

ORDINANCE NO. C \_\_\_\_\_

AN ORDINANCE relating to Stormwater Facilities; amending SMC sections 17D.060.030; 17D.060.050, 17D.060.140, 17D.060.190, 17D.090.030, 17D.090.070; 17D.090.110; 17D.090.210; chapter 17D of the Spokane Municipal Code and setting an effective date.

WHEREAS, The Eastern Washington Phase II Stormwater Permit contains new requirements for the City with regard to updates to its municipal code.

WHEREAS, the Permit requires the City of Spokane to update its municipal code to require projects to adhere to minimum technical requirements and Best Management Practices necessary to protect water quality by applying the definitions, requirements, and methods in the Stormwater Management Manual for Eastern Washington, or another technical stormwater manual approved by Ecology; and

WHEREAS, the Permit requires the City of Spokane to update its municipal code to reflect and include inspection requirements of private stormwater facilities; and

WHEREAS, the Permit also requires the City of Spokane to update its municipal code to include the application of source control Best Management Practices referenced in the Stormwater Management Manual for Eastern Washington where necessary to prevent illicit discharges; and

WHEREAS, furthermore, the Permit requires the City of Spokane to update its municipal code to require construction phase erosion and sediment controls for new development and redevelopment projects, and include provisions to review site plans and inspect sites with high potential for sediment transport prior to clearing or grading;

-- Now, Therefore,

The City of Spokane does ordain:

Section 1: That SMC section 17D.060.030 is amended to read as follows:

**17D.060.030 Standards**

- A. The ((d))Director of Wastewater Management determines stormwater control design standards and regulations (also referenced as "standards"), including those for onsite stormwater facilities, and determines their applicability to particular areas of the City of Spokane, plats and premises, consistent with the legislative findings of this chapter.
- B. Standards References.

The following documents are hereby adopted by reference. They address general requirements and may be modified or supplemented in other specific sections.

1. Standard Specifications of the Washington State ((d))Department of ((t))Transportation, latest edition.
2. General Special Provisions of the City of Spokane, latest edition.
3. City of Spokane Design Standards and Standard Plans, latest edition.
4. The Spokane Regional Stormwater Manual (SRSM), latest edition.
5. Guidance for UIC Wells that Manage Stormwater by Washington State ((d))Department of ((e))Ecology dated December 2006 (Publication Number 05-10-067).
6. Spokane Aquifer Water Quality Management Plan. Spokane County, Washington "208" Program. County engineers office.
7. Stormwater Management Manual for Eastern Washington (SWMMEW), Washington State Department of Ecology, latest edition.

The above standard references are on file with the ((d))Director of Wastewater Management

- C. Low Impact Development is optional, however if low impact development techniques are used, then the Eastern Washington Low Impact Development Guidance Manual should be followed.
- D. The standard references are periodically republished. Between a general republication the department of engineering services maintains an updated copy and may publish modifications or updates in the *Official Gazette*. The department of engineering services also maintains a distribution list of parties requesting such updates. Unless otherwise ordered, the changes are effective thirty calendar days from the date of the *Official Gazette* issue in which they are published.

Section 2: That SMC section 17D.060.050 is amended to read as follows:

**17D.060.050 Duties of Property Owners and Occupants – Others – Private Rights Reserved**

- A. Every owner and occupant of premises must install, maintain and keep in good function and order any onsite stormwater facility in accord with applicable requirements. Such requirements may be reflected as conditions of land use or property development in plats, building or special use permits, or other permits, or may be imposed as a consequence of other regulatory action, including code enforcement or nuisance abatement.

B. Stormwater facilities shall be installed with adherence to the Best Management Practices referenced in the Spokane Regional Stormwater Manual (SRSM) and the Stormwater Management Manual for Eastern Washington (SWMMEW).

~~((B))~~ C. No party shall obstruct or interfere with the full and efficient function of any onsite stormwater facility.

~~((C))~~ D. Enforcement action taken under this chapter does not affect a right of a party to seek subrogation or further recovery against any other parties determined to be responsible.

Section 3: That SMC section 17D.060.140 is amended to read as follows:

**17D.060.140 Runoff and Infiltration Controls**

A. Runoff and infiltration controls apply in all areas of the City except where exempt or modified.

B. Unless otherwise specified, street and alley paving projects funded by local improvement districts are exempt from the provisions of SMC 17D.060.130 and SMC 17D.060.140.

