



Oregon

Kate Brown, Governor

Department of Environmental Quality

Western Region Eugene Office

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TTY 711

March 10, 2020

Janelle Booth
4222 NE Old Salem Road
Albany, OR 97321

Re: Review and Acceptance of the 2020 TMDL Implementation Plan Annual Report for the City of Millersburg

Dear Janelle Booth,

Thank you for submitting the Millersburg 2020 TMDL Implementation Plan Annual Report. The Department has reviewed your report and finds that the report complies with the annual reporting requirement. The city has met its obligation in implementing year one of the third five year TMDL cycle.

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
Willamette TMDL Basin Coordinator

cc: Zach Loboy, Watershed Manager, DEQ

TMDL Implementation Tracking Matrix: Millersburg, Oregon STATUS UPDATED FOR 2019-2024

Millersburg has legal authority over land use on 2,850 acres within the City Limits. The Willamette River forms the western boundary of the City between river-mile 115.5 and 117.75 for approximately 2.25 miles.

POLLUTANT <i>Pollutants Addressed by the TMDL.</i>	POLLUTANT SOURCES	STRATEGY <i>What Millersburg is doing and will do to reduce pollution from this source.</i>	ACTIONS <i>Specific Implementation Measures.</i>	BENCHMARKS <i>Intermediate indicators of progress.</i>	TIMELINE <i>Beginning and completion dates.</i>	MEASURE <i>Demonstrate implementation or completion of the strategy.</i>	PROGRAM FUNDING	STATUS
1.0 TEMPERATURE	A. Solar Radiation	Maintain existing riparian plantings and shading vegetation.	Update Land Use Development Code to include more provisions for riparian vegetation protection, including greater setbacks for drainage ways. Code enforcement of riparian and vegetative protections. When doing drainage way maintenance/brush removal activities, remove only obstructions to the flow. Protect trees and larger vegetation outside the active channel which provide shading and grass/vegetation within the channel which does not obstruct flow.	Compare aerial photographs at periodic intervals to determine the state of and changes to riparian areas. Visually inspect Crooks Creek main channel and its two northern tributaries within City limits.	Continue to enforce City's current Development Code (1984 & 2006) until revised code is adopted; ongoing Current code revision is underway with adoption anticipated in 2019. Begin enforcement upon adoption of new code. Visual inspection of Crooks Creek and tributaries annually. Aerial photo analysis annually or as new open source aerial photos become available.	Yearly review of standards compliance. Report on visual inspection of Crooks Creek and tributaries. Annual progress of code revision.	General Fund/ Stormwater Fund	Adopted Title 12 - Surface Water into the municipal code in December 2019 (see Attachment 1). Visual inspection of Crooks Creek and tributaries conducted along with brush removal activities for maintaining conveyance capacity. Only low vegetation obstructing the channel was removed, trees and larger shading vegetation were avoided/protected. Land use development code revision is still in progress, anticipated to be complete late spring or summer 2020.
		Perform public outreach and education on riparian regulations and the benefits of riparian plantings and shading vegetation on private property.	Public outreach and education through posting materials to City website and/or fliers on benefits of riparian plantings and shading. Provide guidance to private property owners when requested.	Distribute or post outreach materials minimum of once per year.	Years 1-5: Outreach materials reviewed annually and updated if needed. Years 1-5: Maintain up-to-date website Years 1-5: Perform a minimum of one outreach event and one flyer/ mailing each year.	Track and document outreach and education events, mailings, postings and other efforts; annual review.	General Fund/ Stormwater Fund	Posted stormwater flyer (Attachment 2) to City website and made flyer available at City Hall. Flyer was also presented in a City Council meeting. Adoption of municipal code Title 12 – Surface Water included discussion of stormwater quality at multiple public meetings, as well as information made available on City website.
		Maintain existing shading vegetation in riparian areas on City-owned property.	Monitor health of existing vegetation in riparian areas on City-owned property.	Visually inspect trees annually. Engage arborist if conditions of concern exist.	Visual inspection by City staff annually. Evaluation by arborist as needed, minimum every 5 years.	Report on annual visual inspection and arborist evaluation, as applicable. Report on implementation of arborist recommendations.	General Fund/ Stormwater Fund	Annual visual inspection of trees conducted. Trees within riparian areas generally have not changed. Some ivy present that may need to be addressed in the next few years.
	B. Impervious Surface Runoff	Minimize new paving and roof areas, as practicable to reduce stormwater temperature increases.	Enforce maximum ground coverage standards per Land Use Development Code Zones and Zoning Regulations.	Monitor subdivision and building site plans. Track approved variances	Ongoing; annual review	Track and document compliance review of new development, approved variances, violations and enforcement actions.	General Fund/ Planning and Development	New development was constructed in compliance with ground coverage standards. No variances were approved and no enforcement actions were taken. Although no enforcement actions were taken, there were multiple occurrences of staff discussing lot coverage standards with property owners when applying for or considering building permits for

								additional structures. Permits for additional structures not issued if lot coverage requirements would be exceeded.
	C. Industrial Storm Water Discharges	Ensure regulations for industrial storm water are communicated to new industries.	Inform applicants of 1200-Z and 1200-C permit requirements and direct them to contact DEQ. Notify DEQ of any reported complaints regarding industrial stormwater discharges.	Track notification to new applicants. Track any notifications to DEQ.	Ongoing; annual review.	Yearly review of compliance in notifying new applicants of 1200-C and 1200-Z requirements. Report any complaint notifications to DEQ	General Fund/ Planning and Development	All new industries the City was aware of were notified of 1200-C and 1200-Z requirements. In 2019, no complaints were received by the City.
2.0 BACTERIA	A. Septic Systems (approximately 4% of the City's dwellings are on individual septic systems)	Contact Linn County Environmental Health about reported concerns with existing septic systems. Ensure system conversion to municipal sewer system is required for new or redevelopment per the Development Code.	Continue expansion of municipal sewer system to serve all areas of the City. Enforce septic system conversion to municipal sewer system when required by Development Code.	Monitor septic system conversion to municipal sewer system & document sewer system extensions	Ongoing; annual review	Report number of septic systems converted to municipal sewer system each year. Report expansions to municipal sewer system Track complaints/ concerns City reports to Linn County	Sewer Fund	Two septic systems converted to municipal sewer systems in 2019. Municipal sewer system expanded into new residential developments. No expansion of sewer system to unserved areas not associated with new development in 2019. The City received no septic system complaints in 2019.
	B. Pet and animal waste	Continue to supply pet waste pickup stations. Enforce farm animal regulations.	City is providing waste collection stations at City Parks. Code enforcement of farm animal raising.	Monitor usage of waste collection stations and farm animal compliance with City Code.	Ongoing; annual review	Track approximate costs of maintaining and restocking dog waste stations. Track responses to complaints regarding animal waste, violations and follow-up actions	General Fund/ Parks	Approximately \$250.00 was spent on restocking dog waste stations. No complaints received regarding animal waste.
	C. Garbage spills	Encourage waste collection companies to cover waste bins during transit. Encourage adopt-a-road program within the City.	Enforce current traffic code requiring covered loads. Encourage and support adopt-a-road program by posting information on how to get started to the City web site and referring interested groups to Linn County for county roads. Provide supplies and equipment to adopt-a-road groups.	Monitor roadside debris accumulations through use of maintenance weekly checklists. Track number and type of supplies (bags, gloves) and equipment (vests, trash pick up tools) provided to adopt-a-road groups.	Ongoing; annual review	Provide example maintenance checklists annually. Report on roadside debris observed and removed and any enforcement actions. Report on roads adopted and supplies provided by City, including costs, to adopt-a-road groups.	Streets Fund	Maintenance checklists attached. No significant roadside debris observed or removed outside of routine trash pick-up. Adopt-a-road group cleaned up Old Salem Road approximately every other month in 2019. City provided trash pick-up devices, bags, and reflective vests.
3.0 MERCURY	A. Erosion and sedimentation containing mercury from existing background sources and introduced deposits from air and industries.	Reduce soil displacement and control runoff resulting from earthwork through utilization of erosion control best practices. Maintain and fund City street sweeping program.	Enforce requirements of City grading permit. Complete and adopt engineering standards, including erosion and sedimentation control section.	Monitor compliance with Code standards and permit requirements.	Enforcement of code standards to be continued indefinitely. Adoption of engineering standards to be completed by end of 2019.	Maintain records of grading permits in file. Track enforcement actions on grading permits. Provide documentation that engineering standards have been adopted.	General Fund/ Planning and Development	Five grading permits were issued in 2019 and records are kept on file. No enforcement actions taken on grading permits. Engineering standards were adopted in December of 2019 (see Attachment 3 for resolution, engineering standards are available on Millersburg website).

			Ensure required 1200-C permits for developments are obtained. Require developers to submit documentation of 1200-C permit prior to issuing construction permit.	Demonstrate that 100% of new developments over one acre obtain 1200-C permits.	Ongoing; annual review	Maintain copy of all 1200-C permits in file for each development.	General Fund/ Planning and Development	Copies of 1200-C permits required for developments are in files.
			Adopt erosion control program for smaller areas of disturbance (<1 acre).	Establish template for construction site erosion and sediment control plan (ESCP) and implement a programmatic permit. Perform public outreach and education to development community and implement permit requirements.	Year 1: Develop and adopt template. Year 2: Public outreach to developers and contractors Year 3: Implement permit requirements	Provide template once adopted. Document public outreach efforts. Maintain copies of permits in all development files. Track enforcement actions on erosion control program once in place.	General Fund/ Planning and Development	Stormwater ordinance, including erosion control requirements, was adopted at the end of 2019. Permit/template is under development. Individual outreach to contractors and developers to educate them on erosion control requirements is ongoing. Once permit/template is complete, more formal outreach will be conducted. No enforcement actions to track in 2019.
4.0 INTERRELATED FACTORS	A. Stormwater Discharge, a contributing source factor for all three Identified Pollutants.	Provide stormwater detention and treatment.	Enforce existing regulations & perform regular maintenance inspections of existing public facilities. Complete and adopt engineering standards, including post-construction stormwater detention and water quality.	Monitor effectiveness of existing regulations and maintenance program. Include design standards which require stormwater treatment in addition to detention.	Ongoing enforcement of existing standards Adoption of post-construction stormwater quality engineering standards by end of 2019. Include requirement for maintenance agreements of private SW facilities in engineering standards.	Maintain records of stormwater calculations and reports in development files. Track maintenance of facilities Provide documentation that post construction stormwater quality engineering design standards are in the process of or have been adopted.	General Fund/ Stormwater Fund	Records of stormwater calcs and reports are kept in development files. Public detention facilities maintenance tracked in weekly maintenance meeting notes. Engineering standards, including post construction stormwater quality were adopted at the end of 2019. See attached resolution (Attachment 3).
		Adopt the Millersburg Stormwater Master Plan and begin implementation of selected capital projects.	Begin implementation of selected capital projects recommended in the Stormwater Master Plan.	Incorporate stormwater projects into the City's Capital Improvements Program	Master Plan adopted in 2018. Plan and budget for projects beginning in FY 2019-2020.	Implementation of selected projects.	General Fund/ Stormwater Fund	Planning for implementation of two of the selected projects is ongoing.
	B. Disposal & Recycling	Prevent hazardous waste & illegal discharges and encourage recycling.	Work with waste disposal provider (Republic Services) to provide information to the public on disposal regulations and recycling. Support Hazardous Waste collection days. Advertise on City reader board and website.	Regular review of agreement with Republic Services to insure services continue to meet the needs of the community.	Periodic and on-going. Franchise agreement is reviewed every five years, evaluation of services annually.	Maintain record of any reported illegal discharges and enforcement actions. Report on Actions.	General Fund	No reported illegal discharges of hazardous waste or illegal discharges in 2019.
		Illicit Discharge, Detection and Elimination	Monitor ditches during dry weather. Dry weather screening - inspect 20% of outfalls annually. Provide reporting/complaint information on City website,	Track dry weather ditch monitoring and dry weather outfall screening.	Year 1: Establish dry weather screening program. Provide complaint reporting information on website. Year 2: Begin dry weather monitoring/screening,	Provide maintenance checklists documenting ditch monitoring. Report on dry weather outfall screening. Track responses to	General Fund/ Stormwater Fund	A sample of maintenance checklists attached (Attachment 7). This was a new procedure and staff are still becoming accustomed to the checklists, therefore only part of the dry weather ditch monitoring period was documented with the

			including phone number and complaint form.		continue ongoing.	complaints.		checklists. Next year a different mechanism will be used to track dry weather ditch monitoring. Dry weather outfall screening report attached (Attachment 4). One complaint received for illicit discharge in a construction area. Responded to complaint and documented (see Attachment 5).
	C. Information Program for Clean Water Act and potential pollutants	Implement outreach and education activities for new local industries and the general public.	Post information or links to City website. Educate new industries about protection of stormwater.	Develop a stormwater flyer for general public, post to website, and make available at City Hall. Develop a stormwater flyer for industry and give to new industries at time of permits.	Develop stormwater flyers and post by 12/31/2019.	Annual communication of information to public and report to council. Provide flyers with annual report.	General Fund/ Stormwater Fund	Stormwater flyer posted to City Website in December 2019 and made available at City Hall. Flyer attached (Attachment 2).
	D. Funding	Provide funding for planning and implementation of needed programs to address pollution.	Seek funding sources, including considering creation of a stormwater utility and fee.	Prepare a working list of potential funding sources.	Ongoing; annual review	Achieve funding to implement planning and implementation of needed programs	General Fund/ Stormwater Fund	Funding allocated in FY 2019-20 City budget.
	E. Intergovernmental Cooperation	Achieve economies and expanded informational base through cooperative associations.	Contact local and statewide organizations addressing environmental issues. Expand participation in Oregon ACWA.	Attend stormwater information sharing events. Participate with other agencies in local collaboration groups.	Ongoing; annual review	Report on events attended and participation in local collaboration groups.	General Fund/ Stormwater Fund	Attended ACWA stormwater conference in May 2019.
	F. City Council Support for water quality efforts	Ensure City Council is aware of TMDL requirements, TMDL Implementation Plan, and city-wide efforts to improve water quality.	City Council meeting overview and acknowledgement of TMDL Plan, Annual Report, and Five Year Review.	Revised Matrix presented to City Council; Annual City Council meeting minutes.	Ongoing; annual review	Annual meeting with City Council about TMDL responsibilities, progress, funding needs, etc.	General Fund/ Stormwater Fund	Presented TMDL matrix to council at July 2019 council meeting. Meeting minutes attached (Attachment 6).
	G. Staff Training and Good Housekeeping	Implement recommendations of Stormwater Master Plan for stormwater system maintenance.	Establish a stormwater system maintenance program per the recommendations of the Stormwater Master Plan.	Program and fund stormwater system maintenance activities: street sweeping, inlet inspection, system cleaning.	Year 1-2: Establish program. Year 3-5: Implement maintenance program recommendations.	Report on maintenance activities.	General Fund/ Stormwater Fund	Monthly street sweeping contracted and conducted. Solicited quotes for stormwater on-call contract (contracted in early 2020). Developed plan to clean and TV portions of stormwater system in 2020.
		Annual staff training.	One staff member participate in one training event per year and give presentation to other staff, as applicable.	Participation in one training event annually.	Training - annually, ongoing.	Documentation of training event attended and materials presented to other staff, as applicable.	General Fund/ Stormwater Fund	Attended ACWA stormwater conference in May 2019. Presentation of materials to other staff not applicable (Millersburg has no other staff this is material is applicable to).
	H. Public Involvement	Provide opportunities for public involvement.	Include public outreach events in master plan processes and provide public comment periods for adoption of master plans. Allow for public comments on stormwater related topics at council meetings.	Provide materials for public review ahead of meetings by posting on website.	Ongoing; annual review	Report on public outreach activities conducted and comments received.	General Fund	Parks master plan open house on May 7, 2019 received multiple comments regarding stormwater detention basins and stormwater drainage channels within the City. Public frequently bring up comments regarding stormwater related topics during public comment periods at council meetings.

