

Committee Members

Councilmember Scott Drennen
Councilmember Gregg Bradshaw
City Administrator Scott Larson
PW Director Greg Reed
Finance Director Gretchen Russo
Engineer Maryanne Zukowski
Engineer JC Hungerford
Secretary Laura Hinds
Permit & Records Clerk Alison Williams

City of Orting Public Works Committee
AGENDA



Wednesday, October 6, 2021 – 2:30 p.m.
Public Works Operations Facility, Conference Rm, 900 Rocky Rd NE

- Call Meeting to Order, Roll Call
- Approval of Minutes
- Public Comment & Presentations

DEPARTMENT REPORTS

Est. Time Action

1. PHASE 1 – SR 162 BRIDGE – JC Hungerford 1.1	Min	
2. ENGINEERING – Maryanne Zukowski 2.1 Whitehawk SW Connector <ul style="list-style-type: none"> I. Funding Authorization for Notice of Relocation Eligibility Entitlements Wiles. II. Funding Authorization for Scope and Budget increase Supplement 1 w/Parametrix III. Public Involvement: Impact to public residences due to project (ongoing) NEW BUSINESS – JC Hungerford 2.2 Source Control Code Revisions (JH)	Min 5 15 15 5	
3. ADMINISTRATION – Scott Larson 3.1 NEW BUSINESS 3.2	Min	
4. PUBLIC WORKS – Greg Reed <ul style="list-style-type: none"> 4.1 Sidewalk Ordinance 4.2 Crawler Camera Bids received 4.3 Planter Bulbs 4.4 Street Sweeping Schedule NEW BUSINESS <ul style="list-style-type: none"> 4.5 Tree Assessment 4.6 Wingate Water Line 	Min 5 5 1 2 2 2	

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5. FINANCE – Gretchen Russo 5.1	Min	
6. COUNCIL – CM Drennen & CM Bradshaw 6.1 NEW BUSINESS	Min	

REQUEST FOR NEW BUSINESS

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ROUND TABLE

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MEETING SUMMARY

ADJOURN



PUBLIC WORKS AGENDA REPORT REQUEST

Old Business

DEPARTMENT: City - Engineering

Topic	Summary	Time Needed

Topic	Summary	Time Needed

Topic	Summary	Time Needed

New Business:

Topic	Summary	Time Needed
Policy: Funding Authorization	Whitehawk Boulevard Extension: Notice of Relocation Eligibility Entitlements (NOE) Wiles. The Consultant and WSDOT have approved us meeting with the property owners. Staff will be requesting spending authority through the committees intended for a request for approval on October 27, 2021. Hand Outs will be distributed at the meeting	5 minutes

Topic	Summary	Time Needed
Policy: Funding Authorization	Whitehawk Boulevard Extension: Scope and Budget increase Supplement 1 with Parametrix will include base budget increases, an overview of design, right of way, and construction costs based on WSDOT and City intersection control selections. PPT and handouts are needed for this presentation with discussion. The scope of work needs to be defined through committees with a council decision on October 27, 2021 to meet funding and process timelines.	15 minutes

Topic	Summary	Time Needed
Policy: Public Involvement	Staff has received concepts of transportation projects that impact public residences to include Kansas Street	15 minutes

City of Orting Public Works Committee Agenda Request
For Meeting of October 6, 2021



	<p>Reconstruction and Whitehawk Boulevard Extension. Staff is pursuing policy question into developing this program for early input on design impacts to prepare a public involvement and engagement program to identify roles and approval processes. Handouts will be distributed as an overview on the needs for a policy decision. May continue to other meetings.</p>	
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1PUBLIC WORKS AGENDA REPORT REQUEST

Old Business

DEPARTMENT: Parametrix - Engineering

Topic	Summary	Time Needed

Topic	Summary	Time Needed

Topic	Summary	Time Needed

New Business:

Topic	Summary	Time Needed
Source Control Code Revisions	The Western Washington Phase II Municipal Stormwater Permit requires that all permittees pass code revisions related to source control Best Management Practices (BMPs) prior to August 1, 2022. Parametrix has red lined the attached relevant sections of Title 9 of the Orting Municipal Code for review.	5 Mintues

Topic	Summary	Time Needed

Topic	Summary	Time Needed

CITY OF ORTING

Source Control Ordinance

9-5A-4: DEFINITIONS:

SOURCE CONTROL BMPs: A structure or operation 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. Operational source control BMPs are non-structural practices that prevent or reduce pollutants from entering stormwater. Operational source control BMPs generally include activities such as inspection, cleaning, and maintenance. Structural source control BMPs are physical, structural, or mechanical devices or facilities that are intended to prevent pollutants from entering stormwater or provide treatment of stormwater. Source control BMPs generally include physical measures such as coverings and constructed BMPs. Source control BMPs do not exclusively manage or control stormwater.

