

**CITY OF MONROE
ORDINANCE NO. 023/2022**

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON, AMENDING CHAPTER 13.34 MMC ILLCIT DISCHARGE DETECTION AND ELIMINATION; ESTABLISHING NEW SOURCE CONTROL STANDARDS AND PROCEDURES, INCLUDING BEST MANAGEMENT PRACTICES, FOR THE PREVENTION AND MITIGATION OF STORM RUNOFF RESULTING FROM CERTAIN DEVELOPMENT AND ACTIVITIES; ENSURING THE CITY'S COMPLIANCE WITH THE 2019 EDITION OF THE DEPARTMENT OF ECOLOGY'S STORMWATER MANAGEMENT MANUAL FOR WESTERN WASHINGTON; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Monroe regulates pollutant discharges to the City's stormwater drainage system through the provisions codified at Chapter 13.34 MMC; and

WHEREAS, the federal Clean Water Act sets a national goal to "restore and maintain the chemical, physical, and biological integrity of the nation's water" and prohibits the discharge of pollutants; and

WHEREAS, the US Environmental Protection Act initiated National Pollution Discharge Elimination System (NPDES) Phase II requirements under the Federal Clean Water Act for small municipal separate storm water systems in 2003; and

WHEREAS, the Washington State Department of Ecology (DOE) manages the NPDES program for Washington State; and

WHEREAS, compliance with the 2019 NPDES Municipal Phase II Stormwater System Permit requires the City to formally adopt the 2019 Stormwater Manual for Western Washington, which was recently effectuated through the City's adoption of Ordinance No. 020/2022 on June 28, 2022; and

WHEREAS, the City further desires to amend Chapter 13.34 MMC in order to establish new Best Management Practices for storm runoff prevention and mitigation consistent with the 2019 Stormwater Manual, and to make other, related housekeeping amendments that will facilitate the administration and enforcement of the City's stormwater drainage regulations;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONROE, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Amendment of MMC 13.34.010. Section 13.34.010 of Monroe Municipal Code is hereby amended to provide in its entirety as follows:

13.34.010 Purpose

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of Monroe, Washington, through the regulation of nonstormwater discharges to the stormwater drainage system to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the stormwater drainage system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this chapter are:

- A. To regulate the contribution of pollutants to the stormwater drainage system by stormwater discharges by any person.
- B. To prohibit illicit connections and illicit discharges to the stormwater drainage systems.
- C. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter.
- D. To protect the quality of the city's municipal separate stormwater sewer system (MS4), receiving waters, ground water, aquatic resources and sediments, from the discharge of contaminates and the adverse impacts of stormwater runoff.
- E. To protect the function and integrity of public infrastructure related to stormwater control, including drainage facilities, associated rights-of-way, and city roadways.
- F. To reduce, prevent, and improve the adverse impacts of contaminated discharges on public health, safety, and welfare.
- G. To protect, maintain, and improve the quality of the city's water resources for fish and wildlife habitat, human recreation, and other ecological and aesthetic purposes and beneficial uses.
- H. To establish minimum requirements pursuant to which owners, occupants, or operators of real property must effectively implement all know, available and reasonable methods of treatment and control of discharges from their real property, consistent with the Washington State Department of Ecology's Stormwater Management Manual for Western Washington (SWMM) as adopted by the city pursuant to Chapter 23.40 MMC, RCW 90.48.260, the Clean Water Act, and the city's NPDES Phase II Municipal Stormwater General Permit.
- I. To establish procedures pursuant to which the city may enforce compliance with the requirements described above.

Section 2. Amendment of MMC 13.34.020. Section 13.34.020 of the Monroe Municipal Code is hereby amended to provide in its entirety as follows:

