

Title 24

STORMWATER

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Chapter 24.04**STORMWATER MAINTENANCE**

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24.04.010 Findings of fact.

The city council of the city of Pacific hereby finds that:

A. Stormwater facilities are a common feature of urban development.

B. In order to function properly so that they will perform as designed to prevent or remove pollution and/or to reduce flooding, stormwater facilities must be regularly inspected and maintained.

C. If not adequately maintained, stormwater facilities can become sources of pollutants to surface water and groundwater.

D. If not adequately maintained, stormwater facilities could fail and cause considerable damage to the public. (Ord. 1481 § 1, 2000).

24.04.020 Need.

The city council finds that this chapter is necessary in order to ensure maintenance of all stormwater facilities within the city by setting

minimum standards for the inspection and maintenance of stormwater facilities. (Ord. 1481 § 1, 2000).

24.04.030 Purpose.

The provisions of this chapter are intended to:

A. Provide for inspection and maintenance of stormwater facilities in the city of Pacific to provide for an effective, functional stormwater drainage system.

B. Authorize the city to require that stormwater facilities be operated, maintained and repaired in conformance with this chapter.

C. Establish the minimum level of compliance which must be met.

D. Guide and advise all who conduct inspection and maintenance of stormwater facilities. (Ord. 1481 § 1, 2000).

24.04.040 Definitions.

For the purposes of this chapter, the following definitions shall apply:

“Best management practice” or “BMP” means physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, and have been approved by Ecology. BMPs are listed and described in the manual.

“Manual” or “stormwater management manual” means the manual, or manuals, adopted by reference and approved by Ecology that contains BMPs to prevent or reduce stormwater pollution.

“Person” means any individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, agency of the state, or local government unit, however designated.

“Stormwater” means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, channels or pipes into a defined surface water channel, or a constructed infiltration facility.

“Stormwater drainage system” means constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat or filter stormwater.

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“Stormwater facility” means a constructed component of a stormwater drainage system, designed or constructed to perform a particular function, or multiple functions. Stormwater facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, constructed wetlands, infiltration devices, catchbasins, oil/water separators, sediment basins and modular pavement. (Ord. 1481 § 1, 2000).

24.04.050 Abrogation and greater restrictions.

It is not intended that this chapter repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. (Ord. 1481 § 1, 2000).

24.04.060 Interpretation.

The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this chapter. (Ord. 1481 § 1, 2000).

24.04.070 Applicability.

When any provision of any other chapter of the city of Pacific Municipal Code conflicts with this chapter, the chapter that provides more environmental protection shall apply unless specifically provided otherwise in this chapter. (Ord. 1481 § 1, 2000).

24.04.080 Maintenance required.

All stormwater facilities shall be maintained in accordance with this chapter and the manual. Systematic, routine preventive maintenance is preferred. (Ord. 1481 § 1, 2000).

24.04.090 Minimum standards.

The following are the minimum standards for the maintenance of stormwater facilities:

A. Facilities shall be inspected annually and cleared of debris, sediment and vegetation when they affect the functioning and/or design capacity of the facility. The owner of each facility shall maintain an operation and maintenance manual and records that verify com-

pliance with said operation and maintenance requirements.

B. Where lack of maintenance is causing or contributing to a water quality problem, immediate action shall be taken to correct the problem. Within one month, the director shall revisit the facility to assure that it is being maintained. (Ord. 1481 § 1, 2000).

24.04.100 Disposal of waste from maintenance activities.

Disposal of waste from maintenance activities shall be conducted in accordance with King County Stormwater Pollution Control Manual; the minimum Functional Standards for Solid Waste Handling, Chapter 173-304 WAC; guidelines for disposal of waste materials from stormwater maintenance activities; and where appropriate, the Dangerous Waste Regulations, Chapter 173-303 WAC. (Ord. 1481 § 1, 2000).

24.04.110 Compliance.

Property owners are responsible for the maintenance, operation or repair of private stormwater drainage systems and BMPs. Property owners shall maintain, operate and repair these facilities in compliance with the requirements of this chapter and the manual. (Ord. 1481 § 1, 2000).

24.04.120 Administration.

A. Director. The mayor or a designee shall administer this chapter and shall be referred to as the director. The director shall have the authority to develop and implement administrative procedures to administer and enforce this chapter.

B. Inspection Authority. The director is directed and authorized to develop an inspection program for stormwater facilities in the city of Pacific.

C. Enforcement Authority. The director shall enforce this chapter. (Ord. 1481 § 1, 2000).

24.04.130 Inspection.

Whenever implementing the provisions of the inspection program or whenever there is cause to believe that a violation of this chapter

has been or is being committed, the director is authorized to inspect during regular working hours and at other reasonable times all stormwater drainage systems within the city of Pacific to determine compliance with the provisions of this chapter. (Ord. 1481 § 1, 2000).

24.04.140 Inspection procedures.

Prior to making any inspections, the director shall present identification credentials, state the reason for the inspection and request entry.

A. If the property or any building or structure on the property is unoccupied, the director shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the property or portions of the property and request entry.

B. If after reasonable effort, the inspector is unable to locate the owner or other person(s) having charge or control of the property, and has reason to believe the condition of the stormwater drainage system creates an imminent hazard to persons or property, the director may enter.

C. Unless entry is consented to by the owner or person(s) in control of the property or portion of the property or unless conditions are reasonably believed to exist which create imminent hazard, the director shall obtain a search warrant, prior to entry, as authorized by the laws of the state of Washington.

D. The director may inspect the stormwater drainage system without obtaining a search warrant provided for in subsection C of this section, provided the inspection can be conducted while remaining on public property or other property on which permission to enter is obtained. (Ord. 1481 § 1, 2000).

24.04.150 Inspection schedule.

The director shall establish a master inspection and maintenance schedule to inspect all stormwater facilities. Inspections shall be annual. Critical stormwater facilities may require a more frequent inspection schedule. (Ord. 1481 § 1, 2000).

24.04.160 Inspection and maintenance records.

As existing stormwater facilities are encountered, they shall be added to the master inspection and maintenance schedule. Records of new stormwater facilities shall include the following:

A. As-built plans and locations.

B. Findings of fact from any exemption granted by the city.

C. Operation and maintenance requirements and records of inspections, maintenance actions and frequencies.

D. Engineering reports, as appropriate.

E. Identification of ownership and contact information. (Ord. 1481 § 1, 2000).

24.04.170 Reporting requirements.

The director shall report annually to the city council about the status of the inspections. The annual report may include, but need not be limited to, the proportion of the components found in and out of compliance, the need to upgrade components, enforcement actions taken, compliance with the inspection schedule, the resources needed to comply with the schedule, and comparisons with previous years. (Ord. 1481 § 1, 2000).

24.04.180 Enforcement.

A. Enforcement action shall be taken whenever a person has violated any provision of this chapter. The choice of enforcement action taken and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the degree of bad faith of the persons subject to the enforcement action.

B. Orders. The director shall have the authority to issue to an owner or other person an order to maintain or repair a component of a stormwater facility or BMP to bring it in compliance with this chapter, the manual, and/or city regulations or standards. The order shall include:

1. A description of the specific nature, extent and time of the violation and the damage or potential damage that reasonably might occur;

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2. A notice that the violation or the potential violation cease and desist and, in appropriate cases, the specific corrective actions to be taken; and

3. A reasonable time to comply, depending on the circumstances. Time allowed for compliance shall not be more than 30 calendar days unless authorized by the city council. (Ord. 1481 § 1, 2000).

24.04.190 Civil penalty.

A person who fails to comply with the requirements of this chapter or who fails to conform to the terms of an approval or order issued shall be subject to a civil penalty.

A. Amount of Penalty. The penalty shall be not more than \$1,000 nor less than \$250.00 for each violation. Each day of continued violation shall constitute a separate violation.

B. Aiding or Abetting. Any person who, through an act of commission or omission, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.

