

Title 11

STORM DRAINAGE AND SURFACE WATER MANAGEMENT

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Chapter 11.02

STORM DRAINAGE AND SURFACE WATER MANAGEMENT

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11.02.010 Purpose.

This Chapter creates a funding methodology which provides resources to (1) plan, manage, design, construct, maintain, revise, and upgrade the storm drainage and surface water runoff systems within Pierce County's drainage basins as specified in and pursuant to Chapters 36.89 and 39.34 Revised Code of Washington, and Article 11, Section 11 of the Washington State Constitution, and (2) manage waters subject to flood conditions from rivers, streams, tidal or other bodies of water affecting Pierce County pursuant to Chapter 86.12 of the Revised Code of Washington. This authority is invoked to minimize property damage, promote and protect the public health, safety and welfare, minimize water quality degradation by preventing siltation, contamination and erosion of the County's waterways, protect aquifers, insure the safety of County roads and rights-of-way, assure compliance with federal and state storm drainage, surface water management, and water quality regulations and legislation, increase educational and recreational opportunities, encourage the preservation of natural drainage systems, and foster other beneficial public uses. (Ord. 95-128 § 1, 1995; Ord. 91-153S2 § 2 (part), 1991)

11.02.020 Utility Creation and Authority.

There is hereby created a Storm Drainage and Surface Water Management Utility and corresponding Surface Water Management Fund for Pierce County. Said Storm Drainage and Surface Water Management Utility shall be administered by the Pierce County Executive as a division of the Department of Public Works and Utilities.

The County elects to exercise all lawful powers necessary and appropriate for the construction, acquisition, and condemnation of property rights, maintenance, management, operations and regulations of (1) storm drainage and surface water runoff systems and (2) waters subject to flood conditions from rivers, streams, tidal or other bodies of water including, without limitation, all lawful powers to fix, alter, regulate, and control the charges and conditions for the use thereof.

The Storm Drainage and Surface Water Management Utility is hereby authorized and directed to install temporary construction signs at major project sites which indicate the name of the drainage basin, the amount of the project and its scope.
(Ord. 95-128 § 2, 1995; Ord. 91-153S2 § 2 (part), 1991)

11.02.030 Definitions.

For the purposes of this Chapter, the words or phrases below shall have the following meanings:

- A. "Base Service Charge" means the uniform service charge applied to all drainage basins to support non-basin specific services.
- B. "Capital Improvement Program (CIP) Level I Charge" means the additional service charge for parcels within the following drainage basins which have moderate CIP needs: Browns/Dash Pt., Chambers Bay, Hylebos, Gig Harbor, Muck Creek, and Mid Puyallup River.
- C. "Capital Improvement Program (CIP) Level II Charge" means the additional service charge for parcels within the following drainage basins which have a high level of CIP needs: Clover Creek/Steilacoom and Clear/Clarks Creek.
- D. "Contiguous Parcel" shall mean abutting parcels of property having both common ownership and a structure built across parcel lines.
- E. "County" shall mean Pierce County, Washington, or as indicated by the context, may mean the Department of Public Works, Public Works Director, County Engineer, or other official, officer, employee or agent representing the County in the discharge of his or her duties. For purposes of this Chapter, County shall be construed to also include those incorporated areas joining the utility by executing with the County an interlocal agreement for drainage.
- F. "Detention" shall mean the short-term storage of storm drainage runoff that has been artificially collected and then released at a predetermined rate.
- G. "Duplex" shall mean one two-family dwelling, either wholly or partially located on a parcel or contiguous parcels, consisting of a building containing not more than two complete living units, designated and/or used to house not more than two families living independently of each other and including all necessary household functions of each such family.
- H. "Duplex Condo" shall mean one complete condominium living unit with its own tax parcel number connected to another complete condominium living unit.
- I. "Duplex Condo Equivalent" shall mean 1,703 square feet of impervious area.
- J. "Duplex Equivalent" shall mean 3,406 square feet of impervious area.
- K. "Engineer" shall mean a professional civil engineer, currently licensed by the State of Washington, retained by and acting on behalf of the parcel owner.
- L. "Forest and Timber Land" shall mean lands classified as such according to the provisions of Chapters 84.33 and 84.34 respectively.
- M. "Gravel" shall mean all graveled surfaces available for use as roads, driveways, or other access ways for vehicular traffic, parking, production, storage, staging, and holding areas. (Gravel surface area shall be considered 75 percent impervious.)
- N. "Highway" shall mean all impervious ways, lanes, roads, streets, boulevards, and/or places in the County open as a matter of right to public vehicular travel both inside and outside the limits of incorporated cities and towns.

- O. "Impervious Area" shall mean the horizontally projected surface area of all non-vertical surfaces of all buildings, mobile homes, or other structures, and the surface area of all asphalt, concrete, gravel, oil mat, bituminous or other finished surfaces not covered by structures.
- P. "Interlocal Agreement" shall mean that contract between the County and other incorporated areas of Pierce County, Drainage Districts, or other entities pursuant to RCW Chapter 39.34, which delineates the terms, conditions and relationships of the parties regarding the plan, design, construction, operation, maintenance and funding of storm drainage systems within the incorporated area.
- Q. "Master Plan" shall mean the Storm Drainage and Surface Water Management Plan adopted by County Ordinance 91-113 for managing storm drainage and surface water runoff facilities and features within unincorporated Pierce County.
- R. "Mobile Home Equivalent" shall mean 1,457 square feet of impervious area.
- S. "Mobile Home Park Condo" shall mean a parcel with one or more mobile homes situated thereon which has its own tax parcel number and is designated a Mobile Home Park Condo for property tax purposes by the Pierce County Assessor-Treasurer.
- T. "Multifamily" shall mean a dwelling, either wholly or partially located on an individual parcel, consisting of a building containing more than two (2) complete living units, designated and/or used to house more than two families living independently of each other and including all necessary household functions of each such family.
- U. "Owner or Owner of Record" shall mean the holder of title by recorded deed or the purchaser under a recorded real estate contract.
- V. "Parcel" shall mean a state, county, or city public highway, or the smallest unit or plot of land separately segregated for tax purposes.
- W. "Residential" shall mean a parcel or contiguous parcels with one single family home or single-family residential condominium or modular home designed and/or used to house a single family, either wholly or partially located on it or them.
- X. "Residential Equivalent" shall mean 2,640 square feet of impervious area.
- Y. "Retention" shall mean the long-term storage of water onsite with the dissipation of said water into the ground by means of percolation.
- Z. "River Maintenance Charge" means the additional service charge levied on parcels within the following drainage basins which benefit from River Maintenance activities: Mid Puyallup River, South Prairie, Mud Mountain, Lower White River, Lower Carbon River, Upper White River, Upper Puyallup River, and Upper Carbon River.
- AA. "Service Charge" means the charge levied on parcels in unincorporated areas of the County and those incorporated areas defined by an interlocal drainage agreement as authorized by Section 11.02.050.
- BB. "System" shall mean the entire system of storm drainage and surface water runoff facilities owned by the County or over which the County has right of use and responsibility for the movement and control of storm drainage and surface water runoff, including both naturally occurring and man-made facilities.
- CC. "Vacant/Undeveloped" shall mean a parcel of land that has no impervious area.
(Ord. 2007-99s § 1 (part), 2007; Ord. 97-93 § 1 (part), 1997; Ord. 92-166S § 1 (part), 1992; Ord. 91-153S2 § 2 (part), 1991)

11.02.040 Policy for Service Charges.

The County shall apply a rate structure as a utility service charge to all parcels within unincorporated Pierce County and those incorporated areas defined by an interlocal drainage agreement as authorized by Section 11.02.050.

