

Proposed Revisions to Portland City Code Chapter 17.38

This document is formatted with proposed additions underlined and proposed deletions ~~stricken out~~. Commentary is in *italic font*. This document only includes sections of code to which BES is proposing changes.

17.38.010 Authority.

The Director of Environmental Services is responsible for administering the requirements of this Chapter. The Director has the authority and responsibility to adopt rules, procedures, and forms to implement the provisions of this chapter. ~~and to maintain a Stormwater Management Manual.~~

17.38.020 Definitions.

For the purposes of this Chapter, the following definitions ~~shall~~ apply:

[Subsections A through Q are unchanged.]

R. "Redevelopment" means any development that requires demolition or complete removal of existing structures or impervious surfaces at a site and replacement with new impervious surfaces. Maintenance activities such as top-layer grinding, re-paving (where the entire pavement is not removed) and re-roofing are not considered redevelopment. Interior remodeling projects and tenant improvements are also not considered to be redevelopment. ~~Utility trenches in streets are not considered to be redevelopment unless more than 50 percent of the street width is removed and re-paved.~~

S. *[Unchanged.]*

T. "Source Control" means a structural or operational measure ~~required by the SWMM [AR1]~~ to prevent or control the release or potential release of pollutants generated by certain site characteristics and uses.

[Subsections U through Z are unchanged.]

17.38.035 Drainage Management Policies and Standards.

A. Stormwater shall be managed in as close proximity to the development site as is practicable, and stormwater management shall avoid a net negative impact on nearby streams, wetlands, groundwater, and other water bodies. All local, state, and federal permit requirements related to implementation of stormwater

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management facilities must be met by the owner/operator prior to facility use. Surface water discharges from onsite facilities shall be discharged to an approved drainage facility.

1. [Unchanged.]
 2. All discharges must be routed to a discharge point approved by the Director. Approval of discharge points must meet the following standards:
 - a. The discharge must be conveyed along a route of service approved by the Director.
 - b. The discharge point must comply with the following ~~standards and specifications~~:
 - (1) Sanitary, wastewater or other discharges to the sanitary or combined system must comply with the Sewer and Drainage Facilities Design Manual and the Source Control Manual.
 - (2) Stormwater or other discharges to the City's storm and drainage system must comply with the Stormwater Management Manual and the Source Control Manual.
- B. The quality of stormwater leaving the site after development shall be equal to or better than the quality of stormwater leaving the site before development, as much as is practicable, based on the following criteria:
1. [Unchanged.]
 2. Land use activities of particular concern as pollution sources may be required to implement additional pollution controls and source controls including but not limited to those management practices specified in the Stormwater Management Manual and the Source Control Manual.
- [Paragraphs 3 through 5 are unchanged.]
6. The Director is authorized to exempt land uses, discharge locations or other areas of the city from the requirements of this Subsection if onsite pollution reduction or pollution control is not needed or desirable due to limited pollutant loads or offsite methods of pollution control are available. All exemptions are specified in the Stormwater Management Manual and the Source Control Manual.
- C. [Unchanged.]

D. The Director is authorized to establish requirements for the pumping and discharge of groundwater as a waste (discharge to waste). The ~~Stormwater Management Manual~~ Source Control Manual regulations govern both quality and quantity impacts of pumping and discharging groundwater to City receiving systems. The regulations may exempt, establish discharges as de_minimūis, or provide for and limit the permanent or temporary discharge of groundwater. Temporary groundwater discharges may be authorized through the batch discharge processes described in Title 17.34 and 17.39. In establishing rules to regulate the pumping and discharge of groundwater as a waste, the Director shall, at a minimum, incorporate and implement the following standards.

1. Authorizations for discharge. Unless the Director's rules establish exceptions or determines discharges are de_minimūis, any pumping and discharge to waste of groundwater may proceed only after a groundwater specific discharge authorization by the Director. This authorization shall establish volume, flow rate and pollutant load limits for the discharge.
2. Limiting flow volume and flow rate. Pumping and discharge of groundwater as a waste will only be allowed where the proposed discharger has first reduced the rate and volume of groundwater requiring discharge to a City system to the greatest extent ~~practical~~ practicable. Examples include:

[Subparagraphs a through c are unchanged.]

3. *[Unchanged.]*
4. Prohibited discharges. Offsite discharges meeting the following criteria are prohibited:
 - a. Discharge to City-owned underground injection controls (UICs).
 - b. Discharges meeting the tests for prohibited discharges in Chapters 17.34 and 17.39. Notwithstanding this limitation, the City may allow discharge of contaminated ground water that has been treated to meet standards set by the Director to ~~insure~~ ensure that any groundwater discharges do not cause or threaten to cause a public nuisance, groundwater or surface water pollution, cause or threaten to cause the City to violate its own discharge permits granted by the Department of Environmental Quality.
 - (1) The Director may establish rules to limit or prevent the pumping and discharge of contaminated groundwater and may require one-time or on-going testing or monitoring of water quality by the applicant for discharge authorization approval.