C. Notice of Penalty. A civil penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the city of Pacific. The notice shall describe the violation, the date(s) of violation, and shall order the acts constituting the violation to cease and desist, and, in appropriate cases, require necessary corrective action within a specific time.

D. Application for Remission or Mitigation. Any person incurring a penalty may apply in writing within 10 days of receipt of the penalty to the city council for remission or mitigation of such penalty. Upon receipt of the application, the city council may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty. The city council's decision may be appealed to the superior court of King County within 10 days of the decision. (Ord. 1481 § 1, 2000).

24.04.200 Penalties.

Penalties imposed under this chapter shall become due and payable 10 days after receiving notice of penalty unless application for remission or mitigation is made or an appeal is filed. Whenever an application for remission or mitigation is made, penalties shall become due and payable 30 days after receipt of the decision regarding the remission or payable after all review proceedings and a final decision has been issued confirming all or part of the penalty. If the amount of a penalty owed is not paid within the time specified in this section, the city may take actions necessary to recover such penalty. Penalties recovered shall be paid to a fund dedicated to enforcement of the stormwater management program. (Ord. 1481 § 1, 2000).

Chapter 24.08**STORMWATER MANAGEMENT**

Sections:

- 24.08.010 Findings of fact.
- 24.08.020 Need.
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- 24.08.040 Definitions.
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- 24.08.080 Regulated activities.
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- 24.08.200 Minimum requirement No. 1 – Erosion and sediment control.
- 24.08.210 Minimum requirement No. 2 – Preservation of natural drainage systems.
- 24.08.220 Minimum requirement No. 3 – Source control of pollution.
- 24.08.230 Minimum requirement No. 4 – Runoff treatment BMPs.
- 24.08.240 Minimum requirement No. 5 – Streambank erosion flow control.
- 24.08.250 Minimum requirement No. 6 – Wetlands.
- 24.08.260 Minimum requirement No. 7 – Water quality sensitive areas.

- 24.08.270 Minimum requirement No. 8 – Off-site analysis and mitigation.
- 24.08.280 Minimum requirement No. 9 – Basin planning.
- 24.08.290 Minimum requirement No. 10 – Operation and maintenance.
- 24.08.300 Minimum requirement No. 11 – Financial liability.
- 24.08.310 Exceptions.
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- 24.08.390 Exceptions.
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24.08.010 Findings of fact.

A. The city council of the city of Pacific hereby finds that:

1. Stormwater pollution is a problem associated with land utilization and development and the common occurrence of potential pollutants such as pesticides, fertilizers, petroleum products, pet wastes, and numerous others.

2. Land utilization and development is also known to increase both the volume and duration of peak flows. The resulting erosion, scouring, and deposition of sediment affect the ecological balance in the stream.

3. Sedimentation and stormwater pollution cause diversity of species to decrease and allows more tolerant (and usually less desirable) species to remain.

4. Stormwater pollution can cause or contribute to restrictions on public use of the waters within the city.

B. An expanding population and increased development of land have led to:

1. Water quality degradation through discharge of nutrients, metals, oil and grease, toxic materials, and other detrimental substances including, without limitation, insect and weed control compounds;

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2. Drainage and storm- and surface-water runoff problems within the city; and

3. Safety hazards to both lives and property posed by uncontrolled water runoff on streets and highways.

C. Continuation of present stormwater management practices, to the extent that they exist, will lead to water quality degradation, erosion, property damage, and will endanger the health and safety of the inhabitants of the city of Pacific.

D. In the future such problems and dangers will be reduced or avoided if existing properties and future developers, both private and public, provide for stormwater quality and quantity controls.

E. Stormwater quality and quantity controls can be achieved when land is developed or redeveloped by implementing appropriate best management practices (BMPs).

F. Best management practices can be expected to perform as intended only when properly designed, constructed and maintained. (Ord. 1482 § 1, 2000).

24.08.020 Need.

The city council finds that this chapter is necessary in order to:

A. Minimize or eliminate water quality degradation;

B. Prevent erosion and sedimentation in creeks, streams, ponds, lakes and other water bodies;

C. Protect property owners adjacent to existing and developing lands from increased runoff rates which could cause erosion of abutting property;

D. Preserve and enhance the suitability of waters for contact recreation, fishing, and other beneficial uses;

E. Preserve and enhance the aesthetic quality of the water;

F. Promote sound development policies which respect and preserve city surface water, ground water and sediment;

G. Ensure the safety of city roads and rights-of-way;

H. Decrease stormwater-related damage to public and private property from existing and future runoff; and

I. Protect the health, safety and welfare of the inhabitants of the city of Pacific. (Ord. 1482 § 1, 2000).

24.08.030 Purpose.

A. The provisions of this chapter are intended to guide and advise all who conduct new development or redevelopment within the city of Pacific. The provisions of this chapter establish the minimum level of compliance that must be met to permit a property to be developed or redeveloped within the city.

B. It is the purpose of this chapter to:

1. Minimize water quality degradation and sedimentation in streams, ponds, lakes, wetlands and other water bodies;

2. Minimize the impact of increased runoff, erosion and sedimentation caused by land development and maintenance practices;

3. Maintain and protect groundwater resources;

4. Minimize adverse impacts of alterations on ground and surface water quantities, locations and flow patterns;

5. Decrease potential landslide, flood and erosion damage to public and private property;

6. Promote site planning and construction practices that are consistent with natural topographical, vegetational and hydrological conditions;

7. Maintain and protect the city stormwater management infrastructure and those downstream;

8. Provide a means of regulating clearing and grading of private and public land while minimizing water quality impacts in order to protect public health and safety; and

9. Provide minimum development regulations and construction procedures which will preserve, replace or enhance, to the maximum extent practicable, existing vegetation to preserve and enhance the natural qualities of lands, wetlands and water bodies. (Ord. 1482 § 1, 2000).

24.08.040 Definitions.

For the purposes of this chapter, the following definitions shall apply:

“Approval” means the proposed work or completed work conforms to this chapter in the opinion of the director.

“As-graded” means the extent of surface conditions on completion of grading.

“Basin plan” means a plan and all implementing regulations and procedures including but not limited to land use management adopted by ordinance for managing surface and storm water management facilities and features within individual sub-basins.

“Bench” means a relatively level step excavated into earth material on which fill is to be placed.

“Best management practice” or “BMP” means physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water. BMPs are listed and described in the manual.

“Civil engineer” means a professional engineer licensed in the state of Washington in civil engineering who is experienced and knowledgeable in the practice of soils engineering.

“Civil engineering” means the application of the knowledge of the forces of nature, principles of mechanics and the properties of materials to the evaluation, design and construction of civil works for the beneficial uses of mankind.

“Clearing” means the destruction and removal of vegetation by manual, mechanical, or chemical methods.

“Commercial agriculture” means those activities conducted on lands defined in RCW 84.34.020(2), and activities involved in the production of crops or livestock for wholesale trade. An activity ceases to be considered commercial agriculture when the area on which it is conducted is proposed for conversion to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity.

“Compaction” means densification of a fill by mechanical means.

“Critical areas” means, at a minimum, areas which include wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, including unstable slopes, and associated areas and ecosystems.

“Design storm” means a prescribed hyetograph and total precipitation amount (for a specific duration recurrence frequency) used to estimate runoff for a hypothetical storm of interest or concern for the purposes of analyzing existing drainage, designing new drainage facilities or assessing other impacts of a proposed project on the flow of surface water. (A hyetograph is a graph of percentages of total precipitation for a series of time steps representing the total time during which the precipitation occurs.)

“Detention” means the release of stormwater runoff from the site at a slower rate than it is collected by the stormwater facility system, the difference being held in temporary storage.

“Detention facility” means an above or below ground facility, such as a pond or tank, that temporarily stores stormwater runoff and subsequently releases it at a slower rate than it is collected by the drainage facility system. There is little or no infiltration of stored stormwater.

“Drainage basin” means a geographic and hydrologic subunit of a watershed.

“Earth material” means any rock, natural soil or fill and/or any combination thereof.

“Ecology” means the Washington State Department of Ecology.