ORDINANCE NO. 166

**AN ORDINANCE AMENDING THE MILLERSBURG MUNICIPAL CODE
BY ADOPTING TITLE 12, SURFACE WATER CODE**

WHEREAS, the City of Millersburg desires to provide for the effective management of stormwater to protect the health, safety, and general welfare of the citizens of the City of Millersburg; and,

WHEREAS, the City of Millersburg desires to protect the health and safety of City employees working in the stormwater system; and,

WHEREAS, the City of Millersburg desires to protect and enhance the water quality and natural functions of watercourses and water bodies through the regulation of stormwater; and,

WHEREAS, the City of Millersburg desires to facilitate the orderly development and extension of the stormwater system and set forth uniform requirements for direct and indirect contributors to the stormwater system; and,

WHEREAS, the City of Millersburg intends to comply with applicable State and Federal laws;

NOW, THEREFORE, THE PEOPLE OF THE CITY OF MILLERSBURG DO ORDAIN AS FOLLOWS: Millersburg Municipal Code Title 12, Surface Water, is hereby adopted.

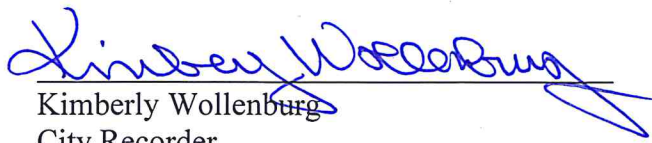
This Ordinance becomes effective thirty (30) days from the date of passage.

PASSED by the Council and approved by the Mayor this 10th day of December 2019.



Jim Lepin
Mayor

ATTEST:



Kimberly Wollenburg
City Recorder

Title 12 SURFACE WATER

Chapters:

12.01 GENERAL PROVISIONS

- 12.01.010 Intent and purpose.
- 12.01.020 Objectives.
- 12.01.030 Abbreviations.
- 12.01.040 Definitions.
- 12.01.050 Applicability.
- 12.01.060 Responsibility for administration.
- 12.01.070 Severability.
- 12.01.080 Ultimate responsibility of the discharger.
- 12.01.085 Relation to other laws.
- 12.01.090 Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

12.10 PROHIBITED DISCHARGES

- 12.10.010 Prohibited discharges.
- 12.10.050 Prohibition of illicit connections.
- 12.10.080 Watercourse protection.
- 12.10.090 Discharges in violation of industrial or construction activity NPDES stormwater discharge permit.
- 12.10.100 Notification of spills.
- 12.10.120 Requirement to eliminate illegal discharges.
- 12.10.140 Requirement to eliminate illicit connections.
- 12.10.143 Requirement to remediate.
- 12.10.147 Requirement to monitor and analyze.
- 12.10.150 Suspension of access.
- 12.10.160 Damage to the stormwater system.
- 12.10.170 Right of entry – Inspection and sampling.

12.20 PERMITS FOR CONNECTION OR CONSTRUCTION

- 12.20.010 Permits required.
- 12.20.020 Approval of drawings.
- 12.20.030 Construction to conform to standards.
- 12.20.040 Inspection, approval of construction.
- 12.20.050 Connection to stormwater mains.
- 12.20.060 Extension of stormwater systems.
- 12.20.070 Tapping of manholes.

12.30 STORMWATER UTILITY

- 12.30.010 Stormwater utility.

- 12.30.020 Stormwater fund.
- 12.30.030 Adjustments, back-billing, and refunds.
- 12.30.040 System development charges.

12.35 GRADING

- 12.35.005 Grading – Relationship to floodplain.
- 12.35.010 Grading – When permits are required.
- 12.35.020 Grading – General provisions.
- 12.35.030 Grading – Permit procedure.
- 12.35.050 Grading – Approval standards.
- 12.35.090 Grading – Fees.
- 12.35.100 Removal of excavation, embankment or fill required when determined to be a hazard.

12.40 EROSION PREVENTION AND SEDIMENT CONTROL

- 12.40.010 EPSC manual.
- 12.40.020 Applicability of EPSC requirements.
- 12.40.030 Permit required.
- 12.40.031 Permit exemptions.
- 12.40.032 Application for a permit.
- 12.40.033 Permit transfer.
- 12.40.034 Permit duration.
- 12.40.040 EPSC plan required.
- 12.40.050 Commencement of land-disturbing activities restricted.
- 12.40.090 EPSC fees required.

12.45 POST-CONSTRUCTION STORMWATER QUALITY

- 12.45.010 Design and construction standards.
- 12.45.020 Applicability of post-construction stormwater quality requirements.
- 12.45.030 Permit required.
- 12.45.040 Permit exemptions.
- 12.45.050 Application for a permit.
- 12.45.060 Permit transfer.
- 12.45.070 Permit duration.
- 12.45.080 Post-construction stormwater quality plan required.
- 12.45.090 Relationship to Chapter 15.06 AMC private construction of public improvements.
- 12.45.100 Permit fees required.
- 12.45.110 Transfer of landscaping responsibility to City.
- 12.45.120 Authorization for private stormwater facilities operation and maintenance agreements.

- 12.45.130 Private stormwater facilities operation and maintenance agreements required.
- 12.45.140 Completion of construction.
- 12.45.150 Right of entry – Inspection and testing.
- 12.45.160 Continuing obligations of owners and entities using, occupying, or controlling subject property.
- 12.45.170 Unlawful conduct.

12.60 FLOODPLAIN PRESERVATION AND MANAGEMENT

(Reserved)

12.70 STREAM BUFFERS/RIPARIAN ZONE PROTECTION – OPEN WATERWAYS

(Reserved)

12.80 ENFORCEMENT

- 12.80.010 Violations.
- 12.80.015 Enforcement.
- 12.80.020 Notices deemed received.
- 12.80.025 Emergency suspension of municipal stormwater system access.
- 12.80.030 Warning notice.
- 12.80.031 Notice of violation.
- 12.80.032 Administrative order.
- 12.80.034 Permit suspension and revocation.
- 12.80.035 Stop work order.
- 12.80.036 Compliance schedule.
- 12.80.040 Abatement.
- 12.80.050 Violations deemed a public nuisance.
- 12.80.060 Penalties.
- 12.80.070 Appeal.
- 12.80.080 Remedies not exclusive.

Chapter 12.01 GENERAL PROVISIONS

Sections:

<u>12.01.010</u>	Intent and purpose.
<u>12.01.020</u>	Objectives.
<u>12.01.030</u>	Abbreviations.
<u>12.01.040</u>	Definitions.
<u>12.01.050</u>	Applicability.
<u>12.01.060</u>	Responsibility for administration.
<u>12.01.070</u>	Severability.
<u>12.01.080</u>	Ultimate responsibility of the discharger.
<u>12.01.085</u>	Relation to other laws.
<u>12.01.090</u>	Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

12.01.010 Intent and purpose.

The intent and purpose of this title is to enable the City of Millersburg to comply with applicable state and Federal laws; to provide for the effective management of stormwater to protect the health, safety, and general welfare of the citizens of the City of Millersburg; to protect the health and safety of City employees working in the stormwater system; to facilitate the orderly development and extension of the stormwater system; to protect and enhance the water quality and natural functions of watercourses and water bodies through the regulation of stormwater; to set forth uniform requirements for direct and indirect contributors to the stormwater system; and to help meet the City of Millersburg's environmental stewardship responsibilities.

Formation of a stormwater utility with appropriate resources, responsibility, and authority is the most effective way to manage, improve, and control the stormwater system and to address the purposes set forth herein.

Notwithstanding the foregoing, nothing herein shall be deemed to impose a duty on the City to protect the property, health, or safety of third parties.

12.01.020 Objectives.

The objectives of this title are:

(1) To prevent the introduction of pollutants onto public rights-of-way, or into the municipal stormwater system, receiving waters, Waters of the State, and the environment;

(2) To prohibit illicit connections and discharges to the stormwater system;

(3) To protect, maintain and restore the integrity of waterways for their natural functions;

(4) To prevent and control nonpoint source pollution, land surface erosion, sedimentation, and stream channel erosion;

(5) To limit the effect of land-disturbing activities on the municipal stormwater system and Waters of the State;

(6) To authorize the imposition of permit requirements and the collection of related fees to govern land-disturbing activities;

(7) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this title;

(8) To authorize the collection of in-lieu-of-assessment fees for properties that have not participated in the cost of constructing public stormwater facilities;

(9) To authorize the imposition of a systems development charge fee and user charges for the construction, operation, and maintenance of stormwater system and facilities;

(10) To protect and maintain the functions and values of areas within floodplains.

12.01.030 Abbreviations.

(1) "ENR" means "Engineering News Record."

(2) "NPDES" means "National Pollutant Discharge Elimination System."

(3) "MS4" means "Municipal Separate Storm Sewer System."

(4) "BMP" means "Best Management Practice."

(5) "EPSC" means "Erosion Prevention and Sediment Control."

(6) "ORS" means "Oregon Revised Statute."

(7) "OAR" means "Oregon Administrative Rule."

(8) "TMDL" means "Total Maximum Daily Load."

12.01.040 Definitions.

(1) "Agricultural activity" means private or commercial activities directly engaged in the production of nursery stock, sod, fruits, vegetables, forages, cover crops, field crops (grain, corn, oats, beans, etc.), timber, and livestock, or other related activities determined by the City Engineer to conform to this definition; but shall not include construction or other activities for structures associated with agricultural activities.

(2) "Best management practices (BMPs)" means schedules of activities; prohibitions of deleterious practices; general good housekeeping practices; physical, structural, or chemical interventions; pollution prevention and educational activities; maintenance activities; and other management practices that prevent or minimize to the greatest extent practicable the discharge of pollutants directly or indirectly to public rights-of-way, the municipal stormwater system, receiving waters, or waters of the state.

(3) "City" means the City of Millersburg, a municipal corporation of the State of Oregon.

(4) "City Engineer" means the person designated by the Millersburg City Manager who is charged with certain duties and responsibilities by this chapter, or the duly authorized representative.

(5) "City Manager" means the person designated by the Millersburg City Council to act as the administrative head of the City government and who is charged with certain duties and responsibilities by this chapter, or the duly authorized representative.

(6) "Clean Water Act" means the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and any subsequent amendments thereto.

(7) "Construction activity" means activities related to any land development or construction project including but not limited to clearing and grubbing, grading, excavating, and demolition.

(8) "Discharger" means any person who discharges or causes to be discharged any pollutant onto public rights-of-way or into the municipal stormwater system, receiving waters, or waters of the state.

(9) "Floodplain" means the relatively flat or lowland area adjoining a river, stream, watercourse, lake, or other water body that has been, or may be, inundated temporarily by floodwater.

(10) "Hazardous materials" means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(11) "Illegal discharge" means any direct or indirect pollutant-bearing discharge to the municipal stormwater system, receiving waters, or waters of the state, except as exempted by MMC 12.10.010.

(12) "Illicit connection" is defined as either of the following:

(a) Any drain or conveyance, whether on the surface or subsurface, that allows an illegal discharge to enter the stormwater system including, but not limited to, any conveyances that allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the stormwater system and any connections to the stormwater 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

(b) Any drain or conveyance connected from a commercial or industrial land use to the stormwater system that has not been documented in drawings, maps, or equivalent records and approved by the City.

(13) "Impervious surface" means an improved, altered, or constructed surface which generally prevents infiltration of surface water including, but not limited to, paved streets, graveled or paved areas such as parking lots and driveways, oiled, macadam or other treated surfaces, walkways, roof surfaces, and patios.

(14) "Land-disturbing activity" means any activity that exposes the soil to erosion.

(15) "National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit" means a permit issued by the Environmental Protection Agency or the State of Oregon that authorizes the discharge of pollutants to

waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

(16) "New development" means a project that creates and/or expands the area of impervious surfaces, including, but not limited to:

(a) Structural development, including construction of a new building or other structure;

(b) Expansion or alterations of an existing structure that results in an increase in the area of impervious surfaces;

(c) Construction of new parking lots, roads, alleys, pathways, and other impervious surfaces; and

(d) Expansion or alterations of parking lots, roads, alleys, pathways, and other impervious surfaces that results in an increase in the area of impervious surfaces.

