

TITLE 16

Chapters:

- 16.04 General Provisions**
- 16.05 Illicit Discharge Detection and Elimination**
- 16.08 Rates and Charges**

Chapter 16.04 - General Provisions**Sections:**

- 16.04.010 Definitions**
- 16.04.020 Creation of Stormwater-Utility-Authority**
- 16.04.030 Governing Body and Management of Stormwater Utility**
- 16.04.040 Ownership of Stormwater Facilities**
- 16.04.050 Severability**

16.04.010 Definitions

For the purposes of this chapter of the Richland Municipal Code (RMC), the following definitions apply:

- A. "City" shall mean the City of Richland, Washington, a municipal corporation.
- B. "Commercial property" shall mean all properties other than residential properties. Commercial property shall include apartment buildings with greater than four living units and mixed-use customers.
- C. "Condominium," also known as condo or townhouse is a single family dwelling which may be connected or adjacent to other condos in a facility that shares parking lot area and often shares utility services such as refuse and water. Condominiums can be identified as privately owned buildings and are recorded as such with the Benton County Auditor's office. The parcel the condo resides within is jointly owned by the individual condo owners.
- D. "Equivalent residential unit" or ERU" means and shall be equal to three thousand (3,000) square feet of impervious area and is the measure of impervious area to be used by the utility in assessing service charges against each parcel of property.
- E. "Flood plain" shall mean a parcel of land lying within the Yakima River flood plain as defined by the latest version of the FEMA Flood Insurance Rate Map."
- F. "Housing unit" shall mean a building or portion thereof designed as a residence or the living quarters of one or more persons living together, or of one family.
- G. "Impervious area" means those surfaced areas which prevent or retard the entry of water into the soil in the manner that such water entered the soil under natural conditions preexistent to development, or which cause water to run off the surface in greater quantities or at an increased rate of flow than what would have occurred under natural conditions preexistent to development, including but not limited to such compacted or covered surfaces as rooftops, asphalt or concrete sidewalks, paved driveways and parking lots, walkways, patio areas, storage areas, and compacted gravel, oiled macadam or other surfaces which similarly affect the natural infiltration or runoff patterns existing prior to development.
- H. "Mixed-use" refers to customers that are both residential and commercial and share a utility service. For example a facility that has commercial businesses on the street level and residential units above the businesses.
- I. "Owner" shall mean the property owner of record, according to the Benton County Auditor's office.
- J. "Residential property" or "residential properties" shall mean any parcel of land upon which is constructed a structure designed to provide a housing unit to one or more persons or families, including detached single family homes, duplexes, tri-plexes, four-plexes, townhouses, condos and manufactured homes.
- K. "Utility" shall mean the stormwater utility, a utility authorized to own, maintain, operate and preserve all the storm drainage system and related facilities.
- L. "Vacant land" shall mean property with no man-made impervious surfaces thereon, including agricultural land and commercial property with less than 1,000 square feet of impervious area. (Ord. 5-98: Ord. 31-99: Ord. 12-00: Ord. 01-06: Ord. 12-07; Ord. 27-08)

16.04.020 Creation of Stormwater-Utility-Authority

There is hereby created and established a stormwater utility, a separate enterprise, and facility. The utility is authorized to own, construct, maintain, operate and preserve all stormwater infrastructure as now exist and as may be added to in the future by the addition of other existing or construction of storm drainage systems. In addition to its authority over stormwater facilities, the utility is authorized to maintain, operate, and preserve the street sweeping function of the City's street maintenance program. (Ord. 5-98)

16.04.030 Governing Body and Management of Stormwater Utility

The City Council shall be the governing body of the stormwater utility. Management of the utility shall be provided by the City Manager or his or her designee. (Ord. 5-98)

16.04.040 Ownership of Stormwater Facilities

Title and all other incidents of ownership of the following assets are hereby vested in the utility: All properties, interest and physical and intangible rights of every nature, owned or held by the City, however acquired, insofar as they relate to:

A. Drainage facilities.

B. Street sweeping and other Stormwater maintenance equipment. (Ord. 5-98: Ord. 12-07)

16.04.050 Severability

If any portion of this chapter as now or hereafter amended, or its application to any person or circumstances, is held invalid or unconstitutional, such adjudication shall not affect the validity of the chapter as a whole, or any section, provision or part thereof not adjudged to be invalid or unconstitutional and its application to other persons or circumstances shall not be affected. (Ord. 5-98)

