



Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

11/13/2013

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Salem Plan Amendment
DLCD File Number 010-13

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, November 29, 2013

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. **NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.**

Cc: Robert Chandler, City of Salem
Gordon Howard, DLCD Urban Planning Specialist
Angela Lazarean, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

☐ In person ☐ electronic ☐ mailed

DATE
STAMP

DEPT OF

NOV 08 2013

LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

Jurisdiction: City of Salem

Local file number: N/A

Date of Adoption: November 4, 2013

Date Mailed: November 7, 2013

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 08/26/13

☐ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☒ Land Use Regulation Amendment

☐ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached". Adding Salem Revised Code Chapter 71 - Stormwater Code. This new chapter of Code establishes requirements for discharges into the stormwater system and receiving waters; protects life, property, receiving waters, aquatic life, and the environment; protects the public stormwater system; meets requirements of state and federal law; and implements green stormwater infrastructure as much as practicable. Goes into effect January 1, 2014.

Does the Adoption differ from proposal? Please select one No

Plan Map Changed from: to:

Zone Map Changed from: to:

Location: Acres Involved:

Specify Density: Previous: New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing? ☒ Yes ☐ No

If no, do the statewide planning goals apply? ☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption? ☐ Yes ☐ No

DLCD file No. 010-13 (19987) [17669]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:
Oregon Department of Environmental Quality

Local Contact: Robert Chandler, Asst. Public Works Dir. Phone: (503)588 - 6211 Extension: 7365
Address: 555 Liberty St. SE, Room 325 Fax Number: 503 -588-6025
City: Salem OR Zip: 97301 E-mail Address: rchandler@cityofsalem.net

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)
per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

2 AN ORDINANCE RELATING TO ESTABLISHING A NEW CHAPTER, SRC CHAPTER 71,
3 STORMWATER; REPEALING SRC 70.115; AND DECLARING AN EFFECTIVE DATE

4 *The City of Salem ordains as follows:*

5 **Section 1.** Sections 71.001 through 71.125 are added to and made a part of the Salem Revised
6 Code, Chapter 71, as:

7 **71.001. Objectives.**

8 (a) To establish requirements for discharges into stormwater systems, receiving
9 waters, and the environment;

10 (b) To protect, to the greatest extent practicable, life, property, receiving waters,
11 aquatic life, and the environment from loss, injury, degradation, or damage by
12 pollution, erosion, low flows, excessive flows, flooding, landslides, and other
13 potential hazards, whether from natural causes or from human activity;

14 (c) To protect the public stormwater system from damage;

15 (d) To meet the requirements of state and federal law and the City's National
16 Pollutant Discharge Elimination System (NPDES) municipal stormwater permit;

17 (e) To implement site-specific practices, including using green stormwater
18 infrastructure, to mimic natural hydrologic functions as much as practicable.

19 **71.005. Definitions; Rules of Construction.**

20 (a) Unless the context specifically indicates otherwise, as used in this Chapter the
21 following mean:

22 (1) Best management practice (BMP) means activities, prohibitions of practices,
23 operational and maintenance procedures, structural facilities, or managerial
24 practices or devices that, when used singly or in combination, prevent, reduce, or
25 treat contamination in drainage water, prevent or reduce soil erosion, or prevent or
26 reduce other adverse effects of drainage water on receiving waters. BMPs
27 prescribed by the Director, whether or not adopted by ordinance, shall be the
28 BMPs required for compliance with this Chapter.

29 (2) Design storm event means the size of the storm event used to calculate runoff
30 volumes and peak rates of discharge when designing stormwater facilities. The

1 design storm event is the total inches of rainfall, distributed during a 24-hour
2 period using a standard synthetic rainfall distribution identified as Type I-A by the
3 Natural Resources Conservation Service.

4 (3) Director means the Director of Public Works, or the Director's designee.

5 (4) Drainage water means stormwater and all other discharges that are not
6 prohibited by this Chapter.

7 (5) Earth material means all naturally occurring rock and soil, or combination
8 thereof, including clay, silt, sand, gravel-size particles, and naturally occurring
9 and naturally formed aggregates. The term does not include manmade materials
10 such as fill, concrete, or asphalt.

11 (6) Flow control facility means a stormwater facility designed to control the flow
12 rate, flow volume, or flow duration of drainage water.

13 (7) Green stormwater infrastructure means a stormwater facility that mimics
14 natural surface hydrologic functions through infiltration or evapotranspiration, or
15 that involves stormwater reuse.

16 (8) Ground disturbing activity means any activity that exposes earth material
17 through the use of mechanical equipment. By way of illustration, but not of
18 limitation, ground disturbing activity includes: grading, excavating, filling,
19 clearing, or working of land. Such disturbance may be permanent, such as gravel
20 mining, farming, gardening, sports fields; or short-term duration, such as
21 construction, excavation, fill, grading, landscape installation, or other vegetative
22 clearing activities.

23 (9) Illicit connection means any drain or conveyance system that results in a
24 discharge to a stormwater system or receiving water that is not entirely drainage
25 water.

26 (10) Impervious surface means any surface exposed to rainwater from which
27 most water runs off. By way of illustration, but not of limitation, impervious
28 surfaces include: rooftops, walkways, patios, driveways, parking lots, storage
29 areas, concrete or asphalt paving, gravel surfaces subjected to vehicular traffic,
30 compact gravel, packed earth material, oiled macadam, or other surfaces that

1 similarly impede the natural infiltration of stormwater.

2 (11) Large project means a project including 10,000 square feet or more of new
3 impervious surface or replaced impervious surface, individually or combined, or
4 10,000 square feet or more of ground disturbing activity.

5 (12) Maximum extent feasible means ~~in context with compliance with a~~
6 ~~requirement, constrained only by the physical limitations of the site, practical~~
7 ~~considerations of engineering design, and reasonable considerations of financial~~
8 ~~costs and environmental impacts. the extent to which a requirement or standard~~
9 must be complied with as constrained by the physical limitations of the site,
10 practical considerations of engineering design, and reasonable considerations of
11 financial costs and environmental impacts.

12 (13) NPDES municipal stormwater permit means the National Pollutant
13 Discharge Elimination System Municipal Separate Storm Sewer System discharge
14 permit issued to the City by the Oregon Department of Environmental Quality
15 under the federal Clean Water Act.

16 (14) Pollutant means any substance that affects, or has the potential to affect,
17 water quality in a manner that is detrimental to human health or safety or to the
18 environment. By way of illustration, but not of limitation, pollutants include:

- 19 (A) Acids or bases;
- 20 (B) Ammunition and explosives;
- 21 (C) Animal carcasses;
- 22 (D) Antifreeze;
- 23 (E) Bark and other fibrous materials, compost, collected lawn clippings,
24 leaves, or branches;
- 25 (F) Batteries;
- 26 (G) Chemicals not normally found in unpolluted stormwater;
- 27 (H) Chlorine and bromine based disinfectants;
- 28 (I) Construction or excavation materials and spoils;
- 29 (J) Degreasers and solvents;
- 30 (K) Dirt, soil, silt, sand, sediment, sod, gravel, or rock;

- (L) Domestic animal wastes;
- (M) Drain cleaners;
- (N) Dyes;
- (O) Flammable or explosive materials;
- (P) Feces;
- (Q) Food waste;
- (R) Hazardous materials, as defined by ORS 466.605;
- (S) Metals in either particulate or dissolved form;
- (T) Paints, stains, resins, lacquers, or varnishes;
- (U) Pesticides, herbicides, or fertilizers;
- (V) Petroleum products, including but not limited to oil, gasoline, grease, fuel oil, and heating oil;
- (W) Radioactive material;
- (X) Recreational vehicle waste;
- (Y) Sewage or sludge;
- (Z) Soaps, detergents, or ammonia;
- (AA) Steam cleaning wastes;
- (BB) Swimming pool backwash; and
- (CC) Trash, garbage, or debris.

(15) Pollution generating activity means any activity conducted outside with the potential of releasing pollutants into the public stormwater system, a private stormwater system, or receiving waters, and for which source controls may be prescribed. By way of illustration, but not of limitation, pollution generating activities include:

- (A) Transferring fuel from bulk storage tanks to vehicles, equipment, or mobile containers;
- (B) Storing fuel above ground in bulk containers;
- (C) Storing solid or liquid chemicals, food products, waste oils, solvents, process wastewaters, or petroleum products other than fuel in above ground containers;

1 (D) Storing solid wastes in compactors, dumpsters, and garbage cans;

2 (E) Storing material that is soluble or can be mobilized in water and that is
3 known to contain pollutants;

4 (F) Operating equipment and vehicle washing facilities; and

5 (G) Conducting ground disturbing activity on property with known or
6 suspected contamination from hazardous substances.

7 (16) Post-development means the conditions that reasonably may be expected or
8 anticipated to exist after completion of development activity on a site.

9 (17) Predevelopment means the conditions on a site in its natural, undeveloped
10 state, generally characterized by a mixture of trees, brush, weeds, and grass, and
11 which is used to determine the allowable post-development discharge peak rates
12 and flow volumes.

13 (18) Private stormwater system means a stormwater system that is not owned or
14 operated by the City of Salem.

15 (19) Project means ground disturbing activity, or the addition or replacement of
16 impervious surface.

17 (20) Public stormwater system means a stormwater system owned or operated by
18 the City of Salem.

19 (21) Receiving water means the surface water, groundwater, or wetland receiving
20 any discharge of drainage water or pollutants.

21 (22) Replaced impervious surface means the removal of impervious surface
22 down to earth material and replacement with new impervious surface.

23 Replacement does not include repair or maintenance activities on structures,
24 paved surfaces, or facilities taken to prevent decline, lapse, or cessation in the use
25 of the existing impervious surfaces as long as no additional hydrologic impact
26 results from the repair or maintenance activity.

27 (23) Single family residential project means the construction of one single family
28 dwelling or two attached single family dwellings on a single existing unit of land
29 that is zoned Single Family Residential (RS) where the total new and replaced
30 impervious surface is 1,300 square feet or more, but less than 10,000 square feet.

1 (24) Site means a unit of land, or portions of street, highway, or other right-of-
2 way, or contiguous combination thereof, where a project is proposed or
3 performed.

4 (25) Source controls means structures or operations that minimize or prevent
5 pollutants from coming in contact with drainage water through physical
6 separation or management of activities.

7 (26) Stormwater means that portion of precipitation and snowmelt that does not
8 naturally percolate into the ground or evaporate, but flows into receiving water by
9 overland flow, interflow, pipes, and other features of a stormwater system.

10 (27) Stormwater facility means a facility designed to control the flow rate, flow
11 volume, or flow duration of drainage water, or a facility designed to remove
12 pollutants from drainage water.

13 (28) Stormwater system means all stormwater facilities and improvements such
14 as catch basins, curbs, gutters, ditches, manmade channels, and storm drains, that
15 collect, convey, or control the flow of drainage water or remove pollutants from
16 drainage water.

17 (29) Treatment facility means a stormwater facility designed to remove pollutants
18 from drainage water.

19 (b) Words and phrases not defined in this section shall be construed according to
20 their customary and usual meaning unless the context indicates a special or technical
21 meaning. Words used in the present tense include the future, the singular number
22 includes the plural, and the word "shall" is mandatory and not discretionary.

23 **71.010. Authority of Director.**

24 (a) The Director shall administer and enforce the provisions of this Chapter, and may
25 adopt administrative rules for the implementation hereof. By way of illustration, but
26 not limitation, the Director's authority includes the authority to:

- 27 (1) Establish and conduct inspection and monitoring programs to evaluate and
28 enforce compliance with this Chapter;
29 (2) Take enforcement actions;
30 (3) Abate nuisances;

1 (4) Issue written and oral interpretations of this Chapter, and rules promulgated
2 hereunder;

3 (5) Review, approve, condition, revoke, or disapprove submittals, applications,
4 plans, and permits;

5 (6) Set and collect fees as prescribed by resolution of the City Council.

6 (7) Sample and analyze a discharge to the public stormwater system or receiving
7 water. If a prohibited discharge is determined to occur on a recurring basis, the
8 Director is authorized to conduct ongoing monitoring, and is authorized to require
9 the responsible party to conduct ongoing monitoring at the responsible party's
10 expense.

11 **71.015. More Stringent or Additional Best Management Practices Required.**

12 (a) The Director is authorized to issue an order requiring more stringent or additional
13 best management practices if:

14 (1) A discharge to a public stormwater system, a private stormwater system, or a
15 receiving water cannot be adequately addressed by the required best management
16 practices, and the discharge:

17 (A) Exceeded, exceeds, or will exceed water quality standards, or

18 (B) Caused or contributed, is causing or contributing, or will cause or
19 contribute to a prohibited discharge or a known or likely violation of water
20 quality standards in the receiving water or a known or likely violation of the
21 City's NPDES municipal stormwater permit.

