

City of St. Helens  
**ORDINANCE NO. 3246**

AN ORDINANCE AMENDING CHAPTER 13.20 OF THE  
ST. HELENS MUNICIPAL CODE REGARDING STORM DRAINAGE

**WHEREAS**, the City provides a valuable public service by providing storm drainage facilities for the collection and disposal of storm water discharged from properties and public rights-of-way within the City; and

**WHEREAS**, the public stormwater system constitutes a public utility owned and operated by the City and exists to provide a municipal service that is essential to public safety and the environments; and

**WHEREAS**, the public stormwater system must be managed in a manner that protects the public health and safety; pets and wildlife; and the environment; and

**WHEREAS**, all persons and businesses that live and or operate within the City have an obligation to contribute to the cost of management, maintenance, extension, and construction of the public stormwater system; and

**WHEREAS**, the City Council adopted a stormwater utility ordinance on August 5, 2003 (Ordinance No. 2887) and the ordinance now requires updating to better reflect current policies and practices.

**NOW, THEREFORE, THE CITY OF ST. HELENS ORDAINS AS FOLLOWS:**

**Section 1.** The above recitations are true and correct and are incorporated herein by this reference.

**Section 2.** The St. Helens Municipal Code Chapter 13.20 is hereby amended as per Exhibit A attached and incorporated herein by reference.

**Section 3.** The effective date of this Ordinance shall be 30 days after approval, in accordance with the City Charter and other applicable laws.

Read the first time:           December 4, 2019  
Read the second time:       December 18, 2019

**APPROVED AND ADOPTED** by the City Council this 18<sup>th</sup> day of December, 2019, by the following vote:

Ayes:   Locke, Carlson, Topaz, Morten, Scholl

Nays:   None

  
Rick Scholl, Mayor

ATTEST:

  
Kathy Payne, City Recorder

**Chapter 13.20 STORMWATER UTILITY**

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**13.20.010 Purpose.**

The purpose of St. Helens Municipal Code (SHMC) Chapter 13.20 is to provide for the effective management of stormwater and drainage, and to maintain and improve water quality in the public stormwater system and to protect beneficial uses of groundwater and waters of the state or the United States.

(1) Chapter 13.20 provides the rules and regulations for the development and maintenance of the public and private storm and surface water system(s), a comprehensive enforcement program, and a process for appeals, in order to protect surface water and groundwater.

(2) The City of St. Helens seeks to comply with the Endangered Species Act (ESA) and associated Section 4(d) Protective Regulations.

(3) The City of St. Helens seeks to comply with all provisions of the Safe Drinking Water Act and Divisions 40 and 44 of Chapter 340 of the Oregon Administrative Rules pertaining to Underground Injection Control facilities.

**13.20.020 Definitions.**

In addition to the definitions set forth in SHMC, unless the context requires otherwise, for purposes of SHMC Chapter 13.20, the following mean:

Approved Drainage System. A system approved by the manager that adequately infiltrates, collects, conveys, treats and/or disposes of stormwater runoff. Approved drainage systems shall meet all requirements and specifications of SHMC Chapter 13.20 and any design documents adopted by the city.

Best Management Practices (BMPs). Procedures, practices, prohibition of practices, activities, educational activities used to prevent or reduce the discharge of pollutants directly or indirectly to groundwater or waters of the state or the United States. BMPs include but are not limited to treatment requirements, operating and maintenance procedures, practices to control site runoff, spillage or leaks, waste disposal, and drainage of materials from storage; and the prohibition of specific activities, practices, and procedures.

Building Footprint. The area enclosed by the perimeter walls of the house and other covered structures (e.g., garage, carport, patio) for residential, or the perimeter walls of all structures for commercial/industrial.

Clean Water Act (CWA). Federal Water Pollution Control Act enacted by Public Law 92-500 as amended by Public Laws 95-217, 95-576, 96-483, and 97-117 (33 USC § 1251 et seq.).

Customer/User. The owner, renter, or lessee of property served directly or indirectly by the public stormwater system.

Development. Physical improvement to real property, including the construction of structures or the placement of pavement or other impervious surfaces that result in an increase in the area of impervious surface on the property.

Discharge. Any direct or indirect release into or that ultimately reaches the public stormwater system, surface water or groundwater.

Drainage Residential Unit (DRU). One drainage residential unit is the impervious surface area which is estimated to place approximately equal demand on the public stormwater system as that placed by an average residential dwelling unit. One DRU equals 2,500 square feet of impervious surface.

Duplex. Two dwelling units placed so that some structural parts are in common and are located on a

single lot or development site. No more than two units may be joined by a common wall.

Dwelling Unit. One or more rooms designed for occupancy by one or more persons for living purposes providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Four Plex. Four dwelling units placed so that some structural parts are in common and are located on a single lot or development site. No more than four units may be joined by common walls.

Groundwater. Water located below the ground surface or surface water which has infiltrated into the ground.

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to: a) public health and safety, b) pets and wildlife, or c) the environment, when improperly treated, stored, transported, disposed of, or otherwise managed.

Illicit Connection. An illicit connection is defined as either of the following:

(1) Any physical connection to the public stormwater system, which has not been approved by the public entity responsible for the operation and maintenance of the system.

