

**Division V. Stormwater**

**Chapter 13.104**

**STORMWATER MANAGEMENT**

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**13.104.010 Purpose.**

Stormwater is an important source of water that can benefit Sequim and the region if controlled, treated, and managed effectively. The provisions and purpose of this chapter establish the minimum level of permitting compliance for development within the city. These codes are held to be minimum requirements in their interpretation and application and must be liberally construed and broadly interpreted to serve the purposes of this chapter. Where this chapter imposes greater restrictions than those instruments, the provisions of this chapter prevail.

It is the purpose of this chapter to:

A. Implement, in part, the Storm and Surface Water Management Plan adopted by the Sequim City Council in 2016 through Resolution R2016-09.

B. Minimize water quality degradation and sedimentation in streams, ponds, lakes, wetlands, and other water bodies, including ground water;

C. Minimize the impact of increased runoff, erosion and sedimentation caused by land development and maintenance practices;

D. Maintain and protect ground water resources;

E. Minimize adverse impacts of alterations on ground and surface water quantities, locations and flow patterns;

F. Decrease potential landslide, flood and erosion damage to public and private property;

G. Provide site planning principles and construction practices that retain native vegetation and minimize impervious surfaces and are consistent with natural topography and hydrologic conditions;

H. Maintain and protect the city stormwater infrastructure;

I. Ensure that land disturbing activities on private and public land comply with this chapter and the city's clearing and grading regulations in order to protect public health and safety and water quality; and

J. Provide minimum requirements and best management practices for new development and redevelopment to control the quantity and quality of stormwater runoff to comply with water quality standards and contribute to the protection of beneficial uses of the city's ground and surface water resources.

**13.104.020 Scope and applicability.**

This chapter applies to:

A. All grading and drainage and erosion control, whether or not a permit is required;

B. All land disturbing activities, whether or not a permit is required;

C. All discharges directly or indirectly to a public drainage system;

D. All discharges directly or indirectly into receiving waters within or contiguous to Sequim city limits;

E. All new and existing land uses; and

F. All real property.

**13.104.030 Stormwater Management Manual adopted.**

The City of Sequim adopted the Department of Ecology's Stormwater Management Manual for Western Washington in Ord. 2017-002 ("manual") and continues to rely on the current manual, as may be amended, subject to the exemptions and exceptions described in this chapter. In addition, as an Ecology-approved equivalent manual, the city can use the current version of the Washington Department of Transportation's Highway Runoff Manual for transportation projects.

**13.104.040 Definitions.**

The following definitions apply in this chapter:

A. A Definitions.

“Approval” means the proposed work or completed work conforms to this chapter in the opinion of the city engineer .

B. B Definitions.

“Best Management Practice” or “BMP” means the schedule of activities, prohibition of practices, maintenance procedures, and structural and/or managerial practices that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State. BMPs are listed and described in the stormwater management manual as well as in guidance materials available from the city.

C. C Definitions.

“Clearing” means the destruction and removal of vegetation by manual, mechanical, or chemical methods. See also “Land-disturbing activity” in SMC 18.82.040.

“Commercial agriculture” means those activities conducted on lands defined in RCW 84.34.020(2), and activities involved in the production of crops or livestock for commercial trade. An activity ceases to be considered commercial agriculture when the area on which it is conducted is proposed for conversion to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity.

“Construction stormwater pollution prevention plan” (construction SWPPP) means a document that describes the potential for pollution problems on a construction project and explains and illustrates the measures to be taken on the construction site to control those problems.

D. D Definitions.

“Detention” means the release of stormwater runoff from the site at a slower rate than it is collected by the stormwater facility system, the difference being held in temporary storage.

“Drainage basin” means a geographic and hydrologic subunit of a watershed.

E. E Definitions.

“Earth material” means any rock, natural soil or fill and/or any combination thereof.

“Ecology” means the Washington State Department of Ecology unless context suggests otherwise.

“Erosion” means the wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep. Detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

“Excavation” means the mechanical removal of earth material.

“Experimental BMP” means a BMP that has not been tested and evaluated by the Department of Ecology in collaboration with local governments and technical experts.

#### F. F Definitions.

“Fill” means a deposit of earth material placed by artificial means.

“Flood” means an overflow or inundation that comes from a river or any other source, including (but not limited to) streams, tides, wave action, storm drains, or excess rainfall. Any relatively high stream flow overtopping the natural or artificial banks in any reach of a stream.

