

APPENDIX "C"

JEFFERSON COUNTY

STORMWATER MANAGEMENT ORDINANCE

ORDINANCE #10-1104-96

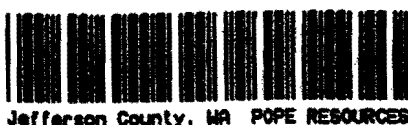
EFFECTIVE DATE: February 2, 1997



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Jefferson County, WA POPE RESOURCES

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JEFFERSON COUNTY
State of Washington

In the Matter of Adopting the }
Stormwater Management Ordinance } **ORDINANCE NO. 10-1104-96**

STORMWATER MANAGEMENT ORDINANCE

SECTION 1: FINDINGS OF FACT, NEED, AND PURPOSE .

1.1 Findings of Fact

The County Commissioners of Jefferson County hereby find that:

- A. RCW 90.70 created the Puget Sound Water Quality Authority for the purposes cited in RCW 90.70.001.
- B. The 1991 Puget Sound Water Quality Management Plan (Plan), (revised May, 1994) requires that:
 - 1. All cities and counties in the Puget Sound basin shall adopt ordinances requiring stormwater controls for new development and redevelopment. These ordinances are to address:
 - a) The control of off-site water quality and quantity (as related to quality) impacts;
 - b) The use of source control best management practices and treatment best management practices;
 - c) The effective treatment, using best management practices, of the storm size and frequency (design storm) as specified in the Stormwater Management Manual for the Puget Sound Basin for proposed development;
 - d) The use of infiltration, with appropriate precautions, as the first consideration in stormwater management;
 - e) The protection of stream channels and wetlands; and
 - f) Erosion and sediment control for new construction and redevelopment projects;
 - 2. Each jurisdiction shall adopt a stormwater management manual containing best management practices (BMPs) for the standards herein in conjunction with the Stormwater Management Ordinances.
 - 3. To be consistent with the expected growth management planning schedules all counties shall incorporate the Plan stormwater considerations into critical area ordinances, county wide policies, comprehensive plans, and implementation regulations; adopt ordinances and stormwater manuals; and comply with the operation and maintenance program requirements by January 1, 1995.

1.2 Need

The Board of County Commissioners find that this ordinance is necessary in order to comply with the 1991 (revised May, 1994) Puget Sound Water Quality Management Plan, and to meet the applicable goals of the Growth Management Act, RCW 36.70A.



1.3 Purpose

The purpose of this ordinance is to:

- A. Adopt a stormwater management manual;
- B. Adopt thresholds for determining development requirements; and
- C. Provide a means of regulating land disturbing activities on private and public land and subsequent stormwater runoff.

The provisions of this ordinance are to guide and advise all who conduct new development or redevelopment as defined in Section 3.1. The provisions of this ordinance establish the level of compliance that must be met to permit a property from which stormwater flows into or potentially flows into the Puget Sound Basin to be developed or redeveloped within Jefferson County.

SECTION 2: GENERAL PROVISIONS

2.1 Stormwater management manual adopted

The Stormwater Management Manual for the Puget Sound Basin, (current edition), as published by the Washington State Department of Ecology, is hereby adopted by reference and is hereinafter referred to as the Manual.

2.2 Definitions

For the purpose of this ordinance, definitions shall be as listed below or as are contained in the Glossary and Notation in the Manual.

- A. Basin Plan - A plan and all implementing regulations and procedures, including but not limited to land use management adopted by ordinance, for managing surface and storm water quality and quantity management facilities and features within individual subbasins.
- B. Best Management Practices (BMPs) - Physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water and have been approved by Department of Ecology for stormwater management in the Puget Sound basin.
- C. Closed record hearing: A public hearing for the purpose of appeal following an open record public hearing, when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.
- D. Commercial Agriculture - Those activities conducted on lands defined in RCW 84.34.020(2), and activities involved in the production of crops or livestock for wholesale trade. An activity ceases to be considered commercial agriculture when the area on which it is conducted is proposed for conversion to a nonagricultural use or has lain idle for more than five (5) years, unless the idle land is registered in a federal or state soils conservation program or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity.
- E. Forest Practice - Any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:
 - 1. Road and trail construction;
 - 2. Harvesting, final and intermediate;
 - 3. Precommercial thinning;
 - 4. Reforestation;
 - 5. Fertilization;
 - 6. Prevention and suppression of diseases and insects;
 - 7. Salvage of trees; or
 - 8. Brush control.

