

ORDINANCE NO. 1800

**AN ORDINANCE OF THE CITY OF SELAH, WASHINGTON, ADOPTING A NEW CHAPTER 9.24 TO THE SELAH MUNICIPAL CODE ENTITLED, "CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL"**

**WHEREAS**, the City of Selah is required by the Department of Ecology to adopt regulations regarding construction site erosion and sediment control in order to comply with its NPDES permit; and

**WHEREAS**, during the construction process, soil is highly vulnerable to erosion by wind and water, eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat; and

**WHEREAS**, the City Council has also determined that it is important to safeguard persons, protect property, and prevent damage to the environment during construction activities;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SELAH**, does ordain, as follows:

Section 1. New Selah Municipal Code Chapter 9.24 entitled "Construction Site Erosion and Sediment Control" adopted.

A new Chapter 9.24 of the Selah Municipal Code is adopted as follows:

**Construction Site Erosion and Sediment Control**

**9.24.010 DEFINITIONS**

The terms as used in this Chapter shall have the following meanings:

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|----|--|---|
| A. | Best Management Practices (BMPs)       | Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention, educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or to the storm sewer system. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage. |
| B. | City                                   | The City of Selah   |
| C. | Clearing                               | Any construction activity that removes the vegetative surface cover.  |
| D. | Construction Activity                  | Clearing, grading, excavation, and any other activity which results in a land disturbance. Such activities may include, but are not limited to, road building, construction of residential homes, office buildings, commercial establishments, parking lots, industrial facilities, and demolition activity.  |
| E. | Construction Stormwater General Permit | National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge General Permit for Stormwater Discharges Associated with Construction Activity.   |
| F. | Development                            | Any construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure within   |

the jurisdiction of the City of Selah as well as any manmade change or alteration to the landscape, including but not limited to, mining, drilling, dredging, grading, paving, excavating and filling.

G.	Drainage Way	Any channel that conveys surface runoff throughout the site.
H.	Erosion Control	A measure that prevents erosion.
I.	Erosion and Sediment Control Specialist	A person who has received training and is authorized by the City to inspect and maintain erosion and sediment control practices.
J.	Grading	Excavation or fill of material, including the resulting conditions thereof.
K.	Municipal Separate Storm Sewer System (MS4)	Also known as "storm sewer system." City-owned facilities 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 (i) designed or used for collecting or conveying stormwater; (ii) which is not a combined sewer; and (iii) which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.
L.	NPDES Discharge Permit	A National Pollutant Discharge Elimination System (NPDES) permit issued by the United States Environmental Protection Agency (EPA) or the Washington State Department of Ecology that authorizes the discharge of pollutants to waters of the U.S.
M.	Perimeter Control	A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.
N.	Permittee	Any individual, firm, association, club, organization, corporation, partnership, business trust, company or other entity which is recognized by law as the subject of rights or duties.
O.	Person	Any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner of premises, or as the owner's agent.
P.	Phasing	Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.
Q.	Pollutant	Anything which causes or contributes to pollution. Pollutants may include, but are not limited to, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste; paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, 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.

R.	Pollution	Contamination or other alteration of the physical, chemical, or biological properties of waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters; or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state as will, or is likely to, create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.
S.	Premises	Any building, lot, parcel of land, or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.
T.	Redevelopment	A project for which a building permit is typically required that proposes to add, replace, and/or alter impervious surfaces affecting the existing drainage system, other than routine maintenance, resurfacing, or repair. Projects that include the creation or addition of impervious surfaces; the expansion of a building footprint or addition or replacement of a structure; or structural development including construction, installation or expansion of a building or other structure shall be considered redevelopment.
U.	State Regulatory Threshold	Refers to the 1-acre size of new development and redevelopment projects that shall be regulated under the terms of the <i>Construction Stormwater General Permit</i> . The threshold includes construction site activities and new development and redevelopment projects that result in a land disturbance of equal to or greater than 1-acre and construction activities and projects less than 1-acre that are part of a larger common plan of development or sale.
V.	Sediment Control	Measures that prevent eroded sediment from leaving the site.
W.	Site	A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.
X.	Stabilization	The use of practices that prevent exposed soil from eroding.
Y.	Start of Construction	The first land-disturbing activity associated with construction activities, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

