

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THURSTON COUNTY CODE, SECTION 15.07,
REGARDING ILLICIT DISCHARGE DETECTION AND ELIMINATION**

WHEREAS, The Federal Clean Water Act established the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters.

WHEREAS, the U.S. Environmental Protection Agency delegates development and administration of Clean Water Act National Pollutant Discharge Elimination System (NPDES) municipal stormwater permits in Washington to the Washington State Department of Ecology; and

WHEREAS, the Washington State Department of Ecology issued the Western Washington Phase II Municipal Stormwater Permit NPDES and State Waste Discharge General Permit for discharges from Small Municipal Separate Storm Sewers in Western Washington (Phase II Permit) in 2007 with the most recent permit reissuance in 2019; and

WHEREAS, Chapter RCW 90.48.030 provides that the Washington State Department of Ecology shall have jurisdiction to control and prevent the pollution of streams, lakes, rivers, ponds, inland waters, salt waters, water courses, and other surface and underground waters of the state of Washington; and

WHEREAS, the Phase II Permit requires each permittee to implement an ordinance or other enforceable mechanism addressing Source Control and adopt and make effective a local program no later than August 1, 2022; and

WHEREAS, the Board desires to comply with these requirements and further protect public infrastructure and the ground and surface waters of Washington State; and

WHEREAS, the Board held a duly noticed public hearing to hear comments on and consider the proposed code changes on **July 19, 2022 at 3:00 p.m.**

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THURSTON COUNTY, AS FOLLOWS:

Section 1. Thurston County Code, section 15.07 is hereby amended to read as follows:

15.07 Stormwater Pollution Prevention

Sections:

15.07.010 - Purpose and intent.

- A. The purpose and intent of this chapter is to protect Thurston County's surface water and groundwater quality by providing minimum requirements for eliminating, reducing, or controlling the discharge of pollutants to publicly owned or operated storm drainage systems within unincorporated Thurston County. The County acknowledges that degradation to public water resources occurs from a single discharge or cumulatively from many individual discharges. Accordingly, this chapter prohibits the discharge of pollutants into public storm drainage facilities.
- B. The County finds this ordinance is necessary to ensure the health, safety, and welfare of the residents of Thurston County; to protect the beneficial uses of the County's water resources for purposes such as recreation, fishing, water supplies, aesthetic value, and other beneficial uses; and to preserve and

enhance the biological integrity of the aquatic environment. The County also recognizes that clean water contributes to an enhanced quality of life and long-term economic benefit for its citizens.

- C. This chapter is enacted as an exercise of the County's authority 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. 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) or its operators 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. No. 14404, § 2, 9-7-2010)

15.07.020 - Authority.

Thurston County is required to establish rules and regulations to control the discharge of pollutants into storm drainage systems under the Federal Clean Water Act, 33 U.S.C. 1251 et seq.; the State of Washington Water Pollution Control Law, Chapter 90.48 RCW; and in order to comply with the requirements of the Western Washington Phase II Municipal Stormwater Permit. The Thurston County Board of County Commissioners through RCW 36.32.120 has the authority to make and enforce appropriate ordinances within the unincorporated area of the County related to building, health and safety, public nuisances, and other subjects.

(Ord. No. 14404, § 2, 9-7-2010)

15.07.030 - Definitions.

When used in this chapter, the following terms have the meanings set out below.

"AKART" means all known, available, and reasonable methods of prevention, control, and treatment.

"Best Management Practices (BMPs)" means the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices approved by the Washington State Department of Ecology that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State.

"Chapter" means this chapter.

"Clean Water Act" means 33 U.S.C. 1251 et. seq., as amended.

"County" means Thurston County, Washington.

"Director" means the Director of the Thurston County Public Works Department or any duly authorized representatives of the Director.

"Discharge" means to throw, drain, release, dump, spill, empty, emit, or pour forth any matter or to cause or allow matter to flow, drain, run, or spill into a storm drainage system, surface water, ground water, or onto the surface of the ground.

