

Chapter 14.25

STORMWATER CONTROL

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Section 14.25.00A Article I. Introduction

Section 14.25.010 Findings.

A. Stormwater runoff detrimentally affects the public health, safety and general welfare in the following ways:

1. Inadequately controlled stormwater runoff results in increased stormwater runoff volumes, peak flow rates and duration of peak flows in streams and roadways, thereby causing flooding and safety hazards, and erosion, scouring and deposition of sediment.
2. Untreated stormwater runoff discharges nutrients, metals, oil and grease, toxic materials, and other forms of pollution to the City's surface and groundwater resources, thereby endangering their use for recreation, drinking water and fisheries.

B. Stormwater problems from new development should be prevented and corrected at the time that such development occurs and that the governmental approval to proceed with new development should be so conditioned.

C. The most financially sound and most equitable method for financing the improvements necessary to correct existing problems from stormwater runoff and to provide and maintain surface and groundwater quantity and quality within drainage basins is for the owners and occupiers of existing properties and future developments within such basins to share the financial burden for such facilities and corrections with other funding sources when available.

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- D. The most technically and financially efficient method of addressing problems caused by stormwater runoff is through basin plans.
- E. Stormwater control is important to prevent harm to the public health or safety.
(Ord. M-3195 § 1 (part), 1995)

Section 14.25.020 Purpose.

- A. The purpose of this chapter is to prevent harm to the health or safety of the public, and to promote the public health, safety and general welfare by providing standards in stormwater runoff in order to:
1. Prevent surface and groundwater quality degradation and prevent erosion and sedimentation of creeks, streams, ponds, lakes, wetlands, and other water bodies;
 2. Prevent damage to property from increased runoff rates and volumes;
 3. Protect the quality of waters for drinking water supply, contact recreation, fishing and other beneficial uses;
 4. Establish sound developmental policies which protect and preserve the City's water resources;
 5. Protect the roads and rights-of-way from damage due to inadequately controlled runoff and erosion;
 6. Preserve and enhance the aesthetic quality of water resources;
 7. Protect the health, safety and welfare of the inhabitants of the City;
 8. Maintain existing groundwater levels, in-stream flows, and available water supply volumes; and
 9. Further the goals of no net change in the quantity of runoff entering streams and no net negative change in the quality of runoff entering streams through the implementation of best management practices.

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 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.
2. The Underground Injection Control (UIC) program was created by Congress to protect underground sources of drinking water from discharges of fluids to the ground. Chapter 173-218 WAC was adopted by the Washington State Department of Ecology to regulate stormwater discharges to groundwater through drywells and other types of underground infiltration systems that are not regulated under the NPDES permit.
(Ord. M-3195 § 1 (part), 1995)

Section 14.25.100 Applicability.

- A. Provisions of this chapter apply to new development and redevelopment activities, as defined herein and as regulated by the most current version of the City's January 17, 2007 National Pollutant

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Discharge Elimination System Western Washington Phase II Municipal Stormwater Permit and its mandatory incorporated provisions of the 2005 edition of the Stormwater Management Manual for Western Washington.

B. All new development and redevelopment 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-3195 § 1 (part), 1995)

Section 14.25.105 Adoption of Manuals.

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

B. For purposes of providing technical guidance concerning Low Impact Development for activities subject to this chapter, the City hereby adopts the most current edition of the Low Impact Development Technical Guidance Manual for Puget Sound (LID Manual). New development and redevelopment projects utilizing low impact development practices shall refer to the LID Manual and the Stormwater Manual for design recommendations.

C. 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 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.

D. For purposes of providing technical assistance concerning City operations, the City hereby adopts by reference the most current version of "The City of Vancouver's Best Management Practices for the Operation and Maintenance of Publicly-owned Property".

E. 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, or on the City website.

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

Section 14.25.106 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

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Vancouver Municipal Code, shall refer to this chapter and to the equivalent manuals as adopted in this chapter.

Section 14.25.110 Definitions.

For the purposes 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.

"Basin plan" means a plan that assesses, evaluates, and proposes solutions to existing and potential future impacts to the beneficial uses of, and the physical, chemical, and biological properties of waters of the state within a basin.

"City" means the City of Vancouver.

