manual for Western Washington.

14.28.040 Exemptions	This section previously included exemptions outlined in the SWMMWW. The New code section refers to the SWMMWW.
	The new code section provides reference to the combined sewer area as set forth in EMC 14.08. Projects located in the combined sewer area are not subject to EMC 14.28.
14.28.050 Development in Critical Areas	Critical areas are governed by EMC 19.37. The new code section in 14.28 refers to that section rather than trying to narratively capture the intent.
14.28.060 City assumption of responsibility for on-site stormwater facilities	Relatively unchanged.
14.28.070 Regional stormwater facilities payment in-lieu-of construction program	Establishment of the current regional stormwater facility section was revised and added to. The revised new code includes the establishment and commencement of a Payment-In-Lieu-Of Construction Program (“Program”).
	Participation in the Program is voluntary and not mandatory. This Program is available for qualified new development and redevelopment projects required to mitigate for stormwater impacts under the city’s stormwater standards.
14.28.080 Bonds and liability insurance required	No significant revisions. Reformatted for clarity. The City’s DCSS is referenced in this new code section, where the details of performance and maintenance bonds are provided. Some text was removed in the cleanup because the language references the DCSS.
14.28.090 City assumption of operation and maintenance	New section added clarity that assumption of operation and maintenance may be for stormwater facilities designed and constructed as common stormwater facilities serving multiple lots within single family residential projects in connection with a short-plat.
	Added relevant items needed prior to accepting ownership and maintenance responsibilities for stormwater facilities through annexation.
	Added language that if a stormwater facility serving private property has maintenance or other costs determined excessive by the city in its sole discretion, then the city may, prior to city acceptance of the facility, require the property owner(s) to make one-time or continuing contribution to such costs.
14.28.100 Retroactivity relating to city maintenance	Minor changes for clarity.
14.28.110 Applicability to governmental entities	Relatively unchanged.
14.28.120 Maintenance and operations of private stormwater facilities	Previously this section was in 14.56.130, which was not supported by the City’s enforcement section (EMC 1.20).
	This new section has been updated to meet City Municipal Permit Requirements which include: <ul style="list-style-type: none"> • Assign responsible party

	<ul style="list-style-type: none"> • Right of entry on private property (which was in previous code 14.56) • Clarity that Director can establish inspection, scheduling, frequency and compliance procedures • Prohibits a constructed stormwater facility from being filled, graded, obstructed • Provides clarity that a Public Works Permit is required when modifying an existing stormwater facility.
14.28.130 Source control requirements	<p>The City is required to adopt and make effective by August 1, 2022, an ordinance or other enforceable mechanism requiring the application of source control best management practices (BMPs) for pollutant generating sources associated with existing land uses and activities per the City’s Stormwater Municipal Permit.</p>
	<p>The Permit requires the City to implement a progressive enforcement policy that requires sites to comply with the stormwater requirements within a reasonable time period.</p>
	<p>This new section has been updated to meet City Municipal Stormwater Permit Requirements which include:</p> <ul style="list-style-type: none"> • Applying operational and structural best management practices • Right of entry to inspect
14.28.140 Illicit discharges and connections	<p>The Municipal Stormwater Permit requires the City to adopt and make effective an ordinance to effectively prohibit non-stormwater, illicit discharges into the City’s municipal stormwater system. The existing code section (14.56.040) did not entirely match the Municipal Stormwater Permit language. As a result, this section was revised to match the Permit language in its entirety.</p>
	<p>Previously this section was in 14.56 which was not supported by the City’s enforcement section (EMC 1.20).</p>
	<p>A prohibition of illicit connection was added to the new code section. This is a Municipal Stormwater Permit requirement and clarifies that illicit connections made in the past, whether permissible or not, are prohibited and violation of the new chapter.</p>
14.28.150 Inspection and Enforcement	<p>Administrative update, the new code chapters may be enforced to the provisions of the chapter, as well as enforcement procedures established in EMC 1.20.</p>
	<p>For inspections, this new section provides access to inspect for source control best management practices, and clarifies access to inspect for spills, discharges, and conduct stormwater facility inspections.</p>
	<p>Enforcement applies to owner or responsible party and includes stormwater facility, source control, illicit discharges, spills, and illicit connections.</p>
	<p>The new enforcement section allows for fines per EMC 1.20, but allows for other mechanisms of enforcement, when fines are not the most efficient means of compliance.</p>

	<p>Updated abatement section so that the City can address pollution, source control or stormwater facility issues that may be an imminent threat to public health or welfare. Old code only allowed abatement for pollution, not system failure or blockages.</p>
	<p>New code adds clarity to allow City to recoup costs of maintenance, repair or illicit discharge. Prior code only allowed reimbursement to city for pollution cleanup, not stormwater facility maintenance or structural repair that could result in imminent threat to public health and welfare.</p>
	<p>Added ability to revoke a permit associated with a stormwater site plan whenever Director finds a violation associated with the new chapter that creates unsanitary, dangerous, or other water quality discharge related issue not being dealt with.</p>
	<p>Added business license revocation.</p>
	<p>Added to new code, the ability to add a recording to title with the Snohomish County Auditor's Office if an enforcement order has not been complied with.</p>



ORDINANCE NO. _____

An Ordinance Relating to Surface and Stormwater Drainage, Repealing Chapters 14.28 and 14.56 of the Everett Municipal Code, and Adding a New Chapter 14.28 to the Everett Municipal Code.

