

Summary of Changes to the Proposed Stormwater Management Ordinance
From the First Reading Version Per the 3 Additional Public Meetings

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Summary of Changes to the Proposed Stormwater Management BMP Manual - Buffer
Language - From the First Reading Version Per the 3 Additional Public Meetings

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Summary of Changes to the Proposed Stormwater Management Ordinance
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1) Page 4: Definition of Entitled Property

It was discussed that the environmental community was concerned that this definition was too broad and was added to appease the development community. This language was originally adopted verbatim from the Richland County ordinance. Richland County's planning commission was integral in requesting this definition for "grandfathering" properties and staff feels that it would be considerably helpful to add this definition to our language as well. In order to bridge the gap between the two parties, staff recommended that a five year cap be put on the span of time since application/approval to qualify as entitled property. This also coincides with the year of the issuance of the State's Construction General Permit and it covers the years of economic decline to include those who would be under undue hardship and not able to develop without this option.

Proposed:

Entitled Property means any property that, prior to the adoption of this Article, has been subject to either Permitted Development Activity or a Valid Governmental Approval. If a Permitted Development Activity or Valid Governmental Approval has occurred with respect to any tract and such tract was subsequently subdivided, or in the future is subdivided, by an approved subdivision plat, then all subdivided parcels that were part of the original tract shall be considered entitled property.

Revised:

Entitled Property means any property that, from January 1, 2006 to the adoption of this Article, has been subject to either Permitted Development Activity or a Valid Governmental Approval. If a Permitted Development Activity or Valid Governmental Approval has occurred with respect to any tract and such tract was subsequently subdivided, or in the future is subdivided, by an approved subdivision plat, then all subdivided parcels that were part of the original tract shall be considered entitled property.

2) Page 7: Definition of Water Quality Buffer

This definition was taken directly from the agreed upon language of the stream buffer definition in the Best Management Practices (BMP) Manual. It was added so that there would be a cross-reference to additional language added under the Watercourse Protection section of the Ordinance (to be discussed as part of #6).

Water Quality Buffer means an area of original or re-established vegetation that borders streams, rivers, ponds, lakes, wetlands and seeps in which no vegetation shall be disturbed, removed, or replanted unless a buffer restoration plan has been approved by the Storm Water Division.

3) Page 11: Second Paragraph under Section 21-42

The concern was raised that since the buffer language (as other technical controls) is listed in the BMP Manual and does not require Council approval, how will the public know and weigh in to the revision of the document? How often will this be done? Staff revised the language to address this concern.

Proposed:

The Manual may be updated periodically by the Storm Water Division to reflect the advances in technology and experience gathered with time.

Revised:

The Manual will be evaluated and updated every five (5) years and/or with each permit term renewal. Public input and involvement will be an integral part of the process and shall influence proposed revisions by the Storm Water Division to reflect the advances in technology and engineering, improved knowledge of local conditions, including monitoring and experience gathered with time. Prior to amendments becoming effective, changes shall be generally publicized, made available for review and an opportunity for public comment shall be provided.

4) Page 11: Third Paragraph under Section 21-42

It was strongly recommended that language be added to this paragraph to ensure that it was clear that the requirements of the BMP Manual are mandatory for all land disturbance project application/approval. This concern originated since the technical guidelines were in the BMP Manual and not in the Ordinance. Some felt this would certify enforcement of that Manual.

Proposed:

These design and engineering standards for land disturbing activities shall be set forth in the Storm Water BMP Design Manual. These design and engineering standards establish the required level of quality and performance for storm water management systems on all land disturbance projects and the technical basis for the achieving storm water management, including water quantity and quality objectives. The design and engineering standards set forth in the Storm Water BMP Design Manual establish the minimum technical requirements for compliance with this Article, federal and state law, and the SWMP

Revised:

These design and engineering standards for land disturbing activities shall be set forth in the Storm Water BMP Design Manual. These design and engineering standards establish the required level of quality and performance for storm water management systems on all land disturbance projects and the technical basis for the achieving storm water management, including water quantity and quality objectives. The design and engineering standards set forth in the Storm Water BMP Design Manual establish the minimum technical requirements for compliance with this Article, federal and state law, and the SWMP. Therefore, an applicant for a land disturbance permit must meet the standards set forth in the version of the Manual in effect at the time a complete land disturbance permit application is submitted to the Storm Water Division.