22 (b) An order issued by the Director may be appealed to the Hearings Officer
23 pursuant to SRC Chapter 20J.

24 **71.020. Approval of Plans and Conformance to Standards.**

25 (a) Plans for all public and private stormwater systems shall be reviewed and
26 approved by the Director prior to construction. Such plans shall conform to the
27 Stormwater Master Plan and standards prescribed by the Director. Such approval
28 shall be required in addition to any other approvals required by state law.

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1 (b) All public or private stormwater systems, whether publicly or privately
2 constructed, shall conform to standards of design, material, and workmanship
3 prescribed by the Director.

4 **71.025. Fee-In-Lieu of Construction Authorized.**

5 (a) The Director may allow a developer to enter into a voluntary agreement with the
6 City for the payment of a fee-in-lieu of constructing a stormwater facility as required
7 by this Chapter if the Director has determined that such an agreement is in the public
8 interest. This determination shall consider the feasibility of constructing the
9 stormwater facility on the site; the costs associated with construction, operations, and
10 maintenance of the stormwater facility; and the benefits provided by the stormwater
11 facility in terms of accomplishing the purposes of this Chapter. In no event shall the
12 Director allow a developer to enter into a fee-in-lieu agreement with the City if the
13 resulting post-development conditions could result in a violation of the City's NPDS
14 municipal stormwater permit.

15 (b) The payment can be used to fund all or a portion of the cost of planning,
16 designing, acquiring land for, or constructing:

17 (1) An existing public stormwater facility that has been determined by the
18 Director to have excess capacity available to meet the applicable performance
19 standards for the drainage water from the site; or

20 (2) A new public stormwater facility that will be constructed in the future and
21 which has been determined by the Director to have excess capacity available to
22 meet the applicable performance standard for the drainage water from the site.

23 (c) The Director may require the developer to complete an engineering analysis to
24 evaluate the available excess capacity in an existing public stormwater facility.

25 (d) No building permits for any structures within the site subject to the condition of
26 development approval will be issued until the fee-in-lieu is paid.

27 (e) The Director of Finance shall deposit the fee-in-lieu into a trust and agency
28 account.

29 (f) An agreement to pay a fee-in-lieu of construction shall be in a form approved by
30 the City Attorney and recorded in the deed records of the appropriate county. The

1 agreement to pay a fee-in-lieu of construction shall not result in an assessment upon
2 or lien against real property, and the fee-in-lieu collected by the City from an
3 applicant are not taxes subject to the property tax limitations of Article XI, section
4 11(b) of the Oregon Constitution.

5 **71.030. Fee-in-Lieu Amount.** The fee-in-lieu amount shall be in accordance with a fee
6 schedule approved by City Council and will be based on 100 percent of the average cost of
7 constructing an equivalent stormwater facility.

8 **71.035. Compliance with Other Laws.**

9 (a) The requirements of this Chapter, and any rules adopted pursuant hereto, do not
10 replace, repeal, abrogate, supersede, or affect other more stringent law, requirements,
11 rules, regulations, covenants, standards, or restrictions. Where this Chapter imposes
12 requirements that are more protective of human health or the environment than those
13 established elsewhere, the provisions of this Chapter shall prevail. When this Chapter
14 imposes requirements that are less protective of human health or the environment
15 than those established elsewhere, the provisions of the more protective requirements
16 shall prevail.

17 (b) Approvals and permits granted under this Chapter are not waivers of the
18 requirements of any other laws, nor do they indicate compliance with any other laws.
19 Compliance is still required with all applicable federal, state, and local laws and
20 regulations, including rules promulgated under authority of this Chapter.

21 **71.040. City Not Liable.**

22 (a) Nothing contained in this Chapter is intended to be nor shall be construed to
23 create or form the basis for any claim, action, or liability against officers, employees
24 or agents of the City for any injury or damage resulting from the failure of
25 responsible parties to comply with the provisions of this Chapter, or by reason or in
26 consequence of any inspection, notice, order, certificate, permission, or approval
27 authorized or issued or done in connection with the implementation or enforcement of
28 this Chapter, or by reason of any action or inaction on the part of the City related in
29 any manner to the enforcement of this Chapter by its officers, employees, or agents.

30 (b) Nothing in this Chapter shall impose any liability on the City or any of its

1 officers or employees for cleanup or any harm relating to sites containing hazardous
2 materials, wastes, or polluted soil.

3 **71.045. Applicability.**

- 4 (a) All projects, whether or not a permit is required;
5 (b) All discharges directly or indirectly to the public stormwater system or to a
6 private stormwater system;
7 (c) All discharges directly or indirectly into receiving waters within or contiguous to
8 the City's corporate limits;
9 (d) All new and existing land uses;
10 (e) All real property; and
11 (f) All persons owning, engaging in any activity on, or occupying property even
12 where no project is occurring.

13 **71.050. Prohibited Discharges.**

- 14 (a) Except as provided in SRC 71.055, no person shall discharge, directly or
15 indirectly, any pollutant into the public stormwater system, a private stormwater
16 system, or receiving water located within or contiguous to the City's corporate limits.
17 (b) A violation of this section is an infraction.

18 **71.055. Permissible Discharges.**

- 19 (a) Discharges from the following sources and activities are allowed unless the
20 discharge, singly or in combination with other discharges, causes or contributes to a
21 violation of the NPDES municipal stormwater permit; to a violation of a waste load
22 allocation contained in a Total Maximum Daily Load approved by the EPA; or to a
23 violation of a city, state, or federal regulation; or to endangerment of public health,
24 safety or welfare, the environment, or public or private property:
- 25 (1) Water line flushing;
 - 26 (2) Landscape irrigation;
 - 27 (3) Diverted stream flows;
 - 28 (4) Rising groundwater;
 - 29 (5) Unpolluted groundwater infiltration;
 - 30 (6) Unpolluted pumped groundwater;

- (7) Potable water sources;
 - (8) Start-up flushing of groundwater wells;
 - (9) Potable groundwater monitoring wells;
 - (10) Draining and flushing of municipal potable water storage reservoirs;
 - (11) Foundation drains;
 - (12) Air conditioning condensate;
 - (13) Irrigation water;
 - (14) Springs;
 - (15) Water from crawl space pumps;
 - (16) Footing drains;
 - (17) Lawn watering;
 - (18) Individual residential car washing;
 - (19) Charity car washing;
 - (20) Flows from riparian habitats and wetlands;
 - (21) Dechlorinated swimming pool water;
 - (22) Street washwater;
 - (23) Dye testing of water, wastewater, or stormwater systems;
 - (24) Treated water from investigation, removal, and remedial actions selected or approved by the DEQ pursuant to Oregon Revised Statutes (ORS) Chapter 465;
 - (25) Flows from emergency fire fighting activities;
 - (26) Flows from a private stormwater system conveyed pursuant to, and in compliance with, a DEQ-approved NPDES permit;
 - (27) Flows conveyed pursuant to, and in compliance with, a DEQ-approved NPDES permit, and which are in compliance with all applicable City permits and approvals.
- (b) Notwithstanding subsection (a) of this section, permissible discharges may be subject to additional controls, best management practices, or other conditions as established in Administrative Rules.

1 **71.060. Report of Discharges of Pollutants Required.**

2 (a) Any person owning, engaging in any activity on, or occupying real property shall
3 report the discharge of any pollutant from that property to the City if the discharge
4 has introduced, or is likely to introduce, a pollutant into the public stormwater system,
5 a private stormwater system, or receiving water. The report shall be made at the
6 earliest possible time, but in no case later than 24 hours after discovery of the
7 discharge. Reporting pursuant to this section is in addition to, and not in lieu of, any
8 other reporting requirements imposed by federal, state, or local laws.

9 (b) A failure to report a discharge under subsection (a) of this section is an infraction.

10 **71.065. Requirements for All Property.** Any person owning, engaging in any activity on, or
11 occupying property shall implement and maintain best management practices to prevent
12 pollutants from leaving the property and entering into a stormwater system or receiving water.
13 Best management practices include, but are not limited to:

14 (a) Identifying and eliminating illicit connections to the public stormwater system or
15 a private stormwater system;

16 (b) Disposing of fluids and wastes in a manner that minimizes the risk of
17 contaminating stormwater;

18 (c) Storing solid wastes in a manner that minimizes the risk of contaminating
19 stormwater; and

20 (d) Undertaking measures to prevent spills of pollutants and to properly cleanup
21 spills that may occur.

22 **71.070. Additional Source Controls Required.** Sites at which pollution generating activity
23 is conducted shall comply with source control best management practices.

24 **71.075. Requirements for All Projects**

25 (a) Any person conducting a project shall:

26 (1) Safely convey drainage water to the approved point of discharge;

27 (2) Prevent erosion and sediment transport from the site throughout all phases of
28 construction and including landscaping;

29 (3) Maintain the project's stormwater facilities to keep the facilities in continuous
30 working order;

- 1 (4) Preserve existing trees to the maximum extent feasible to minimize site-
2 specific post-development stormwater runoff volumes and rates of discharge;
3 (5) Where vegetation exists in the predevelopment condition, preserve the
4 vegetation to the maximum extent feasible.
5 (6) Provide landscaping and plant new trees to the maximum extent feasible to
6 minimize site specific post-development stormwater runoff volumes and rates of
7 discharge;
8 (7) In areas to remain pervious following development, protect soil from
9 compaction and ground disturbing activities to the maximum extent feasible;
10 (8) Identify and eliminate illicit connections to the stormwater system;
11 (9) Implement required source controls if the project will result in a pollution
12 generating activity;
13 (10) If the site discharges to a known wetland as designated on the Local
14 Wetland Inventory or otherwise as delineated by the City or developer:
15 (A) Protect the hydrologic conditions, vegetative community, and substrate
16 characteristics of the wetlands to prevent adverse impacts to the affected
17 wetlands; and
18 (B) Select, design, install, and maintain temporary and permanent stormwater
19 facilities to prevent the introduction of pollutants into the wetland.

20 **71.080. Requirements for ~~Subdivisions and Partitions~~ Land Divisions.**

- 21 (a) ~~All subdivisions and partitions~~ Except as provided in SRC 71.080(c), all land
22 divisions shall be provided with stormwater facilities that are sized to serve the entire
23 ~~subdivision or partition~~ land division under fully developed conditions.
24 (b) Construction of stormwater facilities that serve only one lot or parcel may be
25 delayed until the time of building construction on that lot or parcel.
26 (c) A lot or parcel created through an approved tentative plan submitted to the City
27 prior to the effective date of this ordinance may comply with the requirements of this
28 Chapter or with the regulations in effect at the time of the tentative plan application.

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1 **71.085. Requirements for Single Family Residential Projects.**

2 (a) Except as provided in SRC 71.085(b), All single family residential projects shall
3 be designed and constructed with green stormwater infrastructure to the maximum
4 extent feasible except where flow control facilities and treatment facilities have
5 already been constructed per SRC 71.080 to serve the lot or parcel.

6 (b) Single family residential projects on lots or parcels created through an approved
7 land division tentative plan submitted to the City prior to the effective date of this
8 ordinance may comply with the requirements of this Chapter or with the regulations
9 in effect at the time of the tentative plan application.

10 **71.087. Requirements for City Projects.** A City project that is not required to obtain land
11 use approval or a building permit, and that meets all the conditions set forth below, is not
12 required to comply with SRC 71.090 and SRC 71.095:

13 (a) The project begins ground disturbing activity within two years of the effective
14 date of this ordinance; and

15 (b) The project conforms with the stormwater facility requirements in effect
16 immediately prior to the effective date of this ordinance; and

17 (c) The project meets one or more of the following criteria:

18 (1) Project funding was identified in "The Adopted Capital Improvement Plan for
19 Fiscal Years 2013-2014 through 2017-2018;" or

20 (2) Project funding was appropriated in the fiscal year 2013-2014 Capital
21 Construction Budget; or

22 (3) Project received, or will receive, voter approval of financing before January 1,
23 2014; or

24 (4) Project received, or will receive, funds based on a grant application submitted
25 before January 1, 2014; or

26 (5) Project was approved for funding by City Council action prior to January 1,
27 2014.

28 **71.090. Requirements for Large Projects.** All persons conducting large projects shall:

29 (a) Phase the project to the maximum extent feasible in order to minimize the
30 amount of simultaneous ground disturbing activity;

1 (b) Provide additional stormwater facilities or improve the public stormwater system
2 to adequately accommodate the stormwater flows from the site if insufficient capacity
3 exists in the public stormwater system to carry existing and anticipated discharge
4 flows, including any flows from dewatering activities. The Director may require the
5 developer shall to conduct analyses to ensure sufficient capacity exists downstream
6 from the location where the drainage water is discharged from the site;

7 (c) Provide flow control facilities as required by this Chapter; and

8 (d) Provide treatment facilities as required by this Chapter.

