TITLE 9
CHAPTER 5

STORMWATER MANAGEMENT UTILITY, USER FEE SYSTEM AND STORMWATER MANAGEMENT REQUIREMENTS

SECTION:

9-5-1: GENERAL PROVISIONS

9-5-1-1: PURPOSE

The purpose of this Code is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse effects of stormwater runoff associated with existing and future land development within the City. Proper management of stormwater runoff will minimize damage to public and private property, ensure a functional drainage system, reduce the negative effects of development on the existing stream channels, assist in the attainment of water quality standards, help protect the quantity and quality of the water in the aquifer, enhance and protect the natural environment associated with the drainage system, and facilitate orderly development while mitigating the associated impacts of development.

Further, the purpose is to establish a Stormwater Utility with a user fee system to fund stormwater management activities and facilities within the City.

This Code defines the minimum requirements for stormwater management facilities. Additional requirements may be required by the City if the minimum requirements will not satisfy the overall purpose of this Code.

9-5-1-2: DEFINITIONS:

For the purposes of this Chapter, the following words and phrases shall have the meanings indicated:

BACKWATER	Areas of water where the water surface elevation is raised as a result of down gradient activities or constrictions.
BASE RATE	Means the Stormwater Management Fee charges on a base unit. The annual (fiscal year) Stormwater Management Fee for a single family residential property in the City equals the base rate.
BASE UNIT	Means the median net surface area associated with a single-family residential property in the City.
BEST MANAGEMENT PRACTICES (BMPs)	BMPs to be used in Florence are described in the Stormwater Manual.
BUFFER ZONE	A physical setback from a sensitive area used to protect the water quality, the aquatic and riparian wildlife communities, and the habitat value within the sensitive area. The start of the buffer starts at the edge of the defined channel (bank full stage) for streams/rivers, delineated wetland boundary, delineated spring boundary, or average high water for lakes.
DETENTION FACILITY	A permanent stormwater management structure that temporarily stores runoff by controlling the release rate from the facility to prevent down gradient flooding and high velocities.
DEVELOPED PROPERTY	Real property which has been altered from its natural state. This includes but is not limited to the addition of any improvements such as buildings, structures, or other impervious area and for which the intended use relies upon the ability to access the property and/or to protect the property from surface flooding, and erosion, or to prevent the degradation of water quality.
DEVELOPMENT	The clearing, grubbing, stripping, grading, excavating, and filling of land, the construction of structures, facilities, utilities or other improvements, or the creation or improvement of an access to a public street.
DIVISION OF LAND	The creation of lots or parcels.
DRAINAGE FACILITY	Any of a number of types of stormwater conveyance detention, retention or other related facilities, including: pipes, culverts, ditches, natural drainageways, streams, catch basins, inlets, trash racks, and other types of open-channel systems.
DRAINAGE PLAN	The submittal requirement for all projects except those specifically exempt from the submittal process or subject to the modified requirements. The plan helps to identity the major impact of the proposed development on the quality and quantity of stormwater and the proposed activities to limit and address negative impacts. The submittal requirements for the Drainage Plan are specified in the Stormwater Manual.
EASEMENT	A grant or interest in land owned by another that entitles its holder a specific limited use.

