

1 **Chapter 13.26A**
2 **WATER QUALITY**
3

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19 **13.26A.005 Purpose**

- 20 A. The purpose of this chapter is to protect the county's surface and groundwater
21 quality by providing minimum requirements for reducing and controlling the
22 discharge of contaminants and stormwater flows. The board of county
23 commissioners recognizes that water quality degradation can result either
24 directly from one discharge or through the collective impact of many small
25 discharges.
26
- 27 B. In furtherance of this purpose, the board of county commissioners prohibits the
28 discharge of contaminants to surface water, stormwater and groundwater as set
29 forth in Section 13.26A.025 and requires certain sites and activities to utilize best
30 management practices as set forth in Section 13.26A.035 and stormwater facility
31 maintenance practices set forth in Section 13.26A.040.
32
- 33 C. The board of county commissioners also recognizes that the implementation of
34 successful pollution control practices is most likely through a pollution prevention
35 (water resources) education effort for business owners and the general public. In
36 implementing this chapter, the county will primarily rely on education and
37 technical assistance to show individuals how to implement pollution control
38 practices. Enforcement actions will normally be implemented when education
39 and technical assistance measures are unsuccessful at protecting the public
40 interest or when persons willfully contaminate the water resources of Clark
41 County. Further it is not the intent of this chapter to have the county pursue
42 enforcement actions against persons whose actions or activities result in the
43 discharge of de minimis amounts of contaminants into the water resources of

1 Clark County.

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

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16

17 **13.26A.010 Education and technical assistance**

- 18
- 19 A. The Clark County public works department shall develop a storm water best
20 management practices manual and present this manual to the Clark County
21 planning commission for review and the Clark County board of county
22 commissioners for approval.
- 23
- 24 B. The Clark County public works department will provide, upon reasonable
25 request, available technical assistance materials and information, and
26 information on outside financial assistance options to persons required to comply
27 with this chapter. (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of
28 Ord. 2000-07-34)

29

30 **13.26A.015 Definitions.**

31 The following definitions shall apply in the interpretation and enforcement of this
32 chapter:

33

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

39

40 "Best management practices" or "BMPs" mean the best available and reasonable
41 physical, structural, managerial or behavioral activities, that when used singly or in
42 combination, eliminate or reduce the contamination of surface and/or groundwaters.

43

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

46

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

2
3 “Contaminants” include, but are not limited, to the following:

- 4 1. Trash or debris;
- 5 2. Construction materials
- 6 3. Petroleum products including but not limited to oil, gasoline, grease, fuel oil or
- 7 heating oil;
- 8 4. Antifreeze and other automotive products;
- 9 5. Metals in either particulate or dissolved form;
- 10 6. Flammable or explosive materials;
- 11 7. Radioactive material;
- 12 8. Batteries;
- 13 9. Acids, alkalis, or bases;
- 14 10. Paints, stains, resins, lacquers or varnishes;
- 15 11. Degreasers and/or solvents;
- 16 12. Drain cleaners;
- 17 13. Pesticides, herbicides or fertilizers;
- 18 14. Steam cleaning wastes;
- 19 15. Soaps, detergents, or ammonia;
- 20 16. Swimming pool backwash
- 21 17. Chlorine, bromine, and other disinfectants;
- 22 18. Heated water;
- 23 19. Domestic animal wastes;
- 24 20. Sewage;
- 25 21. Recreational vehicle waste;
- 26 22. Animal carcasses, excluding salmonids;
- 27 23. Food wastes;
- 28 24. Bark and other fibrous materials;
- 29 25. Collected lawn clippings, leaves or branches;
- 30 26. Silt, sediment, or gravel;
- 31 27. Dyes (except as stated in subsection (C)(1) of Section 13.26A.025);
- 32 28. Chemicals, not normally found in uncontaminated water;
- 33 29. Swimming pool water, and
- 34 30. Any hazardous material or waste, not listed above

35 “County” means the municipality of Clark County.

36
37 “Director” means the director of the Clark County department of public works, other
38 department directors specified in enforcement procedures established pursuant to this
39 chapter, or any duly authorized representatives of such directors.