“Engineering geologist” means a geologist experienced and knowledgeable in engineering geology.

“Engineering geology” means the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

“Erosion” means the wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep. “Erosion” also means the detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

“Excavation” means the mechanical removal of earth material.

“Existing site conditions” means:

1. For developed sites with stormwater facilities that have been constructed to meet the standards in the minimum requirements of the manual, existing site conditions shall mean the existing conditions on the site.

2. For developed sites that do not have stormwater facilities that meet the minimum requirements, existing site conditions shall mean the conditions that existed prior to local government adoption of a stormwater management program. If in question, the existing site conditions shall be documented by aerial photograph records or other appropriate means.

3. For all sites in water quality sensitive areas as identified under minimum requirement No, 7, water quality sensitive areas, as set forth in PMC 24.08.260, existing site conditions shall mean undisturbed forest, for the purpose of calculating runoff characteristics.

4. For all undeveloped sites outside of water quality sensitive areas, existing site conditions shall mean the existing conditions on the site.

“Experimental BMP” means a BMP that has not been tested and evaluated by the Department of Ecology in collaboration with local governments and technical experts.

“Fill” means a deposit of earth material placed by artificial means.

“Forest practice” means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

1. Road and trail construction.
2. Harvesting, final and intermediate.
3. Precommercial thinning.
4. Reforestation.
5. Fertilization.
6. Prevention and suppression of diseases and insects.
7. Salvage of trees.
8. Brush control.

“Frequently flooded areas” means the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

“Geologically hazardous areas” means areas that because of their susceptibility to erosion, sliding, earthquake or other geological events, are not suited to the siting of commercial, residential or industrial development consistent with public health or safety concerns.

“Grade” means the slope of a road, channel, or natural ground. The finished surface of a canal bed, roadbed, top of embankment, or bottom of excavation; any surface prepared for the support of construction such as paving or the laying of a conduit. Types of grade include:

1. Existing Grade. The grade prior to grading.

2. Rough Grade. The stage at which the grade approximately conforms to the approved plan.

3. Finish Grade. The final grade of the site which conforms to the approved plan.

(To) “Grade” means to finish the surface of a canal bed, roadbed, top of embankment or bottom of excavation.

“Gradient terrace” means an earth embankment or a ridge-and-channel constructed with suitable spacing and an acceptable grade to reduce erosion damage by intercepting surface runoff and conducting it to a stable outlet at a stable nonerosive velocity.

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

“Hydroperiod” means the seasonal occurrence of flooding and/or soil saturation; it encompasses depth, frequency, duration, and seasonal pattern of inundation.

“Illicit discharge” means all nonstormwater discharges to stormwater drainage systems that cause or contribute to a violation of state water quality, sediment quality or ground water quality standards, including but not limited to sanitary sewer connections, industrial process water, interior floor drains, car washing and greywater systems.

“Impervious surface” means a surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a 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 con-

ditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas (gravel or paved), concrete or asphalt paving, gravel roads or driveways, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces.

“Interflow” means that portion of rainfall that infiltrates into the soil and moves laterally through the upper soil horizons until intercepted by a stream channel or until it returns to the surface for example, in a wetland, spring or seep.

“Land disturbing activity” means any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to demolition, construction, clearing, grading, filling and excavation.

“Large parcel erosion and sediment control plan” or “large parcel ESC plan” means a plan to implement BMPs to control pollution generated during land disturbing activity. Guidance for preparing a large parcel ESC plan is contained in the manual. [Note: Ecology will add a sample large parcel ESC plan to this guidance manual.]

“Mitigation” means, in the following order of preference:

1. Avoiding the impact altogether by not taking a certain action or part of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and
5. Compensation for the impact by replacing, enhancing, or providing substitute resources or environments.

“Natural location” means the location of those channels, swales, and other nonman-made conveyance systems as defined by the first documented topographic contours existing for the subject property, either from maps or photographs, or such other means as appropriate.

“New development” means the following activities: land disturbing activities, structural development, including construction, installation or expansion of a building or other structure; creation of impervious surfaces; Class IV-general forest practices that are conversions from timber land to other uses; and subdivision and short subdivision of land as defined in RCW 58.17.020. All other forest practices and commercial agriculture are not considered new development.

“Permanent stormwater quality control (PSQC) plan” means a plan which includes permanent BMPs for the control of pollution from stormwater runoff after construction and/or land disturbing activity has been completed. For small sites, this requirement is met by implementing a small parcel erosion and sediment control site drainage plan. Guidance on preparing a PSQC plan is contained in the manual. [Note: Ecology will add a sample large parcel ESC plan to this guidance manual.]

“Person” means any individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, agency of the state, or local government unit, however designated.

“Pollution” means contamination or other alteration of the physical, chemical, or biological properties of 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.

“Redevelopment” means, on an already developed site, the creation or addition of impervious surfaces, structural development including construction, installation or expansion of a building or other structure, and/or replacement of an impervious surface that is not part of a routine maintenance activity, and land disturbing activities associated with structural or impervious redevelopment.

“Regional retention/detention system” means a stormwater quantity control structure designed to correct existing excess surface-water runoff problems of a basin or sub-basin. The area downstream has been previously identified as having existing or predicted significant and regional flooding and/or erosion problems. This term is also used when a detention facility is used to detain stormwater runoff from a number of different businesses, developments or areas within a catchment.

“Retention/detention facility (R/D)” means a type of drainage facility 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 surface and stormwater runoff for a short period of time and then release it to the surface and stormwater management system.

“Site” means the portion of a piece of property that is directly subject to development.

“Slope” means the degree of deviation of a surface from the horizontal; measured as a numerical ratio, percent, or in degrees. Expressed as a ratio, the first number is the horizontal distance (run) and the second is the vertical distance (rise), as 2:1. A 2:1 slope is a 50 percent slope. Expressed in degrees, the slope is the angle from the horizontal plane, with a 90-degree slope being vertical (maximum) and a 45-degree being a 1:1 or 100 percent slope.

“Small parcel erosion and sediment control site drainage plan” or “small parcel ESC plan” means a plan for small sites to implement temporary BMPs to control pollution generated during the construction phase only, and to minimize erosion and sediment. Guidance for preparing a small parcel ESC site drainage plan is contained in the manual.

“Soil” means the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

“Source control BMP” means a BMP that is intended to prevent pollutants from entering stormwater. A few examples of source control BMPs are erosion control practices, maintenance of stormwater facilities, constructing roofs over storage and working areas, and directing wash water and similar discharges to the sanitary sewer or a dead end sump.

“Stormwater” means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, channels or pipes into a defined surface-water channel, or a constructed infiltration facility.

“Stormwater drainage system” means constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat or filter stormwater.

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

“Stormwater management manual” or “manual” means the manual, or manuals, adopted by reference and approved by Ecology that contains BMPs to prevent or reduce stormwater pollution.

“Stormwater site plan” or “drainage plan” means an engineering plan that includes an erosion and sediment control (ESC) plan and/or a technical information report that addresses the permanent stormwater quality control plan (PSQCP). For small sites, this plan is the equivalent of a small parcel erosion and sediment control site drainage plan. Guidance on preparing the elements of a stormwater site plan is contained in the manual.

“Toe of slope” means a point or line of slope in an excavation or cut where the lower surface

changes to horizontal or meets the existing ground slope.

“Top of slope” means a point or line on the upper surface of a slope where it changes to horizontal or meets the original surface.

“Treatment BMP” means a BMP that is intended to remove pollutants from stormwater. A few examples of treatment BMPs are detention ponds, oil/water separators, biofiltration swales and constructed wetlands.

“Unstable slopes” means those sloping areas of land which have in the past exhibited, are currently exhibiting, or will likely in the future exhibit mass movement of earth.

“Water body” means surface waters including rivers, streams, lakes, marine waters, estuaries, and wetlands.

“Watershed” means a geographic region within which water drains into a particular river, stream, or body of water as identified and numbered by the State of Washington Water Resource Inventory Areas (WRIAs) as defined in Chapter 173-500 WAC.

