

40.386 STORMWATER AND EROSION CONTROL

ADOPTION DRAFT v 9.17.15

40.386.010 INTRODUCTION

- A. Purpose. The purpose of this chapter is to safeguard public health, safety and welfare by protecting the quality of surface and ground waters for drinking water supply, recreation, fishing and other beneficial uses through the application of best management practices (BMPs) for stormwater management and erosion control.
- B. Applicability.
1. The provisions of this chapter shall apply to all new development, redevelopment, land disturbing activities, and drainage projects consistent with the Clark County Stormwater Manual.
 2. Meeting the requirements of this chapter is the joint and severable responsibility of both the owner(s) of the site on which land-disturbing activity occurs and the person(s) undertaking such activity, including the project applicant. In addition, if the land-disturbing activity involves a county-issued permit per other Clark County code requirements, the applicant is also responsible for meeting the requirements of this chapter.
 3. The responsible official is authorized to enforce the provisions of this chapter using the remedies and procedures in Title [32](#).
- C. Exemptions the Requirements of this Chapter.
- Exemptions from the requirements of this chapter shall be granted for the following activities:
1. Forest practices regulated under Title [222](#) WAC, except Class IV general forest practices that are conversions from timber land to other uses.
 2. Construction of agricultural buildings or other hard surfaces for carrying out agricultural activities; provided, that no stormwater is released from the site directly or indirectly to the county's stormwater conveyance system.
 3. Agricultural practices involving working the land for production, but not including converting forested land to agriculture.
 4. Landscape maintenance activities and gardening.
 5. Oil and gas field activities or operations including construction of drilling sites, waste management pits, and access roads, as well as construction of transportation and treatment infrastructure such as pipelines, natural gas treatment plants, natural gas pipeline compressor stations, and crude oil pumping stations. Operators are encouraged to implement BMPs to minimize erosion and to control sediment during and after construction activities to help ensure protection of surface water quality during storm events.
 6. The following pavement maintenance practices:
 - a. Pothole and square cut patching;
 - b. Overlaying existing asphalt or concrete pavement without expanding the area of coverage;
 - c. Shoulder grading;
 - d. Regrading/reshaping drainage systems;
 - e. Crack sealing;

- f. Resurfacing with in-kind material without expanding the road prism;
- g. Pavement preservation, without expanding the road prism; and,
- h. Vegetation management.

D. Permit (Construction) Time Limit.

All permits issued pursuant to the regulations contained in Chapter 40.385 CCC, or earlier stormwater code and the 2009, or earlier version of the Clark County Stormwater Manual expire on January 8, 2021, except if approved construction has begun on site before January 8, 2021. Beginning construction means at a minimum, the site work associated with and directly related to the approved project has begun. For example: grading the project site to final grade, or the installation of utilities. Simply clearing the project site does not constitute the beginning of construction.

E. Definitions. For the purposes of this chapter, the following definitions shall apply. Additional definitions can be found in the SMMWW.

Best management practices (BMPs)	“Best management practices (BMPs)” means schedules of activities, prohibitions of practices, maintenance procedures, managerial practices, and/or structural features approved by Ecology that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State.
Clark County Stormwater Manual	“Clark County Stormwater Manual” means the stormwater manual adopted by Ordinance 2015-12-01.
Drainage project	“Drainage project” means the excavation or construction of pipes, culverts, channels, embankments or other flow-altering structures in any stream, stormwater facility or wetland in Clark County.
Ecology	“Ecology” means the Washington Department of Ecology.
Engineer	“Engineer” means a professional who is licensed in the state of Washington as an engineer.
Hard surface	“Hard surface” means an impervious surface, a permeable pavement, or a vegetated roof.
Impervious surface	“Impervious surface” means a non-vegetated surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, 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 for the purposes of determining whether the thresholds for application of minimum requirements are exceeded. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of runoff modeling.
Land-disturbing activity	“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 clearing, grading, filling, and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices, including landscape maintenance and gardening, are not considered land-disturbing activity. Stormwater facility maintenance is not considered land disturbing activity if conducted according to established standards and procedures.
Low impact development	“Low impact development” means a stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.
Maintenance	“Maintenance” means repair and upkeep activities conducted on currently serviceable structures, facilities, and equipment that involves no expansion or use beyond that previously existing and results in no significant adverse hydrologic impact. It includes those usual activities taken to prevent a decline, lapse, or cessation in the use of structures and systems. Those usual activities may include replacement of dysfunctional facilities, including cases where environmental permits require replacing an existing structure with a different type structure, as long as the functioning characteristics of the original structure are not changed.
Minimum requirements	<p>“Minimum requirements” means the nine (9) sets of requirements that are part of the SMMWW, as follows:</p> <ul style="list-style-type: none"> • Minimum requirement No. 1: Preparation of stormwater site plans; • Minimum requirement No. 2: Construction stormwater pollution prevention; • Minimum requirement No. 3: Source control of pollution; • Minimum requirement No. 4: Preservation of natural drainage systems and outfalls; • Minimum requirement No. 5: On-site stormwater management; • Minimum requirement No. 6: Runoff treatment; • Minimum requirement No. 7: Flow control; • Minimum requirement No. 8: Wetlands protection; and, • Minimum requirement No. 9: Operation and maintenance.
Native vegetation	“Native vegetation” means plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to naturally occur on the site.
New development	<p>“New development” means:</p> <ul style="list-style-type: none"> • Land disturbing activities • Class IV general forest practices that are conversions from timber land to other uses; • Construction or installation of a building or other structure; • Creation of impervious surfaces; and • Subdivisions, short subdivisions, and binding site plans, as defined and applied in Chapter 58.17 RCW. <p>Projects meeting the definition of redevelopment shall not be considered new development.</p>