9 **71.095. Flow Control Facilities.**

10 (a) **Applicability.**

11 (1) Except as provided in subsection (2) of this section, all large projects shall be
12 provided with flow control facilities that comply with this section.

13 (2) The following projects are exempt from the requirements of this section:

14 (A) Maintenance, repair, or installation of underground or overhead utility
15 facilities that includes replacing the ground surface with in-kind material or
16 materials with similar runoff characteristics. By way of illustration, but not of
17 limitation, this includes maintenance, repair, and installation of pipes,
18 conduits, and vaults.

19 (B) The following road maintenance practices:

20 (i) Pothole and square cut patching;

21 (ii) Overlaying existing asphalt or concrete or brick pavement with
22 asphalt or concrete without expanding the area of coverage;

23 (iii) Shoulder grading;

24 (iv) Reshaping or re-grading drainage ditches;

25 (v) Crack sealing;

26 (vi) Replacing existing impervious surface down to earth material; and

27 (vii) Vegetation maintenance.

28 (C) Projects in the right-of-way under the control of another governmental
29 body, if:
30

1 (i) The governmental body uses best management practices consistent
2 with that government body's own Stormwater Management Program and
3 NPDES Permit; and

4 (ii) The best management practices are at least as stringent as those
5 required by this Chapter and rules pursuant thereto.

6 **(b) Design.**

7 (1) Flow control facilities shall be designed and installed to receive all flows
8 from that portion of the site being developed and for the flows discharging to the
9 flow control facility from other areas, including existing impervious surfaces and
10 offsite areas, when the other flows cannot be separated or bypassed. By way of
11 illustration, but not of limitation, as used in this section, development includes: all
12 new impervious surfaces, all replaced impervious surfaces, all disturbed land
13 areas, and any associated flows from dewatering.

14 (2) Green stormwater infrastructure as a flow control facility shall be used to the
15 maximum extent feasible.

16 (3) The Director may reduce the total area of the site requiring flow control upon
17 a consideration of the following:

18 (A) Areas retained in a natural, undisturbed state.

19 (B) Disturbed land areas within the site that have had soils amended.

20 (C) Disturbed land areas that have been replaced with permeable pavement or
21 green roofs.

22 (D) The total number existing trees that are preserved or new trees that are
23 planted.

24 (4) The Director may allow construction of a flow control facility at a location
25 other than the site if:

26 (A) The Director has determined that it is in the public interest to construct a
27 flow control facility at a location other than the site. This determination shall
28 consider the feasibility of constructing the flow control facility on the site; the
29 costs associated with construction, operations, and maintenance of the flow
30 control facility; and the benefits provided by the flow control facility in terms

1 of accomplishing the purposes of this Chapter; and

2 (B) The flow control facility constructed at a location other than the site will
3 mitigate similar impacts that have been identified as a consequence of the
4 project.

5 (c) **Flow Control Facility Performance Standard.**

6 (1) The post-development peak runoff rates from design storm events equal to or
7 less than one-half the 2-year, 24-hour design storm event shall not exceed the
8 predevelopment peak runoff rate for one-half the 2-year, 24-hour design storm
9 event; and

10 (2) The post-development peak runoff rates from design storm events equal to or
11 less than the 10-year, 24-hour design storm event shall not exceed the
12 predevelopment peak runoff rate for the 10-year, 24-hour design storm event; and

13 (3) If a volume-based stormwater flow control facility is used, the detention
14 volume shall be sufficient to detain a 100-year design storm event of any duration
15 without overflow.

16 **71.100. Treatment Facilities.**

17 (a) **Applicability.**

18 (1) Except as provided in subsection (2) of this section, all large projects shall be
19 provided with stormwater treatment facilities that comply with this section.

20 (2) The following projects are exempt from the requirements of this section:

21 (A) Maintenance, repair, or installation of underground or overhead utility
22 facilities that includes replacing the ground surface with in-kind material or
23 materials with similar runoff characteristics. By way of illustration, but not of
24 limitation, this includes maintenance, repair, and installation of pipes,
25 conduits, and vaults.

26 (B) The following road maintenance practices:

27 (i) Pothole and square cut patching;

28 (ii) Overlaying existing asphalt or concrete or brick pavement with
29 asphalt or concrete without expanding the area of coverage;

30 (iii) Shoulder grading;

1 (iv) Reshaping or re-grading drainage ditches;

2 (v) Crack sealing;

3 (vi) Replacing existing impervious surface down to earth material; and

4 (vii) Vegetation maintenance.

5 (C) Projects in the right-of-way under the control of another governmental
6 body, if:

7 (i) The governmental body uses best management practices consistent
8 with that government body's own Stormwater Management Program and
9 NPDES municipal stormwater permit; and

10 (ii) The best management practices are at least as stringent as those
11 required by this Chapter and rules pursuant thereto.

12 **(b) Design.**

13 (1) Treatment facilities shall be designed and installed to receive all flows from
14 that portion of the site being developed and for the flows discharging to the
15 treatment facility from other areas, including existing impervious surfaces and
16 offsite areas, when the other flows cannot be separated or bypassed. By way of
17 illustration, but not of limitation, as used in this section, development includes: all
18 new impervious surfaces, all replaced impervious surfaces, all disturbed land
19 areas, and any associated flows from dewatering.

20 (2) Green stormwater infrastructure as a treatment facility shall be used to the
21 maximum extent feasible.

22 (3) The Director may reduce the total area of the site requiring ~~flow control~~
23 treatment upon a consideration of the following:

24 (A) Areas retained in a natural, undisturbed state.

25 (B) Disturbed land areas within the site that have had soils amended.

26 (C) Disturbed land areas that have been replaced with permeable pavement or
27 green roofs.

28 (D) The total number existing trees that are preserved or new trees that are
29 planted.

30 (4) The Director may allow construction of a treatment facility at a location other

1 than the site if:

- 2 (A) The Director has determined that it is in the best public interest to
3 construct a treatment facility at a location other than the site. This
4 determination shall consider the feasibility of constructing the treatment
5 facility on the site; the costs associated with construction, operations, and
6 maintenance of the treatment facility; and the benefits provided by the
7 treatment facility in terms of accomplishing the purposes of this Chapter; and
8 (B) The treatment facility constructed at a location other than the site will
9 mitigate similar impacts that have been identified as a consequence of the
10 project.

11 (c) **Treatment Facility Performance Standard.** Treatment facilities shall be
12 designed and installed to capture and treat at least 80 percent of the average runoff
13 volume predicted by the design storm event for that portion of the site requiring
14 treatment.

15 **71.105. Harmful Discharges.**

16 (a) The Director may suspend the stormwater service when, in the opinion of the
17 Director, such suspension is necessary in order to stop an actual or threatened
18 discharge which presents or may present an imminent or substantial threat to the
19 health or welfare of persons, or to the environment.

20 (b) Any person notified of a suspension of the service shall immediately stop or
21 eliminate the discharge. In the event of a failure of the person to comply voluntarily
22 with the suspension order, the Director shall take such steps as deemed necessary to
23 prevent or minimize damage to the stormwater system or endangerment to any
24 individual or the environment. The Director shall reinstate the service upon proof of
25 the elimination of the noncomplying discharge.

26 (c) A detailed written statement submitted by the user describing the causes of the
27 harmful discharge and the measures taken to prevent any future occurrence shall be
28 submitted to the Director within five days of the date of occurrence.

29 **71.110. Appeals.** Any person adversely affected by any decision, action, determination, or
30 order, made by the Director interpreting or implementing the provisions of this Chapter may

1 appeal to the Hearings Officer as set forth in SRC Chapter 20J, and such appeal shall be
2 initiated by filing a notice of intent to appeal with the City Recorder within fifteen business
3 days after notice of the Director's final decision has been sent. The notice of appeal shall
4 satisfy the requirements of SRC 20J.110, and the appeal shall proceed as a contested case
5 under the procedures established in SRC 20J.240-20J.430. Unless otherwise stayed by order of
6 the Hearings Officer, the Director's decision, action determination or order, shall remain in
7 effect during the pendency of the appeal to the Hearings Officer.

8 **71.115. Falsifying Information.** No person shall knowingly make any false statement,
9 representation, or certification in any application, record, report, plan, or other document filed
10 or required to be maintained pursuant to this Chapter, or falsify, tamper with, or knowingly
11 render inaccurate any monitoring device or method required under this Chapter.

12 **71.120. Civil Penalties.** Any person who is found to have violated an order of the Director, or
13 who willfully or negligently failed to comply with any provision of this Chapter, and the
14 orders, rules, and regulations issued hereunder, shall forfeit and pay not more than \$1,000 for
15 each offense as determined by the Hearings Officer. Each day on which a violation shall occur
16 or continue shall be deemed a separate and distinct offense.

17 **71.125. Violations.** Violation of any provision of this Chapter, in addition to any civil
18 forfeitures, shall be an infraction.

19 **Section 2. SRC 70.115 is repealed:**

20 ~~**70.115. Flow Control and Treatment of Stormwater.** All development constructed after~~
21 ~~January 1, 2013, that creates or replaces 3,000 square feet or more of impervious service, shall~~
22 ~~provide for flow control and treatment of stormwater runoff in a manner that complies with the~~
23 ~~Public Works Design Standards.~~

24 **Section 3. Codification.** In preparing this ordinance for publication and distribution, the City
25 Recorder shall not alter the sense, meaning, effect or substance of this ordinance, but within such
26 limitations, may:

- 27 (a) Renumber sections and parts of sections of the ordinance;
- 28 (b) Rearrange sections;
- 29 (c) Change reference numbers to agree with renumbered chapters, sections or other parts;
- 30 (d) Delete references to repealed sections;

1 (e) Substitute the proper subsection, section or chapter, or other division numbers;

2 (f) Change capitalization and spelling for the purpose of uniformity;

3 (g) Add headings for purposes of grouping like sections together for ease of reference; and

4 (h) Correct manifest clerical, grammatical or typographical errors.


5 **Section 4. Severability.** Each section of this ordinance, and any part thereof, is severable, and
6 if any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of
7 this ordinance shall remain in full force and effect.

8 **Section 5. Effective Date.** The effective date of this ordinance shall be January 1, 2014.

9 PASSED by the City Council this 4th day of November, 2013.

10 ATTEST:

11 *Kathleen Hall*
12 City Recorder

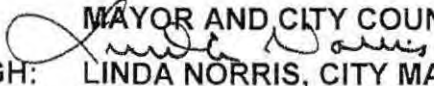

13 Approved by City Attorney: 

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15 Checked by: R. Chandler

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FOR COUNCIL MEETING OF:
AGENDA ITEM NO.:
PUBLIC WORKS FILE NO.:

November 4, 2013
4 (c)

TO: MAYOR AND CITY COUNCIL
THROUGH:  LINDA NORRIS, CITY MANAGER
FROM:  PETER FERNANDEZ, P.E., PUBLIC WORKS DIRECTOR
SUBJECT: SUPPLEMENTAL STAFF REPORT CONCERNING PROPOSED
ENGROSSED ORDINANCE BILL NUMBER 28-13, STORMWATER

ISSUE:

Should Council, after conducting a public hearing, amend Ordinance Bill Number 28-13 as set forth in proposed Engrossed Ordinance Bill Number 28-13 and advance Engrossed Ordinance Bill Number 28-13 to second reading for enactment?

RECOMMENDATION:

Staff recommends Council, after conducting a public hearing, amend Ordinance Bill Number 28-13 as set forth in proposed Engrossed Ordinance Bill Number 28-13 and advance Engrossed Ordinance Bill Number 28-13 to second reading for enactment.

BACKGROUND:

In 2010, the Oregon Department of Environmental Quality issued the City of Salem a National Pollutant Discharge Elimination System (NPDES) municipal stormwater discharge permit. Compliance with this permit is a requirement of the federal Clean Water Act. Among the provisions of the permit is a mandate that the City adopt, no later than January 1, 2014, new regulations related to post-construction stormwater runoff treatment and flow control. To meet this requirement, staff have worked with an advisory committee and many stakeholders to develop a new chapter in the *Salem Revised Code* (SRC) that is specific to stormwater and which meets the requirements of the City's NPDES municipal stormwater discharge permit.