Chapter 16.05 – Illicit Discharge Detection and Elimination

Sections:

- 16.05.010 Definitions**
- 16.05.020 Administration and Purpose**
- 16.05.030 Prohibition of Illicit Discharges**
- 16.05.040 Allowable Discharges**
- 16.05.050 Conditional Discharges**
- 16.05.060 Prohibition of Illicit Connections**
- 16.05.070 Compliance with Other NPDES Permits**
- 16.05.080 Notification of Spills**
- 16.05.090 Administrative Enforcement Procedures**
- 16.05.100 Appeal**
- 16.05.110 Abatement by the City**
- 16.05.120 Administrative Fines**
- 16.05.130 Injunction and/or Civil Penalties**
- 16.05.140 Severability**

16.05.010 Definitions

For the purposes of this chapter of the Richland Municipal Code (RMC), the following definitions apply:

- A. "City" shall mean the City of Richland, Washington, a municipal corporation.
- B. "Best Management Practices" or "BMP" shall mean the activities, practices and procedures identified in the most recent version of the Eastern Washington Stormwater Manual (Manual), or those activities, practices and procedures approved by the City's Public Works Director to prevent or reduce the discharge of pollutants directly or indirectly to the municipal storm drain system and waters of the state of Washington.
- C. "Director" shall mean the Public Works Director or his designee.
- D. "Ecology" means the Washington State Department of Ecology
- E. "Discharge" means adding, introducing, releasing, leaking, spilling, casting, throwing or emitting any pollutant or placing any pollutant in a location where it is likely to pollute waters of the state.
- F. "Erosion" means the process by which ground surface is worn away by action of wind, water, ice or gravity.
- G. "Groundwater" means underground water in a zone of saturation or water.
- H. "Industrial waste" means any liquid, gaseous, solid, slurry or other waste substance or any combinations of these resulting from any process or industry, manufacturing, trade or business.
- I. "Clean Water Act" The Federal Water Pollution Control Act (33 U.S.C. § 251 et seq.) and any subsequent amendments thereto.
- J. "Construction Activities" means any activities subject to the National Pollutant Discharge Elimination System (NPDES) construction permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating and demolition.
- K. "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.
- L. "Illegal Discharge" means any direct or indirect non-storm water discharge to the MS4 system.
- M. "Illicit Connections" means any drain or conveyance, whether on the surface or subsurface, which allow an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater and wash water to enter the storm drain system and any connection to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by the city or any government agency. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system, which has not been documented in plans, maps or equivalent records and approved by the City.

- N. "Industrial Activity" means any activities subject to the NPDES Industrial Permits as defined in 40 CFR Section 122.26(b)(14).
- O. "MS4" shall mean the municipal separate stormwater sewer system.
- P. "National Pollutant Discharge Elimination System" (NPDES) means Storm Water Discharge Permits.
- Q. "Non-Storm Water Discharge" means any discharge to the storm drain system that is not composed entirely of storm water.
- R. "Pollutant" means anything which causes or contributes to pollution as defined herein. Pollutants may include, but are not limited to: paints, varnishes and solvents, oil and other automotive fluids, solid wastes and yard wastes, refuse rubbish, garbage, litter or other discarded or abandoned objects, articles 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 (including but not limited to sediments, slurries and concrete rinses); and noxious or offensive matter of any kind.
- S. "Pollution" means the contamination of or alteration of the physical, thermal, chemical, or biological quality of any water of the state or water of the United States, that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the beneficial use or the public enjoyment of the water for any lawful or reasonable purpose.
- T. "Sediment" means soils or other particulate materials eroded or otherwise separated by parent materials and transported or deposited by the action of wind, water, ice or gravity or by illegal dumping.
- U. "Storm Drain System" means the City's municipal storm drain system and the Port of Benton's storm drain system that discharges to the waters of the State.
- V. "Storm Water" means runoff during and following precipitation and snowmelt events, including surface runoff, drainage and interflow.
- W. "Waters of the United States" means any surface watercourses and water bodies as defined in 40 CFR § 122.2 including all natural waterways and defined channels and depressions in the earth that may carry water. (Ord.27-09)

16.05.020 Administration and Purpose

The Public Works Director shall administer, implement and enforce the provisions of this Title.