C. Drainage plans shall be prepared and submitted for review and acceptance for all proposed plats and land disturbing activities prior to issuance of any permits for site disturbance, including but not limited to grading permits and building permits. The ~~((d))~~ Director of Wastewater Management has authority to waive requirements to the necessity for a drainage plan, but must do so in writing. Factors considered in the evaluation of a waiver request include, but are not limited to:

1. soil characteristics and depth,
2. number of lots,
3. infill development,
4. percent impervious area,
5. pass-through drainage,
6. history and trends of runoff-related problems,
7. depth to ground water.

D. With respect to drainage plans required under subsection (C) of this section:

1. the volume and rate of surface water runoff after new development shall be no greater than the runoff volume and rate leaving the site prior to development, unless the ((d))Director of ((e))Engineering ((s))Services approves the discharge of additional runoff based on a comprehensive drainage plan and down gradient impact study;
  2. drainage plans for development proposals in SDDs shall not rely upon infiltration to accommodate the additional runoff resulting from the proposed development. However, approval to use infiltration in part or in whole may be granted by the ((d))Director of ((e))Engineering ((s))Services upon a showing, after assessing new, existing, and cumulative impacts from prior developments, that no adverse impact to the side, adjacent, or down gradient properties would occur;
  3. drainage plans submitted for development proposals shall comply with the Spokane Regional Stormwater Manual and the City of Spokane Design Standards, as approved by and on file with the ((d))Director of ((e))Engineering ((s))Services, for the design of onsite stormwater facilities, including any limitations applicable to any specific SDD;
  4. drainage plans shall include identification of all properties to be reserved for onsite stormwater facilities and the location of all natural drainage systems.
- E. The developer, property owner, or other responsible, authorized and designated entity acceptable to the ((d))Director of Wastewater Management (e.g., a homeowners association) shall be responsible for accepting and maintaining onsite stormwater facilities. The developer shall provide a perpetual maintenance plan, including funding mechanisms and appropriate financial security for such onsite stormwater facilities acceptable to the ((d))Director of Wastewater Management.
1. Any private stormwater facilities that receive post-construction stormwater runoff from new development or redevelopment projects which (a) were approved in 2011 or later, and (b) whose disturbance was one acre or more, or projects that were less than one acre and are part of a larger common plan of development or sale, shall be inspected annually by a qualified stormwater professional. Private property owners, or other responsible person, authorized and designated entity shall provide annual certification by a qualified third party that adequate maintenance has been performed and the facilities are operating as designed to protect water quality.
- F. New plats shall expressly identify tracts of land devoted to the conveyance and/or disposal of stormwater flows. The location of all on-site stormwater facilities shall meet the requirements of the Spokane Regional Stormwater Manual.

Section 4: That SMC section 17D.060.190 is amended to read as follows:

## **17D.060.190 Illicit Discharge(s)**

### **A. General Intent and Prohibition.**

This section is enacted in compliance with state and federal regulatory requirements in the exercise of local police power. The introduction or discharge of anything into the municipal separate storm sewer system, an MS4 system, in violation of the National Pollutant Discharge Elimination System (NPDES) permit requirements, Eastern Washington Phase II Municipal Stormwater Permit (WAR04-6505) as now or hereafter amended is expressly prohibited.

### **B. Objectives.**

The objectives of this section are:

1. To prevent pollutants as defined in subsection ((E)) (F) of this section and as provided in applicable federal and state regulatory requirements from entering the MS4.
2. To locate, eliminate, and prohibit illicit connections and discharges to the MS4.
3. To improve the quality of the City's stormwater discharges to water bodies.
4. To promote the health, safety, and welfare for workers and the general public, provided, notwithstanding any other provision, no special duty to any special person or class of people shall ever be created. Any duty nonetheless deemed created shall be solely and exclusively a duty to the general public; and
5. To ensure that all dischargers to the City's MS4 as well as all other public drainage systems that convey, manage or dispose of stormwater flows into the City's MS4 comply with the NPDES Eastern Washington Phase II Municipal Stormwater Permit (WAR 04-6505) as now or hereafter amended and local, state and federal laws and regulations and that sanctions for failure to comply are imposed.