“Forest practice” is as defined in RCW 76.09.020.

#### G. G Definitions.

“Ground water” means water in a saturated zone or stratum beneath the land surface or a surface water body.

#### H. H Definitions.

“Hard surface” means an impervious surface, a permeable pavement, or a vegetated roof.

#### I. I Definitions.

“Illicit discharge” is as defined in the manual, and includes but is not limited to the specific examples listed in SMC 13.104.130.

“Impervious surface” means a non-vegetated surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions before 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 before development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots, or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities will not be considered as impervious surfaces for the purposes of determining whether the thresholds for application of minimum requirements are exceeded. Open, uncovered retention/detention facilities are considered impervious surfaces for purposes of runoff modeling.

“Infiltration” means the downward movement of water from the land surface to the subsoil.

“Interflow” means that portion of rainfall that infiltrates into the soil and moves laterally through the upper soil horizons until intercepted by a stream channel or until it returns to the surface, for example, in a roadside ditch, wetland, spring or seep. Interflow is a function of the soil system depth, permeability, and water-holding capacity.

#### J. J Definitions. Reserved.

#### K. K Definitions. Reserved.

L. L Definitions. Reserved.

M. M Definitions.

“Manual” see “Stormwater management manual”.

“Mitigation” is as defined in the manual.

N. N Definitions.

“New development” means land disturbing activities, including Class IV general forest practices that are conversions from timberland to other uses; structural development, including construction or installation 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 are not considered new development.

O. O Definitions. Reserved.

P. P Definitions.

“Permanent stormwater control plan (PSCP)” means a plan which includes permanent facilities and BMPs for the control of runoff and pollution from stormwater after construction and/or land disturbing activity has been completed.

“Permeable pavement” means pervious concrete, porous asphalt, permeable pavers, or other forms of pervious or porous paving material intended to allow passage of water through the pavement section.

“Pollution” means contamination or other alteration of the physical, chemical, or biological properties of waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

Q. Q Definitions. Reserved.

R. R Definitions.

“Receiving water body” means naturally occurring and/or reconstructed surface water bodies, such as creeks, streams, rivers, lakes, wetlands, estuaries, and marine waters, or ground water, to which a stormwater drainage system discharges.

“Redevelopment” means, on a site that is already substantially developed (i.e., has 35 percent or more of existing hard 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.

“Responsible party” is as defined in SMC 1.13.020(R), and covers “responsible person” also.

“Retention” means the process of collecting and holding surface water and stormwater runoff with no surface outflow.

“Runoff” means water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, puddles, lakes, and wetlands as well as shallow ground water.

#### S. S Definitions.

“Site” means 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.

“Soil” means the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

“Stop work order” is as defined in SMC 1.13.020.

“Stormwater” means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes and other features into a defined surface water body, or a constructed infiltration facility.

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

“Stormwater facility” means 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 basins, retention basins, constructed wetlands, infiltration devices, catchbasins, oil/water separators, permeable pavement, biofiltration swales and bioretention systems.

“Stormwater management manual” or “manual” means the stormwater design, management, and maintenance guidance manual named in SMC 13.104.100.

“Stormwater site plan” means the comprehensive report containing all of the technical information and analysis necessary for regulatory agencies to evaluate a proposed new development or redevelopment project for compliance with stormwater requirements. Contents of the stormwater site plan will vary with the type and size of the project and individual site characteristics. It includes a construction stormwater pollution prevention plan (construction SWPPP) and a permanent stormwater control plan (PSCP). Guidance on preparing a stormwater site plan is contained in the manual.

#### T. T Definitions. Reserved.

#### U. U Definitions. Reserved.

#### V. V Definitions.

“Vegetated roof” (“green roof” or “eco-roof”) means a thin layer of engineered soil and vegetation constructed on top of a conventional flat or sloped roof, consisting of four basic components: a waterproof membrane, a drainage layer, a light-weight growth medium, and vegetation.

“Vegetation” means all organic plant life growing on the surface of the earth.

“Voluntary Correction Agreement” or “VCA” (sometimes “Voluntary Compliance Agreement”) means a written contract entered into between the city and a responsible party in which the party agrees to voluntarily correct a violation of this chapter or other provisions of the Sequim Municipal Code. See SMC 1.13 (Code Enforcement) and SMC 8.04 (Nuisances).

W. W Definitions.

“Water body” means surface waters including rivers, streams, lakes, marine waters, estuaries, and wetlands.

“Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990 that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

X. X Definitions. Reserved.

Y. Y Definitions. Reserved.

Z. Z Definitions. Reserved. (Ord. 2017-002 § 1 (Exh. A); Ord. 95-003 § 2)

**13.104.050 Regulated activities.**

Consistent with the requirements contained in this chapter, the city engineer or designee approves or disapproves the following activities, unless exempted in SMC 13.104.060 below:

- A. New development as defined in SMC 13.104.040(N);
- B. Redevelopment as defined in SMC 13.104.040(R); and
- C. Any structure or impervious surface placed over an infiltration facility.

**13.104.060 Exemptions and exceptions.**

A. Exemptions. All regulated activities are subject to the minimum requirements of this chapter except the following activities, which are exempt:

1. Commercial agriculture practices involving working the land for production are generally exempt. See Section 404(f)(1) of the federal Clean Water Act. (However, the conversion from timberland to agriculture, and the construction of impervious surfaces upon a commercial agriculture site, are not exempt.)
2. Forest practices regulated under WAC Title 222, except Class IV general forest practices conversions from timberland to other uses.

3. Development undertaken by the Washington State Department of Transportation in state highway rights-of-way regulated by Chapter 173-270 WAC, the Puget Sound Highway Runoff Program.

B. Exceptions. Physical conditions including infiltration capacity, the desirability of infiltration for recharging groundwater supplies and protecting surface water quality, and other considerations, sometimes merit special consideration for stormwater management. Any exception to requirements found in the manual must receive approval from the city engineer before approval of a site plan and are valid for the duration of the active permit.

**13.104.070 Administration and enforcement authority.**

A. Administration. The city engineer is responsible for administering this chapter. The city engineer or designee has the authority to develop and implement procedures to administer and enforce this chapter.

B. Enforcement. The city engineer or designee enforces this chapter in accordance with its provisions and SMC 1.13 (Code Enforcement).

**13.104.080 Review and approval of stormwater management activities.**

The city engineer may approve, conditionally approve, or deny an application for activities regulated by this chapter.

**13.104.090 City not liable.**

A. Administration of this chapter does not impose or create a basis for any liability on the part of the city, its appointed and elected officials, officers, agents, or employees, nor does this chapter create any special relationship with or otherwise protect any specific person or class of persons.

B. The city is not responsible for the accuracy of plans (preliminary or final) submitted for approval. The city expressly disclaims any responsibility for design or implementation of a drainage plan. The design and implementation of a drainage plan is the sole responsibility of the applicant.

**13.104.100 Record drawings and approval by design engineer.**

For any project involving an engineered drainage plan, upon completion of construction and before final inspection approval, the applicant must submit record drawings (“as-builts”), an “Installed as Designed” letter from the applicant’s design engineer, and operation and maintenance instructions for the full stormwater system prepared by the design engineer. The engineering drawings must accurately represent the project as constructed and must include a note on the drawing that to the best of the design engineer’s knowledge the installation was done in accordance with the final approved stormwater plan. The plans must depict the actual vertical and horizontal locations of roads and drainage facilities constructed on and off the site. Record drawings must be stamped, signed, and dated by a civil engineer licensed in Washington State.

**13.104.110 Stormwater Best Management Practices (BMPs).**

A. General. BMPs must be used to control pollution from stormwater. BMPs must be used to comply with the standards in this chapter. BMPs are in the manual. BMP detail drawings are available on the stormwater webpages on the city’s website or from staff.



B. Experimental BMPs. In those instances where appropriate BMPs are not in the manual, experimental BMPs approved by Washington Department of Ecology's Technology Assessment Protocol-Ecology (TAPE) or Chemical Technology Assessment Protocol-Ecology (C-TAPE) programs should be considered. Experimental BMPs are encouraged as a means of solving problems in a manner not addressed by the manual in an effort to improve stormwater management technology.

**13.104.120 Construction, installation, and maintenance inspections.**

A. All activities regulated by this chapter, except those exempt in SMC 13.104.060, must be inspected and reported by the responsible party in a timely fashion to the city engineer or designee, using checklists available from the city.