It is the express purpose of this code to provide for an exercise of the police powers of the City of Richland, to promote, protect and preserve the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted. The provisions of this code shall be liberally construed to accomplish this purpose. It is the specific intent of this code to place the obligation of compliance upon the owner/operator. Nothing contained in this code is intended to be or shall be construed to create or form the basis for liability on the part of the City of Richland. (Ord. 27-09)

16.05.030 Prohibition of Illicit Discharges

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourse any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. Examples of materials whose discharge is prohibited include but are not limited to:

- trash or debris; construction materials;
- petroleum products; antifreeze and any other automotive product;
- metals in either particulate or dissolved form;
- flammable or explosive materials;
- radioactive material;
- batteries;
- acids, alkali or bases;
- paints, stains, resins, lacquers or varnishes;
- degreasers, solvents and drain cleaners;
- pesticides, herbicides or fertilizers;
- steam cleaning wastes; soaps, detergents or ammonia;

- swimming pool or spa filter backwash;
- chlorine, bromine or other disinfectants;
- domestic animal wastes;
- sewage;
- recreational vehicle waste;
- animal carcasses;
- food wastes;
- silt, sediment, concrete, cement or gravel;
- dyes;
- chemicals not normally found in uncontaminated water; any other process associated discharge except as otherwise allowed in this title; and
- any hazardous material or waste not listed above.

No person shall connect any apparatus discharging any pollutant, in any quantity, to any part of the storm drain system or waters of the state except as explicitly authorized by an approved NPDES discharge permit or by an approved plan for compliance or BMP.

The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued by Ecology, provided that the discharge is in full compliance with all requirements of the permit, waiver, or order. (Ord. 27-09)

16.05.040 Allowable Discharges

Discharges from the following activities shall be considered allowable discharges unless the Director determines the type of discharge, whether singly or in combination with others is causing, or is likely to cause, pollution of waters of the state. They include but are not limited to:

- diverted stream flows;
- rising ground water;
- uncontaminated ground water infiltration;
- uncontaminated pumped ground water;
- foundation drains;
- air conditioning condensation;
- irrigation water from agricultural sources that is commingled with urban stormwater; springs;
- water from crawl space pumps; footing drains;
- flows from riparian habitats and wetlands; and
- discharges for emergency fire fighting activities.

(Ord. 27-09)

16.05.050 Conditional Discharges

The following discharges are allowed, subject to the described conditions:

- A. Potable water, including water from water line flushing, hyper-chlorinated water line flushing, fire hydrant system flushing and pipeline hydrostatic test water. 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 storm drain system;
- B. Runoff from landscape irrigation if incidental to typical irrigation system design and operation;
- C. De-chlorinated swimming pool discharges. These 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 storm drain system;
- D. Potable or landscape irrigation water used to wash streets and sidewalks, to control dust and to wash external building surfaces if it does not include detergents or other prohibited materials. (Ord. 27-09)

Other conditional discharges including non-stormwater discharges in compliance with the requirements of a stormwater pollution prevention plan, reviewed and approved by the Director, which addresses control of such discharges by applying approved BMPs to prevent contaminants from entering waters of the state. (Ord. 27-09)

16.05.060 Prohibition of Illicit Connections

As provided under the police power of the City of Richland to protect the health, safety, and welfare of its citizens, the construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited. This 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. (Ord. 27-09)

16.05.070 Compliance with other NPDES Permits

Any person or company subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Director prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan. (Ord. 27-09)

16.05.080 Notification of Spills

As soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, MS4 or waters of the State from said facility, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.

In the event of such a release of a hazardous material said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). In the event of a release of non-hazardous materials, said person shall notify the City's Public Works Department in person or by phone, email or fax within 24 hours. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. (Ord. 27-09)

16.05.090 Administrative Enforcement Procedures

When the Director finds that a person has violated a prohibition or failed to meet a requirement of this section, the Director may order compliance through one or more of the following procedures. Recurring violations will result in enforcement procedures with escalating requirements. The Director may, at his discretion choose the following enforcement procedures appropriate to the violation.