EQUIVALENT SERVICE UNIT	The average net area of single family residential properties within the city, and is utilized to establish the user charge rate for the non-single family residential properties.
FEE OR STORMWATER MANAGEMENT FEE	The charge established under this Chapter and levied on owners of parcels or pieces of real property to fund the costs of stormwater management and of operating, maintaining, and improving the stormwater system in the City.
FLOW CONTROL	The practice of limiting the release of peak flow rates and volumes from a site. Flow control is intended to protect downstream properties, infrastructure, and natural resources from the increased stormwater runoff peak flow rates and volumes resulting from development. The terms “flow control” and “flood control” are used interchangeably.
FLOW CONTROL FACILITY	Any structure or drainage device that is designed, constructed, and maintained to collect, retain, infiltrate, or detain surface water runoff during and after a storm event for the purpose of controlling post-development quantity leaving the site.
HEC-1	The first in a series of models developed by the Hydrologic Engineering Center, which is a division of the U.S. Army Corps of Engineers. HEC-1 is a hydrologic model. It is available at: http://www.wrc-hec.usace.army.mil
HECRAS	Another model developed by the Hydrolic Engineering Center. RAS stands for River Analysis System. This is a hydraulic model and is an update to the older HEC-2 model. It is also available at: http://www.wrc-hec.usace.army.mil
HSPF	A Hydrological Simulation Program translated into Fortran. It is a hydrologic model. It is an EPA/USGS program and can be found at: http://water.usgs.gov/software/hspf.html
HYDRA	A commercial program from Pizer which is both hydrologic and hydraulic. More information can be found at: http://www.pizer.com/hydra.htrn.
IMPERVIOUS SURFACES	Buildings, roofs, sidewalks, streets, paved parking areas, gravel streets and parking areas, and other types of paved or hard surfaces that severely limit the infiltration of stormwater into the underlying soil. Surfaces with a Rational Method runoff coefficient of 0.8 or higher shall be considered impervious.
IMPROVED PROPERTY	Property which has been modified from its natural state for a human purpose.
LAND DISTURBING ACTIVITIES	Any use of the land by any person that results in a change in the natural cover or topography.
LOT	A unit of land that is created by a subdivision of land.
MAJOR PARTITION	A partition which includes the creation of a road or street and which does not result in the creation of more than two (2) or three (3) lots within a calendar year.
MINOR PARTITION	A partition which does not include the creation of a road or street, and which does not result in the creation of more than two (2) or three (3) lots within a calendar year.
MULTI-FAMILY DWELLING	A building with more than two dwelling units.

NET SURFACE AREA	The total area of a lot or parcel of land less the area of adjacent public rights-of-way.
OTHER DEVELOPED PROPERTY	Developed property other than single-family residential property. Such property shall include, but not be limited to, multi-family dwellings, commercial properties, industrial properties, parking lots, hospitals, schools, recreational and cultural facilities, hotels, offices, and churches.
OWNER	An individual, association, partnership or corporation having legal or equitable title to land sought to be divided, other than legal title held for purposes of security only.
PARTITION LAND	Division of an area or tract of land in two (2) or three (3) parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.
POLLUTION GENERATING IMPERVIOUS SURFACE	Impervious surfaces that generate pollution, including but not limited to: impervious surfaces subject to regular vehicular use, such as roads, un-vegetated road shoulders, driveways, parking lots, diesel equipment storage yards, and airport runways; storage areas of erodible or leachable materials, wastes, or chemicals; and metal roofs that are not treated to prevent leaching.
POLLUTION GENERATING PERVIOUS SURFACE	Any non-impervious surface with vegetative ground cover subject to the use of pesticides and fertilizers, including: lawns and landscaping of commercial sites, golf courses, parks and sports fields.
PORTLAND EROSION AND SEDIMENT CONTROL MANUAL	The technical document that provides guidance for temporary and permanent erosion prevention, sediment control, and control of other development activities that can cause pollution during the construction process (before, during, and after clearing, grubbing, grading, and excavation).
POST-DEVELOPED CONDITIONS	The conditions that exist following the completion of the land disturbing activity in terms of topography, vegetation, land use and rate, volume or direction of stormwater runoff.
PRE-DEVELOPED CONDITIONS	The conditions of the land prior to the initiation of the land disturbing activity in terms of topography, vegetation, land use and rate, volume or direction of stormwater runoff.
PUBLIC STORMWATER FACILITY	Drainage and stormwater management facilities located within the public right-of-way or easements dedicated to the City and that are owned and maintained by the City.
RETENTION FACILITY	Similar to a detention facility, except the retention facility is designed with a permanent pool of water that may have a detention storage volume above the permanent pool. Many of these facilities use infiltration and evaporation to discharge the retained volume of water.
RIGHT-OF-WAY	The area between boundary lines of a street or other easement, whether improved or unimproved.