"Drainage Manual" means the manual entitled "Drainage Design and Erosion Control Manual for Thurston County" as adopted by the Thurston County Commissioners in August 2009 and effective on November 16, 2009, or as subsequently amended. The Drainage Manual describes design, maintenance, best management practice, procedures, guidance for stormwater system for new development, redevelopment, and prevention or treating of pollutants in stormwater. The Drainage Manual is to be

utilized by governments, businesses, industries, and private residence within unincorporated Thurston County.

"Ground water" means water in a saturated zone or stratum beneath the surface of the land or beneath a surface water body. Refer to Chapter 173-200 WAC.

"Hazardous substance" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or WAC 173-303-100.

"Heated water" means water that has a higher temperature than the ambient conditions of the receiving water as a result of intentional or incidental heating for human use. For example, water from hot tub draining or a discharge from steam cleaning activity.

"Illicit connection" means any infrastructure connection to the municipal storm drainage system that is not intended, permitted, or used for collecting and conveying stormwater or non-stormwater discharges specifically allowed in Section 15.07.060 of this chapter. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the municipal storm drainage system.

"Illicit discharge" means any discharge to a municipal storm drainage system not composed entirely of stormwater or composed of non-stormwater except those specifically allowed in Section 15.07.060 of this chapter.

"May"/"Shall". "May" is permissive, "Shall" is mandatory.

"Municipal storm drainage system" means any conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) designed or used for collecting or conveying stormwater which Thurston County owns, operates, or has rights-of-way or easements to maintain.

"Municipal Stormwater Permit" means municipal stormwater general permits issued by the Washington State Department of Ecology, in compliance with the provision of the State of Washington Water Pollution Control Law Chapter 90.48 Revised Code of Washington and the Federal Water Pollution Control Act Title 33 United States Code, Section 1251 et seq., covering discharges from municipal stormwater systems.

"National Pollutant Discharge Elimination System (NPDES)" means the national program for issuing, modifying, revoking, reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Section 307, 402, 318, and 465 of the Federal Clean Water Act from point sources. The Washington State Department of Ecology administers the NPDES program in Washington State.

"National Pollutant Discharge Elimination System Permit" means a permit issued by the United States Environmental Protection Agency (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

"Non-stormwater discharge" means any discharge that is not composed entirely of stormwater.

"Owner/operator" means any of the following: a person or entity with an ownership interest in the premises, a person or entity who occupies or has control over the premises, or a person or entity who participates in any activity on the premises regulated by this chapter.

"Person" means any individual, association, municipality, government agency, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner or as the owner's agent.

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

"Pollutant Generating Source" means any site where pollutant-generating activities occur outdoors and have the potential to produce an illicit discharge. Pollutant-generating activities include any activity regulated under 15.05.010, Volume IV of the Drainage Manual and include, but are not limited to: cleaning and washing activities; transfer of liquid or solid material; production and application activities; dust, soil, and sediment control; commercial animal care and handling; log sorting and handling; boat building, mooring, maintenance, and repair; logging and tree removal; mining and quarrying of sand, gravel, rock, peat, clay, and other materials; cleaning and maintenance of swimming pools and spas; deicing and anti-icing operations for airports and streets; maintenance and management of roof and building drains at manufacturing and commercial buildings; maintenance and operation of railroad yards; maintenance of public and utility corridors and facilities; and maintenance of roadside ditches.

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

"Responsible party" means the owner or operator of a property, premises, or facility on which a violation of this chapter has occurred, any person who engages in any activity in violation of this chapter, or any person who, through an act of commission or omission, procures, aids or abets a violation of this chapter.

"Shall"/"May". "Shall" is mandatory. "May" is permissive.

"Source control" means a structure or operation that is intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants. Source control BMPs can be either structural or operational. Structural source control BMPs are physical structures, or mechanical devices, or facilities that are intended to prevent pollutants from entering stormwater. Operational BMPs are non-structural practices that prevent or reduce pollutants from entering stormwater.