- A. All parcels are subject to a service charge except the following exempt parcels:
 - 1. All parcels consisting of mineral rights only.
 - 2. All parcels consisting entirely of tidelands, rivers, lakes, creeks and/or streams.
 - 3. All vacant/undeveloped parcels less than two-tenths (2/10ths) of an acre (8,712 square feet) in total area.
 - 4. All parcels within national, state, county, and park and recreation district parks (except Lake Spanaway Golf Course) due to the community service these parcels serve.
 - 5. Tax title parcels which the County has offered for public sale but no willing buyer came forward to bid on the property.
 - 6. Cemetery parcels which are owned by a nonprofit corporation or an association which receives no profit from the sale of lots, or crypts.
 - 7. All parcels which are: (1) used for church, community center, community hall, or grange purposes; and (2) owned by an organization with a nonprofit public benefit status as defined by RCW 24.03.490.
 - 8. All parcels which are taxed as forest land under Chapter 84.33 RCW or as timber land under Chapter 84.34 RCW.
 - 9. All federally-owned lands located with the County.
 - 10. All parcels qualifying for a property tax exemption under RCW 84.36.260 where the primary purpose of the qualifying nonprofit corporation or association is to conduct or facilitate scientific research or to conserve natural resources or open space for the general public.
 - 11. All parcels qualifying for a property tax exemption under RCW 84.36.060 where the qualifying organization is a non-profit miscellaneous scientific or historical society.
- B. Low income seniors and disabled persons receiving relief under Section 84.36.381 RCW shall receive the following partial exemptions from surface water service charges.
 - 1. All parcels for which a person qualifies for an exemption under subsection 84.36.381(5)(a) RCW shall be exempt from 40 percent of surface water fees.
 - 2. All parcels for which a person qualifies for an exemption under subsection 84.36.381(5)(b)(i) shall be exempt from 60 percent of surface water fees.
 - 3. All parcels for which a person qualifies for an exemption under subsection 84.36.381(5)(b)(ii) shall be exempt from 80 percent of surface water fees.

(Ord. 2007-99s § 1 (part), 2007; Ord. 2003-113 § 1 (part), 2003; Ord. 98-25S § 1, 1998; Ord. 97-93 § 1 (part), 1997; Ord. 91-153S2 § 2 (part), 1991)

11.02.050 Method of Calculating Service Charges.

An annual service charge schedule is hereby established for the unincorporated areas of the County.

- A. The service charge to be applied to each drainage basin within the County is specified in Table 11.02.050-1:

Table 11.02.050-1. Rate Structure	
Parcel Classification	
Residential and Equivalent	\$108.39
Duplex and Equivalent	\$139.85
Duplex Condo and Equivalent; Mobile Home Park Condo	\$69.92
Multifamily:	
Minimum Charge	\$108.39
Impervious (excluding gravel) per square foot	\$0.04106
Gravel per square foot	\$0.03079
Mobile Home Park and Equivalent:	
Minimum Charge	\$59.82
Impervious (excluding gravel) per square foot	\$0.04106
Gravel per square foot	\$0.03079
Vacant Undeveloped:	
Minimum Charge per parcel	\$20.01
Area Charge per acre	\$0.40026
State, County and Federal Highways:	
Impervious rate per square foot (excluding Gravel)	\$0.00616 \$0.00462
Gravel per square foot	
All Other Parcels – Urban Area:	
Minimum Charge per parcel	\$108.39
Impervious (excluding gravel) per square foot	\$0.04106
Gravel per square foot	\$0.03079

- B. Credits. To qualify for a service charge credit, the following must be completed before October 1 of the year preceding the year for which the owner is requesting credit.
1. Credit will apply to all categories listed in Section 11.02.050 A. except for vacant parcels. Vacant parcels included in a Farm Management Plan are eligible for a credit.

2. To qualify for a credit, the Owner of Record shall provide the County engineering calculations in accordance with design criteria acceptable to the County and "As Constructed Plans" stamped and signed by the Owner's Engineer to verify that the drainage system has adequate capacity to meet the design criteria for which the Owner is requesting a credit. The Owner's engineer shall prepare and stamp an operation and maintenance manual for the Owner to follow in maintaining any drainage pond. The County shall be provided a copy of the maintenance manual. New calculations, "As Constructed Plans", and a maintenance and operation manual shall be prepared and stamped by the Owner's engineer if the drainage pond is increased or decreased in size from the original credit request.
3. Annually, each Owner of Record shall provide a certified statement by October 1 of the year preceding the year for which the Owner of Record is requesting credit on a form provided by the County verifying that all specified maintenance has been performed in accordance with the operation and maintenance manual prepared by the Owner's engineer on the facility for the calendar year the credit is being requested. Once every five years, the certified statement shall be stamped and signed by the Owner's Engineer.
4. Each Owner of Record shall provide a "hold harmless" statement on a form provided by the County that indemnifies the County from any loss incurred arising from the construction and maintenance and operation of the Owner's drainage facilities for both water quantity and quality runoff from the owner's property. This statement shall be signed by the Owner and will be recorded with the County Auditor by the Owner of Record. The Owner of Record shall provide the County a copy of the agreement with the County Auditor recording number stamped on it before the application will be deemed completed.
5. Each Owner of Record must enter into an agreement with the County that allows the County to enter onto the Owner's parcel to inspect the drainage facility and verify all information submitted by the owner and his/her Engineer. The agreement form will be provided by the County. This agreement will be recorded with the County Auditor by the Owner of Record. The Owner of Record shall provide the County a copy of the agreement with the County Auditor recording number stamped on it before the credit application will be deemed completed.
6. Credit percentages shall be provided in accordance with the following:

CREDIT PERCENTAGES			
Retention Facility	Percent Credit	Detention Facility	Percent Credit
100 Year Storage	85%	100 Year Storage; Release rate of 50% of the predevelopment discharge rate for a 2 year storm	85%
50 Year Storage	40%	50 Year Storage; 2 Year Release	40%
25 Year Storage	20%	25 Year Storage; 2 Year Release	20%
10 Year Storage	10%	10 Year Storage; 2 Year Release	10%