SENSITIVE AREAS	Natural streams (perennial or intermittent), rivers, lakes, or wetlands hydraulically connected by surface water to streams, rivers, or lakes and areas defined by the City of Florence's Local Wetlands and Riparian Inventory. Also, includes all areas that are protected for species as per areas designated by Oregon Department of Fish and Wildlife, Oregon Division of State Lands, National Marine Fisheries Service, United States Fish and Wildlife Service, and Oregon Department of Transportation.
SINGLE FAMILY RESIDENTIAL PROPERTY	Means a developed property which serves the primary purpose of providing a permanent dwelling unit and which is classified as residential in the State assessment rolls. A single family detached dwelling or a townhouse containing an accessory apartment or second dwelling unit is included in this definition.
STORMWATER DESIGN MANUAL (CITY OF FLORENCE STORMWATER DESIGN MANUAL)	The City-recognized guide to designing and installing Best Management Practices (BMPs) in order to meet the requirements for stormwater facilities in this Title. The Stormwater Design Manual supersedes the 2008 Portland Stormwater Management Manual.
STORMWATER MANAGEMENT	The planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to flood control, erosion prevention, conservation, and water quality utilizing the construction of facilities or structures to control the quantity and quality of stormwater.
STORMWATER MANAGEMENT FACILITIES	Facilities or structures that control the quality or quantity of stormwater, including: detention ponds, water quality ponds, vegetated swales, water quality manholes, treatment wetlands, infiltration systems, etc.
STORMWATER MANAGEMENT FUND OR FUND	The Fund created by this Chapter to operate, maintain, and improve the City's stormwater system.
STORMWATER MANAGEMENT PLAN OR SWMP	The City-recognized plan that was prepared with the input of a Stakeholder Advisory Committee that makes recommendations for addressing flooding problems, improving water quality, and protecting the quantity and quality of the aquifer and valuable natural resources (e.g. wildlife habitat). It is intended to guide upgrades and expansion of the public stormwater conveyance system and related public facilities to meet the area's needs over a 20 year period.
STORMWATER MANUAL	The term "Stormwater Manual" means the 2008 *City of Portland Stormwater Management Manual*, as superseded by the *City of Florence Stormwater Design Manual*, December 2010, and the 2008 *City of Portland Erosion and Sediment Control Manual*. The 2008 *City of Portland Stormwater Management Manual* is the technical document that outlines the City of Florence stormwater management requirements. The requirements defined in the manual apply to all development and redevelopment projects within the City of Florence on both private and public property, except as superseded by the *Florence Stormwater Design Manual,* as amended by the City of Florence.
STORMWATER SYSTEM	All of the structures and facilities that are designed for the collection, conveyance, storage, treatment, and disposal of stormwater runoff and surface water, including both man made and natural drainage systems.
SUBDIVIDE LAND	The division of an area or tract of land into four (4) or more lots within a calendar year when such area or tract of land exists as a unit or continuous units of land under single ownership at the beginning of such year.

SUBDIVISION	Either an act of subdividing land, or an area or tract of land subdivided as defined in Title 11 Chapter 1 of the City Code.
SWMM	This is a hydrologic and hydraulic stormwater management model and it is an official EPA model. It was originally developed and maintained by Wayne Huber of Oregon State University. It is available at: http://www.ccee.orst.edu/swmm.
ZONE OF CONTRIBUTION	The up-gradient boundary of a wellhead protection area as defined by the 10-year time of travel.

9-5-1-3: FINDINGS:

A. The City maintains a system of storm and surface water management facilities including, but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities, and other components as well as natural waterways.

B. The stormwater system in the City needs regular maintenance and improvements.

C. Water quality is degraded due to erosion and the discharge of nutrients, metals, oil, grease, toxic materials, and other substances into and through the stormwater system.

D. The public health, safety, and welfare is adversely affected by poor ambient water quality and flooding that results from inadequate management of both the quality and quantity of stormwater.

E. All real property in the City either uses or benefits from the improvement and maintenance of the stormwater system.

F. The extent of use of the stormwater system by each property is dependant on factors that influence runoff, and is proportional to the total net area of the property.

G. The costs of improving, maintaining, operating, and monitoring the stormwater system should be allocated, to the extent practicable, to all property owners based on the impact of runoff from the net areas of their property on the stormwater management system.

H. Management of the stormwater system to protect the public health, safety, and welfare requires adequate revenues and it is in the interest of the public to finance stormwater management adequately with a user charge system that is reasonable and equitable so that each user of the system pays to the extent to which he contributes to the need for it.

9-5-1-4: ESTABLISHMENT OF STORMWATER UTILITY:

A. A Surface Water Management Utility is hereby created.

B. Powers and Duties.

1. The Surface Water Management Utility shall plan, design, construct, maintain, administer and operate all City surface water conveyances and facilities, and the regulations for its control, as well as establish standards for design and construction.