"Source control BMP" means a structure or operation that is intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants. See definition in the Thurston County Drainage Manual's Glossary for details.

"State" when used as a noun, means the state of Washington.

"Storm drainage system" means any constructed features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat, or filter stormwater. Constructed components of stormwater drainage systems include, but not limited to, pipes, swales, ditches, culverts, street gutters, detention ponds, retention ponds, constructed wetlands, infiltration devices, catch basins, oil/water separators, and biofiltration swales.

"Stormwater" means runoff during and following precipitation and snowmelt events, including surface runoff, drainage, or interflow.

"Surface water" includes lakes, rivers, ponds, streams, inland waters, salt waters, and all other surface waters and water courses within the jurisdiction of the State of Washington.

"Treatment" means the reduction or elimination of pollutants in stormwater prior to its discharge to the receiving water.

"Treatment BMP" means a BMP intended to remove pollutants from stormwater. Examples of treatment BMPs include wetponds, infiltration ponds, oil/water separators, biofiltration swales, and constructed wetlands.

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

“Waters of the United States” refers to the definition in 40 CFR 122.2.

(Ord. No. 14404, § 2, 9-7-2010)

15.07.040 - Administration.

The Director is authorized to implement and enforce the provisions of this chapter. The Director shall have the authority to issue permits, impose conditions, provide written approvals, and conduct inspections and investigations as necessary to assure compliance with the provisions of this chapter. The Director will coordinate the implementation and enforcement of this chapter with other departments of Thurston County government.

(Ord. No. 14404, § 2, 9-7-2010)

15.07.050 - Applicability.

This chapter applies to unincorporated Thurston County.

(Ord. No. 14404, § 2, 9-7-2010)

15.07.060 - Discharge prohibitions.

A. Illicit discharges. No person shall dump, spill, or allow to be discharged any pollutant into a municipal storm drainage system. Examples of illicit discharges include, but are not limited to, the following:

1. Trash or debris;
2. Construction materials;
3. Petroleum products;
4. Antifreeze and other automotive products;
5. Metals in either particulate or dissolved form, in excess of naturally occurring amounts;
6. Paints, stains, resins, lacquers, or varnishes;
7. Degreasers and/or solvents;
8. Commercial and household cleaning materials;

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9. Pesticides, herbicides, or fertilizers; Steam cleaning wastes;
 10. Soaps, detergents, or ammonia;
 11. Chlorine, bromine, and other disinfectants;
 12. Heated water;
 13. Swimming pool or hot tub water not in accordance with 15.07.060.B.2;
 14. Human and animal wastes;
 15. Sewage;
 16. Food waste;
 17. Collected yard waste;
 18. Concrete and concrete by-products;
 19. Silt, sediment, including dirt, sand, and gravel;
 20. Chemicals not normally found in uncontaminated water;
 21. Any hazardous substance or waste not listed above.

B. Allowable Discharges. The following categories of non-stormwater discharges shall not be considered illicit discharges under this ordinance unless the Director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause significant pollution of surface water or groundwater, or is causing or contributing to a violation of the County's Municipal Stormwater Permit:

1. Potable water, 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, is pH-adjusted, and the volume and velocity are controlled to prevent erosion and re-suspension of sediments in the stormwater drainage system and in the receiving water
2. Dechlorinated swimming pool discharges, provided that they are dechlorinated to a concentration of 0.1 ppm, pH-adjusted and re-oxygenated if necessary, and the volume and velocity are controlled to prevent erosion and re-suspension of sediments in the stormwater drainage system and in the receiving water. Discharges shall be thermally controlled to prevent an increase in temperature of the receiving water. Discharge of swimming pool cleaning wastewater and filter backwash water is prohibited.
3. Air conditioning condensation.
4. Uncontaminated water from crawl space pumps or footing or foundation drains.
5. Uncontaminated pumped ground water.
6. Natural uncontaminated surface water or ground water.
7. Uncontaminated roof runoff water.
8. Street and sidewalk wash water, water used to control dust, and external building wash down that does not use detergents, provided the discharge is minimized.
9. Non-stormwater discharges covered by and in full compliance with another NPDES or State Waste Discharge Permit.
10. Discharges from emergency firefighting activities.

