

Chapter 14.24

EROSION PREVENTION AND SEDIMENT CONTROL

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Section 14.24.010 Findings.

A. Erosion and sedimentation from land-disturbing activities detrimentally affects the public health, safety and general welfare in the following ways:

1. Increases the risk of flooding because streams and stormwater facilities that receive excessive sediment have a reduced capacity to convey water;
2. Damages fisheries when siltation clogs spawning gravel and when excessive turbidity impairs the feeding ability of aquatic animals;
3. Increases public expenditures for maintenance of stormwater facilities that receive excessive amounts of sediment;
4. Damages adjacent properties, including public rights-of-way, when sediment is deposited on these properties;
5. Increases public expenditures for cleaning and maintaining roadway surfaces that receive excessive sediment;
6. Promotes transport of nutrients to lakes, causing algal blooms and oxygen depletion; and
7. Causes detrimental water quality problems to Burnt Bridge Creek, Vancouver Lake Lowlands and water quality impacts to the Columbia River.

B. Erosion prevention and sediment control is important to prevent harm to the public health or safety.

C. Erosion can best be prevented through the implementation of best management practices (BMPs). (Ord. M-3196 § 1 (part), 1995)

Section 14.24.020 Purpose.

A. It is the purpose of this chapter to prevent harm to the health or safety of the public, and to promote the public health, safety and general welfare by providing for the minimization of erosion from land development and land-disturbing activities, in order to:

1. Prevent erosion and sedimentation of creeks, streams, ponds, lakes, wetlands, and other water bodies;

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2. Prevent damage to property from increased erosion rates and volumes;
3. Protect the quality of land for recreation, fishing and other beneficial use;
4. Establish sound development policies which protect and preserve the City's land resources;
5. Protect roads and rights-of-way from damage due to inadequately controlled erosion;
6. Preserve and enhance the aesthetic quality of land resources; and
7. Protect the health, safety and welfare of the inhabitants of the City.

B. It is the purpose of the 2009 amendments to this chapter to adopt ordinances and other enforceable mechanisms required for compliance with the most current version of the City of Vancouver's January 17, 2007 National Pollutant Discharge Elimination System (NPDES) Western Washington Phase II Municipal Stormwater Permit, and for compliance with the federal Underground Injection Control (UIC) program, through application of best management practices (BMPs) for stormwater management. The regulatory basis requiring the 2009 amendments is as follows:

1. To meet requirements of the Federal Clean Water Act, the State of Washington Department of Ecology has been given the authority to issue municipal stormwater permits to designated communities throughout the state that discharge stormwater into surface water bodies. On January 17, 2007, the Washington State Department of Ecology issued the City of Vancouver a Western Washington Phase II Municipal Stormwater Permit under the National Pollutant Discharge Elimination System (NPDES) program. The permit requires that the City of Vancouver adopt stormwater control and pollution prevention measures, with the goal of improving waters of the state.

(Ord. M-3196 § 1 (part), 1995)

Section 14.24.030 Applicability.

A. Provisions of this chapter apply to land-disturbing activities, as defined herein and as regulated by the most current version of the City's January 17, 2007 National Pollutant Discharge Elimination System Western Washington Phase II Municipal Stormwater Permit and its mandatory incorporated provisions of the 2005 Stormwater Management Manual for Western Washington, specifically Volumes I and II.

B. All land-disturbing activities shall comply with this chapter; with the most current version of the City's January 17, 2007 National Pollutant Discharge Elimination System Western Washington Phase II Municipal Stormwater Permit, with the Permit's Minimum Requirements and its mandatory incorporated provisions of the 2005 Stormwater Management Manual for Western Washington; and with the City's General Requirements; provided that exceptions to the Minimum Requirements may be granted under criteria and procedures set forth in this chapter.

C. Exemptions from the provisions of this chapter are those set forth in Appendix 1, Section 1 of the most current version of the City's January 17, 2007 National Pollutant Discharge Elimination System Western Washington Phase II Municipal Stormwater Permit.

(Ord. M-3196 § 1 (part), 1995)

Section 14.24.035 Adoption of Manuals.