Redevelopment	<p>“Redevelopment” means on a site that is already substantially developed (i.e., has thirty-five percent (35%) or more of existing hard surface coverage):</p> <ul style="list-style-type: none"> • The creation or addition of hard surfaces; • The expansion of a building footprint or addition or replacement of a structure; • Construction, installation or expansion of a building or other structure; • Replacement of impervious surface that is not part of a routine maintenance activity; or • Land-disturbing activities.
Responsible official	<p>“Responsible official” means the Clark County Manager or his/her designee for the purposes of this chapter.</p>
Regional stormwater facility	<p>“Regional stormwater facility” means a stormwater facility that captures runoff from more than one development or redevelopment project.</p>
Site	<p>“Site” means the area within the legal boundaries of a parcel or parcels of land that is (are) subject to new development or redevelopment. For road projects, the length of the project site and the right-of-way boundaries define the site.</p>

40.386.020 STANDARDS – STORMWATER CONTROL

- A. The Clark County Stormwater Manual is adopted by reference, and the requirements contained therein will be the minimum standards for this chapter except as modified in this chapter.
- B. Where provisions of this chapter conflict with other Title 40 requirements, the more stringent shall apply.
- C. The Washington Department of Transportation Highway Runoff Manual 2014 is adopted by reference and may be used as an alternative to the Clark County Stormwater Manual for publicly-funded road construction projects, subject to approval of the responsible official and provided that Minimum Requirement #5 BMPs are selected using the Clark County Stormwater Manual.
- D. Approvals and permits granted based on compliance with this chapter and any policies and procedures promulgated hereunder do not constitute waivers of the requirements of any other laws or regulations nor do they indicate compliance with any other laws or regulations. Compliance with all applicable federal, state and local laws and regulations is required.

40.386.030 ADMINISTRATION

- A. General.
 1. An applicant proposing any new development, redevelopment, land-disturbing activity or drainage project governed by this chapter shall submit to Clark County the plans, studies, and information described in the Clark County Stormwater Manual. The purpose of the stormwater plan is to determine whether a proposal can meet the requirements set forth in this chapter.