- F. **Hearing Examiner** - means the office of the Jefferson County Hearing Examiner as established by Jefferson County Ordinance No. 1-0318-91, and as amended.
- G. **Impervious Surface** - means a hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces that similarly impede the natural infiltration of stormwater. Open, uncovered retention or detention facilities shall not be considered as impervious surfaces.
- H. **Infiltration** - means the downward movement of water from the surface to the subsoil.
- I. **Land Disturbing Activity** - means any activity that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, demolition, construction, clearing, grading, filling and excavation.
- J. **Large Parcel Erosion and Sediment Control Plan or "LPESC Plan"** - a plan to implement BMPs to control pollution generated during land disturbing activity. Guidance for preparing a LPESC Plan is contained in Chapter II-4 of the DOE Stormwater Management Manual.
- K. **New Development** - means the following activities: land disturbing activities, structural development, including construction, installation or expansion of a building or other structure; creation of impervious surfaces; Class IV General forest practices that are conversions from timber land to other uses; and subdivision and short subdivision of land as defined in RCW 58.17.020. All other forest practices and commercial agriculture are not considered new development.
- L. **Open record hearing**: A public hearing conducted by the Hearing Examiner that creates the County's record through testimony and submission of evidence and information.
- M. **Permanent Stormwater Quality Control (PSQC) Plan** - a plan that includes permanent BMPs for the control of pollution from stormwater runoff after construction and/or land disturbing activity has been completed. For small sites, this requirement is met by implementing a Small Parcel Erosion and Sediment Control Plan. Guidance on preparing a PSQC Plan is contained in Chapter I-3 and Chapter I-4 of the DOE Stormwater Management Manual.
- N. **Puget Sound Basin** - Puget Sound south of Admiralty Inlet (including Hood Canal and Saratoga Passage); the waters north to the Canadian border, including portions of the Strait of Georgia; the Strait of Juan de Fuca south of the Canadian border; and all the lands draining into these waters as mapped in Water Resources Inventory Areas numbers 1 through 19, set forth in WAC 173-500-400.
- O. **Redevelopment** - On an already developed site, the creation or addition of impervious surfaces, structural development including construction, installation or expansion of a building or other structure, and/or replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing activities associated with structural or impervious redevelopment.
- P. **Small Parcel Erosion and Sediment Control Plan or "SPESC Plan"** - a plan for small sites to implement temporary BMPs to control pollution generated during the construction phase only, primarily erosion and sediment. Guidance for preparing a SPESC Plan is contained in Chapter I-3 of the DOE Stormwater Management Manual.
- Q. **Stormwater** - That portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, channels or pipes into a defined surface water channel, or a constructed infiltration facility.
- R. **Water Quality** - A term used to describe the chemical, physical, and biological characteristics of water, usually in respect to its suitability for a particular purpose.



2.3 Abrogation and greater restrictions

It is not intended that this chapter repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. When any provision of any other County ordinance conflicts with this ordinance, that which provides more environmental protection shall apply unless specifically provided otherwise in this ordinance.

2.4 Applicability

Regulated activities under this ordinance shall include all proposed land use when new development and redevelopment above threshold limits as set within this ordinance would occur, within the unincorporated limits of Jefferson County where stormwater flows into or potentially flows into the Puget Sound basin.

Permit and development applications including but not limited to the following shall comply with requirements of this ordinance:

A. Building permit applications made under the Jefferson County Building Code Ordinance:

- Single Family Residential: Mobile/Manufactured, Modular, Site Built, Additions;
- Multi-Family Residential: Duplexes, Fourplexes, Condominiums, Apartment Houses;
- Commercial, including additions;
- Industrial, including additions;
- (Radio and Cellular) Towers;
- Above and Below Ground Storage Tanks;
- Additions and Renovations.

B. Applications for Sewage Disposal Permits made under Jefferson County Ordinance No. 277, and/or 246.272 WAC, Rules and Regulations for On-Site Sewage Disposal Systems, or any ordinance adopted or amended thereafter.

C. Applications for approval under the Jefferson County Zoning Code, No. 9-0801-94, or zoning control adopted or amended thereafter.

D. Applications for approval under the Jefferson County Subdivision Ordinance, No. 4-0526-92, as amended.

E. Applications for approval under the Jefferson County Camper Club Ordinance, No. 3-80, as amended.

F. Applications for shoreline substantial development permits and permit exemptions under the Jefferson-Port Townsend Shoreline Management Master Program, as amended.

