

## MEMORANDUM

TO: Mayor and City Council

FROM: Eric Mongan, City Planner

SUBJECT: AN ORDINANCE AMENDING THE COTTAGE GROVE MUNICIPAL CODE TITLE 13 PUBLIC SERVICES BY ADDING CHAPTER 13.10 ILLICIT DISCHARGE, DETECTION, & ELIMINATION WITH CORRESPONDING AMENDMENTS TO CHAPTER 8.12 NUISANCES AND CHAPTER 13.08 SEWER REGULATIONS.

DATE: June 8, 2022

### Background:

In September 2006, Oregon Administrative Rule (OAR) 340-042 was adopted requiring all cities in the State of Oregon to protect, maintain, and improve the quality of waters of the state. To achieve this goal, the Oregon Department of Environmental Quality (DEQ) imposed limitations and controls including Total Maximum Daily Loads (TMDLs), wasteload allocations from point sources and load allocations for nonpoint sources of pollution by issuing the Willamette Basin TMDL. In February of 2021, the US Environmental Protection Agency (EPA) signed off on the most current DEQ TMDL document titled "Final Revised Willamette Basin Mercury Total Maximum Daily Load."

The City of Cottage Grove Urban Designated Management Agency (DMA) adopted its first TMDL Implementation Plan in February of 2008. The Cottage Grove DMA is located in the southernmost part of the Willamette Basin, in the Coast Fork sub-basin and specifically includes the Coast Fork Willamette River, Row River, and Silk Creek. The City has updated the TMDL plan every 5 years as required, with the most recent update being accepted by DEQ in December of 2021. (See Attachment 1).

Local TMDL implementation plans contain measurable objectives, milestones, and timelines. Part of the previously approved Cottage Grove TMDL plan required the City to adopt an Illicit Discharge Detection and Elimination (IDDE) program and enforcement process. The purpose of the IDDE program is to prohibit non-stormwater discharge into the City stormwater conveyance system, thus minimizing the transfer of polluted water into the Coast Fork Sub-basin watershed. The IDDE program is only one of many tools to help improve water quality for our area. Others include, Erosion Prevention and Sediment Controls for implementation of Best Management Practices (BMP's) at construction sites, consistent street sweeping, and public outreach and education.

Attachment 2 includes the draft code language for the IDDE program. Section 13.10.070(B) contains the primary regulations and Section 13.10.070(C) includes a list of exceptions that would not be considered an illicit discharge.

The enforcement process gives the City the authority to eliminate illegal connections, require non-compliant operations to cease and desist, require non-compliant operations to implement source controls and water quality BMP's, and require performance monitoring and reporting. Additionally, with the amendments to Chapter 8.12, the City will have the authority to declare a public nuisance and abate violations if necessary. Reference Attachment 3.

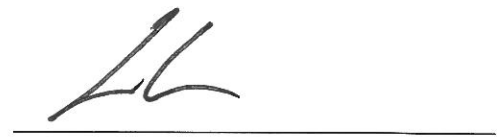
Attachment 4 includes a small reference to illicit discharge added to Chapter 13.08 Sewer Regulations and a couple of small clean up items such as adding The Public Works Director as the decision maker in certain circumstances and to add "Fats, Oils and Grease" to the list of prohibited solid or viscous substances capable of obstructing sewage flow. Attachment 4 includes photos of how fats, oils, and grease have diminished the capacity of our sanitary sewer system and created maintenance issues with equipment at the waste water treatment plant.

Recommendations:

After Council deliberation it is recommended the City Council hold the first vote on the Ordinance (Attachment 5) adding the Cottage Grove Municipal Code Section 13.10 Illicit Discharge, Detection & Elimination (IDDE), as well as amendments to Chapter 8.12 Nuisances and Chapter 13.08 Sewer Regulations. The Ordinance was prepared and has been available for at least one week prior to this meeting. This Ordinance could be adopted at one meeting.

Cost:

Staff time to enforce violations when necessary.

  
Richard Meyers, City Manager  
Eric Mongan, City Planner

Attachments:

1. 2020-2021 Approved TMDL Implementation Plan
2. Draft Ch. 13.10 IDDE Text Amendment
3. Draft Ch. 8.12 Nuisances Text Amendment
4. Draft Ch. 13.08 Sewer Regulations Text Amendment
5. Draft Ordinance



# Oregon

Kate Brown, Governor

## Department of Environmental Quality

Western Region Eugene Office

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TTY 711

Dec. 13, 2021

Eric Mongan  
400 East Main St.  
Cottage Grove, OR. 97424

Re: Review and Acceptance of the 2020-2021 TMDL Implementation Plan Annual Report for the City of Cottage Grove

Dear Eric Mongan,

Thank you for submitting the Cottage Grove 2020-2021 TMDL Implementation Plan Annual Report. The Department has reviewed your report and finds that the report complies with the annual reporting requirement.

I would like to reaffirm that I am available as a resource to assist you as you move forward with TMDL implementation. Please feel free to contact me at (541) 687-7347 for assistance.

Best regards,

*Priscilla Woolverton*

Priscilla Woolverton  
Willamette Basin Coordinator

ec: Zach Loboy, Watershed Manager, DEQ

ATTACHMENT #2

Proposed Code Section:

Chapter 13.10 ILLICIT DISCHARGES, DETECTION & ELIMINATION (IDDE)

Sections:

13.10.010 Purpose and intent.

13.10.020 Definitions.

13.10.030 Applicability.

13.10.040 Responsibility for Administration.

13.10.050 Regulatory consistency.

13.10.060 Ultimate responsibility of discharger.

13.10.070 Prohibition of Illicit Discharges.

13.10.080 Prohibition of Illegal Connections.

13.10.090 Waste disposal prohibitions.

13.10.100 Discharges in violation of industrial or construction activity NPDES storm water discharge permit.

13.10.110 Waterway protection.

13.10.120 Requirement to monitor and analyze.

13.10.130 Illicit Discharge procedure.

13.10.140 Authority to inspect.

13.10.150 Authority to sample.

13.10.160 Notice of violation.

13.10.170 Abatement by city.

13.10.180 Emergency abatement.

13.10.190 Abatement costs.

13.10.200 Charging cost of abatement/liens.

13.10.210 Violations.

13.10.220 Compensatory Action.

13.10.230 Notice Process.

13.10.240 Severability.

**13.10.010 Purpose and intent.**

The purpose and intent of this Chapter is to ensure the health, safety, and general welfare of citizens, and protect and enhance the water quality of Waterways and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act, Oregon Revised Statutes, Oregon Administrative Rules, and the Oregon Department of Environmental Quality by reducing



Pollutants in Storm Water Discharges and by prohibiting Non-Storm Water Discharges to the Storm Drain System.