- A. **Verbal Warning** - The Director, or his designee, may direct compliance with this ordinance through a verbal warning issued to the violator. A verbal warning will include specific information describing the violation, specific actions required to remedy the violation, an expected time for performance, and referral to technical guidance available to the violator.
- B. **Notice of Violation** - The Director may require compliance by written notice of violation to the responsible person. Such notice may require without limitation:
 1. The elimination of illicit connections or discharges;
 2. The violating discharges, practices or operations shall cease and desist;
 3. The performance of monitoring, analyses and reporting;
 4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of the MS4 Facilities;
 5. Implementation of source control or treatment BMP
 6. Payment of a fine

If abatement of a violation and/or restoration of the MS4 facilities is required, the notice shall set forth a date within which remediation or restoration must be completed. Such notice shall further advise that, should the violator fail to remediate or restore within the establish deadline, the work may be done by the City or a contractor designated by the Director and expense thereof shall be charged to the violator.

- C. **Show Cause Hearing** - The Director may order a user which has violated or continues to violate this section to appear before the Director and show cause why the proposed enforcement action should not be taken. Notice of the hearing shall be served on the user specifying the time and place for the

meeting, the proposed enforcement action, the reasons for such action and a request that the user show cause why the proposed enforcement action should not be taken. A show cause hearing shall not be a bar against, or prerequisite for, taking any action against the user. (Ord. 27-09)

16.05.100 Appeal

Any person receiving a Notice of Violation may appeal the determination of the Director.

Persons desiring to appeal notice of violation and/or fines must file a written request for the Director to reconsider the violation and/or fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the Director shall convene a hearing on the matter within fifteen (15) days of receiving the request from the violator. In the event the person's appeal is successful, the payment together with any interest accruing thereto shall be returned to the person.

The City may add the costs of preparing administrative enforcement actions, such as notices and orders to the fine. (Ord. 27-09)

16.05.110 Abatement by the City

The Director is authorized to direct abatement of any violation of this Chapter that constitutes an immediate threat to the health, safety or well-being of the public, or results from persistent non-compliance by a violator. Any expense related to such abatement undertaken by the City shall be fully reimbursed by the property owner and/or responsible party.

Within 30 days after abatement by the City, the Director shall notify the property owner and/or responsible person of the cost of abatement, including administrative costs. Unpaid charges shall, after 30 calendar days, be assessed an additional penalty of 5% of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1%) per month. A lien against the violator's property will be sought for unpaid charges.

Violators desiring to dispute such charges must file a written request for the Director to reconsider the charges along with full payment of the charges within 30 days of being notified of the charges. Where a request has merit the Director shall convene a hearing on the matter within fifteen (15) days of receiving the request. In the event the violators appeal is successful, the payment, together with any interest accruing thereto, shall be returned.

The City may add the costs of preparing administrative enforcement actions to the charges. (Ord. 27-09)

16.05.120 Administrative Fines

For repeated violations of this Chapter and persistent non-compliance with written enforcement directives, the Director may order payment of administrative fines. The fines in this section are in addition to and not in lieu of any other penalty, sanction or right of action provided by law. An administrative fine may be no less than \$100 and no more than \$5,000 per violation. (Ord. 27-09)

16.05.130 Injunction and/or Civil Penalties

It shall be unlawful for any person to violate any provisions 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 ordinance, the City may:

- A. 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 and/or;
- B. Assess civil penalties in an amount not less than one hundred dollars (\$100) and not more than five thousand dollars (\$5,000) per day for each day of violation. Payment of this penalty does not relieve the person of the duty to correct the violation.

In the event more than one person is determined to have violated the sections of this title all applicable civil penalties may be imposed against each person and recoverable damages, costs and expenses may be allocated among the persons on any equitable basis. The City may recover all attorney fees, court costs and other expenses associated with enforcement of this ordinance. (Ord. 27-09)

16.05.140 Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance. (Ord. 27-09)

Chapter 16.08 – Rates and Charges**Sections:****16.08.010 System of Charges****16.08.030 Billing and Collection****16.08.035 Special Residential Rates – Low Income Senior Citizens and Low Income Disabled Citizens****16.08.040 Use of Stormwater Funds****16.08.050 Use of Other Proceeds by Stormwater Utility****16.08.010 System of Charges**

There is hereby imposed a system of monthly charges on residential and commercial properties located within the boundaries of the City. The monthly charge includes applicable taxes and is based on an equivalent residential unit or ERU. One ERU is equal to 3,000 square feet of impervious area. All residential properties are deemed to contain one (1) ERU. Townhouses, condominiums, duplexes, triplexes and four-plexes are subject to the residential charge for each living unit.