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11. Discharges containing water tracing dyes used specifically for the purpose of drainage system or pollution investigations. Any persons conducting dye tests, other than County departments must provide verbal notification to the Director prior to initiation of the dye test.
 12. A person employing properly designed, constructed, implemented, and maintained BMPs and carrying out AKART to prevent pollution of stormwater is considered to be in compliance with sub-section 15.07.060.A above.
- C. Reporting Illicit Discharges. A person must report to the County spills hotline any spill, release, dumping, or other situation that constitutes an illicit discharge to a storm drainage system as described in Section 15.07.060.A at the earliest possible time, but in any case, within twenty-four hours of obtaining that knowledge. This reporting requirement is in addition to, and does not replace, any other reporting requirements under federal, state, or local laws.
- D. Prohibition of Illicit Connections.
1. Prohibition of illicit connections. The construction, use, maintenance, or continued existence of an illicit connection to any municipal storm drainage system is prohibited. This prohibition expressly includes, without limitation, connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection, except for connections conveying discharges listed in Section 15.07.060.B above provided the conditions are met.
 2. Exceptions. The Director may allow connection to a municipal storm drainage system, through written authorization on a case by case basis. Special conditions may be required by the Director as part of such an authorization to connect.
- E. It shall be a violation of this chapter to fail to remove pollutants associated with a discharge from a private storm drainage system that enters the municipal storm drainage system.

(Ord. No. 14404, § 2, 9-7-2010)

15.07.070 - Prohibited use of stormwater drainage facilities.

The use of storm drainage systems shall be limited to their intended function to collect, convey, detain, retain, infiltrate, and/or treat stormwater with the exception of limited recreation use and open space as allowed through County land use codes and for necessary maintenance activities. Uses of storm drainage systems other than for the purposes of collecting, conveying, detaining, retaining, infiltrating, and/or treating stormwater shall be prohibited. Examples of prohibited uses include, but are not limited to, livestock grazing and keeping, excluding animals used for limited duration as a BMP for vegetation removal; gardening; building of structures; storage or stockpiling of materials and wastes; and vehicle parking. (Ord. No. 14404, § 2, 9-7-2010)

15.07.080 - Requirements for pollution prevention.

Any activity that might discharge pollutants to a public drainage facility must apply applicable Drainage Manual BMPs. Applicable operational BMPs must be utilized for all potential pollutant generating sources to prevent or eliminate an illicit discharge from occurring. Implementation of structural source control BMPs, treatment BMPs/facilities, or both shall be required for pollutant generating sources if operational BMPs are not effective in preventing or eliminating an illicit discharge or violations of surface water, groundwater, or sediment management standards because of inadequate stormwater controls. The Drainage Manual shall be used to select acceptable source control BMPs and, when applicable, the design, operation,

and maintenance of structural BMPs. In cases where the Drainage Manual lacks guidance for a specific source of pollutants, the owner/operator shall work with the County to implement or adapt BMPs based on the best professional judgement of the County.

Persons implementing BMPs in full compliance through another federal or state NPDES stormwater or State Waste Discharge Permit will not be required to implement the BMPs prescribed in the Drainage Manual unless the Director determines that the alternative BMPs are ineffective in reducing the discharge of pollutants. If a stormwater pollution prevention plan was prepared in compliance with the federal or state NPDES stormwater or State Waste Discharge Permit, the person shall make their plan available to the County upon request.

(Ord. No. 14404, § 2, 9-7-2010)

15.07.090 - Enforcement.