2. The City Manager or his/her designee shall be the administrator of the Program.

3. Ownership of City Surface Water Facilities and Assets. The following assets are hereby vested in the Surface Water Management Utility: All properties, interests, and physical or intangible rights owned or held by the City insofar as they concern surface water or surface water management. These rights include all properties or interests in property acquired by

adverse possession or prescription, directly or through another, in the drainage or storage of surface waters via lands, watercourses, sloughs, streams, wetlands, ponds and lakes, all beginning at a point where surface waters first enter the system of the City and ending in each instance at a point where the surface waters exit from the system of the City, and in width to the full extent of inundation caused by storm or flood conditions.

9-5-1-5: STORMWATER MANAGEMENT CHARGE:

A. Except as otherwise provided by this Chapter, a stormwater utility user charge shall be applied to all persons who use developed property, as defined in 9-5-1-2 "Developed Property." Collection of said charge shall be through City water or sewer utility services or other mechanism adopted by the City Council.

B. The stormwater utility user charge shall be established by resolution of the City Council in an amount reasonable and necessary to fund the administration, planning, design, construction, water quality programming, operation, maintenance and repair of the City's utility systems.

C. The surface water management utility user charge shall be based upon the amount of net surface area used by a customer. The Methodology shall recognize the unique nature of stormwater runoff within the city of Florence due to the soil and groundwater characteristics.

D. Owners or occupants of undeveloped property shall not be charged. Each customer using a location for single family residential shall be charged a uniform rate based upon containing one equivalent service unit (ESU). The charge for all other parcels shall be proportional to the ESU charge, based upon the total amount of net surface area of the property divided by the area of one ESU.

E. The City utility user charge may be reviewed by the City Council periodically. The City Council may set the stormwater utility charge by resolution.

F. Stormwater utility users may appeal the calculation of impervious surface area used to calculate the Stormwater utility user charge. The City may use any method deemed necessary to measure the impervious surface area. If impervious surface area is reduced by the appeal, refunding of overcharges will be limited to one year prior to the date of the approval of the appeal.

9-5-1-6: PUBLIC STORMWATER SYSTEM:

A. Storm drainage and management facilities may or may not be publicly owned and maintained.

B. The City Manager or his/her designee may require that a stormwater facility that serves more than one property be a public facility provided the easement and maintenance requirements of this Code are satisfied.

C. Storm drainage and management facilities within a Planned Unit Development (PUD) may or may not have a publicly owned and maintained system. Generally, if the City owns and maintains the roads and there is free ingress and egress from the community (not gated), then the City may own and maintain the stormwater system provided the easement and maintenance requirements of this Code are satisfied. Ownership of the PUD stormwater system shall be established prior to the issuance of construction permits.

D. Natural streams and drainage ways may or may not be publicly owned and maintained.

E. The stormwater management facilities identified in the City of Florence Stormwater Management Plan shall be publicly owned.

F. The City may accept ownership of the major components of the existing stormwater system located outside of the current City boundary after the area is annexed into the City. In general, the stormwater system owned and maintained by Lane County (prior to annexation) will be accepted by the City. The City Manager or his/her designee shall consider the following factors prior to acceptance of any facilities into the public drainage system:

1. standards used in the design,

2. the location of the system relative to the public right-of-way,

3. functionality of the system,

4. associated flooding problems,

5. maintenance requirements,

6. ability to access facilities, and

7. any other factors pertinent to the decision.

9-5-1-7: EXTENSION OF PUBLIC STORMWATER SYSTEM:

A. If necessary or required, the public stormwater system shall be extended up to and through to the most distant up gradient and down gradient parcel boundary(ies) to accommodate current and future flows entering or exiting the property. Consideration and accommodation shall be made for all existing drainage routes. Except as otherwise provided, the extension of the public stormwater system to serve any parcel or tract of land shall be done by and at the expense of the property owner(s) or applicant. The City may require that a stormwater system that serves more than one property be a public system.

9-5-1-8: STORMWATER MANUAL, ADOPTION BY REFERENCE:

Except as noted below in Sections 9-5-1-8 A and B, the standards and requirements contained in the 2008 *City of Portland Stormwater Management Manual*, the 2008 *City of Portland Erosion and Sediment Control Manual*, and the *City of Florence Stormwater Design Manual*, December 2010, are adopted by reference into this Code.

A. The following Sections of the 2008 *City of Portland Stormwater Management Manual* are not adopted by the City of Florence:
   - Appendix A: (City of Portland Code and Policy)
   - Appendix B: (Vendor Submission)
   - Appendix D: (Submittal Guides)
   - Appendix E: (Storm Development Methodology)
   - Other Sections that the Florence Public Works Director finds are not directly applicable to Florence or are partially applicable because they have been modified by the *Florence Stormwater Design Manual*, December 2010.