9-5A-9: GENERAL REQUIREMENTS:

H. Illicit Discharges: Illicit discharges to stormwater drainage systems, surface water or groundwater are prohibited. "Permitted discharges" are defined in section 9-5A-4 of this article. Sites are subject to inspection for illicit discharges in accordance with section 9-5B-10 of this chapter. The following are prohibited discharges to any public or private stormwater drainage system or natural conveyance system that discharge to surface or ground waters of the state:

1. Discharges from potable water sources, including water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water that are not dechlorinated to the limits identified herein. Planned discharges shall be dechlorinated to a concentration of 0.1 ppm or less, pH adjusted, if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in the stormwater drainage system.
2. Discharges from lawn watering and other irrigation runoff that are not minimized.
3. Swimming pool discharges that are not dechlorinated to the limits identified herein. The discharges shall be dechlorinated to a concentration of 0.1 ppm or less, pH adjusted and reoxygenized if necessary, volumetrically and velocity controlled to prevent resuspension of sediments in the stormwater drainage system. Swimming pool cleaning wastewater and filter backwash shall discharge to sanitary sewer system.
4. Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents that are not minimized. At active construction sites, street sweeping must be performed prior to washing the street.
5. Nonstormwater discharges covered by another NPDES permit unless the permittee is in full compliance with all permit requirements, waiver or order and other applicable laws and regulations, and that written approval by the director has been granted for the discharge into the city's stormwater drainage system.

6. Other nonstormwater discharges. The discharges shall be in compliance with the requirements of the stormwater pollution prevention plan approved by the director, which addresses control of construction site dewatering discharges by applying AKART to prevent contaminants from entering surface water or groundwaters.

J. Stormwater Source Control:

Commented [JC1]: This was copied from Sub-section H. Modified as needed for source control program

1. The businesses or activities Listed in Table 1, when permitted by the City, shall implement stormwater source control Best Management Practices (BMPs) when such business or activities are performed outdoors subject to rainfall and runoff of pollutants.

Table 1. Businesses or Activities Subject to Stormwater Source Control

<u>Business or Activity</u>	<u>Standard Industrial Code (SIC) Major Group</u>	<u>SIC Industry Group No.</u>	<u>North American Industry Classification System (NAICS) Major Group</u>
<u>Support Activities for Animal Production</u>		<u>074, 075</u>	<u>1152xx</u>
<u>Construction of Buildings</u>	<u>15</u>		<u>236</u>
<u>Heavy and Civil Engineering Construction</u>	<u>16</u>		<u>237</u>
<u>Specialty Trade Contractors</u>	<u>17</u>		<u>238</u>
<u>Beverage, Food, and Tobacco Manufacturing</u>	<u>20</u>		<u>311, 312</u>
<u>Wood Product Manufacturing</u>	<u>24</u>		<u>321</u>
<u>Paper Manufacturing</u>	<u>26</u>		<u>3221xx, 3222xx</u>
<u>Printing and Related Support Activities</u>	<u>27</u>		<u>323</u>
<u>Chemical Manufacturing</u>	<u>28</u>		<u>325</u>
<u>Petroleum and Coal Products Manufacturing</u>	<u>29</u>		<u>3241xx</u>
<u>Plastics and Rubber Product Manufacturing</u>	<u>30</u>		<u>326</u>
<u>Leather and Allied Product Manufacturing</u>	<u>31</u>		<u>316</u>
<u>Nonmetallic Mineral Product Manufacturing</u>	<u>32</u>		<u>327</u>
<u>Primary Metal Manufacturing</u>	<u>33</u>		<u>331</u>
<u>Fabricated Metal Product Manufacturing</u>	<u>34</u>		<u>332</u>
<u>Machinery, Computer, and Electronic Product manufacturing</u>	<u>35</u>		<u>333, 334</u>
<u>Electrical Equipment, Appliance, and Component Manufacturing</u>	<u>36</u>		<u>335</u>
<u>Transportation Equipment Manufacturing</u>	<u>37</u>		<u>336</u>