13.34.020 Definitions.

1. "AKART" means all known, available, and reasonable methods of prevention, control, and treatment. See also the State Water Pollution Control Act, RCW 90.48.010 and 90.48.520.
2. "Best management practices (BMPs)" means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, physical objects, structures, behaviors, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
3. "Clean Water Act" means the federal Water Pollution Control Act (33 USC 1251 et seq.), and any subsequent amendments thereto.
4. "Connection" means a plumbing or hydraulic connection.
5. "Contaminant" means a solid, liquid, or gaseous substance that, if discharged to a drainage facility, natural drainage system, receiving waters or groundwater, will alter the physical, chemical, or biological properties thereof to the extent that the discharge will render the facility, system, or water harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life. Contaminants may include, but are not limited to, the following: trash or debris; construction materials; petroleum products including but not limited to oil, gasoline, grease, fuel oil or heating oil; antifreeze and other automotive products; metals in either particulate or dissolved form; flammable or explosive materials; radioactive material; batteries; acids, alkalis, or bases; paints, stains, resins, lacquers, or varnishes; degreasers and solvents; drain cleaners; pesticides, herbicides, or fertilizers; steam cleaning wastes; soaps, detergents, or ammonia; chlorine, bromine, or other disinfectants; heated water; animal wastes; sewage; animal carcasses; food wastes; bark, soils, sediment, rock and other fibrous materials; collected lawn clippings, leaves, or branches; dyes, except as allowed in for water quality and IDDE testing purposes; and wastewater generated by commercial or industrial activities.
6. "Director" means the public works director or his/her designee.

7. "Discharge" means to throw, drain, release, dump, spill, empty, emit, or pour any matter into receiving waters, groundwater, a natural drainage system, or a drainage facility, or to cause or allow matter to be thrown, drained, released, dumped, spilled, emptied, emitted or poured into receiving waters, groundwater, a natural drainage system, or a drainage facility, or to cause or allow matter to flow, run, or seep from land into receiving waters, groundwater, a natural drainage system, or a drainage facility.

8. "Drainage facility" means any part of a man-made physical system designed or constructed to collect, treat, convey, store, or control the flow of stormwater. Drainage facilities include, but are not limited to, stormwater conveyance and containment facilities, including pipelines, constructed channels and ditches, infiltration facilities, retention and detention facilities, stormwater treatment facilities, erosion and sedimentation control facilities, and all other drainage structures and appurtenances.

9. "Ecology" means the Washington State Department of Ecology.

10. "EPA" means the United States Environmental Protection Agency.

114. "Groundwater" means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

125. "Hazardous materials" means 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 human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

136. "Hyperchlorinated" means water that contains more than 10 mg/liter chlorine.

147. "Illicit connections" means any manmade conveyance that is connected to a stormwater drainage system without a permit excluding roof drains or other similar type connections. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the stormwater drainage system.

158. "Illicit discharge" means any direct or indirect nonstormwater discharge to the stormwater drainage system, except as exempted in MMC 13.34.060 and 13.34.070.

169. "Industrial activity" means activities subject to NPDES industrial permits as defined in 40 CFR, Section 122.26(b)(14).

17. "Municipal Separate Storm Sewer System (MS4)" means a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man made channels, or storm drains):

a. Owned or operated by a state, city, town, borough, county, parish, district, associates, or other public body (created pursuant to state law) having jurisdiction over disposal of wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated approved management agency under Section 208 of the Clean Water Act that discharges to waters of Washington State.

b. Designated or used for collecting or conveying stormwater.

c. Which is not combined sewer;

d. Which is not part of a Public Owned Treatment Works (POTW) as defined at 40 CFR 122.2; and

e. Which is defined as "large" or "medium" or "small" or otherwise designated by Ecology pursuant to 40 CFR 122.26.

1840. "National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit" means a permit issued by Washington Department of Ecology under authority delegated pursuant to 33 USC 1342(b) (Clean Water Act) 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.

19. "Natural drainage system" means the physical beds and boundaries of receiving waters, including those natural drainage systems that have been altered by human actions.

2044. "Nonstormwater discharge" means any discharge to the stormwater drainage system that is not composed entirely of stormwater.

21. "Person" means any natural person, corporation, nonprofit corporation, municipal corporation, government agency, limited liability company, partnership, limited partnership, limited liability partnership, professional services corporation, or any other legally recognized entity.

22. "Person(s) responsible" or "responsible person(s)" has the same meaning as "responsible party" as defined in Chapter 1.04 MMC, and without limitation of the foregoing means the person(s) obligated to avoid, prevent and/or remediate a particular violation, including all of the following persons:

- a. The fee owner(s) of the real property on which the violation exists or occurred;
- b. The tenant(s), licensee(s) or other person(s) entitled to use, occupy or otherwise control the real property on which the violation exists or occurred;
- c. The person(s) who performed or committed the acts or omissions causing or leading to the violation (if applicable); and
- d. Any other person(s) responsible for the violation under applicable law.