### **13.10.020 Definitions.**

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

- A. "Bank" means: (1) That portion of a waterway that is exposed from the Ordinary High Water Line (OHWL) and extends to upland.
- B. "BMP" means best management practices.
- C. "City" means the City of Cottage Grove.
- D. "Clean Water Act." The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- E. "Construction Activity." Activities subject to NPDES Construction Permits. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- F. "Illicit Discharge." Any direct or indirect Non-Storm Water Discharge to the Storm Drain System, except as exempted in Section 13.10.070(C).
- G. "Illegal Connections." An illegal connection is defined as either of the following: (1) Any drain or conveyance, whether on the surface or subsurface, which allows an Illicit 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 connections 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 a government agency; or (2) 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.
- H. "National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permits." General, group, and individual Storm Water discharge permits which regulate facilities defined in federal NPDES regulations and regulated through the Oregon Department of Environmental Quality.
- I. "Non-Storm Water Discharge." Any discharge to the Storm Drain System that is not composed entirely of Storm Water.
- J. "Ordinary High Water Line" (OHWL). The line on the Bank or shore to which the high water ordinarily rises annually in season. The OHWL excludes exceptionally high water levels caused by large flood events (e.g., 100 year events).
- K. "Person Responsible" or "Responsible Person." Any person in actual or constructive possession of a property, including, but not limited to, an owner, lessee, tenant or occupant of property under the person's dominion, ownership or control, or the person in charge or persons directly or indirectly responsible for an act.
- L. "Pollutant." Anything which causes or contributes to Pollution. Pollutants may include, but are not limited to: 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, 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 rinsates); and noxious or offensive matter of any kind.

- M. "Pollute" or "Pollution" means such contamination or other alteration of the physical, chemical, or biological properties of any Waters of the State, including change in temperature, taste, color, turbidity, silt, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any water of the state that either by itself or in connection with any other substance present can reasonably be expected to create a public nuisance or render such waters harmful, detrimental, or injurious to public health, safety, or welfare; to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wildlife, fish, other aquatic life or the habitat thereof.
- N. "Premises." Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- O. "Storm Drain System." Public facilities under the jurisdiction of the City by which Storm Water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures which are within the City.
- P. "Storm Water" means Storm Water runoff, snow melt runoff, and surface runoff and drainage.
- Q. "UIC" means underground injection control. A UIC is a subsurface distribution system for Storm Water; usually an assemblage of perforated pipes, drain tiles or other mechanisms intended to distribute fluids below the surface of the ground.
- R. "Waters of the State" means lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters) that are located wholly or partially within or bordering the state or within its jurisdiction.
- S. "Waterway" means a body of water (whether natural or man-made) that periodically or continuously contains Waters of the State and has a definite bed and banks that serve to confine the water.

#### **13.10.030 Applicability.**

This Chapter shall apply to all water entering the Storm Drain System generated on any developed and undeveloped lands lying within the City including any amendments or revisions thereto.

#### **13.10.040 Responsibility for Administration.**

The Public Works Director of the City, or his/her designee, shall administer, implement, and enforce the provisions of this Chapter.

#### **13.10.050 Regulatory consistency.**

This Chapter shall be construed to ensure consistency with the requirements of the Clean Water Act, Oregon Revised Statutes, Oregon Administrative Rules, and the Oregon Department of Environmental Quality, and any applicable implementing regulations.

#### **13.10.060 Ultimate responsibility of discharger.**

The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards. Therefore, this Ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into Waters of the State caused by said person. This Ordinance shall not create liability on the part of the City, or any agent or employee thereof for any damages that result from any discharger's reliance on this Ordinance or any administrative decision lawfully made hereunder.

#### **13.10.070 Prohibition of Illicit Discharges.**

A. No person shall discharge or cause to be discharged into the Storm Drain System, any UIC, or Waterway, 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. The commencement, conduct or continuance of any such Illicit Discharge is prohibited, except as described in subsection C. **Exceptions. below:**

#### **B. Illicit Discharge Regulations**

- 1) No responsible person shall discharge, or cause to be discharged, any substance into the city stormwater system if the discharge poses a threat to health, safety, public welfare, or the environment, or is otherwise prohibited by law. The director may withdraw approval to discharge if the director determines that a discharge poses a threat to health, safety, public welfare, or the environment, or is otherwise prohibited by law.
- 2) No responsible person shall allow an illicit discharge from his or her premises to flow out, on or into a stormwater management system.
- 3) No responsible person shall place or cause to be placed a substance which is harmful to or has a tendency to clog any city stormwater management system or permit such substance in the control of such person to enter the city stormwater management system.
- 4) Every establishment or place where prohibited substances may be produced is hereby required to install such necessary catch basin traps or other devices for the purpose of preventing such substance from entering the city sanitary sewer system and/or stormwater management system. Where the director reasonably believes that any such substance may be produced, the director may require any person in charge to furnish, to the city of Cottage Grove, plans prepared by an Oregon registered engineer showing the proposed method of elimination. Such device shall be approved by the director only if tests and subsequent engineering data establish that a desirable standard of removal is produced.
- 5) No responsible person shall allow stormwater to flow out on or under a public way in a manner that creates a hazard for those lawfully using the public way or that creates a hazard within the city stormwater management system.
- 6) A person or facility that causes a deposit, obstruction, or causes damage which impairs the public sewer and/or stormwater system is liable for any expense, loss or damage created by the discharge.
- 7) Failure to comply with this section may be considered a public nuisance and cause for a person in charge to be subject to enforcement procedures set forth in Cottage Grove

Municipal Code Chapter 8.12. The imposition of a penalty does not relieve a person in charge of the duty to abate the illicit discharge.

**C. Exceptions.**

Discharges from the following activities will not be considered illicit discharges when properly managed to ensure that no potential Pollutants are present, and shall not be considered unlawful under this Ordinance:

- 1) Lawful discharges from National Pollution Discharge Elimination System permitted industrial sources;
- 2) Firefighting activities;
- 3) Water line flushing;
- 4) Diverted stream flows;
- 5) Rising groundwater;
- 6) Natural Springs;
- 7) Flows from riparian habitats and wetlands;
- 8) Uncontaminated groundwater infiltration;
- 9) Uncontaminated pumped groundwater;
- 10) Discharges from potable water sources;
- 11) Landscape irrigation, irrigation water, lawn watering;
- 12) Uncontaminated foundation drains, footing drains, water from crawl space pumps;
- 13) Air conditioning condensation;
- 14) Individual residential car washing;
- 15) Dechlorinated swimming pool and/or hot tub discharges;
- 16) Street wash water.

Prohibition of Illicit Discharges in this Section shall not apply to any Non-Storm Water Discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the Oregon Department of Environmental Quality under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the City for any discharge to the Storm Drain System.

**13.10.080 Prohibition of Illegal Connections.**

A. The construction, use, maintenance or continued existence of Illegal Connections to the Storm Drain System is prohibited.