Z.	Stormwater	Any surface flow, runoff, or drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation. Stormwater includes runoff from melting snow and ice.
AA.	Stormwater Management Manual for Eastern Washington	The latest edition the <i>Stormwater Management Manual for Eastern Washington</i> published by the Washington State Department of Ecology.
BB.	Stormwater Pollution Prevention Plan (SWPPP)	A document which describes the Best Management Practices and activities to be implemented by a person, permittee or business to identify sources of pollution or contamination at a site, and the actions to eliminate or reduce pollutant discharges to storm water, the storm sewer system, and/or receiving waters to the maximum extent practicable. The term "Stormwater Pollution Prevention Plan" is interchangeable with the term "Stormwater Management Plan".
CC.	Watercourse	Any body of water including, but not limited to, lakes, ponds, rivers, streams, irrigation ditches and canals, and bodies of water delineated by the City.
DD.	Waterway	A channel that directs surface runoff to a watercourse or to the public storm drain.
EE.	WDOE	The Washington State Department of Ecology

#### 9.24.020 REQUIREMENTS

All new development and redevelopment projects are responsible for preventing erosion and the discharge of sediment and other pollutants into the storm drain system and receiving waters.

Projects meeting the State Regulatory Threshold of 1-acre shall meet the following requirements:

- A. The WDOE has issued a *Construction Stormwater General Permit* that is applicable to construction sites that meet the State Regulatory Threshold of 1-acre. The Construction Stormwater General Permit establishes standards and guidelines for creating a stormwater pollution prevention plan (SWPPP) and implementing erosion and sediment control BMPs. It is incorporated by reference and made part of this chapter for projects meeting the State Regulatory Threshold.
- B. Projects meeting the State Regulatory Threshold that require coverage under the *Construction Stormwater Permit*, and not qualifying for an Erosivity Waiver, must complete a Stormwater Pollution Prevention Plan (SWPPP). The SWPPP will aid in preventing erosion and the discharge of sediment and other pollutants into receiving waters. BMP selection, design, installation, operation and maintenance standards shall conform to the standards set forth in the *Stormwater Management Manual for Eastern Washington*.
- C. Stormwater Pollution Prevention Plans shall meet the requirements of the *Stormwater Management Manual for Eastern Washington* and provide for the following:
  1. Prevention of any discharge of untreated stormwater off-site.
  2. Retention of all post-development stormwater discharges on site, unless specifically approved otherwise by the City.
  3. Continuation of BMPs for appropriate periods of time.
  4. Protection of groundwater from instances of polluted runoff infiltration.

- D. *Erosivity Waiver* – Construction site operators may qualify for a waiver from the requirements to submit a SWPPP for local jurisdiction review if the conditions listed in S2.C of the *Construction Stormwater General Permit* are met.
- E. Exceptions to the *Construction Stormwater General Permit* requirements may be granted by the City, with WDOE concurrence, prior to project approval and construction following an application for an exception with legal public notice per the City's guidance and requirements for exceptions and variances.

All projects, regardless of the size, shall comply with the following requirements:

- A. Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the *Stormwater Management Manual for Eastern Washington*, and shall be adequate to prevent transportation of pollutants and sediment from the site to the satisfaction of the City. Cut and fill slopes shall be no greater than 2:1, except as approved by the City to meet other community or environmental objectives.
- B. Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other sections of this chapter. Clearing techniques that retain natural vegetation and drainage patterns, as described in the *Stormwater Management Manual for Eastern Washington*, shall be used to the satisfaction of the City.
- C. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
- D. Phasing shall be required on all sites disturbing greater than 30 acres, with the size of each phase to be established at plan review and as approved by the City.
- E. Erosion and sediment control requirements shall include the following:
  - 1. Soil stabilization shall be completed within the following time frames: within 30 days in the dry season (July 1 – September 30), and within 15 days in the wet season (October 1 – June 30).
  - 2. Special techniques that meet the design criteria outlined in the *Stormwater Management Manual for Eastern Washington* on steep slopes or in drainage ways shall be used to ensure stabilization.
  - 3. The entire disturbed area must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.
  - 4. Techniques shall be employed to prevent the blowing of dust or sediment from the site.
  - 5. Techniques that divert upland runoff past disturbed slopes shall be employed.
- F. Sediment controls shall be selected based on the BMPs listed in the latest version of the *Stormwater Management Manual for Eastern Washington*. Additionally, the following sediment controls shall apply:
  - 1. No sediment transport off the site will be allowed. All sediment shall be controlled on site.
  - 2. In addition to sediment transport by stormwater runoff, sediment transport due to overwatering for dust control or site cleanup will not be allowed.
  - 3. The transport of construction materials from the site, including cement and other water-born materials, whether they are carried in stormwater runoff or other runoff, is prohibited.
- G. Waterway and watercourse protection requirements shall include:
  - 1. A temporary stream crossing installed and approved by all authorized state and local agencies if a wet watercourse will be crossed regularly during construction.
  - 2. Stabilization of the watercourse channel before, during, and after any in-channel work.
  - 3. All on-site storm water conveyance channels designed according to the criteria outlined in the *Stormwater Management Manual for Eastern Washington*.

4. Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.

H. Construction site access requirements shall include:

1. One single, stabilized entrance/exit to the construction site reinforced with quarry spalls or other suitable coarse rock material. A separation geotextile shall be placed under the spalls to prevent fine sediment from pumping up into the rock pad.
2. Other measures required by the City in order to ensure that construction vehicles do not track sediment onto public streets or allow sediment to be washed into storm drains.
3. Tracking of sediment onto public streets shall be considered a violation of this chapter.

**9.24.030 STORMWATER POLLUTION PREVENTION PLAN (SWPPP)**

A stormwater pollution prevention plan (SWPPP) shall be prepared for all projects meeting the State Regulatory Threshold. The SWPPP shall be implemented beginning with initial soil disturbance and shall apply until final stabilization after completion of construction. Refer to Sections 9.D and 9.E of the *Construction Stormwater General Permit* for detailed instructions on how to complete a Construction SWPPP.

A. The Stormwater Pollution Prevention Plan shall include each of the following twelve elements below in the narrative of the SWPPP and ensure that they are implemented unless site conditions render the element unnecessary and the exemption from that element is clearly justified in the SWPPP.

1. Preserve Vegetation/Mark Clearing Limits
2. Establish Construction Access
3. Control Flow Rates
4. Install Sediment Controls
5. Stabilize Soils
6. Protect Slopes
7. Protect Drain Inlets
8. Stabilize Channels and Outlets
9. Control Pollutants
10. Control De-Watering
11. Maintain BMPs
12. Manage the Project

B. Construction site operators must maintain and repair, as needed, all sediment and erosion control BMPs to assure continued performance of their intended function.

C. For projects meeting the State Regulatory Threshold, construction site operators must periodically have their site inspected by a Certified Erosion and Sediment Control Lead (CESCL) who shall be identified in the SWPPP and shall be present on-site or on-call at all times. The City of Selah Public Works Director, or his/her designated representative, shall inspect projects smaller than 1-acre.

D. Construction site operators must maintain, update and implement their SWPPP. Modifications to the SWPPP must be made and submitted to the Washington Department of Ecology, with a copy to the City, whenever there is a change in design, construction, operation, or maintenance at the construction site that has, or could have, a significant effect on the discharge of pollutants to waters of the state.

E. For projects meeting the State Regulatory Threshold, construction site operators must comply with all stormwater monitoring and testing requirements as stated in the Section 4 of the *Construction Stormwater General Permit*.

#### 9.24.040 APPLICATION AND REVIEW PROCESS

- A. All projects shall comply with the permit and approval requirements specified in Selah Municipal Code Chapter 9.23, Section 9.23.050.
- B. Projects meeting the State Regulatory Threshold shall comply with WDOE's submittal, review and approval process found in the *Construction Stormwater General Permit*.
  - 1. No plan shall be approved that increases the peak level of stormwater runoff from impervious areas, unless the plan identifies measures to control and limit runoff to peak levels no greater than would occur from the site if left in its natural, undeveloped condition.
  - 2. No development or use of land which requires coverage under the Construction Stormwater General Permit shall be permitted without an approved Stormwater Pollution Prevention Plan.
  - 3. The City shall also review all projects meeting the State Regulatory Threshold after project approval has been received from the WDOE. City review will be to confirm compliance with WDOE requirements and shall not relieve the contractor from meeting all requirements established by WDOE.
  - 4. A transmittal letter shall be provided with all SWPPPs submitted to the City. The letter shall bear the name(s) and address(es) of the owner or developer of the site and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm. The letter shall also include a statement that all construction activities shall be in accordance with the Stormwater Pollution Prevention Plan.
- C. The City shall be notified of the commencement of any development or redevelopment project covered by a Stormwater Pollution Prevention Plan and the owner or responsible person shall be required to provide certification that the project is in conformity with the previously approved Stormwater Pollution Prevention Plan.
- D. Any modifications to a Stormwater Pollution Prevention Plan shall be submitted to the City of Selah Public Works Director, or his/her designated representative, for review and a new SWPPP shall be submitted upon request of the City.
- E. Approval of the Stormwater Pollution Prevention Plan does not relieve the owner or responsible party from the duty to ensure the systems and their safety measures function as designed.
- F. Approval may be suspended or revoked at any time if conditions are not as stated or shown in the approved application or if implementation of the plan is not proceeding in the approved manner.
- G. Approval of a SWPPP may be suspended if the project is not completed within a two year period or development has ceased for a period of more than two years; however, a one year extension may be granted upon a written request which provides the reason(s) for the delay or cessation of development and specifies a time frame for completion or commencement of development.
- H. If a severe and unexpected economic hardship would result from strict application of the requirements of this chapter, a person may request a variance.
  - 1. To determine whether the application imposes a severe and unexpected economic hardship on the project applicant, the Permittee must consider and document with written findings of fact the following:
    - The current (pre-project) use of the site, and
    - How the application of the minimum requirement(s) found in this chapter restricts the proposed use of the site compared to the restrictions that existed prior to the adoption of the minimum requirements; and
    - The possible remaining uses of the site if the exception were not granted; and
    - The uses of the site that would have been allowed prior to the adoption of the minimum requirements; and