“Vegetation” means all organic plant life growing on the surface of the earth. (Ord. 1482 § 1, 2000).

24.08.050 Abrogation and greater restrictions.

It is not intended that this chapter repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. (Ord. 1482 § 1, 2000).

24.08.060 Interpretation.

The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this chapter. (Ord. 1482 § 1, 2000).

24.08.070 Applicability.

A. When any provision of any other chapter of the municipal code of the city of Pacific conflicts with this chapter, that which provides more environmental protection shall apply unless specifically provided otherwise in this chapter.

B. The city of Pacific is authorized to adopt written procedures for the purpose of carrying out the provisions of this chapter. Prior to fulfilling the requirements of this chapter, the city shall not grant any approval or permission to conduct a regulated activity including, but not limited to, the following:

1. Building permit, commercial or residential.
2. Binding site plan.
3. Conditional use permit.
4. Franchise right-of-way construction permit.
5. Grading and clearing permit.
6. Master plan development.
7. Planned unit development.
8. Right-of-way permit.
9. Shoreline substantial development permit.
10. Shoreline variance.
11. Shoreline conditional use permit.
12. Shoreline environmental redesignation.
13. Unclassified use permit.
14. Variance.
15. Zone reclassification.
16. Subdivision.
17. Short subdivision.
18. Special use permit.
19. Utility and other use permit.
20. Zone reclassification.
21. Any subsequently adopted permit or required approval not expressly exempted by this chapter.

C. Regulated activities shall be conducted only after the city of Pacific approves a stormwater site plan that includes one or more of the following as required by this chapter:

1. Small parcel erosion and sediment control site drainage plan;
2. Large parcel erosion and sediment control plan engineering plans with erosion/sediment control and a technical information report; or
3. Permanent stormwater quality control (PSQC) plan master drainage plan. (Ord. 1482 § 1, 2000).

24.08.080

24.08.080 Regulated activities.

Consistent with the minimum requirements contained in this chapter, the city of Pacific shall approve or disapprove the following activities, unless exempted under PMC 24.08.090:

A. New development, including, but not limited to:

1. Land disturbing activities;
2. Structural development, including construction; installation or expansion of a building or other structure;
3. Creation of impervious surfaces;
4. Class IV general forest practices that are conversions from timber land to other uses; and
5. Subdivision, short subdivision and binding site plans, as defined in RCW 58.17.020.

B. Redevelopment. On an already developed site, the creation or addition of impervious surfaces, structural development including construction, installation or expansion of a building or other structure, land disturbing activity, and/or replacement of impervious surface that is not part of a routine maintenance activity, and land disturbing activities associated with structural or impervious redevelopment. (Ord. 1482 § 1, 2000).

24.08.090 Exemptions.

A. Commercial agriculture, and forest practices regulated under WAC Title 222, except for Class IV-General forest practices that are conversions from timber land to other uses, are exempt from the provisions of this chapter.

B. Development undertaken by the Washington State Department of Transportation in state highway rights-of-way is regulated by Chapter 173-270 WAC, the Puget Sound Highway Runoff Program.

C. All other new development and redevelopment is subject to the minimum requirements of this chapter. (Ord. 1482 § 1, 2000).

24.08.100 Stormwater management manuals adopted.

The latest edition of King County's Surface Water Design Manual and the King County

Stormwater Pollution Control Manual are hereby adopted by reference and are collectively hereinafter referred to as the manual. If there is any conflict between this chapter and the requirements of the manual, the chapter requirements shall prevail. (Ord. 1482 § 1, 2000).

24.08.110 Stormwater best management practices (BMPs).

A. General. BMPs shall be used to control pollution from stormwater. BMPs shall be used to comply with the standards in this chapter. BMPs are in the manual.

B. Experimental BMPs. In those instances where appropriate BMPs are not in the manual, experimental BMPs should be considered. Experimental BMPs are encouraged as a means of solving problems in a manner not addressed by the manual in an effort to improve stormwater quality technology. Experimental BMPs must be approved in accordance with the approval process outlined in the manual. (Ord. 1482 § 1, 2000).

24.08.120 Illicit discharges.

Illicit discharges to stormwater drainage systems are prohibited. (Ord. 1482 § 1, 2000).

24.08.130 Small parcel site minimum requirements.

A. The following new development shall be required to control erosion and sediment during construction, to permanently stabilize soil exposed during construction, to comply with small parcel site drainage requirements Nos. 1 through 5 as set forth in PMC 24.08.140 through 24.08.180:

1. Individual, detached, single family residences and duplexes less than 10,000 square feet in total impervious surface area.
2. Creation or addition of less than 5,000 square feet of impervious surface area.
3. Land disturbing activities of less than one acre.
4. Does not drain to wetlands or identified critical area.

B. Compliance shall be demonstrated through the implementation of an approved

small parcel erosion and sediment control site drainage plan. (Ord. 1482 § 1, 2000).

**24.08.140 Small parcel requirement No. 1
– Construction access route.**

Construction vehicle access shall be, whenever possible, limited to one route. Access points shall be stabilized with quarry spall or crushed rock to minimize the tracking of sediment onto public roads. (Ord. 1482 § 1, 2000).

**24.08.150 Small parcel requirement No. 2
– Stabilization of denuded areas.**

All exposed soils shall be stabilized by suitable application of BMPs, including but not limited to sod or other vegetation, plastic covering, mulching, or application of ground base on areas to be paved. All BMPs shall be selected, designed and maintained in accordance with an approved manual. From October 1st through April 30th, no soils shall remain exposed for more than two days. From May 1st through September 30th, no soils shall remain exposed for more than seven days. (Ord. 1482 § 1, 2000).

**24.08.160 Small parcel requirement No. 3
– Protection of adjacent properties.**

Adjacent properties shall be protected from sediment deposition by appropriate use of vegetative buffer strips, sediment barriers or filters, dikes or mulching, or by a combination of these measures and other appropriate BMPs. (Ord. 1482 § 1, 2000).

**24.08.170 Small parcel requirement No. 4
– Maintenance.**

All erosion and sediment control BMPs shall be regularly inspected and maintained to ensure continued performance of their intended function. (Ord. 1482 § 1, 2000).

**24.08.180 Small parcel requirement No. 5
– Other BMPs.**

As required by the manual, local plan approval authority, other appropriate BMPs to mitigate the effects of increased runoff shall be applied. (Ord. 1482 § 1, 2000).

24.08.190 Large development minimum requirements.

A. New Development.

1. All new development that includes the creation or addition of 5,000 square feet, or greater, of new impervious surface area, and/or land disturbing activity of one acre or greater, shall comply with minimum requirements Nos. 1 through 11, as set forth in PMC 24.08.200 through 24.08.300. Compliance shall be demonstrated through the implementation of an approved stormwater site plan consisting of large parcel engineering plan that includes an ESC plan and a PSQC plan technical information report, as appropriate.

2. All new development that includes the creation or addition of 5,000 square feet, or greater, of new impervious surface area, and land disturbing activity of less than one acre, shall comply with minimum requirements Nos. 2 through 11, as set forth in PMC 24.08.210 through 24.08.300, and the small parcel minimum requirements, as set forth in PMC 24.08.140 through 24.08.180. Compliance shall be demonstrated through the implementation of an approved stormwater site plan that includes a small parcel erosion and sediment control plan and a PSQC plan. This section does not apply to the construction of individual, detached, single family residences and duplexes. Those types of new development are included in the small parcel minimum requirements.

B. Redevelopment.

1. Where redevelopment of 5,000 square feet occurs, new development minimum requirements Nos. 1 through 11, as set forth in PMC 24.08.200 through 24.08.300, shall apply to that portion of the site that is being redeveloped, and source control BMPs shall be applied to the entire site, including adjoining parcels if they are part of the project.