"Collection and conveyance system" means the drainage facilities, both natural and man-made, which collect, contain, and provide for the flow of surface and stormwater to a receiving water or infiltration facility. The natural elements of the conveyance system include, but are not limited to, small drainage courses, streams, rivers, lakes, and wetlands. The human-made elements of the collection and conveyance system include, but are not limited to, gutters, inlets, ditches, pipes, channels, and retention/detention facilities.

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

"Flow control facility" means a drainage facility designed to mitigate the impacts of increased surface and stormwater runoff flow rates generated by development. Flow control facilities are designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration, and/or infiltration into the ground, or to hold runoff for a short period of time, releasing it to the conveyance system at a controlled rate.

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

"Groundwater" means water in a saturated zone or stratum beneath the surface of land or below a surface water body.

"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.

"Low Impact Development" or "LID" means a stormwater management and land development strategy applied at the parcel and subdivision scale that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic pre-

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development hydrologic functions.

“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 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.
2. Construction Stormwater Pollution Prevention Plan (Construction SWPPP). This Minimum Requirement is addressed in VMC Chapter 14.24 and in 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.

“New development” means land disturbing activities, including Class IV-general forest practices that are conversions from timber land to other uses; structural development, including construction or installation of a building or other structure; creation of impervious surfaces; and subdivision, short subdivision and binding site plans, as defined and applied in Chapter 58.17 RCW. Projects meeting the definition of redevelopment shall not be considered new development.

"Non-endangerment Standard" means to prevent the movement of fluid containing any contaminant into the groundwater if the contaminant may cause a violation of the water quality standards for groundwaters of the state of Washington, Chapter 173-200 WAC or may cause health concerns.

“Operations and maintenance manual” means a document prepared to explain the proper specific operational and maintenance details of facilities installed as required by the Stormwater Manual.

“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

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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.

“Redevelopment” means, on a site that is already substantially developed (i.e., has 35% or more of existing impervious surface coverage), the creation or addition of impervious surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing activities.

"Registered soil scientist" means a person who is qualified to evaluate and interpret soils and soil-related data for the purpose of understanding soil resources as they affect environmental quality and who is certified with the American Registry for Certified Professionals in Soil Science.

“Runoff” means water that travels across the land surface and discharges to water bodies either directly or through a collection and conveyance system.

“Source control BMP” means a structure or operation that is intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants. The Stormwater Manual separates source control BMPs into two types. Structural Source Control BMPs are physical, structural, or mechanical devices, or facilities that are intended to prevent pollutants from entering stormwater. Operational BMPs are non-structural practices that prevent or reduce pollutants from entering stormwater. See Volume IV of the 2005 Stormwater Management Manual for Western Washington for details.

“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.

“Stormwater site plan” means the comprehensive report containing all of the technical information and analysis necessary for regulatory agencies to evaluate a proposed new development or redevelopment project for compliance with stormwater requirements. Contents of the Stormwater Site Plan will vary with the type and size of the project, and individual site characteristics. It includes a Construction Stormwater Pollution Prevention Plan (Construction SWPPP) that must be submitted to and approved by the Washington Department of Ecology, and a Permanent Stormwater Control Plan (PSC Plan). Guidance on preparing a Stormwater Site Plan is contained in the Stormwater Manual, Chapter 3 of Volume I. Modified submittals of stormwater site plans are permitted as specified in the General Requirements.

“Total Maximum Daily Load” or “TMDL” means a water cleanup plan. A TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards, and

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an allocation of that amount to the pollutant's sources. A TMDL is the sum of the allowable loads of a single pollutant from all contributing point and nonpoint sources. The calculation must include a margin of safety to ensure that the water body can be used for the purposes the state has designated. The calculation must also account for reasonable variation in water quality. Water quality standards are set by states, territories, and tribes. They identify the uses for each water body, for example, drinking water supply, contact recreation (swimming), and aquatic life support (fishing), and the scientific criteria to support that use. The Clean Water Act, section 303, establishes the water quality standards and TMDL programs.

"Treatment BMP" means a BMP that is intended to remove pollutants from stormwater. A few examples of treatment BMPs include, but are not limited to, wetponds, oil/water separators, biofiltration swales, and constructed wetlands.

"Underground Injection Control" or "UIC" well means a manmade subsurface fluid distribution system designed to discharge fluids into the ground, consisting of an assemblage of perforated pipes, drain tiles, or other similar mechanisms, or a dug hole that is deeper than the largest surface dimension. Subsurface infiltration systems include drywells, pipe or french drains, drain fields, and other similar devices.