<u>Business or Activity</u>	<u>Standard Industrial Code (SIC) Major Group</u>	<u>SIC Industry Group No.</u>	<u>North American Industry Classification System (NAICS) Major Group</u>
<u>Rail Transportation</u>	<u>40</u>		<u>482</u>
<u>Transit and Ground Passenger Transportation</u>	<u>41</u>		<u>485</u>
<u>Truck Transportation and Warehousing</u>	<u>42</u>		<u>484, 493</u>
<u>Support Activities for Transportation</u>		<u>473, 474, 478</u>	<u>4881xx, 4882xx, 4884xx, 4889xx,</u>
<u>Utilities</u>	<u>49</u>		<u>2211xx</u>
<u>Wholesale Trade – Durable Goods</u>		<u>501, 503, 505, 506, 507, 509</u>	<u>423140, 423930, 423110, 4233xx, 4237xx, 4238xx,</u>
<u>Wholesale Trade – Nondurable Goods</u>		<u>514, 515, 516, 517, 518, 519</u>	<u>424930, 4244xx, 4246xx, 4247xx, 4248xx,</u>
<u>Building Materials, Hardware, Garden Supplies Dealers</u>		<u>521, 523, 526</u>	<u>444</u>
<u>Food and Beverage Stores</u>	<u>54</u>		<u>445</u>
<u>Automotive Dealers and Gasoline Service Stations</u>	<u>55</u>		<u>441, 447</u>
<u>Food Services and Drinking Places</u>	<u>58</u>		<u>722</u>
<u>Rental and Leasing Services</u>		<u>735</u>	<u>5321xx, 5324xx</u>
<u>Repair and Maintenance</u>	<u>75</u>		<u>811192, 8111xx, 8112xx, 8113xx, 8114xx,</u>
<u>Ambulatory Health Care Services and Hospitals</u>		<u>806, 807</u>	<u>621910,</u>
<u>Educational Services</u>	<u>82</u>		<u>6111xx, 6112xx, 6113xx, 6115xx</u>
<u>Museums, Historical Sites, and Similar Institutions</u>		<u>842</u>	<u>712</u>

Notes:

Listing is from Washington State Department of Ecology Western Washington Phase II Municipal Stormwater Permit, Appendix 8 – Urban Land Uses and Pollutant Generating Sources, August 2019. Listing is for consistency with NPDES Permit and does not imply the business or activity will be permitted by the City.

2. Source control BMPs for new businesses or activities Listed in Table 1 shall be identified in permit application packages. Source control BMPs shall be identified in the Stormwater Site Plan (SSP) for projects triggering a SSP.

3. No later than August 1, 2022, existing businesses or activities listed in Table 1 shall begin implementing operational source control BMPs where operational BMPs are not currently provided. The basis of operational source control BMPs shall be provided to the City if the City finds that the selected source control BMPs or their implementation are not effective in preventing or reducing pollutant runoff. Selection and implementation of structural source control BMPs may be required by the City subject to the enforcement provisions of Chapters 9-5B-11 and 9-5B-12 OMC. Source control BMPs for existing businesses or activities listed in Table 1 shall be fully compliant as required by Chapter 9-5B-11 OMC.

3. Source control BMPs shall be selected, implemented and maintained in accordance with the adopted stormwater manual identified in Chapter 9-5A-9.A OMC.

4. Source control BMPs not identified in the adopted stormwater manual but which may still be appropriate may be submitted for an adjustment or variance in accordance with Chapter 9-5A.16 OMC provided that such source control BMPs provide equivalent protection to the BMPs identified in the adopted stormwater manual. Permit applications shall document proposed source control BMPs, identify why BMPs in the adopted stormwater manual are not applicable or suitable, and state that the proposed BMPs will provide equivalent or better protection.

5. Structural source control BMPs, or treatment BMPs/facilities, or both, shall be required for pollutant generating sources if operational source control BMPs do not prevent illicit discharges or violations of surface water, groundwater, or sediment management standards because of inadequate stormwater controls.

9-5A-17: ENFORCEMENT:

A. General: Except with regard to illicit discharges and illicit connections or stormwater source control for land uses listed in Chapter 9-5A-9.J.1 Table 1, enforcement action shall be in accordance with this article and title 1, chapter 13 of this code whenever a person has violated any provision of this article, or any requirement imposed or order issued pursuant to this article. The choice of enforcement action and the severity of any penalty shall be determined by the director, in consultation with the city attorney when considering criminal penalties, based on the nature of the violation, the damage or risk to the public or to public resources, and/or the degree of bad faith of the person subject to the enforcement action, and whether or not the violation was intentional. Violation of this article includes any act or omission causing, allowing, permitting, aiding, abetting, directing, controlling, suffering or concealing an act or omission in violation of this article. In addition to the listed enforcement options, the city may also pursue any other lawful civil, criminal or equitable remedy or relief. Enforcement options are cumulative and shall not be deemed exclusive. The definitions set forth in title 1, chapter 13 of this code shall apply throughout this section.

B. Unlawful Activities: Any structure, condition, act or omission which violates any provision of this article or any provision of a civil regulatory order shall be, and the same

is declared to be, unlawful and is subject to the enforcement and penalty provisions of this section and section [9-5A-18](#) of this article and title 1, chapter 13 of this code.

C. Nuisance: Any act or omission declared to be unlawful pursuant to this article shall constitute a public nuisance, and may be abated using the procedures for abatement of public nuisances as set forth in this code or as otherwise allowed by law.

D. Criminal Violation: Any act or omission declared to be unlawful pursuant to this article shall constitute a misdemeanor and punishable by a fine of up to one thousand dollars (\$1,000.00) or imprisonment up to ninety (90) days in jail, or by both such fine and imprisonment.

E. Violation: Any act or omission declared to be unlawful pursuant to this article shall constitute a violation and shall be subject to enforcement by the director pursuant to title 1, chapter 13 of this code.