2. In addition to the above requirements, where one or more of the following conditions apply, a stormwater management plan shall be prepared that includes a schedule for implementing the minimum requirements to the maximum extent practicable, for the entire site, including adjoining parcels if they are part of the project. An adopted and implemented

24.08.200

basin plan (minimum requirement No. 9) may be used to develop redevelopment requirements that are tailored to a specific basin, as follows:

a. Existing sites greater than one acre in size with 50 percent or more impervious surface;

b. Sites that discharge to a receiving water that has a documented water quality problem. Subject to local priorities, a documented water quality problem includes, but is not limited to water bodies:

i. Listed in reports required under Section 305(b) of the Clean Water Act, and designated as not supporting beneficial uses;

ii. Listed under Section 304(I)(1)(A)(i), 304(I)(1)(A)(ii), or 304(I)(1)(B) of the Clean Water Act as not expected to meet water quality standards or water quality goals; and

iii. Listed in Washington State's Nonpoint Source Assessment required under Section 319(a) of the Clean Water Act that, without additional action to control nonpoint sources of pollution cannot reasonably be expected to attain or maintain water quality standards;

c. Sites where the need for additional stormwater control measures have been identified through a basin plan, the watershed ranking process under Chapter 400-12 WAC, or through Growth Management Act planning. (Ord. 1482 § 1, 2000).

24.08.200 Minimum requirement No. 1 – Erosion and sediment control.

A. All new development and redevelopment that includes land disturbing activities of more than one acre shall comply with erosion and sediment control requirements Nos. 1 through 14 in subsection C of this section. Compliance with the erosion and sediment control requirements shall be demonstrated through implementation of an approved large parcel engineering plan that includes an erosion and sediment control plan.

B. All new development and redevelopment that includes land disturbing activities of less than one acre shall comply with the small parcel minimum requirements, as set forth in PMC 24.08.140 through 24.08.180. Compli-

ance with the small parcel requirements shall be demonstrated through implementation of a small parcel erosion and sediment control site drainage plan.

C. The following erosion and sediment control requirements shall be met:

1. Erosion and Sediment Control Requirement No. 1 – Stabilization and Sediment Trapping. All exposed and unworked soils shall be stabilized by suitable application of BMPs. From October 1st to April 30th, no soils shall remain unstabilized for more than two days. From May 1st to September 30th, no soils shall remain unstabilized for more than seven days. Prior to leaving the site, stormwater runoff shall pass through a sediment pond or sediment trap, or other appropriate BMPs.

2. Erosion and Sediment Control Requirement No. 2 – Delineate Clearing and Easement Limits. In the field, mark clearing limits and/or any easements, setbacks, sensitive/critical areas and their buffers, trees and drainage courses.

3. Erosion and Sediment Control Requirement No. 3 – Protection of Adjacent Properties. Properties adjacent to the project site shall be protected from sediment deposition.

4. Erosion and Sediment Control Requirement No. 4 – Timing and Stabilization of Sediment Trapping Measures. Sediment ponds and traps, perimeter dikes, sediment barriers, and other BMPs intended to trap sediment on-site shall be constructed as a first step in grading. These BMPs shall be functional before land disturbing activities take place. Earthen structures such as dams, dikes, and diversions shall be seeded and mulched according to the timing indicated in erosion and sediment control requirement No. 1.

5. Erosion and Sediment Control Requirement No. 5 – Cut and Fill Slopes. Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion. In addition, slopes shall be stabilized in accordance with erosion and sediment control requirement No. 1.

6. Erosion and Sediment Control Requirement No. 6 – Controlling Off-site Erosion. Properties and waterways downstream

from development sites shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of stormwater runoff from the project site.

7. Erosion and Sediment Control Requirement No. 7 – Stabilization of Temporary Conveyance Channels and Outlets. All temporary on-site conveyance channels shall be designed, constructed and stabilized to prevent erosion from the expected velocity of flow from a two-year, 24-hour frequency storm for the developed condition. Stabilization adequate to prevent erosion of outlets, adjacent streambanks, slopes and downstream reaches shall be provided at the outlets of all conveyance systems.

8. Erosion and Sediment Control Requirement No. 8 – Storm Drain Inlet Protection. All storm drain inlets made operable during construction shall be protected so that stormwater runoff shall not enter the conveyance system without first being filtered or otherwise treated to remove sediment.

9. Erosion and Sediment Control Requirement No. 9 – Underground Utility Construction. The construction of underground utility lines shall be subject to the following criteria:

a. Where feasible, no more than 500 feet of trench shall be opened at one time;

b. Where consistent with safety and space considerations, excavated material shall be placed on the uphill side of trenches; and

c. Trench dewatering devices shall discharge into a sediment trap or sediment pond.

10. Erosion and Sediment Control Requirement No. 10 – Construction Access Routes. Wherever construction vehicle access routes intersect paved roads, provisions must be made to minimize the transport of sediment (mud) onto the paved road. If sediment is transported onto a road surface, the roads shall be cleaned thoroughly at the end of each day. Sediment shall be removed from roads by shoveling or sweeping and be transported to a controlled sediment disposal area. Street washing shall be allowed only after sediment is removed in this manner.

11. Erosion and Sediment Control Requirement No. 11 – Removal of Temporary BMPs. All temporary erosion and sediment control BMPs shall be removed within 30 days after final site stabilization is achieved or after the temporary BMPs are no longer needed. Trapped sediment shall be removed or stabilized on site. Disturbed soil areas resulting from removal shall be permanently stabilized.

12. Erosion and Sediment Control Requirement No. 12 – Dewatering Construction Sites. Dewatering devices shall discharge into a sediment trap or sediment pond.

13. Erosion and Sediment Control Requirement No. 13 – Control of Pollutants Other Than Sediment on Construction Sites. All pollutants other than sediment that occur on-site during construction shall be handled and disposed of in a manner that does not cause contamination of stormwater.

14. Erosion and Sediment Control Requirement No. 14 – Maintenance. All temporary and permanent erosion and sediment control BMPs shall be maintained and repaired as needed to assure continued performance of their intended function. All maintenance and repair shall be conducted in accordance with an approved manual.

15. Erosion and Sediment Control Requirement No. 15 – Financial Liability. Performance bonding, or other appropriate financial instruments, shall be required for all projects to ensure compliance with the approved erosion and sediment control plan. (Ord. 1482 § 1, 2000).

24.08.210 Minimum requirement No. 2 – Preservation of natural drainage systems.

Natural drainage patterns shall be maintained, and discharges from the site shall occur at the natural location, to the maximum extent practicable. (Ord. 1482 § 1, 2000).

24.08.220 Minimum requirement No. 3 – Source control of pollution.

Source control BMPs shall be applied to all projects to the maximum extent practicable. Source control BMPs shall be selected, designed and maintained according to an

24.08.230

approved manual. An adopted and implemented basin plan (minimum requirement No. 9) may be used to develop source control requirements that are tailored to a specific basin, however, in all circumstances, source control BMPs shall be required for all sites. (Ord. 1482 § 1, 2000).

24.08.230 Minimum requirement No. 4 – Runoff treatment BMPs.

A. All projects shall provide treatment of stormwater. Treatment BMPs shall be sized to capture and treat the water quality design storm, defined as the six-month, 24-hour return period storm. The first priority for treatment shall be to infiltrate as much as possible of the water quality design storm, only if site conditions are appropriate and groundwater quality will not be impaired. Direct discharge of untreated stormwater to ground water is prohibited. All treatment BMPs shall be selected, designed and maintained according to an approved manual.

B. Stormwater treatment BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the local government.

C. An adopted and implemented basin plan (minimum requirement No. 9) may be used to develop runoff treatment requirements that are tailored to a specific basin. (Ord. 1482 § 1, 2000).

24.08.240 Minimum requirement No. 5 – Streambank erosion flow control.

The requirement below applies only to situations where stormwater runoff is discharged directly or indirectly to a stream or if the capacity of the downstream stormwater system is insufficient, and must be met in addition to meeting the requirements in minimum requirement No. 4, runoff treatment BMPs:

A. Stormwater discharges to streams shall control streambank erosion flow by limiting the peak rate of runoff from individual development sites to 50 percent of the existing condition two-year, 24-hour design storm while maintaining the existing condition peak runoff rate for the 10-year, 24-hour and 100-year, 24-

hour design storms. As the first priority, streambank erosion control BMPs shall utilize infiltration to the fullest extent practicable, only if site conditions are appropriate and groundwater quality is protected. Streambank erosion flow control BMPs shall be selected, designed and maintained according to an the approved manual.