"Wetlands" means those areas defined as wetlands under the City of Vancouver Critical Areas Protection ordinance, VMC 20.740.
(Ord. M-3195 § 1 (part), 1995)

Section 14.25.120 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-3195 § 1 (part), 1995) (M-3638, Amended, 12/01/2003, Sec 18)

Section 14.25.130 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.
(Ord. M-3195 § 1 (part), 1995)

Section 14.25.199A Article II. Standard Requirements

Section 14.25.200 Stormwater site plan submittal requirements.

A. A stormwater site plan complying with the requirements of this chapter and Manuals adopted hereunder shall be submitted to the City for all activities subject to regulation under this chapter.

B. Stormwater site plans involving engineering principles, such as plans including construction of treatment facilities or flow control facilities structural source control BMPs, or drainage conveyance systems, shall be prepared by or under the direction of a licensed engineer registered in the State of Washington.

C. A stormwater site plan shall be submitted in a standard format as detailed in the City's General Requirements.
(Ord. M-3195 § 1 (part), 1995)

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Section 14.25.210 Runoff treatment.

- A. Runoff treatment in new development and redevelopment shall follow the requirements of the City's General Requirements and the Stormwater Manual.
- B. Stormwater treatment BMPs shall be selected, sited, designed and constructed in accordance with the requirements detailed in the City's General Requirements and the Stormwater Manual.
(Ord. M-3195 § 1 (part), 1995)

Section 14.25.215 Source control of pollution.

Source control BMPs shall be applied to all projects. Source control BMPs shall be selected, designed and maintained in compliance with the Stormwater Manual, the City's General Requirements, and VMC 14.26.

Section 14.25.220 Flow control.

- A. Flow control in new development and redevelopment shall follow the requirements of Appendix 1 of the Permit.
- B. Natural drainage flow routes of surface water shall be maintained, and discharges from the site shall occur at the natural location and elevation, to the maximum extent practicable. The manner by which runoff is discharged from the project site must not cause a significant adverse impact to downstream receiving waters and down gradient properties. All outfalls require energy dissipation.
- C. Flow control facilities shall be selected, sited, designed and constructed in compliance with the Stormwater Manual and with the City's General Requirements.
- D. UIC wells used to manage stormwater for flow control shall meet the non-endangerment standard (Chapter 173-218WAC); which means the UIC well shall be designed, constructed, operated, maintained, and decommissioned in a manner that protects groundwater quality (Chapter 173-200WAC).
- E. Design of stormwater collection and conveyance systems shall be in accordance with the City's General Requirements.
- F. Hydrologic and hydraulic analysis shall be in accordance with the Stormwater Manual and with the General Requirements.
- G. Every new development and redevelopment must demonstrate that sufficient downstream conveyance capacity exists to accommodate the increased flows from the project. Hydrologic and hydraulic analysis will be required when sufficient capacity has not been established.
(Ord. M-3195 § 1 (part), 1995)

Section 14.25.225 Low Impact Development.

It is recommended that new development and redevelopment projects utilize Low Impact Development practices. LID practices shall refer to the Low Impact Development Technical Guidance Manual for Puget Sound, the Stormwater Manual, and the General Requirements for design recommendations. All uses of LID practices shall meet applicable regulations and requirements.

Section 14.25.227 Wetlands Protection.

Wetlands Protection required under Minimum Requirement #8 may also be addressed in VMC Chapter 20.740, Critical Areas. Where provisions of this chapter or manuals adopted under this chapter conflict

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

Section 14.25.230 Ownership and maintenance.

A. Ownership

1. City Ownership of Stormwater Facilities. Stormwater systems and facilities that collect, convey, treat and/or infiltrate runoff from public rights-of-way will be owned and maintained by the City, unless it is demonstrated to the satisfaction of the Director that the stormwater facilities can be adequately maintained by private parties.

2. Private Ownership of Stormwater Facilities. Owners of private stormwater systems and facilities that collect, convey, treat and/or infiltrate runoff from private properties are responsible for the operation and maintenance of those facilities.

3. Ownership and maintenance responsibility for stormwater facilities shall be specified on a recorded plat, short plat, or covenant.

B. Maintenance standards. All stormwater facilities shall be inspected and maintained so that they operate as designed. Inspection and maintenance shall comply with the "Maintenance Standards for Drainage Facilities" as specified in Volume V-Runoff Treatment BMPs in the Stormwater Manual, and with an approved operations and maintenance manual.