7. For agricultural land uses, a National Resource Conservation Service or Pierce County Conservation District approved farm management plan may submitted for a 25 percent credit. The five year certification that the plan is being correctly implemented (Section 11.02.050 B.3.) would be prepared by the Pierce County Conservation District. Facilities designed to a blend of the criteria not covered under this table shall be valuated based on an engineering review of the facility design parameters and a determination of the level of protection provided in the opinion of the County.
 8. Rainwater harvesting systems, which retain stormwater on-site for later non-potable use, will be credited as retention facilities. Systems that are properly sized for their intended use and have a capacity of at least 1,500 gallons per structure will be assigned the same credit as a 10-year Retention Facility. Larger systems capable of retaining the 25-, 50- or 100-year storms will be credited at the higher level as long as the stored water can be utilized within a 24-hour period.
- C. The annual service charge credit will be calculated by multiplying the annual service charge by the applicable credit percentages when all of the conditions established for a service charge credit have been met.
- In order to determine the credit percentage for a retention/detention facility, the following shall apply:
1. For a retention/detention facility whose year storage is not listed in Section 11.02.050 B.6., the next lower year storage category will be used.
 2. The release rate shall be equal to or less than a 2-year release rate for a detention facility with a 10-, 25-, or 50-year storage. The release rate for a detention facility with a 100-year storage shall be equal to or less than 50 percent of the predevelopment discharge rate for a 2-year storm.
 3. No credit shall be given for a retention/detention facility with less than a 10-year storage.
- D. The annual service charge shall be calculated based on impervious area and parcel status as of January 1 each year. The annual service charge shall be due and payable to Pierce County on or before April 30 of each year and shall be paid together with payment of real property tax upon the parcel, if any, and shall be delinquent thereafter. Provided, that if real property tax upon the parcel payable in that year exceeds \$30.00, and one-half of the tax, together with one-half of the annual service charge provided by this Section are paid on or before April 30 of such year, the remaining one-half of the annual service charge shall be due and payable on October 30, next following, or at the time of payment of the remaining tax on the parcel, whichever is earlier, and shall be delinquent after that date. The service charge shall be incorporated on the Pierce County Real Property Tax Statement.
- E. Parcel characteristics affecting the service charge which are altered after January 1 of any year shall not be the basis for recalculation of the service charge until the next year with the exception that adjustments to the annual service charge may be made when the property is incorporated or annexed by another jurisdiction. In that situation, the service charge for the billing year during which the incorporation or annexation occurs may:
1. Be subject to a proration formula included in an interlocal agreement between the County and the incorporating or annexing jurisdiction; or

2. If the incorporation or annexation agreement does not address the surface water management charge, then incorporated or annexed parcels shall be subject to a service charge of 25 percent of the annual service charge for each quarter of the billing year during which the property was in unincorporated Pierce County for one or more days. For purposes of determining this adjusted service charge, the billing quarters shall be for January 1 through March 31; April 1 through June 30; July 1 through September 30; and October 1 through December 31.
3. Whenever a city or town annexes or incorporates an area and the County has issued revenue bonds, general obligation bonds, or secured funds through other indebtedness to finance storm water control facilities that are payable in whole or in part from rates or charges imposed in the area, the County shall continue imposing all portions of the rates or charges that are allocated to payment of the debt service on the bonds or indebtedness in that area after the effective date of the annexation or official date of the incorporation until:
 - a. The debt is retired;
 - b. Any debt that is issued to refinance the underlying debt is retired; or
 - c. Any debt is repaid to lending institutions, agencies, or parties; or
 - d. The city or town reimburses the County an amount sufficient to retire that portion of the debt borne by the annexed or incorporated area.

(Ord. 2011-79 § 1, 2011; Ord. 2010-79s § 1, 2010; Ord. 2009-87 § 1, 2009; Ord. 2008-83s2 § 6, 2008; Ord. 2007-99s § 1 (part), 2007; Ord. 2006-129s § 2, 2006; Ord. 2003-133 § 2, 2003; Ord. 2003-113 § 1 (part), 2003; Ord. 2000-51s2 § 1, 2000; Ord. 98-80 § 1, 1998; Ord. 97-93 § 1 (part), 1997; Ord. 95-128 § 3, 1995; Ord. 92-166S § 1 (part), 1992; Ord. 91-153S2 § 2 (part), 1991)

11.02.060 County Administrative Support.

All Storm Drainage and Surface Water Management Utility funds from service charges, grant funds, or any other revenue received shall be deposited in the Surface Water Management Fund. All revenue in the Surface Water Management Fund shall be deposited in interest-bearing or income earning accounts.

All support services provided to the Storm Drainage and Surface Water Management Utility by the County's Assessor-Treasurer shall be annually reimbursed based on actual labor and non-labor costs expended, subject to review and approval by the Public Works Director.

(Ord. 2007-99s § 1 (part), 2007; Ord. 91-153S2 § 2 (part), 1991)

11.02.070 Implementation.

The Pierce County Executive and the Pierce County Assessor-Treasurer are hereby authorized and directed to establish all administrative procedures necessary to implement the provisions of this Chapter. (Ord. 91-153S2 § 2 (part), 1991)

11.02.080 Lien for Delinquent Charges and Foreclosures.

- A. Pursuant to RCW 36.89.090, Pierce County shall place a lien on any parcel with a delinquent service charge, including interest thereon. Such liens shall be effective and shall be enforced in the same manner as provided for sewerage liens of cities and towns by RCW 35.67.200 through 35.67.290, except that the service charge lien shall be effective for a total not to exceed one year's delinquent service charges without the necessity of any writing or recording of the lien with the County Auditor, as provided for in RCW 36.89.093, in lieu of the provisions provided for in RCW 35.67.210, and except

that the lien shall be foreclosed in the same manner as the foreclosure of real property tax liens, as authorized by RCW 36.94.150 and RCW 36.89.090. In accordance with RCW 36.89.094, the County may commence to foreclose a service charge lien after three years from the date surface water management charges become delinquent, in lieu of the provisions provided for in RCW 35.67.230.

- B. Delinquent service charges shall bear interest provided in RCW 36.89.090, RCW 36.89.092, and RCW 35.67.200 at the rate of 12 percent per annum, or such rate as may hereafter be authorized by law, computed on a monthly basis from the date of delinquency until paid. Interest shall be calculated at the rate in effect at the time of payment of the charges regardless of when the charges were first delinquent.
(Ord. 2007-99s § 1 (part), 2007; Ord. 91-153S2 § 2 (part), 1991)

11.02.090 Overpayment Refund Requests.

Any person may request the refund of service charge overpayment(s) by doing so in writing to the Director of Public Works. The basis of the request explaining the nature of the overpayment should be clearly stated. The Director shall investigate the request and authorize a refund or credit if he/she finds an overpayment to have occurred. The Director will use best efforts to notify the requesting party of his/her decision in writing within 60 days of receipt of the request. The Director will specify in the written decision the basis for authorizing or denying the refund request. No refund may be authorized for overpayment paid or levied more than three years prior to the date the written request is received. (Ord. 91-153S2 § 2 (part), 1991)

11.02.100 Administrative Refunds or Adjustments.

The Director may authorize in writing, a refund, credit, or adjustment of any amounts when he/she determines that an error, miscalculation, or mistake has occurred which affects any ratepayer(s). The nature of the error, miscalculation, or mistake should be documented together with the steps taken to prevent future occurrences. No refunds, credits, or service charge adjustments may be authorized pursuant to this Section unless brought to the attention of the Director within three (3) years of the occurrence of the error, miscalculation or mistake. (Ord. 91-153S2 § 2 (part), 1991)

11.02.110 Amount of Refund Limited.

In any instance where a refund or credit is authorized by the Director, the amount shall not include any interest. (Ord. 91-153S2 § 2 (part), 1991)

11.02.120 Appeals.

Any decision of the Director made pursuant to this Chapter may be appealed to the Pierce County Hearing Examiner and/or Pierce County Council upon payment of the fees and pursuant to the procedures set forth in the Pierce County Code Chapter 2.36. (Ord. 91-153S2 § 2 (part), 1991)

Code Revisor's Note: Chapter 2.36 PCC has been recodified to Chapter 1.22 PCC.