2312. "Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnance, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

24. "Receiving waters" means lakes, rivers, ponds, streams, wetlands, brackish or salt waters, portions of Puget Sound, and any other naturally occurring surface waters or watercourses located within the city limits, including those for which the physical beds and boundaries have been altered by human actions.

25. "Source control best management practices" or "source control BMPs" means structures, equipment, supplies, or operations that are 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.

26. "State Waste Discharge Permit" means a permit issued by Ecology in accordance with chapter 173-216 WAC.

2713. "Stormwater" means that portion of precipitation, including without limitation rainfall or snowmelt, that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, channels or pipes into a defined surface water channel, or a constructed infiltration facility.

2814. "Stormwater drainage system" means constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat, or filter stormwater.

29. "Stormwater Management Manual for Western Washington (SWMM)" or "Stormwater Manual" means the manual adopted pursuant to Chapter 23.40 MMC.

3015. "Stormwater pollution prevention plan" means a document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a premises and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

31. "Violation" means the occurrence of any of the following:

- a. Discharge of a contaminant into a drainage facility, natural drainage system, receiving water, or groundwater;
- b. Failure to implement best management practices as required by this chapter;
- c. Failure to comply with any requirement established in this chapter;
or
- d. Performing, causing, or otherwise allowing the performance of any act prohibited by this chapter.

Section 3. Amendment of MMC 13.34.030. Section 13.34.030 of the Monroe Municipal Code is hereby amended to provide in its entirety as follows:

13.34.030 Applicability.

Unless specifically exempt, this chapter shall apply to: (i) all water entering the stormwater drainage system generated on any developed and undeveloped lands lying within the city of Monroe, and (ii) all discharges that that occur within the city limits and/or that have an impact to the city's MS4. The director is authorized to adopt written procedures for the purpose of carrying out the provisions of this chapter.

Section 4. Amendment of Chapter 13.34 MMC—New Section 13.34.075 Adopted. Chapter 13.34 of the Monroe Municipal Code is hereby amended by the addition of a new Section 13.34.075 to provide in its entirety as follows:

13.34.075 Best Management Practices (BMPs) required.

A. Any person storing or using materials containing contaminants in any manner that may result in a prohibited discharge shall first implement the source control BMPs described in the Stormwater Manual for Western Washington. If these BMPs are not sufficient to prevent contaminants from entering surface water, stormwater, or groundwater, the director may require implementation of additional BMPs.

B. Any person operating a facility or performing an activity described in Stormwater Manual, Volume IV, shall implement the source control BMPs described therein for such facility or activity.

C. Full implementation of all stormwater BMPs required by an NPDES Industrial Stormwater General Permit or State Waste Discharge Permit shall constitute compliance with this section.

D. As an alternative to implementing the BMPs described in subsections (A) through (C) of this section, the director may allow or require implementation of BMPs described in other Volumes of the Stormwater Manual or alternative BMPs that provide substantially equivalent environmental protection and that meet the objectives of safety, function, and maintenance. The director shall document in writing all such determinations and may require supporting equivalency documentation prior to determination.

E. Full implementation of source control BMPs described in subsections (A) through (D) of this section constitutes the minimum required actions as owner, occupant or operator of real property must take towards preventing prohibited discharges from real property. Full implementation of the BMPs required by this section does not exempt a person from also complying with any other requirement of this chapter.

Section 5. Amendment of Chapter 13.34 MMC—New Section 13.34.085 Adopted. Chapter 13.34 of the Monroe Municipal Code is hereby amended by the addition of a new Section 13.34.085 to provide in its entirety as follows:

13.34.085 Inspection.

A. All activities regulated by this chapter, except those exempt in the Stormwater Manual, shall be subject to inspection by the director or his/her designee. The director or his/her designee is authorized to inspect projects at various stages of the work requiring approval to determine that adequate control is being exercised. Stages of work requiring inspection include, but are not limited to, preconstruction; installation and implementation of BMPs; land disturbing activities; installation of utilities, landscaping, retaining walls; and project completion. When required by the director or his/her designee, a special inspection and/or testing shall be performed. Without limitation of the foregoing, such inspections may include the following:

1. Examination of vehicles, trailers, tanks, or mobile or stationary equipment which could cause a prohibited discharge;
2. Inspection, sampling, and testing an area, discharge, material, or drainage facility for the purpose of determining the potential for contribution of pollutants to drainage facilities or receiving waters;
3. Investigation of the integrity of drainage facilities on the premises using appropriate tests including but not limited to dye or smoke testing or video surveys;
4. Creating records reasonably necessary to document conditions related to stormwater pollution or BMPs implemented on the

premises, including but not limited to photographs, video, measurements and drawings; and

5. Inspection and copying of nonconfidential records relating to site activity or processes presently or previously occurring, including but not limited to material safety data sheets, stormwater pollution prevention plans, spill response plans, hazardous waste manifest, drainage inspections records, state or federal stormwater permits, or other records related to prohibited connections or discharges.
- B. Whenever necessary to make an inspection of private property to enforce or determine compliance with provisions of this chapter, or whenever the director or his/her designation has cause to believe that a violation of any provision of this chapter has been or is being committed, the director may, if such property is occupied, present credentials to the owner or occupant, as applicable, and request entry. If such structure or premises is unoccupied, the department director shall first make a reasonable effort to locate the owner, owner's authorized agent or other person having charge or control of the structure or premises and request entry. If entry is refused, the director or his/her designee shall have recourse to the remedies provided by law to secure entry.

Section 6. Amendment of Chapter 13.34 MMC—New Section 13.34.095 Adopted. Chapter 13.34 of the Monroe Municipal Code is hereby amended by the addition of a new Section 13.34.095 to provide in its entirety as follows:

13.34.095 Hazards.

- A. The director may determine that any violation of this chapter constitutes a hazard if the violation:
 1. Poses a threat to public health, safety, or welfare;
 2. Endangers any property; or
 3. Adversely affects the safety and operation of any city right-of-way, utilities, or other property owned or maintained by the city.
- B. Upon determining that a violation constitutes a hazard, the director shall immediately notify the responsible person and shall provide a verbal or written determination of the hazard that specifies the date by which the hazard shall be corrected.
- C. Upon receipt of the director's written hazard determination, the responsible person shall correct the hazard by the date specified.
- D. To the extent allowed by law, the director may enter at all times in or upon any public or private property for the purpose of investigating the existence of a hazard.
- E. The director may without prior notice require the immediate discontinuance of any violation causing the hazard. Failure to comply shall constitute a willful violation of this chapter.

F. The provisions of this section are in addition, and without prejudice, to the enforcement provisions of MMC 13.34.110.

Section 7. Amendment of Chapter 13.34 MMC—New Section 13.34.100 Adopted. Chapter 13.34 of the Monroe Municipal Code is hereby amended by the addition of a new Section 13.34.100 to provide in its entirety as follows:

13.34.100 Education and outreach.

The city will provide, upon reasonable request, technical assistance visits and available technical assistance materials and information to persons required to comply with this chapter.

Section 8. Amendment of Chapter 13.34 MMC—New Section 13.34.110 Adopted. Chapter 13.34 of the Monroe Municipal Code is hereby amended by the addition of a new Section 13.34.110 to provide in its entirety as follows:

13.34.110 Enforcement.

Violations of this chapter are subject to the enforcement and penalty provisions set forth in Chapter 1.04 MMC.

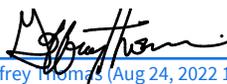
Section 9. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by State or federal law or regulation, such decision or pre-emption shall not affect the validity or enforceability of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 10. Effective Date. This ordinance shall be in full force and effect five (5) days from and after its passage and approval and publication as required by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 23rd day of August, 2022.

First Reading: August 9, 2022
Adoption: August 23, 2022
Published: August 26, 2022
Effective: August 31, 2022

CITY OF MONROE, WASHINGTON:


Geoffrey Thomas (Aug 24, 2022 11:59 PDT)

Geoffrey Thomas, Mayor

ATTEST:

APPROVED AS TO FORM:


Jodi Wycoff (Aug 24, 2022 12:48 PDT)

Jodi Wycoff, City Clerk


Zach Lell (Aug 24, 2022 10:56 PDT)

J. Zachary Lell, City Attorney

Ordinance 023-2022 Illicit Discharge Detection and Elimination to add New Source Control Program

Final Audit Report

2022-08-24

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