B. This prohibition expressly includes, without limitation, Illegal Connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

**13.10.090 Waste disposal prohibitions.**



No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the Storm Drain System, UICs, or Waters of the State, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to Pollution. Wastes deposited in proper waste receptacles for the purposes of collection are exempted from this prohibition.

**13.10.100 Discharges in violation of industrial or Construction Activity NPDES Storm Water discharge permit.**

Any person subject to an industrial or Construction Activity NPDES Storm Water discharge permit shall comply with all provisions of such permit. Failure to comply with all provisions shall constitute a violation of this Ordinance. Proof of compliance with said permit may be required in a form acceptable to the Public Works Director prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

**13.10.110 Waterway protection.**

Every person owning property through which a Waterway passes, or such person's lessee, shall keep and maintain that part of the Waterway within the property free of trash, debris and contamination that would Pollute the water flowing through the Waterway

**13.10.120 Requirement to monitor and analyze.**

The Public Works Director may require by written notice that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to Storm Water Pollution, Illicit Discharges, and/or Non-Storm Water Discharges to the Storm Drain System, UICs, or Waters of the State, to undertake at said person's expense such monitoring and analyses and furnish such reports to the City as deemed necessary to determine compliance with this Ordinance.

**13.10.130 Illicit Discharge procedure.**

Notwithstanding other requirements of law, 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 Illicit Discharges or Pollutants discharging into Storm Water, the Storm Drain System, 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. Upon discovery of any illicit discharge, the Responsible Person shall immediately notify the Public Works Director or other available City personnel.

**13.10.140 Authority to inspect.**

A. Subject to subsection B, below, whenever necessary to make an inspection to enforce any provision of this Ordinance, or whenever the Public Works Director has cause to believe that there exists, or potentially exists, in or upon any Premises any condition which constitutes a violation of this Ordinance, the Public Works Director, or his/her designee, may enter such

Premises at all times to inspect the same and to inspect and copy records related to Storm Water compliance.

B. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the City is hereby empowered to seek warrant or other assistance from any court of competent jurisdiction in obtaining such entry, including, but not limited to Municipal Court Warrant.

**13.10.150 Authority to sample.**

During any inspection as provided within Section 13.10.140, the Public Works Director, or his/her designee, may take any samples to aid the inspection or to record site activities.

**13.10.160 Notice of violation.**

Whenever the Public Works Director, or his/her designee, finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the Public Works Director, or designee, 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 Illegal Connections or Illicit Discharges;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of Storm Water Pollution or contamination hazards and the restoration of any affected property; and
- (5) The implementation of source control or treatment BMPs supplied by the Public Works Director or his/her designee. If abatement of a violation and/or restoration of affected property is 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 violation may be declared a public nuisance pursuant to Section 8.12.150, and the work will be done by the City or a contractor designated by the Public Works Director and the expense thereof shall be charged to the violator pursuant to Chapter 8.12, Section VI. Abatement Procedure.

**13.10.170 Abatement by city.**

Subject to the requirements of Section 13.10.140.B, if the violation has not been corrected pursuant to the Notice of Violation, then the City or a contractor designated by the Public Works Director may enter upon the subject private property and may take any and all measures necessary to abate the violation and/or restore the property, pursuant to Chapter 8.12, Section VI. Abatement Procedure.

**13.10.180 Emergency/Summary abatement.**

Pursuant to Section 8.12.220, The Public Works Director, or his/her designee, is authorized to require immediate abatement of any violation of this Ordinance that constitutes an immediate threat to the health, safety or well-being of the public. If any such violation is not abated immediately as directed by the Public Works Director, or designee, subject to Section 13.10.140.B, the City is authorized to enter onto private property and to take any and all measures required to remediate the violation.

**13.10.190 Abatement costs.**

Any expense related to City abatement shall be fully reimbursed by the property owner and person responsible pursuant to Section 8.12.210. Any relief obtained under this section shall not prevent City from seeking other and further relief authorized under this Ordinance.

**13.10.200 Charging cost of abatement/liens.**

Following completion of any abatement by the City, the Public Works Director, will follow the procedure for assessment of costs pursuant to Section 8.12.210.

**13.10.210 Violations.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. A violation of or failure to comply with any of the requirements of this Ordinance shall be declared a public nuisance under Section 8.12.150, and subject to abatement as permitted by Section(s) 8.12.160-8.12.220 and/or penalties provided in Section 8.12.230 and 8.12.240.

**13.10.220 Compensatory Action.**

In lieu of enforcement proceedings, penalties, and remedies authorized by this Chapter, the Public Works Director may propose alternative compensatory actions, including but not limited to storm drain stenciling, landscaping and cleanup of public parks, right of ways, creeks, streams and rivers.

**13.10.230 Notice Process.**

When required by this Chapter, notice shall be pursuant to Section 8.12.160.

**13.10.240 Severability.**

The provisions of this Chapter are hereby declared to be 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.



## ATTACHMENT #3

### Proposed Text Amendment: Bold/Strikeout

#### **Chapter 8.12** **NUISANCES**

##### **8.12.010 Definitions.**

In this chapter unless the context otherwise requires:

- A. "Certificate of fitness" means a certificate issued for a particular property by the Oregon Health Division following a satisfactory site characterization by a licensed drug laboratory decontamination contractor, sampling and testing by an independent third party approved by the Oregon Health Division, and any necessary contamination reduction of the property by such licensed contractor. The certificate authorizes removal of the property from the State Building Codes Division's "unfit for use" listing and allows reuse of the property.
- B. "Enforcement official" means a city employee assigned by the city manager or designee to perform the requirements of this chapter.
- C. "Person" means a natural person, firm, partnership, association or corporation.
- D. "Person in charge of property" means an agent, occupant, lessee, contract purchaser, or person, other than the owner, having possession or control of the property. In the case of property subject to foreclosure as a result of bankruptcy or default of the legal owner, the city may deem the "person in charge of the property" to be the person, other than the legal owner, who has a primary lien, security, or mortgage interest in possession or control of the property or who is the deed of trust beneficiary of the property.
- E. "Person responsible" or "responsible person" means the owner or person in charge of the property.
- F. "Pollution" means the contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes, but is not limited to, a change in temperature, color, turbidity, taste or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare or environment, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses, or to animals, birds, fish or other aquatic life.
- G. "Public place" means any building, place or accommodation, whether publicly or privately owned, open and available to the public.
- H. "Unfit for use" is a designation by the Oregon Health Division that means that the property has been found to be, or there are reasonable grounds to believe that the property was, the site of illegal drug manufacture and may be contaminated with hazardous chemicals or substances and therefore is not fit to use until appropriate site assessment and any necessary contamination reduction procedures have been performed by a licensed drug laboratory decontamination contractor.
- I. "Waterway" means any and all rivers, streams, creeks, lakes, reservoirs, ponds, wetlands, springs, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the city of Cottage Grove or state of Oregon which are not entirely confined and retained upon the property of a single person. (Ord. 3089 §1(part), 2018: Ord. 2878 §2(part), 2003)