WHEREAS,

- A. In January 2007 the City of Everett was issued the Phase II Municipal Stormwater Permit (Permit) by the Washington State Department of Ecology (Ecology) under delegated authority from the Environmental Protection Agency to implement the Clean Water Act National Pollutant Discharge Elimination System (NPDES) program.
- B. Ecology updated and reissued the Permit July 1, 2019, which was effective August 1, 2019. The City is subject to the Permit and must update stormwater-related regulations to maintain consistency with the most current Permit requirements.
- C. The current Permit requires the adoption of source control best management practices for pollution generating sources associated with existing land uses and activities.
- D. The Permit requirements therein include adoption of a progressive enforcement policy that requires sites to comply with stormwater requirements.
- E. The proposed new Chapter 14.28 of the Everett Municipal Code protects the health, safety and welfare of persons and property by safely conveying stormwater runoff from site development and preventing the uncontrolled or irresponsible discharge of stormwater onto adjoining public or private property or receiving waters.
- F. The proposed new Chapter 14.28 of the Everett Municipal Code also establishes a Payment-In-Lieu-of-Construction Program to allow qualified new development or redevelopment projects to use regional stormwater facilities by paying a system development charge and maintenance surcharges to the City in-lieu-of constructing stormwater treatment or flow control facilities, with Chapter 35.92 RCW and Chapter 35.67 authorizing such system development charges and maintenance surcharges.
- G. The City has adopted the most current Washington State Department of Ecology Stormwater Management Manual for Western Washington, and the requirements within new EMC 14.28 reflect definitions and minimum requirements to control runoff from new development, redevelopment and construction sites.

NOW THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Findings Adopted. The City Council hereby finds the foregoing recitals are adopted in support of this Ordinance.

Section 2. EMC 14.28 Repealed. Chapter 14.28 of the Everett Municipal Code is hereby repealed in its entirety. For purposes of reference, Chapter 14.28 EMC was adopted under the following ordinances: Ord. 3688-19, 2019; Ord. 3528-16, 2016; Ord. 3168-10, 2010; Ord. 2196-97, 1997; and Ord. 2182-96, 1996.

Section 3. EMC 14.56 Repealed. Chapter 14.56 of the Everett Municipal Code is hereby repealed in its entirety. For purposes of reference, Chapter 14.28 EMC was adopted under the following ordinances: Ord. 3141-09, 2009; Ord. 1909-92, 1992; and Ord. 1750-90, 1990.

Section 4. New EMC 14.28. A new Chapter 14.28 is hereby added to the Everett Municipal Code as set forth in Exhibit A.

Section 5. Corrections. The City Clerk and codifiers of the ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 6. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or situation, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances. The City Council of the City of Everett hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 7. Effective Date. This Ordinance is effective August 1, 2022.

Section 8. Savings. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance. Chapters 14.28 and 14.56 EMC, which are repealed by this Ordinance, shall remain in force and effect until the effective date of this Ordinance.

Section 9. Health, Safety and Welfare. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Cassie Franklin, Mayor

ATTEST

City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: August 1, 2022

EXHIBIT A

[insert new EMC 14.28]

Chapter 14.28 SURFACE AND STORM DRAINAGE

Sections:

[14.28.010 Purposes.](#)

[14.28.020 Definitions.](#)

[14.28.030 Requirements for development, re-development and construction activities.](#)

[14.28.040 Exemptions.](#)

[14.28.050 Development in critical areas.](#)

[14.28.060 Responsibility for on-site stormwater facilities.](#)

[14.28.070 Regional stormwater facilities payment in-lieu of construction program.](#)

[14.28.080 Bonds and liability insurance required.](#)

[14.28.090 City assumption of operation and maintenance.](#)

[14.28.100 Retroactivity relating to city maintenance.](#)

[14.28.110 Applicability to governmental entities.](#)

[14.28.120 Maintenance and operations of private stormwater facilities.](#)

[14.28.130 Source control requirements.](#)

[14.28.140 Illicit discharges and connections](#)

[14.28.150 Inspection and enforcement](#)

14.28.010 Purposes.

The city council finds this chapter is necessary in order to promote the public health, safety and welfare by providing for the comprehensive management of surface and stormwater, erosion control, and flooding. The city council also finds that this chapter is necessary in order to minimize water quality degradation; to provide for the safety of city roads and rights-of-way; to decrease drainage-related damage to public and

private property; siltation and habitat destruction in the city's creeks, streams and other water bodies; comply with the Department of Ecology Western Washington Phase II Municipal Stormwater Permit; prevent water quality degradation through investigation, evaluation, and enforcement of water quality standards and best management practices, and stormwater maintenance programs in order to promote the effectiveness of the requirements contained in this chapter

14.28.020 Definitions.

1. "Best management practice (BMP)" shall mean the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State.
2. "Critical area" shall refer to [geologically hazardous areas](#), [wetlands](#), [lakes](#), [ponds](#), [streams](#), frequently flooded (flood hazard) areas, and [fish and wildlife habitat conservation areas](#), as defined in Chapter [36.70A](#) RCW and chapter EMC 19.37.
3. "Developer" shall mean the owning individual(s) or entity(ies) or their representative applying for the permits or approvals described in Section [14.28.030](#).
4. "Development" is defined in EMC 19.04.020.
5. "Director" shall mean the Director of Public Works and/or designees.
6. "Design and Construction Standards and Specifications" or "DCSS" shall mean the current City of Everett Design and Construction Standards and Specifications.
7. "Hard surface": An impervious surface, permeable pavement, or a vegetated roof.
8. "Illicit connection": Any infrastructure connection to the stormwater drainage system that is not intended, permitted, or used for collecting and conveying stormwater or non-stormwater discharges. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the MS4.
9. "Illicit discharge": Any discharge that is not composed entirely of stormwater to any portion of the stormwater drainage system, groundwater, or surface water.
10. "Impervious surface": A non-vegetated surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated 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 prevent the natural infiltration of stormwater.