B. The *City of Florence Stormwater Design Manual,* December 2010, shall supersede the 2008 *City of Portland Stormwater Management Manual.*

9-5-2: DRAINAGE PLAN SUBMITTAL REQUIREMENTS:

9-5-2-1: GENERAL:

A. A Drainage Plan is required for all development, except as provided in FCC 9-5-2-4. Submittal requirements are tailored to the size and impacts of the development. The submittal requirements are specified in the Stormwater Manual.

B. A registered Professional Engineer licensed by the State of Oregon shall prepare, certify, and seal the Drainage Plan whenever a Professional Engineer is required in the Stormwater Manual or state law. Furthermore, prior to land disturbing activity, the developer for the land disturbing activity shall certify that the proposed activities will be accomplished pursuant to the approved plan.

C. If a land use approval is required, the Drainage Plan shall be submitted and approved as part of the land use approval process. If no land use approval is required, the Drainage Plan shall be submitted as part of the application for a construction or facility permit.

9-5-2-4: EXEMPTION AND MODIFIED REQUIREMENTS:

A. **Exemptions:** Projects exempt from the requirements of this Code include:

1. Projects with site development applications submitted for City review and approval prior to the effective date of this Code.

2. Emergency projects which if not performed immediately would substantially endanger life or property.

3. Public works and private utility projects completely within easements adjacent to the public right-of-way which do not add impervious surface (not to include trenching activities) or impact water quality, wetlands, streams, open space buffers, park and recreation lands, or natural resource lands.

4. Grading and working of land for agricultural purposes, provided the activity does not affect water quality, wetlands, streams, open space buffers, park and recreation lands, or natural resource lands.

5. Maintenance of public roads or utilities when performed by a public agency and the project has been reviewed and approved for compliance with applicable State, Federal and City regulations, and the work is in an existing right-of-way or easement dedicated to or on property owned by the City.

6. Public Works maintenance activities for routine repetitive activities, provided that erosion and sediment control measures are implemented as required.

7. All utility trenching and installation where said utility has filed a plan with the City that addresses sediment and erosion control methods to be implemented as part of the work.

B. **Modified Requirements:** Projects described below shall follow the requirements contained in the "Erosion Prevention and Sediment Control Practices for Single Family Residences and Small Projects" brochure available from the City:

1. Single family residential construction projects that are separate from the development (partitioning or subdividing) of the land.

2. Non-residential construction projects adding less than 500 square feet of impervious surface to the area.

3. Land clearing and grading activities disturbing less than 10,000 square feet of land and involving less than 50 cubic yards of excavated or fill material.

C. In accordance with Section 9-5-2-1 the City Manager or his/her designee will determine if a proposed project meets the criteria defined by Section 9-5-2-4 The City reserves the right to require additional protection measures if a project is deemed to present a risk to the community.

9-5-3: STORMWATER DESIGN CRITERIA:

9-5-3-1: GENERAL:

A. The criteria in Section 9-5-3 shall be used in the design of public and private stormwater drainage and management systems. Stormwater management facilities shall be constructed in accordance with the Stormwater Manual: the 2008 *Portland Stormwater Management Manual*, as superseded by the December 2010 *City of Florence Stormwater Design Manual;* and the 2008 *City of Portland Erosion and Sediment Control Manual.*

9-5-3-2: STORMWATER QUANTITY (FLOW CONTROL):

A. A 25-year, return period storm shall be used for the design of all private and public stormwater drainage systems.

B. Onsite stormwater management facilities shall be required to prevent the post-development runoff rates from a project site from exceeding the pre-development runoff rates from the site, based on a 2 through 25-year storm. Exemptions to this requirement may be approved by the City Manager or his/her designee if it is determined that a more effective solution is available and that downstream capacity will accommodate the increase in flow.

C. Each new development project is responsible for mitigating its impacts on the stormwater system. This mitigation requirement can be satisfied through the use of any of the following techniques, subject to the other limitations identified by this Code:

1. Construction of onsite facilities to limit the flow rate of stormwater runoff leaving the development site, in accordance with the Stormwater Manual.

2. Enlargement or improvement of the down gradient conveyance system in accordance with the requirements of this Code and the City of Florence Stormwater Management Plan.