F. Monetary Penalties: Any act or omission declared to be unlawful pursuant to this article is subject to administrative enforcement and monetary penalties pursuant to section [9-5A-18](#) of this article and title 1, chapter 13 of this code.

G. Civil Regulatory Order: The director shall have the authority to issue and serve a civil regulatory order pursuant to title 1, chapter 13 of this code that orders the cessation of any activity that is in violation of this article whether occurring on public or private property. The director shall have the authority to include in the civil regulatory order, or to issue and serve in a separate order, an order to take corrective action to bring any noncompliant activity, structure, or condition into compliance with this article. The director shall have the authority to serve a person a civil regulatory order if an action is being undertaken in violation of this article. If a portion of a project or activity is in violation of this article, the director may issue a civil regulatory order for the entire project or activity.

1. Posting And Notice: The director shall prominently post a civil regulatory order at the subject property, unless access to the property for such posting is denied or unsafe, and shall make reasonable attempts to serve the civil regulatory order pursuant to section [1-13-7](#) of this code.

2. Effect: When a civil regulatory order has been posted on the subject property or, otherwise served in accordance with the foregoing subsection G1 of this section, it is a violation of this article for any person with actual or constructive knowledge of the order to conduct the activity or do the work covered by the order until such time as the director has removed or authorized removal of the order. It is further a violation of this article for any person to fail to take corrective action as required by the director in the stop work/corrective action order to bring the unlawful activity into compliance with this article.

3. Effective Date: The civil regulatory order issued under this section shall become effective immediately upon the earlier of posting on the subject project or receipt by the person to whom the order is directed.

4. Extension: Upon written request received prior to the correction date or time set forth in the civil regulatory order, the director may extend the date set for correction for good cause. The director may consider substantial completion of the necessary correction or unforeseeable circumstances which render completion impossible by the date established as good cause.

5. Removal Or Destruction: It is a violation of this article for any person other than the director, to remove, relocate, alter, conceal, damage, deface or destroy a civil regulatory order posted on the subject property pursuant to this subsection.

6. Compliance: Failure to comply with the terms of a civil regulatory order, including timely completion of requirements for taking corrective action, may result in enforcement actions including, but not limited to, the issuance of a notice of civil violation or civil infraction.

H. Enforcement: Enforcement regarding illicit connections or illicit discharges or stormwater source control for land uses listed in Chapter 9-5A-9.J.1 Table 1 will be performed by the city in accordance with section 9-5B-11 of this chapter. (Ord. 911, 8-31-2011)

9-5A-18: ADMINISTRATIVE ENFORCEMENT/PENALTY:

A. Monetary Penalties: Any person in violation of this article may, in addition to any other penalty imposed pursuant to this article, be subject to monetary penalties per day or portion thereof for each violation of this article. Monetary penalties imposed, or to be imposed shall be specified in the notice of violation.

B. Penalty: Except as may be otherwise set forth herein, the monetary penalty assessed shall not exceed one thousand dollars (\$1,000.00) per day for each such day that a violation occurs or continues to occur. The monetary penalty constitutes a personal obligation of the person to whom the notice of civil violation is directed.

C. Collection Of Penalty: The city attorney, on behalf of the city, is authorized to collect the monetary penalty by use of appropriate legal remedies, the seeking or granting of which shall neither stay nor terminate accrual of additional per diem monetary penalties so long as the violation continues.

D. Failure To Pay Penalty: Failure to timely pay a monetary penalty imposed herein shall be and constitute a misdemeanor.

E. Correction Of Violation: Payment of a monetary penalty pursuant to this section does not relieve a person of the duty to cease the unlawful activity or correct the violation as ordered by the director.

F. Application For Remission Or Mitigation: Any person incurring a monetary penalty may apply for remission or mitigation of such penalty pursuant to section 1-13-6 of this code. Upon receipt of the application, the city may remit or mitigate the monetary penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original monetary

penalty. The decision may be appealed to the superior court of Pierce County pursuant to the standards set forth in chapter 36.70C Revised Code Of Washington.

G. Penalties Due: Monetary penalties imposed under this section shall become due and payable pursuant to section 1-13-6 of this code. Whenever an application for remission or mitigation is made, penalties shall become due and payable thirty (30) days after receipt of the decision regarding the remission or mitigation. Whenever an appeal of a monetary penalty is filed, the penalty shall become due and payable after all review proceedings and a final decision has been issued confirming all or part of the penalty. If the amount of a penalty owed the city is not paid within the time specified, the city may take actions necessary to recover such penalty.

H. Penalties Imposed: Penalties for illicit connections or illicit discharges or violation of stormwater source control requirements will be imposed by the city in accordance with sections 9-5B-11 and 9-5B-12 of this chapter. (Ord. 911, 8-31-2011)

9-5B-10: INSPECTION, AND ILLICIT DISCHARGE, AND STORMWATER SOURCE CONTROL PROGRAM:

A. Inspection: Whenever implementing the provisions of the inspection program or whenever there is cause to believe that a violation of this article has been or is being committed through illicit connection, illicit discharge or other means, or violation of the stormwater source control requirements, the director is authorized to inspect during regular working hours and at other reasonable times all public or private stormwater drainage systems within the city to determine compliance with the provisions of this article.