G. Applications for Class IV General forest practices permits or forest practices permits that include conversion option harvest plans.

H. Applications reviewed under the provisions of the Jefferson County Critical Areas Ordinance.

2.5 Severability

If any provision of this ordinance or its application to any person, entity, or circumstance is held invalid, the remainder of this ordinance or the application of the provision to other persons, entities, or circumstance shall not be affected.



SECTION 3: REGULATED ACTIVITIES

3.1 Regulated activities

Jefferson County shall approve or disapprove all new development and/or redevelopment when above the thresholds contained in Section 4 of this ordinance, unless exempted in Section 3.2 below.

3.2 Exemptions

Commercial agriculture, and forest practices regulated under Title 222 WAC, except for Class IV General forest practices permit applications that are conversions from timber land to other uses and forest practices permit applications that include conversion option harvest plans.

SECTION 4: APPROVAL STANDARDS

4.1 Minimum Stormwater Management Requirements

A. The following new development and redevelopment shall be required to implement an approved Small Parcel Erosion and Sediment Control Plan:

- 1. Individual, detached single family residences and duplexes creating or adding less than 5000 square feet of impervious surface development. Individual detached single family residences and duplexes creating or adding less than 3000 square feet shall follow BMPs but are not be required to submit a plan.
- 2. Creation or addition of less than 5000 square feet of impervious surface area for projects other than individual detached single family residences and duplexes and associated appurtenances.
- 3. Land disturbing activities of more than 10,000 square feet and less than one acre. Land disturbing activities of less than 10,000 square feet shall follow BMPs but will not be required to submit a plan.

B. All development creating or adding less than 5,000 square feet of impervious surface area, where resulting impervious areas comprise greater than 50 percent of the total site size, shall be required to implement an approved Small Parcel Erosion and Sediment Control Plan and a Permanent Stormwater Quality Control Plan.

C. All new development that includes the creation of 5000 square feet or greater impervious area, and land disturbing activities of less than one acre shall be required to implement an approved Small Parcel Erosion and Sediment Control Plan and a Permanent Stormwater Quality Control Plan.

D. Land disturbing activities of more than one acre shall be required to implement an approved Large Parcel Erosion and Sediment Control Plan and a Permanent Stormwater Quality Control Plan.

E. All redevelopment that adds or creates 5000 square feet or greater impervious area or land disturbing activities more than one acre shall be required to implement an approved Large Parcel Erosion and Sediment Control Plan and a Permanent Stormwater Quality Control Plan. Source control BMPs shall be applied to the entire site.

F. In addition to the above requirements, for all new development or redevelopment where one or more of the following conditions apply, a stormwater management plan shall be prepared that includes a schedule for implementing the minimum requirements for the entire site, including adjoining parcels if they are part of the project. An adopted and implemented basin plan (Minimum Requirement #9) may be used to generate redevelopment requirements that are tailored to a specific basin.

- 1. Existing sites greater than one acre in size with 50% or more impervious surface.

- 2. Sites that discharge to a receiving water that has a documented water quality problem. Subject to local priorities, a documented water quality problem includes, but is not limited to, water bodies: as listed in Washington State Department of Ecology reports required under Section 303(d) of the Clean Water Act.
- 3. Sites where the need for additional stormwater control measures have been identified through a basin plan, the watershed ranking process under Ch.400-12 WAC. "Local Planning and Management of Nonpoint Source Pollution", Puget Sound Water Quality Authority, or through Growth Management Act planning.

4.2 General

Regulated activities shall be conducted only after Jefferson County approves a Stormwater Site Plan which includes one or more of the following as required by this ordinance:

- A. Small Parcel Erosion and Sediment Control (SPESC) Plan - Small Parcel Erosion and Sediment Control Plans shall comply with Small Parcel Requirements 1 through 5 of Section I-2.3 of the Manual.
- B. Large Parcel Erosion and Sediment Control (LPESC) Plan - Large Parcel Erosion and Sediment Control Plans shall comply with Minimum Requirement #1: Erosion and Sediment Control of Section I-2.5 of the Manual.
- C. Permanent Stormwater Quality Control (PSOC) Plan - Permanent Stormwater Quality Control Plans shall comply with Minimum Requirements #2 through #11 in Sections I-2.6 through I-2.15 of the Manual.