Council conducted first reading of Ordinance Bill Number 28-13 on August 26, 2013, and referred the issue to Planning Commission for public hearing (see Attachment A). Between the first reading at Council August 26, 2013, and the public hearing at Planning Commission October 1, 2013, staff continued to work with key stakeholders, including the Stormwater Advisory Committee, the Home Builders Association of Marion and Polk Counties, and the Oregon Department of Environmental Quality. A number of necessary corrections and changes to Ordinance Bill Number 28-13 were identified, resulting in Engrossed Ordinance Bill Number 28-13. Planning Commission conducted a public hearing on Engrossed Ordinance Bill Number 28-13 on October 1, 2013, and unanimously recommended Council adopt Engrossed Ordinance Bill Number 28-13. After the public hearing at Planning Commission on October 1, 2013, staff identified two additional changes that are necessary to the ordinance. Engrossed Ordinance Bill Number 28-13, provided as Attachment B, contains all the recommended changes to

Ordinance Bill Number 28-13 that have been identified since Council's first reading on August 28, 2013.

Engrossed Ordinance Bill Number 28-13 establishes SRC Chapter 71, Stormwater, with an effective date of January 1, 2014.

FACTS AND FINDINGS:

1. On August 26, 2013, Council initiated adoption of Ordinance Bill Number 28-13 by conducting first reading and referring the matter to Planning Commission for public hearing and recommendation (see Attachment A).
2. A public hearing on Engrossed Ordinance Bill Number 28-13 was held before the Salem Planning Commission on October 1, 2013. Two individuals spoke at the public hearing. Both speakers represented the Home Builders Association of Marion and Polk County and both spoke in favor of the ordinance.
3. After closing the public hearing, Planning Commission voted unanimously to recommend Council move the ordinance to second reading for adoption.
4. Since Council conducted first reading of Ordinance Bill Number 28-13 on August 26, 2013, staff have continued working with members of the Stormwater Advisory Committee, representatives of the Home Builders Association, and staff from the Oregon Department of Environmental Quality to improve the ordinance. The resulting revisions, which provide additional clarity in terminology and applicability of the requirements, are contained in Engrossed Ordinance Bill Number 28-13 provided as Attachment B. The changes are summarized below:
 - a. The definition for "maximum extent feasible" has been revised for clarity without changing the intention of the term.
 - b. In SRC 71.080, the term "subdivisions and partitions" has been changed to "land divisions" to reflect the terminology of SRC Chapter 63, where division of land is defined as "the creation of lots or parcels."
 - c. SRC 71.080(c) has been added to clarify applicability of this ordinance. This addition is consistent with *Oregon Revised Statute* Chapter 92 and the provisions of the City's NPDES municipal stormwater discharge permit.
 - d. SRC 71.085 has been revised to align with the changes made to SRC 71.080(c).
 - e. A new section, SRC 71.087, Requirements for City Projects, has been added to clarify applicable requirements for stormwater flow control and

treatment facilities for projects that do not require land use approval or a building permit.

- f. SRC 71.090 has been revised so the Public Works Director has discretion whether to require a developer to conduct capacity analysis of the downstream stormwater system.
 - g. SRC 71.095(c) has been revised to match current standards of practice for sizing volume-based stormwater flow control facilities.
 - h. SRC 71.100(b) has been revised to correct a typographical error.
 - i. Section 2 has been added to repeal SRC 70.115. This section of SRC Chapter 70 contains a threshold for stormwater flow control and treatment facilities that will be superseded when Engrossed Ordinance Bill Number 28-13 becomes effective.
 - j. Section 5 has been added to indicate an effective date for Engrossed Ordinance Bill Number 28-13 of January 1, 2014.
5. Adopting Engrossed Ordinance Bill Number 28-13 will ensure the City remains in compliance with its NPDES municipal stormwater discharge permit.

PUBLIC NOTICE:

- 1. Notice of proposed Ordinance Bill Number 28-13 was provided to the Oregon State Department of Land Conservation and Development on August 27, 2013.
- 2. Notice of the October 1, 2013, public hearing at Planning Commission was sent September 10, 2013. The public hearing was also advertised in the *Statesman Journal* on September 18, 2013, and September 25, 2013.
- 3. Articles on the proposed Stormwater Code appeared in the *Statesman Journal* September 30, 2013, and October 1, 2013, both mentioning the October 1, 2013, public hearing at Planning Commission.
- 4. An article providing the results of the Planning Commission's public hearing appeared in the *Statesman Journal* on October 3, 2013. This article also noted that Council would be considering the proposed Stormwater Code at its November 4, 2013, meeting.
- 5. Notice of the November 4, 2013, public hearing at Council was sent October 14, 2013. The public hearing was also advertised in the *Statesman Journal* on October 21, 2013, and October 28, 2013.

PUBLIC OUTREACH:

The following actions have been taken to provide opportunities for public input and comments on the proposed new regulations:

1. Stormwater Advisory Committee. The Stormwater Advisory Committee has been meeting monthly since January 2013. Members represent a range of personal and professional perspectives, including engineering, architecture, construction, development, real estate, environmental advocacy, and more. Included on the committee are representatives from the Home Builders Association of Marion and Polk County, the Salem Area Chamber of Commerce, Marion County, and the City of Keizer. The meetings of the committee are open to the public and meeting dates and times are posted on the City of Salem public website on the "Meetings of Interest" page. A website has been established that contains downloadable material from each meeting of the Stormwater Advisory Committee.
2. Neighborhood Associations. An email was sent July 8, 2013, to all 18 Neighborhood Association Chairs providing a summary of the proposed Stormwater Code and offering to provide a presentation upon request. Nine neighborhood associations requested presentations, all of which were provided during the period between August 5, 2013, and September 12, 2013.
3. Home Builders Association of Marion and Polk County (HBA). Members of the HBA sit on the Stormwater Advisory Committee. Public Works staff met several times with the HBA Chief Executive Officer and other members of HBA to work together on drafting the ordinance and associated administrative rules. A presentation on the proposed Stormwater Code was provided at the July meeting of the HBA Government Affairs Committee. An article on the proposed code was prepared by Public Works staff and carried in the HBA's July/August 2013 edition of *The Chalk Line*.
4. Salem Area Chamber of Commerce. A member of the Salem Area Chamber of Commerce sits on the Stormwater Advisory Committee. A presentation on the proposed Stormwater Code was provided to the Chamber's Public Policy Committee on September 5, 2013.
5. Salem Association of Realtors. A presentation was provided to the Government Affairs Committee of the Salem Association of Realtors October 7, 2013.
6. Public Service Announcements. A public service announcement was made regarding the proposed Stormwater Code on radio station KBZY. The announcement ran during the week of July 18, 2013, and again during the week of August 5, 2013.

7. Public Website. A website specific to the proposed Stormwater Code was established in mid-July at:

www.cityofsalem.net/Departments/PublicWorks/Pages/stormwater-code.aspx.

This website contains an overview and draft copy of the proposed Code. It also provides other informational documents and includes a link to an email address for viewers to submit comments.





Robert D. Chandler, Ph.D., P.E.
Assistant Public Works Director

Attachment:

- A. Staff Report August 26, 2013, Proposed Ordinance Bill No. 28-13 Stormwater
- B. Engrossed Ordinance Bill Number 28-13, Stormwater

Wards: All
October 23, 2013

FUTURE REPORT August 12, 2013
FOR COUNCIL MEETING OF: August 26, 2013
AGENDA ITEM NO.: 8.1 (a)
PUBLIC WORKS FILE NO.: _____

TO: MAYOR AND CITY COUNCIL
THROUGH:  LINDA NORRIS, CITY MANAGER
FROM: PETER FERNANDEZ, P.E., PUBLIC WORKS DIRECTOR 
SUBJECT: PROPOSED ORDINANCE BILL NO. 28-13 STORMWATER

ISSUE:

Should Council initiate the adoption of a new chapter to the *Salem Revised Code* concerning Stormwater by conducting first reading of Ordinance Bill No. 28-13 and referring it to the Planning Commission for public hearing and recommendation?

RECOMMENDATION:

Staff recommends Council initiate the adoption of a new chapter to the *Salem Revised Code* concerning Stormwater by conducting first reading of Ordinance Bill No. 28-13 and referring it to the Planning Commission for public hearing and recommendation.

BACKGROUND:

In 2010, the Oregon Department of Environmental Quality (DEQ) issued to the City of Salem a National Pollutant Discharge Elimination System Municipal Stormwater (NPDES) Permit, which is a requirement of the federal Clean Water Act. This permit authorized discharges from the City's municipal separate stormwater system into receiving waters. Among the provisions of the permit is the requirement that the City adopt stormwater regulations related to post-construction stormwater runoff and flow control. To meet this requirement, staff is proposing to create a new chapter in the *Salem Revised Code* (SRC) specific to stormwater that will incorporate the new, mandatory permit requirements that are necessary for compliance with the NPDES permit and state and federal law.

FACTS AND FINDINGS:

1. The NPDES permit requires that by January 1, 2014, the City establish, through ordinances and other enforceable regulatory mechanisms, post-construction stormwater pollutant and runoff control requirements that meet the following conditions:
 - a. The requirements are applicable to single-family residential development and redevelopment that create or replace 1,300 square feet or more of impervious surface;

- b. The requirements are applicable to "parcel-based projects" (called "large projects" in the proposed code) that create or replace 10,000 square feet or more of impervious surface;
 - c. The requirements incorporate site-specific management practices to mimic natural surface or predevelopment hydrologic functions as much as practicable. The site-specific management practices should optimize on-site retention based on the site conditions;
 - d. The requirements reduce site-specific post-development stormwater runoff volume, duration, and rates of discharges to the municipal stormwater system to minimize hydrological and water quality impacts from impervious surfaces;
 - e. The requirements prioritize and include implementation of Low-Impact Development, Green Infrastructure or equivalent planning, design, and construction approaches (called "green stormwater infrastructure" in the proposed code); and,
 - f. The requirements have a performance measure to capture and treat 80 percent of the annual average runoff volume, based on a documented local or regional rainfall frequency and intensity.
2. SRC 300.1110(a)(3) allows City staff to initiate a legislative land use proceeding by preparing an ordinance bill and placing it on the Council agenda for first reading. Council may then schedule a public hearing to consider the proposal, refer the matter to the appropriate review authority for hearing, refer the matter to a Council subcommittee for further review, or decline to advance the ordinance to second reading. Staff recommends Council conduct first reading and refer the proposed ordinance to the Planning Commission for public hearing. After the public hearing, the proposed ordinance will come back to the Council for consideration and final adoption.
3. SRC 300.1110(b)(1) requires at least one hearing be held for the purpose of receiving evidence and testimony in a legislative land use proceeding. Staff recommends that this hearing be held by the Planning Commission.
4. SRC 300.1110(c)(1) and *Oregon Revised Statutes* 197.610 require the City to send notice to Department of Land Conservation and Development (DLCD) at least 35 days prior to the initial hearing. Notice will be delivered to DLCD on August 27, 2013.
5. The public hearing by Planning Commission will be scheduled for October 1, 2013.

Summary of the Proposed Code Amendments

Ordinance Bill No. 28-13, proposes to create a new SRC Chapter 71 entitled "Stormwater" to establish requirements related to discharges into stormwater systems and meet the requirements of the NPDES municipal stormwater permit. A summary of the proposed ordinance is provided below:

Objectives:

- Establish requirements for discharges into the stormwater system and receiving waters;
- Protect life, property, and the environment from harm;
- Protect the public stormwater system from harm;
- Meet state and federal regulatory requirements; and
- Implement practices to mimic natural hydrologic functions as much as practicable.

Definitions: Defines words and phrases specific to the proposed Stormwater Code.

Authorities: The proposed Stormwater Code grants the Public Works Director authority to:

- Administer and enforce the provisions of the Chapter, including conducting inspections, taking enforcement actions, issuing rules, reviewing and approving applications, and sampling discharges;
- Issue an order requiring more stringent or additional best management practices if necessary to address a violation or avoid a potential violation of the City's stormwater permit; and
- Allow a developer to pay a fee-in-lieu of constructing a required stormwater facility if the Public Works Director determines that doing so is in the best public interest.

Prohibited Discharges: The proposed Stormwater Code prohibits any person from discharging pollutants, directly or indirectly, into a stormwater system or receiving water.

Permissible Discharges: The proposed Stormwater Code lists specific types of discharges (for example, irrigation water) and activities (for example, firefighting) that are allowed to be discharged into a stormwater system.

General Requirements for Pollution Prevention: Requirements related to stormwater pollution prevention are contained in the proposed Stormwater Code. The requirements are for all persons to:

- Report to the City the discharge of any pollutants into a stormwater system or receiving water;
- Identify and eliminate any illicit connections to the stormwater system (an example of an illicit connection would be a wastewater line connected to a stormwater pipe);
- Dispose of fluids in a manner that minimizes risks of contaminating stormwater;
- Store solid wastes in a manner that minimizes risks of contaminating stormwater; and
- Undertake measures to prevent spills of pollutants and to properly clean up spills that may occur.