B. Procedures: Prior to making any inspections, the director shall present identification credentials, state the reason for the inspection and request entry.

1. If the property or any building or structure on the property is unoccupied, the inspector shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the property or portions of the property and request entry.

2. If after reasonable effort, the inspector is unable to locate the owner or other person(s) having charge or control of the property, and has reason to believe the condition of the stormwater drainage system creates an imminent hazard to persons or property, the inspector may enter.

3. The director may inspect the stormwater drainage system without consent, if:

a. The inspection can be conducted while remaining on public property or other property on which permission to enter is obtained; or

b. A warrant has been lawfully issued.

C. Inspection Schedule: The director shall establish a master inspection and maintenance schedule to inspect appropriate stormwater facilities that are not owned by the city. Critical stormwater facilities may require a more frequent inspection schedule.

D. Inspection And Maintenance Records: As existing stormwater facilities or operational source control BMPs are encountered, they shall be added to the master inspection and maintenance schedule. For existing business or activities in Chapter 9-5A-9.J.1 Table 1 permitted prior to August 1, 2022, documentation shall be prepared and retained supporting the basis of the selected operational control BMPs required per Chapter 9-5A-9.J.3 OMC. Records of new stormwater facilities shall include the following:

1. As built plans and locations;
2. Findings of fact from any exemption granted by the local government;
3. Operation and maintenance requirements and records of inspections, maintenance actions and frequencies; and
4. Engineering reports, as appropriate.

E. Reporting Requirements: The director shall report annually to the utility committee of the city council about the status of the inspections. The annual report may include, but need not be limited to, the proportion of the components found in and out of compliance, the need to upgrade components, enforcement actions taken, compliance with the inspection schedule, the resources needed to comply with the schedule, and comparisons with previous years.

F. Illicit Connections, ~~Or~~ Illicit Discharges, Or Stormwater Source Control Violations:

1. Access For Inspection: Access to the following shall be obtained by the city in accordance with the provisions of this section:

a. Areas known or thought to contain illicit connections or illicit discharges or activities contributing to illicit discharges or stormwater source control violations; and

b. Locations identified through the city's illicit discharge detection and elimination program as documented in the stormwater management plan developed in accordance with the NPDES phase II permit.

c. Businesses or activities identified in 9-5A-9.J.1 OMC requiring stormwater source control BMPs.

2. Enforcement: Illicit connections or illicit discharges or stormwater source control violations shall be corrected in accordance with the provisions of sections 9-5B-11 and 9-5B-12 of this article.

3. Penalties: Penalties for not complying with illicit connection or illicit discharge or stormwater source control enforcement actions shall be assessed in accordance with the provisions of sections 9-5B-11 and 9-5B-12 of this article. (Ord. 911, 8-31-2011)

9-5B-11: ENFORCEMENT:

A. General: Enforcement action shall be in accordance with this article and title 1, chapter 13 of this code whenever a person has violated any provision of this article, or

any requirement imposed or order issued pursuant to this article, or any prohibition upon an illicit connection or illicit discharge or stormwater source control violation pursuant to article A of this chapter. Businesses or activities that were permitted prior to August 1, 2022 and are identified in Chapter 9-5A-9.J.1 Table 1 for which source control BMPs were not previously required shall be subject to the full provisions of Chapter 9-5B-11 and in full compliance with Chapter 9-5A-9.J OMC by January 1, 2023. The choice of enforcement action and the severity of any penalty shall be determined by the director, in consultation with the city attorney when considering criminal penalties, based on the nature of the violation, the damage or risk to the public or to public resources, and/or the degree of bad faith of the person subject to the enforcement action, and whether or not the violation was intentional. Violation of this article, or any prohibition upon an illicit connection or illicit discharge pursuant to article A of this chapter, includes any act or omission causing, allowing, permitting, aiding, abetting, directing, controlling, suffering or concealing an act or omission in violation of this article. In addition to the listed enforcement options, the city may also pursue any other lawful civil, criminal or equitable remedy or relief. Enforcement options are cumulative and shall not be deemed exclusive. The definitions set forth in title 1, chapter 13 of this code shall apply throughout this section.

B. Unlawful Activities: Any structure, condition, act or omission which violates any provision of this article, or any prohibition upon an illicit connection or illicit discharge or stormwater source control violation pursuant to article A of this chapter, or any provision of a civil regulatory order shall be, and the same is declared to be, unlawful and is subject to the enforcement and penalty provisions of this section and section 9-5B-12 of this article and title 1, chapter 13 of this code.

C. Nuisance: Any act or omission declared to be unlawful pursuant to this article shall constitute a public nuisance, and may be abated using the procedures for abatement of public nuisances as set forth in this code or as otherwise allowed by law.