5) Page 11-12: Bottom of page, the categories for land disturbing activities

There was a question about the two categories that outlined qualifications for land disturbance. It appeared as if the original format had both the State minimum requirement for land disturbance and the City's revised threshold which indicated a contradiction. The State's minimum was removed and the City's revised threshold was left so as to eliminate confusion. This was possible since the City's revised threshold for land disturbance applications is more stringent than the State's.

Proposed:

The Storm Water BMP Design Manual shall establish two categories of design and engineering standards for land disturbing activities:

(a) land disturbing activities with a disturbed area equal to or greater than 5,000 square feet but less than one (1) acre which are not part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre; and

(b) land disturbing activities with a disturbed area which is:

(i) equal to or greater than 5,000 square feet; or

(ii) less than 5,000 square feet and part of a larger common plan of development or sale with a planned disturbance of equal to or greater than 5,000 square feet.

An applicant for a Land Disturbance Permit must meet the standards set forth in the version of the Storm Water BMP Design Manual in effect at the time a complete Land Disturbance Permit Application is submitted to the Storm Water Division.

Revised:

The Storm Water BMP Design Manual shall establish two categories of design and engineering standards for land disturbing activities:

land disturbing activities with a disturbed area which is:

- (i) equal to or greater than 5,000 square feet; or
- (ii) less than 5,000 square feet and part of a larger common plan of development or sale with a planned disturbance of equal to or greater than 5,000 square feet.

An applicant for a Land Disturbance Permit must meet the standards set forth in the version of the Storm Water BMP Design Manual in effect at the time a complete Land Disturbance Permit Application is submitted to the Storm Water Division.

6) Page 16: Watercourse Protection

It was requested that the language of water quality buffers, in general, be enhanced and emphasized in this section. The intent was to compensate for the technical guidelines of the buffers to be in the manual as well as send the message that water quality is an extremely important facet of this ordinance.

Additionally, water quality buffers are required along all jurisdictional waters and non-jurisdictional wetlands as identified by the US Army Corps of Engineers (USACE). Buffers are most effective when Stormwater runoff is flowing into and through the buffer zone as shallow sheet flow, rather than concentrated flow such as channels, gullies or wet weather conveyances. Buffers shall be considered a “no disturb zone” along waters and wetlands identified by the USACE.. Vegetation cannot be disturbed, removed or replanted unless a buffer restoration plan has been approved by the Storm Water Division. The function of the buffer is to protect the physical and ecological integrity of the water, to reduce flooding potential and to filter runoff from all development. Variances and appeals may be granted under the provisions set forth in Section 21-60 of this Article. The BMP Manual shall be the reference for all design requirements related to water quality buffers.

7) Page 18: Definition of Waste Disposal

The definition/explanation of the collection, disposal, and treatment of waste was attempted in the original proposal. The language used in the original ordinance was legally sound and commonly used throughout municipalities. However, after further review, seemed confusing and counter productive in the attempt to clarify the issue. Therefore, it was determined that this ordinance would reference Chapters 8 and 19 of the current code, Environmental Health and Sanitation and Solid Waste Management, respectively, and then address Stormwater Management-specific guidelines.

Proposed:

No person shall throw, deposit, leave, maintain, keep or permit to be thrown, deposited, left or maintained in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system, or water of the U.S., any refuse, rubbish, garbage, litter, yard debris, pet fecal matter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Yard debris, including natural foliage, may be deposited in the public right of way but not in or on any storm water conveyance structures, including inlets and gutters, but only if a collection service is available. Wastes in proper waste receptacles may be placed in the street for collection, but again only if collection by or through the City is in place.