11. “Land disturbing activity”: Any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, clearing, grading, filling, and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered land disturbing activity. Vegetation maintenance practices, including landscape maintenance and gardening, are not considered land disturbing activity. Stormwater facility maintenance is not considered land disturbing activity if conducted according to established standards and procedures.

12. “Low Impact Development Best Management Practices” shall mean distributed stormwater management practices, integrated into a project design, that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration.

13. “Maintenance”: Includes repair and maintenance activities conducted on currently serviceable structures, facilities, and equipment that involve no expansion or use beyond that previously existing and result in no significant adverse hydrologic impact. It includes those usual activities taken to prevent decline, lapse, or cessation in the use of structures and systems. Those usual activities may include replacement of dysfunctional facilities, including cases where environmental permits require replacing an existing structure with a different type structure, as long as the functioning characteristics of the original structure are not changed. One example is the replacement of a collapsed, fish blocking, round culvert with a new box culvert under the same span, or width of roadway. In regard to stormwater facilities, maintenance includes assessment to ensure ongoing proper operation, removal of built-up pollutants (i.e., sediments), replacement of failed or failing treatment media, and other actions taken to correct defects as identified in the maintenance standards of the city’s stormwater management manual.

14. “Minimum Requirements” for stormwater management at new development and redevelopment sites is as defined in the Stormwater management manual.

15. “Natural location” of drainage system shall refer to the location of those channels, swales, and other conveyance systems as defined by the topographic contours existing for the subject property, from city of Everett aerial topographic maps dated April 8, 1969, and April 25, 1971. In cases where the above maps are inconclusive, “natural location” shall refer to the existing features unless it can be shown from

documented maps or photographs that the features have existed less than ten years. In cases of disagreement, the decision of the city engineer as to “natural location” shall be final.

16. “New development” means the following activities: land disturbing activities, including Class IV general forest practices that are conversions from timber land to other uses; structural development, including construction, installation or expansion of a building or other structure; creation of hard 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.

17. “Receiving water body or receiving waters”: Naturally and/or reconstructed naturally occurring surface water bodies, such as creeks, streams, rivers, lakes, wetlands, estuaries, and marine waters, or groundwater, to which a stormwater system discharges.

18. “Redevelopment”: A site that is already substantially developed (i.e., has thirty-five percent or more of existing impervious surface coverage), the creation or addition of hard surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of hard surface that is not part of a routine maintenance activity; and land disturbing activities.

19. “Regional stormwater facility” shall mean and include (1) a single stormwater BMP/facility designed to provide stormwater treatment and/or flow control for a large region or portion of a basin or subbasin, or (2) multiple stormwater BMPs/facilities that are designed to provide water quality and/or flow control for a large region or portion of a basin or subbasin.

20. “Replaced hard surface”: For structures, the removal and replacement of hard surfaces down to the foundation. For other hard surfaces, the removal down to bare soil or base course and replacement.

21. “Replaced impervious surface”: For structures, the removal and replacement of impervious surfaces down to the foundation. For other impervious surfaces, the removal down to bare soil or base course and development.

22. “Site”: The area defined by the legal boundaries of a parcel or parcels of land that is (are) subject to new development or redevelopment. For road projects, the length of the project site and the right-of-way boundaries define the site.

23. “Stormwater”: Runoff during and following precipitation and snowmelt events, including surface runoff, drainage, and interflow.

24. “Stormwater drainage system” shall mean constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat or filter stormwater.

25. “Stormwater facility” shall mean a constructed component of a stormwater drainage system, designed or constructed to perform a particular function, or multiple functions. Stormwater facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention ponds, retention ponds, constructed wetlands, infiltration devices, catch basins, oil/water separators, pumps, outfall, biofiltration swales, and stormwater treatment and flow control and LID BMPS.

26. “Stormwater management manual” shall mean the Washington State Department of Ecology Stormwater Management Manual for Western Washington adopted by the Director, along with any technical and administrative procedures established by the Director, which provide details for implementation of the provisions of this chapter.

27. “Stormwater site plan” shall mean the comprehensive report containing all of the technical information and analysis necessary for the city to evaluate a proposed new development or redevelopment for compliance with stormwater requirements.

28. “Source Control BMP”: The structure or operation that is intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants. The Stormwater Management Manual separates source control BMPs into two types. Structural Source Control BMPs are physical, structural, or mechanical devices, or facilities that are intended to prevent pollutants from entering stormwater. Operational BMPs are non-structural practices that prevent or reduce pollutants from entering stormwater.

29. “Surface waters”: Include lakes, rivers, ponds, streams, wetlands, inland waters, salt waters and all other surface waters and water courses within the jurisdiction of the State of Washington.

30. “Water Quality Standards” shall mean Surface Water Quality Standards, Chapter 173-201A WAC, Groundwater Quality Standards, Chapter 173-200 WAC, and Sediment Management Standards, Chapter 173-204 WAC.

31. “Waters of the State” shall mean those waters as defined as “waters of the United States” in 40 CFR Subpart 122.2 within the geographic boundaries of Washington State and “waters of the State” as defined in Chapter 90.48 RCW which includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and water courses within the jurisdiction of the State of Washington.