B. Stormwater treatment BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the local government.

C. An adopted and implemented basin plan (minimum requirement No. 9) may be used to develop streambank erosion flow control requirements that are tailored to a specific basin. (Ord. 1482 § 1, 2000).

24.08.250 Minimum requirement No. 6 – Wetlands.

The requirements below apply only to situations where stormwater discharges directly or indirectly through a conveyance system into a wetland, and must be met in addition to meeting the requirements in minimum standard No. 4, runoff treatment BMPs.

A. Stormwater discharges to wetlands must be controlled and treated to the extent necessary to meet the State Water Quality Standards, Chapter 173-201 WAC, or Ground Water Quality Standards, Chapter 173-200 WAC, as appropriate.

B. Discharges to wetlands shall maintain the hydroperiod and flows of existing site conditions to the extent necessary to protect the characteristic uses of the wetland. Prior to discharging to a wetland, alternative discharge locations shall be evaluated, and natural water storage and infiltration opportunities outside the wetland shall be maximized.

C. Created wetlands that are intended to mitigate for loss of wetland acreage, function and value shall not be designed to also treat stormwater.

D. In order for constructed wetlands to be considered treatment systems, they must be constructed on sites that are not wetlands and they must be managed for stormwater treatment. If these systems are not managed and maintained in accordance with an approved

manual for a period exceeding three years, these systems may no longer be considered constructed wetlands. Discharges from constructed wetlands to waters of the state (including discharges to natural wetlands) are regulated under Chapter 90.48 RCW, Chapter 173-201 WAC, and Chapter 173-200 WAC.

E. Stormwater treatment BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the local government. An adopted and implemented basin plan (minimum requirement No. 9) may be used to develop requirements for wetlands that are tailored to a specific basin. (Ord. 1482 § 1, 2000).

**24.08.260 Minimum requirement No. 7 –
Water quality sensitive areas.**

A. Where local governments determine that the minimum requirements do not provide adequate protection of water quality sensitive areas, either on-site or within the basin, more stringent controls shall be required to protect water quality.

B. Stormwater treatment BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the local government.

C. An adopted and implemented basin plan (minimum requirement No. 9) may be used to develop requirements for water quality sensitive areas that are tailored to a specific basin. (Ord. 1482 § 1, 2000).

**24.08.270 Minimum requirement No. 8 –
Off-site analysis and mitigation.**

All development projects shall conduct an analysis of off-site water quality and hydraulic capacity impacts resulting from the project and shall mitigate these impacts. The analysis shall extend a minimum of one-fourth of a mile downstream from the project. The existing or potential impacts to be evaluated and mitigated shall include, at a minimum, but not be limited to:

- A. Excessive sedimentation.
- B. Streambank erosion.
- C. Discharges to ground water contributing or recharge zones.
- D. Violations of water quality standards.

E. Spills and discharges of priority pollutants.

F. Hydraulic capacity of the downstream conveyance system. (Ord. 1482 § 1, 2000).

**24.08.280 Minimum requirement No. 9 –
Basin planning.**

Adopted and implemented watershed-based basin plans may be used to modify any or all of the minimum requirements; provided, that the level of protection for surface or ground water achieved by the basin plan will equal or exceed that which would be achieved by the minimum requirements in the absence of a basin plan. Basin plans shall evaluate and include, as necessary, retrofitting of BMPs for existing development and/or redevelopment in order to achieve watershed-wide pollutant reduction goals. Standards developed from basin plans shall not modify any of the above requirements until the basin plan is formally adopted and fully implemented by the local government. Basin plans shall be developed according to an approved manual. (Ord. 1482 § 1, 2000).

**24.08.290 Minimum requirement No. 10 –
Operation and maintenance.**

An operation and maintenance schedule manual shall be provided for all proposed stormwater facilities and BMPs, and the party (or parties) responsible for maintenance and operation shall be identified. (Ord. 1482 § 1, 2000).

**24.08.300 Minimum requirement No. 11 –
Financial liability.**

Performance bonding or other appropriate financial instruments shall be required for all projects to ensure compliance with these standards. Bonds shall be set at 125 percent of the estimated cost of all stormwater-related improvements and the cost of erosion/sedimentation control. (Ord. 1482 § 1, 2000).

24.08.310 Exceptions.

Exceptions to minimum requirements Nos. 1 through 11 may be granted prior to permit approval and construction. An exception may be granted following a public hearing, pro-

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vided that a written finding of fact is prepared, that addresses the following:

A. The exception provides equivalent environmental protection and is in the overriding public interest, and that the objectives of safety, function, environmental protection and facility maintenance, based upon sound engineering, are fully met;

B. That there are special physical circumstances or conditions affecting the property such that the strict application of these provisions would deprive the applicant of all reasonable use of the parcel of land in question, and every effort to find creative ways to meet the intent of the minimum standards has been made;

C. That the granting of the exception will not be detrimental to the public health and welfare, nor injurious to other properties in the vicinity and/or downstream, and to the quality of waters of the state; and

D. The exception is the least possible exception that could be granted to comply with the intent of the minimum requirements. (Ord. 1482 § 1, 2000).

24.08.320 Director.

A. The mayor or a designee shall administer this chapter and shall be referred to as the director. The director shall have the authority to develop and implement administrative procedures to administer and enforce this chapter.

B. The director may approve, conditionally approve or deny an application for activities regulated by this chapter.

C. The director shall enforce this chapter. (Ord. 1482 § 1, 2000).

24.08.330 Inspection.

All activities regulated by this chapter, except those exempt under PMC 24.08.090, shall be inspected by the director. The director shall inspect projects at various stages of the work requiring approval to determine that adequate control is being exercised. Stages of work requiring inspection include, but are not limited to, preconstruction; installation of BMPs; land disturbing activities; installation of utilities, landscaping, retaining walls and completion of project. When required by the

director, a special inspection and/or testing shall be performed. (Ord. 1482 § 1, 2000).

24.08.340 Enforcement.

Enforcement action shall be in accordance with this chapter whenever a person has violated any provision of this chapter. The choice of enforcement action and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the degree of bad faith of the person subject to the enforcement action. (Ord. 1482 § 1, 2000).

24.08.350 Stop work order.

The director shall have the authority to serve a person a stop work order if an action is being undertaken in violation of this chapter. If a portion of a project is in violation of this chapter, the director may issue a stop work order for the entire project.

A. Content of Order. The order shall contain:

1. A description of the specific nature, extent and time of violation, and the damage or potential damage; and

2. A notice that the violation or the potential violation cease and desist, and, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty under PMC 24.08.360 may be issued with the order.

B. Notice. A stop work order shall be imposed by a notice in writing, either by certified mail with return receipt requested, or by personal service, to the person incurring the same.

C. Effective Date. The stop work order issued under this chapter shall become effective immediately upon receipt by the person to whom the order is directed.

D. Compliance. Failure to comply with the terms of a stop work order shall result in enforcement actions including, but not limited to the issuance of a civil penalty. (Ord. 1482 § 1, 2000).

24.08.360 Civil penalty.

A person who fails to comply with the requirements of this chapter, who fails to con-

form to the terms of an approval or order issued, who undertakes new development without first obtaining city approval, or who fails to comply with a stop work order issued under these regulations shall be subject to a civil penalty.

A. Amount of Penalty. The penalty shall not be less than \$250.00 for each violation. Each day of continued violation or repeated violation shall constitute a separate violation.

B. Aiding or Abetting. Any person who, through an act of commission or omission, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.

C. Notice of Penalty. A civil penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the city. The notice shall describe the violation, approximate date(s) of violation(s), and shall order the acts constituting the violation to cease and desist, and, in appropriate cases, require necessary corrective action within a specific time.