Revised:

Waste collection / disposal shall be performed in accordance with city ordinance Chapters 8 and 19. No material shall be deposited in or on a storm drainage conveyance structure, including inlets, ditches, and waters of the US or State.

8) Page 23: Section 21-60 Variances and Appeals

There was concern that the variance process, as originally proposed, left a lot to the imagination. There were no specific guidelines as to how to apply for the variance, what constitutes a variance, and public involvement associated with granting these variances. The best recommendation was to utilize the City's current Zoning Code language for a variance and relate it to our needs. This recommendation was accepted.

Proposed:

(a) The Storm Water Division shall have the authority to grant variances and exceptions to any of the provisions of this division in response to an application showing undue hardship. Such variance or exception must be in harmony with the general purpose and intent of this division.

(b) Any person aggrieved by any decision of the Storm Water Division under this Article may appeal to the City Engineer. An appeal under the provision must be filed in writing with the City Engineer within 30 days of the decision being mailed or delivered to the person aggrieved and must state the reasons for the appeal.

(c) Using information provided by the appellant, the City Engineer (or his or her designee) shall conduct a technical review of the decision and respond to the appeal in writing within 30 days.

(d) A decision of the City Engineer that is adverse to an appellant may be further appealed to the City Manager or his or her designee within 30 days of the adverse decision. Notice of the appeal shall be delivered to the City Manager or his or her designee by the appellant, stating the grounds for further appeal. The City Manager or his or her designee shall issue a written decision on the appeal within 30 days. All decisions by the City Manager or his or her designee shall be served on the appellant personally or by registered or certified mail.

Revised:

(a) The Storm Water Division shall have the authority to grant variances and exceptions to any of the provisions of this division in response to an application showing undue hardship. These variances shall not be contrary to public interest, where a literal enforcement of the provisions of this Article will, in an individual case, result in undue hardship, so that the spirit of this Article shall be observed, public safety and welfare secured, and substantial justice done.

In granting any variance, the Storm Water Division may prescribe conditions and safeguards in conformity of this Article. A written application for variance shall be submitted demonstrating that:

(i) There are extraordinary and exceptional conditions pertaining to the piece of property;

(ii) These conditions do not generally apply to other property in the vicinity;

(iii) Because of these conditions, the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;

(iv) The fact that property may be utilized more profitably should a variance be granted, may not be considered grounds for a variance;

(v) The Storm Water Division shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is a minimum variance that will make possible the reasonable use of the land, building or structure.

(b) The Storm Water Division shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Article, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare;

(c) The Storm Water Division may prescribe a time limit within which the action for which the variance is requested shall be begun or completed, or both.

(d) Violations of conditions and safeguards prescribed in conformity with this Article, when part of the terms under which the variance is granted, shall be deemed a violation of this Article, punishable under penalties established in this Article. Failure to begin or complete, or begin and complete, an action for which a variance is granted, within the time limit specified, when such time limit is made a part of the terms under which the variance is granted, shall void the variance.

(e) Any person aggrieved by any decision of the Storm Water Division under this Article may appeal to the City Engineer. An appeal under the provision must be filed in writing with the City Engineer within 30 days of the decision being mailed or delivered to the person aggrieved and must state the reasons for the appeal.

(f) Using information provided by the appellant, the City Engineer (or his or her designee) shall conduct a technical review of the decision and respond to the appeal in writing within 30 days.

(g) A decision of the City Engineer that is adverse to an appellant may be further appealed to the City Manager or his or her designee within 30 days of the adverse decision. Notice of the appeal shall be delivered to the City Manager or his or her designee by the appellant, stating the grounds for further appeal. The City Manager or his or her designee shall issue a written decision on the appeal within 30 days. All decisions by the City Manager or his or her designee shall be served on the appellant personally or by registered or certified mail.