14.28.030 Requirements for Development, Re-Development and Construction Activities

A. Applicability. This chapter is applicable to discharges to stormwater, surface water, or groundwater. The design, construction and maintenance requirements and standards on all projects subject to this chapter shall meet or exceed the thresholds, definitions and criteria contained in the following, in the following order of precedence:

1. This chapter; and
2. City of Everett Design and Construction Standards and Specifications for Development; and
3. The Stormwater Management Manual for Western Washington

B. Stormwater Drainage Review. Stormwater drainage review is required when a proposed project:

1. Results in two thousand square feet, or greater, of new plus replaced hard surface area; or
2. Has land disturbing activity of seven thousand square feet or greater; or
3. Converts three-quarters acre, or more, of vegetation to lawn or landscaped areas; or
4. Converts two and one-half acres, or more, of native vegetation to pasture.

Projects located in the combined sewer area that add net new impervious surface are governed by EMC 14.08.

All projects and land disturbing activities are required to prevent erosion and control sediment leaving the site. Every effort must be made to prevent sediment from entering the storm drainage system and surface waters, and air quality must be preserved.

C. Stormwater Drainage Review and Approval.

All stormwater drainage review and project site plans and designs prepared in connection with this chapter shall be submitted for review and approval by the Director and/or designee.

14.28.040 Exemptions.

Exemptions to the minimum requirements for new and redevelopment are provided in the Stormwater Management Manual for Western Washington.

In addition to those exemptions, project sites, or portions of project sites, that potentially contribute stormwater to the city's latest designated combined sewer system (as set forth in EMC 14.08.040.B) shall not be subject to this chapter. The combined sewer system routes stormwater for treatment at the publicly owned treatment works. Requirements for detention and flow control are determined by evaluating the capacity of the combined sewer system as set forth in EMC 14.08.

14.28.050 Development in critical areas.

Critical areas are governed by EMC 19.37.

14.28.060 City assumption of responsibility for on-site stormwater facilities

In the event that public benefits would accrue due to modification of the stormwater site plan for a subject property to better implement the city's surface water goals, the city may assume responsibility for the further design, construction, operation and maintenance of the stormwater facilities, or any increment of the responsibility of the facilities on the subject property. Such decision shall be made concurrently with review and approval of the stormwater site plan as specified in this chapter. In the event that the city decides to assume responsibility for all or any portion of the design, construction, operation and maintenance of the site-specific stormwater facilities, the developer will be required to contribute a pro rata share to the construction cost of the facilities. The developer may be required to supply additional information at the request of the Director to aid in the determination by the city. Guidelines for implementing this section will be defined in the City of Everett stormwater management manual or by the Director.

14.28.070 Regional Stormwater Facilities Payment In-Lieu-of Construction Program.

A. Regional Stormwater Facilities. The city may establish, at its sole discretion, regional stormwater facilities to provide for water quality treatment, control of flow rates, or other benefits for stormwater runoff from areas within the city. The benefits of these regional stormwater facilities may be made available to compensate for required stormwater mitigation associated with development, subject to the requirements of this section. The Director shall establish a Regional Stormwater Facility Plan that:

1. Provides for tracking of existing and proposed regional stormwater facilities.
2. Identifies location, size, type and capacity of city owned stormwater facilities which are considered regional stormwater facilities.
3. Establishes a means of tracking provided and used capacity of the regional stormwater facility in accordance with the requirements in the Stormwater management manual and this section.

4. Defines the applicable area served by each regional stormwater facility.
5. Provides for administration of the Payment-In-Lieu-of-Construction Program established in subsection B of this section, including definition of methods for calculating the regional stormwater facility system development charge and maintenance surcharge.

B. Payment-In-Lieu-of-Construction Program

1. Purpose. Upon completion of the Regional Stormwater Facility Plan, the Director will establish and commence a Payment-In-Lieu-Of Construction Program (“Program”) as provided in this section. Participation in the Program is voluntary and not mandatory. This Program shall be available for qualified new development and redevelopment projects required to mitigate for stormwater impacts under the city’s stormwater standards. Property owners, or persons authorized to act on their behalf, may apply under this Program to pay a regional stormwater facility system development charge in lieu of constructing stormwater treatment and/or flow control best management practices on the project site. Mitigation capacity will be allocated to qualifying benefitted premises under this Program. All applications for the Program must be reviewed and approved by the Director or designee. The regional stormwater facility system development charge will be assessed to reimburse the city for the historic capital costs to construct or expand regional stormwater facilities to provide mitigation capacity for projects approved under the Program and to promote the expansion of the Program through the construction of additional facilities. A maintenance surcharge may also be applicable to offset the additional maintenance costs resulting from the new or expanded regional stormwater facilities benefitting such properties.
2. Payment Agreement. A payment agreement signed by the city and applicant is required for participation in the Program.
3. Regional Stormwater Facility System Development Charge. An applicant qualified and approved under this Program shall be assessed a regional stormwater facility system development charge (the “RSFSD Charge”) as established by ordinance of the City Council. The RSFSD Charge may be different for each regional stormwater facility in the Program or group of facilities. The methodology for calculating the RSFSD will be developed by the Director and will be based on the present worth of capital costs for each facility and/or other equitable factors, including per-unit cost (such as per square foot of hard surface) or required detention volume. All RSFSD Charges collected shall be held in a fund specifically for the benefit of stormwater in the city’s separated stormwater area. The funds may be used to pay for regional stormwater facility capital projects

within the separated stormwater area, any outstanding debt associated with those capital projects, and the maintenance and replacement of facilities within the Program.

4. Maintenance Surcharge. A maintenance surcharge may be assessed upon the benefitted premises in addition to the surface water rates or fees. The maintenance surcharge is intended to equitably recover the maintenance costs associated with the regional stormwater facility. The maintenance surcharge will be calculated by multiplying the total maintenance costs for the regional stormwater facility by the percentage of total mitigation capacity of the regional stormwater facility allocated to the benefitted parcel or by other equitable methodology. The maintenance surcharge may vary for each regional stormwater facility included in the Program based on facility type and location. The maintenance surcharge for a regional stormwater facility shall be established by ordinance of the City Council.