#### **8.12.020 Prohibited health hazards.**

No person shall allow, cause, create, permit or suffer a nuisance affecting public health on private or public property. The following are not exclusive but illustrative of nuisances affecting public health and may be abated as provided in this chapter:

- A. Open vaults or privies constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with State Health Division regulations.
- B. Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time.
- C. Putrescible wastes not removed at least every seven days.
- D. Stagnant water that affords a breeding place for mosquitoes and other insect pests.
- E. Pollution of a waterway, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that causes or would be likely to cause harmful material to pollute the water.
- F. Decayed or unwholesome food offered for human consumption.
- G. An outside toilet, cesspool, septic tank, barn, stable, corral, pen, chicken coop, rabbit hutch, compost, or other premises that are in such a state or condition as to cause an offensive odor or that are in an unsanitary condition.
- H. Liquid wastes drained from private premises.
- ~~I. Mastics, oil, grease or petroleum products allowed to be introduced into the sanitary or stormwater system by a user.~~
- I. Mastics, fat, oil, grease or petroleum products or any other illicit discharge allowed to be introduced into the sanitary or stormwater system by a user.**
- J. Petroleum-contaminated soil placed or stockpiled on private or public property.  
“Petroleum-contaminated soil” shall be defined as material containing benzene, ethylbenzene, toluene, xylene or TPH (total petroleum hydrocarbons) in concentrations equal to or exceeding the minimum concentrations established by the Oregon Department of Environmental Quality for petroleum-contaminated materials.
- K. Animal carcasses on streets or private or public property.
- L. Animals or birds afflicted with communicable diseases.
- M. Animals or birds maintained, kept or housed in such a number as to create offensive odors or noise.
- N. Animals or livestock running at large. (Ord. 3089 §1(part), 2018: Ord. 2878 §2(part), 2003)

### **III. NUISANCES AFFECTING PUBLIC SAFETY**

#### **8.12.150 Declared public nuisances.**

The acts, conditions or objects specifically enumerated and defined in Sections 8.12.010 through 8.12.145, inclusive, are declared public nuisances and may be abated by the procedures set forth in this chapter. In addition to those nuisances specifically enumerated within this chapter, every other thing, substance, condition or act which is determined by the city manager to be injurious or detrimental to the

public health, safety, or welfare of the city is declared to be a nuisance and may be abated by the procedures set forth in this chapter. (Ord. 3095 §2, 2018: Ord. 3089 §1(part), 2018: Ord. 3043 §1, 2014: Ord. 2878 §2(part), 2003)

## **VI. ABATEMENT PROCEDURE**

### **8.12.160 Notice to abate.**

A. Upon determination by the enforcement official that a nuisance exists, as defined in this chapter or any other ordinance of the city, the city shall cause written notice to be posted on the premises where the nuisance exists, directing the owner or responsible person of the property to abate such nuisance.

B. At the time of posting, the city shall cause a copy of such notice to be forwarded by regular mail, postage prepaid, to the owner and/or person responsible at the last known address of such person(s) responsible. The city shall utilize the records of the county assessor, as necessary, to determine the last known address.

C. The notice to abate shall contain:

1. A description of the real property, by street address or otherwise, on which the nuisance exists.
2. A direction to abate the nuisance up to ten days from the date of the notice (three to five days if a health hazard is determined).
3. A description of the nuisance.
4. A statement that, unless the nuisance is removed, the city may abate the nuisance and the cost of abatement plus an administrative fee of one hundred dollars or ten percent of incurred expenses, whichever is greater, will be charged to the owner or person responsible and secured as a lien against the property, if unpaid.
5. A statement that the owner or person responsible may protest the notice to abate by giving written notice to the city manager within the specified abatement time frame set in the notice.

D. Certificate of Mailing and Posting. Upon completion of the posting and mailing, the person posting and mailing the notice shall execute and file a certificate stating the date and place of such mailing and posting.

E. Sufficiency of Posted Notice. An error in the name or address of the person responsible or the use of a name other than that of the person responsible shall not make the notice void and in such case the posted notice shall be sufficient. (Ord. 3089 §1(part), 2018: Ord. 3043 §2, 2014: Ord. 2878 §2(part), 2003)

### **8.12.180 Abatement by the person responsible.**

A. Within the specified abatement time frame set within the notice, as provided in Section 8.12.160(C)(2), the responsible person shall abate the nuisance or protest that no nuisance exists pursuant to subsection C of this section.

B. The person responsible or property owner may request an extension of time from the enforcement official. The enforcement official may grant reasonable extensions or accommodations to the specified time frames.

C. If protesting that no nuisance exists, the person responsible shall file a written statement with the city manager why no nuisance exists within the specified abatement time frame.

D. The city manager shall review protests and determine whether or not a nuisance in fact exists, set a time frame for any needed abatement and notify the person responsible or the property owner of the city manager's determination and the opportunity to appeal that determination to the city council within five business days via first class mail.

E. The owner or person responsible may appeal the city manager's determination by giving written notice to the city recorder within five days of the date of the city manager's determination.

F. The appeal shall be referred to the city council as a part of its next regular meeting. The person protesting may appear and be heard by the council. The council shall determine whether a nuisance in fact exists and set a time frame for any needed abatement of the nuisance. The determination shall be entered in the official minutes of the council.

G. If the council determines that a nuisance in fact exists, the person responsible shall abate the nuisance within the time frame specified by the council. (Ord. 3089 §1(part), 2018: Ord. 2878 §2(part), 2003)

#### **8.12.190 Joint responsibility.**

If more than one person is a person responsible for the nuisance, they shall be jointly and severally liable for abating the nuisance or for the costs incurred by the city in abating the nuisance and administrative overhead as set by Section 8.12.200(C). (Ord. 3089 §1(part), 2018: Ord. 2878 §2(part), 2003)

#### **8.12.200 Abatement by the city.**

A. If the nuisance has not been abated by the person responsible within the time allowed, the enforcement official may cause the nuisance to be abated.

B. Subject to first obtaining the person responsible consent or an administrative search warrant, the city officer charged with abatement of the nuisance shall have the right to enter into or upon property at reasonable times to investigate or cause removal of a nuisance.

C. The enforcement official shall keep an accurate record of the expense incurred by the city in physically abating the nuisance and shall include a charge for administrative costs equal to one hundred dollars or ten percent of expenses incurred, whichever is greater. (Ord. 3089 §1(part), 2018: Ord. 2984 §1(part), 2009; Ord. 2878 §2(part), 2003)

#### **8.12.210 Assessment of costs.**

A. The enforcement official shall forward to the owner and the person responsible, by certified mail, a notice of assessment stating:

1. The total cost of the abatement, including administrative costs.
2. That the costs as indicated will be assessed to and become a lien against the property unless paid within thirty days from the date of the notice.
3. That if the owner or the person responsible objects to the cost of the abatement as indicated, a notice of objection may be filed with the city manager not more than five days from the date of the notice of assessment.