(17) "Nonpoint source" means any source of water pollution that is not associated with point sources. Generally, a nonpoint source is a diffuse or unconfined source of pollution that can either enter into or be conveyed by the movement of water into the municipal stormwater system, receiving waters, or waters of the state.

(18) "Non-stormwater discharge" means any discharge to the stormwater system that is not composed entirely of stormwater.

(19) "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.

(20) "Point source" means any discernible, confined, and discrete conveyance, including but not limited to pipes, ditches, channels, tunnels, or conduits, from which pollutants are or may be discharged to a receiving water(s).

(21) "Pollutant" means any material or substance which may alter the chemical, physical, biological, and/or radiological condition of the waters of the state.

(22) "Pollution" means the human-made or human-induced contribution of any pollutant into the municipal stormwater system, receiving waters, or waters of the state.

(23) "Post-construction stormwater quality" means the quality of stormwater runoff, after construction is complete, from a development or redevelopment project.

(24) "Post-construction stormwater quality facility" means permanent stormwater infrastructure incorporated into a development or redevelopment project designed to reduce pollutant loads and runoff velocity from impervious surfaces, and which may also include improvements constructed to reduce the quantity of stormwater runoff leaving the site.

(25) "Premises" means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

(26) "Property owner (owner)" means the person(s) or entity(ies) holding legal title to the subject property.

(27) "Redevelopment" means a project that alters or improves the "footprint" of an existing site and/or building. Redevelopment includes the replacement, alteration, or upgrade of an impervious surface that is not part of a routine maintenance activity.

(28) "Stormwater fund" means an enterprise fund through which the cost of providing utility service will be primarily user-fee financed and is analogous in its structure and operation to other enterprise funds maintained by the City, such as the sewer and water funds.

(29) "Stormwater system" means any watercourse or facility by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems or ditches, 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. The municipally owned portion of the stormwater system may also be referred to as a municipal separate storm sewer system (MS4).

(30) "Stormwater" means any surface flow, runoff, and drainage consisting entirely of water from precipitation events.

(31) "Toxic" means any substance or combination of substances listed as toxic in regulations promulgated by the Environmental Protection Agency in Section 307(a)(1) of the Clean Water Act or Title III Section 313 of the Superfund Amendments and Reauthorization Act.

(32) "Vegetated post-construction stormwater quality facility" means a post-construction stormwater quality facility wherein the primary means of stormwater treatment is by filtration through soil and plant material. This may also be referred to as a low-impact development (LID) facility.

(33) "Water or waters of the state" means all natural waterways, intermittent streams, constantly flowing streams, lakes, wetlands, and all other navigable and nonnavigable bodies of water which are wholly or partially within or bordering the state or within its jurisdiction.

(34) "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently, and, if the latter, with some degree of regularity. Watercourses may be either natural or artificial.

12.01.050 Applicability.

This title shall apply to all water entering the stormwater system generated on any developed and undeveloped lands unless explicitly exempted by MMC

12.10.010.

12.01.060 Responsibility for administration.

The City Engineer shall be authorized to administer, implement, and enforce the provisions of this title. Any powers granted or duties imposed upon the City Engineer are also conferred upon those persons tasked by the City Engineer to administer, implement, and enforce the provisions of this title. The City Engineer shall have the authority to develop and implement procedures, policies, standards, and forms necessary for the implementation of this title. The City Engineer is granted discretion to allocate resources or undertake enforcement of this title as he or she deems appropriate with consideration to time, resources, and conflicting obligations of the City and its staff.

12.01.070 Severability.

The provisions of this title are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this title 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 title.

12.01.080 Ultimate responsibility of the discharger.

The standards set forth herein and promulgated pursuant to this title are minimum standards; therefore this title does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants into the Waters of the State caused by said person. This title shall not create liability on the part of the City of Millersburg, or any agent or employee thereof, for any damages that result from any discharger's reliance on this title or any administrative decision lawfully made thereunder.

12.01.085 Relation to other laws.

Neither this title nor any administrative decision made under it exempts the permittee or any other person from procuring other required permits or complying with the requirements and conditions of such permit, or complying with any other applicable law or regulation, or limits the right of any person to maintain, at any time, any appropriate action, at law or in equity, for relief or damages against the permittee or any other person arising from the activity regulated by this title.

Where the provisions of this title impose restrictions different from those set forth in other regulations under the Millersburg Municipal Code, Land Development Code, or State or Federal regulations, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

12.01.090 Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

The City Engineer may require best management practices (BMPs) for any activity, operation, or facility which may cause or contribute to the introduction

of pollutants to rights-of-way, wetlands, drainage ways, the municipal stormwater system, receiving waters, and/or areas that include or contribute directly to the Waters of the State. Where BMP requirements are promulgated by the City Engineer, the owner or operator of such activity, operation, or facility shall provide, at their own expense, reasonable protection from the discharge of pollutants, as described above, through the use of these structural and/or nonstructural BMPs.

Further, any person responsible for a property or premises that is, or which may reasonably be expected to be, the source of an illicit or prohibited discharge may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent any further discharges of pollutants.

Chapter 12.10 PROHIBITED DISCHARGES

Sections:

- 12.10.010 Prohibited discharges.
- 12.10.050 Prohibition of illicit connections.
- 12.10.070 *Repealed.*
- 12.10.080 Watercourse protection.
- 12.10.090 Discharges in violation of industrial or construction activity NPDES stormwater discharge permit.
- 12.10.100 Notification of spills.
- 12.10.120 Requirement to eliminate illegal discharges.
- 12.10.140 Requirement to eliminate illicit connections.
- 12.10.143 Requirement to remediate.
- 12.10.147 Requirement to monitor and analyze.
- 12.10.150 Suspension of access.
- 12.10.160 Damage to the stormwater system.
- 12.10.170 Right of entry – Inspection and sampling.

12.10.010 Prohibited discharges.

No person shall cause any pollutant to be discharged to public rights-of-way, municipal stormwater system, or any Waters of the State or cause any pollutant to be placed in a location where such pollutant is likely to escape or be carried into the public rights-of-way, municipal stormwater system or into the Waters of the State.

(1) Prohibited discharges include, but are not limited to, the following:

(a) Septic, sewage, and dumping or disposal of liquids or materials other than stormwater.

(b) Discharges of washwater resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive service facilities.

(c) Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility, including motor vehicles, cement-related equipment, port-a-potty servicing, etc.

(d) Discharges of washwater from mobile operations, such as mobile automobile or truck washing, steam cleaning, power washing, carpet cleaning, etc.

(e) Discharges of washwater from the cleaning or hosing of impervious surfaces in municipal, industrial, commercial, or residential areas (including parking lots, streets, sidewalks, driveways, patios, plazas, work yards, outdoor eating or drinking areas, etc.) where detergents are used and spills or leaks of toxic or hazardous materials have occurred (unless all spilled materials has been removed).

(f) Discharges of runoff from material storage areas, which contain chemicals, fuels, grease, oil, or other hazardous materials without approved treatment.

(g) Discharges of pool or fountain water containing chlorine, biocides, or other chemicals; discharges of pool or fountain filter backwash water.

(h) Discharges of sediment, unhardened concrete, pet waste, vegetation clippings, or other landscape or construction-related wastes.

(i) Discharges of trash, paints, stains, resins, or other household hazardous wastes.

(j) Discharges of food-related wastes (grease, restaurant kitchen mat and trash bin washwater, etc.)

(k) Any liquids, solids, or gases that by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the operation of the municipal stormwater system.

(l) Any solid or viscous substances that may cause obstruction to the flow in the stormwater system, such as but not limited to: grease, garbage, sand, straw, grass clippings, rags, plastics, or mud.

(m) Any discharge having a pH less than six or greater than 10, unless the divergence from these limits can be proven to occur from rainfall pH.

(n) Any discharge containing toxic pollutants.

(o) Pollutants that result in the presence of toxic gases, vapors, or fumes within the stormwater system that may cause acute worker health or safety problems.

(p) Any substance that may cause the City to violate its storm system permits, or that may cause the City to violate instream water quality standards set by the State of Oregon.

(q) Any substance that causes or may cause visible discoloration of the receiving waters such as but not limited to dyes and inks, except as described in subsection (2)(b) of this section.

(r) Any discharge having a temperature that may inhibit biological activity in the receiving waters or cause the City to violate instream water

quality standards set by the State of Oregon, or that could harm the stormwater system.

(s) Any discharge containing oxygen demanding pollutants that may elevate the oxygen demand within the municipal stormwater system or Waters of the State.

(t) Any hauled waste, septage, or discharge from cleaning tanks including those from mobile cleaning services.

(l) Any refuse, rubbish, garbage, litter, or other discarded or abandoned objects.

(2) The following are exempt from discharge prohibitions established by this chapter:

(a) Water line flushing with dechlorination.

(b) Landscape Irrigation.

(c) Diverted stream flows.

(d) Uncontaminated groundwater infiltration.

(e) Rising ground waters.

(f) Uncontaminated pumped groundwater.

(g) Potable water sources (including potable groundwater monitoring wells and draining and flushing of municipal potable water storage reservoirs.

(h) Start up flushing of groundwater wells.

(i) Foundation, footing, and crawl space 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 chemicals, soaps, detergents, steam, or heated water are not used. Washing is restricted to the outside of the vehicle, no engines, transmissions, or undercarriages.

(p) Flows from riparian habitats or wetlands.

(q) Dechlorinated swimming pool discharges including hot tubs (heated water must be cooled for at least 12 hours prior to discharge).

(r) Fire hydrant flushing.

(s) Street and pavement washwaters (provided that chemicals, soaps, detergents, steam, or heated water are not used).

(t) Routine external building wash-down (provided that chemicals, soaps, detergents, steam, or heated water are not used).

(u) Water associated with dye testing, provided verbal notification is made to the City prior to the start of the test.

(v) Discharges of treated water from investigation, removal, and remedial actions selected or approved by DEQ pursuant to Oregon Revised Statute (ORS) Chapter 465.

(w) Discharges from firefighting or other emergency actions by a public utility, the City, or any other governmental agency necessary to protect public health and safety.

(3) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the State of Oregon 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 the written approval has been granted by the City of Millersburg for any discharge to the stormwater system.

12.10.050 Prohibition of illicit connections.

(1) No person shall construct, use, maintain, or allow the continued existence of an illicit connection to the stormwater system. Existing illicit connections are expressly prohibited, without limitation, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(2) Examples of illicit connections include but are not limited to wastewater lines such as those from sanitary sewers, or drains carrying wash or industrial process water.

(3) A person is in violation of this title if the person connects a line conveying sewage to the municipal stormwater system or allows such a connection to continue. Improper connections in violation of this title must be disconnected and redirected, if necessary, to an approved on-site wastewater management system or to the sanitary sewer system upon approval of the City Engineer.

12.10.080 Watercourse protection.

Every person owning or occupying property through which a watercourse passes shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that may reasonably be expected to contaminate or impede the flow of water through the watercourse. In addition, the owner or occupant shall remove or maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. No person shall remove native vegetation in the vicinity of a watercourse except where it poses an imminent hazard to human health and safety or nearby structures. No person shall remove vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. Within the limits established through any required State or Federal permits, the property owner or lessee shall maintain and stabilize the banks of the watercourse within their property lines in order to protect against erosion and degradation of the watercourse. Watercourse banks shall be stabilized using planted vegetation and natural materials instead of hard materials (e.g., concrete, asphalt, rock, logs, lumber, etc.) wherever practicable.

12.10.090 Discharges in violation of industrial or construction activity NPDES stormwater discharge permit.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City Engineer at the following times: prior to the City Engineer allowing discharges to the stormwater system; 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.

12.10.100 Notification of spills.

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 that is resulting in or may result in illegal discharges of pollutants onto or into public rights-of-way, stormwater, the municipal stormwater system, or Waters of the State, said person shall take all necessary steps to ensure the discovery, immediate notification, containment, and cleanup of such release.

(1) In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the City of Millersburg immediately in person or by telephone. Notification of the emergency response agencies or the City of Millersburg does not relieve the discharger of their responsibility to also notify appropriate State and Federal agencies.

(a) Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the City of Millersburg City Engineer within five business days of the original notice. The notice shall include a detailed written statement submitted by the discharger describing the causes of the discharge, measures taken to mitigate the spill, and the measures taken to prevent any future occurrence.

(b) If the discharge emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(2) The person responsible for the discharge of pollutants or hazardous materials to the environment shall be responsible for all cleanup costs. All related City expenses including, but not limited to, costs for identification, hazard assessment, and containment shall also be fully reimbursed.

(3) In general, reimbursement costs are those incident costs that are eligible, reasonable, necessary, and allocable to the incident. Costs allowable for reimbursement may include, but are not limited to:

- (a) Disposable materials and supplies provided, consumed and expended specifically for the purpose of the incident for which reimbursement is being requested;
- (b) Compensation of the employees for the time devoted specifically to the incident;
- (c) Rental or leasing of equipment used specifically for the incident;
- (d) Replacement costs for equipment or property owned by the City that is contaminated or damaged beyond reuse or repair;
- (e) Decontamination of equipment that was used during the incident;
- (f) Special technical services required for the incident; and
- (g) Laboratory expenses for the purpose of analyzing samples taken during the incident.

12.10.120 Requirement to eliminate illegal discharges.

The City Engineer may require, by written notice, that a person responsible for an illegal discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges.

12.10.140 Requirement to eliminate illicit connections.

The City Engineer may require, by written notice, that a person responsible for an illicit connection to the stormwater system immediately, or by a specified date, comply with the requirements of this title to eliminate the connection, regardless of whether or not the connection or discharges to it had been established or approved prior to the effective date of the ordinance codified in this title.