- A. Authorization. The Director is authorized to enforce this chapter and any order, or approval issued pursuant to this chapter. Violations of this chapter shall constitute a public nuisance. Any person in violation of this chapter shall be subject to enforcement and penalties pursuant to TCC 15.07.110 through TCC 15.07.180.

Each violation of this chapter, or any order or approval issued pursuant to this chapter, shall be a separate offense. In cases of a violation, each day's continuance shall be deemed to be a separate and distinct offense.

- B. Compliance. The Director shall gain compliance with this chapter by requiring the implementation of BMPs and AKART. The Director shall initially rely on education and technical assistance to gain compliance with this chapter, unless the Director determines that a flagrant, serious, or purposeful violation occurred or poses a hazard to public health, safety, welfare, or causes environmental damage. Enforcement actions may include:

1. Technical assistance
2. Issue a notice of violation
3. Enter into a voluntary compliance agreement
4. Issue a cease and desist order
5. Issue a civil penalty
6. Seek any other available judicial remedy, including but not limited to securing an order for abatement, judicial lien against the violator's property, or criminal search warrant.

(Ord. No. 14404, § 2, 9-7-2010)

15.07.100 - Notice of violation and order to correct.

- A. Notice of Violation. When the Director determines that there has been a violation of this chapter, the Director may give notice to the property owner, or person in possession of the property where the violation originates, or the responsible party(ies). Such written notice shall include:

1. Name and address of the person responsible for the violation;
2. Street address or description sufficient for identification of the premises or land upon which the violation has occurred or is occurring;
3. A description of the violation and reference to the violated provision(s) of this chapter ;
4. Required corrective action(s) and a date by which the correction(s) must be completed; and

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5. A statement indicating the right to file an appeal and request a hearing before the hearing examiner.

Exceptions to notice of violation. The Director may commence enforcement action and resort to any of the penalties set forth in this chapter without issuing a notice of violation under any of the following circumstances:

1. When the violation creates an imminent threat to public health and safety or the environment.
 2. When the violation creates damage which cannot be corrected.
 3. When a person has been issued a notice of violation of the same provision of this chapter within the previous twenty-four months.
- B. Service of Notice. The Director shall serve the notice of violation either personally or by registered or certified mail to such person at their last known address. If the person cannot after due diligence be personally served and if an address for mailed service cannot after due diligence be ascertained, the notice of violation shall be served by posting the notice conspicuously on the affected property or structure. Proof of service shall be made by a written declaration, under penalty of perjury executed by the person effecting the service, declaring the time and date of service; the manner the service was made; and, if by posting, the facts showing that due diligence was used in attempting to serve the person personally or by mail.

15.07.110 Compliance Agreement

- A. Whenever the Director determines that a code violation has occurred or is occurring, the Department may enter into a compliance agreement, as described below:
1. The Director is responsible for guiding the form and content of any compliance agreement;
 2. The compliance agreement constitutes a collaborative written commitment between the County and those responsible for correcting the violation;
 3. A compliance agreement may be entered into at any time after issuance of a verbal or written warning, a citation, a restoration requirement, a notice of violation or a cease and desist order, and before an appeal is decided pursuant to this title.
 4. The compliance agreement is not a settlement agreement. In the event the agreement is terminated, the voluntary process shall be part of the record in the event subsequent enforcement actions are appealed. The voluntary correction agreement shall, at a minimum, include the following:
 - a. The name and address of an individual accepting responsibility for code compliance;
 - b. The address or other identification of the location of the violation;
 - c. A description of the violation and a reference to the provision(s) of the ordinance, resolution, regulation, or approval condition violated;
 - d. A description of the corrective action needed and identification of the date and time compliance must be achieved. For the purpose of this subsection, the County may require that compliance be achieved by a specific date or by a date determined based on the occurrence of some future event;

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- e. The compliance actions imposed pursuant to TCC Chapter 15.07 if the voluntary correction agreement is not satisfied; and
 - f. An acknowledgment that the compliance agreement may be recorded against the property with the Thurston County Auditor as provided by state law.

