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1 **Chapter 13.26A WATER QUALITY**

2
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17
18 **13.26A.005 Purpose and Applicability.**

19 A. The purpose of this chapter is to protect the county’s surface and groundwater
20 quality by providing minimum requirements for reducing and controlling the
21 discharge of contaminants and stormwater flows. The board of county
22 commissioners recognizes that water quality degradation can result either directly
23 from one discharge or through the collective impact of many small discharges.

24
25 B. This chapter applies to ~~In furtherance of this purpose, the board of county~~
26 ~~commissioners prohibits~~ the discharge of contaminants to surface water, stormwater
27 and groundwater as set forth in Section 13.26A.025 and requires certain sites and
28 activities to utilize best management practices as set forth in Section 13.26A.035
29 and stormwater facility maintenance practices set forth in Section 13.26A.040.

30
31 C. The board of county commissioners also recognizes that the implementation of
32 successful pollution control practices is most likely through a pollution prevention
33 (water resources) education effort for business owners and the general public. In
34 implementing this chapter, the county will primarily rely on education and technical
35 assistance to show individuals how to implement pollution control practices.
36 Enforcement actions will normally be implemented when education and technical
37 assistance measures are unsuccessful at protecting the public interest or when
38 persons willfully contaminate the water resources of Clark County. Further it is not
39 the intent of this chapter to have the county pursue enforcement actions against
40 persons whose actions or activities result in the discharge of de minimis amounts of
41 contaminants into the water resources of Clark County.

42
43 D. The board of county commissioners finds this chapter is necessary to protect the

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1 health, safety and welfare of the residents of Clark County and the integrity of the
2 county's resources for the benefit of all by: minimizing or eliminating water quality
3 degradation; preserving and enhancing the suitability of waters for recreation,
4 fishing, wildlife habitat, aquatic life and other beneficial uses; and preserving and
5 enhancing the aesthetic quality and biotic integrity of the water. The board of county
6 commissioners recognizes that implementation of this chapter is required under the
7 federal Clean Water Act, 33 U.S.C. 1251 et seq. In meeting the intent of the Clean
8 Water Act the board of county commissioners also recognizes the importance of
9 maintaining economic viability while providing necessary environmental protection
10 and believes this chapter helps achieve both goals. (Exh. A of Ord. 1998-11-17;
11 amended by Sec. 3 (Exh. B) of Ord. 2000-07-34)
12
13

14 **13.26A.010 Education and technical assistance.**

15
16 ~~A. The Clark County public works department shall develop a storm water best
17 management practices manual and present this manual to the Clark County
18 planning commission for review and the Clark County board of county
19 commissioners for approval.~~

20
21 ~~B.~~The Clark County public works department will provide, upon reasonable request,
22 available technical assistance materials and information, and information on outside
23 financial assistance options to persons required to comply with this chapter. (Exh. A
24 of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34)
25

26 **13.26A.015 Definitions.**

27
28 The following definitions shall apply in the interpretation and enforcement of this
29 chapter:

30
31 "AKART" means an acronym for "all known, available, and reasonable methods of
32 prevention, control, and treatment." AKART shall represent the most current
33 methodology that can reasonably be required for preventing, controlling or abating the
34 pollutants associated with a discharge. The concept of AKART applies to both point and
35 nonpoint sources of pollution.
36

37 "Best management practices" or "BMPs" means those the best available and
38 reasonable physical, structural, and managerial practices, and prohibitions of practices,
39 or behavioral activities, that, when used singly or in combination:

- 40 • Prevent or reduce erosion;
 - 41 • Control stormwater runoff peak flow rates and volumes, and
 - 42 • Prevent or reduce pollution of surface water or groundwater.
- 43 ~~, eliminate or reduce the contamination of surface and/or groundwaters.~~

44
45 "Chapter" means this chapter and any administrative rules and regulations adopted to

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1 implement this chapter.

2

3 “Clean Water Act” means 33 U.S.C. 1251 et seq., as amended.