Additional Requirements for Source Controls: The proposed Stormwater Code identifies certain activities that must implement specific source control measures to prevent pollutants being released into the stormwater system. The activities are:

- Transferring fuel from bulk storage tanks to vehicles, equipment, or mobile containers;
- Storing fuel above ground in bulk containers;
- Storing solid or liquid chemicals, food products, waste oils, solvents, process wastewater, or petroleum products other than fuel in above ground containers;
- Storing solid wastes in compactors, dumpsters, and garbage cans;
- Storing material that is soluble or can be mobilized in water and is known to contain pollutants;
- Operating equipment and vehicle washing facilities; and
- Conducting ground-disturbing activity on property with known or suspected contamination from hazardous substances.

Requirements for All Projects: A set of requirements is provided in the proposed Stormwater Code that will apply to all new development and redevelopment projects, regardless of size. They include:

- Safely convey drainage water to the approved point of discharge;
- Prevent erosion and sediment transport from the site;
- Maintain the project's stormwater facilities;
- Preserve existing trees to the maximum extent feasible;
- Preserve natural vegetation to the maximum extent feasible;
- Provide landscaping and plant new trees to the maximum extent feasible;
- Protect soils from compaction and ground-disturbing activities to the maximum extent feasible if the soils are to remain pervious after development;
- Identify and eliminate illicit connections to the stormwater system;
- Implement required source controls; and
- Protect wetlands

Thresholds for Flow Control and Treatment: Salem's current standards require any project having more than 3,000 square feet of new plus replaced impervious surface to install a flow control facility and, if determined necessary to comply with water quality standards, to also install a treatment facility. In the proposed Stormwater Code, two types of projects are defined (see below) and new thresholds are specified based on the total amount of new plus replaced impervious surface:

Single-family Residential Project 1,300 square feet or more
Large Project 10,000 square feet or more

Requirements for Flow Control and Treatment Based on Project Type: Salem's current requirement for installing stormwater flow control and treatment facilities do not depend on the type of project. The proposed Stormwater Code identifies two distinct project types and establishes requirements specific to both:

- A "Single-family residential project" is defined as the construction of one single family dwelling or two attached single family dwellings on a single existing unit of land that is zoned Single Family Residential where the total new and replaced impervious surface is 1,300 square feet or more, but less than 10,000 square feet. All Single Family Residential projects will be designed and constructed with green stormwater infrastructure to the maximum extent feasible.

- A "Large project" has 10,000 square feet or more of new plus replaced impervious surface. All large projects are required to install flow control and treatment facilities that meet specific performance standards related to post-development discharge rates and pollutant treatment. The proposed Stormwater Code also requires large projects implement green stormwater infrastructure to the maximum extent feasible to meet flow control performance standards.

Green Stormwater Infrastructure Required: All projects exceeding the thresholds must implement green stormwater infrastructure to the maximum extent feasible.

Exemptions from Requirements to Install Flow Control and Treatment Facilities: Repair or maintenance of paved surfaces is exempt from requirements to install stormwater facilities. Maintenance, repair, or installation of underground or overhead utility facilities is also exempt.

Flow Control Requirements for Large Projects: All large projects must reduce post-development stormwater runoff rates of discharge.

Treatment Requirements for Large Projects: All large projects must install a treatment facility designed to capture and treat at least 80 percent of the average runoff volume.

PUBLIC OUTREACH:

The following actions have been taken, or have been scheduled, to provide opportunities for public input and comments on the proposed new regulations:

1. **Stormwater Advisory Committee.** The Stormwater Advisory Committee represents a range of personal and professional perspectives, including engineering, architecture, construction, development, real estate, environmental advocacy, and more. Members include representatives from the Home Builders Association of Marion and Polk County, the Salem Area Chamber of Commerce, Marion County, and the City of Keizer. The purpose of this group is to provide advice to the Public Works Director as the stormwater regulations are developed. The meetings of the committee are open to the public and meeting dates and times are posted on the City of Salem public website on the "Meetings of Interest" page. A website has been established that contains downloadable material from each meeting of the Stormwater Advisory Committee.
2. **Neighborhood Associations.** An email was sent on July 8, 2013, to all Neighborhood Association Chairs providing a summary of the proposed Stormwater Code and offering to provide a presentation. To date, two presentations have been conducted and seven additional presentations are scheduled for the remainder of August and early September 2013.

3. Home Builders Association of Marion and Polk County. Members of the HBA sit on the Stormwater Advisory Committee. Public Works staff have met individually with the HBA Chief Executive Officer and provided a presentation at the July meeting of the HBA Government Affairs Committee. An article on the proposed Stormwater Code was prepared by Public Works staff and carried in the HBA's July/August edition of *The Chalk Line*.
4. Salem Area Chamber of Commerce. A member of the Salem Area Chamber of Commerce sits on the Stormwater Advisory Committee. A presentation has been scheduled for Public Policy Committee in September.
5. Public Service Announcements. A public service announcement was made regarding the proposed Stormwater Code on radio station KBZY in July. The announcement ran during the week of July 18, 2013, and again during the week of August 5, 2013.
6. Public Website. A website specific to the proposed Stormwater Code was established in mid-July at www.cityofsalem.net/Departments/PublicWorks/Pages/stormwater-code.aspx. This website contains an overview and draft copy of the proposed Code. It also provides other informational documents and includes a link to an email address for viewers to submit comments.



Robert D. Chandler, Ph.D., P.E.
Assistant Public Works Director

Wards: All
August 8, 2013

1 **ENGROSSED**

ORDINANCE BILL NO. 28-13

2 AN ORDINANCE RELATING TO ESTABLISHING A NEW CHAPTER, SRC CHAPTER 71,
3 STORMWATER; REPEALING SRC 70.115; AND DECLARING AN EFFECTIVE DATE

4 *The City of Salem ordains as follows:*

5 **Section 1.** Sections 71.001 through 71.125 are added to and made a part of the Salem Revised
6 Code, Chapter 71, as:

7 **71.001. Objectives.**

8 (a) To establish requirements for discharges into stormwater systems, receiving
9 waters, and the environment;

10 (b) To protect, to the greatest extent practicable, life, property, receiving waters,
11 aquatic life, and the environment from loss, injury, degradation, or damage by
12 pollution, erosion, low flows, excessive flows, flooding, landslides, and other
13 potential hazards, whether from natural causes or from human activity;

14 (c) To protect the public stormwater system from damage;

15 (d) To meet the requirements of state and federal law and the City's National
16 Pollutant Discharge Elimination System (NPDES) municipal stormwater permit;

17 (e) To implement site-specific practices, including using green stormwater
18 infrastructure, to mimic natural hydrologic functions as much as practicable.

19 **71.005. Definitions; Rules of Construction.**

20 (a) Unless the context specifically indicates otherwise, as used in this Chapter the
21 following mean:

22 (1) Best management practice (BMP) means activities, prohibitions of practices,
23 operational and maintenance procedures, structural facilities, or managerial
24 practices or devices that, when used singly or in combination, prevent, reduce, or
25 treat contamination in drainage water, prevent or reduce soil erosion, or prevent or
26 reduce other adverse effects of drainage water on receiving waters. BMPs
27 prescribed by the Director, whether or not adopted by ordinance, shall be the
28 BMPs required for compliance with this Chapter.

29 (2) Design storm event means the size of the storm event used to calculate runoff
30 volumes and peak rates of discharge when designing stormwater facilities. The

1 design storm event is the total inches of rainfall, distributed during a 24-hour
2 period using a standard synthetic rainfall distribution identified as Type I-A by the
3 Natural Resources Conservation Service.

4 (3) Director means the Director of Public Works, or the Director's designee.

5 (4) Drainage water means stormwater and all other discharges that are not
6 prohibited by this Chapter.

7 (5) Earth material means all naturally occurring rock and soil, or combination
8 thereof, including clay, silt, sand, gravel-size particles, and naturally occurring
9 and naturally formed aggregates. The term does not include manmade materials
10 such as fill, concrete, or asphalt.

11 (6) Flow control facility means a stormwater facility designed to control the flow
12 rate, flow volume, or flow duration of drainage water.

13 (7) Green stormwater infrastructure means a stormwater facility that mimics
14 natural surface hydrologic functions through infiltration or evapotranspiration, or
15 that involves stormwater reuse.

16 (8) Ground disturbing activity means any activity that exposes earth material
17 through the use of mechanical equipment. By way of illustration, but not of
18 limitation, ground disturbing activity includes: grading, excavating, filling,
19 clearing, or working of land. Such disturbance may be permanent, such as gravel
20 mining, farming, gardening, sports fields; or short-term duration, such as
21 construction, excavation, fill, grading, landscape installation, or other vegetative
22 clearing activities.

23 (9) Illicit connection means any drain or conveyance system that results in a
24 discharge to a stormwater system or receiving water that is not entirely drainage
25 water.

26 (10) Impervious surface means any surface exposed to rainwater from which
27 most water runs off. By way of illustration, but not of limitation, impervious
28 surfaces include: rooftops, walkways, patios, driveways, parking lots, storage
29 areas, concrete or asphalt paving, gravel surfaces subjected to vehicular traffic,
30 compact gravel, packed earth material, oiled macadam, or other surfaces that

1 similarly impede the natural infiltration of stormwater.

2 (11) Large project means a project including 10,000 square feet or more of new
3 impervious surface or replaced impervious surface, individually or combined, or
4 10,000 square feet or more of ground disturbing activity.

5 (12) Maximum extent feasible means ~~in context with compliance with a~~
6 ~~requirement, constrained only by the physical limitations of the site, practical~~
7 ~~considerations of engineering design, and reasonable considerations of financial~~
8 ~~costs and environmental impacts. the extent to which a requirement or standard~~
9 ~~must be complied with as constrained by the physical limitations of the site,~~
10 ~~practical considerations of engineering design, and reasonable considerations of~~
11 ~~financial costs and environmental impacts.~~

12 (13) NPDES municipal stormwater permit means the National Pollutant
13 Discharge Elimination System Municipal Separate Storm Sewer System discharge
14 permit issued to the City by the Oregon Department of Environmental Quality
15 under the federal Clean Water Act.

16 (14) Pollutant means any substance that affects, or has the potential to affect,
17 water quality in a manner that is detrimental to human health or safety or to the
18 environment. By way of illustration, but not of limitation, pollutants include:

- 19 (A) Acids or bases;
- 20 (B) Ammunition and explosives;
- 21 (C) Animal carcasses;
- 22 (D) Antifreeze;
- 23 (E) Bark and other fibrous materials, compost, collected lawn clippings,
24 leaves, or branches;
- 25 (F) Batteries;
- 26 (G) Chemicals not normally found in unpolluted stormwater;
- 27 (H) Chlorine and bromine based disinfectants;
- 28 (I) Construction or excavation materials and spoils;
- 29 (J) Degreasers and solvents;
- 30 (K) Dirt, soil, silt, sand, sediment, sod, gravel, or rock;

- (L) Domestic animal wastes;
- (M) Drain cleaners;
- (N) Dyes;
- (O) Flammable or explosive materials;
- (P) Feces;
- (Q) Food waste;
- (R) Hazardous materials, as defined by ORS 466.605;
- (S) Metals in either particulate or dissolved form;
- (T) Paints, stains, resins, lacquers, or varnishes;
- (U) Pesticides, herbicides, or fertilizers;
- (V) Petroleum products, including but not limited to oil, gasoline, grease, fuel oil, and heating oil;
- (W) Radioactive material;
- (X) Recreational vehicle waste;
- (Y) Sewage or sludge;
- (Z) Soaps, detergents, or ammonia;
- (AA) Steam cleaning wastes;
- (BB) Swimming pool backwash; and
- (CC) Trash, garbage, or debris.

(15) Pollution generating activity means any activity conducted outside with the potential of releasing pollutants into the public stormwater system, a private stormwater system, or receiving waters, and for which source controls may be prescribed. By way of illustration, but not of limitation, pollution generating activities include:

- (A) Transferring fuel from bulk storage tanks to vehicles, equipment, or mobile containers;
- (B) Storing fuel above ground in bulk containers;
- (C) Storing solid or liquid chemicals, food products, waste oils, solvents, process wastewaters, or petroleum products other than fuel in above ground containers;

1 (D) Storing solid wastes in compactors, dumpsters, and garbage cans;

2 (E) Storing material that is soluble or can be mobilized in water and that is
3 known to contain pollutants;

4 (F) Operating equipment and vehicle washing facilities; and

5 (G) Conducting ground disturbing activity on property with known or
6 suspected contamination from hazardous substances.

7 (16) Post-development means the conditions that reasonably may be expected or
8 anticipated to exist after completion of development activity on a site.