D. The development of any land requiring a Drainage Plan shall address onsite and off-site drainage concerns, both up gradient and down gradient (a minimum of 1/4-mile) of the project, including:

1. Modifications to the existing onsite stormwater drainage and management facilities and drainage patterns shall not restrict or redirect flows creating backwater or direct discharge onto off-site property to levels greater than the existing condition unless approved by the affected off-site property owners and the City. Proof of off-site property owners approval shall be provided by having the affected property owner(s) sign an easement identifying the location of the backwater storage or impoundment area. This area shall be clearly shown on the submitted Drainage Plan site sheet(s). The easement shall be in a form approved by the City and recorded with the Lane County Deeds and Records Office.

2. Stormwater facilities shall be designed and constructed to accommodate all flows generated from the project property in accordance with the land use zoning as shown in the most recent approved City Code.

3. Capacity of the downstream drainage system to determine if increases in peak flow rates resulting from the proposed development can be accommodated.

E. The types of stormwater management controls presented in the Stormwater Manual are available for owners and developers to use in satisfying the pre-developed and post-development runoff requirement. More than one of these types of controls may be needed to satisfy the runoff requirement. In areas where the runoff requirement in Section 9-5-3-2-F are exempt or partially exempt, the City may require improvements to the down gradient conveyance system.

9-5-3-3: STORMWATER QUALITY:

A. Stormwater management facilities to treat stormwater are required for certain types of projects. These water quality facilities shall be designed and constructed for all projects requiring a Drainage Plan and for other projects as required by this section. Stormwater management facilities required for development shall be designed, installed and maintained in accordance with the Stormwater Manual, which is based on achieving at least 70% removal of the Total Suspended Solids (TSS) from the flow entering the facility for the design storm specified in the Stormwater Manual.

B. Water quality facilities shall be designed and constructed for all projects requiring a Drainage Plan.

C. Projects located in the Zones of Contribution must have pre-treatment facilities prior to infiltration facilities as prescribed in the Stormwater Manual. When a wellhead protection plan is developed and adopted by the City, this specific requirement may be rescinded or modified by the City.

D. The water quality design storm shall be based on an intensity of 0.25 inches per hour, or 0.83 inches for a 24-hour SCS Type 1A rainfall return event.

E. Water quality facilities must be designed to prevent damage to the facility for flows exceeding the water quality design storm and to ensure no re-suspension of pollutants, consistent with the Stormwater Manual.

F. Sensitive areas shall be protected by a buffer zone of native, undisturbed vegetation. The outer boundary of the buffer shall be determined by a minimum 50-feet setback from the edge of the sensitive area, or wider if required by other City requirements (See Florence City Code Title 10, Chapter 7.) The width and nature of protection required within the buffer may change as the Endangered Species Act and other state and federal regulations are promulgated. The City requires that the buffer width meet all state and federal requirements. No land disturbing activities, structures, development and construction activities, gardens, lawns, application of chemicals, pet wastes, dumping of any kind of materials shall be permitted within the buffer zone, except as noted below:

1. Roads, pedestrian, or bike paths crossing the buffer from one side to the other in order to provide access to or across the sensitive area.

2. A pedestrian or bike path constructed within a buffer and parallel to a sensitive area shall have the buffer widened by the width of the path if the path is constructed of impervious material.

3. Pedestrian or bike paths shall not exceed 10-feet in width.

4. Utility/service infrastructure construction (i.e., storm, sanitary sewer, water, phone, gas, cable, etc.) If approved by the City Manager or his/her designee.

5. Measures to remove or abate hazards, nuisance, or fire and life safety violations as approved by the City.

6. Enhancement of the riparian corridor for water quality or quantity benefits, fish, or wildlife habitat as approved by the City and other appropriate regulatory authorities.

7. Water quality facilities planted with appropriate native vegetation may encroach into the buffer area as approved by the City and other appropriate authorities.

G. The types of stormwater management facilities presented in the Stormwater Manual are available for owners and developers to use in satisfying the stormwater quality requirement. More than one of these types of facilities may be required to satisfy this requirement.