### **C. Applicability.**

This section shall apply to all activities, on public or private property, which may potentially influence the MS4 drainage system in accord with the requirements of the NPDES Eastern Washington Phase II Municipal Stormwater Permit (WAR 04-6505) as now or hereafter amended. Additionally, permanent and temporary storm water management controls and facilities that flow into the MS4, constructed as part of any activities listed in this section, which are located within the City of Spokane limits, are also subject to this section.

### **D. Requirement to Implement Best Management Practices.**

Owners or operators of commercial/industrial facilities and private property, shall utilize and maintain operational and/or structural Best Management Practices (BMPs) associated with existing land uses and activities, as necessary to prevent illicit discharges, in accordance with the standards referenced in 17D.060.030. The Director of the Wastewater Management Department may require any person responsible for a facility or property which is or may be the source of an illicit discharge to implement additional structural and non-structural BMPs to prevent the discharge of pollutants to the stormwater drainage system.

((D)) E. Allowable Discharges.

The following types of discharges into the MS4 may be allowed unless the ((d))Director of Wastewater Management determines that the discharge causes significant contamination of surface water, stormwater, or ground water.

They are allowed only when the stated conditions are met:

1. Treated storm water from the public right-of-way.
2. Other discharges approved by the ((d))Director of Wastewater Management which are in compliance with permit WAR04-6505 or subsequent permits, and determined by the ((d))Director of Wastewater Management to not be a significant source of pollution.
3. Discharges from potable water sources, including water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges must be dechlorinated to a concentration of 0.1 ppm Cl or less, pH-adjusted if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments into the MS4.
4. Unintentional discharges from lawn watering and other irrigation runoff. A discharge is not unintentional if a previous warning has been given or the party to be held responsible knew or should have known of the warning or discharge event.
5. Swimming pool discharges are allowed if dechlorinated to a concentration of 0.1 ppm Cl or less, pH-adjusted and reoxygenated if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments into the MS4; and do not surcharge the City's system. Swimming pool cleaning wastewater and filter backwash shall not be discharged to the MS4.
6. Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents. The City shall reduce these discharges through public education activities and/or water conservation efforts. To avoid washing pollutants into the MS4, the City shall

minimize the amount of street wash and dust control water uses. At active construction sites, street sweeping shall be performed prior to washing the street.

7. Other non-stormwater discharges. Other non-stormwater discharges shall be in compliance with the requirements of a stormwater pollution prevention plan approved by the City of Spokane which addresses control of such discharges.
8. discharges resulting from emergency fire fighting activities.

~~(E)~~E. Unlawful Discharges.

It is unlawful for any person to discharge, or cause to be discharged, directly or indirectly any pollutants into surface water, stormwater, ground water or within a stream channel or directly or indirectly into the MS4. Illicit connections to storm drainage systems and surface water bodies include sanitary sewers, process waste water discharge, process water sump pumps, and internal building drains. Pollutants include, but are not limited to, the following:

1. Chemicals, petroleum products, paint, solvents, detergents and degreasers, or other toxic or deleterious materials in concentrations or amounts in violation of federal, state, or local standards or limits.
2. Trash, debris, food waste, human wastes, animal wastes, or refuse.
3. Loose or unstabilized soil, sand, gravel, or other construction materials that erode in an uncontrolled manner (freely or significantly, as distinguished from ordinary bank or soil erosion associated with storm events) into a drainage facility or stream channel.
4. Lawn clippings, fertilizers, leaves, branches, or other landscaping and yard debris deposited in a stream channel or drainage facility; and
5. Turbid water from construction site runoff, concrete or concrete wash out, dewatering, soil boring or other excavation activities.

~~(F)~~G. Enforcement.

Violations of this section shall be enforced as any other violation of this chapter.

Section 5: That SMC section 17D.090.030 is amended to read as follows:

**17D.090.030 Referenced Regulations**

- A. Spokane Regional Stormwater Manual (SRSM or Stormwater Manual), as adopted by the City of Spokane and published and maintained by the ~~(d)~~Director of

~~(e)~~Engineering ~~(s)~~Services

- B. Stormwater Management Manual for Eastern Washington (SWMMEW). The SWMMEW is published and maintained by the Washington State department of ecology and supplements the SRSM.
- C. Washington State Standard Specifications for Road and Bridge Construction. The State Supplemental Specifications are published and maintained by the Washington State ~~(d)~~Department of ~~(t)~~Transportation (WSDOT).
- D. City of Spokane General Special Provisions, as adopted by the City of Spokane and published and maintained by the ~~(d)~~Director of ~~(e)~~Engineering ~~(s)~~Services. These materials supplement and are complimentary to the WSDOT materials.
- E. City of Spokane Design Standards. The City of Spokane Design Standards are published and maintained by the ~~(d)~~Director of ~~(e)~~Engineering ~~(s)~~Services.
- F. Washington State Department of Ecology Construction General Stormwater Permit. Construction sites disturbing one acre or more, and construction projects of less than one acre that are part of a larger common plan of development or sale, must obtain a Construction General Stormwater Permit.