A. For purposes of regulation of activities subject to this chapter, the City hereby adopts by reference as its Stormwater Manual the 2005 Stormwater Management Manual for Western Washington.

B. For purposes of regulation of activities subject to this chapter, the City hereby adopts by reference the most current version of the "City of Vancouver Engineering Services General Requirements and Details for the Design and Construction of Water, Sanitary Sewer and Surface Water Systems" (General Requirements). The General Requirements are intended to supplement and clarify the Stormwater Manual

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to provide guidance for and tailor to local conditions. The General Requirements may also adopt measures that are deemed equivalent by the Washington State Department of Ecology.

C. At least one copy of each manual adopted in this section shall be filed in the Office of the City Clerk for use and examination by the public. The manuals may also be made available for use and examination by the public at the Office of the Director, and on the City website.

D. Where provisions of this chapter or manuals adopted under this section conflict with other provisions of the Vancouver Municipal Code, the more stringent requirements, which have the most protective effect on water quality, shall apply.

Section 14.24.036. Cross References.

Any reference to "Stormwater Management Manual" or "Puget Sound Erosion Control Manual" or "Washington Department of Ecology's Stormwater Management Manual for the Puget Sound" or "Puget Sound Water Quality Manual" or "BMP's approved by the Western Washington Stormwater Manual" or "Department of Ecology alternative paving Best Management Practices," wherever found within the Vancouver Municipal Code, shall refer to this chapter and to the equivalent manuals as adopted in this chapter.

Section 14.24.040 Definitions.

For the purpose of this chapter, the following definitions shall apply. Any terms not defined herein are used as defined in the most current version of the City's January 17, 2007 National Pollutant Discharge Elimination System Western Washington Phase II Municipal Stormwater Permit and its mandatory incorporated provisions of the 2005 Stormwater Management Manual for Western Washington.

"Best management practices" or "BMPs" means the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices approved by the Washington State Department of Ecology that, when used singly or in combination, control, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State.

"City" means the City of Vancouver.

"Director" means the director of the City of Vancouver public works department or designee.

"General Requirements" means the most current version of the "City of Vancouver Engineering Services General Requirements and Details for the Design and Construction of Water, Sanitary Sewer and Surface Water Systems".

"Land-disturbing activity" means any activity that results in a movement of earth or a change in the existing soil cover (both vegetative and nonvegetative) and/or existing soil topography. Land-disturbing activities include, but are not limited to clearing, grading, filling and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices are not considered land-disturbing activity.

"Minimum Requirements" means the Minimum Technical Requirements for New Development and Redevelopment as set forth in Appendix 1 of the most current version of the City's January 17, 2007 National Pollutant Discharge Elimination System (NPDES) Western Washington Phase II Municipal Stormwater Permit. The Minimum Requirements are identified as follows:

1. Preparation of Stormwater Site Plans. This Minimum Requirement is addressed in VMC Chapter 14.25 and VMC Title 20 procedures.

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2. Construction Stormwater Pollution Prevention Plan (SWPPP). This Minimum Requirement is addressed in VMC Chapter 14.24 and General NPDES Permit for Stormwater Discharges Associated with Construction Activities.

3. Source Control of Pollution. This Minimum Requirement is addressed in VMC Chapters 14.25 and 14.26.

4. Preservation of Natural Drainage Systems and Outfalls. This Minimum Requirement is addressed in VMC Chapter 14.25 and in VMC 20.740, Critical Areas.

5. On-site Stormwater Management. This Minimum Requirement is addressed in VMC Chapter 14.25.

6. Runoff Treatment. This Minimum Requirement is addressed in VMC Chapter 14.25.

7. Flow Control. This Minimum Requirement is addressed in VMC Chapter 14.25.

8. Wetlands Protection. This Minimum Requirement is addressed in VMC Chapter 14.25 and 20.740 Critical Areas.

9. Operation and Maintenance. This Minimum Requirement is addressed in VMC Chapter 14.25.

“National Pollutant Discharge Elimination System” or “NPDES” means the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the Federal Clean Water Act, for the discharge of pollutants to surface waters of the state from point sources. These permits are referred to as NPDES permits and, in Washington State, are administered by the Washington State Department of Ecology.