(2) Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the public stormwater system including but not limited to any conveyances which allow sewage, process wastewater, wash water, or non-stormwater pollutants to enter the public stormwater system and any connections to the public stormwater system from indoor drains and sinks with potential to introduce pollutants to the public stormwater system.

Illicit Discharge. Any discharge to the public stormwater system that is not entirely stormwater, not covered under a Municipal or Industrial NPDES permit, or not exempted in this chapter.

Impervious Area. The calculated or measured area of impervious surfaces on a site, including sidewalks located in the public right-of-way adjacent to the site.

Impervious Surface. Any structures or surface improvements that prevent or retard infiltration of water into the surface of the soil. Common impervious surfaces include, but are not limited to rooftops, sidewalks, streets, walkways, patio areas, driveways, parking lots or storage areas, or other surfaces that similarly impede the natural infiltration or increase runoff patterns.

Improved Property. Any property, public or private, which the manager determines has been altered such that the net stormwater runoff from the site is greater than that which could be expected without the alteration. Improved property shall not include highways and roads within the State of Oregon or City of St. Helens rights-of-way.

Industrial Discharger. Discharger of stormwater associated with industrial activity as defined by 40 CFR 122.26.

Industrial NPDES Stormwater Discharge Permits. General, group, or individual permits issued by Oregon DEQ regulating facilities defined in 40 CFR 122.26 which engage in industrial activity pursuant to the Clean Water Act.

Major Storm Event. A rain or snow storm, or combined rainfall and snow melt event which produces stormwater runoff equivalent to that produced by a 10-year or larger rainfall event.

Manager. Means the public works director, engineering manager, city engineer or other person

designated by the city administrator.

Municipal Separate Storm Sewer System (MS4). MS4 means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is: 1) owned or operated by a state, city, town, borough, county, parish, district, association, or other public body having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a wastewater district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA that discharges to waters of the state or the United States; 2) designed or used for collecting or conveying stormwater; 3) which is not a combined wastewater; or 4) which is not a part of a publicly owned treatment works as defined at 40 CFR 122.2.

Municipal NPDES Stormwater Discharge Permits. Permits issued by EPA or its state delegate as defined by CWA Section 402 (b) and 40 CFR Part 123 regulating stormwater discharge to the waters of the state or the United States from MS4.

Net Stormwater Runoff. The increment of stormwater runoff from a property that is attributable to development on that property.

Non-Stormwater Discharge. Any discharge to the public stormwater system that is not entirely stormwater.

On-Site Stormwater Management. The management of stormwater as close to the impervious source as possible. For public streets, on-site stormwater management is defined as management within the public right-of-way. For commercial and industrial buildings, on-site stormwater management is defined as management within the individual tax lot. For single-family and multi-family development, on-site stormwater management is defined as management on the individual tax lot or the collective boundary of all tax lots of a multi-family development.

Open Drainageway. A natural or human-made path, swale, ditch, or channel which has the specific function of conveying natural stream water or stormwater runoff.

Pollutant. Anything which causes or contributes to pollution.

Pollution. The degradation of the physical, thermal, chemical, biological or radioactive properties of the public stormwater system or the waters of the state or the United States. Pollution also means the discharge of any pollutant into the public stormwater system or the waters of the state or the United States, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to: a) public health and safety, b) the environment, or c) both; or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses.

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

Public Stormwater System. All public facilities or improvements that infiltrate, collect, convey or control the flow of stormwater or that improve or control the water quality of stormwater. The public stormwater system includes the municipal separate storm system; the waters of the state; the waters of the United States; all creeks; natural drainageways; inlets; culverts; dams; levees; desilting, detention, retention, and recharging basins or structures; stormwater management facilities located on public property or within dedicated easements on private property; outfall structures; underground injection controls; wetlands; and equipment and appurtenances necessary to operate any of the above.

Residential Unit. As defined in Ordinance No. 2875, community development code, or its successor,

"dwelling, attached: single unit," or "dwelling, detached: single unit (one family)". A residential unit is presumed to have 2,500 square feet of impervious surface area for purposes of this chapter. The term "residential unit" shall be inclusive of those units identified as detached single-family residences, and attached single-family residences.

Stormwater. Surface runoff and drainage associated with rain storm events and snow melt.

Stormwater Customer. The person responsible for the improved property receiving stormwater services. The State of Oregon shall not be considered stormwater customers for any highway or road improvements within its rights-of-way. The State shall be stormwater customers for all other property they own within St. Helens.

Stormwater Management Facilities. Facilities that the manager has determined reduce net stormwater runoff from an improved property and/or reduce pollution into the surface water and groundwater. These facilities shall include stormwater detention, retention, and water quality treatment systems to mitigate additional runoff and associated pollutants produced from increased impervious areas, including public facilities that were constructed without public resources. On-site stormwater management using low impact development or green infrastructure shall be utilized wherever feasible. Private on-site stormwater facilities are designed and constructed to City Standards and the Oregon Plumbing Specialty Code, as applicable.

Stormwater Service. The operation of the city's stormwater utility in providing programs and facilities for maintaining, improving, regulating, collecting, and managing stormwater quantity and quality within the city's service area. This includes meeting regulatory requirements for protecting, monitoring, and reporting on water quality and on species listed under the Endangered Species Act.

Stormwater User Charge. A charge paid by the stormwater customer for the use of the public stormwater system or for the provision of stormwater service by the city.