4

5 “Contaminants” include, but are not limited, to the following:

6 1. Trash or debris;

7 2. Construction materials;

8 3. Petroleum products including but not limited to oil, gasoline, grease, fuel oil or
9 heating oil;

10 4. Antifreeze and other automotive products;

11 5. Metals in either particulate or dissolved form;

12 6. Flammable or explosive materials;

13 7. Radioactive material;

14 8. Batteries;

15 9. Acids, alkalis, or bases;

16 10. Paints, stains, resins, lacquers or varnishes;

17 11. Degreasers and/or solvents;

18 12. Drain cleaners;

19 13. Pesticides, herbicides or fertilizers;

20 14. Steam cleaning wastes;

21 15. Soaps, detergents, or ammonia;

22 16. Swimming pool backwash;

23 17. Chlorine, bromine, and other disinfectants;

24 18. Heated water;

25 19. Domestic animal wastes;

26 20. Sewage;

27 21. Recreational vehicle waste;

28 22. Animal carcasses, excluding salmonids;

29 23. Food wastes;

30 24. Bark and other fibrous materials;

31 25. Collected lawn clippings, leaves or branches;

32 26. Silt, sediment, or gravel;

33 27. Dyes (except as stated in subsection (C)(1) of Section 13.26A.025);

34 28. Chemicals, not normally found in uncontaminated water;

35 29. Swimming pool water;

36 30. Water discharged during water well disinfection;

37 31. Potable water;

38 32. Potable water line flushing; and

39 33. 29. Any hazardous material or waste, not listed above.

40 “County” means the municipality of Clark County.

41

42 “Director” means the director of the Clark County department of public works, other
43 department directors specified in enforcement procedures established pursuant to this
44 chapter, or any duly authorized representatives of such directors.

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1
2 “Discharge” means to throw, drain, release, dump, spill, empty, emit or pour forth any
3 matter or to cause or allow matter to flow, run or seep from land or be thrown, drained,
4 released, dumped, spilled, emptied, emitted or poured into water.

5
6 ~~“Drainage facility” means the system that collects, conveys, and stores surface and~~
7 ~~stormwater runoff. Drainage facilities shall include but not be limited to all surface and~~
8 ~~stormwater conveyance and containment facilities including streams, pipelines,~~
9 ~~channels, ditches, swamps, lakes, wetlands, closed depressions, infiltration facilities,~~
10 ~~retention/detention facilities, erosion/sedimentation control facilities and other drainage~~
11 ~~structures and appurtenances, both natural and artificial.~~

12
13 ~~“Farm management plan” means a comprehensive site-specific plan developed by the~~
14 ~~farm owner in cooperation with the Clark County Conservation District taking into~~
15 ~~consideration the land owner’s objectives while protecting water quality and related~~
16 ~~natural resources.~~

17
18 “Forest practices” means any activity conducted on or directly pertaining to forest land
19 and relating to growing, harvesting or processing timber, as defined in Chapter 222-16
20 Washington Administrative Code.

21
22 “Groundwater” means water in a saturated zone or stratum beneath the surface of land
23 or below a surface water body. ~~all waters that exist beneath the land surface or~~
24 ~~beneath the bed of any stream, lake or reservoir, or other body of surface water,~~
25 ~~whatever may be the geological formation or structure in which such water stands or~~
26 ~~flows, percolates or otherwise moves.~~

27
28 ~~“National Pollutant Discharge Elimination System” or “NPDES” means the national~~
29 ~~program for controlling pollutants from point source discharges directly into waters of~~
30 ~~the U.S. under the Clean Water Act.~~

31
32 “NPDES (National Pollutant Discharge Elimination System) permit” means an
33 authorization, license, or equivalent control document issued by the Environmental
34 Protection Agency or the Washington State Department of Ecology to implement the
35 requirements of the NPDES program under the Clean Water Act.

36
37 “Person” means an individual, their agents or assigns; municipality; political subdivision;
38 government agency; partnership; corporation; business; or any other entity.

39
40 “Source control BMP” means a BMP intended to prevent contaminants from entering
41 surface and stormwater and/or groundwater including the modification of processes to
42 eliminate the production or use of contaminants. Source control BMPs can be either
43 structural or nonstructural. Structural source control BMPs involve the construction of a
44 physical structure on site, or other type of physical modification to a site; for example,
45 building a covered storage area. A nonstructural source control BMP involves the
46 modification or addition of managerial or behavioral practices; for example, using less

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1 toxic alternatives to current products or sweeping parking lots.