“Permit” means the most current version of the City of Vancouver’s National Pollutant Discharge Elimination System (NPDES) Western Washington Phase II Municipal Stormwater Permit.

“Pollution” or “pollutants” means such contamination, or other alteration of the physical, chemical or biological properties, of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

“Stormwater” means runoff during and following precipitation and snowmelt events, including surface runoff and drainage.

“Stormwater facility” means a constructed component of a stormwater drainage system, designed and constructed to perform a particular function, or multiple functions. Stormwater facilities include, but are not limited to: pipes, swales, ditches, open channels, culverts, street gutters, detention ponds, retention ponds, constructed wetlands, storage basins, infiltration devices, catch basins, manholes, dry wells, oil/water separators, biofiltration swales, and sediment basins.

“Stormwater Manual” means the 2005 Stormwater Management Manual for Western Washington, which is the 5-volume technical manual (Publication Nos. 05-10-29 through 05-10-33) prepared by the Washington State Department of Ecology for use by local governments that contains BMPs to prevent, control, or treat pollution in stormwater.
(Ord. M-3196 § 1 (part), 1995)

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Section 14.24.050 Persons responsible for compliance.

Meeting the requirements of this chapter is the responsibility of the property owner on whose parcel the land-disturbing activity occurs and the person undertaking such activities. In addition, if the land-disturbing activity involves a City-issued permit, the permit holder is also responsible for meeting the requirements of this chapter.

(Ord. M-3196 § 1 (part), 1995)

Section 14.24.060 Specific compliance requirements.

A. Inspection. Prior to commencement of land disturbing activities, the City shall be contacted to obtain a City site inspection. Contacting the City to obtain the site inspection is the responsibility of the property owner on whose parcel the land-disturbing activity occurs and the person undertaking such activities. In addition, if the land-disturbing activity involves a city-issued permit, the permit holder is also responsible for meeting this requirement.

B. Mark Clearing Limits. Prior to beginning land disturbing activities, including clearing and grading, clearly mark all clearing limits for critical areas and their buffers, and trees that are to be preserved within the construction area. Clearing limits for critical areas and their buffers, and tree conservation, shall be in compliance with all applicable requirements set forth in relevant chapters of the Vancouver Municipal Code.

C. Construction Access Route. Construction vehicle access shall be limited to one route unless additional access is approved by the Director. Access points shall be installed as required by the Stormwater Manual and the General Requirements to minimize the tracking of sediment, mud or debris onto paved surfaces, public and private roads.

D. Sediment Removal from Roadways, Paved and Impervious Surfaces. If sediment, mud or debris is transported onto a road, paved or impervious surface, the roads, paved and impervious surfaces shall be cleaned thoroughly at the end of each workday, or more often if necessary. Significant soil deposits shall be removed from roads, paved and impervious surfaces by shoveling and sweeping and shall be transported to a controlled sediment disposal area. Street washing is not allowed unless approved by the Director and only after sediment is removed in the manner described above.

E. Stabilization of Denuded Areas. All exposed soils shall be stabilized in a timely manner, by suitable application of BMPs, including but not limited to sod or other vegetation, plastic covering, mulching or crushed aggregate on areas to be paved. All exposed and disturbed soils shall be stabilized by the appropriate BMP. During the period from October 1st to April 30th no soil shall be exposed for more than two days. From May 1st to September 30 no soil shall be exposed more than seven days. All BMPs shall be selected, designed and maintained in accordance with the Stormwater Manual and the General Requirements.

F. Protection of Water Bodies and Adjacent Properties. Water bodies and adjacent properties shall be protected from sediment deposition by appropriate use of vegetative filter strips, sediment barriers or filters, dikes or mulching, or by a combination of these measures and other appropriate BMPs.

G. Sediment Traps or Ponds. Stormwater runoff from disturbed areas shall pass through a sediment pond, sediment trap, or other approved BMP system.

H. Storm Drain Inlet Protection. All storm drain inlets shall be protected by approved BMPs which shall be operable, properly installed, and maintained according to the Stormwater Manual and the General Requirements.