9 (17) Predevelopment means the conditions on a site in its natural, undeveloped
10 state, generally characterized by a mixture of trees, brush, weeds, and grass, and
11 which is used to determine the allowable post-development discharge peak rates
12 and flow volumes.

13 (18) Private stormwater system means a stormwater system that is not owned or
14 operated by the City of Salem.

15 (19) Project means ground disturbing activity, or the addition or replacement of
16 impervious surface.

17 (20) Public stormwater system means a stormwater system owned or operated by
18 the City of Salem.

19 (21) Receiving water means the surface water, groundwater, or wetland receiving
20 any discharge of drainage water or pollutants.

21 (22) Replaced impervious surface means the removal of impervious surface
22 down to earth material and replacement with new impervious surface.

23 Replacement does not include repair or maintenance activities on structures,
24 paved surfaces, or facilities taken to prevent decline, lapse, or cessation in the use
25 of the existing impervious surfaces as long as no additional hydrologic impact
26 results from the repair or maintenance activity.

27 (23) Single family residential project means the construction of one single family
28 dwelling or two attached single family dwellings on a single existing unit of land
29 that is zoned Single Family Residential (RS) where the total new and replaced
30 impervious surface is 1,300 square feet or more, but less than 10,000 square feet.

1 (24) Site means a unit of land, or portions of street, highway, or other right-of-
2 way, or contiguous combination thereof, where a project is proposed or
3 performed.

4 (25) Source controls means structures or operations that minimize or prevent
5 pollutants from coming in contact with drainage water through physical
6 separation or management of activities.

7 (26) Stormwater means that portion of precipitation and snowmelt that does not
8 naturally percolate into the ground or evaporate, but flows into receiving water by
9 overland flow, interflow, pipes, and other features of a stormwater system.

10 (27) Stormwater facility means a facility designed to control the flow rate, flow
11 volume, or flow duration of drainage water, or a facility designed to remove
12 pollutants from drainage water.

13 (28) Stormwater system means all stormwater facilities and improvements such
14 as catch basins, curbs, gutters, ditches, manmade channels, and storm drains, that
15 collect, convey, or control the flow of drainage water or remove pollutants from
16 drainage water.

17 (29) Treatment facility means a stormwater facility designed to remove pollutants
18 from drainage water.

19 (b) Words and phrases not defined in this section shall be construed according to
20 their customary and usual meaning unless the context indicates a special or technical
21 meaning. Words used in the present tense include the future, the singular number
22 includes the plural, and the word "shall" is mandatory and not discretionary.

23 **71.010. Authority of Director.**

24 (a) The Director shall administer and enforce the provisions of this Chapter, and may
25 adopt administrative rules for the implementation hereof. By way of illustration, but
26 not limitation, the Director's authority includes the authority to:

27 (1) Establish and conduct inspection and monitoring programs to evaluate and
28 enforce compliance with this Chapter;

29 (2) Take enforcement actions;

30 (3) Abate nuisances;

1 (4) Issue written and oral interpretations of this Chapter, and rules promulgated
2 hereunder;

3 (5) Review, approve, condition, revoke, or disapprove submittals, applications,
4 plans, and permits;

5 (6) Set and collect fees as prescribed by resolution of the City Council.

6 (7) Sample and analyze a discharge to the public stormwater system or receiving
7 water. If a prohibited discharge is determined to occur on a recurring basis, the
8 Director is authorized to conduct ongoing monitoring, and is authorized to require
9 the responsible party to conduct ongoing monitoring at the responsible party's
10 expense.

11 **71.015. More Stringent or Additional Best Management Practices Required.**

12 (a) The Director is authorized to issue an order requiring more stringent or additional
13 best management practices if:

14 (1) A discharge to a public stormwater system, a private stormwater system, or a
15 receiving water cannot be adequately addressed by the required best management
16 practices, and the discharge:

17 (A) Exceeded, exceeds, or will exceed water quality standards, or

18 (B) Caused or contributed, is causing or contributing, or will cause or
19 contribute to a prohibited discharge or a known or likely violation of water
20 quality standards in the receiving water or a known or likely violation of the
21 City's NPDES municipal stormwater permit.

22 (b) An order issued by the Director may be appealed to the Hearings Officer
23 pursuant to SRC Chapter 20J.

24 **71.020. Approval of Plans and Conformance to Standards.**

25 (a) Plans for all public and private stormwater systems shall be reviewed and
26 approved by the Director prior to construction. Such plans shall conform to the
27 Stormwater Master Plan and standards prescribed by the Director. Such approval
28 shall be required in addition to any other approvals required by state law.

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1 (b) All public or private stormwater systems, whether publicly or privately
2 constructed, shall conform to standards of design, material, and workmanship
3 prescribed by the Director.

4 **71.025. Fee-In-Lieu of Construction Authorized.**

5 (a) The Director may allow a developer to enter into a voluntary agreement with the
6 City for the payment of a fee-in-lieu of constructing a stormwater facility as required
7 by this Chapter if the Director has determined that such an agreement is in the public
8 interest. This determination shall consider the feasibility of constructing the
9 stormwater facility on the site; the costs associated with construction, operations, and
10 maintenance of the stormwater facility; and the benefits provided by the stormwater
11 facility in terms of accomplishing the purposes of this Chapter. In no event shall the
12 Director allow a developer to enter into a fee-in-lieu agreement with the City if the
13 resulting post-development conditions could result in a violation of the City's NPDS
14 municipal stormwater permit.

15 (b) The payment can be used to fund all or a portion of the cost of planning,
16 designing, acquiring land for, or constructing:

17 (1) An existing public stormwater facility that has been determined by the
18 Director to have excess capacity available to meet the applicable performance
19 standards for the drainage water from the site; or

20 (2) A new public stormwater facility that will be constructed in the future and
21 which has been determined by the Director to have excess capacity available to
22 meet the applicable performance standard for the drainage water from the site.

23 (c) The Director may require the developer to complete an engineering analysis to
24 evaluate the available excess capacity in an existing public stormwater facility.

25 (d) No building permits for any structures within the site subject to the condition of
26 development approval will be issued until the fee-in-lieu is paid.

27 (e) The Director of Finance shall deposit the fee-in-lieu into a trust and agency
28 account.

29 (f) An agreement to pay a fee-in-lieu of construction shall be in a form approved by
30 the City Attorney and recorded in the deed records of the appropriate county. The

1 agreement to pay a fee-in-lieu of construction shall not result in an assessment upon
2 or lien against real property, and the fee-in-lieu collected by the City from an
3 applicant are not taxes subject to the property tax limitations of Article XI, section
4 11(b) of the Oregon Constitution.

5 **71.030. Fee-in-Lieu Amount.** The fee-in-lieu amount shall be in accordance with a fee
6 schedule approved by City Council and will be based on 100 percent of the average cost of
7 constructing an equivalent stormwater facility.

8 **71.035. Compliance with Other Laws.**

9 (a) The requirements of this Chapter, and any rules adopted pursuant hereto, do not
10 replace, repeal, abrogate, supersede, or affect other more stringent law, requirements,
11 rules, regulations, covenants, standards, or restrictions. Where this Chapter imposes
12 requirements that are more protective of human health or the environment than those
13 established elsewhere, the provisions of this Chapter shall prevail. When this Chapter
14 imposes requirements that are less protective of human health or the environment
15 than those established elsewhere, the provisions of the more protective requirements
16 shall prevail.

17 (b) Approvals and permits granted under this Chapter are not waivers of the
18 requirements of any other laws, nor do they indicate compliance with any other laws.
19 Compliance is still required with all applicable federal, state, and local laws and
20 regulations, including rules promulgated under authority of this Chapter.

21 **71.040. City Not Liable.**

22 (a) Nothing contained in this Chapter is intended to be nor shall be construed to
23 create or form the basis for any claim, action, or liability against officers, employees
24 or agents of the City for any injury or damage resulting from the failure of
25 responsible parties to comply with the provisions of this Chapter, or by reason or in
26 consequence of any inspection, notice, order, certificate, permission, or approval
27 authorized or issued or done in connection with the implementation or enforcement of
28 this Chapter, or by reason of any action or inaction on the part of the City related in
29 any manner to the enforcement of this Chapter by its officers, employees, or agents.

30 (b) Nothing in this Chapter shall impose any liability on the City or any of its

1 officers or employees for cleanup or any harm relating to sites containing hazardous
2 materials, wastes, or polluted soil.

3 **71.045. Applicability.**

- 4 (a) All projects, whether or not a permit is required;
5 (b) All discharges directly or indirectly to the public stormwater system or to a
6 private stormwater system;
7 (c) All discharges directly or indirectly into receiving waters within or contiguous to
8 the City's corporate limits;
9 (d) All new and existing land uses;
10 (e) All real property; and
11 (f) All persons owning, engaging in any activity on, or occupying property even
12 where no project is occurring.

13 **71.050. Prohibited Discharges.**

- 14 (a) Except as provided in SRC 71.055, no person shall discharge, directly or
15 indirectly, any pollutant into the public stormwater system, a private stormwater
16 system, or receiving water located within or contiguous to the City's corporate limits.
17 (b) A violation of this section is an infraction.

18 **71.055. Permissible Discharges.**

19 (a) Discharges from the following sources and activities are allowed unless the
20 discharge, singly or in combination with other discharges, causes or contributes to a
21 violation of the NPDES municipal stormwater permit; to a violation of a waste load
22 allocation contained in a Total Maximum Daily Load approved by the EPA; or to a
23 violation of a city, state, or federal regulation; or to endangerment of public health,
24 safety or welfare, the environment, or public or private property:

- 25 (1) Water line flushing;
26 (2) Landscape irrigation;
27 (3) Diverted stream flows;
28 (4) Rising groundwater;
29 (5) Unpolluted groundwater infiltration;
30 (6) Unpolluted pumped groundwater;

- (7) Potable water sources;
 - (8) Start-up flushing of groundwater wells;
 - (9) Potable groundwater monitoring wells;
 - (10) Draining and flushing of municipal potable water storage reservoirs;
 - (11) Foundation drains;
 - (12) Air conditioning condensate;
 - (13) Irrigation water;
 - (14) Springs;
 - (15) Water from crawl space pumps;
 - (16) Footing drains;
 - (17) Lawn watering;
 - (18) Individual residential car washing;
 - (19) Charity car washing;
 - (20) Flows from riparian habitats and wetlands;
 - (21) Dechlorinated swimming pool water;
 - (22) Street washwater;
 - (23) Dye testing of water, wastewater, or stormwater systems;
 - (24) Treated water from investigation, removal, and remedial actions selected or approved by the DEQ pursuant to Oregon Revised Statutes (ORS) Chapter 465;
 - (25) Flows from emergency fire fighting activities;
 - (26) Flows from a private stormwater system conveyed pursuant to, and in compliance with, a DEQ-approved NPDES permit;
 - (27) Flows conveyed pursuant to, and in compliance with, a DEQ-approved NPDES permit, and which are in compliance with all applicable City permits and approvals.
- (b) Notwithstanding subsection (a) of this section, permissible discharges may be subject to additional controls, best management practices, or other conditions as established in Administrative Rules.

1 **71.060. Report of Discharges of Pollutants Required.**

2 (a) Any person owning, engaging in any activity on, or occupying real property shall
3 report the discharge of any pollutant from that property to the City if the discharge
4 has introduced, or is likely to introduce, a pollutant into the public stormwater system,
5 a private stormwater system, or receiving water. The report shall be made at the
6 earliest possible time, but in no case later than 24 hours after discovery of the
7 discharge. Reporting pursuant to this section is in addition to, and not in lieu of, any
8 other reporting requirements imposed by federal, state, or local laws.

9 (b) A failure to report a discharge under subsection (a) of this section is an infraction.

10 **71.065. Requirements for All Property.** Any person owning, engaging in any activity on, or
11 occupying property shall implement and maintain best management practices to prevent
12 pollutants from leaving the property and entering into a stormwater system or receiving water.
13 Best management practices include, but are not limited to:

14 (a) Identifying and eliminating illicit connections to the public stormwater system or
15 a private stormwater system;

16 (b) Disposing of fluids and wastes in a manner that minimizes the risk of
17 contaminating stormwater;

18 (c) Storing solid wastes in a manner that minimizes the risk of contaminating
19 stormwater; and

20 (d) Undertaking measures to prevent spills of pollutants and to properly cleanup
21 spills that may occur.

22 **71.070. Additional Source Controls Required.** Sites at which pollution generating activity
23 is conducted shall comply with source control best management practices.