2
3 “State waste discharge permit” means an authorization, license, or equivalent control
4 document issued by the Washington State Department of Ecology in accordance with
5 Washington Administrative Code.

6
7 ~~“Stormwater BMP Manual” or “manual” means the manual (and supporting documents~~
8 ~~as appropriate) describing best management practices, design, maintenance,~~
9 ~~procedures and guidance which has been approved by the Clark County board of~~
10 ~~county commissioners or the Stormwater Management Manual for the Puget Sound~~
11 ~~Basin (Washington Department of Ecology (February 1992)).~~

12
13 “Stormwater Facility Maintenance Manual” means the currently adopted a manual
14 approved by the Clark County Board of County Commissioners for stormwater facility
15 maintenance manual as maintained by Clark County public works.

16
17 “Stormwater Management Manual for Western Washington” (SMMWW) means the
18 stormwater manual adopted by the Department of Ecology in February 2005.

19
20 “Stormwater Pollution Control Manual – Best Management Practices for Businesses
21 and Government Agencies”, or “BMP manual” means the currently adopted stormwater
22 pollution control manual as maintained by Clark County public works.

23
24 “Surface water and stormwater” means water originating from rainfall and other
25 precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds,
26 lakes and wetlands as well as shallow groundwater.

27
28 “Treatment BMP” means a BMP intended to remove contaminants once they are
29 already contained in stormwater. Examples of treatment BMPs include: oil/water
30 separators, biofiltration swales, and wet-settling basins. (Exh. A of Ord. 1998-11-17;
31 amended by Sec. 3 (Exh. B) of Ord. 2000-07-34)

32
33
34 **13.26A.025 Discharges into Clark County waters.**

35
36 **A. Prohibited Discharges.**

- 37 1. It is unlawful for any person to discharge any contaminants, as defined in
38 Section 13.26A.015, into surface water, and stormwater, or groundwater.
- 39 2. Illicit Connections. Any connection that could convey anything not composed
40 entirely of surface and stormwater directly to surface and stormwater or
41 groundwater is considered an illicit connection and is prohibited with the following
42 exceptions:
- 43 a. connections conveying allowable discharges;
 - 44 b. connections conveying discharges pursuant to an NPDES permit or a state
45 waste discharge permit; and
 - 46 c. connections conveying effluent from on-site sewage disposal systems to

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1 subsurface soils.

2
3 B. Allowable Discharges. The following types of discharges shall not be considered
4 prohibited discharges for the purpose of this chapter unless the director of ~~public~~
5 ~~works~~ determines that the type of discharge, whether singly or in combination with
6 others, is causing significant contamination of surface and stormwater or
7 groundwater:

8 ~~1. Potable water;~~

9 ~~2. Potable water line flushing;~~

10 ~~1.3. Uncontaminated water from crawl space pumps or footing drains;~~

11 ~~2.4. Lawn watering;~~

12 ~~5. Residential car and boat washing;~~

13 ~~3.6. Dechlorinated sSwimming pool water if dechlorinated to a concentration of 0.1~~
14 ~~parts per million or less, pH adjusted and controlled to prevent erosion and~~
15 ~~sediment transport.;~~

16 ~~4.7. Materials placed as part of an approved habitat restoration or bank stabilization~~
17 ~~project;~~

18 ~~5.8. Air conditioning condensate; Natural uncontaminated surface water or~~
19 ~~groundwater;~~

20 ~~6.9. Flows from riparian habitats and wetlands;~~

21 ~~7. Springs;~~

22 ~~8. Diverted stream flows;~~

23 ~~9. Rising ground waters;~~

24 ~~10. Uncontaminated ground water infiltration (as defined at CFR 35.2005(20));~~

25 ~~11. Uncontaminated pumped groundwater;~~

26 ~~12. Irrigation water from agricultural sources that is commingled with stormwater;~~

27 ~~13.10. The following discharges from boats: engine exhaust, cooling waters, effluent~~
28 ~~from sinks, showers and laundry facilities and treated sewage from Type I and~~
29 ~~Type II marine sanitation devices; and~~

30 ~~14.14. Common practices for water well disinfection if dechlorinated to a~~
31 ~~concentration of 0.1 parts per million or less, pH adjusted and controlled to~~
32 ~~prevent erosion and sediment transport.~~

33
34 C. Exceptions.