(Ord. No. 14404, § 2, 9-7-2010)

15.07.120 - Cease and desist order.

The Director may issue a cease and desist order for violations of this chapter by posting it upon the property and attempting to serve it pursuant to Section 15.07.110.B.

The order shall include a description of the specific nature, extent, date of the violation if known, and any damage or potential damage resulting from the violation; and a notice that the violation or the potential violation must cease and desist or, in appropriate cases, specify the corrective action(s) to be taken within a given time.

- A. **Effective Date.** The cease and desist order issued under this section shall become effective immediately upon posting of the order in a conspicuous manner on the property.
- B. **Compliance.** Failure to comply with the terms of a cease and desist order can result in enforcement action including, but not limited to, the issuance of a civil penalty.

(Ord. No. 14404, § 2, 9-7-2010)

15.07.130 - Civil penalty.

- A. When the Director determines that there has been a violation of this chapter, the Director may issue a notice of civil penalty to the responsible party(ies) for the violation and assess such person(s) a civil penalty not to exceed one thousand dollars for each violation. In cases of a violation, each day's continuance shall be deemed to be a separate and distinct offense.

The Director is authorized to reduce or waive the assessed penalty for persons who immediately self-report violations to the County in accordance with 15.078.060.C.

- B. The written notice of civil penalty shall include the following:
 - 1. Name and address of the person responsible for the violation;
 - 2. Street address or description sufficient for identification of the premises or land upon which the violation has occurred or is occurring;
 - 3. Description of violation: A description of the violation and a reference to the provision(s) of this chapter that has been violated;
 - 4. Required corrective action(s) and a date by which the correction(s) must be completed;
 - 5. Amount of the penalties and the dates they will accrue and a statement of any costs and expenses expended by the County that are assessed in accordance with this chapter; and
 - 6. A statement indicating the right to file an appeal and request a hearing before the hearing examiner.

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- C. Service of Notice. The Director shall serve the notice of civil penalty pursuant to Section 15.07.110.B of this chapter.
 - D. Extension. No extension of any deadline specified in the notice of civil penalty may be granted, unless set forth in writing by the Director or in a written decision of the hearing examiner.
 - E. Continued Duty to Correct. Payment of a monetary penalty pursuant to this chapter does not relieve the person to whom the notice of civil penalty was issued of the duty to correct the violation.
 - F. Collection of Civil Penalty. If no appeal is requested in accordance with Section 15.07.190, the Director shall serve a notice of penalties due. The notice shall be served pursuant to Section 15.07.110.B of this chapter and shall state the amount of the penalties, the date payment is due, and directions for making payment in person or by mail. This notice of penalties due cannot be appealed.

The monetary penalty constitutes a personal obligation of the person to whom the notice of civil penalty is directed. Any monetary penalty assessed must be paid to the County as directed in the notice issued or in accordance with the hearing examiner decision within ten calendar days from the date of mailing of the Notice or hearing examiner's decision.

After the due date for payment of the penalties, the Director and/or the prosecuting attorney or his/her designee is authorized to take appropriate action to collect the monetary penalty.

(Ord. No. 14404, § 2, 9-7-2010)

15.07.140 - Criminal penalty.

Any person who violates this chapter, or violates the terms and conditions of any written authorization, violates a cease and desist order, or fails to pay a civil penalty or cost recovery assessment shall be guilty of a misdemeanor and shall be punished by fine not to exceed one thousand dollars or by imprisonment not to exceed ninety 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 or continued.

(Ord. No. 14404, § 2, 9-7-2010)

15.07.150 - 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. No. 14404, § 2, 9-7-2010)

15.07.160 - Abatement and assessment of costs.