Section 6: That SMC section 17D.090.070 is amended to read as follows:

#### **17D.090.070 Plan Required**

- A. A responsible party must submit an erosion and sediment control (ESC) plan or a Stormwater Pollution Prevention Plan (SWPPP) for permitted development projects to the ~~(d)~~Director of Wastewater Management for review. ~~((if the disturbance area is:))~~
  - 1. An ESC is required if the disturbance area is:
    - ~~(4)~~A. five thousand square feet or greater in area;
    - ~~(2)~~B. in a special site per SMC 17D.090.080.
  - 2. A SWPPP is required and must be fully implemented in accordance with the Construction General Stormwater Permit if the disturbance area is:
    - A. one acre or more; or
    - B. is a construction project less than one acre that is part of a larger common plan of development or sale.
- B. An ~~((erosion and sediment control))~~ ESC plan or SWPPP is not required for work that does not require a City issued permit unless otherwise required by the terms of a compliance order or land use decision.



- C. Where a plan is required, the responsible party shall not commence any construction before the ((d))Director of Wastewater Management has accepted the proposed plan.

Section 7: That SMC section 17D.090.110 is amended to read as follows:

### **Section 17D.090.110 Minimum Plan Requirements**

The following items shall be addressed on erosion and sediment control plans. As site conditions dictate, additional measures relating to erosion and sediment control, as determined by the licensed professional engineer (PE) preparing the plan, shall be addressed in order to meet the intent and purpose of this chapter and to comply with the stated performance standards in SMC 17D.090.180. Furthermore, in order to reduce the discharge of pollutants to the maximum extent practicable, and to satisfy all known, available and reasonable methods of prevention, control and treatment requirements, Best Management Practices (BMPs) shall be consistent with the Spokane Regional Stormwater Manual (SRSM) and Stormwater Management Manual for Eastern Washington (SWMMEW).

A. Construction Sequence.

Sequence the construction in order to best minimize the potential for erosion and sediment control problems.

B. Clearing Limits Delineation.

Identify and delineate on the plan and in the field all clearing limits, sensitive/critical areas, buffers, trees to be preserved, and drainage courses.

C. Construction Access Route.

Access for construction vehicles should be limited to one route whenever possible. The access route must be stabilized to minimize the tracking of sediment onto roads.

D. Sediment Tapping Measures.

Design and construct sediment ponds and traps, perimeter dikes, sediment barriers, and other on-site sediment trapping BMPs as necessary prior to the start of other ground disturbing activities.

E. Protection of Adjacent Properties/Water Bodies/Public and Private Streets.

Protect adjacent and/or downstream properties, water bodies, public and private streets from erosion and sediment deposition. The intent is to keep sediment on the project site and not allow it to reach adjacent and/or downstream properties, water

bodies, and public and private streets. These measures shall be made functional prior to any upslope development taking place.

F. Apply permanent or temporary soil stabilization to denuded development site areas in conformance with the following schedule. Permanent ground disturbing activities that do not require a permit may achieve compliance with this schedule by installing and maintaining approved permanent BMPs that meet the purpose of this chapter.

1. Between October 1 and April 30, all denuded sites shall be provided with either temporary or permanent soil stabilization as soon as practicable, but in no case more than five days after ground-disturbing activity occurs.
2. Between May 1 and September 30, temporary erosion and sediment control measures to reduce dust and sediment transport shall be applied as soon as practicable, but in no case more than ten days after ground-disturbing activity occurs.
3. Ground cover shall be installed on any portion of a site that is denuded for more than six months. Sports fields or playgrounds surrounded by vegetative cover or permanently installed curbing are exempt from this requirement.
4. Temporary measures shall be maintained until permanent measures are established. As used herein, "temporary" means approved measures that are not intended to be a final or long-term resolution of compliance requirements.