D. Application for Remission or Mitigation. Any person incurring a penalty may apply in writing within 10 days of receipt of the penalty to the city for remission or mitigation of such penalty. Upon receipt of the application, the city council may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty. The decision may be appealed to the superior court of King County within 10 days of the decision. (Ord. 1482 § 1, 2000).

24.08.370 Penalties due.

Penalties for violations of this chapter shall become due and payable 10 days after receipt of written notice of the violation, unless application for remission or mitigation is made or an appeal is filed. Whenever an application for remission or mitigation is made, penalties shall become due and payable 30 days after receipt of the decision regarding the remission or mitigation. Whenever an appeal of a penalty is filed, the penalty shall become due and pay-

able after all review proceedings and a final decision has been issued confirming all or part of the penalty. If the amount of a penalty owed the city is not paid within the time specified, the city may take actions necessary to recover such penalty. (Ord. 1482 § 1, 2000).

24.08.380 Penalty recovered.

The city's portion of funds obtained by criminal prosecutions shall be placed in the city's stormwater operations fund. (Ord. 1482 § 1, 2000).

24.08.390 Exceptions.

After a public hearing, the city council may grant an exception from the requirements of this chapter. In granting any exception, the city council may be prescribe conditions that are deemed necessary or desirable for the public interest. (Ord. 1482 § 1, 2000).

24.08.400 Finding of fact.

Exceptions to minimum requirements Nos. 1 through 11 may be granted prior to permit approval and construction. An exception may be granted following a public hearing, provided that a written finding of fact is prepared, that addresses the following:

A. The exception provides equivalent environmental protection and is in the overriding public interest; and that the objectives of safety, function, environmental protection and facility maintenance, based upon sound engineering, are fully met;

B. That there are special physical circumstances or conditions affecting the property such that the strict application of these provisions would deprive the applicant of all reasonable use of the parcel of land in question, and every effort to find creative ways to meet the intent of the minimum standards has been made;

C. That the granting of the exception will not be detrimental to the public health and welfare, nor injurious to other properties in the vicinity and/or downstream, and to the quality of waters of the state; and

D. The exception is the least possible exception that could be granted to comply with

24.08.410

the intent of the minimum requirements. (Ord. 1482 § 1, 2000).

24.08.410 Prior approval.

Any exception shall be approved prior to permit approval and construction. (Ord. 1482 § 1, 2000).

24.08.420 Duration of exception.

Exceptions granted shall be valid for two years, unless granted for a shorter period. (Ord. 1482 § 1, 2000).

24.08.430 Right of appeal.

All actions of the city council shall be final and conclusive, unless within 10 days of the date of the city council’s action, the original applicant or an adverse party gives written notice of appeal to the superior court of King County for review of the action. (Ord. 1482 § 1, 2000).

Chapter 24.12

**STORMWATER
MANAGEMENT UTILITY**

Sections:

- 24.12.010 Creation.
- 24.12.020 Purpose.
- 24.12.030 Administrator of utility.
- 24.12.040 Stormwater management utility fund.
- 24.12.050 Authority to establish rates and charges.
- 24.12.060 Limitation of liability.

24.12.010 Creation.

A. Pursuant to Chapters 35A.80 and 35.67 RCW there is hereby created and established a storm and surface water utility which shall be known as the “city of Pacific stormwater management utility” (the “utility”), for the purposes set forth in PMC 24.12.020. The boundaries of the utility are the corporate limits of the city.

B. The city shall exercise, through the utility where possible, all lawful powers necessary and appropriate to construct, condemn and purchase, acquire, add to, maintain, conduct and operate systems to control storm and surface water within the boundaries of the city, as necessary to protect the health, safety, and welfare of the citizens of the city; including, without limitation, all lawful powers to fix, alter, regulate and control the rates, charges and conditions for the use thereof.

C. The utility will have primary authority and responsibility for carrying out the city’s comprehensive drainage and stormwater plan, including responsibility for planning, design, construction, maintenance, administration, and operation of all city storm and surface water facilities, as well as establishing standards for design, construction and maintenance of improvements on private property where these may affect storm and surface water management.

D. It is not the purpose of this chapter to create a duty of the city or its utility to insure or protect individual persons or property against water drainage. (Ord. 1440 § 1, 1999).

24.12.020 Purpose.

The city council finds that this chapter is necessary to promote sound development policies and construction procedures which respect and preserve the city's watercourses; to minimize water quality degradation and control of sedimentation of creeks, streams, ponds, lakes, and other water bodies; to protect the life, health, and property of the general public; to preserve and enhance the suitability of waters for contact recreation and fish habitat; to preserve and enhance the aesthetic quality of the waters; to maintain and protect valuable ground water quantities, locations, and flow patterns; to insure the safety of city roads and rights-of-way; and to decrease drainage-related damages to public and private property. (Ord. 1440 § 2, 1999).

24.12.030 Administrator of utility.

The city administrator, or such other official designated by the mayor, shall be administrator of the utility and shall report directly to the mayor. (Ord. 1440 § 3, 1999).

24.12.040 Stormwater management utility fund.

There is hereby created a fund which shall be known as the "stormwater management utility fund." All revenues, assessments, and other charges collected by the utility, or otherwise received for drainage purposes or attributable to the administration, operation and maintenance of the utility, and all loans to or grants or funds received for its construction, improvement and operation, shall be deposited in the stormwater management utility fund. All disbursements for costs related to the administration, operation and maintenance of the utility shall be made from the stormwater management utility fund. (Ord. 1440 § 4, 1999).

24.12.050 Authority to establish rates and charges.

In accordance with RCW 35.67.020, the city shall establish by ordinance rates and charges necessary and sufficient to carry out the purpose of the utility, including, but not limited to the following:

A. The costs associated with the development and adoption of a stormwater management plan;

B. The costs, including debt service and related financing expenses, operation, repair, maintenance, improvement, replacement and reconstruction of storm drainage facilities within the service area;

C. The purchase of a fee or lesser interest in land which may be necessary for the storm and surface water drainage system in the service area including, but not limited to, land necessary for the installation and construction of storm drainage facilities, and all other facilities, including retention and detention facilities, which are reasonably required for proper and adequate handling of storm waters within the service area;

D. The costs of monitoring, inspection, enforcement and administration of the utility including, but not limited to, water quality surveillance, private maintenance inspection, construction inspection and other activities which are reasonably required for the proper and adequate implementation of the city's storm and surface water policies; and

E. The construction and maintenance of future facilities required by the utility.

To the extent required by law, the rates and charges shall be uniform for the same class of customers or services and facilities furnished.

The fees and charges to be paid and collected pursuant hereto shall not be used for general or other governmental or proprietary purposes of the city, except to pay for the equitable share of the costs of accounting, management and government thereof incurred on behalf of the utility. (Ord. 1440 § 5, 1999).

24.12.060 Limitation of liability.

This chapter, any drainage code to be adopted by the city council to implement this chapter, and any guidelines, rules, standards, specifications, requirements, regulations and procedures established pursuant to any section of such code are intended to provide the authority and processes to achieve cost-effective storm and surface water management in accordance with reasonable standards for such management in the city as necessary to protect

24.16.010

the health, safety, and welfare of the citizens and of the city. No city liability shall be assumed, inferred, implied or interpreted by the adoption and application of this chapter. (Ord. 1440 § 6, 1999).

Chapter 24.16

**STORMWATER UTILITY RATES
AND CHARGES**

Sections:

- 24.16.010 Definitions.
- 24.16.020 Rate policy.
- 24.16.030 Classification of property.
- 24.16.040 Undeveloped real property.
- 24.16.050 Service charge rates.
- 24.16.060 Property exempt from service charges.
- 24.16.070 General facility charge.
- 24.16.075 Stormwater capital improvements fund established.
- 24.16.080 Collection.
- 24.16.090 Annual review of charges and fees.
- 24.16.100 Effective date of service charge.