- A. After all appeals have been exhausted or if no timely appeal is filed, and the owner or responsible party(ies) to whom the order was directed have failed to comply with the final decision and order, the Director may take actions to remove, contain, clean-up, and/or decontaminate the property, and/or source of the illicit discharge or connection as well as may assess all costs against the property, the persons to whom the order was directed, and the owners of the property upon which the cost was incurred. This includes recovery of costs associated with cleaning or restoring the municipal storm drain system.

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- B. Notice of the costs incurred shall be sent by certified mail to the owners of the property upon which the costs are assessed or other persons against whom the costs are charged. The Director may modify the amount, methods, or time of payment of such costs as deemed just, considering the condition of the property and the circumstances of the owner.
 - C. Any such costs charged as personal obligations of the property owner or persons to whom the order was directed may be collected by use of all appropriate legal remedies.
 - D. Any such costs assessed against real property may be certified to the County treasurer, who shall enter the amount due and owing upon the assessment rolls. The assessment shall constitute a lien against the property which shall be of equal rank with state, county, and municipal taxes. Any amounts so entered on the assessment rolls shall be collected at the same time, with interest at such rates, and in such manner, as provided for in RCW 84.56.020, as now or hereafter amended, and, when delinquent, shall be collected in the same manner as delinquent taxes.
 - E. Any amounts collected shall be distributed to any fund or source of funds for the program area from which payment for the work was made.

(Ord. No. 14404, § 2, 9-7-2010)

15.07.170 - Emergency orders.

Nothing in this chapter shall limit the authority of Thurston County to act under any other legal authority. The powers conferred by this chapter shall be in addition to and supplemental to the powers conferred by any other law. If the Director determines that immediate action is necessary to protect the public health and safety or the environment, such action may be taken directly by the County or be ordered to be taken, and any person to whom such an order is directed shall comply immediately. Costs incurred by the County may be assessed and collected pursuant to Section 15.07.170. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the Director as provide in Section 15.07.190 shall be afforded a hearing as soon as possible. Any appeal of an emergency order shall not act as a stay of the required action.

(Ord. No. 14404, § 2, 9-7-2010)

15.07.180 - Appeal procedures.

- A. Appeals of Administrative Decisions. Appeals may be taken to the hearing examiner by any person aggrieved by any order, requirement, decision, or determination made by an administrative official in the administration or enforcement of this chapter. Appeals shall be filed in writing with the Public Works Department within fourteen calendar days of the date of the notice of the decision being appealed on a form provided by the Department. Appeals shall be considered in the manner prescribed by Chapter 2.06 TCC except that TCC 2.06.060 through 2.06.085 shall not apply.
- B. Hearing Examiner Decision Final. The decision of the hearing examiner on an appeal under this chapter is final. The hearing examiner shall not entertain motions for reconsideration. All appeals in front of the hearing examiner are considered open record hearings.
- C. Judicial Appeals.

The final decision by the hearing examiner may be appealed to Superior Court pursuant to Chapter 36.70C RCW.

(Ord. No. 14404, § 2, 9-7-2010)

15.07.190 - Severability.

If any provision of this chapter or its application to any person or circumstance is held to be invalid, the remainder of this chapter and the application of the provision to other persons or circumstances shall not be affected.

(Ord. No. 14404, § 2, 9-7-2010)

Section 2. Severability. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, illegal or unenforceable by any court or agency of competent jurisdiction, the remainder of the ordinance and its applicability to other persons and circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance shall take effect on August 1, 2022.

Section 4. Corrections. Upon approval of the Prosecuting Attorney’s Office, the Clerk of the Board is authorized to make any necessary corrections to any section, subsection, sentence, clause, phrase or other portion of this Ordinance for scribes or clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

ADOPTED this ____ day of _____, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
Thurston County, Washington

Clerk of the Board

Chair

APPROVED AS TO FORM:

Vice Chair

JOHN TUNHEIM
PROSECUTING ATTORNEY

By: _____
Deputy Prosecuting Attorney

Commissioner

CODIFY