If, subsequent to eliminating a connection found to be in violation of this title, the responsible person can demonstrate that an illegal discharge will no longer occur, said person may request City approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense.

12.10.143 Requirement to remediate.

Whenever the City Engineer finds that an illegal discharge is taking place or has occurred that will result in or has resulted in pollution of stormwater, the stormwater system, or Waters of the State, the City Engineer may require by written notice to the owner of the property and/or the responsible person or entity that the pollution be remediated and the affected property restored within a specified time pursuant to the provisions of Chapter 12.80 MMC.

12.10.147 Requirement to monitor and analyze.

The City Engineer may require, by written notice, that any person engaged in any activity and/or owning or operating any facility that may cause or contribute to stormwater pollution, illegal discharges, and/or non-stormwater discharges to the stormwater system or Waters of the State, to undertake at said

person's expense such monitoring and analyses and furnish such reports to the City of Millersburg as deemed necessary to determine compliance with this title.

12.10.150 Suspension of access.

The City of Millersburg may, without prior notice, suspend access to the stormwater system when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, to the stormwater system, or Waters of the State.

If the violator fails to comply with a suspension order, the City of Millersburg may take such steps as deemed necessary to prevent or minimize damage to the stormwater system, prevent or minimize danger to the environment, or to prevent or minimize danger to persons.

12.10.160 Damage to the stormwater system.

When a discharge causes obstruction, damage, or other impairment to the stormwater system, the City Engineer may assess a charge against the discharger for the work required to clean or repair the facility. If the discharger fails to pay said charge, the costs to clean or repair the facility may be assessed against the property pursuant to MMC 12.80.040.

12.10.170 Right of entry – Inspection and sampling.

The City Engineer shall be authorized and have the right to inspect all premises, sites, and/or activities covered under this title to determine compliance with this title and any rules or orders adopted by the Council or issued pursuant to this title.

(1) The City Engineer shall have the right to set up on the discharger's or permittee's property, or require installation of, such devices as are necessary to conduct sampling, inspection compliance, and/or monitoring operations.

(2) Where a discharger or permittee has security measures in force which require proper identification and clearance before entry into its premises, the dischargers shall make necessary arrangements so that, upon presentation of suitable identification, the City Engineer or authorized representatives shall be permitted to enter without delay for the purposes of performing specific responsibilities.

(3) Facility operators shall allow the City Engineer ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by State and Federal law.

(4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly modified or removed by the discharger at the written or verbal request of the City Engineer and shall

not be replaced without the consent of the City Engineer. The costs of clearing such access shall be borne by the discharger.

(5) Unreasonable delay in allowing the City Engineer access to a permitted facility is a violation of this title. A person who is the operator of a facility with an NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the City Engineer reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this title.

Chapter 12.20 PERMITS FOR CONNECTION OR CONSTRUCTION

Sections:

- 12.20.010 Permits required.
- 12.20.020 Approval of drawings.
- 12.20.030 Construction to conform to standards.
- 12.20.040 Inspection, approval of construction.
- 12.20.050 Connection to stormwater mains.
- 12.20.060 Extension of stormwater systems.
- 12.20.070 Tapping of manholes.

12.20.010 Permits required.

Prior to commencing any work on a building storm drain or public stormwater system, all applicable permits from the City of Millersburg and other agencies must be secured and all associated permit fees paid in full. The permits necessary may include, but are not limited to, an EPSC permit, a plumbing permit, a permit to construct public facilities, and an encroachment permit. The permit shall set forth at what point the connection is to be made, the location, size of facility, type of construction, and other details as the City Engineer or his/her designee may reasonably require.

12.20.020 Approval of drawings.

Drawings for all public stormwater systems shall be approved by the City Engineer or his/her designee prior to construction. Unless otherwise approved by the City Engineer, such drawings shall conform to applicable stormwater system master plans as well as City of Albany Standard Construction Specifications, as adopted by the City of Millersburg. Such approval shall be required in addition to any other approval required by State law.

12.20.030 Construction to conform to standards.

All public stormwater systems, whether publicly or privately constructed, shall conform to City of Albany Standard Construction Specifications, as adopted by the City of Millersburg, and the City of Millersburg Design Standards with regard

to legal and design requirements, materials, and workmanship. Failure to meet tests for performance and workmanship shall be grounds for refusal of acceptance by the City. Permits to connect to stormwater systems that have not been accepted will not be issued until the system has been approved and accepted.

12.20.040 Inspection, approval of construction.

Reasonable notice and access shall be given to allow inspection of all work in connection with the construction or reconstruction of any public and private stormwater facilities. Use of the stormwater facilities will not be allowed until the building storm sewer and the public improvement receives final approval.

12.20.050 Connection to stormwater mains.

Piped storm drain connections shall be made only to the single wye branch designated for use by the connecting property. If no wye is available, connection shall be made by tapping the stormwater main line in accordance with City Standard Construction Specifications and only after securing all necessary permits and paying all required permit fees.

12.20.060 Extension of stormwater systems.

The following rules shall apply to all stormwater system extensions:

(1) The minimum size of stormwater mains or other stormwater system components to be installed shall be in conformance with the most recent version of the City of Millersburg Design Standards where a larger size is not needed to provide an adequate system, conform with the size of the existing system, meet future needs, or conform to the size specified by the City of Millersburg's Stormwater System Facility Plan.

(2) All stormwater system facilities serving more than one property shall be public, installed in public rights-of-way or public utility easements. The normal routing for stormwater system extensions shall be in a dedicated right-of-way.

(3) All stormwater system extensions shall extend to the extreme property line of the development or lot. If the property has excess frontage on the right-of-way and only partial development is to occur, then some consideration may be given to shortening the initial extension, provided sufficient assurance is given to ensure the completion of the extension at the time other development occurs. Where systems are being extended into the interior of a property or development, the systems shall be extended through to the boundaries of the property at all such points as shall be needed to provide current or future service to adjacent properties.

12.20.070 Tapping of manholes.

Tapping of building storm drains directly into manholes is prohibited except where shown in construction drawings that have been approved by the City Engineer or his/her designee.

Chapter 12.30 STORMWATER UTILITY

Sections:

- 12.30.010 Stormwater utility.
- 12.30.020 Stormwater fund.
- 12.30.030 Adjustments, back-billing, and refunds.
- 12.30.040 System development charges.

12.30.010 Stormwater utility.

There is created and established a stormwater utility with the assets, authority, and responsibility for administration, planning, design, construction, maintenance, and operation of stormwater conveyances and facilities. Additional specific mandates, authority, and delegations may occur, from time to time, by appropriate City Council actions. All references to "the utility" in this title refer to the stormwater utility. The administration of the utility shall be as set forth herein.

12.30.020 Stormwater fund.

The stormwater fund is created and established.

(1) Service Charge Imposed. A stormwater service charge shall be imposed on all persons or premises that contribute to the stormwater system or that otherwise use or benefit from the stormwater system, and said persons shall be responsible for paying the stormwater service charge. All monies received from stormwater service charges shall be deposited into the stormwater fund.

(2) Service Charge Rates Set by Council Resolution. Stormwater service charge rates will be set by Council resolution. The stormwater service charge shall be developed and implemented such that it is not a tax subject to the property tax limitation of Article XI, Section 11b of the Oregon Constitution. The City Engineer shall recommend adjustments to the stormwater service charge rates to the City Council as it becomes necessary. The City Council shall consider such recommendations and may approve or further adjust the stormwater service charges as the Council deems necessary to meet policy objectives, to meet the utility's revenue requirements, or to meet the overall financial needs of the utility.

(3) Customer Classification. Customer account classification and other stormwater charge-related calculations shall be determined by the City Engineer or the duly authorized representative. Any appeal of the City Engineer's determination shall be made in writing to the City Engineer. Any request for review of the City Engineer's appeal determination shall be made in writing to the City Manager. The City Manager's determination will be final.

12.30.030 Adjustments, back-billing, and refunds.

The utility may make adjustments, back-bill, pay refunds, or waive fees and charges in accordance with City Council policy. If no Council policy exists, the utility may make adjustments where it is deemed necessary on a case-by-case basis as determined by the City Manager for the proper conduct of the business of the Utility. A full explanation of the reason for the adjustment or refund must be filed with the office records and, subject to Oregon public records law, will be made available upon request. Refunds are to be made to the party that made the payment.

12.30.040 System development charges.

When adopted in accordance with Chapter [15.16](#) MMC, all monies received from stormwater system development charges shall be deposited into the stormwater fund. Such funds shall be accounted for separately from those received from stormwater service charges.

Chapter 12.35 GRADING

Sections:

- [12.35.005](#) Grading – Relationship to floodplain.
- [12.35.010](#) Grading – When permits are required.
- [12.35.020](#) Grading – General provisions.
- [12.35.030](#) Grading – Permit procedure.
- [12.35.050](#) Grading – Approval standards.
- [12.35.090](#) Grading – Fees.
- [12.35.100](#) Removal of excavation, embankment or fill required when determined to be a hazard.

12.35.005 Grading – Relationship to floodplain.

Grading (including excavation and fill) proposed in the floodplain is regulated and permitted through the Millersburg Land Use Development Code and does not require an additional grading permit under this chapter.

12.35.010 Grading – When permits are required.

Grading permits are required by the City of Millersburg in the following circumstances:

- (1) When any grading is proposed in any watercourse shown in the City of Millersburg Stormwater Master Plan, in any watercourse receiving drainage from a public roadway, or in any watercourse lying within a public easement or right-of-way. A watercourse is any natural or artificial stream, river, creek, ditch, drainageway, channel, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows in a definite direction or course, either continuously or

intermittently, and has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or flood water.

(2) When placement of a structure is proposed in a watercourse shown in the City of Millersburg Stormwater Master Plan, or within a public easement or right-of-way.

(3) When grading involving more than 50 cubic yards is proposed.

(4) When grading is proposed over an existing public storm drain, sanitary sewer, or waterline. This does not include grading authorized under a public works contract awarded by the City of Millersburg, grading approved as part of a permit to construct public facilities as provided in Chapter 15.06 MMC, or grading conducted by City of Millersburg maintenance forces.

(5) Notwithstanding any of the foregoing, a grading permit is not required in any of the following circumstances:

(a) Routine farming activities on farm designated land;

(b) Cemetery grave sites;

(c) Grading incidental to a valid building permit and excavation below grade for basements, foundations, or footings for retaining walls or other structures authorized by a valid building permit;

(d) Construction of driveways or underground utilities;

(e) Grading or landscaping when less than 50 cubic yards of earth is moved;

(f) Grading or excavation associated with public works projects, roads, public ways, graves, or work controlled by other processes or regulations, such as wells, tunnels, utilities, or disposal sites;

(g) Minor adjustments in active grading permits or applications when necessary in order to adhere to City requirements or good engineering practices;

(h) Grading or excavation determined by the City Engineer or designee to be in substantial compliance with the intent of the grading ordinance. Such a determination shall be appealable to the City Council. In the event of such an appeal, the decision of the City Council shall be final.

12.35.020 Grading – General provisions.

The rules prescribed in this chapter shall apply to all lands within the City limits of the City of Millersburg.

(1) Compliance. No excavation or grading operation shall hereafter be performed, or existing graded lot altered, without full compliance with the terms of this chapter and other applicable regulations.

(2) Abrogation and Greater Restrictions. This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and other chapters conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(3) Relationship to Permits Required by State or Federal Agencies. Excavation, grading, and fill activities may require State and/or Federal permits. Such permits are likely to be required if hydric soils are present on the site or if the site contains other wetland characteristics. The issuance of a permit by the City of Millersburg under this chapter does not eliminate the need for compliance with other State, Federal, or local regulations.

(4) Warning and Disclaimer of Liability. The issuance of a permit by the City of Millersburg under this chapter constitutes a determination that the applicant has met the minimum requirements for the City's regulatory purposes. Issuance of a permit does not relieve the permit holder from any responsibilities or liabilities that grading, excavation or fill activities may create if third parties are damaged or injured by such actions.

12.35.030 Grading – Permit procedure.

Application for a grading permit shall be made to the City Engineer or designee. The City Engineer or designee shall provide the application forms.

12.35.050 Grading – Approval standards.

Grading permit applications will be approved if the applicant has shown that each of the following criteria which are applicable have been met:

(1) Provisions have been made to maintain adequate flood-carrying capacity of existing watercourses, including future maintenance of that capacity.

(2) No grading will be permitted over an existing public storm drain, sanitary sewer, or water line unless it can be demonstrated to the satisfaction of the City Engineer that the proposed grading will not be detrimental to the anticipated service life, operation and maintenance of the existing utility.

(3) The applicant shall notify the City of Millersburg, any adjacent community, and the Natural Hazards Mitigation Office of the Oregon Department of Land Conservation and Development of any proposed grading activity that will result in alteration or relocation of a watercourse.

(4) All drainage facilities shall be designed to carry waters to the nearest practicable watercourse approved by the designee as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive downdrains or other devices.

(5) Building pads shall have a drainage gradient of two percent toward approved drainage facilities, unless waived by the City Engineer or designee; except the gradient from the building pad may be one percent if all of the following conditions exist throughout the permit area:

(a) No proposed fills are greater than 10 feet in maximum depth.

(b) No proposed finished cut or fill slope faces have a vertical height in excess of 10 feet.

(c) No existing slope faces, which have a slope face steeper than 10 horizontal to one vertical, have a vertical height in excess of 10 feet.

(6) In areas that have an average slope of 12 percent or greater, the following requirements also apply:

(a) Cut slopes shall not exceed a one and one-half (horizontal) to one (vertical) ratio and fill slopes shall not exceed a two (horizontal) to one (vertical) ratio. Slopes which are steeper (e.g., 1.5:1, or 1:1) may be approved by the City Engineer or designee, upon certification by a qualified soils engineer or geologist that the slope will remain stable under foreseeable conditions. The certification must delineate any specific stabilization measures deemed necessary by the soils engineer or geologist.

12.35.090 Grading – Fees.

Fees applied under this title shall be as adopted by resolution of the Millersburg City Council.