11.02.130 Severability.

If any Section, clause or provision of this Chapter be declared invalid by the courts, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part declared invalid. (Ord. 91-153S2 § 2 (part), 1991; Ord. 87-205 § 1 (part), 1987)

Chapter 11.03

STORM DRAINAGE AND SURFACE WATER MANAGEMENT ADVISORY BOARD

Sections:

- 11.03.010 Storm Drainage and Surface Water Management Advisory Board – Creation.**
- 11.03.020 Duties.**
- 11.03.030 Membership.**
- 11.03.040 Vacancies – Removals.**
- 11.03.050 Officers – Rules and Procedure.**
- 11.03.060 Quorums – Meetings.**
- 11.03.070 Staff Support.**

11.03.010 Storm Drainage and Surface Water Management Advisory Board – Creation.

The Storm Drainage and Surface Water Management Advisory Board (the "Board") shall be comprised of a County-wide group of individuals representing, whenever possible, each of the major watershed basins in the County. (Ord. 88-122 § 1 (part), 1988)

11.03.020 Duties.

It shall be the duties of the Storm Drainage and Surface Water Management Advisory Board to provide the following:

- A. Act as a liaison to coordinate an information exchange on storm drainage and surface water management issues among Pierce County and local governments, citizens, and industries of Pierce County;
- B. Provide policy recommendations to the County Council regarding storm drainage and surface water management issues, with attention to water quality issues, in order to fulfill the policies and objectives of the County's surface water utility program;
- C. Review, advise, and make recommendations to the County prior to the adoption of a Storm Drainage and Surface Water Management Plan, rate structure, capital improvement programs or major physical improvements;
- D. Review and make recommendations on all rates and financing proposals;
- E. Review and make recommendations on goals and objectives established in annual budgets or reports for the County's Storm Drainage and Surface Water Management Utility;
- F. When directed to do so by the County Council, perform other duties as may be required from time to time.

(Ord. 88-122 § 1 (part), 1988)

11.03.030 Membership.

Members of the Storm Drainage and Surface Water Management Advisory Board shall be appointed by the County Executive and confirmed by a majority of the Council pursuant to Pierce County Charter Section 3.30. The Board shall be comprised of nine members. Every effort shall be made to achieve representation from each Council district.

The first terms of the members shall be staggered as follows:

- A. Five members shall be appointed for one year.
- B. Four members shall be appointed for two years.

Thereafter, the successors to the first appointees shall be appointed to two year terms. The initial terms of office shall begin December 1, 1988.

(Ord. 88-122 § 1 (part), 1988)

11.03.040 Vacancies – Removals.

Vacancies resulting from the expiration of terms of office shall be filled by appointment and confirmation for a term of two years. Vacancies occurring for any reason other than the expiration of a term of office shall be by appointment and confirmation for the unexpired term of office being filled. (Ord. 88-122 § 1 (part), 1988)

11.03.050 Officers – Rules and Procedure.

The Storm Drainage and Surface Water Management Advisory Board shall elect its chairperson and vice-chairperson from among the appointed members. The Board shall appoint a secretary who need not be a member of the Board. The Board shall adopt its own standard operating procedure for conducting Board business; provided, that such procedure does not conflict with State statute, County resolution or ordinance. (Ord. 88-122 § 1 (part), 1988)

11.03.060 Quorums – Meetings.

Five members of the Board shall constitute a quorum at all meetings. All actions of the Board shall be determined by a majority vote at a meeting of which a quorum is present. The Board shall hold not less than one regular meeting in each month; provided, that if no matters over which the Board has jurisdiction are pending, a meeting may be canceled. (Ord. 88-122 § 1 (part), 1988)

11.03.070 Staff Support.

The Storm Drainage and Surface Water Management Utility shall provide a recording secretary and clerical support staff, as deemed necessary by the County Executive, for the meetings of the Board. Incidental expenses of Storm Drainage and Surface Water Management Advisory Board members shall be reimbursed upon authorized approval in accordance with Pierce County Code Chapter 3.92 in the same manner as if the Board members were County employees. (Ord. 88-122 § 1 (part), 1988)

Chapter 11.04

PIERCE COUNTY STREAM TEAM PERMIT ASSISTANCE PROGRAM

Sections:

- 11.04.010 Purpose and Intent.**
- 11.04.020 Definitions.**
- 11.04.030 Program Administration.**

11.04.010 Purpose and Intent.

The purpose of this Chapter is to assist Pierce County Conservation District (PCCD) "Stream Team" program efforts to improve watershed and stream conditions through providing permit processing assistance if PCCD chooses to be the applicant on pre-established projects. The intent is to facilitate the permitting process to fulfill "Stream Team" program needs. (Ord. 97-94 § 1 (part), 1997; Ord. 93-125S5 § 1 (part), 1994)

11.04.020 Definitions.

- A. "Department" refers to the Department of Public Works and Utilities.
- B. "PCCD" refers to the Pierce County Conservation District, a quasi-state organization.
- C. "SWM" refers to Pierce County Storm Drainage and Surface Water Management Utility, a division of the Pierce County Public Works and Utilities Department.
- D. "PALS" refers to Pierce County Planning and Land Services Department.
- E. "Stream Team" refers to the PCCD program which assists and/or coordinates volunteer efforts to improve watershed and stream conditions.
- F. "Designated project" refers to a project identified through the cooperative process defined in a separate Memorandum of Agreement which is in substantial conformance with the requirements contained in Section 11.04.030 of this Chapter.

(Ord. 97-94 § 1 (part), 1997; Ord. 93-125S5 § 1 (part), 1994)

11.04.030 Program Administration.

- A. SWM shall enter into a separate Memorandum of Agreement (MOA) with PCCD establishing a cooperative process to identify designated projects which revegetate, revitalize or maintain Pierce County streams. The cooperative process to identify designated projects shall include consideration of the following factors: whether a stream assessment has been conducted; whether the reach of stream is in extremely poor condition; whether the project could feasibly be implemented by "Stream Team" program efforts; whether there is neighborhood or community interest; whether the project is consistent with the Pierce County Storm Drainage and Surface Water Management Plan; whether the project requires structural or nonstructural improvements; whether SWM, PALS and PCCD funding and staffing are available; and upon the number and the complexity of the permits required.
- B. The MOA shall delineate obligations and responsibilities between SWM and PCCD. SWM responsibilities shall include, but are not limited to, the provision of technical and administrative assistance to PCCD on designated project permit applications as funding and staffing permit. Technical and administrative assistance may include, but is not limited to: instruction on what permits and forms may be necessary; review of forms

submitted by PCCD for compliance with County, state, and federal requirements; and liaison support between Planning and Land Services and PCCD. PCCD responsibilities shall include, but are not limited to, preparation of all applications including provision of all supplemental information, compliance with all conditions of permit approval, supervision and coordination of all day to day Stream Team efforts and maintenance of insurance coverage acceptable to Pierce County's Risk Management Office.

