

05/23/2022
06/06/2022

ORDINANCE NO. M-4371

AN ORDINANCE relating to erosion control, amending sections 14.24.030, 14.24.035 and 14.24.040 of the Vancouver Municipal Code, updating the reference to the current state stormwater manual, and providing clauses for savings, severability, and an effective date.

WHEREAS, the federal Clean Water Act requires states and their local governments to take steps to implement the National Pollutant Discharge Elimination System (“NPDES”) permit program; and

WHEREAS, Chapter 90.48 RCW, the Washington State Water Pollution Control Act, authorizes the Washington State Department of Ecology (“Ecology”) to issue municipal stormwater permits to designated communities throughout the state; and

WHEREAS, on January 17, 2007, Ecology issued the City of Vancouver (the “City”) a Western Washington Phase II Municipal Stormwater Permit under the NPDES program (“NPDES Permit”), authorizing the City to discharge stormwater to surface and ground waters of the state; and

WHEREAS, on July 1, 2019, Ecology issued a new NPDES Permit which became effective on August 1, 2019; and

WHEREAS, as a condition of discharging stormwater to waters of the state under the current NPDES Permit, Ecology requires the City to develop a Stormwater Management Plan (“SWMP”), which includes a set of mandatory actions and activities that are aimed at protecting

water quality, reducing the discharge of pollutants to surface waters and groundwaters of the state, and complying with national discharge standards; and

WHEREAS, as part of the City's SWMP, the City must implement a program to prevent and reduce pollutants in runoff from areas that discharge to the municipal separate storm sewer system, including by adopting and making effective an ordinance, or other enforceable documents, requiring the application of best management practices ("BMPs") per the current state stormwater manual; and

WHEREAS, as related in Staff Report 068-22, the City's Erosion Control ordinance needs revision to meet the requirements of the NPDES Permit, the Department of Public Works proposed amendments to the Erosion Control code to meet the requirements of the NPDES Permit and simplify the code; and

WHEREAS, the City Council finds that adoption of this ordinance for updating the reference to the current state stormwater manual prevents harm to the health or safety of the public, and promotes the public health, safety, and general welfare; and

WHEREAS, the City Council finds that it is within the police power of the City Council to adopt this ordinance for these purposes; and

WHEREAS, on May 16, 2022, the Council held a workshop to review the proposed ordinance and on May 23, 2022 conducted a public hearing to consider whether to adopt the proposed ordinance, the Council adopts the amendments to VMC Chapter 14.24, incorporating additional water resources protection standards into the City's code.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

SECTION 1. Vancouver Municipal Code Section 14.24.030, as last amended by ordinance M-4179, section 23, is hereby amended to read as follows:

14.24.030 Applicability.

A. Provisions of this chapter apply to land-disturbing activities, as defined herein and as regulated by the City's National Pollutant Discharge Elimination System Western Washington Phase II Municipal Stormwater Permit and its mandatory incorporated provisions of the ~~2005~~ 2019 Stormwater Management Manual for Western Washington, ~~specifically Volumes I and II.~~

B. All land-disturbing activities shall comply with this chapter; with City's 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~~ 2019 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 City's National Pollutant Discharge Elimination System Western Washington Phase II Municipal Stormwater Permit.

SECTION 2. Vancouver Municipal Code Section 14.24.035, as last amended by ordinance M-4179, section 24, is hereby amended to read as follows:

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 the Stormwater Manual the Stormwater Management Manual for Western Washington, and as hereafter amended as defined in this chapter.~~

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 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 3. Vancouver Municipal Code Section 14.24.040, as last amended by ordinance M-4179, section 25, is hereby amended to read as follows:

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 City's National Pollutant Discharge Elimination System Western Washington Phase II Municipal Stormwater Permit and its mandatory incorporated provisions of the 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.

"Certified Erosion and Sediment Control Lead" or "CESCL" means an individual who has current certification through an approved erosion and sediment control training program that meets the minimum training standards established by the Washington Department of Ecology (Ecology) (see BMP C160 in the Stormwater Management Manual for Western Washington (SWMMWW)). A CESCL is knowledgeable in the principles and practices of erosion and sediment control. The CESCL must have the skills to assess site conditions and construction activities that could impact the quality of stormwater discharges. Certification is obtained through an Ecology approved erosion and sediment control course. Course listings are provided online at Ecology's website.

"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: demolition, reconstruction, construction, clearing, grading, filling, excavation, and related activities. 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 and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation, and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

"Low Impact Development Best Management Practices" or "LID BMPs" mean distributed stormwater management practices, integrated into a project design, that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID BMPs include, but are not limited to, bioretention, rain gardens, permeable pavements, roof downspout controls, dispersion, soil quality and depth, minimal excavation foundations, vegetated roofs, and water re-use.

“Minimum Requirements” means the Minimum Technical Requirements for New Development and Redevelopment as set forth in Appendix 1 of the City’s 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 14.24, 14.25, and VMC Title 20 procedures.
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.

“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 that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes, and other features of a stormwater drainage system into a defined surface waterbody or a constructed infiltration facility.

"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, sediment basins, bioretention, permeable pavements, and vegetated roofs.

“Stormwater Manual” means the Stormwater Management Manual for Western Washington, prepared by the Washington State Department of Ecology Water Quality Program in ~~December 2014, Publication No. 14-10-055 (a revision of Publication No. 12-10-030), 5 volumes~~ February 1019, Publication No. 19-10-021 (a revision of Publication No. 14-10-055), and as hereafter amended.

"Stormwater Permit" means the City of Vancouver’s National Pollutant Discharge Elimination System (NPDES) Western Washington Phase II Municipal Stormwater Permit issued August 1, 2013, which was modified, effective January 16, 2014, by the Washington State Department of Ecology, and as hereafter modified or reissued.

SECTION 4. Savings. Those sections of any ordinances amended or repealed by this ordinance shall remain in full force and effect until the effective date of this ordinance.

SECTION 5. Severability. If any clause, sentence, paragraph, section, or part of this ordinance or the application thereof to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not effect or invalidate the remainder of any parts thereof to any person or circumstances and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

SECTION 6. Effective Date. This ordinance shall become effective on June 30, 2022.

Read first time: May 23, 2022

Ayes: Councilmembers Harless, Perez, Fox, Paulsen, Stober, Hansen, Mayor McEnerny-Ogle

Nays: None

Absent: None

Read second time: June 6, 2022

PASSED by the following vote:

Ayes: Councilmembers Harless, Perez, Fox, Paulsen, Stober, Mayor McEnerny-Ogle

Nays: None

Absent: Councilmember Hansen

SIGNED this 6th day of June, 2022.

DocuSigned by:
Anne McEnerny-Ogle
8C89D9089EC5424...
Anne McEnerny-Ogle, Mayor

Attest:

DocuSigned by:
Natasha Ramras
BCF0734E40E94AE...
Natasha Ramras, City Clerk

Approved as to form:

DocuSigned by:
Jonathan Young
9A7DC2E31F694A2...
Jonathan Young, City Attorney

SUMMARY

ORDINANCE NO. M-4371

AN ORDINANCE relating to erosion control, amending sections 14.24.030, 14.24.035 and 14.24.040 of the Vancouver Municipal Code, updating the reference to the current state stormwater manual, and providing clauses for savings, severability, and an effective date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).