- A comparison of the estimated amount and percentage of value loss as a result of the minimum requirements versus the estimated amount and percentage of value loss as a result of requirements that existed prior to adoption of the minimum requirements; and
  - The feasibility for the owner to alter the project to apply the minimum requirements.
2. In addition any exception must meet the following criteria:
- The exception will not increase risk 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
  - The exception is the least possible exception that could be granted to comply with the intent of the minimum requirements found in this chapter.
3. If the City of Selah Public Works Director, or his/her designated representative, denies a request for variance, the denial may be appealed in writing to the City Council within ten (10) days of notice of denial. The City Council shall provide the aggrieved party with a hearing date and an opportunity to present argument in favor of the variance request. The City Council will not accept additional supporting documentation if the information was reasonably available at the time the request for variance was made and could have been submitted to the Public Works Department.

#### **9.24.050 INSPECTION**

- A. For projects meeting the State Regulatory Threshold of 1-acre, site inspections shall be performed in accordance with the requirements of the *Stormwater Management Manual for Eastern Washington*, the *Construction Stormwater General Permit*, and the approved SWPPP. The inspector shall be a Certified Erosion and Sediment Control Lead (CESCL), and the name and contact information for the CESCL shall be included in the SWPPP.
- B. For projects disturbing less than 1-acre, site inspections shall be performed by the City of Selah Public Works Director, or his/her designated representative, as part of the routine inspection activities. Special inspections may be performed after any rainfall event which causes a discharge of stormwater.
- C. When necessary to perform any of his duties under this chapter, or to investigate upon reasonable cause or complaint the existence or occurrence of a violation of this chapter, the Public Works Director, or his/her designated representative, may enter onto property to inspect the same or to perform any duty imposed or authorized by this chapter. If the property is unoccupied, the Public Works Director, or his/her designated representative shall make reasonable effort to locate the owners or other persons having charge or control of the property. To enter on private property, the Public Works Director, or his/her designated representative, shall:
1. Present identification credentials;
  2. State the reason for entry;
  3. Request and obtain permission to enter; and
  4. Access the property at reasonable times;
- If entry is refused, the City shall have recourse to every remedy provided by law to secure entry.
- D. Access to Construction Sites
1. If a discharger has security measures in force, which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the City.
  2. Construction site operators shall allow the City ready access to those parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be



- kept under the conditions of an NPDES permit to discharge to the storm sewer system, and the performance of any additional duties as defined by state and federal law.
3. The City shall have the right to set up on any permitted construction site such devices as are necessary in the opinion of the City to conduct monitoring and/or sampling of the site's discharge to the storm sewer system.
  4. The City has the right to require the discharger to install monitoring equipment as necessary. The construction site's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
  5. Any temporary or permanent obstruction to safe and easy access to the construction site to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City. The costs of clearing such access shall be borne by the operator.
  6. Unreasonable delays in allowing the City access to a permitted construction site are a violation of this chapter. A person who is the operator of a construction site with an NPDES permit to discharge to the storm sewer system commits an offense if the person denies the City reasonable access to the permitted construction site for the purpose of conducting any activity authorized or required by this chapter.
  7. If the City has been refused access to any part of the premises from which discharges to the storm sewer system occur, and he/she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City may seek issuance of a search warrant from any court of competent jurisdiction.