D. Criminal Violation: Any act or omission declared to be unlawful pursuant to this article shall constitute a misdemeanor and punishable by a fine of up to one thousand dollars (\$1,000.00) or imprisonment up to ninety (90) days in jail, or by both such fine and imprisonment.

E. Violation: Any act or omission declared to be unlawful pursuant to this article shall constitute a violation and shall be subject to enforcement by the director pursuant to title 1, chapter 13 of this code.

F. Monetary Penalties: Any act or omission declared to be unlawful pursuant to this article is subject to monetary penalties pursuant to section 9-5B-12 of this article.

G. Civil Regulatory Order: The director shall have the authority to issue and serve a civil regulatory order pursuant to title 1, chapter 13 of this code that orders the cessation of any activity that is in violation of this article or any prohibition upon an illicit connection or illicit discharge or stormwater source control violation pursuant to article A of this chapter, whether occurring on public or private property. The director shall have authority to include in the civil regulatory order, or to issue and serve in a separate civil

regulatory order, an order to take corrective action to bring any noncompliant activity, structure, or condition into compliance with this article. The director shall have the authority to serve a person responsible for the violation a civil regulatory order if an action is being undertaken in violation of this article, or for any prohibition upon an illicit connection or illicit discharge or stormwater source control pursuant to article A of this chapter.

1. Posting And Notice: The director shall prominently post a civil regulatory order at the subject property and shall make reasonable attempts to serve the civil regulatory order pursuant to section 1-13-7 of this code.

2. Effect: When a civil regulatory order has been posted on the subject property or otherwise served in accordance with subsection G1 of this section, it is a violation of this article for any person with actual or constructive knowledge of the order to conduct any activity or work upon the subject property prohibited by the order until such time as the director has removed or authorized removal of the order. It is further a violation of this article for any person to fail to take corrective action, as required by the director in the stop work/corrective action order, to bring the unlawful activity or condition into compliance with this article.

3. Effective Date: The civil regulatory order issued under this section shall become effective immediately upon the earlier of posting on the subject project or receipt by the person to whom the order is directed.

4. Extension: Upon written request received prior to the correction date or time set forth in the civil regulatory order, the director may extend the date set for correction for good cause. The director may consider substantial completion of the necessary correction or unforeseeable circumstances which render completion impossible by the date established as good cause.

5. Removal Or Destruction: It is a violation of this article for any person other than the director, to remove, relocate, alter, conceal, damage, deface or destroy a civil regulatory order posted on the subject property pursuant to this subsection.

6. Compliance: Failure to comply with the terms of a civil regulatory order, including timely completion of requirements for taking corrective action, may result in enforcement actions including, but not limited to, the issuance of a notice of civil violation or civil infraction. (Ord. 911, 8-31-2011)

9-5B-12: ADMINISTRATIVE ENFORCEMENT/PENALTY:

A. Monetary Penalties: Any person in violation of this article, or any prohibition upon an illicit connection or illicit discharge or stormwater source control violation pursuant to article A of this chapter, may, in addition to any other penalty imposed pursuant to this article, be subject to monetary penalties per day or portion thereof for each civil violation. Monetary penalties imposed, or to be imposed shall be specified in the notice of violation.

B. Penalty: Except as may be otherwise set forth herein, the monetary penalty assessed shall not exceed one thousand dollars (\$1,000.00) per day for each such day

that a violation occurs or continues to occur. The monetary penalty constitutes a personal obligation of the person to whom the notice of violation is directed. The maximum monetary penalty for each violation may be trebled for:

1. Repeat violation, which means an additional violation of a requirement of this article for which the responsible party has previously received a notice of civil violation and failed to correct the violation by the compliance date;
2. A violation resulting in physical harm to persons or to private or public property;
3. A knowing or deliberate violation;
4. A violation resulting from gross negligence or reckless conduct.

C. Collection Of Penalty: The city attorney, on behalf of the city, is authorized to collect the monetary penalty by use of appropriate legal remedies, the seeking or granting of which shall neither stay nor terminate accrual of additional per diem monetary penalties so long as the violation continues.

D. Failure To Pay Penalty: Failure to timely pay a monetary penalty imposed herein shall be and constitute a misdemeanor.

E. Correction Of Violation: Payment of a monetary penalty pursuant to this subsection does not relieve a person of the duty to cease the unlawful activity or correct the violation as ordered by the director.

F. Application For Remission Or Mitigation: Any person incurring a monetary penalty may apply in writing for remission or mitigation of such penalty pursuant to section [1-13-6](#) of this code. The decision may be appealed to the superior court of Pierce County pursuant to the standards set forth in chapter 36.70C Revised Code Of Washington.

