

Staff Report

TO: County Council

FROM: Pete Rose, County Administrator

SUBJECT: Stormwater Regulation

FOR MEETING OF: June 17, 2008

ISSUE: Discussion of Stormwater Regulatory Process

RECOMMENDATION: For discussion.

POLICY DECISIONS: This policy decision is basically whether the Council feels that the current County stormwater regulations are appropriate to meet the requirement. A subtext of the discussion is whether a successful model of responsible stormwater regulation has been developed and is practiced in a rural Puget Sound county.

Counties planning under the Growth Management Act (GMA) must plan for stormwater management (see Attachment A). The GMA also required that within a year of completing the comprehensive plan, that regulations be revised to be consistent with the plan. County stormwater regulations are included as Attachment B. While the County regulations are just two pages in the code book, the referenced DOE stormwater manual is over 1,000 pages, much of which does not easily apply or translate to rural situations.

BACKGROUND: On May 20, Council asked for a report on stormwater regulations. On June 3, Council directed that the report be given on June 17. On June 9, Councilmember Ranker contacted several Puget Sound counties and the Washington State Association of Counties (WSAC). He reported on June 10 that several are having trouble applying standards in the rural areas of their jurisdictions, and that WSAC staff is doing some data collection on the subject. On June 10, Council added a review of stormwater regulations to the annual comp plan/UDC docket.

FACTS & FINDINGS

1. The situation can be explained in several ways:
 - a. Applicants are subject to new regulations they did not previously have and are required to do things they did not previously have to do;
 - b. The DOE Manual is an elaborate model that is hard to understand and may not be a good match for a rural county;
 - c. Applicant agents and contractors sometimes chafe at regulatory interpretations that differ from those in the past.

2. There have been several types of anecdotal complaints and concerns that have been communicated. All may not be correct, but are representative of public feelings about application of storm regulations:
 - a. Regulations do not fit a common sense model;
 - b. Requirements are more strict than they have to be;
 - c. Making adopted regulations calculable to 1991 (GMA activation) was not required two years ago;
 - d. The burden of proof on the owner to show requirements are met.
 - e. There is great detail available in many sources that are not consulted by the county; instead applicants are required to do studies;
 - f. Engineered studies are required when not needed.
 - g. The county does not require itself to do what others do.

3. It is recommended that the Council consider the aspects under which it will approach this review, including:
 - a. Look at multiple Puget Sound county stormwater regulations to seek model ordinances;
 - b. Evaluate the level of acceptance of storm regulations in other counties to determine how much is the subject and how much is the application of it;
 - c. Require staff to objectively examine a good sampling of permitting experiences to try to understand service difficulties and service gaps

RECOMMENDATION: For discussion.

Attachment A Requirement to Plan

RCW 36.70A.070

Comprehensive plans -- Mandatory elements.

The comprehensive plan of a county or city that is required or chooses to plan under RCW [36.70A.040](#) shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW [36.70A.140](#).

Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of groundwater used for public water supplies. Wherever possible, the land use element should consider utilizing urban planning approaches that promote physical activity. Where applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent. Park and recreation facilities shall be included in the capital facilities plan element.

Attachment B

County Storm Regulations

18.60.070 Storm drainage standards.

All new development and redevelopment must conform to the standards and minimum requirements set by the Washington Department of Ecology Stormwater Management Manual for the Puget Sound Basin (SMM), as amended. The administrator may require additional measures as indicated by the environmental review or other administrative review.

A. Definitions. For the purposes of this section, the definitions at I-2.1 of the SMM shall apply:

1. "Small parcel development" is a development that creates or adds less than 5,000 square feet of impervious area, and that is either of the following:
 - a. The construction of an individual, detached, single-family residence, accessory dwelling unit, or duplex; or
 - b. Land-disturbing activities of less than one acre that include grading of 100 or more cubic yards.
2. "New development" includes land-disturbing activities, structural development (construction, installation or expansion of a building or other structure), creation of impervious surfaces, Class IV General forest practices and COHP plans, and subdivision, short subdivision and binding site plans as defined in RCW 58.17.020.
3. "Redevelopment" includes, on an already developed site, the creation or addition of impervious surfaces, structural development, and replacement of impervious surface that is not part of routine maintenance; and also, land-disturbing activities that are associated with the above activities.
4. "Impervious surface" means a hard surface area which creates a barrier to the entry of water into the soil mantle in comparison with natural conditions prior to development, or which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include roofs, driveways, patios, packed earth, and oiled surfaces. Open, uncovered retention/ detention facilities shall not be considered as impervious surfaces.
5. A "land-disturbing activity" results in a change in the existing soil cover (both vegetative and nonvegetative) or the existing topography, and includes

but is not limited to demolition, construction, clearing, grading, filling, and excavation.