9-5-4: MAINTENANCE RESPONSIBILITY:

9-5-4-1: PUBLIC FACILITIES:

A. The City will maintain and operate Public Stormwater Facilities as set out in FCC 9-5-1-2 and FCC 9-5-1-6.

9-5-4-2: PRIVATE FACILITIES:

A. Private stormwater facilities must be maintained in accordance with the Operations and Maintenance Plan approved as part of the Drainage Plan. The Operations and Maintenance Agreement will be recorded with the Lane County Deeds and Records Office. The Stormwater Manual contains the Operations and Maintenance Agreement Form to be used. A log of all maintenance activity shall be kept by the owner and made available to the City upon request. The City may, at its option, inspect the facilities for compliance with the requirements. If a property owner fails to maintain their facilities, the City may issue a written notice specifying the required actions. If corrective actions are not completed in a timely manner, the City may pursue legal remedies to enforce the provisions of the Operations and Maintenance Plan. The City will only enter the property to perform the required corrections if the public's health and public property are in imminent danger. In this situation,

reasonable attempts will be made to contact the property owner(s), but a written notice may not be required. The property owner(s) will be billed for City incurred expense.

B. The Maintenance Agreement shall provide that upon notification by the City of any violation, deficiency or failure to comply with the agreement or this Code, corrections shall be completed within ten (10) days after notice thereof. Thereafter the City may pursue legal action to enforce the provisions of the agreement. In an emergency situation, the City may provide for all necessary work to place the facility in proper working conditions. The persons specified as responsible for maintenance in the Maintenance Agreement shall be charged the costs of the work performed by the City or its agents.

9-5-4-3: CITY ACCEPTANCE OF NEW STORMWATER FACILITIES:

A. The City may accept for maintenance new residential stormwater facilities constructed under approved permits when the following conditions are met:

1. Improvements in the residential subdivisions or Planned Unit Developments have been completed to the satisfaction of the city,

2. All drainage and stormwater management facilities have been inspected and have been in satisfactory operation for at least one (1) year, and

3. Any stormwater system improvements made during the one-year maintenance period have been inspected and approved by the City.

9-5-5: EASEMENTS:

9-5-5-1: PUBLIC FACILITIES:

A. Public facilities must have an easement, tract, or right-of-way granted to the City to provide for the inspection and maintenance of the drainage system and stormwater management facilities. A minimum of 7-1 /2 feet is required along each side of the centerline of stormwater pipes and culverts. A fifteen-(15) foot wide access is required around the perimeter of stormwater management facilities (ponds, wetlands, infiltration facilities, etc). A fifteen-(15) foot wide easement with a minimum 10’ wide access road located within the easement shall be provided when the public facility does not front a public road. Increased easements/improvements may be required on a case-by-case basis depending upon the unique drainage situation or facility maintenance requirements.

9-5-5-2: PRIVATE FACILITIES:

A. Private facilities must be placed in an easement, tract, or right-of-way that allows for the maintenance of these facilities in accordance with the Operations and Maintenance Agreement.

B. The City may determine that certain privately owned facilities are critical components of the overall stormwater system. In these situations, the City shall be granted perpetual, non-exclusive access that allows for public inspection. The access shall be defined in accordance with the requirements for a public easement, tract, or right-of-way.

9-5-6: CONSTRUCTION AND INSPECTION:

9-5-6-1: CONSTRUCTION:

A. Prior to the construction of, or modification to any public stormwater facility, a letter of commitment along with a performance bond or cash deposit in form and substance satisfactory to the City shall be submitted by the owner or his agent as a performance assurance for such work. The amount of the performance assurance shall be the sum necessary to construct the public stormwater facility improvements. The performance assurance shall remain in effect until released by the City. A final inspection shall be conducted by the City upon completion of the work included in the approved Site Stormwater Management Plan or Drainage Plan to determine if the completed work is constructed

in accordance with the plan(s). At a minimum, all of the following must be complete prior to release of the performance assurance:

1. Construction is completed on all public improvements required for the stormwater drainage and management system to operate. Each component of the stormwater system must have been inspected and accepted by the City, including all compaction, pipeline video inspections, and plastic pipe deflection testing.

2. The City has inspected and accepted the public improvements and the owner has submitted a maintenance assurance (letter of commitment, maintenance bond, or cash deposit, as approved by the City Manager or his/her designee). The amount of the maintenance assurance shall be for ten (10) percent of the cost of construction of the public improvements, excluding the cost of landscaping. The assurance shall be for a period of not less than one year from the date of completion of construction.

3. For projects with landscaping, the landscaping has been installed and accepted by the City. A two-year landscaping maintenance assurance has been submitted and accepted by the City. The amount of the assurance shall be fifty (50) percent of the cost of construction of the landscaping features.

4. All onsite and off-site easements as required by the City are granted to the City and recorded with the Lane County Deeds and Records Office.