40
41 “Discharge” means to throw, drain, release, dump, spill, empty, emit or pour forth any
42 matter or to cause or allow matter to flow, run or seep from land or be thrown, drained,
43 released, dumped, spilled, emptied, emitted or poured into water.

44
45 “Drainage facility” means the system that collects, conveys, and stores surface and

1 stormwater runoff. Drainage facilities shall include but not be limited to all surface and
2 stormwater conveyance and containment facilities including streams, pipelines,
3 channels, ditches, swamps, lakes, wetlands, closed depressions, infiltration facilities,
4 retention/detention facilities, erosion/sedimentation control facilities and other drainage
5 structures and appurtenances, both natural and artificial.

6
7 “Farm management plan” means a comprehensive site-specific plan developed by the
8 farm owner in cooperation with the Clark County Conservation District taking into
9 consideration the land owner’s objectives while protecting water quality and related
10 natural resources.

11
12 “Forest practices” means any activity conducted on or directly pertaining to forest land
13 and relating to growing, harvesting or processing timber, as defined in Chapter 222-16
14 Washington Administrative Code.

15
16 “Groundwater” means all waters that exist beneath the land surface or beneath the bed
17 of any stream, lake or reservoir, or other body of surface water, whatever may be the
18 geological formation or structure in which such water stands or flows, percolates or
19 otherwise moves.

20
21 “National Pollutant Discharge Elimination System” or “NPDES” means the national
22 program for controlling pollutants from point source discharges directly into waters of
23 the U.S. under the Clean Water Act.

24
25 “National Pollutant Discharge Elimination System permit” means an authorization,
26 license, or equivalent control document issued by the Environmental Protection Agency
27 or the Washington State Department of Ecology to implement the requirements of the
28 NPDES program.

29
30 “Person” means an individual, their agents or assigns; municipality; political subdivision;
31 government agency; partnership; corporation; business; or any other entity.

32
33 “Source control BMP” means a BMP intended to prevent contaminants from entering
34 surface and stormwater and/or groundwater including the modification of processes to
35 eliminate the production or use of contaminants. Source control BMPs can be either
36 structural or nonstructural. Structural source control BMPs involve the construction of a
37 physical structure on site, or other type of physical modification to a site; for example,
38 building a covered storage area. A nonstructural source control BMP involves the
39 modification or addition of managerial or behavioral practices; for example, using less
40 toxic alternatives to current products or sweeping parking lots.

41
42 “State waste discharge permit” means an authorization, license, or equivalent control
43 document issued by the Washington State Department of Ecology in accordance with
44 Washington Administrative Code.

45
46 “Stormwater BMP Manual” or “manual” means the manual (and supporting documents

1 as appropriate) describing best management practices, design, maintenance,
2 procedures and guidance which has been approved by the Clark County board of
3 county commissioners or the Stormwater Management Manual for Western Washington
4 ~~the Puget Sound Basin~~ (Washington Department of Ecology (February 2005-1992)).

5
6 “Stormwater Facility Maintenance Manual” means a manual approved by the Clark
7 County Board of County Commissioners for stormwater facility maintenance.

8
9 “Surface and stormwater” means water originating from rainfall and other precipitation
10 that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and
11 wetlands as well as shallow groundwater.

12
13 “Treatment BMP” means a BMP intended to remove contaminants once they are
14 already
15 contained in stormwater. Examples of treatment BMPs include: oil/water separators,
16 biofiltration swales, and wet-settling basins. (Exh. A of Ord. 1998-11-17; amended by
17 Sec. 3 (Exh. B) of Ord. 2000-07-34)

18
19 **13.26A.025 Discharges into Clark County waters.**

20
21 A. Prohibited Discharges.

22 1 It is unlawful for any person to discharge any contaminants, as defined in
23 Section 13.26A.015, into surface and stormwater, or groundwater.

24 2 Illicit Connections. Any connection that could convey anything not
25 composed entirely of surface and stormwater directly to surface and
26 stormwater or groundwater is considered an illicit connection and is
27 prohibited with the following exceptions: connections conveying allowable
28 discharges, connections conveying discharges pursuant to an NPDES
29 permit or a state waste discharge permit, and connections conveying
30 effluent from on-site sewage disposal systems to subsurface soils.