Surface Water. Water which travels over the ground surface to the public stormwater system, a private stormwater facility, or to any waters of the state or United States.

Total Maximum Daily Load (TMDL). A calculation of the allowable pollutant loading that a body of water can receive from all contributing point and non-point sources. The calculation includes a measure of safety to ensure that the body of water complies with Section 303 of the Clean Water Act which is established by the DEQ or EPA.

Toxic Chemicals. A toxic chemical is any chemical or waste that when ingested or absorbed is harmful or fatal to living organisms as recognized by any state or federal agency.

Triplex. Three dwelling units placed so that some structural parts are in common and are located on a single lot or development site. No more than three units may be joined by common walls.

Underground Injection Control (UIC). A drywell, soakage trench, infiltration vault or chamber, improved sinkhole, sewage drain hole, subsurface fluid distribution system or other system of groundwater point source used for the subsurface emplacement or discharge of fluids.

Water Pollution Control Facility (WPCF) Permit. A permit issued by Oregon DEQ to regulate discharges to groundwater.

Waters of the United States. Surface watercourses and water bodies as defined in 20 CFR Section 122.2.

### **13.20.030 Findings.**

#### Effects of Stormwater Runoff

(1) All real property within St. Helens drains into either surface waters or the groundwater. The flow volumes of surface water and the amount of nonpoint source pollution are directly related to development of property and the creation of impervious surface.

(2) The city's growth and development have and will continue to increase the volume of stormwater runoff and the amount of stormwater pollution into the public stormwater system, except where sufficient on-site stormwater management, green infrastructure, and/or low impact development practices are used.

(3) Stormwater runoff may cause property damage and erosion. It can carry concentrations of nutrients, sediments, heavy metals, oils and toxic materials, and other pollutants into receiving waters and groundwater.

(4) Poorly maintained conveyance systems contribute to flooding hazards and property damage. Stormwater discharged into public rights-of-way, if not properly managed, will cause damage to the public rights-of-ways and will create hazards for the travelling public. Therefore, the proper disposal of stormwater is an obligation of the occupants of the property or those who engage in activity upon real property that directly or indirectly discharges stormwater into the public stormwater system, groundwater, or waters of the state or the United States.

#### Benefits of Public Stormwater System

(5) The stormwater runoff must be managed in a manner that protects the: a) public health and safety, b) pets and wildlife, and c) the environment.

(6) The city provides a valuable public service by improving the quality of stormwater discharges and maintaining a public stormwater system that collects and disposes stormwater discharged from impervious surfaces and public rights-of-way within the city. The services provided are necessary to ensure compliance with state and federal laws pertaining to stormwater discharges. Effective management of stormwater infiltration and flow helps to keep public rights- of-way free of flooding, thereby improving personal and emergency access for all users of the city's transportation system and helps to protect property, groundwater, and waters of the state and United States.

#### Private Responsibilities

(7) Every person that uses property has an obligation to minimize or eliminate detrimental impacts on other persons or property that result from such use. If a user of property alters the property in any way that increases the flow or pollutant load of water from the property, the user must provide on-site mitigation facilities to control the flow and quality of stormwater runoff and must maintain such facilities in accordance with SHMC Chapter 13.20.

#### Stormwater Utility

(8) The existing public stormwater system cannot adequately address stormwater runoff quantity and quality issues. There is a need for additional funding to provide for adequate construction, operation, and maintenance of the public stormwater system.

(9) The public stormwater system constitutes a public utility owned and operated by the city. The utility exists to provide a municipal service that is essential to: a) public health and safety, b) the environment, or c) both.

#### **13.20.040 Policy.**

(1) The council declares its intention to acquire, own, construct, reconstruct, equip, operate, regulate, and maintain within the city limits, and outside the city limits when consistent with the



council's adopted policies or intergovernmental agreements, a public stormwater system, and to require persons responsible to construct, reconstruct, maintain, and extend the public stormwater system.

(2) The construction of both the public stormwater system and private stormwater treatment facilities through or adjacent to a new development shall be provided by the person responsible for the development. Improvements shall comply with all applicable city ordinances, policies, and standards, including but not limited to the Engineering Standards Manual, the Oregon Standard Specifications for Construction, and the Oregon Plumbing Specialty Code as applicable, and the guidelines implementing Best Management Practices designed to meet the objectives and requirements of SHMC Chapter 13.20. Except as permitted by the manager, required on-site stormwater management facilities for stormwater detention, retention, and water quality treatment shall be located on private properties and shall be owned and maintained by the benefited property.

(3) No portion of this chapter, subsequent interpretations of this chapter, or policies adopted to implement this chapter shall relieve any property owner of assessments levied against real property for a local improvement project or for abating conditions on the property that violate any provision of this code.

(4) Stormwater shall be managed as close as is practicable to development, and shall mimic the natural hydrologic cycle by prioritizing infiltration techniques as much as practical. Stormwater management shall avoid a negative impact on adjoining properties, nearby streams, wetlands, groundwater, and other water bodies. All local, state, and federal permit requirements related to implementation of stormwater management facilities must be met prior to facility use. Surface water discharge from on-site stormwater management facilities shall be conveyed via an approved drainage system.