- C. PCCD permit applications for Stream Team designated projects shall be exempt from Planning and Land Services filing fees under Chapter 2.05 of this Code upon properly filing a permit application with the Pierce County Planning and Land Services Department. SWM shall provide PALS with current listing of all designated projects for verification purposes.

(Ord. 97-94 § 1 (part), 1997; Ord. 93-125S5 § 1 (part), 1994)

Chapter 11.05

ILLICIT STORMWATER DISCHARGES

Sections:

- 11.05.010 Purpose.**
- 11.05.020 Authority.**
- 11.05.030 Definitions.**
- 11.05.040 Stormwater Discharges.**
- 11.05.050 Stormwater Management and Site Development Manual.**
- 11.05.060 Administration.**
- 11.05.080 Enforcement.**
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11.05.010 Purpose.

The purpose of this Chapter is to protect Pierce County's surface and ground water quality by providing minimum requirements for reducing and controlling the discharge of pollutants to stormwater conveyance systems owned and maintained by Pierce County. The County recognizes that water quality degradation can result either directly from one discharge or through the collective impact of many small discharges. Therefore, this Chapter prohibits the discharge of pollutants into drainage facilities and outlines preventive measures to restrict pollutants from entering such facilities. These measures include the implementation of Best Management Practices (BMPs) by the property owners of Pierce County.

The County finds this Chapter is necessary to protect the health, safety, and welfare of the residents of Pierce County and the integrity of the County's water resources for the benefit of all by: minimizing or eliminating water quality degradation; preserving and enhancing the suitability of waters for recreation, fishing, and other beneficial uses; and preserving and enhancing the aesthetic quality and biotic integrity of the water.

Implementation of this Chapter is required under the Federal Clean Water Act, 33 U.S.C. 1251 et seq. In meeting the intent of the Clean Water Act by these provisions, the County also recognizes the importance of maintaining economic viability while providing necessary environmental protection.

(Ord. 2010-106s § 1 (part), 2011; Ord. 2008-59s § 1 (part), 2008; Ord. 96-47 § 1 (part), 1997)

11.05.020 Authority.

Under the provisions of the Federal Clean Water Act, 33 U.S.C. 1251 et seq., Pierce County is required to establish rules and regulations to control the discharge of pollutants into Pierce County's separate storm sewer system and to prevent and control the impacts of runoff. The County recognizes that clean water enhances the quality of life and has long-term economic benefits. The County intends to protect environmentally-sensitive areas, and the public benefits derived from clean water, and to implement the goals of the Clean Water Act, the state Water Pollution Control Act (Chapter 90.48 RCW), the Puget Sound Water Quality Protection Act (Chapter 90.71 RCW), the Growth Management Act (Chapter 36.70A RCW), and the County's Comprehensive Plan. Because water quality issues cannot be resolved by independent

jurisdictions, the County Council requests that the County Executive work on these issues on a regional basis. The County also recognizes that by enacting this Chapter, the County will avoid the severe financial penalties established in the Clean Water Act. (Ord. 2010-106s § 1 (part), 2011; Ord. 2008-59s § 1 (part), 2008; Ord. 96-47 § 1 (part), 1997)

11.05.030 Definitions.

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

- A. "Act" means the Federal Clean Water Act, 33 U.S.C. 1251, et seq, as amended.
- B. "Best Management Practices" or "BMPs" mean the best available and reasonable physical, structural, managerial, or behavioral activities, that when used singly, or in combination, eliminate or reduce the contamination of surface and/or ground waters of the County.
- C. "Chapter" means this Chapter.
- D. "Clean Water Act" means 33 U.S.C. 1251 et. seq., as amended.
- E. "County" shall mean Pierce County, Washington, or as indicated by the context, County Executive, Director, or authorized designee.
- F. "Dangerous Waste" means any solid, liquid, or mixed waste defined according to WAC 173-303-080 through -110, as amended.
- G. "Director" means the Director of the Pierce County Public Works and Utilities Department or any duly authorized representatives of the Director.
- H. "Discharge" means to throw, drain, release, dump, spill, empty, emit, or pour forth any matter or to cause or allow matter to flow, run, or seep from land to be thrown, drained, released, dumped, spilled, emptied, emitted, or poured into water.
- I. "Drainage Facility" means the system that collects, conveys, and stores surface and stormwater runoff. Drainage facilities shall include, but not be limited to, all surface and stormwater conveyance and containment facilities owned or operated by Pierce County included pipelines, channels, ditches, infiltration facilities, retention/detention facilities, erosion/sedimentation control facilities, and other drainage structures and appurtenances, and natural systems including rivers, streams, swamps, lakes, wetlands, marine waters, closed depressions, and groundwater flooding areas within unincorporated Pierce County.
- J. "Ecology" means the Washington State Department of Ecology.
- K. "Farm Management Plan" means a comprehensive site-specific plan developed by the farm owner in cooperation with the Pierce County Conservation District and the Conservation Districts of the State of Washington, that takes into consideration the land owner's objectives while protecting water quality and related natural resources.
- L. "Forest Practices" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, as defined in Chapter 222-16 of the Washington Administrative Code.
- M. "Ground Water" means all waters that exist beneath the land surface or beneath the bed of any stream, lake, or reservoir, or other body of surface water, whatever may be the geological formation or structure in which such water stands or flows, percolates, or otherwise moves.
- N. "Hazardous material" means any material potentially harmful to life and/or property.
- O. "Illicit Discharge" means the discharges defined by Section 11.05.040.
- P. "May"/"Shall" -- "May" is permissive, "Shall" is mandatory.
- Q. "Manual" means the current Pierce County Stormwater Management and Site Development Manual.

- R. "National Pollutant Discharge Elimination System" or "NPDES" means the national program for controlling pollutants from non-point and point source discharges directly into waters of the United States under the Clean Water Act.
- S. "National Pollutant Discharge Elimination System Permit" means an authorization, license, or equivalent control document issued by the Environmental Protection Agency or the Washington State Department of Ecology to implement the requirements of the NPDES program.
- T. "Owner of Record" means a property owner, as reflected in the public title records.
- U. "Person" means an individual, their agents or assigns; municipality; political subdivision; government agency; partnership; corporation; business; or any other entity.
- V. "Pierce County Stormwater Management and Site Development Manual" means the latest version of the manual describing design, maintenance, best management practices, procedures, guidance for stormwater systems for new development and redevelopment, and guidance for preventing or treating pollutants in stormwater, to be utilized by businesses, industries and private residences, which has been approved by the Pierce County Council.
- W. "Pollutant/Pollution" means such contamination, or other alteration of the physical, chemical, or biological properties, of any waters of the County, State or United States, 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 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.
- X. "Sewage" means water-carried human waste or a combination of water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, storm, or other waters that may inadvertently enter the sanitary sewer system.
- Y. "Shall"/"May" -- "Shall" is mandatory; "May" is permissive.
- Z. "Source Control" means a BMP intended to prevent pollutants from entering surface and storm water and/or ground water including the modification of processes to eliminate the production or use of pollutants. Source control BMPs can be either structural or non-structural. Structural source control BMPs involve the construction of a physical structure on site, or other type of physical modification to a site; for example, building a covered storage area. A non-structural source control BMP involves the modification or addition of managerial or behavioral practices; for example, using less toxic alternatives to current products or sweeping vehicle parking lots.
- AA. "State", when used as a noun, means the State of Washington.
- BB. "State Waste Discharge Permit" means an authorization, license, or equivalent control document issued by the Washington State Department of Ecology in accordance with Chapter 173-216 of the Washington Administrative Code.
- CC. "Surface and Stormwater" means water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes, and wetlands, as well as shallow ground water.
- DD. "Treatment" means the reduction or elimination of pollutants in stormwater prior to or in lieu of discharging or otherwise introducing such pollutants into the stormwater system.