24.16.010 Definitions.

The following words when used herein shall have the following meanings, unless the context clearly indicates otherwise:

A. The “city” shall mean the city of Pacific, Washington.

B. “Developed” shall mean that condition of real property altered from its natural state by the addition to or construction on such property of impervious ground cover or other man-made physical improvements such that the hydrology of the property or portion thereof is affected.

C. An “equivalent residential unit” shall mean and be equal to 2,500 square feet of impervious ground cover and is the measure of impervious ground cover to be used by the utility in assessing service charges and general facility charges against each parcel of property.

D. “Impervious ground cover” shall mean those hard surfaced areas either which prevent or retard the entry of water into the soil in the manner that such water entered the soil under natural conditions preexistent to development, or which cause water to run off the surface in greater quantities or at an increased rate of flow than that present under natural conditions preexistent to development, including without limitation such surfaces as roof tops, asphalt or

concrete sidewalks, paving, driveways and parking lots, walkways, patio areas, storage areas, and gravel, oiled macadam or other surfaces which similarly affect the natural infiltration or runoff patterns existing prior to development.

E. "Service charge" means the monthly fee levied by the utility upon all developed real property within the boundaries of the utility as authorized by PMC 24.16.030.

F. The "system" shall mean the entire system of storm drainage facilities owned by the utility or over which the utility has control or right of use for the movement and retention of storm and surface waters, including both naturally occurring and manmade facilities.

G. The "general facility charge" shall mean that fee authorized by PMC 24.16.070 and charged by the utility to property which is developed after the effective date of this ordinance, which charge reflects a proportionate share of the utility's capital costs attributable to the newly developed property.

H. "Undeveloped" shall mean that condition of real property unaltered by the construction or addition to such property by man of impervious ground cover or physical manmade improvements of any kind which change the hydrology of the property from its natural state.

I. The "utility" means the city of Pacific stormwater management utility created by Chapter 24.12 PMC. (Ord. 1485 § 1, 2000; Ord. 1441 § 1, 1999).

24.16.020 Rate policy.

It shall be the policy of the city that the rate structure to be applied in establishing the amount of service charges and general facility charges assessed against each parcel of developed real property within the boundaries of the utility shall be based upon the amount of impervious ground cover contained within each parcel of property as measured by PMC 24.16.030, except for those properties set forth in PMC 24.16.060. (Ord. 1485 § 1, 2000; Ord. 1441 § 2, 1999).

24.16.030 Classification of property.

The utility shall calculate the impervious ground cover of each parcel of developed real property within the boundaries of the utility to determine the number of equivalent residential units contained therein; 2,500 square feet of impervious ground cover shall equal one equivalent residential unit. All detached single-family residences and mobile homes are deemed to contain one equivalent residential unit. For all other developed real properties within the utility boundaries, the utility shall determine the number of equivalent residential units contained thereon by dividing the number of square feet of impervious ground cover on each property by 2,500 square feet/ERU; the total thus obtained will be rounded to the nearest half representing the equivalent residential units contained on such property. Each developed parcel of property shall be deemed to contain a minimum of one equivalent residential unit. (Ord. 1485 § 1, 2000; Ord. 1441 § 3, 1999).

24.16.040 Undeveloped real property.

Properties remaining in an undeveloped condition are deemed not to make use of the services of the utility or of the facilities of the system beyond that used by such property in the natural state. Therefore, no service charge shall be imposed upon undeveloped real property. (Ord. 1485 § 1, 2000; Ord. 1441 § 4, 1999).

24.16.050 Service charge rates.

There is hereby levied upon all developed real property within the boundaries of the utility the following service charges which shall be collected from the owners of such properties:

A. For all detached single-family residences and mobile homes (one equivalent residential unit), the monthly service charge shall be \$7.00 per month.

B. For all commercial properties, the monthly service charge shall be \$7.00 per month for the first equivalent residential unit per account plus the number of additional equivalent residential units determined by the utility to be contained in such parcel pursuant

24.16.060

to PMC 24.16.030 multiplied by \$2.00 for those properties with approved stormwater facilities or \$7.00 for those properties without approved facilities.

C. An “approved stormwater facility” provides both stormwater treatment and detention; is maintained by the property owner to city standards; and conforms to the plans for the facility approved by the county or city. It is the property owner’s responsibility to provide, at the owner’s cost, such documentation as the city deems necessary to establish the facility’s status as an approved facility. (Ord. 1527 § 1, 2002; Ord. 1497 § 1, 2001; Ord. 1492 § 1, 2001; Ord. 1485 § 1, 2000; Ord. 1450 § 1, 2000; Ord. 1441 § 5, 1999).

24.16.060 Property exempt from service charges.

The following special categories of property are exempt from service charges and general facility charges:

- A. City street rights-of-way;
- B. Parcels owned by the city;
- C. County highway rights-of-way;
- D. State rights-of-way. (Ord. 1485 § 1, 2000; Ord. 1441 § 6, 1999).

24.16.070 General facility charge.

A. A general facility charge shall be levied against and shall be collected from the owners of each parcel of real property or portion thereof which is changed from an undeveloped to a developed state subsequent to the effective date of this ordinance. Such charge shall represent a proportionate share of the utility’s capital cost attributable to each subsequently developed property in order that such property may bear its fair share of the cost of the utility.

B. The general facility charge shall be levied in an amount determined by multiplying the base charge as established from time to time by ordinance of the city council by the total number of equivalent residential units contained on that property or portion of property being altered from an undeveloped to a developed condition, which number shall not be less than one and shall be determined when application for a building or construction permit is made. The general facility charge shall

be assessed and must be paid before a building or construction permit may be issued by the city.

C. The base charge upon which the general facility charge is computed shall be \$450.00 for the first equivalent residential unit and \$250.00 for all additional equivalent residential units. (Ord. 1527 § 2, 2002; Ord. 1485 § 1, 2000; Ord. 1441 § 7, 1999).

24.16.075 Stormwater capital improvements fund established.

There is hereby established a fund, to be designated the “stormwater general facilities charge fund.” The purpose of this fund is to provide for the deposit and financial administration, including project accounting, of all general facilities charge funds received and the expenditure and proper use thereof. The city treasurer shall have the responsibility for the financial administration of the fund and shall maintain separate recorded of accounts showing receipts and disbursements for all funds and for all general facility charges assigned to the fund. The city treasurer is hereby authorized to accept on behalf of the city all funds to be placed into the fund. (Ord. 1527 § 3, 2002).

24.16.080 Collection.

A. All service charges, general facility charges and all other fees or charges hereafter established by the city council by ordinance shall be deemed to be levied upon the premises themselves.

B. The city shall have a lien for all delinquent and unpaid rates and charges for storm drainage purposes assessed against all premises to which service was furnished, which lien shall have the superiority established by RCW 35.67.200 and shall be foreclosed in the manner provided in RCW 35.67.220.

C. As an additional and concurrent method of enforcing its lien upon any premises for delinquent storm drainage charges, the utility is authorized, in accordance with law and in the manner provided by the city of Pacific code to stop providing water service to such premises for so long as any delinquent fees or charges remain unpaid.

D. Storm drainage service charges shall be deemed delinquent if not paid within 20 days following the billing date. A late charge equal to 10 percent of the delinquent service charge shall be imposed at the time of such delinquency and interest at the rate of eight percent per annum compounded on a monthly basis shall be charged on all delinquent service charges and late charges. (Ord. 1485 § 1, 2000; Ord. 1441 § 8, 1999).

24.16.090 Annual review of charges and fees.

The charges and fees established by this ordinance and any other ordinances of the city council establishing charges and fees for the utility shall be reviewed annually by the administrator. Subsequent to such review, the utility shall present to the city council a yearly budget for the utility and proposed amendments to any rates and charges necessary to enable the city to pay all costs to be incurred by the utility. (Ord. 1485 § 1, 2000; Ord. 1441 § 9, 1999).

24.16.100 Effective date of service charge.

The service charge herein established shall apply to all storm drainage services provided on or after December 31, 1999, and shall be billed beginning on December 31, 1999. (Ord. 1485 § 1, 2000; Ord. 1441 § 10, 1999).