Commercial properties containing more than 1,000 square feet of impervious area shall be subject to a minimum charge of one (1) ERU. Commercial properties containing more than 3,000 square feet of impervious area shall be subject to a charge equal to the following formula:

$$\text{Monthly Commercial Stormwater Charge} = (\text{Property Impervious Area}/3,000) * \text{ERU Charge}$$

Equivalent Residential Unit (ERU)	RATE \$3.85
-----------------------------------	----------------

Exempt properties. The owners of the following properties are exempt from the charges imposed by this section:

- A. All property defined "flood plain" by the FEMA Flood Insurance Rate Map within the Yakima River flood plain zone.
- B. All vacant property.
- C. All City streets, state highways, and railroads.
- D. Airport runways, taxiways, hangars, and other buildings used primarily by airplanes.
- E. Public Streets owned by the Port of Benton. (Ord. 5-98: Ord. 31-99: Ord. 12-00: Ord. 01-06: Ord. 12.07; 27-08)

16.08.030 Billing and Collection

Stormwater utility charges, as imposed by Section 16.08.010 of this chapter, shall be computed on a monthly basis and shall be included as a separate charge listed on the City utility bill. Stormwater charges will be billed as follows:

- To the active utility customer on commercial or residential rented or leased property, excluding apartments; or
- To the owner when owner occupies a commercial or residential property; or
- To the owner where Stormwater is billed on an annual basis; or
- To the owner when no other utility services are provided at a specific location or property; or
- For apartments, to the active utility account for the property manager or the property owner.

Commercial stormwater charges not included in a monthly City utility bill and that are less than \$40 per month will be billed on an annual basis.

The stormwater charge for the City-owned parking lots serving the Uptown Shopping Center and the Parkway District shall be the obligation of the property owners located in those areas. The stormwater charges associated with these parking lots shall be divided amongst the property owners according to the proportion of each owner's square footage to the total privately-owned square footage in the area.

The Finance Manager, or his or her designee, is hereby authorized to administer the billing and collection of stormwater utility fees. In the event a property does not have utility service but is subject to charges imposed by this chapter, a new account shall be established and that property shall be billed separately for the stormwater utility charges. The Finance Manager is directed to compile a list of all residential property owners or occupiers, commercial property owners and vacant land owners, as is necessary for determining utility charge liability under this chapter. The Finance Manager is further directed to develop any rules and regulations which are consistent with this chapter and which are necessary for its administration. Collection and enforcement shall be as provided in the statutes of the state of Washington, RCW 35.67 et seq. as they currently exist or may hereafter be modified and construed. (Ord. 5-98: Ord. 31-99: Ord. 12-00: Ord. 01-06: Ord. 12-07)

16.08.035 Special Residential Rates – Low Income Senior Citizens and Low Income Disabled Citizens

There shall be a thirty-three percent (33%) discount applied to rates specified in Section 16.08.010 for Stormwater charges to residential customers qualifying as low income senior citizens or low income disabled citizens. (Ord. 12-07)

16.08.040 Use of Stormwater Utility Funds

The proceeds from the charges imposed by Section 16.08.010 of this chapter shall be used for Stormwater conveyance system operation and maintenance, street sweeping, regulatory compliance, and planning, designing, and constructing drainage system improvements. (Ord. 5-98: Ord. 12-07)

16.08.050 Use of Other Proceeds by Stormwater Utility

The stormwater utility may finance the construction, operation, maintenance, and preservation of stormwater infrastructure and related facilities through local improvement districts and utility local improvement district, or with the proceeds of revenue bonds, or any combination thereof. In addition, the utility, through appropriation by the City Council, may use funds from general taxation, money received from the federal, state, or other local governments and other funds made available to it. (Ord. 5-98)

HISTORICAL CHRONOLOGY OF ORDINANCES

Ord. 5-98
Ord. 31-99
Ord. 12-00
Ord. 01-06
Ord. 12-07
Ord. 27-08
Ord. 27-09