35 1. Dye testing is allowable but requires verbal notification to the ~~Clark County public~~
36 ~~works~~ director at least one day prior to the date of test. The Clark County public
37 works department, Clark County Public Health, ~~Southwest Washington Health~~
38 ~~District~~, or a sewer service purveyor is exempt from this requirement.

39 2. If a person has properly designed, constructed, implemented and is properly
40 maintaining BMPs, and is carrying out AKART as required by this chapter or
41 through another federal, or state ~~or local~~ regulatory or resource management
42 program, and contaminants continue to enter surface and stormwater or

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1 groundwater, then that person shall not be in violation of Section 13.26A.025(A).
 2 ~~subsection A of this section.~~

3 3. If a person can demonstrate that there is no additional contaminants being
 4 discharged from the site above the background conditions of the water entering
 5 the site, then that person shall not be in violation of Section 13.26A.025(A).
 6 ~~subsection A of this section.~~

7 4. Emergency response activities or other actions that must be undertaken
 8 immediately or within a time too short to allow full compliance with this chapter, to
 9 avoid an imminent threat to public health or safety, shall be exempt from this
 10 section. The director of ~~public works~~ may specify actions that qualify for this
 11 exception in county procedures. The person responsible for emergency response
 12 activities should take steps to ensure that the discharges resulting from such
 13 activities are minimized to the greatest extent possible. In addition, this person
 14 shall evaluate BMPs and the site plan, where applicable, to restrict recurrence.
 15 (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34).
 16

17
 18 **13.26A.035 Best management practices requirements.**

19
 20 A. Best Management Practices.

21 ~~1. The Clark County public works department shall develop a stormwater best
 22 management practices manual and present this manual to the Clark County
 23 planning commission for review and the Clark County board of county
 24 commissioners for approval. The manual shall present BMPs and procedures for
 25 existing facilities and activities, and for new development activities not covered
 26 by the Clark County stormwater and erosion control ordinance (40.380). At a
 27 minimum, the manual shall describe the types of regulated activities; the types of
 28 contaminants generated by each activity, and the contaminant's effect on water
 29 quality; the required source control BMPs and available treatment BMPs,
 30 including information on design and maintenance; allowable use of alternative
 31 BMPs; and a schedule for BMP implementation. The BMP manual will also
 32 specify methods for future BMP manual revision.~~

33 12. Existing development, current activities, and new development activities not
 34 covered by the Clark County stormwater and erosion control ordinance (Chapter
 35 40.380) that are not listed in the exemptions of this subsection are required to
 36 apply stormwater quality BMPs listed in the Clark County Stormwater quality
 37 Pollution Control Manual – Best Management Practices for Businesses and
 38 Government Agencies, or the SMMWW, stormwater management manual for the
 39 Puget Sound basin. A BMP not included in these manuals may be approved by
 40 the director if it is demonstrated to provide equivalent effectiveness for applying
 41 AKART.

42 23. In applying the BMP manual for existing development, the director shall first
 43 require the implementation of nonstructural source control BMPs. If these are not
 44 sufficient to prevent contaminants from entering surface and stormwater or
 45 groundwater, the director may require implementation of structural source control
 46 BMPs or treatment BMPs, using AKART.