SECTION 5: ADMINISTRATION

5.1 Stormwater Administrator

The Board of County Commissioners will designate an administrator who will be trained in stormwater management. The Administrator:

- A. Will assist the public in the interpretation and application of this ordinance which may include, but is not limited to, making available flow charts, matrices, standard drawings, and educational material, that would aid in the understanding and requirements of the ordinance.
- B. Will assist those submitting project applications to prevent violations of this ordinance or violations of Best Management Practices.
- C. Shall have the authority to develop and implement administrative procedures to administer and enforce this ordinance and further may vary from the performance standards of the Manual for the purpose of protecting water quality based on a written finding of fact that addresses the following:
 - 1. The variance provides equivalent environmental protection and is in the overriding public interest; and the objectives of safety, function, environmental protection and facility maintenance, based upon sound engineering, are fully met;
 - 2. There are special physical circumstances or conditions affecting the property such that the strict application of these provisions would deprive the applicant of all reasonable use of the parcel of land in question, and every effort to find creative ways to meet the intent of the minimum standards has been made;
 - 3. Granting the variance will not be detrimental to the public health and welfare, nor injurious to other properties in the vicinity and/or downstream, and to the quality of waters of the state; and
 - 4. The variance is the least possible variance that could be granted to comply with the intent of the Minimum Stormwater Management Requirements.

- D. May approve, conditionally approve, or deny an application for activities regulated by this ordinance.
- E. Will have authority to inspect projects at various stages of the work and may require approval to determine that adequate control is being exercised. Stages of work requiring inspection include, but are not limited to, pre-construction; installation of BMPs; land disturbing activities; installation of utilities; landscaping; retaining walls; and completion of project. When required by the Administrator, special inspection and/or testing shall be performed.

5.2 Hearing Examiner

The Hearing Examiner's duties shall be as set forth in this ordinance and in the Jefferson County Code Chapter 2.05 Hearing Examiner.

SECTION 6: ENFORCEMENT

6.1 General

The choice of enforcement action and the severity of any penalty shall be based on the following:

- A. Whether the violation was intentional;
- B. Damage to water quality;
- C. Risk to the public or to public resources;
- D. Damage to private property.

6.2 Stop work order

The Administrator shall have the authority to serve a person a stop work order if an action is being undertaken in violation of this ordinance. The Administrator will attempt to cause violations to be corrected prior to issuing a stop work order unless a threat to water quality is imminent.

6.2.1 Content of Order

The Order shall contain:

- A. A description of the specific nature, extent, and time of violation and the damage or potential damage; and
- B. A notice that the violation or the potential violation cease and desist, and, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty under Section 6.3 below may be issued with the Order.

6.2.2 Notice

A stop work order shall be imposed by a notice in writing, either by certified mail with return receipt requested, or by personal service, to the person incurring the same.

6.2.3 Effective Date

The stop work order issued under this section shall become effective immediately upon receipt by the person to whom the order is directed.

6.2.4 Compliance

Failure to comply with the terms of a stop work order shall result in enforcement actions including, but not limited to, the issuance of a civil penalty.

6.3 Civil Penalty

Water quality is of prime importance. All costs to return violation to compliance with plans and prudent activities will be the responsibility of property owner.

In addition, a person who fails to comply with the requirements of this ordinance, who fails to conform to the terms of an approval or order issued, or who fails to comply with a stop work order issued under these regulations shall be subject to a civil penalty. Said penalty shall be imposed by the Administrator who shall consult with the Prosecuting Attorney prior to imposing any such penalty.

6.3.1 Amount of Penalty

The penalty shall not be less than \$ 25.00 or exceed \$ 1000.00 for each violation. Each day of continued violation or repeated violation shall constitute a separate violation.

6.3.2 Aiding or Abetting.

Any person who, through an act of commission or omission, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.

6.3.3 Notice of Penalty.

A civil penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the County. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, and, in appropriate cases, require necessary corrective action within a specific time.

6.3.4 Application for Remission or Mitigation.

Any person incurring a penalty may apply in writing within 14 days of receipt of the penalty to the Administrator for remission or mitigation of such penalty. Upon receipt of the application, the Administrator shall schedule and provide public notice of an open record public hearing before the Hearing Examiner to consider the appeal. Notification of the public hearing shall be consistent with Section 19 of the Jefferson County Zoning Code, Ordinance No.09-0801-94. The Hearing Examiner may recommend to the Board of County Commissioners to remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty.