B. If a written objection to the cost of the abatement is timely filed with the city recorder, the council, at its next regularly scheduled meeting, shall hear and determine the objections to the costs to be assessed. If a written objection to the cost of abatement is timely filed, the thirty-day period for payment of the costs shall be tolled between the date the objection is filed and the date the council renders its decision on the objection.

C. If the costs of the abatement are not paid within thirty days from the date of the notice of assessment, an assessment of the costs as stated or as decided by the council shall be made by resolution and shall be entered in the docket of city liens. When such an entry is made, it shall constitute a lien on the property from which the nuisance was removed or abated.

D. The lien shall be enforced pursuant to ORS 223.505 through 223.650, establishing the method of enforcing liens and collecting assessments, and shall bear interest at the current statutory rate or such lesser rate as the city council may establish by resolution. Such interest shall commence to run from the date of entry of the lien in the lien docket.

E. An error in the name of the owner or the person responsible or a failure to receive the notice of assessment will not void the assessment, and it shall remain a valid lien against the property. (Ord. 3089 §1(part), 2018: Ord. 2878 §2(part), 2003)

#### **8.12.220 Summary abatement.**

The enforcement official may proceed to abate a health or other nuisance which unmistakably exists and from which there is an imminent danger to human life, safety, property, or waterway without first giving notice and an opportunity to abate to the owner or person responsible, subject to the requirements of Section 8.12.200(B). The cost of such summary abatement shall be assessed against the owner of the real property on which the nuisance exists or from which the nuisance originates and, if unpaid, shall be a lien against the real property and may be enforced and collected by the same procedures as set forth in this chapter for abatement and assessment. The procedure provided by this chapter is not exclusive but is in addition to procedures provided by other city code provisions. (Ord. 3089 §1(part), 2018: Ord. 2984 §1(part), 2009; Ord. 2878 §2(part), 2003)

### **VII. GENERAL**

#### **8.12.230 Penalties.**

A. In addition to the costs of abatement, a violation of any provision of this chapter, except violations related to Sections 8.12.145(C) and (D), upon conviction in municipal court, is punishable by a fine of up to five hundred dollars for each separate offense.

B. In addition to the costs of abatement, a violation related to Sections 8.12.145(C) or (D), upon conviction in municipal court, is punishable by a fine of up to one thousand dollars and may be assessed against the property or any responsible person(s) for failure to abate all city-identified conditions contributing to classification of a structure as a derelict or dangerous structure. (Ord. 3095 §3, 2018: Ord. 3089 §1(part), 2018: Ord. 2878 §2(part), 2003)

#### **8.12.240 Separate violations.**

A. Each day's violation of a provision of this chapter constitutes a separate offense.

B. The abatement of a nuisance is not a penalty for violating this chapter, but is an additional remedy. The imposition of a fine does not relieve a person of the duty to abate a nuisance. (Ord. 3089 §1(part), 2018: Ord. 3043 §3, 2014: Ord. 2878 §2(part), 2003)



## ATTACHMENT #4

### Proposed Text Amendment: Bold/Strikeout

#### **Chapter 13.08 SEWER REGULATIONS**

##### **13.08.150 Certain waste prohibited in all sanitary sewer and storm drainage systems.**

It is unlawful for any person, directly or indirectly using public sewer and storm drainage facilities inside the city or under city control, to discharge or cause to be discharged into any pipe, main, conduit, manhole, street inlet, gutter, catch basin or aperture of the public sewer or storm drainage systems, any of the following:

- A. Any gasoline, benzene, naphtha, alcohols, fuel oil, diesel oil, mineral oil, motor oil or other flammable or explosive liquid, solid or gas except in emergency when directed to do so by the **Public Works Director** ~~city engineer~~ or his acting representative;
- B. Any solid or viscous substance capable of obstructing sewage flow or of interfering with the operation of the sewerage works or treatment facilities. These substances include, but are not limited to, ashes, cinders, sand, mud, gravel, straw, insoluble shavings, metal, glass, rags, feathers, tar, creosote, plastics and plastic products, wood, offal from slaughter houses, lard, tallow, **fat, oil, grease**, baking dough, chemical residues, cannery waste, bulk solids, diapers, plastic or paper dishes, cups, towels, food or beverage containers, whether whole or ground;
- C. Any noxious or malodorous gas or substance when either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or preventing entry into a sewer, manhole or pump station;
- D. Any radioactive wastes, except upon permit issued by the Oregon State Board of Health and approved by the **Public Works Director** ~~city engineer~~, and which, in the determination of the **Public Works Director** ~~city engineer~~, will not be hazardous to structures, equipment or personnel working on sewage treatment or sewer repair, or to receiving waters;
- E. Any material from a cesspool or septic tank;
- F. Any substance which will form deposits or obstructions in the sewerage and storm drainage systems, or which when mixed with sewage will precipitate materials causing deposits or obstructions in sewer lines or any part of the sewerage and storm drainage systems;
- G. Any pesticides, herbicides, organic solvent or hydrocarbons;
- H. Any toxic, corrosive or poisonous substances, chemical elements, or compounds containing heavy metals in quantities sufficient to impair the operation or efficiency of the sewage treatment facilities or which render sludge unfit for fertilizer, or that will pass through the sewage treatment plant or sewerage system and cause the effluent thereof to violate state water standards for the receiving stream;
- I. Any water or wastes containing suspended solids of such character or quantity that unusual attention or expense is required to handle such materials in any sewer, pump, sewage treatment plant or other part of the sewerage system;

- J. Any material which exerts or causes excessive discoloration such as, but not limited to, dye wastes or vegetable tanning solutions;
- K. Any unusual concentrations of dissolved solids such as, but not limited to, sodium chloride, calcium chloride and sodium sulfate;
- L. Any liquid, vapor, gas or solid having a temperature higher than one hundred fifty degrees Fahrenheit;
- M. Any water or waste which contains in excess of two hundred milligrams per liter, or a lesser amount as fixed by the **Public Works Director** ~~city engineer~~ for a particular establishment, of fat waste, oil or grease, whether or not emulsified, ether-soluble or n-hexane soluble matter or any substance which may solidify or become discernibly viscous at temperatures above thirty-two degrees Fahrenheit;
- N. Any soluble waste or waste waters having a pH lower than 5.5 or higher than 9.0 or having any other corrosive property which reasonably could be hazardous to structures, equipment or personnel of the city such as, but not limited to, battery or plating acids and wastes, copper sulfate, chromium salts and compounds, or salt brine;
- O. Any water or wastes having a five-day twenty-degree-centigrade biochemical oxygen demand of more than four hundred milligrams per liter (mg/l) or an immediate oxygen demand of more than two hundred mg/l, without written authority from the **Public Works Director** ~~city engineer~~;
- P. Any water or wastes having a suspended solids content of more than four hundred mg/l;
- Q. Any water or wastes having a chlorine demand of more than twenty mg/l;
- R. Bulk, expired, outdated, concentrated, or unused prescription or nonprescription drugs;
- S. Any water or wastes potentially contaminated with (1) transmissible spongiform encephalopathy agents from diseases such as chronic wasting disease, bovine spongiform encephalopathy, scrapie, Creutzfeldt-Jakob disease, (2) foot-and-mouth disease agents, or (3) anthrax, except by written permission of the city.









ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE COTTAGE GROVE MUNICIPAL CODE TITLE 13  
PUBLIC SERVICES BY ADDING CHAPTER 13.10 ILLICIT DISCHARGE, DETECTION, &  
ELIMINATION WITH CORRESPONDING AMENDMENTS TO CHAPTER 8.12  
NUISANCES AND CHAPTER 13.08 SEWER REGULATIONS.

WHEREAS, Oregon Department of Environmental Quality (DEQ) requires that all cities in the State of Oregon protect, maintain, and improve all quality of waters of the state;

WHEREAS, DEQ issued the Willamette Basin Total Maximum Daily Loads (TMDL) and in February of 2021, the US Environmental Protection Agency (EPA) approved the document entitled "Final Revised Willamette Basin Mercury Total Maximum Daily Load;"

WHEREAS, to comply with DEQ's requirement regarding protection, maintenance, and improvement of the quality of waters of the state, the City's Urban Designated Management Agency (DMA) adopted the City's first TMDL Implementation Plan in February of 2008 and has updated the plan every 5 years with the most recent plan adopted and approved by DEQ in December 2021;

WHEREAS, the City Council finds that the City's most recent TMDL Implementation Plan is consistent with the City's goals to improve water quality in the Coast Fork Willamette sub basin consistent with DEQ's direction; and

WHEREAS, the City Council finds that the presence of illicit discharges in the City's stormwater system poses a threat to public health, safety, and welfare and the City seeks to regulate illicit discharges and develop an enforcement and abatement process for violations.

**THE CITY OF COTTAGE GROVE ORDAINS AS FOLLOWS:**

**SECTION 1.** The Cottage Grove Municipal Code, Title 13, is hereby amended to ADD a new Chapter to read as shown in Exhibit A, attached hereto and incorporated herein by reference.

**SECTION 2.** The Cottage Grove Municipal Code, Subsection 8.12.020 I. is hereby amended to read as follows:

I. Mastics, fat, oil, grease or petroleum products or any other illicit discharge allowed to be introduced into the sanitary or stormwater system by a user.

**SECTION 3.** The Cottage Grove Municipal Code, Section 13.08.150 is hereby amended to read as follows:

## **Chapter 13.08**

### **SEWER REGULATIONS**

#### **13.08.150                      Certain waste prohibited in all sanitary sewer and storm drainage systems.**

It is unlawful for any person, directly or indirectly using public sewer and storm drainage facilities inside the city or under city control, to discharge or cause to be discharged into any pipe, main, conduit, manhole, street inlet, gutter, catch basin or aperture of the public sewer or storm drainage systems, any of the following:

- A. Any gasoline, benzene, naphtha, alcohols, fuel oil, diesel oil, mineral oil, motor oil or other flammable or explosive liquid, solid or gas except in emergency when directed to do so by the Public Works Director or acting representative;
- B. Any solid or viscous substance capable of obstructing sewage flow or of interfering with the operation of the sewerage works or treatment facilities. These substances include, but are not limited to, ashes, cinders, sand, mud, gravel, straw, insoluble shavings, metal, glass, rags, feathers, tar, creosote, plastics and plastic products, wood, offal from slaughter houses, lard, tallow, fat, oil, grease, baking dough, chemical residues, cannery waste, bulk solids, diapers, plastic or paper dishes, cups, towels, food or beverage containers, whether whole or ground;
- C. Any noxious or malodorous gas or substance when either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or preventing entry into a sewer, manhole or pump station;
- D. Any radioactive wastes, except upon permit issued by the Oregon State Board of Health and approved by the Public Works Director, and which, in the determination of the Public Works Director, will not be hazardous to structures, equipment or personnel working on sewage treatment or sewer repair, or to receiving waters;
- E. Any material from a cesspool or septic tank;
- F. Any substance which will form deposits or obstructions in the sewerage and storm drainage systems, or which when mixed with sewage will precipitate materials causing deposits or obstructions in sewer lines or any part of the sewerage and storm drainage systems;
- G. Any pesticides, herbicides, organic solvent or hydrocarbons;
- H. Any toxic, corrosive or poisonous substances, chemical elements, or compounds containing heavy metals in quantities sufficient to impair the operation or efficiency of the sewage treatment facilities or which render sludge unfit for fertilizer, or that will pass through the sewage treatment plant or sewerage system and cause the effluent thereof to violate state water standards for the receiving stream;
- I. Any water or wastes containing suspended solids of such character or quantity that unusual attention or expense is required to handle such materials in any sewer, pump, sewage treatment plant or other part of the sewerage system;



- J. Any material which exerts or causes excessive discoloration such as, but not limited to, dye wastes or vegetable tanning solutions;
- K. Any unusual concentrations of dissolved solids such as, but not limited to, sodium chloride, calcium chloride and sodium sulfate;
- L. Any liquid, vapor, gas or solid having a temperature higher than one hundred fifty degrees Fahrenheit;
- M. Any water or waste which contains in excess of two hundred milligrams per liter, or a lesser amount as fixed by the Public Works Director for a particular establishment, of fat waste, oil or grease, whether or not emulsified, ether-soluble or n-hexane soluble matter or any substance which may solidify or become discernibly viscous at temperatures above thirty-two degrees Fahrenheit;
- N. Any soluble waste or waste waters having a pH lower than 5.5 or higher than 9.0 or having any other corrosive property which reasonably could be hazardous to structures, equipment or personnel of the city such as, but not limited to, battery or plating acids and wastes, copper sulfate, chromium salts and compounds, or salt brine;
- O. Any water or wastes having a five-day twenty-degree-centigrade biochemical oxygen demand of more than four hundred milligrams per liter (mg/l) or an immediate oxygen demand of more than two hundred mg/l, without written authority from the Public Works Director;
- P. Any water or wastes having a suspended solids content of more than four hundred mg/l;
- Q. Any water or wastes having a chlorine demand of more than twenty mg/l;
- R. Bulk, expired, outdated, concentrated, or unused prescription or nonprescription drugs;
- S. Any water or wastes potentially contaminated with (1) transmissible spongiform encephalopathy agents from diseases such as chronic wasting disease, bovine spongiform encephalopathy, scrapie, Creutzfeldt-Jakob disease, (2) foot-and-mouth disease agents, or (3) anthrax, except by written permission of the city.

**SECTION 4. Savings.** Notwithstanding these amendments, the City Code provisions in existence at the time any criminal or civil enforcement actions were commenced shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said provision(s) or portions thereof were operative.