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- E. [Unchanged.]
- F. All stormwater management facilities, source controls, and drainage systems must comply with the standards set forth in the Stormwater Management Manual and the Source Control Manual and may require permit review and approval before commencement of work. Public systems must be reviewed and approved by BES in compliance with the sizing and location standards in the Stormwater Management Manual. Private onsite systems must be reviewed and approved by BES for compliance with the stormwater hierarchy and other guidance specified in the Stormwater Management Manual and the Source Control Manual, and may be reviewed by Bureau of Development Services for compliance with the plumbing code regulations in Section 25.01.020. Installation or modification of any stormwater system or source control, whether it involves structural changes, changes to planting schemes, or the management of drainage area in addition to what was previously approved, may require a permit from or review by the BES Chief Engineer.

17.38.040 Stormwater Management Facilities Required.

No plat, site plan, building permit, tenant improvement, public works project, or any improvement requiring a City permit will be approved unless the conditions of the plat, permit or plan approval requires installation of permanent stormwater management facilities and source controls designed according to standards or guidelines established by the Director and as specified in the Stormwater Management Manual and the Source Control Manual.

- A. Applicability. All development and redevelopment sites with any of the following triggers must comply with the standards of the Stormwater Management Manual and the Source Control Manual to the extent each applies under its respective terms:
1. Creation of any new impervious area. Sites with 500 square feet or more of impervious area must be managed for pollution reduction, quantity or flow control requirements as spelled out in this Section; or
 2. Modification to or construction of new areas with pollution generating activities of concern as identified ~~in the Stormwater Management Manual~~ by rule. These areas must be constructed with applicable onsite controls; or
 3. New connections or new drainage areas routed into the City's sewer or drainage system under a City permit. These connections most often are

generated from decommissioning of private, onsite drainage or groundwater related systems; or

4. Temporary structures are exempt from pollution reduction and flow control requirements, except for in specific instances called out in the Stormwater Management Manual identified by rule.

B. Exemptions. The requirements of this Chapter for stormwater management do not apply to:

1. Development for which an application for development approval is accepted by the permitting agency prior July 1, 1999 shall be subject to the requirements in place at the time of application.
2. Public or private development that does not result in impervious surface coverage or results in coverage that is de minimis in relation to discharge, such as fences, environmental enhancement projects, buried pipelines or cables, and utility lines.
3. Impervious surface created by a stormwater management facility such as but not limited to headwalls, manhole or vault covers. Paved or compacted gravel facility access and maintenance roads that extend beyond the facility itself, are not exempted from the management requirements of this Title.

C. Appeals. Any applicant for a permit or authorization aggrieved by a decision, interpretation, or determination made pursuant to this Chapter or rules adopted thereunder, including the Stormwater Management Manual and the Source Control Manual, may appeal such action in accordance with appeals processes specified in the Stormwater Management Manual and the Source Control Manual.

- ~~1. Provision for reasonable interpretation of the Stormwater Management Manual. The Director shall establish an internal BES Administrative Review Committee and a BES Appeals Board. The Chief Engineer of the Bureau of Environmental Services shall appoint outside members to the BES Appeals Board.~~
- ~~2. Applicants shall file appeals in accordance with the appeals process procedures specified in the Stormwater Management Manual.~~

D. Maintenance of Stormwater and Groundwater Management Facilities.

[Paragraphs 1 through 3 are unchanged.]

4. Removal of a permanently installed stormwater management facility without prior approval from BES is a violation of this Chapter.

E. [Unchanged.]

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17.38.041 Parking Lot Stormwater Requirements.

Stormwater runoff from parking lots must be managed in parking lot interior or perimeter landscaping to the extent required by the Stormwater Management Manual and the Source Control Manual. The Director is authorized to exempt activities, land uses, or identified sites from these requirements if use of parking landscape areas is not needed or desirable because of non-conforming or existing landscape areas. All exemptions are described in the Stormwater Management Manual and the Source Control Manual.

17.38.045 Enforcement.

A. Violations. It is a violation for any persons to fail to comply with the requirements of this Chapter and associated rules. Each day a violation occurs or continues may be considered a separate violation. BES will hold the person or persons solely responsible for complying with BES enforcement actions. Violations of this Chapter or associated rules include, but are not limited to:

1. Failure to construct stormwater management facilities to the standards of the City's Stormwater Management Manual, Source Control Manual, and Section 17.38.035;

[Paragraphs 2 and 3 unchanged.]

4. Failure to maintain a stormwater management or source control facility leading to a potential or actual operating deficiency of the facility;

[Paragraphs 5 and 6 unchanged.]

[Subsections B through F are unchanged.]

17.38.060 Compliance Cases, Administrative Reviews, and Appeals.

A. Reviews and Appeals. A person may request a modification to a BES decision related to this Chapter via an administrative review with BES staff, unless review is limited by administrative rule. After the requestor has exhausted all BES program and enforcement program reviews, the requestor may file for an appeal with the Code Hearings Officer per PCC Title 22.

1. Reviews and appeals of the following may be requested:
 - a. The determination of a violation of this Chapter or associated rules.

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- b. The type and level of enforcement action taken by BES.
- c. The type and amount of penalty imposed by BES.
- d. Compliance due dates.
- e. A requirement to obtain a permit.
- f. A denial of a permit.
- g. Required remediation actions.
- h. Other items made reviewable by administrative rule.

2. [Unchanged.]

~~3. Appeals to the City Code Hearings Officer. An appellant must pay a filing fee in the amount of the Code Hearing fee as part of the appeal request. If the Code Hearings Officer finds in favor or in partial favor of the appellant, BES will reimburse the appellant for the full amount of the fee, and send a check to the appellant via certified mail.~~

B. [Unchanged.]