24 **71.075. Requirements for All Projects**

25 (a) Any person conducting a project shall:

26 (1) Safely convey drainage water to the approved point of discharge;

27 (2) Prevent erosion and sediment transport from the site throughout all phases of
28 construction and including landscaping;

29 (3) Maintain the project's stormwater facilities to keep the facilities in continuous
30 working order;

- 1 (4) Preserve existing trees to the maximum extent feasible to minimize site-
2 specific post-development stormwater runoff volumes and rates of discharge;
3 (5) Where vegetation exists in the predevelopment condition, preserve the
4 vegetation to the maximum extent feasible.
5 (6) Provide landscaping and plant new trees to the maximum extent feasible to
6 minimize site specific post-development stormwater runoff volumes and rates of
7 discharge;
8 (7) In areas to remain pervious following development, protect soil from
9 compaction and ground disturbing activities to the maximum extent feasible;
10 (8) Identify and eliminate illicit connections to the stormwater system;
11 (9) Implement required source controls if the project will result in a pollution
12 generating activity;
13 (10) If the site discharges to a known wetland as designated on the Local
14 Wetland Inventory or otherwise as delineated by the City or developer:
15 (A) Protect the hydrologic conditions, vegetative community, and substrate
16 characteristics of the wetlands to prevent adverse impacts to the affected
17 wetlands; and
18 (B) Select, design, install, and maintain temporary and permanent stormwater
19 facilities to prevent the introduction of pollutants into the wetland.

20 **71.080. Requirements for ~~Subdivisions and Partitions~~ Land Divisions.**

- 21 (a) ~~All subdivisions and partitions~~ Except as provided in SRC 71.080(c), all land
22 divisions shall be provided with stormwater facilities that are sized to serve the entire
23 ~~subdivision or partition~~ land division under fully developed conditions.
24 (b) Construction of stormwater facilities that serve only one lot or parcel may be
25 delayed until the time of building construction on that lot or parcel.
26 (c) A lot or parcel created through an approved tentative plan submitted to the City
27 prior to the effective date of this ordinance may comply with the requirements of this
28 Chapter or with the regulations in effect at the time of the tentative plan application.

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1 **71.085. Requirements for Single Family Residential Projects.**

2 (a) Except as provided in SRC 71.085(b), All single family residential projects shall
3 be designed and constructed with green stormwater infrastructure to the maximum
4 extent feasible except where flow control facilities and treatment facilities have
5 already been constructed per SRC 71.080 to serve the lot or parcel.

6 (b) Single family residential projects on lots or parcels created through an approved
7 land division tentative plan submitted to the City prior to the effective date of this
8 ordinance may comply with the requirements of this Chapter or with the regulations
9 in effect at the time of the tentative plan application.

10 **71.087. Requirements for City Projects.** A City project that is not required to obtain land
11 use approval or a building permit, and that meets all the conditions set forth below, is not
12 required to comply with SRC 71.090 and SRC 71.095:

13 (a) The project begins ground disturbing activity within two years of the effective
14 date of this ordinance; and

15 (b) The project conforms with the stormwater facility requirements in effect
16 immediately prior to the effective date of this ordinance; and

17 (c) The project meets one or more of the following criteria:

18 (1) Project funding was identified in "The Adopted Capital Improvement Plan for
19 Fiscal Years 2013-2014 through 2017-2018;" or

20 (2) Project funding was appropriated in the fiscal year 2013-2014 Capital
21 Construction Budget; or

22 (3) Project received, or will receive, voter approval of financing before January 1,
23 2014; or

24 (4) Project received, or will receive, funds based on a grant application submitted
25 before January 1, 2014; or

26 (5) Project was approved for funding by City Council action prior to January 1,
27 2014.

28 **71.090. Requirements for Large Projects.** All persons conducting large projects shall:

29 (a) Phase the project to the maximum extent feasible in order to minimize the
30 amount of simultaneous ground disturbing activity;

- 1 (b) Provide additional stormwater facilities or improve the public stormwater system
2 to adequately accommodate the stormwater flows from the site if insufficient capacity
3 exists in the public stormwater system to carry existing and anticipated discharge
4 flows, including any flows from dewatering activities. The Director may require the
5 developer ~~shall~~ to conduct analyses to ensure sufficient capacity exists downstream
6 from the location where the drainage water is discharged from the site;
7 (c) Provide flow control facilities as required by this Chapter; and
8 (d) Provide treatment facilities as required by this Chapter.

9 **71.095. Flow Control Facilities.**

10 (a) **Applicability.**

11 (1) Except as provided in subsection (2) of this section, all large projects shall be
12 provided with flow control facilities that comply with this section.

13 (2) The following projects are exempt from the requirements of this section:

14 (A) Maintenance, repair, or installation of underground or overhead utility
15 facilities that includes replacing the ground surface with in-kind material or
16 materials with similar runoff characteristics. By way of illustration, but not of
17 limitation, this includes maintenance, repair, and installation of pipes,
18 conduits, and vaults.

19 (B) The following road maintenance practices:

- 20 (i) Pothole and square cut patching;
21 (ii) Overlaying existing asphalt or concrete or brick pavement with
22 asphalt or concrete without expanding the area of coverage;
23 (iii) Shoulder grading;
24 (iv) Reshaping or re-grading drainage ditches;
25 (v) Crack sealing;
26 (vi) Replacing existing impervious surface down to earth material; and
27 (vii) Vegetation maintenance.

28 (C) Projects in the right-of-way under the control of another governmental
29 body, if:
30

1 (i) The governmental body uses best management practices consistent
2 with that government body's own Stormwater Management Program and
3 NPDES Permit; and

4 (ii) The best management practices are at least as stringent as those
5 required by this Chapter and rules pursuant thereto.

6 **(b) Design.**

7 (1) Flow control facilities shall be designed and installed to receive all flows
8 from that portion of the site being developed and for the flows discharging to the
9 flow control facility from other areas, including existing impervious surfaces and
10 offsite areas, when the other flows cannot be separated or bypassed. By way of
11 illustration, but not of limitation, as used in this section, development includes: all
12 new impervious surfaces, all replaced impervious surfaces, all disturbed land
13 areas, and any associated flows from dewatering.

14 (2) Green stormwater infrastructure as a flow control facility shall be used to the
15 maximum extent feasible.

16 (3) The Director may reduce the total area of the site requiring flow control upon
17 a consideration of the following:

18 (A) Areas retained in a natural, undisturbed state.

19 (B) Disturbed land areas within the site that have had soils amended.

20 (C) Disturbed land areas that have been replaced with permeable pavement or
21 green roofs.

22 (D) The total number existing trees that are preserved or new trees that are
23 planted.

24 (4) The Director may allow construction of a flow control facility at a location
25 other than the site if:

26 (A) The Director has determined that it is in the public interest to construct a
27 flow control facility at a location other than the site. This determination shall
28 consider the feasibility of constructing the flow control facility on the site; the
29 costs associated with construction, operations, and maintenance of the flow
30 control facility; and the benefits provided by the flow control facility in terms

of accomplishing the purposes of this Chapter; and

(B) The flow control facility constructed at a location other than the site will mitigate similar impacts that have been identified as a consequence of the project.

(c) Flow Control Facility Performance Standard.

(1) The post-development peak runoff rates from design storm events equal to or less than one-half the 2-year, 24-hour design storm event shall not exceed the predevelopment peak runoff rate for one-half the 2-year, 24-hour design storm event; and

(2) The post-development peak runoff rates from design storm events equal to or less than the 10-year, 24-hour design storm event shall not exceed the predevelopment peak runoff rate for the 10-year, 24-hour design storm event; and

(3) If a volume-based stormwater flow control facility is used, the detention volume shall be sufficient to detain a 100-year design storm event of any duration without overflow.

71.100. Treatment Facilities.

(a) Applicability.

(1) Except as provided in subsection (2) of this section, all large projects shall be provided with stormwater treatment facilities that comply with this section.

(2) The following projects are exempt from the requirements of this section:

(A) Maintenance, repair, or installation of underground or overhead utility facilities that includes replacing the ground surface with in-kind material or materials with similar runoff characteristics. By way of illustration, but not of limitation, this includes maintenance, repair, and installation of pipes, conduits, and vaults.

(B) The following road maintenance practices:

(i) Pothole and square cut patching;

(ii) Overlaying existing asphalt or concrete or brick pavement with asphalt or concrete without expanding the area of coverage;

(iii) Shoulder grading;

1 (iv) Reshaping or re-grading drainage ditches;

2 (v) Crack sealing;

3 (vi) Replacing existing impervious surface down to earth material; and

4 (vii) Vegetation maintenance.

5 (C) Projects in the right-of-way under the control of another governmental
6 body, if:

7 (i) The governmental body uses best management practices consistent
8 with that government body's own Stormwater Management Program and
9 NPDES municipal stormwater permit; and

10 (ii) The best management practices are at least as stringent as those
11 required by this Chapter and rules pursuant thereto.

12 **(b) Design.**

13 (1) Treatment facilities shall be designed and installed to receive all flows from
14 that portion of the site being developed and for the flows discharging to the
15 treatment facility from other areas, including existing impervious surfaces and
16 offsite areas, when the other flows cannot be separated or bypassed. By way of
17 illustration, but not of limitation, as used in this section, development includes: all
18 new impervious surfaces, all replaced impervious surfaces, all disturbed land
19 areas, and any associated flows from dewatering.

20 (2) Green stormwater infrastructure as a treatment facility shall be used to the
21 maximum extent feasible.

22 (3) The Director may reduce the total area of the site requiring ~~flow control~~
23 treatment upon a consideration of the following:

24 (A) Areas retained in a natural, undisturbed state.

25 (B) Disturbed land areas within the site that have had soils amended.

26 (C) Disturbed land areas that have been replaced with permeable pavement or
27 green roofs.

28 (D) The total number existing trees that are preserved or new trees that are
29 planted.

30 (4) The Director may allow construction of a treatment facility at a location other

1 than the site if:

- 2 (A) The Director has determined that it is in the best public interest to
3 construct a treatment facility at a location other than the site. This
4 determination shall consider the feasibility of constructing the treatment
5 facility on the site; the costs associated with construction, operations, and
6 maintenance of the treatment facility; and the benefits provided by the
7 treatment facility in terms of accomplishing the purposes of this Chapter; and
8 (B) The treatment facility constructed at a location other than the site will
9 mitigate similar impacts that have been identified as a consequence of the
10 project.

11 (c) **Treatment Facility Performance Standard.** Treatment facilities shall be
12 designed and installed to capture and treat at least 80 percent of the average runoff
13 volume predicted by the design storm event for that portion of the site requiring
14 treatment.

15 **71.105. Harmful Discharges.**

16 (a) The Director may suspend the stormwater service when, in the opinion of the
17 Director, such suspension is necessary in order to stop an actual or threatened
18 discharge which presents or may present an imminent or substantial threat to the
19 health or welfare of persons, or to the environment.

20 (b) Any person notified of a suspension of the service shall immediately stop or
21 eliminate the discharge. In the event of a failure of the person to comply voluntarily
22 with the suspension order, the Director shall take such steps as deemed necessary to
23 prevent or minimize damage to the stormwater system or endangerment to any
24 individual or the environment. The Director shall reinstate the service upon proof of
25 the elimination of the noncomplying discharge.

26 (c) A detailed written statement submitted by the user describing the causes of the
27 harmful discharge and the measures taken to prevent any future occurrence shall be
28 submitted to the Director within five days of the date of occurrence.

29 **71.110. Appeals.** Any person adversely affected by any decision, action, determination, or
30 order, made by the Director interpreting or implementing the provisions of this Chapter may

1 appeal to the Hearings Officer as set forth in SRC Chapter 20J, and such appeal shall be
2 initiated by filing a notice of intent to appeal with the City Recorder within fifteen business
3 days after notice of the Director's final decision has been sent. The notice of appeal shall
4 satisfy the requirements of SRC 20J.110, and the appeal shall proceed as a contested case
5 under the procedures established in SRC 20J.240-20J.430. Unless otherwise stayed by order of
6 the Hearings Officer, the Director's decision, action determination or order, shall remain in
7 effect during the pendency of the appeal to the Hearings Officer.

8 **71.115. Falsifying Information.** No person shall knowingly make any false statement,
9 representation, or certification in any application, record, report, plan, or other document filed
10 or required to be maintained pursuant to this Chapter, or falsify, tamper with, or knowingly
11 render inaccurate any monitoring device or method required under this Chapter.

12 **71.120. Civil Penalties.** Any person who is found to have violated an order of the Director, or
13 who willfully or negligently failed to comply with any provision of this Chapter, and the
14 orders, rules, and regulations issued hereunder, shall forfeit and pay not more than \$1,000 for
15 each offense as determined by the Hearings Officer. Each day on which a violation shall occur
16 or continue shall be deemed a separate and distinct offense.

17 **71.125. Violations.** Violation of any provision of this Chapter, in addition to any civil
18 forfeitures, shall be an infraction.