G. Protection of Inlets.

Protect downstream inlets to drywells, catch basins, and other stormwater management facilities that are functioning during the course of the construction by approved sediment control measures so that sediment-laden water cannot enter the inlets without first being filtered.

H. Increased Runoff from Construction Sites.

Consider and mitigate the effects and impacts of increased and concentrated runoff from ground disturbing activities on downstream properties, water bodies, and public and private streets.

I. Washout Site for Concrete Trucks and Equipment.

Designate an on-site location of a slurry pit where concrete trucks and equipment can be washed out. Slurry pits shall not be located in a swale, drainage area, stormwater facility, water body, or in an area where a stormwater facility is proposed.

J. Material Storage/Stockpile.

Identify the location within the proposed ESC plan boundaries for storage or stockpile areas for any soil, earthen, or landscape material which is used or will be used on-site.

K. Cut and Fill Slopes.

Design and construct cut and fill slopes in a manner that will minimize erosion.

L. Stabilization of Temporary Conveyance Channels and Outlets.

Design, construct, and stabilize all temporary on-site conveyance channels to prevent erosion from the velocity of runoff from storms under developed conditions. Design, construct, and stabilize all temporary conveyance system outlets to prevent erosion of stormwater facilities, adjacent stream banks, slopes, and downstream reaches.

M. Dewatering Construction Site.

Design dewatering devices to discharge appropriately to sediment traps or sediment ponds.

N. Control of Pollutants Other than Sediment on Construction Sites.

Control all on-site pollutants (including waste materials and demolition debris) other than sediment in a manner that does not cause contamination of stormwater, groundwater, or aquifer.

O. Removal of Temporary BMPs.

Remove all temporary sediment control BMPs within thirty days after final site stabilization or after the temporary BMPs are no longer needed. Trapped sediment shall be removed from the project site or stabilized on-site. Stabilize disturbed soil areas resulting from removal of the temporary BMPs.

P. Maintenance and Permanent BMPs.

Maintenance of all erosion and sediment control BMPs is required during the ground-disturbing activity. A maintenance schedule for each BMP shall be included in the plan. Regular inspection and maintenance of all erosion and sediment control BMPs is required to ensure successful performance of the BMPs. Permanent BMPs shall be included on the plan to ensure that successful transition from temporary BMPs to permanent BMPs occurs.

Section 8: That SMC section 17D.090.110 is amended to read as follows:

**17D.090.210 City Inspections – Permitted Activities**

A. The ((e))Director of Wastewater Management may conduct the following inspections on permitted development activities. It shall be the duty of the responsible party to notify the ((e))Director of Wastewater Management at the appropriate inspection phase as set forth below. Inspections of erosion and sediment control measures may occur with other inspections being conducted on the development or construction project.

1. Pre-construction Inspection.

The ((e))Director of Wastewater Management may conduct inspections after initial, temporary erosion and sediment control measures have been put in place and prior to any ground disturbance in addition to that necessary for the installation of the erosion, sediment, and pollutant control measures. When the development is being conducted in phases, this inspection shall occur at the beginning of each phase. Any sites which may have a high potential for sediment transport shall be inspected prior to clearing or grading.

2. Permanent Measures Inspection.

The ((e))Director of Wastewater Management may conduct inspections after permanent measures are put in place. When the development is being conducted in phases, this inspection shall occur after permanent measures have been installed for each phase.

3. Interim Inspections.

The ((e))Director of Wastewater Management may conduct other inspections not specifically addressed above to determine compliance with this chapter.

4. Final Erosion Control Inspection.

For special sites as defined in SMC 17D.090.080, an inspection shall be conducted after construction completion to determine the effectiveness of permanent erosion and sediment control measures. This inspection shall be conducted six months after construction completion or at other times directed by the ((e))Director of Wastewater Management. This inspection may be conducted at sites other than special sites as determined by the ((e))Director of Wastewater Management.

B. Where the ((e))Director of Wastewater Management has determined that special site conditions exist, the ((e))Director of Wastewater Management may designate a special inspector to monitor erosion and sediment control at that site. The special inspector shall be qualified to perform such monitoring.

Section 9: Effective Date:

This ordinance shall take effect and be in force on \_\_\_\_\_, 2021.

Passed by the City Council on \_\_\_\_\_.

DRAFT

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Effective Date

DRAFT