1
2 B. Exemptions. The following persons or entities are exempt from the provisions of this
3 section unless the director determines the alternative BMPs to be ineffective at
4 reducing the discharge of contaminants or activities are causing a prohibited
5 discharge:

- 6 1. Persons implementing BMPs through another federal, or state ~~or local~~ regulatory
7 or resource management program provided the director may perform inspections
8 to ensure compliance with this chapter. If the other program requires the
9 development of a best management practices plan, the person shall make their
10 plan available to Clark County upon request;
11 2. Persons engaged in the production of crops or livestock for commercial trade;
12 provided, that such persons shall comply with the requirements of Chapter
13 40.440;
14 3. Persons engaged in forest practices regulated under WAC Title 222, except for
15 Class IV general forest practices as defined under Chapter 222-16 WAC; and
16 4. Persons conducting normal residential activities at property containing a single-
17 family detached dwelling, duplex or triplex and modifications to it on a lot
18 approved for such use, unless the director determines that these activities pose a
19 hazard to public health, safety or welfare; endanger any property; or adversely
20 affect the safety and operation of county right-of-way, utilities, and/or other
21 property owned or maintained by the county. (Exh. A of Ord. 1998-11-17;
22 amended by Sec. 3 (Exh. B) of Ord. 2000-07-34)

23
24
25 **13.26A.040 Maintenance of stormwater facilities.**

26
27 A. Maintenance and Inspection Required. All public and private drainage facilities shall
28 be inspected and maintained by the owner in accordance with the Stormwater
29 Facility Maintenance Manual. The intent is to ensure proper maintenance of pollution
30 control and quantity control facilities to protect surface water and groundwater. The
31 director may require the owner to conduct more frequent inspection and/or
32 maintenance when necessary to assure that facilities function as designed for
33 pollutant control and quantity control. The Stormwater Facility Maintenance Manual
34 shall be filed with and available at the department of public works, ~~and the~~
35 ~~department of community development.~~

36
37 B. Alternative Maintenance Practices. An alternative maintenance practice to those in
38 the Stormwater Facility Maintenance Manual or maintenance practices for a
39 stormwater facility not included in the Stormwater Facility Maintenance Manual may
40 be approved by the director if demonstrated to provide pollutant controls equivalent
41 to maintenance standards of the Stormwater Management Manual for Western
42 Washington. The director shall update the Stormwater Facility Maintenance Manual
43 to include alternative maintenance practices or maintenance practices for facilities
44 not included in the manual before such practices are allowed for general use.
45 ~~effectiveness for meeting manual desired outcomes and protecting water quality.~~

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- 1 C. Disposal of Waste from Maintenance Activities. Disposal of waste from maintenance
2 of drainage facilities shall be conducted in accordance with federal, state, and local
3 regulations, including the Minimum Functional Standards for Solid Waste Handling,
4 Chapter 173-304 WAC; guidelines for disposal of waste materials; and where
5 appropriate, Dangerous Waste Regulations, Chapter 173-303 WAC.
6
- 7 D. Exceptions. The director may grant an exception for maintenance requirements that
8 conflict with federal, state, or local environmental regulations such as a Washington
9 Department of Fish and Wildlife Hydrologic Project Approval, a wetland permit,
10 geologically hazardous area requirements, or habitat conservation requirements.
11
- 12 E. County Maintenance Projects. The ~~public works~~ director shall prepare a list of
13 stormwater facilities for major maintenance or repair. The list will be updated
14 annually and prioritize projects based on the needs to protect water bodies, protect
15 public safety, prevent catastrophic infrastructure failure, prevent flooding, and protect
16 infrastructure.
17
- 18 F. Private Maintenance Projects. Privately operated and maintained facilities with
19 deferred maintenance may require construction projects to bring them into
20 compliance with maintenance standards. The director may approve a work schedule
21 to bring these facilities into compliance with the Stormwater Facility Maintenance
22 Manual. This does not relieve the operator from performing routine maintenance and
23 enforcement under provisions of this chapter. (Sec. 3 (Exh. B) of Ord. 2000-07-34)
24
25

26 **13.26A.045 Administration.**
27

28 The director is authorized to implement the provisions of this chapter, and ~~The director~~
29 ~~of public works~~ will coordinate the implementation and enforcement of this chapter with
30 other Clark County departments, ~~of Clark County government.~~ (Exh. A of Ord. 1998-11-
31 17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34)
32
33

34 **13.26A.050 Enforcement.**
35

- 36 A. The director is authorized to carry out enforcement actions pursuant to the
37 enforcement and penalty provisions of Title 32.
38
- 39 B. The director is authorized to make such inspections and take such actions as may
40 be required to enforce the provisions of this chapter. Such inspections shall be made
41 in accordance with Title 32.
- 42 1. The director may observe best management practices and maintenance
43 practices, or examine or sample surface and stormwater or groundwater as often
44 as may be necessary to determine compliance with this chapter. Whenever an
45 inspection of a property is made, the findings shall be recorded and a copy of the
46 inspection findings shall be furnished to the owner or the person in charge of the

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1 property after the conclusion of the investigation and completion of the inspection
2 findings.