#### **13.20.050 City Responsibilities.**

The city shall manage the public facilities and improvements that are part of the public stormwater system. These facilities and improvements include but are not limited to:

- (1) Open drainageways on public property or within a public right-of-way.
- (2) Piped drainage systems and their related appurtenances which have been designed and constructed expressly for use by the general public and accepted by the city, including all drainage sumps located in the public rights-of-way or designed and located to serve the streets and public facilities.
- (3) Roadside drainage ditches along unimproved city streets, but not access drive culverts.
- (4) Flood control and water quality treatment facilities such as levees, dikes, overflow channels, detention systems, retention systems, dams, pump stations, groundwater recharging basins, water quality facilities such as ponds, swales, and filters, that have been designed and constructed expressly for use by the general public and accepted by the city, unless such facility is managed by a private entity as approved by the city.

#### **13.20.060 Private Responsibilities.**

- (1) Stormwater facilities to be managed by the persons responsible for property include but are not limited to:
  - (a) Stormwater facilities which are not part of the public stormwater system.
  - (b) Private parking lot storm drains.
  - (c) Roofs, footings, or area drains.

(d) All Underground Injection Control facilities (UICs) and associated water quality appurtenances located on private property and designed to serve the specific property.

(e) Public open drainageways located on private property, whether within a public drainage easement or not.

(f) Non-public open drainageways and culverts.

(g) Access drive culverts and roof drains in the public right-of-way.

(h) On-site private stormwater management facilities constructed as a condition of development without public resources including any detention, retention, and water quality treatment systems.

(2) Persons responsible for property shall keep public and non-public open drainageways which cross and/or enter their property cleared of debris and vegetation which impede the drainage function. If removal of vegetation would result in open soils that may erode, adequate vegetation to prevent erosion shall be maintained. Large woody debris that has fallen naturally or was anchored for habitat pursuant to a permit shall not be removed from a stream, natural pond, natural or constructed wetland. If naturally fallen large woody debris is deemed to pose public safety concerns, the responsible persons shall seek approval from the manager prior to removal.

(3) Persons responsible for property shall maintain public and non-public stormwater facilities on any property which they possess or control so as

(a) to prevent flooding or damage to other property,

(b) to prevent injury to any person or property,

(c) to prevent erosion of the watercourse, sedimentation, pollution or contamination of surface water or groundwater, and

(d) to continue to provide the stormwater detention, retention, and water quality treatment that was required at the time of project approval.

(4) The failure of persons responsible for property to comply with the obligations stated in SHMC 13.20.060(1), (2), or (3) is a violation of this chapter.

(5) The conditions on private property which may result in situations proscribed by SHMC 13.20.060(2) or (3) are declared to be a danger to: a) public health and safety, b) the environment, or both, and therefore are a nuisance to be abated as provided in SHMC Chapter 8.12.

### **13.20.070 Discharge of Pollutants.**

The commencement, conduct, or continuance of any non-stormwater discharge to the public stormwater system is prohibited and is a violation of this Chapter, except as described below.

(1) The prohibition shall not apply to any non-stormwater discharge permitted or approved under an Industrial or Municipal NPDES permit, waiver, or discharge order issued to the discharger and administered by the DEQ, provided that the discharger is in full compliance with all requirements of the permit, waiver, or discharge order and other applicable laws or regulations and provided that written approval has been granted by the city for any discharge to the municipal separate storm wastewater system (MS4).

(2)

(a) Except as provided in subsection (3), the prohibition shall not apply to the following

non-stormwater discharges to the public stormwater system, as long as best management practices are utilized to control or remove pollutants, as applicable: water line/reservoir flushing, fire hydrant flushing, dye testing in accordance with manufacturers recommendations, landscape irrigation, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration (as defined in 40 CFR 35.2005(20)) to the municipal separate storm sewer system (MS4), uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, street and pavement wash water, flows from fire-fighting, and treated water from investigation, removal, and remedial actions selected or approved by DEQ pursuant to Oregon Revised Statute (ORS) Chapter 465.

(b) “Street wash water” is defined for purposes of this section to be water that originates from publicly-financed street cleaning activities.

(c) Discharge of flows to the public or private stormwater system from private washing of sidewalks, streets and parking lots are discouraged to the maximum extent practicable.

(3) The manager may require best management practices to reduce pollutants, or may prohibit a specific discharger from engaging in a specific activity identified in subsection (2) if at any time the manager determines that the discharge is, was, or will be a significant source of pollution.

#### **13.20.080 Discharge in Violation of Permit.**

Any discharge that would result in or contribute to a violation of an existing or future Municipal NPDES Permit and any amendments, revisions, or reissuance thereof, either separately considered or when combined with other discharges, is a violation of this chapter and is prohibited. Liability for any such discharge shall be the responsibility of the persons causing or responsible for the discharge, and such persons shall defend, indemnify, and hold harmless the city in any administrative or judicial enforcement action against the permit holder relating to such discharge.

#### **13.20.090 Illicit Connections and Illicit Discharges.**

It is prohibited to establish, use, maintain, or continue illicit connections to the public stormwater system, or to commence or continue any illicit discharges to the public stormwater system.

#### **13.20.100 Waste Disposal Prohibitions.**

(1) No person or business shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, catch basin, inlet, or other component of the public stormwater system, materials that may cause or contribute to pollution or polluted runoff, including but not limited to: waste/wash waters, process by-products or waste, hazardous or toxic materials leaks, drips and spills, refuse, rubbish, garbage, litter, recycling materials, yard debris, landscape materials, compost, topsoil, bark, gravel, sand, dirt, sod, sediment or sediment-laden runoff from construction or landscaping activities, hazardous or toxic materials, or other discarded or abandoned objects, articles, and accumulations.