C. Short-term Maintenance.

1. To insure satisfactory operation of new private stormwater facilities, the applicant constructing the facility shall maintain it for two years after completion of the project.

2. For stormwater facilities within a public road right-of-way or on land owned by the City, the applicant, after satisfactory completion of the stormwater facilities, shall post and maintain a maintenance bond or other security acceptable to the director. The two-year maintenance bond will cover the cost of design defects or failures in workmanship of the facilities. The amount of the maintenance bond shall be ten percent of the construction cost of the stormwater facilities.

D. City Long-Term Maintenance.

1. The City is responsible for long-term maintenance of new stormwater facilities under any of the following situations:

a. Facilities located in public road rights-of-way; or

b. Facilities dedicated to the City; or

c. City-owned facilities that collect, convey, treat and/or infiltrate runoff from public rights-of-way.

2. If the City provides long-term maintenance of a stormwater facility, all the following requirements shall be met before the City becomes responsible for maintenance:

a. The facilities shall be inspected and approved by the Director prior to acceptance.

b. All necessary ownerships and easements to properly access the facility shall be conveyed to the City and recorded with the county auditor.

E. Private Long-Term Maintenance.

1. For private stormwater facilities, the applicant shall make arrangements requiring that the existing or future occupants or owners assume maintenance responsibilities. Such arrangements shall be approved prior to approval of the stormwater site plan or prior to the time of recording a required plat, short plat, or covenant.

2. The City shall have the authority to inspect private facilities for compliance. If the responsible party fails to maintain the facilities in compliance with maintenance standards for drainage

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facilities as specified in the Stormwater Manual, and in compliance with an approved operations and maintenance manual, the City may take enforcement action under VMC Title 22.
(Ord. M-3195 § 1 (part), 1995)

Section 14.25.240 Bonds and Insurance.

A. Maintenance Security. In cases identified in Section 14.25.230C, a maintenance bond or other security acceptable to the Director shall be posted and maintained throughout the two-year initial maintenance period for a stormwater facility.

B. Other Governmental Agency Projects. The bonding and insurance requirements of Section 14.25.240.A may be waived for development activities and drainage projects undertaken by governmental agencies.

(Ord. M-3195 § 1 (part), 1995)

Section 14.25.299A Article III. Exceptions and Special Cases

Section 14.25.300 Basin plans.

A. As allowed by Appendix 1, Section 7 of the Permit, Basin/Watershed planning may be used by the City as an available option to tailor Minimum Requirement #6 Runoff Treatment, Minimum Requirement #7 Flow Control, and/or Minimum Requirement #8 Wetlands Protection. Basin planning may be used to support alternatives to treatment, flow control, and/or wetland protection requirements contained in Section 4 of Appendix 1 of the Permit. Basin planning may also be used to demonstrate an equivalent level of treatment, flow control, and/or wetland protection through the construction and use of regional stormwater facilities.

B. In order for a basin plan to serve as a means of modifying the Minimum Requirements the following conditions must be met:

1. The plan must be formally adopted by all jurisdictions with responsibilities under the plan; and
2. All ordinances or regulations called for by the plan must be in effect; and
3. The basin plan must be reviewed and approved by the Washington State Department of Ecology.

C. Nothing in this section shall be read to require the City to implement Basin Planning.

(Ord. M-3195 § 1 (part), 1995)

14.25.315 - 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 Requirements #1, 4, 5, 6, 7 and 9, only, under this section. Adjustments are not authorized under this section for Minimum Requirements #2, 3, and 8.

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 Requirements #1,

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4, 5, 6, 7, and 9, 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 14.25.320, where such procedure is applicable.

Section 14.25.320 Exceptions.

The City may grant Exceptions to Minimum Requirements #1, 3, 4, 5, 6, 7, 8 and 9, under this section. Exceptions are not authorized under this section for Minimum Requirement #2. Exceptions to Minimum Requirement #2 are addressed under VMC 14.24.075. Exceptions to Minimum Requirement #3 that are unrelated to new development or redevelopment are addressed under VMC 14.26.155.

A. Exception Approval Process.

1. Permit procedural requirements. Exceptions to the Minimum Requirements 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 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 Requirements #1, 3, 4, 5, 6, 7, 8 and 9 if application of the Minimum Requirements 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:

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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.

(Ord. M-3195 § 1 (part), 1995)