6.3.5 Appeal of Civil Penalty.

The recommendation of the Hearing Examiner shall be forwarded to the Board of County Commissioners. The Board shall review the recommendation in a public meeting. If after review the Board deems that a change in the recommendation is necessary, the Board shall schedule and provide public notice of a closed record public hearing to adopt its own findings of fact and conclusions. Notification of the public hearing shall be consistent with Section 19 of the Jefferson County Zoning Code, Ordinance No.09-0801-94. The Board of County Commissioners shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty.

6.3.6 Penalties due

Penalties imposed under this Section shall become due and payable 30 days after receiving notice in writing unless application for remission or mitigation is made or an appeal is filed. Whenever an application for remission or mitigation is made, penalties shall become due and payable 30 days after receipt of the decision regarding the remission or mitigation. Whenever an appeal of a penalty is filed, the penalty shall become due and payable after all review proceedings and a final decision has been issued by the Board of County Commissioners confirming all or part of the penalty. If the amount of a penalty owed the County is not paid within the time specified, the County may take actions necessary to recover such penalty.

6.3.7 Penalty recovered

Penalties recovered shall be paid to a fund dedicated to public education and assistance for helping applicants comply with this ordinance and the stormwater management program.

6.4 Criminal Misdemeanor Penalty

Any person who fails to comply with the requirements of this ordinance, who fails to conform to the terms of an approval or order issued, or who fails to comply with a stop work order issued under these regulations may also be subject to criminal prosecution as currently provided for under Jefferson County Code Chapter 1.01.160 Violations - Penalties.



SECTION 7: APPEALS

7.1 Right of appeal

Any decision of the Administrator may be appealed to the Hearing Examiner. All actions of the Administrator shall be final and conclusive, unless within 14 days of the date of the Administrators' action, the original applicant or an adverse party gives written notice of appeal to the Administrator for review of the action. The notice shall specify the decision for which review is sought and the grounds for review. A mailing address for the appellant shall be included.

7.2 Method of Appeal

The Hearing Examiner shall review all decisions of the Administrator that are appealed at an open record public hearing. The decision of the Hearing Examiner shall be forwarded to the Board of County Commissioners. The Board shall review the recommendation in a public meeting. If after review of the Hearing Examiner's recommendation the Board deems a change in the recommendation necessary, the Board shall hold a closed record public hearing and adopt its own findings of fact and conclusions. The Hearing Examiner or Board of Commissioners may prescribe conditions that are deemed necessary or desirable for the public interest. Notification of public hearings required under this Section shall be consistent with Section 19 of the Jefferson County Zoning Code, Ordinance No. 09-0801-94.

SECTION 8: FEES

8.1 Fees

The Administrator is hereby authorized to collect fees for the review of erosion control and stormwater site plans and variances, inspections of new development and redevelopment, and appeals of decisions of the Administrator including civil penalties as provided for in the Department of Public Works Fee Schedule, Jefferson County Code Appendix III Public Works Department.

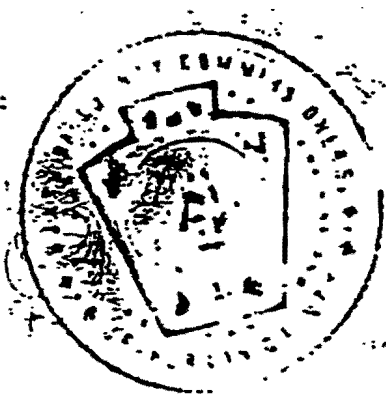
SECTION 9: EFFECTIVE DATE

9.1 Effective Date

The effective date of this ordinance shall be 90 days from the date passed and adopted by the Board of County Commissioners.

PASSED AND ADOPTED THIS 4th DAY OF NOVEMBER, 1996.

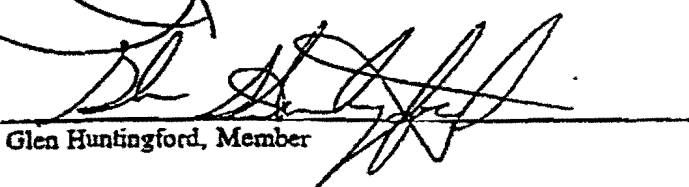
SEAL:



BOARD OF JEFFERSON COUNTY COMMISSIONERS


Richard Wojt, Chair


Robert Hinton, Member


Glen Huntingford, Member

ATTEST:


Lorna Delaney, Clerk of the Board