- EE. "Treatment BMP" means a BMP intended to remove pollutants once they are already contained in stormwater. Examples of treatment BMPs include: oil/water separators, biofiltration swales, and wet-settling basins.
- FF. "Toxic Pollutants" means those pollutants, or combination of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the Director, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including reproductive malfunctions), or physical deformations in such organisms or their offsprings.
- GG. "Waters of the State/Waters of the United States" means:
1. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
 2. All interstate waters, including interstate wetlands;
 3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mud flats, sand flats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect interstate or foreign commerce, including any such waters:
 - a. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - c. Which are used or could be used for industrial purposes by industries in interstate commerce;
 4. All impoundments of waters otherwise defined as waters of the United States under this definition;
 5. Tributaries of waters identified in paragraphs 1. through 6. of this definition;
 6. The territorial sea;
 7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs 1. through 6. of this definition;
 8. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition), are not waters of the United States;
 9. The following guidelines can also help determine the status of a particular drainage conveyance:
 - a. If flow is year-round and of natural origin, it is a Water of the United States.
 - b. If the flow is intermittent but flows seasonally (not just during storm events), it is a Water of the United States.
 - c. If Federal or State in-stream water quality standards apply, it is a Water of the United States.
 - d. Naturally occurring drainage ditches are considered tributaries thereof to Waters of the United States.
 10. Waters of the State shall include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and watercourses within the jurisdiction of the state of Washington.

(Ord. 2010-106s § 1 (part), 2011; Ord. 2008-59s § 1 (part), 2008; Ord. 96-47 § 1 (part), 1997)

11.05.040 Stormwater Discharges.

- A. **Illicit discharges.** It is unlawful for any person to discharge any pollutants into drainage facilities. Pollutants include, but are not limited, to the following:
1. trash or debris;
 2. solid waste;
 3. construction materials;
 4. petroleum products including but not limited to oil, gasoline, grease, fuel oil, heating oil;
 5. antifreeze and other automotive products;
 6. fixed and mobile vehicle washes, including home car washing;
 7. metals in either particulate or dissolved form, in excess of naturally occurring amounts;
 8. flammable or explosive materials;
 9. radioactive materials;
 10. batteries;
 11. acids, alkalis, or bases;
 12. paints, stains, resins, lacquers, or varnishes;
 13. degreasers and/or solvents;
 14. drain cleaners;
 15. commercial and household cleaning materials;
 16. carpet cleaning wastes;
 17. pesticides, herbicides, or fertilizers;
 18. steam cleaning wastes;
 19. laundry waste;
 20. soaps, detergents, or ammonia;
 21. swimming pool backwash (diatomaceous earth);
 22. chlorine, bromine, and other disinfectants;
 23. heated water;
 24. chlorinated swimming pool or hot tub water greater than 0.1 ppm chlorine;
 25. human and animal wastes;
 26. domestic or sanitary sewage;
 27. recreational vehicle waste;
 28. animal carcasses;
 29. food and food wastes;
 30. yard waste;
 31. bark and other fibrous materials; does not include large woody debris (LWD) in approved restoration projects;
 32. collected lawn clippings, leaves, or branches;
 33. wastes associated with building construction;
 34. concrete and concrete by-products;
 35. silt, sediment, including dirt, sand, and gravel;
 36. dyes and ink (except as stated in subsection C.1. of this Section);
 37. chemicals, not normally found in uncontaminated water;
 38. runoff from lawn/landscaping watering;
 39. practice firefighting activities;
 40. any hazardous material or waste not listed above.

- B. **Illicit Connections.** Any connection identified by the Director that could convey anything not composed entirely of surface and stormwater directly into drainage facilities is considered an illicit connection and is prohibited with the following exceptions: connections conveying allowable discharges, or connections conveying discharges pursuant to an NPDES permit or a State Waste Discharge Permit.

When the Director has reason to believe that an illicit connection is resulting in an illicit discharge, the Director may sample and analyze the discharge and recover the costs from a person in an enforcement proceeding. When the discharge is likely to contain illicit discharges on a recurring basis, the Director may conduct, or may require the person to conduct ongoing monitoring (including sampling and testing) at the person's expense. Illicit connections must be removed or obtain permits at the discretion of the Director.

- C. **Requirements for Discharges and Land Uses.** For all existing discharges that drain directly or indirectly to a drainage facility, persons shall implement and maintain non-structural and, if necessary, structural BMP's, to comply with Pierce County's Municipal NPDES permit requirements and this Chapter. Non-structural BMP's shall include, but not be limited to, maintenance and housekeeping practices, sweeping of parking lots, storing oil barrels and other contaminant sources out of the rain, covering material stockpiles, and proper use and storage of hazardous materials. Structural BMP's include, but shall not be limited to, constructed facilities such as detention tanks, wet ponds, oil/water separators, grassed swales, roofing and berms for container storage areas, and revised piping systems.

All commercial and industrial facilities with a potential to pollute shall take measures to prevent spills or other accidental introduction of illicit discharges into a drainage facility. Such measures shall include:

1. Establishment and implementation of plans and procedures to prevent spills and accidental releases of materials that may contaminate stormwater;
2. Implementation of procedures for immediate containment and other appropriate action regarding spills and other accidental releases to prevent contamination of stormwater;
3. Provision of necessary containment and response equipment on-site, and training of personnel regarding the procedures and equipment to be used.

The provisions of this subsection may be satisfied by a Stormwater Pollution Prevention Plan prepared in compliance with a NPDES industrial stormwater permit for the site. The persons shall make the plan and procedures required by this subsection available to the Director when requested.

A person must, at the earliest possible time, but in any case within 24 hours of discovery, report to the Director a spill, release, dumping, or other situation that has contributed or is likely to contribute pollutants into waters discharged to a drainage facility. This reporting requirement is in addition to, and not instead of, any other reporting requirements under federal, state, or local laws.