#### **9.24.060 ENFORCEMENT**

- A. Whenever the City finds that a violation has occurred or a requirement of this chapter has not been met, the City may order compliance by written Notice of Violation to the responsible person. Such Notice may require without limitation:
  1. The performance of monitoring, analyses, and reporting;
  2. The elimination of construction site stormwater discharges;
  3. That violating discharges, practices, or operations shall cease and desist;
  4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
  5. Payment of a fine to cover administrative and remediation costs; and
  6. The implementation of source control or treatment BMPs.
- B. If abatement of a violation and/or restoration of affected property are required, the Notice shall set forth a deadline within which such remediation or restoration must be completed. Said Notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.
- C. Stop-Work Order; Revocation of Permit. In the event that any person violates the terms of a permit or implements site development or redevelopment in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the area so as to be materially detrimental to the public welfare or injurious to property or the environment, the City may issue a stop-work order, or suspend or revoke a permit.
- D. Violation and Penalties. No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this chapter. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this chapter is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than the amount listed in Section 9.24.100 for each offense. In addition to any other penalty

authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this chapter shall be required to bear the expense of such restoration.

- E. For projects meeting the State Regulatory Threshold, the City may defer to the enforcement actions taken by the WDOE.

#### **9.24.070 APPEAL OF NOTICE OF VIOLATION**

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The written notice of appeal must be received within ten (10) days from the date of the Notice of Violation. All such appeals shall be heard by the City Council, which is hereby granted specific authority to hear and determine such appeals in a quasi-judicial capacity. Said appeal shall be heard by the City Council at its next regularly scheduled meeting date, not to exceed thirty (30) days after receipt of the notice of appeal, or at such other time as may be mutually agreed upon in writing by the Appellant and the Mayor, or his designee. The decision of the City shall be final.

#### **9.24.080 ENFORCEMENT MEASURES AFTER APPEAL**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within thirty (30) days of the decision of the City, then representatives of the City shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner or agent in possession of any premises to refuse to allow the City or designated contractor to enter upon the premises for the purposes set forth above.

#### **9.24.090 COST OF ABATEMENT OF THE VIOLATION**

Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within ten (10) days. If the amount due is not paid in a timely manner as determined by the decision of the City or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the City by reason of such violation. The liability shall be paid in not more than twelve (12) equal monthly payments. Interest at the rate of twelve (12) percent per annum shall be assessed on the balance beginning on the 30th day following discovery of the violation.

#### **9.24.100 PENALTIES**

The following penalties shall be assessed for the first and ongoing violations of this chapter. Each written Notice of Violation shall be considered a separate violation. An ongoing violation is defined as a repeated violation for which a written Notice of Violation was previously issued, the violation was not corrected, and one or more subsequent Notice of Violations are required.

- A. For a first violation, a written Notice of Violation shall be issued outlining requirements for compliance.
- B. For a second violation, the offender shall be subject to a civil penalty of one hundred dollars;
- C. For a third violation, the offender shall be subject to a civil penalty of five hundred dollars;
- D. For a fourth violation, and each ongoing violation thereafter, the offender shall be subject to a civil penalty of one thousand dollars and/or removal of and discontinuance of city water and sewer utility services.

#### **9.24.110 INJUNCTIVE RELIEF**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the City may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

#### **9.24.120 COMPENSATORY ACTION**

In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the City may consider alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

#### **9.24.130 VIOLATIONS DEEMED A PUBLIC NUISANCE**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

#### **9.24.140 CRIMINAL PROSECUTION**

Any person that has violated or continues to violate this chapter shall be liable to criminal prosecution for a misdemeanor crime to the fullest extent of the law, and shall be subject to a criminal penalty of the amount listed above in Section 9.24.100 and/or imprisonment for a period of time not to exceed ninety (90) days. The City may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

#### **9.24.150 REMEDIES NOT EXCLUSIVE**

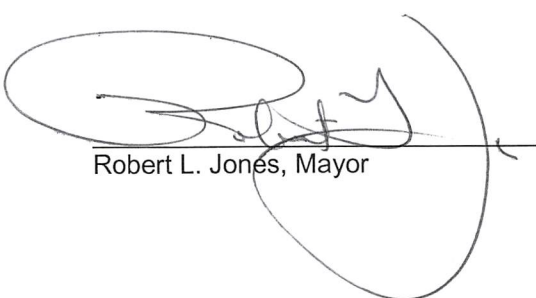
The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state, or local law and it is within the discretion of the City to seek cumulative remedies.

#### **9.24.160 SEVERABILITY**


The provisions and sections of this chapter are herein declared severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

Section 2. Effective Date. This ordinance shall take effect thirty (30) days after its publication.


**PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON this 8th day of June, 2010.**

  
Robert L. Jones, Mayor

ATTEST:

  
Dale Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:

  
Robert F. Noe, City Attorney

ORDINANCE NO. 1800