B. Responsibility for Maintenance and Inspection. The owner and other responsible parties must maintain drainage control facilities, source controls, and other facilities and implement landscape management plans required by this chapter and by rules adopted hereunder to keep these facilities in continuous working order. The owner and other responsible parties will inspect permanent drainage control facilities, temporary drainage control facilities, and other temporary best management practices or facilities on a schedule consistent with this chapter and sufficient for the facilities to function at design capacity. The city engineer may require the responsible party to conduct more frequent inspections and/or maintenance when necessary to ensure functioning at design capacity. The title must inform future purchasers and other successors and assignees to the property of the existence of the drainage control facilities and the elements of the drainage control plan, the limitations of the drainage control facilities, and the requirements for continued inspection and maintenance of the drainage control facilities and for implementation of a landscape management plan, if applicable.

C. Projects must be inspected at various stages to determine that adequate control is being exercised. These inspections may include without limitation the following:

1. Before site clearing and construction to assess site erosion potential;
2. During construction to verify installation and maintenance of required erosion and sediment control BMPs and other approved plan components in accordance with the approved plans and specifications, such as installation of utilities, landscaping, and retaining walls;
3. Upon completion of construction and before final approval to verify that installation of permanent stormwater facilities is consistent with the approved plans and specifications and that a maintenance plan is completed and responsibility for maintenance is assigned for stormwater facilities. When required by the city engineer due to inability to verify appropriate installation, a special inspection and/or testing must be performed;
4. All permanent stormwater facilities after final approval, once during winter (January-March) and once during summer (July-September) until 90 percent of the lots are constructed (or when construction is stopped and the site is fully stabilized) to verify facilities are functioning in accordance with the approved plans and specifications.
5. Installed stormwater facilities must be inspected and maintained by the property owner as required by SMC 13.108.

**13.104.130 Illicit discharges.**

A. Illicit discharges to stormwater drainage systems are prohibited.

B. The following common substances are prohibited from entering, either directly or indirectly, a public drainage system, a private drainage system, or a receiving water within or contiguous to Sequim city limits, including but not limited to when entering via a service drain, overland flow, or as a result of a spill or deliberate dumping:

1. acids;
2. alkalis including cement wash water;
3. ammonia;
4. animal carcasses;
5. antifreeze, oil, gasoline, grease, and all other automotive and petroleum products;
6. chemicals not normally found in uncontaminated water;
7. chlorinated swimming pool or hot tub water;
8. chlorine;
9. commercial and household cleaning materials;
10. detergent;
11. dirt;
12. domestic or sanitary sewage;
13. drain cleaners;
14. fertilizers;
15. filter backwash wastewater;
16. flammable or explosive materials;
17. food and food waste;
18. gravel;
19. herbicides;
20. human and animal waste;
21. ink;
22. laundry waste;
23. metals in excess of naturally occurring amounts, whether in liquid or solid form;
24. painting products;
25. pesticides;
26. process wastewater;
27. sand;
28. soap;
29. solid waste;
30. solvents and degreasers;
31. steam-cleaning waste; and
32. yard waste.

**13.104.140 Voluntary Correction Agreements (VCAs).**

A. Initiation. Either a responsible party or the city engineer may initiate negotiations for a Voluntary Correction Agreement at any time to address violations of this chapter. Neither party has any obligation to enter into such an agreement. VCAs must comply with SMC 8.04.051 and SMC Chapter 1.13 in addition to the provisions of this chapter.

B. Contents. A VCA must identify the actions to be taken by the responsible party to correct the violations, identify actions to mitigate the impacts of violations, and contain a schedule for completion

of those actions. The VCA must allow the city engineer to inspect the premises to determine compliance.

C. Effect of Agreement. A VCA is a binding contract between the party executing it and the city. Penalties may be reduced or waived if violations are corrected or mitigated according to the terms and schedule of a VCA. If the responsible party fails to perform according to the terms and schedule of the VCA, penalties for each violation addressed in the agreement may be assessed starting from the date the violation occurred, or as otherwise provided for in a notice of violation.

D. Modification. The terms and schedule of the VCA may be modified by mutual agreement of the responsible party and city engineer if circumstances or conditions outside the responsible party's control, or unknown at the time the agreement was made, or other just cause necessitate modification.

**13.104.150 Enforcement actions generally.**

Enforcement actions for violations of this chapter will be in accordance with this chapter, Chapter 8.04 Nuisances, and Chapter 1.13 Code Enforcement. The choice of enforcement action and the severity of any penalty will be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the degree of bad faith of the person subject to the enforcement action.

**13.104.160 Stop work orders.**

The city engineer or designee has the authority to serve a person a stop work order if an action is being undertaken in violation of this chapter. The stop work order must comply with SMC 1.13.120.