12.35.100 Removal of excavation, embankment or fill required when determined to be a hazard.

If the City Engineer or designee determines that any excavation, embankment, or fill on private property has become a hazard, he/she may order the hazard abated by the owner or responsible party. The owner of the property upon which the excavation or fill is located, or the responsible party, upon receipt of notice in writing, shall repair or eliminate such excavation or embankment so as to eliminate the hazard.

Chapter 12.40 EROSION PREVENTION AND SEDIMENT CONTROL

Sections:

- 12.40.010 EPSC manual.
- 12.40.020 Applicability of EPSC requirements.
- 12.40.030 Permit required.
- 12.40.031 Permit exemptions.
- 12.40.032 Application for a permit.
- 12.40.033 Permit transfer.
- 12.40.034 Permit duration.
- 12.40.040 EPSC plan required.
- 12.40.050 Commencement of land-disturbing activities restricted.
- 12.40.090 EPSC fees required.

12.40.010 EPSC manual.

The City Engineer is authorized to develop, implement, and maintain an erosion prevention and sediment control (EPSC) manual. This manual, and such other resources as the City Engineer may deem necessary, will provide technical

guidance for the design, installation, maintenance, and inspection of temporary and permanent erosion prevention and sediment control best management practices. In the event that any provision of the EPSC manual is in conflict with any section of this title, the provisions of this title will govern.

12.40.020 Applicability of EPSC requirements.

Persons or entities engaged in land-disturbing activities that require an EPSC permit as described in this chapter shall utilize best management practices as described in the City of Millersburg Erosion Prevention and Sediment Control Manual, or more effective measures, as necessary to satisfy the requirements of this title.

12.40.030 Permit required.

An erosion prevention and sediment control (EPSC) permit shall be obtained for land-disturbing activities affecting an area of 10,000 square feet or greater, cumulatively.

12.40.031 Permit exemptions.

(1) The following activities may be exempted from the requirements of MMC 12.40.030:

(a) Land-disturbing activities affecting an area less than 10,000 square feet, cumulatively;

(b) Replacement or re-establishment of an existing lawn on a single lot, not exceeding 10,000 square feet;

(c) Agricultural activities.

(2) Permit exempted activities must meet all requirements of this title, and are subject to the provisions of Chapter 12.80 MMC, as applicable.

12.40.032 Application for a permit.

To obtain a permit, the property owner shall apply to the City of Millersburg. Every such application shall:

(1) Identify and describe the work to be covered by the permit;

(2) Describe the land on which the proposed work is to be done by legal description, street address, or similar description that will readily identify and definitely locate the proposed work;

(3) Be accompanied by an EPSC plan conforming to the requirements of MMC 12.40.040;

(4) Identify the person or entity performing the land-disturbing activity;

(5) Provide a 24-hour emergency contact person and phone number;

(6) Be signed by the owner of the property upon which the land-disturbing activities will occur;

(7) Contain a statement of financial responsibility for damages resulting from noncompliance with EPSC requirements, should any such occur;

(8) Be accompanied by the applicable fees described in MMC 12.40.090.

12.40.033 Permit transfer.

EPSC permits shall be obtained by the person(s) or entity holding title for the property upon which the land-disturbing activities will occur.

(1) An EPSC permit may not be transferred to any person(s) or entity except upon transfer of title for the property.

(2) The person(s) or entity obtaining title to a property with an active EPSC permit shall apply for transfer of the existing EPSC permit, or shall obtain a new EPSC permit.

(3) The person(s) or entity transferring title for a property with an active EPSC permit shall notify the new owner(s) of the requirements of subsection (2) of this section.

(4) The most recent EPSC permit for a property will supersede all other EPSC permits that apply to that property.

12.40.034 Permit duration.

(1) EPSC permits issued under this title will be valid for a period of one year, or until land-disturbing activities are completed, and surface conditions stabilized with permanent measures to prevent future erosion as verified by the City Engineer, whichever is shorter.

(2) Prior to the expiration of an EPSC permit, the permit holder may present a written request for an extension to the City Engineer. If, in the opinion of the City Engineer, an extension is warranted, up to a 12-month extension may be granted. Extensions will be subject to the applicable fees described in MMC 12.40.090.

12.40.040 EPSC plan required.

Applicants for an EPSC permit shall submit as a part of their permit application an EPSC plan. EPSC plans shall comply with the minimum standards outlined in the City of Millersburg Erosion Prevention and Sediment Control Manual and the provisions of this title.

(1) Major land-disturbing activities, as defined in the EPSC manual, must meet the submittal requirements for major land-disturbing activities and shall require submission of an EPSC plan prepared by a professional licensed in Oregon as a civil or environmental engineer, landscape architect, geologist, or certified professional in erosion and sediment control (CPESC).

(2) Minor land-disturbing activities, as defined in the EPSC manual, must meet the requirements for minor land-disturbing activities and do not require a professional to prepare the EPSC plan.

12.40.050 Commencement of land-disturbing activities restricted.

Land-disturbing activities shall not commence until an EPSC permit has been issued. An EPSC permit will not be issued until the following conditions have been met:

- (1) An EPSC application has been submitted to the City with an attached EPSC plan;
- (2) When required, the applicant's EPSC plan has been reviewed and received initial approval by the City Engineer;
- (3) EPSC BMPs have been installed in accordance with the approved EPSC plan;
- (4) When required, the City Engineer has verified condition (3) of this section in an inspection of the site;
- (5) When required, the permit holder has modified BMPs or installed additional BMPs as required by the City Engineer following the initial site inspection.

12.40.090 EPSC fees required.

Fees applied under this title shall be as adopted by resolution of the Millersburg City Council.

**Chapter 12.45
POST-CONSTRUCTION STORMWATER QUALITY**

Sections:

- 12.45.010 Design and construction standards.
- 12.45.020 Applicability of post-construction stormwater quality requirements.
- 12.45.030 Permit required.
- 12.45.040 Permit exemptions.
- 12.45.050 Application for a permit.
- 12.45.060 Permit transfer.
- 12.45.070 Permit duration.
- 12.45.080 Post-construction stormwater quality plan required.
- 12.45.090 Relationship to Chapter 15.06 AMC, Private construction of public improvements.
- 12.45.100 Permit fees required.
- 12.45.120 Authorization for private stormwater facilities operation and maintenance agreements.
- 12.45.130 Private stormwater facilities operation and maintenance agreements required.
- 12.45.140 Completion of construction.
- 12.45.150 Right of entry – Inspection and testing.
- 12.45.160 Continuing obligations of owners and entities using, occupying, or controlling subject property.
- 12.45.170 Unlawful conduct.

12.45.010 Design and construction standards.

The engineering standards and construction standards adopted under MMC 15.20.050 provide the design and construction criteria for private and public post-construction stormwater quality facilities required under this chapter. In the event that any provisions of the engineering standards and/or construction standards are in conflict with any section of this chapter, the provisions of this chapter will govern.

12.45.020 Applicability of post-construction stormwater quality requirements.

Property owners engaged in development or redevelopment projects, or who have said projects occurring on their property, that require a post-construction stormwater permit in this chapter shall install permanent post-construction stormwater quality facilities.

12.45.030 Permit required.

A post-construction stormwater quality permit shall be obtained for all new development and/or redevelopment projects on a parcel(s) equal to or greater than one acre, including all phases of the development.

12.45.040 Permit exemptions.

(1) A development may be exempted from the requirement of MMC 12.45.030 when one or more of the following conditions exist:

(a) The development is for the construction of not more than three single-family or duplex dwelling(s) on an existing lot(s) of record.

(b) The development creates and/or replaces less than 10,000 square feet of impervious surface, cumulatively.

(c) The proposed development activity is being constructed under a valid land use approval where the application for said development activity was submitted prior to November 7, 2019.

12.45.050 Application for a permit.

To obtain a permit, the property owner shall apply to the City of Millersburg. Every such application shall:

- (1) Identify and describe the work to be covered by the permit; and
- (2) Describe the land on which the proposed work is to be done by legal description, street address, or similar description that will readily identify and definitively locate the proposed work; and
- (3) Be accompanied by a post-construction stormwater quality plan conforming to the requirements of MMC 12.45.080; and
- (4) Identify the person(s) or entity(ies) performing the development activity and constructing the post-construction stormwater quality facilities; and
- (5) Provide a 24-hour emergency contact person and phone number; and
- (6) Be signed by the owner of the property upon which the development activities will occur; and

(7) Contain a statement of financial responsibility for damages resulting from noncompliance with post-construction stormwater quality permit requirements, should any such occur; and

(8) Be accompanied by the applicable fees described in MMC 12.45.100.

12.45.060 Permit transfer.

Post-construction stormwater quality permits shall be obtained by the property owner for the property upon which the development activities will occur.

(1) A post-construction stormwater quality permit may not be transferred to any person(s) or entity except upon transfer of title for the property.

(2) The person(s) or entity obtaining title to a property with an active post-construction stormwater quality permit shall apply for transfer of the existing permit, or shall obtain a new post-construction stormwater quality permit.

(3) The property owner transferring title for a property with an active post-construction stormwater quality permit shall notify the new owner(s) of the requirements of subsection (2) of this section.

(4) The most recent post-construction stormwater quality permit for a property will supersede all other post-construction stormwater quality permits that apply to that property.

12.45.070 Permit duration.

(1) Post-construction stormwater quality permits issued under this title will be valid for a period of one year.

(2) Prior to the expiration of a post-construction stormwater quality permit, the permit holder may present a written request for an extension to the City Engineer. If the City Engineer determines an extension is warranted, up to a 12-month extension may be granted. Extensions will be subject to the applicable fees described in AMC 12.45.100.

12.45.080 Post-construction stormwater quality plan required.

Applicants for a post-construction stormwater quality permit shall submit as a part of their permit application a post-construction stormwater quality plan. Each plan shall comply with the minimum standards outlined in the engineering standards, construction standards, and the provisions of this chapter. Each post-construction stormwater quality plan shall be reviewed, approved, and stamped by a professional licensed in Oregon as a civil or environmental engineer or landscape architect.

12.45.090 Relationship to Chapter 15.20 MMC, Private construction of public improvements.

Permits issued under this chapter to construct post-construction stormwater quality facilities that will be public shall be subject to the requirements for private construction of public improvements as contained in MMC 15.20.090 through 15.20.180.

Where the privately constructed post-construction stormwater quality facilities will be public and constructed coincident with other privately constructed public improvements under Chapter 15.06 AMC, a separate post-construction stormwater quality facilities permit will not be required if the requirements of this chapter are incorporated into the Chapter 15.20 MMC permit.

12.45.100 Permit fees required.

Fees applied under this title shall be as adopted by resolution of the Millersburg City Council.

12.45.120 Authorization for private stormwater facilities operation and maintenance agreements.

(1) The City Engineer is authorized to develop standard private stormwater facilities operation and maintenance agreements and accompanying standard maintenance requirements for incorporation into the engineering standards.

(2) The City Engineer is authorized to enter into private stormwater facilities operation and maintenance agreements on the City's behalf.

12.45.130 Private stormwater facilities operation and maintenance agreements required.

(1) Private stormwater facilities operation and maintenance agreements are required for all private post-construction stormwater quality facilities that require a permit under this chapter.

(2) Private stormwater facilities operations and maintenance agreements shall be recorded at the applicable County Recorder's Office and shall run with the land.

(3) Redevelopment of a property already operating under a private stormwater facilities operation and maintenance agreement will require execution of a new agreement if the City Engineer determines, in the exercise of reasonable discretion, that the redevelopment is likely to have a material impact upon the operation, maintenance, or effectiveness of the previously approved facilities.

12.45.140 Completion of construction.

(1) A requirement to construct stormwater quality facilities shall not be satisfied until the facilities have been determined to be in compliance with all requirements and specifications and formally accepted by the City Engineer.

(2) Unless an exception is granted pursuant to subsection (3) of this section, plats, partitions, certificates of occupancy, or other City permits or approvals which are conditioned upon the completion of post-construction stormwater quality facilities will not be given prior to completion and acceptance by the City Engineer of said facilities.

(3) The City Engineer may, in the exercise of reasonable discretion, waive the requirement of subsection (2) of this section and execute plats, partitions,

certificates of occupancy, or other City permits or approvals prior to the completion of post-construction stormwater quality facilities if he/she determines that the public interest so requires. In such an event, the owner shall be required to provide an improvement assurance satisfactory to the City Engineer and the City Attorney guaranteeing timely completion of the aforesaid facilities. Nothing in this subsection shall excuse the requirement that the owner provide a duly executed private stormwater facilities operations and maintenance agreement per AMC 12.45.130 prior to the issuance of any of the approvals enumerated herein.

12.45.150 Right of entry – Inspection and testing.

The City Engineer shall be authorized and have the right to inspect all premises, sites, and/or activities covered under an approved post-construction stormwater permit or private stormwater facilities operation and maintenance agreements required under this chapter to determine compliance with this chapter and any rules or orders adopted by the Council or issued pursuant to this chapter.

(1) The City Engineer shall have the right to locate or install on the owner's property, or require installation of, such devices as are necessary to conduct sampling, inspection compliance, and/or monitoring operations.

(2) Where an owner has security measures in force that require proper identification and clearance before entry into its premises, the owner shall make necessary arrangements so, upon presentation of suitable identification, the City Engineer shall be permitted to enter without delay for the purposes of performing specific responsibilities.

(3) Owner shall allow the City Engineer ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under conditions of post-construction stormwater quality permit or private stormwater facilities agreement, and the performance of any additional duties as defined by State and Federal law.

(4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly modified or removed by the owner at the written or verbal request of the City Engineer and shall not be replaced without the consent of the City Engineer. The costs of clearing such access shall be borne by the owner.

(5) Unreasonable delay in allowing the City Engineer access to a facility being developed under a post-construction stormwater quality permit or a facility operating under a private stormwater facilities operation and maintenance agreement is a violation of this title. Any person who denies the City Engineer reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this title commits an offense punishable under the general penalty.

