

**CITY OF GRANITE FALLS**

**ORDINANCE NO. 780-09**

**AN ORDINANCE OF THE CITY OF GRANITE FALLS AMENDING GRANITE FALLS MUNICIPAL CODE CHAPTER 13.20, ARTICLE II, STORMWATER MANAGEMENT, AND ORDINANCE NO. 743-07 (IN PART) AND ADOPTING REGULATIONS FOR ILLEGAL DISCHARGES AND CONNECTIONS TO THE CITY'S STORMWATER DRAINAGE SYSTEM.**

**WHEREAS**, the City is subject to the United States Environmental Protection Agency Phase 2 Stormwater regulations; and

**WHEREAS**, the Phase 2 regulations are being administered by the Washington State Department of Ecology; and

**WHEREAS**, the City of Granite Falls is a permittee under the Phase 2 stormwater permit as set forth by the Department of Ecology; and

**WHEREAS**, the Department of Ecology has issued the Western Washington Phase II Municipal Stormwater Permit, effective January 17, 2007 through February 15, 2012, which requires local governments such as the City of Granite Falls to implement numerous stormwater management requirements, including adopting Ecology's 2005 Stormwater Management Manual for Western Washington and related regulations by February 16, 2010 and adopting illegal discharge and connection regulations by August 16, 2009; and

**WHEREAS**, in 2007 the City Council adopted Ordinance No. 743, which established a stormwater utility to be responsible for the operation, construction and maintenance of stormwater facilities and which adopted Ecology's 2005 Stormwater Management Manual for Western Washington and related regulations, as set forth in Ch. 13.20 GFMC; and

**WHEREAS**, in order to comply with the currently effective Western Washington Phase II Municipal Stormwater Permit, the City has prepared proposed illegal discharge and connection regulations, as set forth below; and

**WHEREAS**, the City's SEPA Responsible Official has complied with the State Environmental Policy Act (SEPA) by issuing a Determination of Nonsignificance (DNS) for the adoption of the proposed illegal discharge and connection regulations; and

**WHEREAS**, the City Council has determined that it is in the public interest and in furtherance of the public health and welfare to adopt the proposed illegal discharge and connection regulations, as set forth below, and that this is a public emergency ordinance necessary for the protection of public health;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GRANITE FALLS DO ORDAIN AS FOLLOWS:**

**Section 1.** Granite Falls Municipal Code Section 13.20.250, Vacant, and Ordinance No. 743-07, §1 (in part) are hereby amended to read as follows:

**13.20.250 Prohibited, Allowable, and Conditional Discharges and Connections.**

(A) Definitions. The following definitions shall be applicable to this section:

(1) AKART – All Known, Available, and Reasonable methods of prevention, control, and Treatment. See also the State Water Pollution Control Act, RCW 90.48.010 and RCW 90.48.520.

(2) “Ground water” means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

(3) “Hazardous materials” means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(4) “Hyperchlorinated” means water that contains more than 10mg/Liter chlorine.

(5) “Illicit discharge” means any direct or indirect non-stormwater discharge to the city's storm drain system, except as expressly exempted by this chapter.

(6) “Illicit connection” means any man-made conveyance that is connected to a municipal separate storm sewer without a permit, excluding roof drains and other similar type connections. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the municipal separate storm sewer system.

(7) “Municipal separate storm sewer system (MS4)” means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains, which are:

(a) Owned or operated by the city of Marysville;

(b) Designed or used for collecting or conveying stormwater;

(c) Not part of a Publicly Owned Treatment Works (POTW) (“POTW” means any device or system used in treatment of municipal sewage or industrial wastes of a liquid nature which is publicly owned); and

(d) Not a combined sewer (“Combined sewer” means a system that collects sanitary sewage and stormwater in a single sewer system).

(8) “National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit” means a permit issued by the Environmental Protection Agency (EPA) (or by the Washington Department of Ecology under authority delegated pursuant to 33 USC Section 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

(9) “Non-stormwater discharge” means any discharge to the storm drain system that is not composed entirely of stormwater.

(10) "Person" means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner of a premises or as the owner's agent.

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

(12) "Stormwater drainage system" or "MS4" means publicly owned facilities, including the city's municipal separate storm sewer system, by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

(13) "Stormwater" means runoff during and following precipitation and snowmelt events, including surface runoff and drainage.

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

(B) Prohibited discharges.

(1) No person shall throw, drain, or otherwise discharge, cause or allow others under his/her control to throw, drain or otherwise discharge into the city's stormwater drainage system (MS4) any materials other than stormwater.

(2) Examples of prohibited contaminants include but are not limited to the following:

- (a) Trash or debris.
- (b) Construction materials.
- (c) Petroleum products including but not limited to oil, gasoline, grease, fuel oil and heating oil.
- (d) Antifreeze and other automotive products.
- (e) Metals in either particulate or dissolved form.
- (f) Flammable or explosive materials.
- (g) Radioactive material.
- (h) Batteries.
- (i) Acids, alkalis, or bases.
- (j) Paints, stains, resins, lacquers, or varnishes.
- (k) Degreasers and/or solvents.
- (l) Drain cleaners.
- (m) Pesticides, herbicides, or fertilizers.
- (n) Steam cleaning wastes.
- (o) Soaps, detergents, or ammonia.
- (p) Swimming pool cleaning wastewater or filter backwash.