2. All plans, studies, and reports submitted pursuant to this chapter must be stamped, signed and dated by an engineer, and other licensed professionals if appropriate, responsible for their preparation.
 3. Stormwater site plans are exempt from the requirement to be prepared by an engineer for projects that only apply minimum requirements No. 1 through No. 5 for construction of agricultural or residential buildings and their appurtenances on an existing lot. Alterations to an existing site plan prepared by a licensed engineer are not exempt.
- B. Preliminary Stormwater Plan.
1. As part of a land-use application, the applicant shall submit a preliminary stormwater plan meeting the requirements of the Clark County Stormwater Manual for all new development, redevelopment, land-disturbing activities or drainage projects not exempted by Section 40.386.010.C.
 2. A preliminary stormwater plan submittal shall consist of a preliminary development plan and a preliminary technical information report (TIR). The engineer shall include a statement that all required information is included and that the proposed stormwater facilities are feasible.
- C. Final Stormwater Plan.
1. The applicant shall submit a final stormwater plan and shall obtain approval of the final stormwater plan from the responsible official prior to beginning construction related to any new development, redevelopment, land-disturbing activity or drainage project not exempted by section 40.386.010(C). The final stormwater plan provides final engineering design and construction drawings in accordance with the Clark County Stormwater Manual.
 2. The final stormwater plan must include a construction stormwater pollution prevention plan (SWPPP) prepared in accordance with the Clark County Stormwater Manual for any new development, redevelopment, land-disturbing activity or drainage project not exempted by Section 40.386.010(C).
 3. If a Final Stormwater Plan differs from the approved Preliminary Stormwater Plan in a manner that, in the opinion of the Responsible Official, raises significant water quality or quantity control issues, it shall require another SEPA determination (if subject to the State Environmental Policy Act [SEPA]) and a post-decision review, in accordance with CCC Section 40.520.060.
- D. Plan Review Process.
1. For a land use application requiring a public hearing, the Hearings Examiner shall consider the preliminary stormwater plan in accordance with the procedures applicable to the land use application. All other preliminary stormwater plans shall be acted on by the responsible official within the timeline for the preliminary land use decision.
 2. Variances. For purposes of this chapter, the following requirements shall apply with regard to variances:
 - a. Type I and Type II (Administrative) Variances. The responsible official may grant an administrative variance to the standards of this chapter using a Type I or Type II process pursuant to Sections 40.510.010 and 40.510.020 prior to permit approval and construction; provided, that the requested change is due to site specific conditions and the intent of this chapter is met.

These variances are limited to changes to design and construction of stormwater infrastructure and must meet the following criteria:

- (1) All Minimum Requirements of the Clark County Stormwater Manual are fully met;
- (2) The change does not result in a decrease in materials grade or quality; and,
- (3) The change must be approved by the responsible official as acceptable for maintenance access and repairs.

b. Type III Variances. The Hearing's Examiner may grant a variance from the requirements of this chapter using a Type III process pursuant to Section 40.510.030 prior to permit approval and construction; provided, that the provisions of this chapter are met. A written finding of fact is required that addresses the following:

- (1) The variance provides for 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;
- (2) That there are special physical circumstances or conditions affecting the property such that the strict application of these provisions would deprive the developer of all reasonable use of the property of land in question, and all feasible efforts to meet the intent of the requirements have been made, considering the following:
 - (a) The current (pre-project) use of the site;
 - (b) How the application of the minimum requirements would restrict the proposed use of the site compared to the restrictions that existed prior to the adoption of the minimum requirements;
 - (c) The possible remaining uses of the site if the variance were not granted;
 - (d) The uses of the site that would have been allowed prior to the adoption of the minimum requirements;
 - (e) A comparison of the estimated percentage of value loss as a result of the minimum requirements versus the estimated amount and percentage of value loss of requirements that existed prior to adoption of the minimum requirements; and
 - (f) The feasibility for the owner to alter the project to comply with the minimum requirements.
- (3) That the granting of the variance 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
- (4) The variance is the least possible variance that could be granted to comply with the intent of this chapter.

E. Inspection.

The responsible official shall inspect all new development, redevelopment and drainage projects to ensure compliance with this chapter and the standards of the Clark County Stormwater Manual.

1. The project applicant must schedule a pre-construction conference and pre-construction inspection to ensure that stormwater and erosion control BMPs are in place and access to public right-of-way is properly installed.
2. The project applicant shall obtain approval on all inspections necessary to manage the project and comply with the Clark County Stormwater Manual.
3. The project applicant shall inspect all temporary erosion and sedimentation BMPs throughout construction to verify proper installation and maintenance of required soil erosion and sediment controls.
4. The responsible official shall inspect new development, redevelopment and drainage projects sites upon completion of construction and before final approval/occupancy to verify proper installation of permanent erosion controls, stormwater facilities, and BMPs and compliance with Chapter 40.386 CCC and the Clark County Stormwater Manual.

F. Acceptance.

When the project applicant requests construction acceptance of stormwater facilities the applicant shall follow the procedures set forth in the Clark County Stormwater Manual.

G. Record Drawings.

1. Upon completion of the construction of conveyance systems, stormwater treatment facilities, flow control facilities and structural source control BMPs (excluding the construction of on-site stormwater management BMPs) and prior to final inspection approval, the applicant shall submit to Clark County, record drawings of the full stormwater plan prepared and stamped by a licensed engineer.
2. The drawings must accurately represent the project as constructed. They must depict the actual vertical and horizontal locations of roads and drainage facilities constructed on and off site as part of the development, redevelopment, land disturbing activity or drainage project. Record drawings must be stamped, signed and dated by an engineer and must meet the standards contained in the Clark County Stormwater Manual.