

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Policy Session Worksheet

Presentation Date: March 10, 2026 **Approx. Start Time:** 2:30PM **Approx. Length:** 30 Minutes

Presentation Title: Road Use Illicit Discharge Code Amendments

Department: Transportation and Development

Presenters: Dan Johnson, Director; Mike Bezner, Assistant Director

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Board approval of amendments to County Code for new regulation of discharges into the storm sewer system.

EXECUTIVE SUMMARY:

Clackamas has a Municipal Separate Storm Sewer System (MS4) permit issued by the Oregon Department of Environmental Quality (DEQ). When the County most recently renewed this permit in 2021, DEQ included a new requirement. The MS4 permit requires the permit holder to implement a program to reduce the discharge of pollutants from its MS4. DEQ also requires that County MS4 permit holders provide enforcement of prohibited pollutants to the County's stormwater conveyance system "outside of the MS4 permit coverage area".

The Board has previously adopted Code amendments to enforce erosion control standards to address Total Maximum Daily Load (TMDL) requirements. To comply with DEQ requirements added during permit renewal in 2021, the County must also be able to pursue enforcement where pollutants could discharge to waters of the state, either directly to stream or through a public conveyance system.

To comply with these DEQ requirements, new County Code Section 7.03.250 proposes to regulate discharge into the County's storm sewer system. Under the new regulation, only stormwater may be discharged into the County's storm sewer system, other than the listed exemptions that include but are not limited to sources such as irrigation, foundation drains, lawn watering, individual and charity car washing, and fire hydrant flushing.

The proposed new County Code Section 7.03.250 also gives Clackamas County the authority to require implementation of appropriate best management practices to reduce the discharge of pollutants associated with the source before discharge into the County storm sewer system.

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES NO

What is the cost? \$ Varies based on incident.
Insurance funding from an incident.

What is the funding source? Road Fund, fines, or

STRATEGIC PLAN ALIGNMENT:

- How does this item align with your Department's Strategic Business Plan goals? This is a legal requirement from DEQ in order for the County to provide safety, maintenance, engineering, construction and operations services to users of the transportation system.
- How does this item align with the County's Performance Clackamas goals? Supports Safe, Secure and Livable Communities and is required to provide Strong Infrastructure.

LEGAL/POLICY REQUIREMENTS:

The DEQ requires that County MS4 permit holders codify illicit discharge enforcement within the MS4 area as well as enforcement of prohibited pollutants to the County’s stormwater conveyance system “outside of the MS4 permit coverage area”.

The legal requirements for adoption of the proposed Section 7.03.250 are approval by the Board at two business meetings at least thirteen (13) days apart, at which point the amendments shall take effect 90 days after the second approval.

PUBLIC/GOVERNMENTAL PARTICIPATION:

N/A

OPTIONS:

1. Direct staff to schedule the first required public hearing on the addition of Section 7.03.250 Illicit Discharge to the County Code.
2. Provide alternate direction on the proposed addition of Section 7.03.250 to the County Code.
3. Take no action at this time.

RECOMMENDATION:

Option 1: Direct staff to schedule the first required public hearing on the addition of Section 7.03.250 Illicit Discharge to the County Code.

ATTACHMENTS:

Attachment A: Chapter 7.03 ROAD USE 7.03.250 Illicit Discharge Draft

SUBMITTED BY:

Division Director/Head Approval _____

Department Director/Head Approval _____

County Administrator Approval _____

For information on this issue or copies of attachments, please contact Mike Bezner @ 503-742-4651

Chapter 7.03

7.03 ROAD USE

7.03.250 Illicit Discharge

A. Purpose and Intent

1. The purpose of this section is to provide for the health, safety, and general welfare of the citizens of the County through the prohibition of illicit discharges into the Municipal Separate Storm Sewer System (MS4) associated with the County road system.
2. The purpose of this section is also to implement the requirements of the Federal Clean Water Act (33 USC § 1251 *et seq.*), the National Pollutant Discharge Elimination System (NPDES) MS4 Permit issued to the County by the Oregon Department of Environmental Quality (DEQ), and the Total Maximum Daily Loads (TMDLs) for the Tualatin, Willamette, Molalla-Pudding, and Sandy River Watersheds developed by DEQ and the U.S. Environmental Protection Agency.
3. The purpose of this section is also to establish legal authority and procedures to carry out all inspection, surveillance, and monitoring necessary to ensure compliance with this section.

B. Applicability

1. This section applies to areas within the jurisdictional boundary of the County.
2. For areas within the service boundary of a city, Water Environment Services (WES), or the Oak Lodge Water Services District (OLWS), the County will coordinate enforcement of this section with the city, WES, or OLWS. The County retains the right to enforce this section where compliance cannot be obtained by the city, WES, or OLWS.

C. Definitions

1. MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
 - a. Owned or operated by the County;
 - b. Designed or used for collecting or conveying stormwater;
 - c. Which is not a combined sewer; and
 - d. Which is not part of a Publicly Owned Treatment Works as defined at 40 CFR § 122.2. See 40 CFR § 122.26(b)(8).
3. PERSON is defined in Section 7.03.020.
4. POLLUTANT means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewerage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment,

rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. See 40 CFR § 122.2.

D. Prohibition and Exemptions

1. Unless otherwise permitted under this section, no person shall discharge or cause to be discharged into the MS4, directly or indirectly, anything not composed entirely of stormwater.
2. The following non-stormwater discharges into the MS4 are allowed:
 - a. Uncontaminated water line flushing.
 - b. Landscape irrigation if pesticides and fertilizers are applied in accordance with manufacturer's instructions.
 - c. Diverted stream flows.
 - d. Uncontaminated groundwater infiltration (as defined at 40 CFR § 35.2005(20)) to separate storm sewers.
 - e. Rising groundwaters.
 - f. Uncontaminated pumped ground water.
 - g. Potable water sources (including potable groundwater monitoring wells and draining and flushing of municipal potable water storage reservoirs).
 - h. Startup flushing of groundwater wells.
 - i. Foundation, footing and crawlspace drains (where flows are not contaminated).
 - j. Uncontaminated air conditioning or compressor condensate.
 - k. Irrigation water.
 - l. Springs.
 - m. Lawn watering.
 - n. Individual residential car washing.
 - o. Charity car washing (provided that steam and heated water are not used, that only phosphate-free soaps/detergents are used, and that washing is restricted to the outside of the vehicle with no rinsing or washing of engines, transmissions, or undercarriages).
 - p. Flows from riparian habitats and wetlands.
 - q. Dechlorinated swimming pool and hot tub discharges free of pollutants such as bromine and copper (heated water must be cooled for at least 12 hours prior to discharge).
 - r. Fire hydrant flushing and emergency firefighting activities.
 - s. Street and pavement wash waters, including for bridges or pedestrian bridges (provided that chemicals, soaps, detergents, steam, or heated water are not used and the areas to be washed are swept prior to washing and the sweepings are collected for proper disposal outside the MS4).
 - t. Routine external building wash-down (provided that chemicals, soaps, detergents, steam or heated water are not used).
 - u. Water associated with dye testing activity.

Attachment A

- v. Discharges of treated water from investigation, removal and remedial actions selected or approved by DEQ pursuant to ORS Chapter 465.
 - w. Any other discharge deemed as *de minimis* by DEQ.
3. If any allowable non-stormwater discharge into the MS4 is or becomes a significant source of pollutants, the County shall require the implementation of appropriate best management practices to reduce the discharge of pollutants associated with the source before discharge into the MS4.

DRAFT