31
32 B. Allowable Discharges. The following types of discharges shall not be considered
33 prohibited discharges for the purpose of this chapter unless the director of public
34 works determines that the type of discharge, whether singly or in combination
35 with others, is causing significant contamination of surface and stormwater or
36 groundwater:

- 37 1. Potable water;
38 2. Potable water line flushing;
39 3. Uncontaminated water from crawl space pumps or footing drains;
40 4. Lawn watering;
41 5. Residential car and boat washing;

- 1 6. Dechlorinated sSwimming pool water if dechlorinated to a concentration of
2 0.1 parts per million or less, pH adjusted and controlled to prevent erosion
3 and sediment transport.;
- 4 7. Materials placed as part of an approved habitat restoration or bank
5 stabilization project;
- 6 8. Air conditioning condensate; ~~Natural uncontaminated surface water or~~
7 ~~groundwater;~~
- 8 9. Flows from riparian habitats and wetlands;
- 9 10. Springs;
- 10 11. Diverted stream flows;
- 11 12. Rising ground waters;
- 12 13. Uncontaminated ground water infiltration (as defined at CFR 35.2005(20));
- 13 14. Uncontaminated pumped groundwater;
- 14 15. Irrigation water from agricultural sources that is commingled with stormwater ;
- 15 1610. The following discharges from boats: engine exhaust, cooling waters, effluent
16 from sinks, showers and laundry facilities and treated sewage from Type I
17 and Type II marine sanitation devices; and
- 18 1711. Common practices for water well disinfection.

19
20 C. Exceptions.

- 21 1. Dye testing is allowable but requires verbal notification to the Clark County
22 public works director at least one day prior to the date of test. The Clark
23 County public works department, Southwest Washington Health District, or
24 a sewer service purveyor is exempt from this requirement.
- 25 2. If a person has properly designed, constructed, implemented and is properly
26 maintaining BMPs, and is carrying out AKART as required by this chapter or
27 through another federal, state or local regulatory or resource management
28 program, and contaminants continue to enter surface and stormwater or
29 groundwater, then that person shall not be in violation of subsection A of
30 this section.
- 31 3. If a person can demonstrate that there is no additional contaminants being
32 discharged from the site above the background conditions of the water
33 entering the site, then that person shall not be in violation of subsection A of
34 this section.
- 35 4. Emergency response activities or other actions that must be undertaken
36 immediately or within a time too short to allow full compliance with this
37 chapter, to avoid an imminent threat to public health or safety, shall be
38 exempt from this section. The director of public works may specify actions
39 that qualify for this exception in county procedures. The person responsible
40 for emergency response activities should take steps to ensure that the
41 discharges resulting from such activities are minimized to the greatest
42 extent possible. In addition, this person shall evaluate BMPs and the site
43 plan, where applicable, to restrict recurrence.
44 (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-

45 34).

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3 **13.26A.035 Best management practices requirements.**
4

5 A. Best Management Practices.

- 6 1. ~~The Clark County public works department shall develop a stormwater best~~
7 ~~management practices manual and present this manual to the Clark County~~
8 ~~planning commission for review and the Clark County board of county~~
9 ~~commissioners for approval. The manual shall present BMPs and procedures~~
10 ~~for existing facilities and activities, and for new development activities not~~
11 ~~covered by the Clark County stormwater and erosion control ordinance~~
12 ~~(40.380). At a minimum, the manual shall describe the types of regulated~~
13 ~~activities; the types of contaminants generated by each activity, and the~~
14 ~~contaminant's effect on water quality; the required source control BMPs and~~
15 ~~available treatment BMPs, including information on design and maintenance;~~
16 ~~allowable use of alternative BMPs; and a schedule for BMP implementation.~~
17 ~~The BMP manual will also specify methods for future BMP manual revision.~~
18 12. Existing development, current activities, and new development activities not
19 covered by the Clark County stormwater and erosion control ordinance
20 (40.380) that are not listed in the exemptions of this subsection are required
21 to apply stormwater quality BMPs listed in the Clark County stormwater
22 quality manual or the Sstormwater Mmanagement Mmanual for Western
23 Washington ~~the Puget Sound basin~~. A BMP not included in these manuals
24 may be approved by the director if it is demonstrated to provide equivalent
25 effectiveness for applying AKART.
26 23. In applying the BMP manual for existing development, the director shall first
27 require the implementation of nonstructural source control BMPs. If these are
28 not sufficient to prevent contaminants from entering surface and stormwater
29 or groundwater, the director may require implementation of structural source
30 control BMPs or treatment BMPs, using AKART.