- D. **Allowable Discharges.** The following types of discharges shall not be considered illicit discharges for the purpose of this Chapter unless the Director determines that the type of discharge, whether singly or in combination with others, is causing significant contamination of drainage facilities and is causing or contributing to a violation of the County's NPDES stormwater permit:

1. potable water;
2. potable water line flushing, provided the water is not chlorinated in excess of 0.1 ppm total chlorine and will have no detectable total chlorine residual upon reaching waters of the State or United States;
3. uncontaminated water from crawl space pumps or footing drains;
4. dechlorinated swimming pool water; however, Pierce County Surface Water Management must be notified in advance to ensure release is not in excess of drainage system capacity;
5. materials placed as part of a County approved habitat restoration or bank stabilization project;
6. natural uncontaminated surface water or ground water;
7. flows from riparian habitats and wetlands; and
8. other uncontaminated water as determined by the Director.

When BMPs are outlined for these activities in the Manual, said BMPs, or BMPs of equivalent effectiveness, shall be followed.

E. Exceptions to Illicit Discharges.

1. Dye testing is allowable but requires verbal notification to the Pierce County Public Works and Utilities Storm Drainage and Surface Water Management Utility at least one working day prior to the date of the test. The Tacoma-Pierce County Health Department is exempt from this requirement.
2. If a person can demonstrate that there are no additional pollutants being discharged from the site above the background conditions of the water entering the site, that person shall not be in violation of subsection A. of this Section.
3. Emergency response activities or other actions that must be undertaken immediately or within a time too short to allow full compliance with this Chapter to avoid an imminent threat to public health or safety, shall be exempt from this Section. The person responsible for emergency response activities should take steps to ensure that the discharges resulting from such activities are minimized to the greatest extent possible. In addition, the person shall evaluate BMPs and the site plan, where applicable, to prevent reoccurrence.

(Ord. 2010-106s § 1 (part), 2011; Ord. 2008-59s § 1 (part), 2008; Ord. 96-47 § 1 (part), 1997)

11.05.050 Stormwater Management and Site Development Manual.

- A. **General.** The Pierce County Stormwater Management and Site Development Manual contains requirements and guidelines to assist persons discharging into municipal drainage systems to stay in compliance with this Chapter. The Manual shall present best management practices, procedures and guidance for existing facilities and activities and for new development activities. The Manual is available for inspection and sale through Pierce County Public Works and Utilities. In addition, the Pierce County Public Works and Utilities Storm Drainage and Surface Water Management Utility will provide, upon reasonable request, available technical assistance materials and information, and information on outside financial assistance options to persons required to comply with this Chapter.
- B. **Exemptions.** Persons implementing BMPs through other federal, state, or local programs will not be required to implement the BMPs prescribed in the Manual, unless the Director determines that the alternative BMPs are ineffective in reducing the discharge of pollutants. If another program requires the development of a plan, the

person shall make their plan available to Pierce County Public Works and Utilities Storm Drainage and Surface Water Management Utility upon request. Persons who qualify for exemptions include, but are not limited to, those:

1. Required to obtain or permitted under a general or individual NPDES permit for stormwater discharges from the Washington State Department of Ecology or Environmental Protection Agency;
2. Implementing and maintaining, as scheduled, a farm management plan approved by a Conservation District;
3. Engaged in forest practices, with the exception of Class IV, and Class IVA Special general forest practices. This Section will apply to Class IV general forest practices on lands platted after January 1, 1960, or on lands being converted to another use, or where the activity is taking place in areas designated by the Washington State Department of Natural Resources as lands with a likelihood of future conversion.

(Ord. 2008-59s § 1 (part), 2008; Ord. 96-47 § 1 (part), 1997)

11.05.060 Administration.

- A. **General.** The Director is authorized to implement and enforce the provisions of this Chapter. The Director will coordinate the implementation and enforcement of this Chapter with other departments of Pierce County government.
- B. **Treatment BMPs.** In the event that a person discharges stormwater into a Municipal Drainage Facility that is not of a quality that complies with County, State, and Federal technology-based requirements, or where determined necessary, water quality-based requirements, the person shall provide necessary source control/stormwater treatment BMPs as required to comply with these requirements. The Manual shall be used to select acceptable technologies. Any facility required to treat stormwater to an acceptable level shall be provided and shall be properly operated and maintained at the user's expense. Detailed engineering plans and specifications showing the treatment facilities shall be submitted to the County for review, and must be acceptable to the County before construction of the facility. The person shall obtain all necessary construction/operating permits from the County. Depending upon size and complexity of the treatment facility, the County may find it necessary to require that the facility be run by a qualified operator. Necessary qualifications shall be determined by the County in each individual case. The review of such plans shall in no way relieve the person from the responsibility of modifying its facility as necessary to produce a stormwater effluent acceptable to the County under the provisions of this Chapter. Upon completion of the treatment facility, the person shall furnish its operations and maintenance procedures to the County for review and approval. Any subsequent significant changes in the treatment facilities or operation and maintenance procedures shall be reported to and be accepted by the County prior to the person's initiation of the changes.
- C. **Inspection and Sampling.** The County may inspect the facilities of any person to determine compliance with the requirements of these regulations. The person shall allow the County to enter upon the premises of the person at all reasonable hours for the purposes of inspection, sampling, or records examination. The County shall have the right to inspect and copy any of the person's records that are required by, or that relate to, compliance with the terms and conditions of these regulations. The County shall have the right to set up on the person's property such devices as are necessary to conduct sampling, inspection, compliance monitoring, and/or metering operations.

- D. **Confidential Information.** Information and data furnished to the County with respect to the nature and frequency of discharge into the stormwater system shall be available to the public or to other governmental agencies without restriction unless the person specifically requests and is able to demonstrate to the satisfaction of the Director that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets or proprietary information of the person. When requested by a person furnishing a report, the portions of a report or other information which may disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to these regulations, NPDES Permit and/or other programs as amended; however such portions of a report or other information shall be available for use by the County, the State, or any other public agency in enforcement proceedings involving the person furnishing the report. The constituents and characteristics of the stormwater will not be recognized as confidential information. Information accepted by the County as confidential shall not be transmitted to any governmental agency or to the general public by the Director until and unless a ten day notification is given to the person.

(Ord. 2008-59s § 1 (part), 2008; Ord. 96-47 § 1 (part), 1997)

11.05.080 Enforcement.

- A. **Authorization.** The Director is authorized to enforce this Chapter and any permit, order or approval issued pursuant to this Chapter, against any violation or threatened violation thereof. Violations of this Chapter shall constitute a public nuisance. The Director is authorized to take enforcement actions against persons responsible for illicit discharges and connections, as well as dumping as described in this Chapter.
- B. **Compliance.** The Director shall attain compliance with this Chapter by requiring the implementation of BMPs and maintenance of BMPs. The Director shall initially rely on education and informational assistance to gain compliance with this Chapter, unless the Director determines a violation poses a hazard to public health, safety, or welfare, endangers any property, or adversely affects the safety and operation of County right-of-way, utilities and/or other property owned or maintained by the County, that should be addressed through immediate penalties. The Director may demand immediate cessation of discharges and assess penalties for violations that are an imminent or substantial danger to the health or welfare of persons or danger to the environment.