5. Calculation; Mitigation Capacity; Payment; Return.
 - a. The amount of surface area requiring stormwater mitigation will be calculated based upon the proposed project as approved with a city public works permit.
 - b. An applicant cannot pay for or reserve mitigation capacity for future mitigation needs.
 - c. Available capacity in a regional stormwater facility shall be allocated on a first-come, first served basis based on date of a completed public works permit application or date of approval of the Program application, whichever date is later.
 - d. Each RSFSD Charge shall be paid to the city at the time of public works permit issuance. Payment of the RSFSD Charge does not exempt property from stormwater and surface water rates.
 - e. If for any reason within 12 months after approval of the Program application (1) the applicant does not pay the RSFSD Charge or (2) a public works permit is not issued for the proposed project as approved under the Program application, then the approval of the Program application will be deemed to lapse upon expiration of such 12 months and the mitigation capacity allocated under the lapsed Program application approval will be released for allocation to others.
 - f. If a project is not constructed as approved under the Program application within one year after issuance of the public works permit, the city may require that mitigation capacity be

returned to the city, in which case the RSFSD Charge attributable to the capacity so returned will be refunded without interest.

6. Qualification. In order to qualify for the Program and be considered for approval:
 - a. The proposed project must be considered a new development or redevelopment project;
 - b. Applications for participation in the Program shall be submitted concurrently with a construction permit application. Application shall be on forms provided by the city;
 - c. The proposed project must be located in an area served by a regional stormwater facility as defined by the ordinance for that regional stormwater facility;
 - d. The proposed project must comply with all applicable portions of the Stormwater management manual, the Regional Stormwater Facilities Plan, and any other requirements established by the Director;
 - e. The applicant must provide all information requested by the city that is reasonably related to the Program;
 - f. For a water quality regional facility, the level of treatment must be greater than what is required for the proposed project. For all types of regional stormwater facilities, an applicant must demonstrate that use of the regional stormwater facility meets the stormwater requirements in place at the time of Program application.
 - g. A proposed project to remove existing stormwater facilities and instead use mitigation capacity in a regional stormwater facility may qualify for the Program on a case-by-case basis if the circumstances so warrant as determined by the Director. Use of mitigation capacity as a substitute for existing facilities is generally not preferred, even if capacity within the regional stormwater facility is available. All costs for removal of the existing stormwater facility shall be borne by the facility owner(s).
 - h. The property owner must execute a payment agreement with the city, in a form approved by the Office of the City Attorney. The benefitted premises shall be designated in the payment agreement. The payment agreement and the covenants set forth therein shall, upon recording with the Snohomish County Auditor, or successor, be deemed effective and credited to and considered as a benefit to the benefitted premises running with the land; provided that, the city's covenants shall not apply to additional future stormwater mitigation required for redevelopment or new development of any portion of the

benefitted premises. It shall be the responsibility of the applicant to timely record the payment agreement and submit a copy of the recorded agreement to the city. The city shall maintain a copy of the agreement in the city's permanent records. The payment agreement need not be recorded for a project where the benefitted premises is a right-of-way or other location as determined by the Office of the City Attorney as not applicable for recording; in such situations the payment agreement will be deemed effective on the effective date as established in the payment agreement.

- i. The applicant and proposed project must satisfy any other Program requirements established by the Director.
7. City Projects. Notwithstanding any other provision of this section, projects constructed by the City of Everett may use mitigation capacity in regional stormwater facilities at any time, and the city may reserve capacity in regional stormwater facilities for such projects.

14.28.080 Bonds and liability insurance required.

A. General. Unless otherwise determined by the Director in writing, Developers shall provide guarantees as required by subsections C and D below. The Director is authorized to require developers constructing stormwater facilities (including, but not limited to, retention/detention and/or other drainage treatment/abatement facilities) to post surety bond(s) or other form of guarantee acceptable to the city in addition to or in lieu of the guarantees in subsections C and D.

B. Combinations of Guarantees. Where a developer has previously posted, or is required to post, bonds or other such guarantees on the facility itself or on other construction related to the facility, such developer may, with the permission of the Director and to the extent allowable by law, combine all such bonds into a single bond in a form acceptable to the city; provided, that at no time shall the amount thus bonded be less than the total amount which would have been required in the form of separate bonds; and provided further, that such a bond shall on its face clearly state those separate bonds which it is intended to replace.

C. Performance. Prior to commencing construction, the developer constructing the facility shall post a performance guarantee as set forth under the current City of Everett Design and Construction Standards and Specifications.

D. Maintenance. After satisfactory completion of the facility, the developer constructing the facility shall commence a two-year period of satisfactory maintenance of the facility. In addition, the developer shall

provide a maintenance guarantee as set forth by the current City of Everett Design and Construction Standards and Specifications.

E. Liability Insurance. If required by the Director, the developer constructing the facility shall maintain a liability insurance policy with limits of one million dollars per occurrence and five million annual aggregate or other limits as required by the Director, which shall name the city as an additional insured and which shall protect the city from any liability up to those amounts for any accident, negligence, failure of the facility, or any other liability whatsoever, relating to the construction or maintenance of the facility. This liability policy shall be maintained for the duration of the facility by such developer of the facility; provided, that in the case of facilities assumed by the city for maintenance pursuant to Section [14.28.090](#), the liability policy shall be terminated when city accepts the facility and city maintenance responsibility commences.