12.45.160 Continuing obligations of owners and entities using, occupying, or controlling subject property.

It is unlawful for any entity which exercises control or authority over the maintenance of land, and/or improvements thereto, to fail to comply with the terms of a private stormwater facilities operation and maintenance agreement concerning the property over which they have such rights and/or responsibilities. Any provision of this chapter that creates a responsibility, duty, or obligation on the part of the owner also applies to any entity using, occupying, or in control of the subject property.

12.45.170 Unlawful conduct.

(1) It is unlawful to use land for any purpose for which development approval was conditioned, or permitted, upon the operation and maintenance of a private stormwater facilities operation and maintenance agreement without strict compliance with all terms of such agreement.

(2) It is unlawful to alter, damage, or interfere with any public or private post-construction stormwater quality facility without prior written approval from the City Engineer.

(3) Violation of this section is a misdemeanor punishable under the general penalty and a public nuisance which may be enjoined by the City.

**Chapter 12.80
ENFORCEMENT**

Sections:

<u>12.80.010</u>	Violations.
<u>12.80.015</u>	Enforcement.
<u>12.80.020</u>	Notices deemed received.
<u>12.80.025</u>	Emergency suspension of municipal stormwater system access.
<u>12.80.030</u>	Warning notice.
<u>12.80.031</u>	Notice of violation.
<u>12.80.032</u>	Administrative order.
<u>12.80.034</u>	Permit suspension and revocation.
<u>12.80.035</u>	Stop work order.
<u>12.80.036</u>	Compliance schedule.
<u>12.80.040</u>	Abatement.
<u>12.80.050</u>	Violations deemed a public nuisance.
<u>12.80.060</u>	Penalties.
<u>12.80.070</u>	Appeal.
<u>12.80.080</u>	Remedies not exclusive.

12.80.010 Violations.

(1) It shall be unlawful for any person to violate any provision of, or fail to comply with, any of the requirements of this title. Any person who has violated, or continues to violate, the provisions of this title may be subject to any or all of the enforcement actions outlined in this chapter, or may be restrained by injunction or otherwise abated in a manner provided by law.

(2) Each day a violation occurs or continues shall be considered a separate violation.

12.80.015 Enforcement.

(1) The enforcement actions provided in this chapter are not exclusive; may be exercised singly, simultaneously, or cumulatively; may be combined with any other remedies authorized under law; and may be exercised in any order.

(2) To enforce any of the requirements of this title, the City Engineer may gain compliance by:

(a) Instituting any or all actions as set out in this chapter;

(b) Causing appropriate action to be instituted in a court of competent jurisdiction; and/or

(c) Taking other action as the City Engineer, in the exercise of the City Engineer's discretion, deems appropriate.

12.80.020 Notices deemed received.

Written notices required by this title shall be deemed received by an alleged violator under any of the following circumstances, whichever shall first occur:

(1) Upon personal service to the violator, or the violator's authorized agent, or any person apparently in charge of any office or place of business maintained by the alleged violator; or

(2) Upon execution of any return receipt or other proof of receipt of mail delivery by the alleged violator or any of the persons listed in subsection (1) of this section; or

(3) Three days following mailing by the City, via first-class U.S. Mail, to the alleged violator at the alleged violator's last known residence or place of business; or

(4) Upon proof of actual notice to the alleged violator of the general substance of the written notice.

12.80.025 Emergency suspension of municipal stormwater system access.

When the City Engineer finds that any discharger has violated any provision of this title, or any order issued hereunder, or that the discharger's past violations are likely to recur, and that said violations have caused or contributed to an actual or threatened discharge to the municipal separate storm sewer system or Waters of the State which reasonably appears to present an imminent or substantial endangerment to the health or welfare of people or the environment, the City Engineer may issue an order to the discharger directing an immediate cease and desist of all such violations.

(1) The order will direct the discharger to:

(a) Immediately comply with all title requirements; and

(b) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

(2) Any person notified of an emergency order directed to him under this title shall immediately comply and stop or eliminate any endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the City Engineer may take such steps as deemed necessary to prevent or minimize harm to the municipal separate storm sewer system or Waters of the State, and/or endangerment to persons or the environment, including immediate termination of the facility's municipal stormwater connection or other municipal utility services.

(3) The City Engineer may require a person that is responsible, in whole or in part, for any discharge presenting imminent danger to submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence. Such written statement shall be submitted to the City Engineer within 30 days of receipt of the order.

(4) A person commits an offense if the person reinstates municipal separate storm sewer system access to premises terminated pursuant to this chapter without the prior approval of the City Engineer.

(5) The City Engineer may allow the discharger to recommence its discharge when it has demonstrated to the satisfaction of the City Engineer that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this chapter.

(6) Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

12.80.030 Warning notice.

When the City Engineer finds that any person has violated, or continues to violate, any provision of this title, or any order issued hereunder, the City Engineer may serve upon that person a written warning notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the warning notice in no way relieves the alleged violator of liability for any violations occurring before or after the receipt of the warning notice.

12.80.031 Notice of violation.

Whenever the City Engineer finds that a person has violated, or continues to violate, any provision of this title, or any order issued hereunder, the City Engineer may order compliance by written notice of violation to the responsible person stating the nature of the violation(s).

(1) Such notice may require without limitation any or all of the following:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or illegal discharges;
- (c) That violating discharges, practices, or operations cease and desist;
- (d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (e) The implementation of source controls or best management practices (BMPs); and
- (f) The submittal of a compliance schedule.

(2) If abatement of a violation and/or restoration of affected property is required, the notice may set forth a deadline within which a compliance schedule for such remediation or restoration must be completed in accordance with MMC 12.80.036. Said notice may further advise that, should the violator fail to remediate or restore the affected property within the deadlines established by and agreed to in the compliance schedule, the work will be done by the City or a contractor designated by the City Engineer and the expense thereof shall be the responsibility of the violator pursuant to MMC 12.80.040.

12.80.032 Administrative order.

Whenever the City Engineer finds that a person has violated, or continues to violate, any provision of this title, or any order issued hereunder, the City Engineer may provide a written administrative order stating the nature of the violation(s) and imposing sanctions.

(1) This order will be served upon the discharger in accordance with MMC 12.80.020.

(2) These sanctions may include:

- (a) An order requiring corrective action.
- (b) An order setting penalties as described in MMC 12.80.060 in the event corrective action is not undertaken as ordered.
- (c) An order imposing penalties as described in MMC 12.80.060 in lieu of, or in addition to, an order of corrective action.
- (d) An order requiring payment of City costs incurred as a result of a violation.
- (e) An order requiring a compliance schedule as described in MMC 12.80.036.
- (f) Disconnection from the municipal stormwater system pursuant to the rights and procedures set forth concerning emergency suspension of service in MMC 12.80.025.

12.80.034 Permit suspension and revocation.

By written notification the City Engineer may suspend or revoke a permit issued under the provisions of this title. Such suspension or revocation may be issued whenever the permit is issued on the basis of incorrect information supplied, or if its issuance or activity thereunder is in violation of any term or condition of the permit, this title, or of other pertinent Federal, State, or local

statute, code, or regulation implemented through the enforcement of this title. Suspension or revocation of a permit will be subject to the provisions of MMC 12.80.035.

12.80.035 Stop work order.

When a person or entity engages in an activity in such a manner as to cause, or creates a condition which causes, a violation of the provisions of this title or of other pertinent Federal, State, or local statute, code, or regulation implemented through the enforcement of this title, the City Engineer may order all related activities stopped. The City Engineer's order will be served by notice, in writing, to persons engaged in the activity or causing such activity to be undertaken. Such persons shall forthwith stop all related activities until authorized by the City Engineer to proceed with the work.

12.80.036 Compliance schedule.

Following a release to the environment, the City Engineer may require the discharger to submit a compliance schedule. This schedule will be a detailed description of specific actions to be taken to correct, clean, remediate, or restore the environment, structures, or property harmed by the release within a time period acceptable to the City Engineer. The schedule will also address measures to prevent recurrence of the problem. Once approved by the City Engineer, any violation of the compliance schedule is considered a violation of this section.

12.80.040 Abatement.

(1) Immediate Abatement. The City Engineer is authorized to require immediate abatement of any violation of this title that constitutes an immediate threat to the environment or the health, safety or well-being of the public. If any such violation is not abated immediately as directed by the City Engineer, the City of Millersburg is authorized to enter onto private property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the City of Millersburg shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the City from seeking other and further relief authorized under this title.

(2) Abatement by the City. If the violation has not been corrected pursuant to the requirements set forth in any enforcement action issued by the City Engineer under this chapter, or in the event of a decision of an appeal under MMC 12.80.070, within 10 days of the decision of the City Council or Appeal Hearings Officer upholding the decision of the City Engineer, the City or a contractor designated by the City Engineer may enter upon the subject private property and is authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent, or

person in possession of any premises to refuse to allow the City or designated contractor to enter upon the premises for the purposes set forth above.

(3) Recovery of Abatement Costs. Within 30 days after abatement of the nuisance by the City, the City Engineer or his/her designee may prepare a summary of all costs incurred to abate the nuisance, including administrative costs. This summary of costs may be delivered to the same person or persons to whom the enforcement action was sent per MMC 12.80.020, or their successors in title, and shall advise of the City's intent to assess said costs against the real property and shall further advise the owner/owners of their right to a hearing before the City Council prior to assessment upon receipt by the City Engineer, within 15 days of the date of receipt of notice, of a written request for a hearing.

(a) If the costs of abatement are not paid to the City within 30 days from the date of the receipt of the summary of costs, said summary shall be presented to the City Council and if the Council finds said costs to be reasonable, the Council shall pass an ordinance or resolution directing the amount of said costs be entered in the docket of City liens; and upon such entry being made, said costs shall constitute a lien upon the property in question. Prior to passing said ordinance or resolution, the Council will afford the property owner/owners a right to be heard by the Council if a written request for hearing has been received by the City Engineer within 30 days of the date of mailing of the aforesaid summary of costs.

(b) The lien shall be enforced and shall bear interest at a rate to be determined by the Council at the time of the ordinance or resolution referred to above. The interest shall commence from the date of entry of the lien in the lien docket and shall have priority over all other liens and assessments to the maximum extent permitted by law.

(c) An error in the name of the property owner/owners/agents shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

12.80.050 Violations deemed a public nuisance.

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

12.80.060 Penalties.

(1) Administrative Fines. When the City Engineer finds that a discharger has violated, or continues to violate, any provision of this title or any order issued hereunder, and that said violations have caused or contributed to an actual or threatened discharge to the municipal stormwater system or Waters of the State

which reasonably appears to present an imminent or substantial endangerment to the health or welfare of people or the environment, the City Engineer may fine such discharger. The amount of such administrative fine shall not be less than \$250.00 per violation nor more than \$2,500 per violation. Each day upon which a violation occurs or continues shall constitute a separate violation.

(2) Recovery of Costs Incurred by the City. Any person violating any of the provisions of this title who discharges or causes a discharge producing an obstruction or causes damage to or impairs the City's stormwater system shall be liable to the City for any expense, loss, or damage caused by such violation or discharge. The City may require the discharger to pay for the costs incurred by the City for any cleaning, repair, or replacement work caused by the violation or discharge and for costs incurred by the City in investigating the violation and in enforcing this title against the user, including reasonable administrative costs, fees for testing, attorney fees, court costs, and all expenses of litigation. Refusal to pay the ordered costs shall constitute a violation of this title. The user shall also reimburse the City for any and all fines or penalties levied against the City as a result of a discharge by the user.

(3) Criminal Penalties. It shall be a misdemeanor punishable under the general penalty provisions of Chapter 1.20 MMC for any person to violate any provision or fail to comply with any of the requirements of this title. The maximum fine or penalty imposed by the municipal court shall be no less than \$250.00 for each violation and no part of the fine shall be suspended. Each day upon which a violation occurs or continues shall constitute a separate violation. The City may commence an action for appropriate legal and/or equitable relief in the appropriate local court to enforce the penalty or remedy imposed by the City hereunder.

(4) Compensatory Action. In lieu of enforcement proceedings, penalties, and remedies authorized by this title, the City Engineer and alleged violator may agree upon alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

12.80.070 Appeal.

(1) Notwithstanding the provisions of MMC 12.80.025 and 12.80.040(1), any person or entity receiving a written notification of an enforcement action under this title may, within 10 days of the receipt of such notice, request in writing that the City Engineer review the enforcement action. The written request (letter of appeal) shall state all points of disagreement and objection to the enforcement action. Upon receipt of the letter of appeal, a meeting shall be scheduled with the City Engineer of the City of Millersburg, or authorized representative. The City Engineer or authorized representative shall affirm, modify, or dismiss the enforcement action, and shall give written notice of his or her decision to the alleged violator.

(2) Within 10 days of receipt of the City Engineer's written notice of decision outlined above, the alleged violator may appeal the City Engineer's decision by

serving a written notice of such appeal in the same manner as provided above. Thereafter, a hearing on such appeal shall be scheduled before City Council of the City of Millersburg, or such Appeal Hearings Officer as the City may appoint for such purpose, at the discretion of the City Manager, considering the nature of the issues presented on appeal and the time constraints, resources, and schedule of the public hearing bodies. Thereafter, the City Council or the Appeal Hearings Officer may render its decision based upon the record of the hearing on the enforcement action, grant an additional hearing to take additional evidence, or conduct a de novo hearing. The City Council or Appeal Hearings Officer, in consultation with the City Attorney, shall establish rules and procedures for the conduct of the appeal in order to accord the discharger lawful due process. The burden of proof, on appeal, shall remain with the City by a preponderance of the evidence. The City Council or Appeal Hearings Officer shall affirm, reverse, or modify the findings, conclusions, and requirements of the enforcement action and shall serve its decision, in writing, upon the discharger. The decision of the City Council or Appeal Hearings Officer shall be final.