**SECTION 5. Unamended Sections.** All unamended sections of the Cottage Grove Municipal Code shall remain in full force and effect.

**SECTION 6.** This ordinance will take effect thirty (30) days after its passage.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
Jeffrey D. Gowing, Mayor

Dated: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Richard Meyers, City Manager

Dated: \_\_\_\_\_

## EXHIBIT A

### Chapter 13.10 ILLICIT DISCHARGES, DETECTION & ELIMINATION (IDDE)

#### Sections:

13.10.010 Purpose and intent.

13.10.020 Definitions.

13.10.030 Applicability.

13.10.040 Responsibility for Administration.

13.10.050 Regulatory consistency.

13.10.060 Ultimate responsibility of discharger.

13.10.070 Prohibition of Illicit Discharges.

13.10.080 Prohibition of Illegal Connections.

13.10.090 Waste disposal prohibitions.

13.10.100 Discharges in violation of industrial or construction activity NPDES storm water discharge permit.

13.10.110 Waterway protection.

13.10.120 Requirement to monitor and analyze.

13.10.130 Illicit Discharge procedure.

13.10.140 Authority to inspect.

13.10.150 Authority to sample.

13.10.160 Notice of violation.

13.10.170 Abatement by city.

13.10.180 Emergency abatement.

13.10.190 Abatement costs.

13.10.200 Charging cost of abatement/liens.

13.10.210 Violations.

13.10.220 Compensatory Action.

13.10.230 Notice Process.

13.10.240 Severability.

#### **13.10.010 Purpose and intent.**

The purpose and intent of this Chapter is to ensure the health, safety, and general welfare of citizens, and protect and enhance the water quality of Waterways and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act, Oregon Revised Statutes, Oregon Administrative Rules, and the Oregon Department of Environmental Quality by reducing Pollutants in Storm Water Discharges and by prohibiting Non-Storm Water Discharges to the Storm Drain System.



### **13.10.020 Definitions.**

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

- A. "Bank" means: (1) That portion of a waterway that is exposed from the Ordinary High Water Line (OHWL) and extends to upland.
- B. "BMP" means best management practices.
- C. "City" means the City of Cottage Grove.
- D. "Clean Water Act." The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- E. "Construction Activity." Activities subject to NPDES Construction Permits. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- F. "Illicit Discharge." Any direct or indirect Non-Storm Water Discharge to the Storm Drain System, except as exempted in Section 13.10.070(C).
- G. "Illegal Connections." An illegal connection is defined as either of the following: (1) Any drain or conveyance, whether on the surface or subsurface, which allows an Illicit 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 connections 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 a government agency; or (2) 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.
- H. "National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permits." General, group, and individual Storm Water discharge permits which regulate facilities defined in federal NPDES regulations and regulated through the Oregon Department of Environmental Quality.
- I. "Non-Storm Water Discharge." Any discharge to the Storm Drain System that is not composed entirely of Storm Water.
- J. "Ordinary High Water Line" (OHWL). The line on the Bank or shore to which the high water ordinarily rises annually in season. The OHWL excludes exceptionally high water levels caused by large flood events (e.g., 100 year events).
- K. "Person Responsible" or "Responsible Person." Any person in actual or constructive possession of a property, including, but not limited to, an owner, lessee, tenant or occupant of property under the person's dominion, ownership or control, or the person in charge or persons directly or indirectly responsible for an act.
- L. "Pollutant." Anything which causes or contributes to Pollution. Pollutants may include, but are not limited to: 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, 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 rinsates); and noxious or offensive matter of any kind.
- M. "Pollute" or "Pollution" means such contamination or other alteration of the physical, chemical, or biological properties of any Waters of the State, including change in

temperature, taste, color, turbidity, silt, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any water of the state that either by itself or in connection with any other substance present can reasonably be expected to create a public nuisance or render such waters harmful, detrimental, or injurious to public health, safety, or welfare; to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wildlife, fish, other aquatic life or the habitat thereof.

- N. "Premises." Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- O. "Storm Drain System." Public facilities under the jurisdiction of the City by which Storm Water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures which are within the City.
- P. "Storm Water" means Storm Water runoff, snow melt runoff, and surface runoff and drainage.
- Q. "UIC" means underground injection control. A UIC is a subsurface distribution system for Storm Water; usually an assemblage of perforated pipes, drain tiles or other mechanisms intended to distribute fluids below the surface of the ground.
- R. "Waters of the State" means lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters) that are located wholly or partially within or bordering the state or within its jurisdiction.
- S. "Waterway" means a body of water (whether natural or man-made) that periodically or continuously contains Waters of the State and has a definite bed and banks that serve to confine the water.

#### **13.10.030 Applicability.**

This Chapter shall apply to all water entering the Storm Drain System generated on any developed and undeveloped lands lying within the City including any amendments or revisions thereto.

#### **13.10.040 Responsibility for Administration.**

The Public Works Director of the City, or his/her designee, shall administer, implement, and enforce the provisions of this Chapter.

#### **13.10.050 Regulatory consistency.**

This Chapter shall be construed to ensure consistency with the requirements of the Clean Water Act, Oregon Revised Statutes, Oregon Administrative Rules, and the Oregon Department of Environmental Quality, and any applicable implementing regulations.

#### **13.10.060 Ultimate responsibility of discharger.**

The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards. Therefore, this Ordinance does not intend nor imply that compliance by any person

will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into Waters of the State caused by said person. This Ordinance shall not create liability on the part of the City, or any agent or employee thereof for any damages that result from any discharger's reliance on this Ordinance or any administrative decision lawfully made hereunder.

### **13.10.070 Prohibition of Illicit Discharges.**

A. No person shall discharge or cause to be discharged into the Storm Drain System, any UIC, or Waterway, 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. The commencement, conduct or continuance of any such Illicit Discharge is prohibited, except as described in subsection C. **Exceptions. below:**

#### **B. Illicit Discharge Regulations**

- 1) No responsible person shall discharge, or cause to be discharged, any substance into the city stormwater system if the discharge poses a threat to health, safety, public welfare, or the environment, or is otherwise prohibited by law. The director may withdraw approval to discharge if the director determines that a discharge poses a threat to health, safety, public welfare, or the environment, or is otherwise prohibited by law.
- 2) No responsible person shall allow an illicit discharge from his or her premises to flow out, on or into a stormwater management system.
- 3) No responsible person shall place or cause to be placed a substance which is harmful to or has a tendency to clog any city stormwater management system or permit such substance in the control of such person to enter the city stormwater management system.
- 4) Every establishment or place where prohibited substances may be produced is hereby required to install such necessary catch basin traps or other devices for the purpose of preventing such substance from entering the city sanitary sewer system and/or stormwater management system. Where the director reasonably believes that any such substance may be produced, the director may require any person in charge to furnish, to the city of Cottage Grove, plans prepared by an Oregon registered engineer showing the proposed method of elimination. Such device shall be approved by the director only if tests and subsequent engineering data establish that a desirable standard of removal is produced.
- 5) No responsible person shall allow stormwater to flow out on or under a public way in a manner that creates a hazard for those lawfully using the public way or that creates a hazard within the city stormwater management system.
- 6) A person or facility that causes a deposit, obstruction, or causes damage which impairs the public sewer and/or stormwater system is liable for any expense, loss or damage created by the discharge.
- 7) Failure to comply with this section may be considered a public nuisance and cause for a person in charge to be subject to enforcement procedures set forth in Cottage Grove Municipal Code Chapter 8.12. The imposition of a penalty does not relieve a person in charge of the duty to abate the illicit discharge.