B. Exemptions. Commercial agriculture, and forest practices regulated under WAC Title 222, except for Class IV General forest practices and COHPs (see SJCC [18.40.120](#) through [18.40.180](#)), are exempt from the provisions of the minimum requirements.

C. Small Parcel Minimum Requirements. Small parcel development meeting the criteria of subsection (A)(1) of this section shall be required to control erosion and sediment during construction and to permanently stabilize soil exposed during construction. Such development shall:

1. Comply with the minimum requirements 1 through 4 for small parcels in Section I-2.3 of the SMM, and shall employ the small parcel best management practices (BMPs) of Section II-5.10. Additional guidance is provided in Sections I-3.3, I-4, and II-5.9 of the SMM;

2. Prepare a small parcel erosion and sediment control plot plan or illustration (or, show on other diagrams being prepared for the project, if appropriate) showing:

a. Vicinity map;

b. Location of the structure and its access;

c. All applicable setback requirements;

d. Location of all applicable erosion and sediment control BMPs; and

e. Existing site features and sensitive areas.

D. New Development Minimum Requirements.

1. New development that includes (a) the creation or addition of 5,000 or more square feet of impervious surface and (b) land-disturbing activities of less than one acre shall comply with minimum requirements 2 through 11 in Sections I-2.6 through I-2.15 of the SMM, and the small parcel minimum requirements of subsection (C) of this section.

2. New development that includes (a) the creation or addition of 5,000 or more square feet of impervious surface, and/or (b) land-disturbing activities of one

acre or more, shall comply with minimum requirements 1 through 11 in Sections I-2.5 through I-2.15 of the SMM, and a stormwater site plan shall be prepared.

3. Stormwater Site Plan. A stormwater site plan required by subsections (D)(2), (E)(1) or (2) shall be developed to the standards of Sections I-3.4 and I-3.5 of the SMM, and include:

- a. Project overview;
- b. Plot plan, including the elements of subsection (C)(2) and:
 - i. Locations of structures and other impervious surfaces;
 - ii. Locations of stormwater runoff control facilities;
 - iii. Road rights-of-way and easements;
- c. Preliminary conditions summary;
- d. Analysis of off-site water quality impacts (including groundwater) resulting from the project, and mitigation measures;
- e. Analysis and design of proposed stormwater runoff control facilities, including treatment and source control BMPs (cf. Section I-4 of the SMM, which provides a list of and selection process for BMPs);
- f. Erosion and sediment control plan;
- g. Special reports and studies;
- h. Stormwater and drainage system maintenance and operations manual.

E. Redevelopment Minimum Requirements.

1. Where redevelopment of 5,000 or more square feet of impervious surface occurs:

- a. The new development minimum requirements 1 through 11 in Sections I-2.5 through I-2.15 of the SMM shall apply to that portion of the site that is being redeveloped;

b. Source-control BMPs (cf. Section I-4 of the SMM, which provides a list of and selection process for BMPs) shall be applied to the entire site (including adjoining parcels if they are part of the project); and

c. A stormwater site plan shall be prepared.

2. In addition to the requirements of subsection (E)(1) of this section, a stormwater site plan (see subsection (D)(3) of this section) shall also be prepared to implement the minimum requirements to the maximum extent practicable for the entire site when any of the following conditions apply:

a. Existing sites larger than one acre with 50 percent or more impervious surface;

b. Sites that discharge to a receiving water that has a documented water quality problem as defined by the County health and community services department or by criteria listed in Section I-2.4.2.B.2 of the SMM; or

c. Sites where the need for additional stormwater control measures has been identified through a special study by the County or town of Friday Harbor, such as a watershed plan or marine habitat protection plan. (Ord. 21-2002 § 7; Ord. 2-1998 Exh. B § 6.7)