(2) Runoff from commercial or industrial operations or businesses related to washing of equipment, vehicles, retail products, or waste & recycling storage areas or containers shall not discharge directly to a private or public stormwater system or waters of the state or United States. Runoff from these activities shall be collected and/or diverted into the sanitary wastewater collection system, unless adequate BMPs can be used for the manager to approve an alternate discharge location.

#### **13.20.110 General Discharge Prohibitions.**

No person or person in charge of property shall discharge or cause to be discharged into a private or public stormwater system any non-stormwater discharge not expressly allowed under SHMC 13.20.070, including, but not limited to:

- (1) Any discharge having a visible sheen, or containing floating solids or discoloration (except dye testing as permitted in SHMC 13.20.070(2)(a));
- (2) Any discharge having a pH of less than 6.5 or greater than 8.5;
- (3) Any discharge which causes or may cause damage, interference, nuisance or hazard to the public stormwater system or the city personnel; or
- (4) Any discharge containing human sanitary waste or animal feces.

#### **13.20.120 Compliance with Industrial NPDES Stormwater and WPCF Permits.**

Any industrial discharger, discharger associated with construction activity, or other discharger subject to any NPDES or WPCF permit issued by the Oregon DEQ, from which pollutants may enter the public or private stormwater system, shall obtain and comply with all provisions of such permits, including notification to and cooperation with local entities as required by state and federal regulations. Proof of compliance with said permits may be required in a form acceptable to the manager prior to issuance of any grading, building, occupancy permits or business license. At the manager's request, the discharger shall submit a copy of Discharge Monitoring Reports required by NPDES or WPCF permits to the city.

#### **13.20.130 Compliance with State, Local, and Federal Regulations.**

All users of the public stormwater system and any person or entity whose actions may affect the system shall comply with all applicable federal, state, and local laws. Compliance with the requirements of this chapter shall in no way substitute for or eliminate the necessity for compliance with applicable federal, state, and local laws.

#### **13.20.140 Conflicts with Existing and Future Regulatory Requirements of Other Agencies.**

Any provisions or limitations of this chapter and any rules adopted pursuant hereto are superseded and supplemented by any applicable federal, state, or local requirements existing or adopted subsequent hereto, which are more stringent than the provisions and limitations contained herein. Any provision of this chapter and rules adopted pursuant hereto which are more stringent than any such applicable federal, state, or local requirement shall prevail and shall be the standard for compliance by the connectors to and the discharges to the public stormwater system.

#### **13.20.150 Accidental Spill Prevention and Control.**

Industrial or commercial operations who as part of their primary business function handle, store, use, dispose or recycle chemicals or materials that have the potential to cause or contribute to stormwater pollution, especially as defined in SHMC 13.20.100, are required to:

- (1) Keep a spill containment and cleanup kit within the chemical handling or usage area;
- (2) Store materials onsite in a manner that prevents or limits contact with precipitation on anything but clean, non-leaking disposal, recycling, or product containers;
- (3) Prepare, submit, and maintain an Accidental Spill Prevention Plan, upon written request by the manager.

If other laws or regulations require an Accidental Spill Prevention and Control Plan, a plan that meets the requirement of those other laws and regulations will satisfy the requirement of this section.

**13.20.160 Notification of Spills.**

As soon as any person in charge of a facility or responsible for emergency response for a facility becomes aware of any suspected, confirmed, or unconfirmed release of material, pollutants, or waste creating a risk of discharge to the public stormwater system, such persons shall:

- (1) begin containment and cleanup procedures;
- (2) notify emergency personnel in case of an emergency;
- (3) notify appropriate city officials if a spill enters the public stormwater system;
- (4) notify Oregon Emergency Response System if a spill enters a water body; and
- (5) follow-up with the city regarding compliance and modified practices to minimize future spills, as appropriate.

The notification requirements of this section are in addition to any other notification requirements set forth in Federal, state, or local regulations and laws. The notification requirements do not relieve the person of necessary remediation.

**13.20.170 Requirement to Eliminate Illicit Connections.**

(1) The manager may require by written notice that a person responsible for an illicit connection to the public stormwater system comply with the requirements of this chapter to eliminate the illicit connection or secure approval for the connection by a specified date.

(2) If, subsequent to eliminating a connection found to be in violation of the chapter, the responsible person can demonstrate that an illicit discharge will no longer occur, that person may request approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense.

**13.20.180 Requirement to Remediate.**

Whenever the manager finds that a discharge of pollutants is taking place or has taken place which will result in or has resulted in pollution of stormwater or the public stormwater system, the manager may require by written notice to the responsible person that the pollution be remediated and the affected property restored, to the standards established by the manager, within a specified time.

**13.20.190 Requirement to Monitor and Analyze.**

Whenever the manager determines that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to stormwater pollution or illicit discharges to the public stormwater system, the manager may, by written notice, order that such person undertake such monitoring activities and/or analyses and furnish such reports as the manager may deem necessary to demonstrate compliance with this chapter. The written notice shall be served either in person or by certified or registered mail, return receipt requested, and shall set forth the basis for such order and shall particularly describe the monitoring activities and/or analyses and reports required. The burden to be borne by the owner or operator, including costs of these activities, analyses and reports, shall bear a reasonable relationship to the need for the monitoring, analyses and reports and the benefits to be obtained. The recipient of such order shall undertake and provide the monitoring, analyses and reports within the time frames set forth in the order.