14.28.090 City assumption of operation and maintenance.

A. General Limitation to Certain Single-Family Projects. As set forth in this section, the city may assume the operation and maintenance of stormwater facilities. Unless determined otherwise by the Director on a case-by-case basis, this assumption will be limited to stormwater facilities designed and constructed as common stormwater facilities serving multiple lots within single family residential projects in connection with a short-plat.

B. Requirements. The city may assume the operation and maintenance of stormwater facilities (including, but not limited to, retention/detention or other drainage treatment/abatement facilities) after the expiration of the two-year operation and maintenance warranty period for stormwater facilities if:

1. All of the requirements of Section [14.28.080](#) and the DCSS have been fully complied with; and
2. The facilities have been inspected and accepted by the utility department after two years of operation in accordance with the city stormwater management manual; and
3. All necessary easements in form acceptable to the city in the city's sole discretion entitling the city to properly own, operate, and/or maintain the facility have been fully executed and recorded with the Snohomish County auditor; and
4. The maintenance bond required in Section [14.28.080\(D\)](#) has been extended for one year, covering the city's first year of operation and maintenance; and
5. The developer has supplied to the city an accounting of capital, construction, and operation and maintenance expenses or other items for the facilities up to the end of the two-year period.

On a case-by-case basis, the Director may determine to waive some or all of 1-5 above or may determine that additional requirements apply.

B. City Inspection. Prior to accepting ownership and maintenance responsibilities for Stormwater Facilities (whether through subsection A above, annexation or any other means) the city will inspect the facilities and review as-builts, form of easements, and other relevant items as needed to determine the facilities are in good condition and meet city standards and are otherwise acceptable to the city. Any deficiency noted will need to be corrected prior to city acceptance unless otherwise determined by the Director.

C. Excessive Costs. If a Stormwater Facility serving private property has maintenance and/or other costs determined excessive by the city in its sole discretion, then the city may, prior to city acceptance of the facility, require the property owner(s) to make one-time or continuing contribution to such costs, with written agreement for the continuing contribution in a form acceptable to the city.

D. Non-Assumption.

1. In the event that the city elects not to assume the operation and maintenance responsibility for the stormwater facilities, it will be the responsibility of the developer to make arrangements with the occupants or owners of the subject property for assumption of maintenance and operation in a manner subject to the approval of the Director or in accordance with the stormwater management manual.
2. If the city elects not to assume operation and maintenance responsibility for stormwater facilities, the facilities shall be operated and maintained in accordance with the arrangements as approved by the Director. The city may inspect the facilities in order to ensure continued use of the facilities for the purposes for which they were built and in accordance with these arrangements.

14.28.100 Retroactivity relating to City Maintenance.

A. If any person constructing stormwater facilities and/or receiving approval of stormwater site plans prior to the effective date of this chapter demonstrates to the city's satisfaction compliance with the requirements of this chapter, the city may, as set forth in EMC [14.28.090](#) or elsewhere in this chapter, assume operation and maintenance of the facilities.

B. In cases in which all or part of the stormwater facilities are not accessible for maintenance purposes due to overlying structures or other causes, the city shall be, by written agreement approved by the Office of the City Attorney, indemnified from all costs and held harmless from damages and injuries which might

occur due to failure of design or workmanship of those segments, and further will not be responsible for their maintenance, replacement, or rehabilitation.

14.28.110 Applicability to governmental entities.

All municipal corporations and government entities shall be required to comply with the terms of this chapter when developing and/or improving land including, but not limited to, road building, and widening facilities, and parking lots within the areas of the city.

It is recognized that many other city, county, state, and federal permit conditions may apply to the proposed action and that compliance with the provisions of this chapter does not constitute compliance with such other requirements.

14.28.120 Maintenance and operations of private stormwater drainage systems.

Maintenance of private stormwater drainage systems and infrastructure is required to ensure the ongoing effectiveness of the facilities and the protection of life and property. All private stormwater drainage systems shall be maintained by the owner or operator thereof in a safe and proper operating condition, and in compliance with all applicable requirements of this chapter and regulations and procedures adopted hereunder. The city assumes no responsibility for maintenance and operation of private stormwater drainage systems, except for private stormwater drainage systems where the city has expressly assumed maintenance and operation as provided in EMC [14.28.090](#) or elsewhere in this chapter.

A. Any person or persons holding title to the property containing a stormwater facility shall be responsible for the continual performance, operation, maintenance, and repair of the facility in accordance with the criteria in this chapter and Volume V of the Stormwater Management Manual. The responsibility for maintenance of the stormwater facilities shall transfer with the property unless otherwise agreed by the parties in a recorded document pre-approved in writing by the Director or designee.

B. The city is authorized to enter at all reasonable times in or upon any property for the purpose of investigating or inspecting a stormwater facility, stormwater drainage systems, or any condition relating to the provisions in this chapter and issue orders, including, but not limited to, requiring maintenance and/or repair, replacement, or restoration (See Section EMC [14.28.150](#)).

C. The Director shall establish inspection, scheduling, standards and compliance procedures for inspections and maintenance of all private stormwater facilities. The Director may develop additional maintenance requirements as necessary to comply with Federal or State regulatory programs.

D. No person shall cause or permit a stormwater facility or stormwater drainage system to be obstructed, filled, graded, or used for disposal of debris. Any such activity constitutes a violation of this chapter.

E. Any modification of an existing stormwater facility or stormwater drainage system must be approved and permitted by the city with a Public Works Permit. Failure to obtain permits and approvals or to comply with conditions thereof for any such alteration constitutes a violation of this chapter.

