

TITLE XV
UTILITIES

Chapters:

15.01 Stormwater Management Program

15.02 Storm and Surface Water Utility

Chapter 15.01
Stormwater Management Program

Sections:

- 15.01.010 Purpose**
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15.01.010 Purpose

The purpose of this ordinance is to establish a stormwater management program and create a method to fund stormwater control facilities. The Stormwater Management Program will encompass the Marshall Drainage Basin within the area described below:

Section 36, Township 29 North, Range 3 East, Willamette Meridian; together with Section 31, Township 29 North, Range 4 East, Willamette Meridian; together with the South Half (S1/2) of Section 30, Township 29 North, Range 4 East, Willamette Meridian, all situated in Island County, Washington.

The stormwater management program is established pursuant to Chapter 36.89 Revised Code of Washington (RCW) to promote and protect the public health, safety, and welfare, and to minimize property damage from storm, flood or surplus water, as well as gain citizen involvement to solve stormwater management problems. Financing of this stormwater management program will be under separate ordinance. A Marshall Drainage Basin Study will be used to determine which properties, within the above described area, lie within the Marshall Drainage Basin and would derive benefit from stormwater control facilities and/or contribute to stormwater runoff. Owners of those properties, so determined, will pay funds to finance the Marshall Drainage Basin Stormwater Management Program.

(Res. R-12-95, April 3, 1995, vol. 38, p. 248; amended by Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247)

STORMWATER MANAGEMENT PROGRAM

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15.01.020 Definitions

Stormwater Management Program - A program to:

1. Manage development of the Marshall Drainage Basin study to include the design of stormwater facilities, construction, permitting, real property acquisition, facility construction and the evaluation of financing options for capital facilities construction and maintenance;
2. Manage operation and maintenance of stormwater facilities; and
3. Manage revenues to finance the program.

(Res. R-12-95, April 3, 1995, vol. 38, p. 248)

15.01.030 Program Creation and Authority

Island County hereby creates a specific drainage basin stormwater management program to serve the Marshall Drainage Basin, which encompasses the area described below:

Section 36, Township 29 North, Range 3 East, Willamette Meridian; together with Section 31, Township 29 North, Range 4 East, Willamette Meridian; together with the South Half (S1/2) of Section 30, Township 29 North, Range 4 East, Willamette Meridian, all situated in Island County, Washington.

(Res. R-12-95, April 3, 1995, vol. 38, p. 248; amended by Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247)

15.01.040 Severability

If any portion of this ordinance is held invalid, such decision shall have no effect upon the validity of other remaining portions of this ordinance. The Board of County Commissioners hereby declare that it would have adopted this ordinance and each part or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts, or portions thereof be declared invalid or unconstitutional.

(Res. R-12-95, April 3, 1995, vol. 38, p. 248)

Chapter 15.02**Storm and Surface Water Utility****Sections:**

- 15.02.010 Purpose and Intent**
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- 15.02.030 Potential Hazard Declared; Utility Created**
- 15.02.040 Marshall Drainage Basin Storm and Surface Water System**
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15.02.010 Purpose and Intent

- A. The County finds that real property in the Marshall Drainage Basin contributes to a common drainage problem resulting from storm and surface water run-off; that all real property in the Marshall Drainage Basin will benefit from mitigation of the destructive forces and/or general nuisance, as well as the correction of health and safety hazards created by excessive stormwater runoff; and that improvements in the Marshall Drainage Basin are necessary to promote public health, safety and welfare.

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- B. The County has adopted a Stormwater Management Program pursuant to Ordinance R-12-95 to address stormwater management issues in the Marshall Drainage Basin and has developed the Marshall Drainage Basin Plan, which recommends capital improvements needed to mitigate the effects of stormwater runoff, including but not limited to flooding, in the Marshall Drainage Basin.
- C. Based on the Marshall Drainage Basin Plan, which is on file with the County Department of Public Works and is hereby incorporated herein by this reference, the County has determined that property, businesses and residents within the Marshall Drainage Basin will benefit from and/or will receive service from the improvements described in the Marshall Drainage Basin Plan.
- D. The County finds that each owner of a Parcel of real property within the Marshall Drainage Basin should pay for a pro rata share of the cost of constructing drainage facilities described in the Marshall Drainage Basin Plan in accordance with that plan.
- E. The County finds that the intensity of development on all Parcels of real property, including the square footage of impervious surface area, is an appropriate and reasonable basis for determining a particular Parcel's contribution to the problem of storm and surface water run-off.
- F. The Utility created in this Chapter shall include only such systems or programs created by the County and does not provide for a County-wide system of rates and charges.

(Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247; amended by Ord. C-124-05 [R-48-05], November 28, 2005, effective January 1, 2006, vol. 2005, p. 396)

15.02.020 Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

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- A. "Impervious Surface" shall mean any area that either prevents or retards water from entering into the soil mantle as it did under natural conditions before development, and/or any surface area that causes water to run off the surface in greater quantities or at an increased rate of flow than existed under natural conditions before development. Common Impervious Surfaces include, but are not limited to, roofs, concrete or asphalt paving, walkways, patios, driveways, parking lots or storage areas, and oiled, macadam or other surfaces that similarly impede the natural entry of surface water into the soil.
- B. "Parcel" shall mean the smallest separately segregated unit or plot of land having an identified owner, identified boundaries, and surface area documented for tax purposes and given a tax account (lot) number by the Island County Assessor. The term "Parcel" shall not include tracts of land that are no more than 25 feet wide at their widest point and are also too narrow to be developed under applicable laws.
- C. "Storm and surface water facility" shall mean any component of the County storm and surface water system.
- D. "Utility" or "System" shall mean the Marshall Drainage Basin Program created pursuant to Ordinance No. R-12-95 and the Marshall Drainage Basin Plan developed to implement the Program, and such other systems and plans as may be added from time to time.

(Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247)

15.02.030 Potential Hazard Declared; Utility Created

The Board of County Commissioners finds and declares that absent effective regulation and control, existing storm and surface water drainage conditions in the County constitute a potential hazard to health, safety and property of County inhabitants. Therefore, the County hereby creates a storm and surface water utility to mitigate these potential hazards. The Utility hereby created shall not be a County-wide utility, and this chapter does not provide for a County-wide system of rates and charges. The Utility created pursuant to this chapter shall only include such systems and programs as the County may create from time to time.

(Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247)

15.02.040 Marshall Drainage Basin Storm and Surface Water System

The Utility created pursuant to this chapter includes the Marshall Drainage Basin Program. The boundaries of the Marshall Drainage Basin are described in the Marshall Drainage Basin Plan on file in the Department of Public Works. The boundaries and features of the Marshall Drainage Basin are also reflected on maps included in the Marshall Drainage Basin Plan. The Marshall Drainage Basin System shall include all property, property interests, physical and intangible rights of every kind or nature owned or held by the County, however acquired, insofar as they relate to or concern storm or surface water affecting the Marshall Drainage Basin, further

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including without limitation all such property, interests and rights the County has acquired by adverse possession or by prescription, directly or through another, in and to the drainage or storage facilities, or both, of storm or surface waters, or both, through, under or over land, landforms, watercourses, sloughs, streams, ponds, rivers, lakes, or swamps, all beginning, in each case or instance at a point where storm or surface waters first enter the Marshall Drainage Basin System and ending in each case or instance at a point where such storm or surface waters exit from the Marshall Drainage Basin System, and in area to the full extent of inundation caused by any storm or flood conditions affecting the Marshall Drainage Basin.

(Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247)

15.02.050 Property Transferred to Stormwater Program

The Director of Public Works may specify and value certain facilities that serve the Marshall Drainage Basin. In addition, for purposes of RCW 43.09.210, any such facilities are hereby transferred to the System and are subject to the administration of the Department of Public Works in accordance with this chapter and the Marshall Drainage Basin Stormwater Program adopted under Ordinance R-12-95.

(Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247)

15.02.060 Utility Administered by Department of Public Works

The Utility shall be administered by the Department of Public Works in such a manner as the Board of County Commissioners shall provide by ordinance or by resolution. The failure to pass or adopt such a resolution shall not affect the validity of this Chapter.

(Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247)

15.02.070 System of Charges

- A. The County hereby imposes the following system of charges on Parcels of real property within the County located within the Marshall Drainage Basin and that benefit from or are served by the County storm and surface water system. The charges are found to be reasonable and necessary to fund administration, planning, design, and construction of all existing and future storm and surface water facilities, including the accumulation of reserves and the retirement of any associated debt. The charges below are in accordance with the Marshall Drainage Basin Plan and are based on Parcel size and Impervious Surface area.
 - 1A. Parcels of less than one-half acre with a dwelling unit shall pay a one-time, capital charge of \$1,915.59 in accordance with ICC 15.02.070.A.7.
 - 1B. As an alternative to Section 1A., above, Parcels of less than one-half acre with a dwelling unit shall pay an annual capital charge of \$162.83 per year beginning in 1997, as such charge may be adjusted from time to time.

- 2A. Parcels of less than one-half acre without a dwelling unit shall pay a one-time capital charge of \$1,129.41 in accordance with ICC 15.02.070.A.7.
- 2B. As an alternative to Section 2A., above, Parcels of less than one-half acre without a dwelling unit shall pay an annual capital charge of \$96 per year beginning in 1997, as such charge may be adjusted from time to time.
3. All other Parcels shall pay one-time capital charges determined in accordance with the Marshall Drainage Basin Plan based on an area capital charge of \$199.66 per acre plus an Impervious Surface area capital charge of \$23,028.01 per acre, which charges shall be due and paid in accordance with ICC 15.02.070.A.7. However, in lieu of the one-time capital charges described in this section, owners of such Parcels shall make annual capital charge payments in accordance with the Marshall Drainage Basin Plan, as such charges may be adjusted from time to time.
4. All capital charges imposed by this chapter shall be due and payable in accordance with instructions included in billings. Charges due in a given year are due and payable in two installments in accordance with those instructions. If one-half of the total amount due is not paid by the due date indicated on the billing statement, interest shall be charged on the entire balance from the date of delinquency. All capital charges due in a given year, plus accrued interest, if applicable, must be paid by the date indicated on the billing for the second-half payment. Any charges that have not been paid by the applicable due date are delinquent.
5. The minimum total annual capital charge or the minimum one-time capital charge for any Parcel in the Marshall Drainage Basin shall be \$96 per year or \$1,129.41, respectively. The maximum annual capital charge or the maximum one-time capital charge shall be \$400 per year or \$4,705.88, respectively. Such charges may be adjusted from time to time.
6. To the extent the Impervious Surface area on any Parcel increases in a particular year, as determined by the Director of Public Works or the Director's designee, the charges applicable to such Parcel shall be increased as follows. In no event shall charges be reduced under this subsection. If the Parcel owner has paid a one-time capital charge for the Parcel, the Parcel owner shall also pay the one-time capital charge in effect at the time of the determination that the Impervious Surface area of the Parcel increased minus the amount of the one-time capital charge already paid with respect to the Parcel. If the Parcel owner pays annual capital charges with respect to the Parcel, the Parcel owner shall pay the increased annual capital charges applicable to the Parcel at the time of the determination that the Impervious Surface area of the Parcel increased.

Increases imposed pursuant to this subsection shall be due and payable in accordance with this Chapter and instructions included with bills.

7. If a property owner has not paid one-time capital charges in full by the due dates for the second-half payment in 1997, such owner shall be deemed to have elected to pay annual capital charges in lieu of one-time capital charges. With respect to Parcels for which capital charges have not been paid in full in 1997, owners of such Parcels may request in writing that the Department of Public Works determine the amount required to pay capital charges owed on a Parcel in full. Upon payment of the full amount of the capital charges (plus related charges such as taxes and interest, if any), the Parcel owner shall no longer owe capital charges under ICC 15.02.070.A, subsections 1A through 5.
 8. County roads shall be charged in accordance with the Marshall Drainage Basin Plan. State roads shall be charged in accordance with the Plan and applicable statutes.
 9. In addition to the rates above, all Parcels, all or a portion of which are located in the Marshall Drainage Basin, shall be charged and shall pay any taxes applicable to the Utility or its services.
 10. Any tract of land for which the Island County Assessor has assigned two tax identification numbers as a result of a property owner's eligibility for a property tax exemption under RCW 84.36.381 shall be charged as a single Parcel under this Chapter.
- B. In addition to the charges set forth above, the County may establish water quality charges for the purpose of financing, monitoring, testing, treatment and control of pollutant discharges into the Marshall Drainage Basin System. The Director of Public Works is authorized to develop a plan for such charges.
- C. The County may consider establishing a system of rate reductions and/or credits, and the Director of Public Works is authorized to review the feasibility of and make recommendations regarding such system of rate reductions and/or credits.

(Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247; amended by Ord. C-21-96, April 15, 1996, vol. 39, p. 429; amended by Ord. C-67-96, December 2, 1996, vol. 40, p. 205; amended by Ord. C-13-98, March 16, 1998, vol. 42, p. 21; amended by Ord. C-124-05 [R-48-05], November 28, 2005, effective January 1, 2006, vol. 2005, p. 396)

15.02.075 Program of Credits Established—Purpose—Qualifications—Amount

- A. A program of credits to partially offset the charges imposed under ICC 15.02.070 for Parcel owners who meet the qualifications of this Section is established in order to provide necessary support for the poor and infirm. The Department of Public Works is authorized and directed to administer the program in accordance with this Chapter.

- B. Any person receiving a billing statement for capital charges and making a timely payment therefore may apply to the Public Works Department for a rate adjustment for qualified on-site mitigation that exceeds County standards and/or Parcel-specific characteristics that significantly affect run-off.
1. The burden of proof shall be on the applicant to show that the rate adjustment sought should be granted. Requirements of admissible documentation shall be determined by the Public Works Department.
 2. Applications for rate adjustment must include a deposit sufficient to cover the utility's cost of review. The deposit shall be refunded in full if the adjustment is granted. If the adjustment is not granted, only the unused portion of the deposit, if any, shall be refunded.
 3. To be effective for the current billing year, applications for rate adjustment must be made by July 15. Applications received after July 15 shall only be effective for subsequent years. If the Public Works Department grants an adjustment which reduces the charge for the current year, the applicant shall be refunded the amount overpaid.
 4. Decisions of the Public Works Department on requests for rate adjustments may be appealed to the Hearing Examiner within twenty (20) days of the decision date. Provisions for appeals are provided for in ICC 15.02.130.
- C. To implement the program provided for in ICC 15.02.075.A, credits as set forth in ICC 15.02.075.E shall be issued to each person who shows satisfactory proof that he or she is the owner of a Parcel subject to the charges under ICC 15.02.070 and:
1. Receives Supplemental Security Income pursuant to 42 USC Sections 1381 through 1383; or
 2. Resides in a household whose annual income together with all household members does not exceed one hundred twenty-five percent (125%) of the poverty level for the number of individuals in the household as computed annually by the U.S. government or the County; or
 3. Resides in a household whose annual income together with all household members does not exceed seventy percent (70%) of the Washington State median income for the number of individuals in the household as computed annually by the state or the County and is the Parcel owner and is:

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- a) Blind;
 - b) Sixty-five (65) years of age or older;
 - c) Disabled and receives funds from a disability program as a result of a disability that prevents him or her from working, consistent with the requirements of 42 USC Section 401 et seq.; or
 - d) Requires medical life-support equipment which utilizes mechanical or artificial means to sustain, restore, or supplant a vital function.
- D. Applicants shall verify such information and shall provide such other data as is deemed appropriate upon forms and in the manner determined by the Department of Public Works.
- E. Individuals meeting one or more of the qualifications in ICC 15.02.075.C from and after the effective date of this Section shall receive a credit equal to fifty percent (50%) of the applicable annual capital charge under ICC 15.02.070. Credits shall be applied to reduce annual capital charges due with respect to a particular Parcel.
- F. The Department of Public Works is further authorized to enter into a payment plan with individuals who are eligible for credits under ICC 15.02.075.C evidenced by a note or notes and secured by a deed of trust on the Parcel for which charges are owed. The deed of trust shall provide for non-judicial foreclosure in the event that the owner of the Parcel defaults under the payment plan. The note shall include administrative costs related to executing the note and deed of trust.
- G. Credits are not transferable. If a Parcel is sold to an entity or to an individual who does not qualify for a credit under ICC 15.02.075, the individual or entity shall pay the full annual capital charge from and after the date of the transfer. In addition, the non-qualifying owner shall pay all other charges imposed under this Chapter from and after the date of transfer.