**13.20.200 Stormwater Treatment.**

The quality of stormwater leaving the site after development shall be equal to or better than the quality of stormwater leaving the site before development, based on the following criteria:

(1) On-site stormwater management facilities required for development shall be designed, installed and maintained in accordance with the Engineering Standards Manual, the Oregon Standard Specifications for Construction, and the Oregon Plumbing Specialty Code, as applicable.

(2) Land use activities of particular concern as pollution sources shall implement additional Best Management Practices for pollution control, including but not limited to, those management practices specified in the Engineering Standards Manual.

(3) Development in a watershed that drains to streams with established Total Maximum Daily Load limitations, as provided under the Federal Clean Water Act, Oregon Law, Administrative Rules and other legal mechanisms shall assure that on-site mitigation facilities for water quality control meet the requirements for pollutants of concern.

#### **13.20.210 Stormwater User Charge.**

Stormwater customers who use the public stormwater system or who cause or permit the discharge of net stormwater runoff directly or indirectly into the public stormwater system shall pay a stormwater user charge. It is presumed that stormwater services are used whenever the stormwater customer's property is an improved property. The State of Oregon is exempt from the stormwater user charge for all highway and road improvements within its rights-of-way. The State shall pay stormwater user charges for all other property it owns within St. Helens.

(1) Stormwater user charges shall be established by council resolution.

(2) User charges shall reflect actual costs of operation, maintenance, replacement, and capital improvements needed to serve existing development.

#### **13.20.220 Basis of Charge.**

Stormwater user charges shall be based on the average amount of impervious area for residential dwelling units including single, duplex, triplex, and/or four plex, or the amount of the impervious surface on the stormwater customer's property. The council may take into consideration water quality as well as water quantity when establishing the charge.

(1) The city will assume that the impervious area for single, duplex, triplex, and/or four plex dwelling units existing prior to or after August 5, 2003, is the average impervious area established for a single dwelling unit for each residential unit.

(a) A single family home shall be charged one DRU

(b) A duplex shall be charged two DRUs

(c) A triplex shall be charged three DRUs

(d) A four plex shall be charged four DRUs

(2) The city will assume that the impervious area for all other development, other than new single, duplex, triplex, and/or four plex dwelling units, is the actual measured impervious area.

(3) The city will assume that the impervious area for new single family, duplex, triplex, and/or four plex dwelling units is the average impervious area established for a single dwelling unit for each residential unit.

(a) A single family home shall be charged one DRU

(b) A duplex shall be charged two DRUs

(c) A triplex shall be charged three DRUs

- (d) A four plex shall be charged four DRUs

### **13.20.230 Calculation of Charge.**

(1) **New Development and Existing Improved Properties Other than Single, Duplex, Triplex, and/or Four Plex Dwelling Units.** Stormwater user charges for all new development and for existing improved properties other than single family, duplex, triplex, and/or four plex dwelling units shall be calculated by dividing the impervious area on the stormwater customer's property by 2,500 square feet and multiplying that number by the rate set for one drainage residential unit.

(a) The impervious areas for improved properties, other than for single, duplex, triplex, and/or four plex dwelling units, existing on the effective date of the adoption of this ordinance, have been individually measured through the use of any combination of the following: aerial photographs and computer analysis, actual measurement of impervious area, and calculations from city approved site plans.

(b) For all new development, other than new single, duplex, triplex, and/or four plex dwelling units, the applicant shall calculate the impervious area from city- approved site plans. The city shall review and approve the calculations.

(c) For new single, duplex, triplex, and/or four plex dwelling units, stormwater user charges shall be based on the established average of impervious area for a single dwelling unit which shall be one drainage residential unit for each residential unit. For ease of administration, the monthly user charge for each single, duplex, triplex, and/or four plex dwelling unit shall be the rate established for one drainage residential unit (DRU) per residential unit (single = 1 DRU, duplex = 2 DRU, triplex = 3 DRU, four plex = 4 DRU).

(d) For auxiliary dwelling units located on the same property as an existing single dwelling unit, the stormwater user charges shall be based on one half of the charge for a single dwelling unit (0.5 DRU per auxiliary dwelling unit).

(2) **Existing Single, Duplex, Triplex, and/or Four Plex Dwelling Units.** Stormwater user charges for single, duplex, triplex, and/or four plex dwelling units existing prior to or after August 5, 2003, shall be based on the assumed average impervious area for a single dwelling unit which shall be one drainage residential unit charged for each residential unit. For ease of administration, the monthly user charge for each single, duplex, triplex, and/or four plex dwelling unit shall be the rate established for one drainage residential unit (DRU) per residential unit (single = 1 DRU, duplex = 2 DRU, triplex = 3 DRU, four plex = 4 DRU).

(a) The city may choose to base a customer's stormwater user charge on actual measured impervious area.