5. The post construction erosion control is completed.

6. All required record drawings are submitted.

9-5-6-2: INSPECTION:

A. A City representative shall inspect the stormwater project as necessary and shall check materials, equipment, and the construction of the project to determine whether the work is proceeding in accordance with the approved plans and the requirements of this Code. The purpose of these inspections is to monitor compliance with City construction standards and the inspections are for the benefit of the City. The City does not provide the primary inspection for the project, and only provides a level of inspection necessary to monitor the quality of work being performed by others. The City's role in making inspections is not supervisory and the City has no responsibility, by virtue of such inspections, for any construction means or methods or compliance with safety requirements that remain the responsibility of the Contractor.

9-5-7: MISCELLANEOUS PROVISIONS:

9-5-7-1: TECHNICAL EQUIVALENCY:

A. The City may grant a technical deviation from the requirements of this Code if there are exceptional circumstances applicable to the project such that the provisions of the Code will result in unnecessary hardship and not fulfill the intent and objectives of the Code. The costs to comply with the requirements of this Code shall not be considered as justification for a technical equivalency.

B. To be approved, the proposed technical equivalency shall meet the following conditions:

1. The technical equivalency complies with the development conditions imposed on the project.

2. The granting of a technical equivalency will produce compensating or comparable results that are in the public interest.

3. The granting of a technical equivalency will meet the objectives of safety, function, appearance, environmental protection, and maintainability based on sound engineering judgment.

4. The City shall make written findings supporting the determination of technical equivalency.

C. A written request for a technical equivalency shall be required and shall state the specific equivalency sought and the reasons, with supporting data, for their granting. The request shall include descriptions, drawings, calculations and any other information that is necessary to evaluate the proposed equivalency. A technical equivalency shall only be granted when the applicant can show that an unnecessary hardship exists that is unique to the project or the property.

D. The City may have the technical equivalency proposal reviewed by an engineer licensed by the State of Oregon. The City reserves the right to select the engineer to perform the evaluation. The City will take the recommendation of the engineer under consideration as part of the technical equivalency review process. The applicant shall pay for the cost of the engineering review.

9-5-7-2: PENALTIES:

A. Upon determination that a violation of this Code has occurred the owner shall be given a written notice of the violations and the time in which to correct the deficiencies.

B. If construction violations of the approved plan are occurring, an immediate stop work order may be issued by the City. If the City issues a stop work order, the City must show cause within forty-eight (48) hours.

C. Any person violating this Code or any part thereof, including failing to stop work upon order, shall upon conviction thereof, be fined not more than one thousand dollars or imprisoned not more than thirty (30) days for each offense. Each separate interval of 24 hours, or every day, such violations shall be continued, committed or existing, shall constitute a new and separate offense and be punished for each separate period of violation.

D. The City Attorney shall institute appropriate actions or proceedings at law or equity for the enforcement of this Code or to correct violations of this Code.

9-5-7-3: CONFLICT WITH OTHER LAWS:

A. Whenever the provisions of this Code potentially conflict with any other Code, the requirements of the more restrictive Code shall prevail.

9-5-7-4: SEVERABILITY:

A. If any term, requirement or provision of this Code or the application of this Code to any person or circumstance shall, to any extent, be invalid or unenforceable, the reminder of this Code shall be valid and be enforced to the fullest extent permitted by law.

9-5-7-5: LIABILITY:

A. Neither the approval of a plan under the provisions of this Code nor the compliance with the provisions of this Code shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor shall it impose any liability upon the City for damage to any person or property.

Adopted by Ord. No. 10, Series 2005
Corrections made 1/7/2008 to Code
Sections 9-5-2-2-B & C and 9-5-2-3-B-10 amended by Ordinance 9, 2009 (11-2-09)
Ord. No. 3, Series 2010 amended Section 9-5-1-5
Sections 9-5-1-2, 9-5-1-6, 9-5-1-7, 9-5-2, 9-5-2-4, 9-5-3-1, 9-5-3-2, 9-5-3-3, 9-5-4-1, 9-5-4-2, 9-5-5-1 and 9-5-5-2 amended, and Section 9-5-1-8 added, and Section 9-5-2-1, 9-5-2-3 deleted and Sections 9-5-2-2-B & 9-5-2-2-C moved to Section 9-5-2-1 by Ord. No. 18, Series 2011 effective September 19, 2011