G. Penalties Due: Monetary penalties imposed under this section shall become due and payable pursuant to section [1-13-6](#) of this code. Whenever an application for remission or mitigation is made, penalties shall become due and payable thirty (30) days after receipt of the decision regarding the remission or mitigation. Whenever an appeal of a monetary penalty is filed, the penalty shall become due and payable after all review proceedings and a final decision has been issued confirming all or part of the penalty. If the amount of a penalty owed the city is not paid within the time specified, the city may take actions necessary to recover such penalty.

H. Voluntary Correction Agreement:

1. Initiation: Either the person responsible for the violation or the director may initiate negotiations for a voluntary correction agreement at any time pursuant to section [1-13-5](#) of this code and the requirements of this subsection H. The director has no obligation to enter into any voluntary correction agreement.

2. Contents: A voluntary correction agreement shall set forth actions to be taken by the responsible party that will correct past or existing violations of this article, or any prohibition upon an illicit connection or illicit discharge [or stormwater source control violation](#) pursuant to article A of this chapter. It may also set forth actions to mitigate the

impacts of violations. The voluntary correction agreement shall set forth a schedule for completion of the corrective and mitigating actions. It shall contain a provision allowing the director to inspect the premises to determine compliance with the voluntary compliance agreement.

3. Effect Of Voluntary Compliance Agreement:

a. A voluntary compliance agreement is a binding contract between the party executing it and the city. It is not enforceable by any other party. All voluntary compliance agreements shall provide that the responsible party agrees the city may perform the actions set forth in the voluntary compliance agreement if the responsible party fails to do so according to the terms and schedule of the agreement, and the responsible party will pay the costs, expenses, and damages the city incurs in performing the actions. By entering into a voluntary compliance agreement, a responsible party admits the violation and waives the right to an administrative appeal of the stop work/corrective action order.

b. Monetary penalties may be reduced or waived if violations are corrected or mitigated according to the terms and schedule of a voluntary correction agreement. If the responsible party fails to perform according to the terms and schedule of the voluntary compliance agreement, penalties for each violation addressed in the agreement may be assessed starting from the date the violation occurred.

4. Modification: The terms and schedule of the voluntary compliance agreement may be modified by mutual agreement of the responsible party and the director if circumstances or conditions outside the responsible party's control, or unknown at the time the agreement was made, or other just cause necessitate such modifications.

I. Adherence Required: If the voluntary correction agreement or civil regulatory order is not adhered to, the city may provide such actions as needed to repair, restore, or maintain the stormwater drainage system. If at any time the city determines that the existing stormwater drainage system creates any eminent threat to public health or welfare, the city may take immediate measures to remedy said threat. No notice to the owner of the facility shall be required under such circumstances.

J. Responsibility For Cost: The owner and persons in control of stormwater facilities are responsible for the cost of any maintenance and for repairs to the stormwater facility. Such responsibility shall include reimbursement to city within thirty (30) days of the receipt of the invoice for any such work performed by or on behalf of the city. Overdue payments will require payment of interest at the current legal rate for liquidated judgments. If legal action ensues, any costs or fees incurred by city will be borne by the parties responsible for said reimbursements.

K. Failure To Pay Costs: In the event owner or person in control of the subject property fails to pay the city within thirty (30) days from the date that the costs were incurred, the city shall have the right to file a lien against the real property for all charges and expenses incurred. A lien specifying the expenses incurred and giving a legal description of the premises sought to be charged shall be filed with the county auditor within ninety (90) days from the date of the completion of the work. The same may at

any time thereafter be collected in the manner provided for foreclosure of mechanic's liens under the laws of the state of Washington. (Ord. 911, 8-31-2011)

L. Businesses or activities that were permitted prior to August 1, 2022 and are identified in Chapter 9-5A-9.J.1 Table 1 for which source control BMPs were not previously required shall be subject to the full provisions of Chapter 9-5B-12 and in full compliance with Chapter 9-5A-9.J OMC by January 1, 2023.

EXCEPRTS FROM
NPDES PHASE II MUNICIPAL PERMIT
SECTION S5.C.8.8

8. Source Control Program for Existing Development

- a. The Permittee shall implement a program to prevent and reduce pollutants in runoff from areas that discharge to the MS4. The program shall include:
 - i. Application of operational source control BMPs, and if necessary, structural source control BMPs or treatment BMPs/facilities, or both, to pollution generating sources associated with existing land uses and activities.

- ii. Inspections of pollutant generating sources at publicly and privately owned institutional, commercial and industrial sites to enforce implementation of required BMPs to control pollution discharging into the MS4.
- iii. Application and enforcement of local ordinances at sites, identified pursuant to S5.C.8.b.ii, including sites with discharges authorized by a separate NPDES permit. Permittees that are in compliance with the terms of this Permit will not be held liable by Ecology for water quality standard violations or receiving water impacts caused by industries and other Permittees covered, or which should be covered under an NPDES permit issued by Ecology.
- iv. Practices to reduce polluted runoff from the application of pesticides, herbicides, and fertilizers from the sites identified in the inventory.

b. Minimum performance measures:

- i. No later than **August 1, 2022**, Permittees shall adopt and make effective an ordinance(s), or other enforceable documents, requiring the application of source control BMPs for pollutant generating sources associated with existing land uses and activities (see Appendix 8 to identify pollutant generating sources).