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- I. Stormwater Facility Protection. Permanent stormwater facilities shall be isolated and protected from sedimentation by approved BMPs which shall be operable, properly installed and maintained according to the Stormwater Manual and the General Requirements. Permanent facilities may be approved by the Director for temporary use during construction in compliance with the Stormwater Manual. Temporary erosion ponds shall be placed, operated, and maintained as specified in the General Requirements and approved plans.
- J. Maintenance. All erosion prevention and sediment control BMPs shall be regularly inspected and maintained to ensure continued performance of their intended function.
- K. Maintenance Log. A log of erosion prevention and sediment control BMP maintenance shall be provided and kept as a permanent record. The maintenance log shall be kept in a designated on-site location. Construction sites shall be inspected at least once a week and after each rainfall event.
- L. Removal of Temporary BMPs. All temporary erosion and sediment control BMPs shall be removed within thirty (30) days after final site stabilization. Disturbed soil areas resulting from BMP removal shall be properly stabilized.
- M. Contractor Certification. Effective July 1, 2009 all land-disturbing activities shall be supervised by an individual who shall have successfully completed formal training in erosion and sediment control by a recognized organization acceptable to the Washington State Department of Ecology. A certification of successful completion of such training shall be submitted at the pre-construction conference. This certification requirement shall not apply to single-family homeowners acting as their own contractor and engaging in development or land disturbing activity on their own property.
- N. Underground Utility Construction. For construction of underground utility lines, excavated material shall be properly managed in accordance with the Stormwater Manual and shall be subject to the following additional requirements:
1. The length of trench opened at one time shall be minimized.
 2. Trenches shall be topped and maintained with clean rock until paving occurs.
 3. Trench dewatering devices shall discharge into an approved, operating, and properly maintained BMP.
- O. Financial Liability. Performance bonding, or other appropriate financial instruments, may be required for all development, redevelopment projects that include the creation or addition of five thousand square feet, or greater, of new impervious surface area, and/or land-disturbing activity of one acre or greater.
- P. Construction Stormwater Pollution Prevention. Compliance with Minimum Requirement #2, Construction Stormwater Pollution Prevention Plan, shall be achieved for an individual site of land-disturbing activities if the site is covered under the Washington State Department of Ecology's *General NPDES Permit for Stormwater Discharges Associated with Construction Activities* and is fully implementing the requirements of that permit.
- Q. If the BMPs applied to a site are insufficient to prevent sediment from reaching water bodies, adjacent properties, or public right-of-way, then the Director shall require additional BMPs.
(Ord. M-3196 § 1 (part), 1995)

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Section 14.24.070 Erosion prevention and sediment control plans.

A. An erosion prevention and sediment control plan shall be submitted to and approved by the Director prior to commencement of any of the following:

1. Any project that meets the applicability threshold of VMC 14.25.
2. Any project that requires a City grading permit.
3. Any application that the Director determines poses a high risk of erosion impacting adjacent properties, water bodies, public rights of way, or stormwater facilities.
4. Those activities described in the Stormwater Manual.

B. The erosion prevention and sediment control plan shall be prepared in conformance with the City's General Requirements and the Stormwater Manual. The erosion prevention and sediment control plan shall be submitted to and approved by the Director prior to issuance of City permits or approval involving a land-disturbing activity.

C. An erosion prevention and sediment control plan is required unless the site is required to prepare a Construction Stormwater Pollution Prevention Plan (SWPPP) for submission to the Washington State Department of Ecology, as determined by Appendix 1, Section 3 of the most current version of the City's National Pollutant Discharge Elimination System Western Washington Phase II Municipal Stormwater Permit. If a SWPPP is required, a copy of the SWPPP shall be provided to the City.

D. If the erosion prevention and sediment control plan is deemed insufficient to prevent sediment from reaching water bodies, adjacent properties, or public rights-of-way, then the Director is authorized to require additional modifications to the erosion prevention and sediment control plan.
(Ord. M-3196 § 1 (part), 1995)

14.24.075 Adjustments

An Adjustment is a technical variation in the application of a Minimum Requirement to a particular project. The City may grant Adjustments to Minimum Requirement #2, only, under this section. Adjustments are not authorized under this section for other Minimum Requirements.