12.80.080 Remedies not exclusive.

The remedies listed in this title are not exclusive of any other remedies available under any applicable Federal, State, or local law and it is within the discretion of the City Engineer to seek cumulative remedies. The City Engineer may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this title, including sampling and monitoring expenses.

What is stormwater and how does it impact me?

Stormwater is generated from water that falls from the sky, including rain, hail, and snow.

In a natural, undeveloped landscape, most stormwater soaks into the ground to be stored or filtered before it reaches natural waterways. In a city, most stormwater falls onto impervious surfaces (surfaces that do not absorb water) such as roads, driveways, sidewalks, rooftops, or parking lots, and it is not soaked up by the ground. This water flows across these surfaces as runoff.

Most stormwater flows from private property to a stormwater inlet in the street where it enters a pipe and is carried to the nearest waterway. The network of stormwater pipes is completely separate from the sanitary sewer system. Unlike the sanitary sewer system, which conveys wastewater to a treatment facility, the stormwater system conveys *untreated* runoff directly to our waterways.

Stormwater Quality – Keep it Clean!

As runoff flows across the ground, it picks up pollutants that you can see (debris, dirt, and grease) and others that can't be seen (fertilizers and detergents). There is a lot you can do to help keep our waterways clean.

For example:

- Use a commercial car wash to minimize the amount of dirty, soapy water flowing into the stormwater system.
- Check your vehicles and equipment for leaks and spills.
- Clean up spilled fluids with an absorbent material and don't rinse the spills into a nearby storm drain.
- Recycle used oil and other fluids; do not dump these chemicals down the storm drain.
- Use pesticides and fertilizers sparingly.
- Sweep up yard debris instead of hosing down areas.
- Don't overwater your lawn.



Used with permission of City of Wilmington, NC Stormwater Services: Heal Our Waterways

Whatever you keep out of the storm drain, you keep out of our streams. More ideas can be found at https://www3.epa.gov/npdes/pubs/solution_to_pollution.pdf

Runoff Volume – Reducing Impacts on Yourself and Others

Stormwater runoff can cause problems for you or your neighbors if not appropriately handled. Altering drainage patterns or increasing the impervious surface area on your property can create stormwater problems, including localized flooding. Increased runoff can also cause erosion and sedimentation (when solids in water settle) by sweeping away and displacing soil. Reducing or minimizing the amount of paved area and increasing the amount of vegetated area in your yard can help increase infiltration and reduce runoff.



Regulatory Requirements

The Oregon Department of Environmental Quality (DEQ) recently issued a statewide general permit applicable to small communities that addresses pollution in stormwater and governs discharges of stormwater. Compliance is mandatory. However, before the permit went into effect, Millersburg and five other Oregon communities filed lawsuits against DEQ challenging the scope of the permit. The lawsuits are pending.

RESOLUTION NO. 2019-22

**A RESOLUTION OF THE CITY OF MILLERSBURG, OREGON, ADOPTING
ENGINEERING STANDARDS**

WHEREAS, public facilities within the City of Millersburg are designed and constructed; and,

WHEREAS, the City of Millersburg desires to regulate standards for the design and construction of public facilities by adopting and maintaining appropriate Engineering Standards; and,

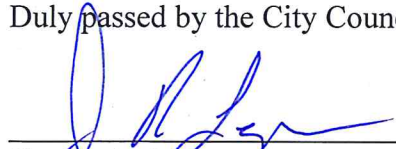
WHEREAS, it is in the public interest that all public improvement designs conform to these standards;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MILLERSBURG AS FOLLOWS:

- 1) The City of Millersburg Engineering Standards are hereby adopted.
- 2) The Council of the City of Millersburg delegates authority and directs the City Engineer to update, maintain currency, and administer these standards as necessary.

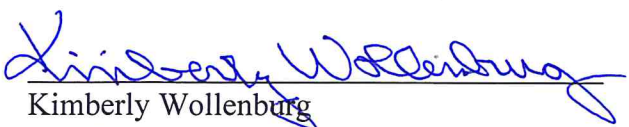
Effective Date. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 10th day of December, 2019.



Jim Lepin, Mayor
City of Millersburg, Oregon

ATTEST:



Kimberly Wollenburg
City Recorder

Last Updated 12/27/2019

Total number of outfalls: 23
 Number inspected in 2019: 12
 % inspected in 2019: 52%

Stormwater Outfall Check					
Inspection Date	Inspector Initials	Outfall ID	Description	Status	Field Notes:
		00-05224	Box culvert pass through of offsite drainage along Millersburg Drive		
Sep-19	CMS	01-00370	Alexander Estates South Detention Swale Outfall	DRY	Thick vegetation; hard to find outfall
Sep-19	CMS	02-00000	Bailey Estates Detention Pipe Outfall	DRY	Thick vegetation; hard to find outfall
		03-00530	Becker Ridge East Detention Basin Outfall		
Sep-19	CMS	05-00400	Hoffman Estates Detention Basin Outfall	DRY	
		07-00210	Morningstar Subdivision Detention Basin outfall		
		08-00040	Parker Ridge Subdivision (south)		
		10-01280	Sweetwater Detention Basin (wet pond) Outfall		
		12-00244	Walker Park Detention Basin and Conser Road Outfall		
Sep-19	CMS	14-00030	Eagles Nest/Woods Estates Detention Basin Outfall	WET	Known groundwater spring in Woods Estates Detention Basin feeding outlet pipe.
		16-00090	North Woods Road street drainage		
Sep-19	CMS	16-00130	Becker Ridge North and West Detention Basins Outfall	DRY	
Sep-19	CMS	16-00140	Millersburg Drive, north side discharge to Crooks Creek	DRY	
		16-00360	Millersburg Drive, street drainage outfall adjacent to box culvert outlet		
		18-00000	Alexander Lane street drainage (west end)		
Sep-19	CMS	18-00520	West Park Detention Basin Outlet	DRY	
Sep-19	CMS	18-00521	West Park Detention Basin Outlet	DRY	
Sep-19	CMS	18-00522	West Park Detention Basin Outlet	DRY	Additional small PVC pipe outlet next to multiple outfalls, believed to be a retaining wall drain (also dry).
Sep-19	CMS	18-00540	Alexander Lane street drainage (north of West Park Subdivision)	DRY	
Sep-19	CMS	18-00541	Alexander Lane street drainage (north of West Park Subdivision)	DRY	
		18-01050	Alexander Lane street drainage (north of Alexander Estates)		
Sep-19	CMS	18-01110	Alexander Estates North Detention Swale Outfall	DRY	
		23-00210	Conser Road and Parker Ridge south drainage		



July 9, 2019 City Council Minutes

4222 NE Old Salem Road

Albany, OR 97321

6:30 p.m.

A. CALL TO ORDER: Called to order by Mayor Lepin at 6:30 p.m.

B. ROLL CALL

Councilors Present: Mayor Jim Lepin, Councilors Scott Cowan, Dave Harms, Scott McPhee, Don Miller

Councilors Absent: Councilor Dave Harms (late)

Staff Present: Kevin Kreitman, City Manager; Janelle Booth, Assistant City Manager/City Engineer; Forrest Reid, City Attorney; Kimberly Wollenburg, City Recorder

Presenters: Linn County Sheriff's Deputy Brandon Fountain

C. PLEDGE OF ALLEGIANCE

D. CHANGES AND ADDITIONS TO THE AGENDA

None

E. CONSENT AGENDA

- 1) Approval of June 11, 2019 City Council Meeting Minutes
- 2) Approval of June 25, 2019 City Council Work Session Minutes
- 3) Acceptance of Council Approval Report for City Bills

Action: **Motion to Accept Consent Agenda made by Councilor Scott Cowan; seconded by Councilor Scott McPhee.**

Mayor Jim Lepin: Aye

Councilor Scott Cowan: Aye

Councilor Dave Harms: Aye

Councilor Scott McPhee: Aye

Councilor Don Miller: Aye

Motion PASSED: 5/0

F. PRESENTATIONS

- 1) Monthly Report from the Linn County Sheriff's Office (LCSO)
Deputy Brandon Fountain, Linn County Sheriff's Office, went over last month's monthly report of activities within the City of Millersburg.

Mayor Lepin opened public comment for residents to discuss fireworks in Millersburg while the LCSO deputy was present.

- a) Craig Ziegenhagel, 4605 NE Granite Avenue, went over his handout regarding fireworks and his suggestions. He also included information since 2014 on the history of fireworks discussions in the City. He spoke of concerns regarding those who threaten and belittle the deputies trying to stop the illegal fireworks. Said in his opinion, and in others, this was the worst year.

Councilor Miller said a deputy showed up in Morningstar, but couldn't do anything as they didn't see the illegal firework struck. He encouraged residents to swear out complaints since the deputies' hands are tied unless they see the fireworks.

- b) Cathie Myers, 5548 NE Luckiamute Lane, noted that she read the City's minutes from 2018 where the City talked about getting neighbors involved and that the City would be a bit more proactive and encourage citizens to be on the lookout.

Mayor Lepin asked City Manager Kreitman to talk about what the City can do before next year. He shared that he spoke with LCSO Sergeant Greg Klein about an increase of patrols and directed them to cite offenders when they can. LCSO has committed to having two deputies here next year. City Manager Kreitman said they are exploring other ideas as well. He then asked Chief John Bradner, Albany Fire Department (AFD), to address the issue of firefighters seizing fireworks. Chief Bradner explained the challenge with storage and disposal of seized fireworks, noted that Millersburg is not the only city having this problem and spoke of issues over the years.

- c) Nancy L, 6285 NE Barker Street, said things were so bad this year she and her husband are thinking of going away next year. She also wondered if she was liable if fireworks went off and their house caught fire.

Mayor Lepin noted the main problem is folks lacking respect for fellow neighbors and that building relationships with neighbors can address respect so residents can have reasonable discussions when there are problems. He asked Deputy Fountain how many calls the Albany Fire Department received on fireworks, and he said three calls from Millersburg with 80 other overall calls for service in the county and 27 in other areas on fireworks.

- d) Doug Iverson, 2113 NE Summit Drive, asked if there are organized displays in the area. Mayor Lepin noted the surrounding cities have displays. Then Mr. Iverson asked if possession of illegal fireworks is a crime. Sergeant Fountain said a lot of calls that come in are anonymous so finding someone willing to swear out a complaint is an issue.
- e) Harvey Whittenburg, 6103 NE Sedona Road, said his wife and he used to live in Hayward CA and what they did was have an ambassador program where they could testify on these cases.

Councilor Harms said he believes most residents know who the ones are setting off the illegals and suggests they notify the City who can then, with a deputy, visit these houses after the 4th and let them know of the complaint and that the next year, deputies will be in their area. He said that City Manager Kreitman could give the names and addresses of those ahead of time to LCSO.

Deb Keehn, 3254 NE Clearwater Drive, said that's a great idea and recalls this was discussed last year. She was going to give a name but they moved as it was a rental. Cathie Myers said when she walked her dog the next day, she was surprised at the huge piles of debris in front of many homes.

Councilor McPhee thought that publicizing where firework shows are for next year might help. Councilor Cowan said to add to newsletter who to call to report. City Manager Kreitman noted it was in newsletter and shared that newsletter was sent to a wide group beyond just those who receive utility bills.

Gary Keehn, 3254 NE Clearwater Drive, said the newsletter mentioned the fine and wondered if Millersburg could increase the amount. City Attorney Reid said that fine is set by statute.

- 2) Albany Fire Department, Chief John Bradner, handed out the first quarter of 2019 activity report showing types of calls, responses, and response times. Councilor McPhee asked about ambulance coverage (ASA) update. City Manager Kreitman said committee has elected at this point not to refer anything to County Commissioners. He said he believes it was due to some misinformation shared with the ASA committee, which has since been addressed. He is waiting to see what the committee will do with the corrected information or City can elect to go straight to County Commissioners. Councilor Harms asked if a petition signed by residents would help. City Manager Kreitman said it might.

Deb Keehn, 3254 NE Clearwater Drive, asked if there are stats to show how often there is a call in Millersburg when Station 15 is elsewhere. Chief Bradner referred her to the first page at the bottom showing the 22 responses handled by another AFD station. To close he brought up the change to the ISO rating and suggested residents talk to their insurance companies letting them know to possibly take advantage of lower insurance rates.

G. PUBLIC COMMENT

- 1) Doug Iverson, 2113 NE Summit Drive, addressed the City Council and passed out a handout regarding establishing a quiet zone on the Portland and Western at the Millersburg Drive crossing. He noted that a request for a crossing has to come from the jurisdiction that has the road (i.e. Linn County owns Millersburg Drive at the crossing location). Linn County has told Mr. Iverson they do not have funding for this but are willing to work with Millersburg for talking and planning only. Assistant City Manager/City Engineer Booth said that future improvements of Millersburg Drive could trigger upgrades as they neared the crossing but that's not part of the original design. In a review of a potential development in this area, it does not appear that a crossing upgrade would be triggered unless the City expanded to the other side of the railroad tracks. The Council supported the concept of a quiet zone but more information is needed. Assistant City Manager/City Engineer Booth will explore this in more detail.

2) Cathie Myers, 5548 NE Luckiamute Lane, asked for residents to be notified when spraying at the City Park, including when it is safe to let dogs out and kids on the grass. Assistant City Manager/City Engineer Booth said that they are looking at ordering signs.

H. COUNCIL MEMBER AND STAFF COMMENTS

1) Mayor Lepin thanked all three staff members sitting at the table for the recent newsletter and said it was a long time coming and is needed.

I. CITY MANAGER'S REPORT

1) Project Updates

Assistant City Manager/City Engineer Booth provided an overview of City projects highlighted in the staff report.

J. CITY ATTORNEY'S REPORT

None

K. UNFINISHED BUSINESS

None

L. NEW BUSINESS

1) Cost of Living Wage Increase

City Manager Kreitman went over staff report, reminding Council of creation of policy last year regarding wage increases.