- (q) Chlorine, bromine, or other disinfectants.
- (r) Heated water.
- (s) Domestic animal wastes.
- (t) Sewage.
- (u) Recreational vehicle waste.
- (v) Animal carcasses.
- (w) Food wastes.
- (x) Bark and other fibrous materials.
- (y) Lawn clippings, leaves, or branches.
- (z) Silt, sediment, concrete, cement or gravel.
- (aa) Dyes. Unless approved by the city.
- (bb) Chemicals not normally found in uncontaminated water.
- (cc) Any other process-associated discharge except as otherwise allowed in this section.
- (dd) Any hazardous material or waste not listed above.

(C) Allowable discharges.

The following types of discharges shall not be considered illegal discharges for the purposes of this chapter unless the city determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

- (1) Diverted stream flows.
- (2) Rising ground waters.
- (3) Uncontaminated ground water infiltration –as defined in 40 CFR 35.2005(20).
- (4) Uncontaminated pumped ground water.
- (5) Foundation drains.
- (6) Air conditioning condensation.
- (7) Irrigation water from agricultural sources that is commingled with urban stormwater.
- (8) Springs.
- (9) Water from crawl space pumps.
- (10) Footing drains.
- (11) Flows from riparian habitats and wetlands.
- (12) Discharges from emergency fire fighting activities.

(D) Conditional Discharges.

The following types of discharges shall not be considered illegal discharges for the purposes of this chapter, if they meet the stated conditions, or unless the city determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

- (1) Potable water, including water from water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. These planned discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system.

(2) Lawn watering and other irrigation runoff.

(3) De-chlorinated swimming pool discharges. These discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted and reoxygenized if necessary, volumetrically and velocity controlled to prevent re-suspension of sediments in the stormwater system.

(4) Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents. These discharges shall be permitted, if the amount of street wash and dust control water used is minimized. At active construction sites, street sweeping must be performed prior to washing the street.

(5) Non-stormwater discharges covered by another NPDES permit. These discharges shall be in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations.

(6) Other non-stormwater discharges. These discharges shall be in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the city, which addresses control of such discharges by applying AKART to prevent contaminants from entering surface or ground water.

(E) Prohibited Connections.

(1) The construction, use, maintenance, or continued existence of illicit connections to the stormwater system is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this section, if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.

(F) Emergency Suspension of Utility Service and MS4 Access.

(1) The city may, without prior notice, suspend water service, sanitary sewer service, and/or MS4 discharge access to a person discharging to the MS4, when such suspension is necessary to stop an actual or threatened discharge which:

(a) Presents or may present imminent and substantial danger to the environment or to the health or welfare of persons; or

(b) Presents or may present imminent and substantial danger to the MS4 or Waters of the United States, the State of Washington or Granite Falls.

(2) As soon as is practicable after the suspension of service or discharge access, the director shall notify the violator of the suspension in person or by certified mail, return receipt requested, and shall order the correction of the violation. When time permits, the director should also attempt to notify the violator prior to suspending service or access.

(3) If the violator fails to comply with an order issued under subsection (2), the director may take such steps as the director deems necessary to prevent or minimize damage to the receiving water or to minimize danger to persons.

(4) The city shall not reinstate suspended services or MS4 access to the violator until:

(a) The violator presents proof, satisfactory to the director, that the noncomplying discharge has been eliminated and its cause determined and corrected;

(b) The violator pays the city for all costs the City incurred in responding to, abating, and remediating the discharge or threatened discharge; and

(c) The violator pays the city for all costs the city will incur in reinstating service or access.

(5) A violator whose service or access has been suspended or disconnected may appeal such enforcement action to the city council, in writing, within thirty days of notice of the suspension in accordance with Section 13.20.280 of this chapter.

(6) The city may obtain a lien against the property to recover its response costs which may be placed on the tax bill and collected as ordinary taxes by the city.

(G) Non-emergency Suspension of Utility Service and MS4 Access.

(1) The city may terminate the city-provided water supply, sanitary sewer connection, and/or MS4 access to any person discharging to the MS4 in violation of this Article, if such termination would abate or reduce the illicit discharge.

(2) The director will notify a violator of the proposed termination of its water supply, sanitary sewer connection, and/or MS4 access. The violator may petition the city council for a reconsideration and hearing pursuant to 13.20.280 of this chapter.

(3) The city shall not reinstate suspended services or MS4 access to the discharger until:

(a) The violator presents proof, satisfactory to the director, that the noncomplying discharge has been eliminated and its cause determined and corrected; and

(b) The violator pays the city for all costs the city will incur in reinstating service or MS4 access.

(4) A person commits an offense if the person reinstates water service, sanitary sewer service, and or MS4 access to premises terminated pursuant to this Section, without the prior approval of the director.

**Section 2. Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

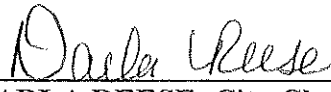
**Section 3. Publication and Summary.** This Ordinance or summary thereof consisting of the title shall be published in the official newspaper of the city.

**Section 4. Effective Date.** This Ordinance is a public emergency ordinance necessary for the protection of public health and shall be in full force and effect on August 16, 2009.


Said Ordinance was passed in open session by a majority plus one of the whole membership of the City Council of the City of Granite Falls on the 12<sup>th</sup> day of Aug, 2009, and signed in authentication of its passage this 13<sup>th</sup> day of Aug, 2009.

  
LYLE ROMACK, Mayor

**ATTEST:**

  
\_\_\_\_\_  
**DARLA REESE, City Clerk**

**Approved as to form:**

  
\_\_\_\_\_  
**Craig D. Kuntz, City Attorney**

<b>DATE OF FIRST READING:</b>	<u>08/12/09</u>
<b>DATE OF SECOND READING:</b>	<u>08/12/09</u>
<b>DATE OF PUBLICATION:</b>	<u>08/15/09</u>
<b>EFFECTIVE DATE:</b>	<u>08/16/09</u>