(Ord. 2008-59s § 1 (part), 2008; Ord. 96-47 § 1 (part), 1997)

11.05.090 Penalties.

- A. **Enforcement Actions.** The County shall be responsible for enforcing this Title. The County is authorized to issue violation notices, orders, levy fines, recover costs, issue notices of civil infraction, and/or institute both civil and criminal actions in the court. Recourse to any single remedy shall not preclude recourse to any other remedies available to the County.
- B. **Notice and Order to Correct.** The County is authorized to issue a Notice of Violation and Order to Correct for violations of this Chapter to the individuals who own or maintain the property where the violation occurred. The order shall include the following:
1. **Description of Violation.** The Notice of Violation and Order to Correct shall describe the violation and shall order appropriate corrective action(s) to be taken within a specified time period.

2. **Compliance.** Every order shall require appropriate corrective action(s) to be completed within a specified time period.
3. **Service.** The Notice and Order shall be served by any one or combination of the following methods:
 - a. by both first class and certified mail with a return receipt requested; or
 - b. by posting the order in a prominent location on the property where the violation occurred, or
 - c. by personal service.
4. **Appeals.** Appeals of written orders shall proceed according to PCC 1.22.090, Pierce County Hearing Examiner Code, as an appeal of an administrative decision. The notice of the appeal shall be submitted at the Pierce County Development Center along with payment of the required appeal fee within 14 days of the date of the order. After hearing said matter, the Examiner shall issue a decision upholding, revoking, or modifying the order.
- C. **Civil Infraction.** Failure to comply with the terms of a written order shall constitute a class 1 civil infraction to be prosecuted in accordance with Chapter 1.16 PCC. Each day that a person fails to comply with the terms of a written order issued under this Chapter shall constitute a separate violation.
- D. **Civil Penalty.** The provisions of this Section are in addition to and not in lieu of any other penalty, sanction or right of action provided by law. The purpose of this penalty is to encourage compliance with this Chapter and to obtain redress for ecological, recreational, and economic values lost or damaged due to the unlawful action. Any person who fails to obtain a necessary permit for discharge into a drainage facility shall be assessed a civil penalty as follows:
 1. The Director may assess the violator a civil penalty not to exceed \$1,000.00 for each violation. Each violation or each day of continued unlawful activity shall constitute a separate violation.
 2. Any person who, through an act of commission or omission, aids in a violation shall be considered to have committed the violation for purposes of the civil penalty.
 3. The penalty provided for in this Section shall be imposed by the Director in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty, describing the violation with reasonable particularity and ordering appropriate corrective action to be taken within a specified time.
 4. Within 30 days after the notice of penalty is received, the person incurring the penalty may apply in writing to the Director for remission or mitigation of such penalty. Upon receipt of the application, the Director may remit or mitigate the penalty upon whatever terms is deemed proper to bring about compliance with this Chapter.
 5. Any decision(s) regarding remission or mitigation of the penalties imposed pursuant to this subsection may be appealed to the Pierce County Hearing Examiner under Chapter 1.22 PCC as an appeal of an administrative decision. The appellant shall submit a notice of appeal at the Pierce County Development Center along with payment of the required appeal fee within 14 days of the date of the decision.
 6. If the penalty is not appealed, the violator will have up to 30 days after receipt of notice for payment of the penalty, unless a written request is made to the Director and granted for a longer payment period.

7. All civil penalties recovered during the enforcement of this Section shall be deposited into a fund of the division taking the enforcement action and shall be used for the protection of surface and stormwater or groundwater as set forth in this Chapter.
- E. **Recovery of Costs Incurred by the County.** Any person violating any of the provisions of this Chapter, who discharges or causes a discharge which violates the County's NPDES permit and/or produces a deposit or obstruction or causes damage to or impairs a drainage facility, or causes damage to physical, chemical, or biological systems, of waters of the State or waters of the United States, shall be liable to the County for any expense, loss, or damage caused by such violation or discharge, including the costs for bringing the County back into compliance with its NPDES permit associated with the violation of these regulations, and any fines levied for violations of the County's NPDES permit.
- F. **Appeal Rights of Recovery of Cost Assessments.** A Billing Statement issued by the Director or designee is appealable within 14 days from the date of the letter. Appeals may be filed by submitting a \$300.00 appeal fee along with written statement identifying the basis for disputing County claim to the Public Works and Utilities Department.
- G. **Violators Punishable by Fine and Imprisonment.** Any person who, without authorization, discharges pollutants into a drainage facility, uses an unapproved connection to discharge into a drainage facility, submits false information in permitting and reporting requirements, violates the terms and conditions of a permit, fails to comply with an order issued by the Director or designee, fails to pay a civil penalty or cost recovery assessment, or obstructs or damages a drainage facility shall be deemed guilty of a misdemeanor, and shall be punished by fine not to exceed \$1,000.00 or by imprisonment not to exceed 90 days, or by both such a fine and imprisonment. Each person found guilty of a violation shall be deemed guilty of a separate offense for every day during any portion of which the violation is committed, continued, or permitted by such person and shall be punishable as provided for in this Chapter. Any person who, through an act of commission or omission, procures, aids, or abets in violation shall be considered to have committed a violation for the purpose of this Section.
- H. **Injunction and other Civil Remedies.** In addition to any other penalty or method of enforcement, the prosecuting attorney may bring civil actions and suits for damages, injunctive relief and/or for other civil remedies as necessary. Any violation of this Chapter shall constitute a public nuisance, and may be enjoined as provided by the Statutes of the State of Washington.
- (Ord. 2010-106s § 1 (part), 2011; Ord. 2008-59s § 1 (part), 2008; Ord. 96-47 § 1 (part), 1997)

11.05.100 Records Retention.

All Persons subject to these regulations shall retain and preserve for no less than three years any records, books, documents, memoranda, reports, correspondence, and any and all summaries thereof, relating to operation, maintenance, monitoring, sampling, and chemical analysis made by or on behalf of a person in connection with its discharge. All records which pertain to matters which are the subject of Administrative Adjustment or any other enforcement or litigation activities brought by the Director pursuant to this Chapter shall be retained and preserved by the Person until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired. (Ord. 96-47 § 1 (part), 1997)

11.05.110 Construction – Intent.

This Chapter is enacted as an exercise of the County's power to protect and preserve the public health, safety, and welfare. Its provisions shall be liberally construed to give full effect to the objectives and purposes for which it was enacted. This Chapter is not enacted to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by the terms of this Chapter.

The primary obligation of compliance with this Chapter is placed upon the person holding title to the property. Nothing contained in this Chapter is intended to be or shall be construed to create or form a basis for liability for the County, the Department, its officers, employees or agents for any injury or damage resulting from the failure of the person holding title to the property (owner of record) to comply with the provisions of this Chapter, or by reason or in consequence of any act or omission to act in connection with the implementation or enforcement of this Chapter by the County, the Department, its officers, employees, or agents.
(Ord. 96-47 § 1 (part), 1997)

11.05.120 Severability.

If any Section, clause, or provision of this Chapter is declared invalid by the courts, the same shall not affect the validity of the Chapter as a whole or any part thereof, other than the part declared invalid. (Ord. 96-47 § 1 (part), 1997)