Action: **Motion to Approve Cost of Living Increase of 1.3% made by Councilor Scott Cowan; seconded by Councilor Don Miller.**

Mayor Jim Lepin: Aye

Councilor Scott Cowan: Aye

Councilor Dave Harms: Aye

Councilor Scott McPhee: Aye

Councilor Don Miller: Aye

Motion PASSED: 5/0

2) Annual Liquor License Renewals

City Recorder Kimberly Wollenburg went over staff report recommending approval of liquor license renewals.

Action: **Motion to Approve Annual Liquor License Renewals made by Councilor Scott Cowan; seconded by Councilor Scott McPhee.**

Mayor Jim Lepin: Aye

Councilor Scott Cowan: Aye

Councilor Dave Harms: Aye

Councilor Scott McPhee: Aye

Councilor Don Miller: Aye

Motion PASSED: 5/0

3) Land Use Development Fee Update

City Manager Kreitman introduced John Morgan, Planning Director. He shared the highlights of the fee schedule report he provided in packet. He next went over the proposed resolution and the various sections.

Action: **Motion to Approve Resolution Setting Fees for Processing Land Use Applications within the City of Millersburg and Repealing Resolution 2008-05 made by Councilor Scott McPhee; seconded by Councilor Scott Cowan.** Resolution 2019-17

Mayor Jim Lepin: Aye
Councilor Scott Cowan: Aye
Councilor Dave Harms: Aye
Councilor Scott McPhee: Aye
Councilor Don Miller: Aye

Motion PASSED: 5/0

- 4) Urban Growth Boundary (UGB) Update
City Manager Kreitman gave a brief background on subject of UGB and why under discussion. Planning Director Morgan shared information and noted a need for Council direction. He spoke about pre-studies – Buildable Lands Inventory in particular which is done so the City knows what is available. Then there is a Housing Needs Analysis that will determine future housing needs over a 20 year period that will equate to the number of buildable acres needed per zone. These are required to justify moving forward with a UGB expansion. Budget is set up this year to do the first two studies. He spoke with Albany staff who are also undertaking both studies at this time and the potential advantages of doing this jointly or sharing resources.

Mr. Morgan is requesting input from Council as to how the City would like to proceed and whether to continue having conversations with the City of Albany. City Manager Kreitman said the biggest concern is the joint aspect and mentioned two options. Councilors Cowan and Miller thought they'd like to see Millersburg doing this on our own for potential reasons of costs but also time and efficiency. Council agreed to look at using the same consultant but to go through this process on our own. However Councilor McPhee is not on board with necessarily doing the studies since it hasn't been required. He spoke about the recent changes with the addition of fees for example. Not sure if we'll see same growth especially because of the increased fees. Believes this is okay to keep discussing but not jump into doing the studies. It was agreed that Mr. Morgan would continue to investigate options.

- 5) Total Daily Maximum Limit (TMDL)
Assistant City Manager/City Engineer went over presentation on TMDL implementation plan. Council needs to be aware of and support the TMDL implementation plan as they are ultimately responsible for the implementation. There was discussion regarding enforcement efforts and how the City can utilize an entry-level engineer through the City's current contract with CH2M or an intern during the summer to assist with code enforcement while doing other things in the City as a whole, sending out letters then addressing as needed. Will be coming to Council this fall to look at joining the Civil Engineering Cooperative Program (CECOP) through Oregon State University.

M. CLOSING PUBLIC COMMENT

None

N. CLOSING COUNCIL & STAFF COMMENT
None

O. ADJOURNMENT
Meeting adjourned at 9:35 p.m.

Respectfully submitted:



Kimberly Wollenburg
City Recorder

Reviewed by:



Kevin Kreitman
City Manager

Upcoming Meetings & Events:

July 11, 2019 @ 4 pm – Parks Committee Meeting

July 29, 2019 @ 4 pm – Land Use Code Revision Open House

July 30, 2019 @ 4 pm – City Council Work Session



WEEKLY MAINTENANCE CHECKLIST

Week of: 6/24 - 6/28

Initial when complete

Millersburg Park:

- DP Restroom floors – mop or hose down, squeegee to ensure dry when done
- DP Shelter floor - Clean/hose down
- DP, SS Sweep/blow hard surfaces including walkways and parking lots
- DP, SS Mow grass, including ball fields (March/April – October)
- DP, SS Blow grass clippings off paths and sidewalks following each mowing
- N/A Leaf removal (November - March)
- DP, SS Blow leaves/debris off paths and sidewalks/collect leaves
- SS Remove fallen branches
- DP Empty waste receptacles and place new liners
- DP Restock dog bag stations
- DP Check shelter for birds or insects, nests, droppings, webs, etc. Clean as needed
- SS Rake volleyball court, remove debris or hazards

Acorn Park:

- SS Walk grounds, inspect for maintenance needs and safety issues (note any deficiencies below and on issues/deficiencies list)
-
- SS Pick up trash
 - DP Check waste receptacles, empty and place new liners as needed
 - DP Restock dog bag stations
 - DP, SS Remove fallen branches
 - DP Mow grass (March/April – October)
 - DP Blow grass clippings off paths and sidewalks following each mowing
 - N/A Leaf removal (November - March)
 - DP Blow leaves/debris off hard surfaces and collect leaves

City Hall Grounds:

SS Walk grounds, inspect for maintenance needs and safety issues (note any deficiencies below and on issues/deficiencies list)

SS Pick up trash

N/A Empty waste receptacles and place new liners

DP Mow grass (March/April – October)

DP Blow grass clippings off paths and sidewalks following each mowing

N/A Leaf removal (November - March)

DP Blow leaves/debris off paths and sidewalks/collect leaves

Road Right-of-Ways:

SS Drive arterials and collectors (Old. Salem Road, Conser Road, Millersburg Drive, Alexander, Woods Road, Morningstar Road) inspect for maintenance needs and safety issues (note any deficiencies below and on issues/deficiencies list)

N/A During dry weather, is water present in ditches? If so, note location(s) _____

_____ Pick up trash and/or note where additional trash removal is needed

DP, SS Vegetation removal – cut vegetation and spray one road each week May through October per right-of-way maintenance schedule

Road/ROW name: OSR north

Stormwater Detention Basins:

DP Mow and pick up trash at one detention basin each week May through October per detention basin maintenance schedule

Detention basin name: Morningstar

During dry weather, is water present in detention basin or exiting outfall? _____

Fire Station Grounds:

DP Mow grass in field (March/April – October)



WEEKLY MAINTENANCE CHECKLIST

Week of: 7/1 - 7/5

Initial when complete

Millersburg Park:

- DP, NB Restroom floors – mop or hose down, squeegee to ensure dry when done
- DP, NB Shelter floor - Clean/hose down
- DP, SS Sweep/blow hard surfaces including walkways and parking lots
- DP, SS Mow grass, including ball fields (March/April – October)
- DP, SS Blow grass clippings off paths and sidewalks following each mowing
- N/A Leaf removal (November - March)
- DP, SS Blow leaves/debris off paths and sidewalks/collect leaves
- SS Remove fallen branches
- DP, NB Empty waste receptacles and place new liners
- DP, NB Restock dog bag stations
- DP, NB Check shelter for birds or insects, nests, droppings, webs, etc. Clean as needed.
- SS Rake volleyball court, remove debris or hazards

Acorn Park:

- SS Walk grounds, inspect for maintenance needs and safety issues (note any deficiencies below and on issues/deficiencies list)

-
-
- DP Pick up trash
 - DP Check waste receptacles, empty and place new liners as needed
 - DP, NB Restock dog bag stations
 - DP Remove fallen branches
 - DP Mow grass (March/April – October)
 - DP Blow grass clippings off paths and sidewalks following each mowing
 - N/A Leaf removal (November - March)
 - DP Blow leaves/debris off hard surfaces and collect leaves

City Hall Grounds:

N/A Walk grounds, inspect for maintenance needs and safety issues (note any deficiencies below and on issues/deficiencies list)

- _____ Pick up trash
- _____ Empty waste receptacles and place new liners
- _____ Mow grass (March/April – October)
- _____ Blow grass clippings off paths and sidewalks following each mowing
- _____ Leaf removal (November - March)
- _____ Blow leaves/debris off paths and sidewalks/collect leaves

Road Right-of-Ways:

SS Drive arterials and collectors (Old Salem Road, Conser Road, Millersburg Drive, Alexander, Woods Road, Morningstar Road) inspect for maintenance needs and safety issues (note any deficiencies below and on issues/deficiencies list)

N/A During dry weather, is water present in ditches? If so, note location(s) _____

N/A Pick up trash and/or note where additional trash removal is needed

DP, SS Vegetation removal – cut vegetation and spray one road each week May through October per right-of-way maintenance schedule

Road/ROW name: Mburg Dr east

Stormwater Detention Basins:

DP Mow and pick up trash at one detention basin each week May through October per detention basin maintenance schedule

Detention basin name: Becker Ridge north

During dry weather, is water present in detention basin or exiting outfall? _____

Fire Station Grounds:

DP Mow grass in field (March/April – October)



WEEKLY MAINTENANCE CHECKLIST

Week of: 7/8 - 7/12

Initial when complete

Millersburg Park:

- HB Restroom floors – mop or hose down, squeegee to ensure dry when done
- DP Shelter floor - Clean/hose down
- DP, SS Sweep/blow hard surfaces including walkways and parking lots
- DP, HB, SS Mow grass, including ball fields (March/April – October)
- DP, SS Blow grass clippings off paths and sidewalks following each mowing
- N/A Leaf removal (November - March)
- DP, SS Blow leaves/debris off paths and sidewalks/collect leaves
- SS Remove fallen branches
- DP, MB Empty waste receptacles and place new liners
- DP, MB Restock dog bag stations
- DP, NB Check shelter for birds or insects, nests, droppings, webs, etc. Clean as needed
- N/A Rake volleyball court, remove debris or hazards

Acorn Park:

- SS Walk grounds, inspect for maintenance needs and safety issues (note any deficiencies below and on issues/deficiencies list)

- SS Pick up trash
- DP Check waste receptacles, empty and place new liners as needed
- DP Restock dog bag stations
- SS Remove fallen branches
- DP Mow grass (March/April – October)
- DP Blow grass clippings off paths and sidewalks following each mowing
- N/A Leaf removal (November - March)
- DP Blow leaves/debris off hard surfaces and collect leaves

City Hall Grounds:

N/A Walk grounds, inspect for maintenance needs and safety issues (note any deficiencies below and on issues/deficiencies list)

- _____ Pick up trash
- _____ Empty waste receptacles and place new liners
- _____ Mow grass (March/April – October)
- _____ Blow grass clippings off paths and sidewalks following each mowing
- _____ Leaf removal (November - March)
- _____ Blow leaves/debris off paths and sidewalks/collect leaves

Road Right-of-Ways:

SS Drive arterials and collectors (Old Salem Road, Conser Road, Millersburg Drive, Alexander, Woods Road, Morningstar Road) inspect for maintenance needs and safety issues (note any deficiencies below and on issues/deficiencies list)

N/A During dry weather, is water present in ditches? If so, note location(s) _____

N/A Pick up trash and/or note where additional trash removal is needed

N/A Vegetation removal – cut vegetation and spray one road each week May through October per right-of-way maintenance schedule

Road/ROW name: _____

Stormwater Detention Basins:

DP, SS Mow and pick up trash at one detention basin each week May through October per detention basin maintenance schedule

Detention basin name: WOODS

During dry weather, is water present in detention basin or exiting outfall? _____

Fire Station Grounds:

DP Mow grass in field (March/April – October)



WEEKLY MAINTENANCE CHECKLIST

Week of: 7/15 - 7/19

Initial when complete

Millersburg Park:

- Restroom floors – mop or hose down, squeegee to ensure dry when done
- Shelter floor - Clean/hose down
- DP, SS Sweep/blow hard surfaces including walkways and parking lots
- DP, SS Mow grass, including ball fields (March/April – October)
- DP, SS Blow grass clippings off paths and sidewalks following each mowing
- N/A Leaf removal (November - March)
- N/A Blow leaves/debris off paths and sidewalks/collect leaves
- SS Remove fallen branches
- DP, NB Empty waste receptacles and place new liners
- DP, NB Restock dog bag stations
- DP, NB Check shelter for birds or insects, nests, droppings, webs, etc. Clean as needed
- N/A Rake volleyball court, remove debris or hazards

Acorn Park:

- SS Walk grounds, inspect for maintenance needs and safety issues (note any deficiencies below and on issues/deficiencies list)
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- SS Pick up trash
- DP Check waste receptacles, empty and place new liners as needed
- DP Restock dog bag stations
- SS Remove fallen branches
- DP Mow grass (March/April – October)
- DP Blow grass clippings off paths and sidewalks following each mowing
- N/A Leaf removal (November - March)
- N/A Blow leaves/debris off hard surfaces and collect leaves

City Hall Grounds:

N/A Walk grounds, inspect for maintenance needs and safety issues (note any deficiencies below and on issues/deficiencies list)

- Pick up trash
- Empty waste receptacles and place new liners
- Mow grass (March/April – October)
- Blow grass clippings off paths and sidewalks following each mowing
- Leaf removal (November - March)
- Blow leaves/debris off paths and sidewalks/collect leaves

Road Right-of-Ways:

SS Drive arterials and collectors (Old Salem Road, Conser Road, Millersburg Drive, Alexander, Woods Road, Morningstar Road) inspect for maintenance needs and safety issues (note any deficiencies below and on issues/deficiencies list)

- OSR - blackberries between C.H. & Alexander

SS During dry weather, is water present in ditches? If so, note location(s) _____

Mburg Dr. west (7/17)

Pick up trash and/or note where additional trash removal is needed

DP, MB, SS Vegetation removal – cut vegetation and spray one road each week May through October per right-of-way maintenance schedule

Road/ROW name: WOODS (NORTH), Mburg Dr (west)

Stormwater Detention Basins:

DP, NB, SS Mow and pick up trash at one detention basin each week May through October per detention basin maintenance schedule

Detention basin name: Eagle's Nest

During dry weather, is water present in detention basin or exiting outfall? _____

Fire Station Grounds:

DP Mow grass in field (March/April – October)