Summary of Changes to the Proposed Stormwater Management BMP Manual - Buffer Language - From the First Reading Version Per the 3 Additional Public Meetings

- 1) (Top of) Page 3: Flood study alternative
- 2) Page 3: Paragraph 2 - Minimization of Buffer Widths
- 3) Page 10: Areas Where Water Quality Buffer Averaging is Prohibited

1) (Top of) Page 3: Flood Study alternative

It was recommended that developers have an alternative means of addressing the buffer requirements in Zone A flood areas. This was an issue due to the cost of flood studies. Richland County's alternative requirement for the same concern was adopted.

Proposed:

In areas where a floodway profile has been computed (AE Zone) as part of an approved flood study, the buffer area should be the maximum width listed above or the width of the floodway, whichever is greater. If the width of the floodway is less than 50 feet from top of the bank, the distance to bring the buffer to at least 50 feet shall be added. In areas where a floodway study has not been computed (A Zones), the developer shall perform a flood study, determine the floodway and follow the buffer requirements outlined above.

Revised:

In areas where a floodway profile has been computed (AE Zone) as part of an approved flood study, the buffer area should be the maximum width listed above or the width of the floodway, whichever is greater. If the width of the floodway is less than 50 feet from top of the bank, the distance to bring the buffer to at least 50 feet shall be added. In areas where a floodway study has not been computed (A Zones), the developer shall perform a flood study, determine the floodway and follow the buffer requirements outlined above. As an alternative to preparing the flood study, the buffer limits shall extend to the delineated flood plain limits.

2) Page 3: Paragraph 2 - Minimization of Buffer Widths

The original proposal had three requirements for minimization of buffer widths. The concern was addressing #3. The development community felt that limiting the size to $\frac{1}{4}$ or less would not be beneficial to development and would restrict the options for developers within the City. It was recommended to change the lot size to 3 acres or less.

Proposed:

Buffers widths may be reduced to twenty five (25) feet provided:

1. All stormwater runoff is captured and routed to a water quality basin, and
2. There is no sheet flow discharging into the buffer, and
3. This is implemented on small lot sizes with restricted area ($\frac{1}{4}$ acre or less).

Revised:

Buffers widths may be reduced to twenty five (25) feet provided:

1. All stormwater runoff is captured and routed to a water quality basin, and
2. There is no sheet flow discharging into the buffer, and
3. This is implemented on small lot sizes with restricted area (3 acres or less).

3) Page 10: Areas Where Water Quality Buffer Averaging is Prohibited

It was recommended that the language in this section be reworded for clarity. The following was agreed upon:

Proposed:

Buffer width averaging is prohibited in developments that have, or will have after development, the land uses listed below:

1. Developments or facilities that include on-site sewage disposal and treatment systems, raised septic systems, subsurface discharges from a wastewater treatment plant, or land application of bio-solids or animal waste,
2. Landfills (demolition landfills, permitted landfills, closed-in-place landfills),
3. Junkyards,
4. Commercial or industrial facilities that store and/or service motor vehicles,
5. Commercial greenhouses or landscape supply facilities,
6. Commercial or public pools,
7. Animal care facilities, kennels and commercial/business developments or facilities that provide short-term or long-term care of animals, and
8. Other land uses deemed by the Storm Water Division to have potential to generate higher than normal pollutant loadings.

Revised:

It is not acceptable to allow buffer width averaging when any of the following land uses, within or after development, are within a 50' buffer of that use:

1. Developments or facilities that include on-site sewage disposal and treatment systems, raised septic systems, subsurface discharges from a wastewater treatment plant, or land application of bio-solids or animal waste,
2. Landfills (demolition landfills, permitted landfills, closed-in-place landfills),
3. Junkyards,
4. Commercial or industrial facilities that store and/or service motor vehicles,
5. Commercial greenhouses or landscape supply facilities,
6. Commercial or public pools,
7. Animal care facilities, kennels and commercial/business developments or facilities that provide short-term or long-term care of animals, and
8. Other land uses deemed by the Storm Water Division to have potential to generate higher than normal pollutant loadings.