The requirements of this subsection are met by using the source control BMPs in the SWMMWW, or a Phase I Program approved by Ecology. In cases where the manual(s) lack guidance for a specific source of pollutants, the Permittee shall work with the owner/operator to implement or adapt BMPs based on the best professional judgement of the Permittee.

Applicable operational source control BMPs shall be required for all pollutant generating sources. Structural source control BMPs, or treatment BMPs/facilities, or both, shall be required for pollutant generating sources if operational source control BMPs do not prevent illicit discharges or violations of surface water, groundwater, or sediment management standards because of inadequate stormwater controls. Implementation of source control requirements may be done through education and technical assistance programs, provided that formal enforcement authority is available to the Permittee and is used as determined necessary by the Permittee, in accordance with **S5.C.8.b.iv**, below.

- ii. No later than August 1, 2022, the Permittees shall establish an inventory that identifies publicly and privately owned institutional, commercial, and industrial sites which have the potential to generate pollutants to the MS4. The inventory shall include:
 - (a) Businesses and/or sites identified based on the presence of activities that are pollutant generating (refer to Appendix 8).
 - (b) Other pollutant generating sources, based on complaint response, such as: home-based businesses and multi-family sites.
- iii. No later than January 1, 2023, Permittees shall implement an inspection program for sites identified pursuant to S5.C.8.b.ii, above.
 - (a) All identified sites with a business address shall be provided information about activities that may generate pollutants and the source control

requirements applicable to those activities. This information shall be provided by mail, telephone, electronic communications, or in person. This information may be provided all at one time or spread out over the permit term to allow for tailoring and distribution of the information during site inspections.

- (b) The Permittee shall annually complete the number of inspections equal to 20% of the businesses and/or sites listed in their source control inventory to assess BMP effectiveness and compliance with source control requirements. The Permittee may count follow-up compliance inspections at the same site toward the 20% inspection rate. The Permittee may select which sites to inspect each year and is not required to inspect 100% of sites over a 5-year period. Sites may be prioritized for inspection based on their land use category, potential for pollution generation, proximity to receiving waters, or to address an identified pollution problem within a specific geographic area or sub-basin.
 - (c) Each Permittee shall inspect 100% of sites identified through credible complaints.
 - (d) Permittees may count inspections conducted based on complaints, or when the property owner denies entry, to the 20% inspection rate.
- iv. **No later than January 1, 2023**, each Permittee shall implement a progressive enforcement policy that requires sites to comply with stormwater requirements within a reasonable time period as specified below:
- (a) If the Permittee determines, through inspections or otherwise, that a site has failed to adequately implement required BMPs, the Permittee shall take appropriate follow-up action(s), which may include phone calls, reminder letters, emails, or follow-up inspections.
 - (b) When a Permittee determines that a site has failed to adequately implement BMPs after a follow-up inspection(s), the Permittee shall take enforcement action as established through authority in its municipal codes or ordinances, or through the judicial system.
 - (c) Each Permittee shall maintain records, including documentation of each site visit, inspection reports, warning letters, notices of violations, and other enforcement records, demonstrating an effort to bring sites into compliance. Each Permittee shall also maintain records of sites that are not inspected because the property owner denies entry.
 - (d) A Permittee may refer non-emergency violations of local ordinances to Ecology, provided, the Permittee also makes a documented effort of progressive enforcement. At a minimum, a Permittee's enforcement effort shall include documentation of inspections and warning letters or notices of violation.
- v. Permittees shall train staff who are responsible for implementing the source control program to conduct these activities. The ongoing training program shall cover the legal authority for source control, source control BMPs and their proper application, inspection protocols, lessons learned, typical cases, and enforcement

procedures. Follow-up training shall be provided as needed to address changes in procedures, techniques, requirements, or staff. Permittees shall document and maintain records of the training provided and the staff trained.



PUBLIC WORKS AGENDA REPORT REQUEST

Old Business

DEPARTMENT: PUBLIC WORKS

Topic	Summary	Time Needed
Crawler Camera	Crawler Camera Bids Results, move to Study Session	5 minutes

Topic	Summary	Time Needed
Planter Bulbs	Joe P., Code Enforcement Officer talked to owners	1 minutes

Topic	Summary	Time Needed
Street Sweeping, first full week of the month.	Monday: River's Edge/Carbon River landing Tuesday: Village Green Wednesday: Whitehawk & Rainier Meadows Thursday: Calistoga Place & The Meadows Friday AM: Downtown	2 minutes

New Business:

Topic	Summary	Time Needed
Tree Assessment	Assessing Trees on City Properties	2 minutes

Topic	Summary	Time Needed
Wingate Water Line	Experiencing leaks more frequently, recommended as a priority	2 minutes

Topic	Summary	Time Needed