19 **Section 2.** SRC 70.115 is repealed:

20 ~~**70.115. Flow Control and Treatment of Stormwater.** All development constructed after~~
21 ~~January 1, 2013, that creates or replaces 3,000 square feet or more of impervious service, shall~~
22 ~~provide for flow control and treatment of stormwater runoff in a manner that complies with the~~
23 ~~Public Works Design Standards.~~

24 **Section 3. Codification.** In preparing this ordinance for publication and distribution, the City
25 Recorder shall not alter the sense, meaning, effect or substance of this ordinance, but within such
26 limitations, may:

- 27 (a) Renumber sections and parts of sections of the ordinance;
28 (b) Rearrange sections;
29 (c) Change reference numbers to agree with renumbered chapters, sections or other parts;
30 (d) Delete references to repealed sections;

- 1 (e) Substitute the proper subsection, section or chapter, or other division numbers;
2 (f) Change capitalization and spelling for the purpose of uniformity;
3 (g) Add headings for purposes of grouping like sections together for ease of reference; and
4 (h) Correct manifest clerical, grammatical or typographical errors.

5 **Section 4. Severability.** Each section of this ordinance, and any part thereof, is severable, and
6 if any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of
7 this ordinance shall remain in full force and effect.

8 **Section 5. Effective Date.** The effective date of this ordinance shall be January 1, 2014.

9 PASSED by the City Council this _____ day of _____, 2013.

10 ATTEST:

11
12 City Recorder

13 Approved by City Attorney: _____
14

15 Checked by: R. Chandler

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FUTURE REPORT August 12, 2013
FOR COUNCIL MEETING OF: August 26, 2013
AGENDA ITEM NO.: 8.1 (a)
PUBLIC WORKS FILE NO.: November 4, 2013
4 (c)

TO: MAYOR AND CITY COUNCIL
THROUGH: LINDA NORRIS, CITY MANAGER
FROM: PETER FERNANDEZ, P.E., PUBLIC WORKS DIRECTOR
SUBJECT: PROPOSED ORDINANCE BILL NO. 28-13 STORMWATER

ISSUE:

Should Council initiate the adoption of a new chapter to the *Salem Revised Code* concerning Stormwater by conducting first reading of Ordinance Bill No. 28-13 and referring it to the Planning Commission for public hearing and recommendation?

RECOMMENDATION:

Staff recommends Council initiate the adoption of a new chapter to the *Salem Revised Code* concerning Stormwater by conducting first reading of Ordinance Bill No. 28-13 and referring it to the Planning Commission for public hearing and recommendation.

BACKGROUND:

In 2010, the Oregon Department of Environmental Quality (DEQ) issued to the City of Salem a National Pollutant Discharge Elimination System Municipal Stormwater (NPDES) Permit, which is a requirement of the federal Clean Water Act. This permit authorized discharges from the City's municipal separate stormwater system into receiving waters. Among the provisions of the permit is the requirement that the City adopt stormwater regulations related to post-construction stormwater runoff and flow control. To meet this requirement, staff is proposing to create a new chapter in the *Salem Revised Code* (SRC) specific to stormwater that will incorporate the new, mandatory permit requirements that are necessary for compliance with the NPDES permit and state and federal law.

FACTS AND FINDINGS:

1. The NPDES permit requires that by January 1, 2014, the City establish, through ordinances and other enforceable regulatory mechanisms, post-construction stormwater pollutant and runoff control requirements that meet the following conditions:
 - a. The requirements are applicable to single-family residential development and redevelopment that create or replace 1,300 square feet or more of impervious surface;

- b. The requirements are applicable to "parcel-based projects" (called "large projects" in the proposed code) that create or replace 10,000 square feet or more of impervious surface;
 - c. The requirements incorporate site-specific management practices to mimic natural surface or predevelopment hydrologic functions as much as practicable. The site-specific management practices should optimize on-site retention based on the site conditions;
 - d. The requirements reduce site-specific post-development stormwater runoff volume, duration, and rates of discharges to the municipal stormwater system to minimize hydrological and water quality impacts from impervious surfaces;
 - e. The requirements prioritize and include implementation of Low-Impact Development, Green Infrastructure or equivalent planning, design, and construction approaches (called "green stormwater infrastructure" in the proposed code); and,
 - f. The requirements have a performance measure to capture and treat 80 percent of the annual average runoff volume, based on a documented local or regional rainfall frequency and intensity.
- 2. SRC 300.1110(a)(3) allows City staff to initiate a legislative land use proceeding by preparing an ordinance bill and placing it on the Council agenda for first reading. Council may then schedule a public hearing to consider the proposal, refer the matter to the appropriate review authority for hearing, refer the matter to a Council subcommittee for further review, or decline to advance the ordinance to second reading. Staff recommends Council conduct first reading and refer the proposed ordinance to the Planning Commission for public hearing. After the public hearing, the proposed ordinance will come back to the Council for consideration and final adoption.
 - 3. SRC 300.1110(b)(1) requires at least one hearing be held for the purpose of receiving evidence and testimony in a legislative land use proceeding. Staff recommends that this hearing be held by the Planning Commission.
 - 4. SRC 300.1110(c)(1) and *Oregon Revised Statutes* 197.610 require the City to send notice to Department of Land Conservation and Development (DLCD) at least 35 days prior to the initial hearing. Notice will be delivered to DLCD on August 27, 2013.
 - 5. The public hearing by Planning Commission will be scheduled for October 1, 2013.

Summary of the Proposed Code Amendments

Ordinance Bill No. 28-13, proposes to create a new SRC Chapter 71 entitled "Stormwater" to establish requirements related to discharges into stormwater systems and meet the requirements of the NPDES municipal stormwater permit. A summary of the proposed ordinance is provided below:

Objectives:

- Establish requirements for discharges into the stormwater system and receiving waters;
- Protect life, property, and the environment from harm;
- Protect the public stormwater system from harm;
- Meet state and federal regulatory requirements; and
- Implement practices to mimic natural hydrologic functions as much as practicable.

Definitions: Defines words and phrases specific to the proposed Stormwater Code.

Authorities: The proposed Stormwater Code grants the Public Works Director authority to:

- Administer and enforce the provisions of the Chapter, including conducting inspections, taking enforcement actions, issuing rules, reviewing and approving applications, and sampling discharges;
- Issue an order requiring more stringent or additional best management practices if necessary to address a violation or avoid a potential violation of the City's stormwater permit; and
- Allow a developer to pay a fee-in-lieu of constructing a required stormwater facility if the Public Works Director determines that doing so is in the best public interest.

Prohibited Discharges: The proposed Stormwater Code prohibits any person from discharging pollutants, directly or indirectly, into a stormwater system or receiving water.

Permissible Discharges: The proposed Stormwater Code lists specific types of discharges (for example, irrigation water) and activities (for example, firefighting) that are allowed to be discharged into a stormwater system.

General Requirements for Pollution Prevention: Requirements related to stormwater pollution prevention are contained in the proposed Stormwater Code. The requirements are for all persons to:

- Report to the City the discharge of any pollutants into a stormwater system or receiving water;
- Identify and eliminate any illicit connections to the stormwater system (an example of an illicit connection would be a wastewater line connected to a stormwater pipe);
- Dispose of fluids in a manner that minimizes risks of contaminating stormwater;
- Store solid wastes in a manner that minimizes risks of contaminating stormwater; and
- Undertake measures to prevent spills of pollutants and to properly clean up spills that may occur.

Additional Requirements for Source Controls: The proposed Stormwater Code identifies certain activities that must implement specific source control measures to prevent pollutants being released into the stormwater system. The activities are:

- Transferring fuel from bulk storage tanks to vehicles, equipment, or mobile containers;
- Storing fuel above ground in bulk containers;
- Storing solid or liquid chemicals, food products, waste oils, solvents, process wastewater, or petroleum products other than fuel in above ground containers;
- Storing solid wastes in compactors, dumpsters, and garbage cans;
- Storing material that is soluble or can be mobilized in water and is known to contain pollutants;
- Operating equipment and vehicle washing facilities; and
- Conducting ground-disturbing activity on property with known or suspected contamination from hazardous substances.

Requirements for All Projects: A set of requirements is provided in the proposed Stormwater Code that will apply to all new development and redevelopment projects, regardless of size. They include:

- Safely convey drainage water to the approved point of discharge;
- Prevent erosion and sediment transport from the site;
- Maintain the project's stormwater facilities;
- Preserve existing trees to the maximum extent feasible;
- Preserve natural vegetation to the maximum extent feasible;
- Provide landscaping and plant new trees to the maximum extent feasible;
- Protect soils from compaction and ground-disturbing activities to the maximum extent feasible if the soils are to remain pervious after development;
- Identify and eliminate illicit connections to the stormwater system;
- Implement required source controls; and
- Protect wetlands

Thresholds for Flow Control and Treatment: Salem's current standards require any project having more than 3,000 square feet of new plus replaced impervious surface to install a flow control facility and, if determined necessary to comply with water quality standards, to also install a treatment facility. In the proposed Stormwater Code, two types of projects are defined (see below) and new thresholds are specified based on the total amount of new plus replaced impervious surface:

Single-family Residential Project	1,300 square feet or more
Large Project	10,000 square feet or more

Requirements for Flow Control and Treatment Based on Project Type: Salem's current requirement for installing stormwater flow control and treatment facilities do not depend on the type of project. The proposed Stormwater Code identifies two distinct project types and establishes requirements specific to both:

- A "Single-family residential project" is defined as the construction of one single family dwelling or two attached single family dwellings on a single existing unit of land that is zoned Single Family Residential where the total new and replaced impervious surface is 1,300 square feet or more, but less than 10,000 square feet. All Single Family Residential projects will be designed and constructed with green stormwater infrastructure to the maximum extent feasible.

- A "Large project" has 10,000 square feet or more of new plus replaced impervious surface. All large projects are required to install flow control and treatment facilities that meet specific performance standards related to post-development discharge rates and pollutant treatment. The proposed Stormwater Code also requires large projects implement green stormwater infrastructure to the maximum extent feasible to meet flow control performance standards.

Green Stormwater Infrastructure Required: All projects exceeding the thresholds must implement green stormwater infrastructure to the maximum extent feasible.

Exemptions from Requirements to Install Flow Control and Treatment Facilities: Repair or maintenance of paved surfaces is exempt from requirements to install stormwater facilities. Maintenance, repair, or installation of underground or overhead utility facilities is also exempt.

Flow Control Requirements for Large Projects: All large projects must reduce post-development stormwater runoff rates of discharge.

Treatment Requirements for Large Projects: All large projects must install a treatment facility designed to capture and treat at least 80 percent of the average runoff volume.

PUBLIC OUTREACH:

The following actions have been taken, or have been scheduled, to provide opportunities for public input and comments on the proposed new regulations:

1. **Stormwater Advisory Committee.** The Stormwater Advisory Committee represents a range of personal and professional perspectives, including engineering, architecture, construction, development, real estate, environmental advocacy, and more. Members include representatives from the Home Builders Association of Marion and Polk County, the Salem Area Chamber of Commerce, Marion County, and the City of Keizer. The purpose of this group is to provide advice to the Public Works Director as the stormwater regulations are developed. The meetings of the committee are open to the public and meeting dates and times are posted on the City of Salem public website on the "Meetings of Interest" page. A website has been established that contains downloadable material from each meeting of the Stormwater Advisory Committee.
2. **Neighborhood Associations.** An email was sent on July 8, 2013, to all Neighborhood Association Chairs providing a summary of the proposed Stormwater Code and offering to provide a presentation. To date, two presentations have been conducted and seven additional presentations are scheduled for the remainder of August and early September 2013.

3. Home Builders Association of Marion and Polk County. Members of the HBA sit on the Stormwater Advisory Committee. Public Works staff have met individually with the HBA Chief Executive Officer and provided a presentation at the July meeting of the HBA Government Affairs Committee. An article on the proposed Stormwater Code was prepared by Public Works staff and carried in the HBA's July/August edition of *The Chalk Line*.
4. Salem Area Chamber of Commerce. A member of the Salem Area Chamber of Commerce sits on the Stormwater Advisory Committee. A presentation has been scheduled for Public Policy Committee in September.
5. Public Service Announcements. A public service announcement was made regarding the proposed Stormwater Code on radio station KBZY in July. The announcement ran during the week of July 18, 2013, and again during the week of August 5, 2013.
6. Public Website. A website specific to the proposed Stormwater Code was established in mid-July at www.cityofsalem.net/Departments/PublicWorks/Pages/stormwater-code.aspx. This website contains an overview and draft copy of the proposed Code. It also provides other informational documents and includes a link to an email address for viewers to submit comments.



Robert D. Chandler, Ph.D., P.E.
Assistant Public Works Director

Wards: All
August 8, 2013



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Public Works Department
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