14.28.130 Source control requirements

A. New and redevelopment projects and existing businesses shall include all known, available and reasonable source control BMPs. Source control BMPs shall be selected, designed, applied, and maintained in accordance with EMC [14.28.030](#).

B. Source control BMPs shall be applied to any activity that might discharge contaminants to the stormwater drainage system, surface or groundwater.

1. Application of operational source control BMPs (and if necessary structural source control BMPs or treatment BMPs/facilities, or both) to pollution generating sources shall be maintained in a safe and proper operating condition, and in compliance with all applicable requirements of this chapter.
2. The city shall have the right to enter the property for the purposes of inspecting source control BMPs at public and privately owned institutional, commercial, multi-family and industrial sites and take such actions as may be required to enforce the provisions of this chapter.
3. The Director may require the application of operational or structural source control BMPs at any time through code enforcement where necessary to prevent illicit discharges.
4. Failure to implement source control BMPs shall constitute a violation of this chapter and result in enforcement action (See EMC [14.28.150](#)).

14.28.140 Illicit discharges and connections

A. Prohibited Discharges. No person shall throw, drain, or otherwise discharge, cause or allow others under its control to throw, drain or otherwise discharge into the storm drainage system or any receiving waters any materials other than stormwater. Illicit discharges are prohibited and constitute a violation of this chapter. Examples of prohibited materials include, but are not limited to, the following:

1. Trash or debris.
2. Construction materials.
3. Petroleum products including but not limited to oil, gasoline, grease, fuel oil and heating oil.
4. Antifreeze and other automotive products.
5. Metals in either particulate or dissolved form.
6. Flammable or explosive materials.
7. Radioactive material.
8. Batteries.
9. Acids, alkalis, or bases.
10. Paints, stains, resins, lacquers, or varnishes.
11. Degreasers and/or solvents.
12. Drain cleaners.
13. Pesticides, herbicides, or fertilizers.
14. Steam cleaning wastes.
15. Soaps, detergents, or ammonia.
16. Swimming pool or spa filter backwash.
17. Chlorine, bromine, or other disinfectants.
18. Heated water.
19. Domestic animal wastes.
20. Sewage.
21. Recreational vehicle waste.
22. Animal carcasses.

23. Food wastes.
24. Bark and other fibrous materials.
25. Lawn clippings, leaves, or branches.
26. Silt, sediment, concrete, cement or gravel.
27. Dyes.
28. Chemicals not normally found in uncontaminated water.
29. Any other process-associated discharge except as otherwise allowed in this section.
30. Any hazardous material or waste not listed above.

B. Allowable Discharges. The following types of discharges shall not be considered illicit discharges for the purposes of this chapter unless the Director or designee 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 ground water:

1. Diverted stream flows.
2. Rising ground waters.
3. Uncontaminated ground water infiltration – as defined in [40 CFR 35.2005\(b\)\(20\)](#).
4. Uncontaminated pumped ground water.
5. Foundation drains.
6. Air conditioning condensation.
7. Irrigation water from agricultural sources that is commingled with urban storm water.
8. Springs.
9. Uncontaminated water from crawl space pumps.
10. Footing drains.
11. Flows from riparian habitats and wetlands.

12. Discharges from emergency fire fighting activities.

13. Non-storm water discharges authorized by another NPDES or state waste discharge permit.

C. Conditionally Allowable Discharges. The following types of discharges shall not be considered illicit discharges for the purpose of this chapter if they meet the stated conditions, or unless the Director or designee 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 ground water:

1. Potable water sources, including but not limited to water line flushing, hyper-chlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be dechlorinated to a total residual chlorine concentration of 0.1 ppm or less, pH-adjusted, if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in the storm water system.
2. Lawn watering and other irrigation runoff. These discharges shall be minimized through, at a minimum, public education activities and water conservation efforts.
3. Dechlorinated swimming pool, spa and hot tub discharges. These discharges shall be dechlorinated to a total residual chlorine concentration of 0.1 ppm or less, pH-adjusted, and re-oxygenized if necessary, volumetrically and velocity controlled to prevent resuspension of sediments in the storm water system. Discharges shall be thermally controlled to prevent an increase in temperature of the receiving water. Swimming pool cleaning wastewater and filter backwash shall not be discharged to the stormwater system.
4. 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 through public education activities and/or water conservation efforts. To avoid washing pollutants into the stormwater system, minimize the amount of street wash and dust control water used.
5. 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.

D. Failure to Remove Pollutants from Private System. It shall be a violation of this chapter for any person who commits an illicit or conditional discharge in violation of this section to fail to remove the pollutants from a private system that enters the stormwater drainage system and/or surface and ground

waters. In addition, it shall be a violation of this chapter for any property owner on whose property an illicit or conditional discharge occurs to fail to remove the pollutants from a private system that enters the stormwater drainage system or surface and groundwater.

E. Prohibition of Illicit Connections

1. The construction, use, maintenance, or continued existence of illicit connections to the stormwater drainage system is prohibited and constitute a violation of this chapter.
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 in violation of this section if the person connects a line conveying sewage to the stormwater system, or allows such a connection to continue.

14.28.150 Inspection and enforcement

A. Administration.

1. The Director shall administer and enforce this chapter and shall have the authority to adopt and implement procedures, policies, and regulations to administer and enforce this chapter. This chapter may be enforced pursuant to the provisions in this Chapter as well as pursuant to the enforcement procedures established in EMC 1.20.
2. The Director may approve, conditionally approve, or deny an application for any activities regulated by this chapter.

B. Violation and Penalty.

1. Any person or persons violating this chapter, or rule or regulation adopted hereunder, or by any act of commission or omission procures, aids, or abets such violation, shall be subject to either civil penalties as provided in Chapter EMC 1.20 or guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed one thousand dollars and/or imprisonment for a term not to exceed ninety days. Each day such violation continues shall be considered an additional misdemeanor offense.