**13.104.170 Civil penalty.**

A person who fails to comply with the requirements of this chapter, who fails to conform to the terms of an approval or order issued, who undertakes new development without first obtaining city approval, or who fails to comply with a stop work order issued under these regulations is subject to a civil penalty in accordance with SMC 1.13.180.

**13.104.180 Collection of costs and penalties.**

A. Penalties. Penalties for violation of the provisions of this chapter are as set forth in SMC Chapter 1.13 Code Enforcement and include potential criminal as well as civil penalties, and such other applicable penalties as may be found in the Sequim Municipal Code or elsewhere in state or federal law.

B. Invoice and Demand for Payment of Investigation and Correction Costs. The city engineer or designee may issue an invoice and demand for payment of the city's costs and expenses when the city engineer has investigated or corrected a violation of this chapter. The invoice may include the amount of the city's investigation and correction costs, including without limitation:

1. Billed cost, including labor, administration, overhead, overtime, profit, taxes, and other related costs, for a hired contractor to investigate and/or perform the abatement work;
2. Labor, administration, overhead, overtime, and other related costs for the city staff and crews to investigate and/or perform the abatement work;
3. Administrative costs to set up contracts and coordinate work;
4. Time spent communicating with the responsible party, any other enforcing agencies, and the affected community;
5. Inspections for compliance with the Sequim Municipal Code, documentation of costs, and invoicing the responsible party;

6. Cost of equipment, materials, and supplies, including all related expenses for purchasing, renting, and leasing;
7. Laboratory costs and analytical expenses;
8. Cost of mobilization, disposal of materials, and cleanup;
9. Any associated permit fees; and
10. All forms of notices.

C. Invoice and Demand for Payment of Civil Penalties. The city engineer may issue an invoice and demand for payment of civil penalties when the responsible party has failed to pay a penalty by the deadline in a notice of violation or order and has failed to request a city engineer's review or file an appeal within the required time periods established in SMC 1.13.150. The invoice will include:

1. The amount of the penalty;
2. Either a legal description of the property corresponding as nearly as possible to that used for the property on the rolls of the Clallam County Assessor or, where available, the property's street address;
3. Notice that if the amount due is not paid within 30 calendar days, the city engineer may collect the unpaid amount in any lawful manner, including, but not limited to, referral of the matter to a collection agency; and
4. Notice that interest accrues on the unpaid balance if not paid within 30 calendar days after the invoice date.

D. Collection Following a Judicial Review or Issuance of a Court Order Affirming the Penalty Due. If a court has issued an order or judgment imposing penalties, costs, damages, or expenses for a violation of this chapter, and the court's order or judgment is not appealed within 30 calendar days, the city engineer may refer the matter to the City Attorney to initiate any appropriate legal action in an appropriate forum.

**13.104.190 Penalties recovered kept in stormwater fund.**

Penalties recovered by the city will be paid to a fund dedicated to enforcement and/or enhancement of the stormwater management program.

**13.104.200 Hearing Examiner review – Imposition of conditions.**

An applicant seeking an exception to the requirements of this chapter or wishing to appeal a city decision made pursuant to this chapter may request a public hearing before the hearing examiner pursuant to SMC 2.10. In granting an applicant request, the hearing examiner will prescribe conditions that are deemed necessary or desirable for the public interest and consistent with the manual. Any allowed exceptions from the manual must be granted before permit approval and construction.

**13.104.210 Hearing Examiner findings of fact.**

Following the public hearing, the hearing examiner must prepare findings of fact that address all of the following:

A. Whether the granted exception or other relief requested by the applicant provides equivalent environmental protection and is in the public's best interest; and that the objectives of safety, function, environmental protection, and facility maintenance, based upon sound engineering, are met;

B. Whether there are special physical circumstances or naturally occurring conditions affecting the property and that strict application of these provisions would deprive the applicant of all reasonable use of the subject parcel and reasonable efforts to find creative ways to meet the intent of the minimum standards have been made;

C. Whether the granting of the exception or other relief will not be detrimental to the public health and welfare, nor injurious to other properties in the vicinity and/or downstream, and to the quality of waters of the state; and

D. Whether the exception or other relief granted is the least possible action that complies with the intent of the stormwater management manual.

**13.104.220 Right of judicial appeal.**

All actions of the hearing examiner are final and conclusive unless, within 10 business days of the date of the hearing examiner's decision, the original applicant or an adverse party gives written notice of appeal to the superior court for review of the action.