### **C. Exceptions.**

Discharges from the following activities will not be considered illicit discharges when properly managed to ensure that no potential Pollutants are present, and shall not be considered unlawful under this Ordinance:

- 1) Lawful discharges from National Pollution Discharge Elimination System permitted industrial sources;
- 2) Firefighting activities;
- 3) Water line flushing;
- 4) Diverted stream flows;
- 5) Rising groundwater;
- 6) Natural Springs;
- 7) Flows from riparian habitats and wetlands;
- 8) Uncontaminated groundwater infiltration;
- 9) Uncontaminated pumped groundwater;
- 10) Discharges from potable water sources;
- 11) Landscape irrigation, irrigation water, lawn watering;
- 12) Uncontaminated foundation drains, footing drains, water from crawl space pumps;
- 13) Air conditioning condensation;
- 14) Individual residential car washing;
- 15) Dechlorinated swimming pool and/or hot tub discharges;
- 16) Street wash water.

Prohibition of Illicit Discharges in this Section shall not apply to any Non-Storm Water Discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the Oregon Department of Environmental Quality under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the City for any discharge to the Storm Drain System.

#### **13.10.080 Prohibition of Illegal Connections.**

A. The construction, use, maintenance or continued existence of Illegal Connections to the Storm Drain System is prohibited.

B. This prohibition expressly includes, without limitation, Illegal Connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

#### **13.10.090 Waste disposal prohibitions.**

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the Storm Drain System, UICs, or Waters of the State, any refuse,

rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to Pollution. Wastes deposited in proper waste receptacles for the purposes of collection are exempted from this prohibition.

**13.10.100 Discharges in violation of industrial or Construction Activity NPDES Storm Water discharge permit.**

Any person subject to an industrial or Construction Activity NPDES Storm Water discharge permit shall comply with all provisions of such permit. Failure to comply with all provisions shall constitute a violation of this Ordinance. Proof of compliance with said permit may be required in a form acceptable to the Public Works Director prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

**13.10.110 Waterway protection.**

Every person owning property through which a Waterway passes, or such person's lessee, shall keep and maintain that part of the Waterway within the property free of trash, debris and contamination that would Pollute the water flowing through the Waterway

**13.10.120 Requirement to monitor and analyze.**

The Public Works Director may require by written notice that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to Storm Water Pollution, Illicit Discharges, and/or Non-Storm Water Discharges to the Storm Drain System, UICs, or Waters of the State, to undertake at said person's expense such monitoring and analyses and furnish such reports to the City as deemed necessary to determine compliance with this Ordinance.

**13.10.130 Illicit Discharge procedure.**

Notwithstanding other requirements of law, 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 Illicit Discharges or Pollutants discharging into Storm Water, the Storm Drain System, 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. Upon discovery of any illicit discharge, the Responsible Person shall immediately notify the Public Works Director or other available City personnel.

**13.10.140 Authority to inspect.**

A. Subject to subsection B, below, whenever necessary to make an inspection to enforce any provision of this Ordinance, or whenever the Public Works Director has cause to believe that there exists, or potentially exists, in or upon any Premises any condition which constitutes a violation of this Ordinance, the Public Works Director, or his/her designee, may enter such Premises at all times to inspect the same and to inspect and copy records related to Storm Water compliance.



B. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the City is hereby empowered to seek warrant or other assistance from any court of competent jurisdiction in obtaining such entry, including, but not limited to Municipal Court Warrant.

**13.10.150 Authority to sample.**

During any inspection as provided within Section 13.10.140, the Public Works Director, or his/her designee, may take any samples to aid the inspection or to record site activities.

**13.10.160 Notice of violation.**

Whenever the Public Works Director, or his/her designee, finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the Public Works Director, or designee, 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 Illegal Connections or Illicit Discharges;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of Storm Water Pollution or contamination hazards and the restoration of any affected property; and
- (5) The implementation of source control or treatment BMPs supplied by the Public Works Director or his/her designee. If abatement of a violation and/or restoration of affected property is 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 violation may be declared a public nuisance pursuant to Section 8.12.150, and the work will be done by the City or a contractor designated by the Public Works Director and the expense thereof shall be charged to the violator pursuant to Chapter 8.12, Section VI. Abatement Procedure.

**13.10.170 Abatement by city.**

Subject to the requirements of Section 13.10.140.B, if the violation has not been corrected pursuant to the Notice of Violation, then the City or a contractor designated by the Public Works Director may enter upon the subject private property and may take any and all measures necessary to abate the violation and/or restore the property, pursuant to Chapter 8.12, Section VI. Abatement Procedure.

**13.10.180 Emergency/Summary abatement.**

Pursuant to Section 8.12.220, The Public Works Director, or his/her designee, is authorized to require immediate abatement of any violation of this Ordinance that constitutes an immediate threat to the health, safety or well-being of the public. If any such violation is not abated immediately as directed by the Public Works Director, or designee, subject to Section 13.10.140.B, the City is authorized to enter onto private property and to take any and all measures required to remediate the violation.

**13.10.190 Abatement costs.**

Any expense related to City abatement shall be fully reimbursed by the property owner and person responsible pursuant to Section 8.12.210. Any relief obtained under this section shall not prevent City from seeking other and further relief authorized under this Ordinance.

**13.10.200 Charging cost of abatement/liens.**

Following completion of any abatement by the City, the Public Works Director, will follow the procedure for assessment of costs pursuant to Section 8.12.210.

**13.10.210 Violations.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. A violation of or failure to comply with any of the requirements of this Ordinance shall be declared a public nuisance under Section 8.12.150, and subject to abatement as permitted by Section(s) 8.12.160-8.12.220 and/or penalties provided in Section 8.12.230 and 8.12.240.

**13.10.220 Compensatory Action.**

In lieu of enforcement proceedings, penalties, and remedies authorized by this Chapter, the Public Works Director may propose alternative compensatory actions, including but not limited to storm drain stenciling, landscaping and cleanup of public parks, right of ways, creeks, streams and rivers.

**13.10.230 Notice Process.**

When required by this Chapter, notice shall be pursuant to Section 8.12.160.

**13.10.240 Severability.**

The provisions of this Chapter are hereby declared to be 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.