31
32 B. Exemptions. The following persons or entities are exempt from the provisions of
33 this section unless the director determines the alternative BMPs to be ineffective
34 at reducing the discharge of contaminants or activities are causing a prohibited
35 discharge:

- 36 1. Persons implementing BMPs through another federal, state or local
37 regulatory or resource management program provided the director may
38 perform inspections to ensure compliance with this chapter. If the other
39 program requires the development of a best management practices plan,
40 the person shall make their plan available to Clark County upon request;
41 2. Persons engaged in the production of crops or livestock for commercial
42 trade; provided, that such persons shall comply with the requirements of
43 40.440;
44 3. Persons engaged in forest practices regulated under WAC Title 222, except
45 for Class IV general forest practices as defined under Chapter 222-16 WAC;
46 and

- 1 4. Persons conducting normal residential activities at property containing a
2 single-family detached dwelling, duplex or triplex and modifications to it on a
3 lot approved for such use, unless the director determines that these
4 activities pose a hazard to public health, safety or welfare; endanger any
5 property; or adversely affect the safety and operation of county right-of-way,
6 utilities, and/or other property owned or maintained by the county. (Exh. A of
7 Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34)
8
9

10 **13.26A.040 Maintenance of stormwater facilities.**

- 11
12 A. Maintenance and Inspection Required. All public and private drainage facilities
13 shall be inspected and maintained by the owner in accordance with the
14 Stormwater Facility Maintenance Manual. The intent is to ensure proper
15 maintenance of pollution control and quantity control facilities to protect surface
16 water and groundwater. The director may require the owner to conduct more
17 frequent inspection and/or maintenance when necessary to assure that facilities
18 function as designed for pollutant control and quantity control. The Stormwater
19 Facility Maintenance Manual shall be filed with and available at the department of
20 public works and the department of community development.
21
22 B. Alternative Maintenance Practices. An alternative maintenance practice to those
23 in the Stormwater Facility Maintenance Manual or maintenance practices for a
24 stormwater facility not included in the Stormwater Facility Maintenance Manual
25 may be approved by the director if demonstrated to provide equivalent
26 effectiveness for meeting manual desired outcomes and protecting water quality.
27
28 C. Disposal of Waste from Maintenance Activities. Disposal of waste from
29 maintenance of drainage facilities shall be conducted in accordance with federal,
30 state, and local regulations, including the Minimum Functional Standards for
31 Solid Waste Handling, Chapter 173-304 WAC; guidelines for disposal of waste
32 materials; and where appropriate, Dangerous Waste Regulations, Chapter 173-
33 303 WAC.
34
35 D. Exceptions. The director may grant an exception for maintenance requirements
36 that conflict with federal, state, or local environmental regulations such as a
37 Washington Department of Fish and Wildlife Hydrologic Project Approval, a
38 wetland permit, geologically hazardous area requirements, or habitat
39 conservation requirements.
40
41 E. County Maintenance Projects. The public works director shall prepare a list of
42 stormwater facilities for major maintenance or repair. The list will be updated
43 annually and prioritize projects based on the needs to protect water bodies,
44 protect public safety, prevent catastrophic infrastructure failure, prevent flooding,
45 and protect infrastructure.
46

- 1 F. Private Maintenance Projects. Privately operated and maintained facilities with
2 deferred maintenance may require construction projects to bring them into
3 compliance with maintenance standards. The director may approve a work
4 schedule to bring these facilities into compliance with the Stormwater Facility
5 Maintenance Manual. This does not relieve the operator from performing routine
6 maintenance and enforcement under provisions of this chapter. (Sec. 3 (Exh. B)
7 of Ord. 2000-07-34)
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9