### **13.20.240 Reducing Stormwater Charges.**

(1) **Reducing Stormwater Charges.** Stormwater customers may reduce their stormwater charges by:

(a) Eliminating the impervious area on their property. The city will reduce a stormwater customer's user charges if the customer is able to demonstrate to the manager's satisfaction that effective impervious area of a site has been decreased through the removal of impervious area and/or impervious area has been replaced with an approved impervious area reduction technique (i.e., installation of pervious pavement).

(b) Installing city-approved on-site stormwater management facilities. The on-site portion

of the stormwater fee will be reduced if the stormwater customer can demonstrate to the manager's satisfaction:

- (i) that their property retains all of the net stormwater runoff on-site and discharges no net stormwater runoff to the public stormwater system, even during major storm events, and
- (ii) that they do not adversely affect groundwater, surface water, or stormwater quality directly or indirectly as a result of on-site activities or the improper use of on-site stormwater management facilities.

(2) **Application to Reduce Stormwater Charges.** Stormwater customers interested in reducing their stormwater charges shall submit to the manager appropriate evidence as to why their stormwater charges should be reduced. The customer shall pay an application fee established by council resolution.

(a) Commercial, industrial, community service, and multi-family (five or more units) customers are eligible for a fee adjustment if they have on-site mitigation facilities which exceed design requirements which provide:

- (i) On-site mitigation facilities that meet all City, State, and Federal water quality requirements;
- (ii) The on-site mitigation facilities are built to City standards or approved equivalent;
- (iii) The customer establishes a maintenance program with a dedicated funding source that will maintain the on-site mitigation facility to its operational capacity;
- (iv) A civil engineer registered in Oregon certifies that the on-site mitigation facility will function to its design capacity.

(b) Reductions are not provided for systems which meet only the basic requirements for development approval.

(c) Stormwater management facilities required for the development of a residential subdivision are not eligible to be used as the mitigation facility for individual property stormwater charge reductions.

(d) Any reductions shall continue until the condition on the property is changed or until the city determines the property no longer qualifies for the reduction.

(e) All on-site stormwater management facilities eligible for discount must be designed, constructed, and maintained to standards contained in the Engineering Standards Manual, the Oregon Standard Specifications for Construction, and the Oregon Plumbing Specialty Code, as applicable.

#### **13.20.250 Stormwater Utility Fund.**

(1) There shall be a stormwater utility fund. Except for system development charges, all charges imposed and collected under this chapter shall be deposited in the stormwater utility fund.

(2) Money in the stormwater utility fund shall be used for planning, designing, and constructing the public stormwater system; for the regulation, maintenance, and administration of the public stormwater system; for providing all stormwater services, including the repayment of any indebtedness incurred before or after the effective date of this ordinance; and for all expenses related to the operation and management of the stormwater utility.

#### **13.20.260 Billing.**



(1) The city shall bill user charges on a schedule approved by the manager.

(2) Stormwater user charges may be billed on the same bill with water user charges and wastewater user charges, but shall not be combined.

#### **13.20.270 Payment.**

(1) Initial stormwater user charges begin when a building permit is issued or impervious surface is constructed, whichever is first. Charges shall be based on the planned or constructed impervious area for all new development that is not a single dwelling unit, duplex, triplex, or four plex, (i.e. commercial, industrial, apartments/multi-family, etc.) or on the DRUs established for single dwelling units, duplexes, triplexes, and four plexes. The manager may delay the commencement of these charges if the customer demonstrates hardship or special circumstances that warrant a delay.

(2) For existing development annexed into the city, stormwater user charges begin concurrently with the obligation to connect to sanitary sewerage and/or water system as provided in SHMC or when the annexation is recorded, whichever is first. The manager may phase in the amount of the user charge based on the level of service provided. The stormwater user charges shall be established pursuant to SHMC 13.20.220 and 13.20.230.

(3) When the customer changes, user charges for the new customer begins when new customer information is received by the city. If notification of the change was not received by the city prior to the change in customer, the user charge shall begin with the next billing and the new customer may be billed retroactively, not to exceed one year.

(4) If two or more persons are billed for service, they shall be jointly and individually liable and sent a single bill.

(5) Payments shall be applied as provided by SHMC Chapter 13.02.

(6) Final/closing billings are calculated as of the day the customer designates as being their last day of service or when the City receives an account closing notification, whichever is the later. The full amount of the invoice is due and payable in full after 15 days of account closing, minus any applicable deposit.

#### **13.20.280 Property Liens.**

(1) If the stormwater customer is also the owner of the property, user charges plus billing service charges, late payment charge, charge for collecting delinquent bills, damages, charges for costs incurred by the city for cleaning, repair, or replacement work caused by violation of this chapter, and any other stormwater charges incurred related to the property, shall be a lien against the property served from the date of delinquency. In the case of a closing bill where the property is being sold or transferred, the lien for the closing bill shall attach as of the day preceding the sale or transfer.

(2) When a bill for stormwater service remains unpaid for 60 days after it has been entered in the customers billing record or other city stormwater record, and recorded in the city's lien docket, the lien may be foreclosed in any manner provided by ORS 223.505 to ORS 223.650, or as otherwise provided by law.

#### **13.20.290 Adjustment of Accounts.**

Stormwater customers may request in writing a review of their user charge if they feel they are being incorrectly charged. The manager may initiate the review of a customer's stormwater user charge.

(1) If a customer's charge is reduced as a result of this review, the corrected stormwater user charge shall begin with the next billing and a credit or refund may be made retroactively, not to exceed

one year from the last billing.