C. Inspection.

1. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, monitor for proper function of stormwater facilities, stormwater drainage systems, source control BMPs, respond to spills and illicit discharges 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 or designee 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 or designee shall make a reasonable effort to contact the owner or other person having charge or control of the premises or portion thereof.
2. Property owners are required to permit reasonable ingress and egress by the Director or designee to any stormwater facilities, source control BMPs, or to perform any duty imposed upon the Director by this chapter.

D. Enforcement.

1. Enforcement Orders. The Director shall have the authority to issue an enforcement order to an owner or responsible party to maintain or repair a component of a stormwater facility or stormwater drainage system, implement structural or operational source control BMPs, or address illicit discharges, spills or connections in accordance with the provisions of this chapter. The order shall include:
 - i. A description of the property, including the address and tax assessor number;
 - ii. A description of the specific nature, extent, date, and time of the violation and the damage or potential damage that reasonably might occur;
 - iii. A notice to cease and desist the violation or the potential violation and, in appropriate cases, the specific corrective actions to be taken; and
 - iv. A reasonable time to comply, depending on the circumstances, not to exceed six (6) months.
2. Stop Work Orders. Whenever any private or public construction work is being done contrary to the provisions of this chapter or any regulation adopted hereunder, the Director is authorized to order the work stopped pursuant to EMC 13.72.010 and Chapter EMC 1.20.
3. Inspection Fee. The Director may impose a maintenance inspection fee for any stormwater facilities or source control BMPs found not to be in compliance with this chapter. This inspection fee shall be independent of any current or future penalties that may be incurred by the property

owner for noncompliance with this chapter. Re-inspection fees shall be applied if re-inspection occurs beyond the normal routine of inspection and verification of maintenance or correction of non-stormwater discharges to the stormwater drainage system, surface water bodies, or groundwater. The inspection fee and re-inspection fee for maintenance shall be set forth in the city's adopted fee schedule, which may be amended by city council from time to time.

4. City Abatement. If the enforcement order is not adhered to, the city may provide such actions as needed to repair, restore or maintain the stormwater facilities, stormwater drainage systems source control BMPs, or to collect, remove, and contain an illicit discharge or illicit connection. Additionally, if at any time the city determines that the stormwater drainage system or any element of a stormwater drainage system creates any imminent threat to public health or welfare, the city may take immediate measures to remedy the threat. Under such circumstances no notice to the owner of the stormwater drainage system shall be required.
5. Owner responsible for costs, fees, and charges. The owner of the stormwater facilities, stormwater drainage system(s) or source control BMPs shall assume all responsibility for the cost of any maintenance and for repairs to such facilities, system(s) or BMPs. The person responsible for the illicit discharge or illicit connection shall assume all responsibility for the cost of any cleanup or repairs. Such responsibility shall include reimbursement to the city within 30 days of the receipt of the invoice for any work the city performs pursuant to subsection (4) of this section. Overdue payments will require payment of interest at the current legal rate for liquidated judgments. If legal action ensues, any costs or fees incurred by the city will be borne by the parties responsible for said reimbursements.
6. Lien Authorized. In the event the property owner fails to pay the city within 30 days from the date that the costs were incurred, the city shall have the right to file a lien against the real property for all charges and expenses incurred. Such lien shall specify the expenses incurred, provide a legal description of the property and will be filed with the county auditor within 90 days from the date of the completion of the work or such later date as may be determined by the Director or designee. Payment may at any time thereafter be sought by foreclosure procedures of liens under the laws of the State of Washington.
7. Revocation of Land Use and Development Permits. Notwithstanding any other provision of this chapter, whenever the Director finds that a violation of this chapter or rules or regulations adopted hereunder has created or is creating an unsanitary, dangerous, or other condition which, in the Director's judgment, constitutes an immediate hazard, the Director may suspend or revoke any

permit for which the approval of a stormwater site plan is required on the project or development where the violation exists and suspend or terminate operations under the permit immediately.

8. Business License Revocation. In addition to any other penalty imposed, the Director may request that the city clerk revoke a person's business license for any of the following reasons: (a) noncompliance with this chapter; (b) not allowing for inspection of their stormwater facility; or (c) nonpayment of any fines or inspection fees incurred by the owner of the utility account.
9. Recording. An enforcement order that has not been complied with may be recorded by the city with the Snohomish County Auditor's Office. When all violations specified in the enforcement order have been corrected or abated, the Director shall record a release of the order, if the underlying order was recorded. The release shall include a legal description of the property where the violation occurred and shall state, if applicable, that any unpaid civil penalties for which liens have been recorded are still outstanding and continue as liens on the property.

E. Liability.

1. The Director and any other employee charged with the enforcement of this chapter, acting for the city in good faith and without malice in the discharge of his/her duties, shall not be liable personally for any damages which may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of such duties.
2. It is the intent of these regulations to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of these regulations.
3. It is the specific intent of these regulations to place the obligation of complying with its requirements upon the property owner and applicant and no provision or term used in these regulations is intended to impose any duty whatsoever upon the city or any of its officers, employees, or agents for whom the implementation or enforcement of these regulations shall be discretionary and not mandatory.
4. Nothing contained in these regulations is intended to be nor shall be construed to create or form the basis for any liability on the part of the city, its officers, employees or agents, for any injury or damage resulting from the failure to comply with these regulations, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of these regulations, or by

reason of any action or inaction on the part of the city related in any manner to the enforcement of these regulations by its officers, employees or agents.