10 **13.26A.045 Administration.**

11
12 The director is authorized to implement the provisions of this chapter. The director of
13 public works will coordinate the implementation and enforcement of this chapter with
14 other departments of Clark County government. (Exh. A of Ord. 1998-11-17; amended
15 by Sec. 3 (Exh. B) of Ord. 2000-07-34)
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17

18 **13.26A.050 Enforcement.**

- 19
20 A. The director is authorized to carry out enforcement actions pursuant to the
21 enforcement and penalty provisions of Title 32.
22

- 23 B. The director is authorized to make such inspections and take such actions as
24 may be required to enforce the provisions of this chapter. Such inspections shall
25 be made in accordance with Title 32.

- 26 1 The director may observe best management practices and maintenance
27 practices, or examine or sample surface and stormwater or groundwater as
28 often as may be necessary to determine compliance with this chapter.
29 Whenever an inspection of a property is made, the findings shall be
30 recorded and a copy of the inspection findings shall be furnished to the
31 owner or the person in charge of the property after the conclusion of the
32 investigation and completion of the inspection findings.
33 When the director has made a determination under subsection 1 of this
34 section that any person is violating this chapter, the director may require the
35 violator to sample and analyze any discharge, surface and stormwater,
36 groundwater and/or sediment, in accordance with sampling and analytical
37 procedures or requirements determined by the director. If the violator is
38 required to complete this sampling and analysis, a copy of the analysis shall
39 be provided to the director.
40

- 41 C. In addition to any other penalty or method of enforcement, the prosecuting
42 attorney may bring actions for injunctive or other relief to enforce this chapter.
43 (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34)
44

45 **13.26A.060 Hazards.**
46

- 1 A. Whenever the director determines that any violation of this chapter poses a
2 hazard to public health, safety or welfare; endangers any property; or adversely
3 affects the safety and operation of county right-of-way, utilities and/or other
4 property owned or maintained by the county; the person holding title to the
5 subject property, and/or other person or agent in control of such property, upon
6 receipt of notice in writing from the director shall within the period specified
7 therein address the cause of the hazardous situation in conformance with the
8 requirements of this chapter.
- 9 B. Notwithstanding any other provisions of this chapter, whenever it appears to the
10 director that conditions covered by this chapter exist requiring immediate action
11 to protect the public health and/or safety, the director is authorized to enter such
12 property, as provided by 32.04, for the purpose of inspecting and investigating
13 such emergency conditions. The director may without prior notice order the
14 immediate discontinuance of any activity leading to the emergency condition.
15 Failure to comply with such order shall constitute a misdemeanor as specified in
16 Title 32. (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-
17 07-34)

18
19
20 **13.26A.070 Criminal penalty.**

21
22 Any willful violation of an order issued pursuant to Section 13.26A.050 or Section
23 13.26A.060 of this chapter for which a criminal penalty is not prescribed by state law is
24 a misdemeanor. (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-
25 0734)

26
27
28 **13.26A.080 Construction—Intent.**

- 29
30 A. This chapter is enacted as an exercise of the county's power to protect and
31 preserve the public health, safety and welfare. Its provision shall be exempted
32 from the rule of strict construction and shall be liberally construed to give full
33 effect to the objectives and purposes for which it was enacted. This chapter is not
34 enacted to create or otherwise establish or designate any particular class or
35 group of persons who will or should be especially protected or benefited by the
36 terms of this chapter.
- 37
38 B. The primary obligation of compliance with this chapter is placed upon the person
39 holding title to the property. Nothing contained in this chapter is intended to be or
40 shall be construed to create or form a basis for liability for the county, the
41 department, its officers, employees or agents for any injury or damage resulting
42 from the failure of the person holding title to the property to comply with the
43 provisions of this chapter, or by reason or in consequence of any act or omission
44 in connection with the implementation or enforcement of this chapter by the
45 county, department, its officers, employees or agents. (Exh. A of Ord. 1998-11-
46 17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34)

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13.26A.090 Effective date.

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

13.26A.100 Severability.

If any provision of this chapter or its application to any person or property is held invalid, the remainder of the chapter or the application of the provision to other persons or property shall not be affected. (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34)