(Ord. C-13-98, March 16, 1998, vol. 42, p. 21; amended by Ord. C-124-05 [R-48-05], November 28, 2005, effective January 1, 2006, vol. 2005, p. 396)

15.02.080 Measurement of Impervious Surface Area

- A. The Director of Public Works or designee shall determine the number of square feet of Impervious Surface on all Parcels larger than one-half acre and the total surface area of each Parcel of real property, through the records of the Island County Assessor and through aerial photographs and such other methods as the Director of Public Works may determine.
- B. The Director of Public Works or designee shall update such Impervious Surface area determinations at least every 12 months. The Director of Public Works or the director's

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designee shall reclassify property for purposes of the charges imposed pursuant to this chapter based on relevant changes in the characteristics of the property. For purposes of carrying out the requirements of this chapter, the Director of Public Works or the director's designee is hereby granted a right of entry to private property, provided that the owner of such property consents to the entry.

(Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247)

15.02.090 Billing and Collection

- A. Storm and surface water utility charges for each Parcel of real property within the County for which charges are imposed may be included in annual property tax statements in accordance with RCW 84.56.035. Payment shall be made in accordance with this chapter and instructions included in the statements. Any Parcels that do not receive annual property tax statements will receive a separate bill for charges imposed pursuant to this chapter.
- B. Delinquent storm and surface water utility charges shall bear interest as provided in RCW 36.89.092 at the rate of 12 percent per annum or such rate as may hereafter be authorized by law, computed on a monthly basis from the date of delinquency until paid. Interest shall be calculated at the rate in effect at the time of payment of the charges regardless of the rate in effect when the charges were first delinquent.
- C. The County shall have a lien for delinquent storm and surface water utility charges, including interest thereon, against any property subject to storm and surface water utility charges. The lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. Such lien shall be effective and shall be enforced and foreclosed in the same manner as provided for sewerage systems of cities and towns by RCW 35.67.200 through 35.67.290, except that the storm and surface water utility charge lien shall be effective for a total not to exceed one year's delinquent storm and surface water utility charges without the necessity of any writing or recording of the lien with the County records and elections division, as provided for in RCW 36.89.093, in lieu of the provisions provided for in RCW 35.67.210.

(Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247; amended by Ord. C-21-96, April 15, 1996, vol. 39, p. 429; amended by Ord. C-27-96, May 20, 1996, vol. 39, p. 476)

15.02.100 Mitigation of System Impact; Developer Contributions

The Department of Public Works is hereby authorized to require mitigation of impacts on storm water drainage facilities pursuant to this chapter and consistent with the Marshall Drainage Basin Plan. The Department of Public Works is authorized to request payment of a fair and equitable pro-rata portion of specific off-site storm and surface water drainage improvements necessitated by new development. Such mitigation of off-site impacts shall be made in addition to any other County requirements for on-site improvements. When a developer is required to finance completely off-site storm or surface water drainage facilities, the County will enter into a

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reimbursement agreement with the developer. All developer payments shall be placed in a separate revenue account for the storm and surface water utility, earmarked for specific projects or improvements, and used solely for such purposes.

(Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247)

15.02.110 Storm and Surface Water Utility Accounting

The County hereby establishes a fund in the office of the Island County Treasurer to carry out the purposes of this Chapter. All money that the County receives pursuant to this chapter shall be segregated, credited and deposited to the credit of the Utility. The money deposited shall be expended only for administering, operating, maintaining or improving storm and surface water drainage facilities, including all or any part of the cost of planning, designing, financing, acquiring, constructing, maintaining, repairing, replacing, improving or operating present or future storm and surface water drainage facilities owned by the Utility. Money shall not be transferred to any other fund of the County except to pay for expenses directly attributable to the Utility.

(Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247)

15.02.120 Regulation and Administration

The Director of Public Works or the director's designee is hereby authorized to administer the provisions of this chapter unless duties are otherwise delegated herein. The Director of Public Works is hereby authorized and directed to formulate any rules and regulations consistent with this chapter and necessary for its proper administration by the officials of the Department of Public Works.

(Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247)

15.02.130 Appeals to Hearing Examiner

- A. Any property owner who disputes the amount of a charge imposed on that owner's property pursuant to this chapter or who disputes a determination made by or on behalf of the County pursuant to and by authority of this chapter that directly affects that owner's property may petition the County hearing examiner for a hearing on a revision or modification of such determination in accordance with the provisions of this Chapter. The property owner shall submit the petition in writing no later than 20 days after having been billed for such charge or after having been notified of such determination. Such petition shall be filed with the hearing examiner upon payment of the disputed charge and a fee of \$25. The petition shall identify the property, describe all improvements or proposed improvements, and allege specific errors in a charge or the basis for the challenge to a determination. The petitioner shall have the burden of demonstrating that a charge or determination is in error. For purposes of this subsection, notice of a determination shall be effective upon the date of mailing, postage prepaid to the address of the petitioner. An adjustment to charges shall only be allowed from and after the billing date of the charges

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contested. The hearing shall be conducted in accordance with the provisions of this Chapter and Chapter 16.13 ICC. In the event of a conflict between this Chapter and Chapter 16.13, the provisions of this Chapter shall control. Pending a hearing and final decision, the owner shall pay all current charges. Failure to pay current charges shall result in dismissal of the appeal by the hearing examiner.

- B. Upon receiving such a petition, the hearing examiner shall schedule a hearing within 30 days. Notice of the hearing shall be provided to the petitioner at least 10 days prior to the hearing. Following the hearing, a decision shall be made by the hearing examiner and the petitioner shall be notified by mail within 30 days.
- C. All decisions of the hearing examiner shall be based on applicable guidelines for storm and surface water drainage rate appeals as amended, to be established by the Department of Public Works. Such guidelines, and amendments thereto, shall be effective upon their publication in a newspaper of general circulation in the County.
- D. Nothing in this chapter shall be construed to grant any right of judicial review that did not exist in law before the passage of this chapter. The decision of the hearing examiner shall be final and binding. A writ of review must be sought in the superior court, if at all, by an aggrieved party or person within 14 calendar days of the date the decision was mailed.

(Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247)

15.02.140 Penalties, Enforcement

- A. **Civil** - Any violation of this chapter shall be an infraction, and any person found in violation thereof shall be subject to a penalty not to exceed \$250 per day.
- B. **Criminal** - Any intentional violation of the provisions of this chapter shall be a misdemeanor, and any person found guilty thereof shall be punished by a fine not to exceed \$500 per day or imprisonment not to exceed 90 days or by both such fine and imprisonment.
- C. **Penalties not exclusive** - The penalties authorized above shall not be exclusive. The Director of Public Works is authorized to take such emergency measures as are necessary to ensure compliance with this chapter. Violation of the provisions of this chapter may give rise to such other remedies or action necessary to carry out the purposes of this chapter.

(Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247)

15.02.150 Director's Authority to Promulgate Rules

The Director of Public Works or the director's designee is authorized to develop administrative procedures to implement this chapter and impose and collect service charges, including but not limited to procedures for filing liens and initiating foreclosure against property for which surface and stormwater utility charges are on delinquent accounts and the collection of the debt service portion of the service charge in areas that annex or incorporate.

(Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247; amended by Ord. C-21-96, April 15, 1996, vol. 39, p. 429)

15.02.160 Permits

Permits are hereby required for any person:

- A. To construct, install, place, or attempt to construct, install, or place any storm or surface drainage structure or facility within the Marshall Drainage Basin. Every person desiring to construct or install any storm or surface water facility, whether on private or public property, shall apply to the Department of Public Works for a permit prior to commencing work on such project. Such applications shall be made on forms provided by the department prior to commencing work on such project and shall include all information as may be required by the department. The application shall be approved by the Director of Public Works or the director's designee, prior to construction, provided that such construction or installation complies with all County ordinances, regulations and other controls or standards. Each application submitted to the Department of Public Works shall be accompanied by payment for a construction permit fee in an amount established by the Board of County Commissioners. In addition to the other penalties that may be provided by law, failure to obtain such a permit will result in the fees being doubled. Such fees shall defray part of the cost of inspections and plan reviews required by the County prior to and during the construction of storm and surface water drainage facilities. All such fees shall be placed in a separate revenue account for the Utility. This section shall not be construed to duplicate any other existing County requirements.

- B. To discharge or in any way release or contribute to pollution, including but not limited to sediment in any storm or surface water run-off that enters into storm and surface water facilities within the Marshall Drainage Basin. The determination of whether a Parcel is contributing pollutants to storm or surface water run-off will be made by the Department of Public Works, using American Public Health Association 1980 Standard Methods for the Examination of Water and Waste Water, Fifteenth Edition, as amended, to identify one or more of the pollutants listed by the Environmental Protection Agency in Water Quality Documents published at 45 FR 79318 (November 28, 1980), as amended or replaced, or in Water Quality Standards for Surface Waters of the State (ch. 173-201A WAC) or in Dangerous Waste Regulations (ch. 173-303 WAC) or in other regulations that the County may adopt from time to time by resolution. Copies of all such documents are filed with the Department of Public Works. If the owner of a Parcel of real property within the Marshall Drainage Basin, or any other person occupying or using such Parcel, is determined to be contributing pollutants to storm or surface water run-off, the owner shall be required to obtain a pollution discharge permit. Applications for such permits must be made by the owner to the Department of Public Works on forms provided by the department and must be accompanied with payment of the pollution discharge permit fee. The pollution discharge permit fee shall be established by the Board of County Commissioners. Such fees shall cover part of the cost of water quality monitoring and enforcement. All such fees shall be placed in a separate revenue account.

(Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247)

15.02.170 Unlawful Discharges Monitored; Director's Emergency Authority

If the owner of a Parcel within the Marshall Drainage Basin, or any other person occupying or conducting any activity on a Parcel, is found to be contributing pollutants in amounts that exceed criteria established by the Environmental Protection Agency in Quality Criteria for Water published in 1976, as amended or replaced, or by the State Department of Ecology in Water Quality Standards for Surface Waters of the State (ch. 173-201A WAC) or in Dangerous Waste Regulations (ch. 173-303 WAC) or in other regulations that the County may adopt from time to time by resolution, the owner of the Parcel from which the pollutant is discharged shall be required to pay, in addition to the standard pollutant discharge fee, and other penalties or fines provided by law, any additional costs associated with the continual monitoring of discharges from such a Parcel necessary to ensure that standards are not being violated. The Department of Public Works is hereby authorized to monitor and assess the owner of a Parcel of real property contributing pollutants in excess of standards as set forth above for the period, after each separate incident in which standards for pollutant discharges are exceeded, to ensure that standards are not being violated. The Department of Public Works is hereby authorized to exercise all lawful enforcement powers of the County and to take emergency measures deemed necessary by the Director of Public Works.

(Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247)

15.02.180 Connection Fees

Connection fees shall be assessed against an owner of real property at the time of issuance of a development permit for any on-site storm or surface water drainage structure or facilities that attach or connect to, or otherwise drain into, the system of drainage facilities as defined in Section 15.02.040 of this Chapter or when any additional surface or storm water run-off is generated and delivered or transported in any way to the Marshall Drainage Basin System. The connection fees shall be established by the Board of County Commissioners and shall recognize the imposition of capital facilities charges under Section 15.02.070 of this chapter.

(Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247)

15.02.190 Severability

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter and the application of the provisions to other persons or circumstances shall not be affected.

(Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247)

15.02.200 Effective Date

This chapter shall take effect and be in force 30 days from and after its enactment by the Board of Commissioners of Island County, Washington.

(Ord. C-106-95/R-55-95, December 18, 1995, vol. 39, p. 247)