(2) If a customer's charge is increased as a result of this review, the corrected stormwater user charge shall begin with the next billing and the customer may be billed for the increase retroactively, not to exceed one year from the last billing.

(3) If a customer receives other than the normal number of days of storm water services, the city shall prorate the storm water user charge. The normal number of days for stormwater services is considered the typical number of days in the month that the service is provided.

(4) The manager may write off closed accounts and retroactive bills if in the best interest of the city and may write off refunds, unless the customer requested otherwise, if the cost of making the refund would exceed the amount of the refund.

(5) If a customer has not been billed for stormwater service, the stormwater user charge shall begin with the next billing and the customer may be billed, retroactively, not to exceed one year.

#### **13.20.300 Delinquency.**

(1) Stormwater user charges are mailed no later than the twenty-eighth of the month, due upon receipt, and considered late if payment in full is not received on or before the fifteenth day of the subsequent month. Accounts are delinquent if not paid in full on or before the twenty-fifth of the subsequent month.

(2) If a customer account for stormwater user charges is delinquent, the city may discontinue any city provided water service billed to that customer. The city will follow the procedures identified in SHMC Title 13.

(3) The council may establish by resolution fees for extra services required in collecting delinquent customer accounts for user charges.

(4) The city may refuse to restore water service to the premises until the delinquent charges and other costs incurred are paid.

#### **13.20.310 Tenant Accounts.**

(1) The city's claim against a tenant is transferred to the owner of the property when the city provides notice of the delinquent status to the tenant and mails a copy of the notice of delinquency by first class mail to the last address of the owner or owner's agent that is on file with the city, within 30 days from the time the payment is due on the account. The transferred claim shall be a lien against the property served from the date of the notice of delinquency is mailed to the owner of the property. The transfer does not relieve the tenant of the obligation to pay the claim.

(2) The city may refuse to provide water service to a tenant if the tenant has a previous unpaid utility bill with the city unless the city and the tenant agree to a plan for repayment of unpaid utility bills.

(3) The city will provide information to the owner or owner's agent regarding the status of a tenant's account upon request, within a reasonable amount of time. If a request is made verbally, the city shall provide the information verbally. If the city discloses information under this subsection, the city shall not be held responsible for the disclosure of information to a person who is not an owner or owner's agent.

#### **13.20.320 Administrative Regulations.**

The manager may adopt such rules and regulations as are necessary for the administration of the duties required by this chapter and for the: a) public health and safety, b) the environment, or c) both; and

welfare.

#### **13.20.330 Recovery of Delinquent Charges.**

For those accounts where the city does not have the ability to collect stormwater charges in connection with or as part of the charge for another service or utility that can be curtailed to secure collection, the city may certify to the tax assessor of Columbia County the amount of any delinquent user charges, fees for collecting delinquent user charges, and billing service charges. When so certified, they shall be assessed against the premises served in the same manner as other taxes are certified, assessed, collected, and paid.

#### **13.20.340 Violation.**

A violation shall have occurred when any requirement or provision of SHMC Chapter 13.20 has not been complied with. Violation of any provision of SHMC Chapter 13.20 may be subject to enforcement action by the manager.

#### **13.20.350 Authority to Inspect.**

(1) The manager may enter any property, building or premises to perform an inspection to ensure compliance with any provision of SHMC Chapter 13.20.

(2) As used in this section, inspection includes, but is not limited to, physical inspection, sampling, metering or recording on site activities, or reviewing and copying records, all as necessary to ensure compliance with SHMC Chapter 13.20.

#### **13.20.360 Acts Resulting in Violation of Federal Law.**

Any person who violates any provision of SHMC Chapter 13.20 or the Engineering Standards Manual, or any provision of any stormwater-related permit issued by DEQ, or who discharges waste or wastewater which causes pollution, or who violates any cease and desist order, prohibition, or effluent limitation, also may be in violation of the federal Clean Water Act, Safe Drinking Water Act or the Endangered Species Act and may be subject to the sanctions of these Acts including civil and criminal penalties.

#### **13.20.370 Fines, Penalties and Other Enforcement Tools.**

(1) Any condition caused or permitted to exist in violation of any provision of SHMC Chapter 13.20 is a threat to: a) public health and safety, b) the environment, or c) both. Any such condition is unlawful and constitutes a nuisance.

(2) In addition to any other remedies provided herein, violation of any section of SHMC Chapter 13.20 may be enforced as set forth in SHMC Chapter 8.12, or as otherwise authorized by law.

(3) Unless otherwise specified, violation of any provision of SHMC Chapter 13.20 may be subject to a fine or penalty of \$250 for one day to a maximum amount of \$5,000 for a continuing violation.

(4) Each day on which a violation occurs or continues is a separate offense and may be subject to a separate fine or penalty.

#### **13.20.380 Disclaimer of Liability.**

The degree of protection required by SHMC Chapter 13.20 is considered reasonable for regulatory purposes and is based on scientific, engineering, and other relevant technical considerations. The standards set forth herein are minimum standards and compliance does not ensure that there will be no unauthorized discharge of pollutants into the public stormwater system. SHMC Chapter 13.20 shall not create liability on the part of the city, any agent or employee thereof for any damages that result from

reliance on SHMC Chapter 13.20 or any administrative decision lawfully madethereunder.