- 3 2. When the director has made a determination under Section 13.26A.050(B)(1)
4 ~~subsection 1 of this section~~ that any person is violating this chapter, the director
5 may require the violator to sample and analyze any discharge, surface and
6 stormwater, groundwater and/or sediment, in accordance with sampling and
7 analytical procedures or requirements determined by the director. If the violator is
8 required to complete this sampling and analysis, a copy of the analysis shall be
9 provided to the director.

- 10
11 C. In addition to any other penalty or method of enforcement, the prosecuting attorney
12 may bring actions for injunctive or other relief to enforce this chapter. (Exh. A of Ord.
13 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34)

14
15 **13.26A.060 Hazards.**

- 16
17 A. Whenever the director determines that any violation of this chapter poses a hazard
18 to public health, safety or welfare; endangers any property; or adversely affects the
19 safety and operation of county right-of-way, utilities and/or other property owned or
20 maintained by the county; the person holding title to the subject property, and/or
21 other person or agent in control of such property, upon receipt of notice in writing
22 from the director shall within the period specified therein address the cause of the
23 hazardous situation in conformance with the requirements of this chapter.

- 24
25 B. Notwithstanding any other provisions of this chapter, whenever it appears to the
26 director that conditions covered by this chapter exist requiring immediate action to
27 protect the public health and/or safety, the director is authorized to enter such
28 property, as provided by Chapter 32.04, for the purpose of inspecting and
29 investigating such emergency conditions. The director may without prior notice order
30 the immediate discontinuance of any activity leading to the emergency condition.
31 Failure to comply with such order shall constitute a misdemeanor as specified in
32 Title 32. (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-
33 34)

34
35
36 **13.26A.070 Criminal penalty.**

37
38 Any willful violation of an order issued pursuant to Section 13.26A.050 or Section
39 13.26A.060 of this chapter for which a criminal penalty is not prescribed by state law is
40 a misdemeanor. (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-
41 0734)

42
43
44 **13.26A.080 Construction—Intent.**

- 45
46 A. This chapter is enacted as an exercise of the county's power to protect and preserve

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1 the public health, safety and welfare. Its provision shall be exempted from the rule of
2 strict construction and shall be liberally construed to give full effect to the objectives
3 and purposes for which it was enacted. This chapter is not enacted to create or
4 otherwise establish or designate any particular class or group of persons who will or
5 should be especially protected or benefited by the terms of this chapter.
6

7 B. The primary obligation of compliance with this chapter is placed upon the person
8 holding title to the property. Nothing contained in this chapter is intended to be or
9 shall be construed to create or form a basis for liability for the county, the
10 department, its officers, employees or agents for any injury or damage resulting from
11 the failure of the person holding title to the property to comply with the provisions of
12 this chapter, or by reason or in consequence of any act or omission in connection
13 with the implementation or enforcement of this chapter by the county, department, its
14 officers, employees or agents. (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh.
15 B) of Ord. 2000-07-34)
16
17

18 ~~**13.26A.090 Effective date.**~~

19
20 ~~The provisions of this chapter shall be effective immediately with the exception of~~
21 ~~Section 13.26A.035 which shall become effective, without further action of the board of~~
22 ~~county commissioners thirty (30) days after the Washington State Department of~~
23 ~~Ecology issues Clark County a NPDES permit for discharges from its municipal~~
24 ~~separate storm sewer system, or September 30, 1999, whichever is later. (Exh. A of~~
25 ~~Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34)~~
26
27

28 **13.26A.100 Severability.**

29
30 If any provision of this chapter or its application to any person or property is held invalid,
31 the remainder of the chapter or the application of the provision to other persons or
32 property shall not be affected. (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B)
33 of Ord. 2000-07-34)
34
35
36
37
38
39
40