

05/23/2022
06/06/2022

ORDINANCE NO. M-4375

AN ORDINANCE relating to stormwater control, amending sections 14.25.100 and 14.25.110 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 Stormwater Control ordinance needs revision to meet the requirements of the NPDES Permit, the Department of Public Works proposed amendments to the Stormwater 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 14.25, 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 14.25.100, as last amended by ordinance M-4179, section 34, is hereby amended to read as follows:

14.25.100 Applicability.

A. Provisions of this chapter apply to new development and redevelopment 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 2019 Stormwater Management Manual for Western Washington.

B. All new development and redevelopment activities shall comply with this chapter; with the 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 14.25.110, as last amended by ordinance M-4179, section 36, is hereby amended to read as follows:

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 City's 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.

"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.

"Hard surface" means an impervious surface, a permeable pavement or a vegetated roof.

"Impervious surface" means a non-vegetated surface area that either prevents or retards the entry of water into the solid mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or stormwater areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.

"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 management 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.

"LID Best Management Practices (BMPs)" means 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, vegetated roofs, minimum excavation foundations, and water re-use.

"LID Principles" means land management strategies that emphasize conservation, use of on-site natural features, and site planning to minimum impervious surfaces, native vegetation loss, and stormwater runoff.

“Minimum Requirements” means the Minimum Technical Requirements for New Development and Redevelopment as set forth in Appendix 1 of the City’s 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 (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 issued August 1, 2013, which was modified, effective January 16, 2014, by the Washington State Department of Ecology, and as hereafter amended or reissued.

"Pervious surface" means a surface material that allows stormwater to infiltrate into the ground. Examples include lawn, landscape, pasture, native vegetation areas, and permeable pavements.

"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.

"Pollution-gene rating hard surface" or PGHS" means those hard surfaces considered to be a significant source of pollutants in stormwater runoff. See the listing of surfaces under pollution-generating impervious surface.

"Pollution-generating impervious surface" or "PGIS" means those impervious surfaces considered to be a significant source or pollutants in stormwater runoff. Such surfaces include those which are subject to: vehicular use; industrial actives or storage of erodible or leachable materials, wastes or chemicals, and which receive direct rainfall or the run-on or blow-in rainfall; metal roofs unless they are coated with an inert, non-leachable material (e.g., backed-on enamel coating); or roofs that are subject to venting significant amounts of dusts, mists or fumes from manufacturing, commercial or other indoor activities.

"Pollution-generating pervious surface" or "PGPS" means any non-impervious surface subject to vehicular use, industrial activities or storage of erodible or leachable materials, wastes or

chemicals, and that receive direct rainfall or run-on or blow-in of rainfall, use of vehicular use, lawns and landscaped areas including: golf courses, parks, cemeteries, and sports fields (natural and artificial turf).

“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 that portion of precipitation that does not naturally percolate into the ground or evaporate, but flow 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, ~~December 2014, Publication No. 14-10-055 (a revision of Publication No. 12-10-030), 5 volumes~~ February 2019, Publication No. 19-10-021 (a revision of Publication No. 14-10-055), and as hereafter amended.

“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) 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 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" or "Facility 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 Protections Ordinance, VMC 20.740.

SECTION 3. 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 4. 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 5. Effective Date. This ordinance shall become effective on July 31, 2022.

Read first time: May 23, 2022

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

Nays: None

Absent: None

Read second time: June 6, 2022

PASSED by the following vote:

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

Nays: None

Absent: Councilmember Hansen

SIGNED this 6th day of June, 2022.

DocuSigned by:
Anne McEnerny-Ogle
6C89D9089EC5424...
Anne McEnerny-Ogle, Mayor

Attest:

DocuSigned by:
Natasha Ramras
BCF6734E40E94AE...
Natasha Ramras, City Clerk

Approved as to form:

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

SUMMARY

ORDINANCE NO. M-4375

AN ORDINANCE relating to stormwater control, amending sections 14.25.100 and 14.25.110 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).