A. Adjustment Approval Process.

1. Permit procedural requirements. Adjustments to the Minimum Requirements may be granted by the City, as Permittee, provided that a written finding of fact is prepared showing compliance with the specified criteria.
2. City process. A request for an Adjustment shall be administratively processed in accordance with procedures specified in the General Requirements. The Director may grant an Adjustment upon demonstration by the applicant of compliance with the approval criteria contained in Subsection B. below. The Director shall maintain a record of such decisions and associated findings.

B. Adjustment Approval Criteria. The City may grant an Adjustment to Minimum Requirement #2, only, under the following circumstances:

1. Compliance with the approval criteria must be documented with written findings of fact.
2. The Adjustment provides substantially equivalent environmental protection.
3. Based on sound engineering practices, the objectives of safety, function, environmental protection and facility maintenance are met.
4. The Adjustment will not result in non-compliance with other Minimum Requirements.
5. No Adjustment shall be used in place of an Exception procedure under VMC 14.24.076, where such procedure is applicable.

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Section 14.24.076 Exceptions.

The city may grant Exceptions to Minimum Requirement #2 under this section.

A. Exception Approval Process.

1. Permit procedural requirements. Exceptions to Minimum Requirement #2 may be granted by the City, as Permittee, following legal public notice of an application for an exception or variance, legal public notice of the City's decision on the application, and written findings of fact that documents the City's determination to grant an exception. The City shall keep records, including the written findings of fact, of all local exceptions to the Minimum Requirements. Project-specific design exceptions based on site-specific conditions do not require prior approval of the Washington State Department of Ecology.

2. City process. Applications for Exceptions shall be processed according to the procedures for Type III applications under VMC 20.210.060. A fee shall be imposed in the amount of the fee for a Type III variance as established under VMC 20.180.060. The Hearings Examiner may grant an Exception upon demonstration by the applicant of compliance with the approval criteria contained in Subsection B below. Hearings under VMC 14.25.330 relating to Exceptions shall be consolidated with any open record hearing or appeal related to the underlying new development or redevelopment application, where such open record hearing or appeal is required.

B. Exception Approval Criteria. The City may grant exceptions to Minimum Requirement #2 if application of the Minimum Requirement imposes a severe and unexpected economic hardship on a project applicant.

1. The following must be documented with written findings of fact:
 - a. The current (pre-project) use of the site, and
 - b. How the application of the Minimum Requirement(s) restricts the proposed use of the site compared to the restrictions that existed prior to the adoption of the Minimum Requirements; and
 - c. The possible remaining uses of the site if the exception were not granted; and
 - d. The uses of the site that would have been allowed prior to the adoption of the Minimum Requirements; and
 - e. A comparison of the estimated amount and percentage of value loss as a result of the Minimum Requirements versus the estimated amount and percentage of value loss as a result of requirements that existed prior to adoption of the Minimum Requirements; and
 - f. The feasibility for the owner to alter the project to apply the Minimum Requirements.
2. In addition any exception must meet the following criteria:
 - a. The exception will not increase risk to the public health and welfare, nor be injurious to other properties in the vicinity and/or downstream, and to the quality of waters of the state; and
 - b. The exception is the least possible exception that could be granted to comply with the intent of the Minimum Requirements. This criteria is met by evidence that the owner/operator has employed measures to avoid and minimize impacts, such as:
 1. limiting the degree or magnitude of the regulated use or activity;
 2. implementing best management practices;
 3. phasing or limiting implementation;
 4. changing the timing of activities; or
 5. revising site plans.

Section 14.24.080 Enforcement.

It shall be unlawful to violate the provisions of this chapter. Enforcement of this chapter shall be governed by VMC title 22.

(Ord. M-3196 § 1 (part), 1995)(M-3638, Amended, 12/01/2003, Sec 16)

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Section 14.24.090 Liability.

Nothing in this chapter shall be deemed to impose any liability upon the City of Vancouver or upon any of its officers or employees, or to relieve the owner or occupant of any property from the duty to keep their property in a safe and healthy condition.

(M-3638, Repealed & Replaced, 12/01/2003, Repealed and replaced w/language from 14.24.120)