

National Ordinance Review – Additional Investigation BMP Requirements and Enforcement for Small Properties

By: Michael Baker Jr., Inc.

The following is a summary of practices used by the Stormwater Programs studied in the National Ordinance Review Technical Memorandum (Dec. 2009) that are used to regulate Best Management Practices (BMPs) for small and individual properties. It is presented to the DuPage Ordinance Update Steering Committee and other interested parties to aid in developing guidelines

Baltimore

Construction, grading, or development that does not disturb more than 5,000 square feet is exempt from having to provide any stormwater management.

BMPs are privately owned and are inspected by the City the first year and every three years after that. The owner has 30 days to correct any deficiencies. Prior to the issuance of any building permit for which stormwater management is required, the Department shall require the applicant or owner to execute an inspection and maintenance agreement binding on all subsequent owners of land served by a private stormwater management facility. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the Department, or its authorized representative to ensure that the facility is maintained in proper working condition to meet design standards.

Portland

The City of Portland has a citywide pollution reduction requirement for all development projects with over 500 square feet of impervious development footprint area, and all existing sites that propose to create new off-site stormwater discharges. This requirement is summarized as follows:

- 70 percent removal of total suspended solids is required from 90 percent of the average annual runoff.
- Projects in watersheds that have established total maximum daily loads (TMDLs) must also select and use a pollution reduction facility that is capable of reducing the pollutants of concern.

Facilities are privately owned. It is recorded on the deed and there is an O&M agreement that is recorded with the deed. There is a maintenance inspection program with a goal to visit once per year.

Chicago

Regulation applies when more than 15,000 sq ft is disturbed, or 7,500 sq ft of impervious is added, or the development results in any discharges into any waters or separate sewer system.

Facilities are privately owned and submittal of an O&M plan is required and stays with the site and is the owner's responsibility. The Ordinance gives authority to the City with reasonable notice to go onsite and check O&M and there is a per day fine for deficiencies. Inspection is generally a function of complaints, but there has been a task order to do some random spot checks.

Lenexa

Exemptions include additions to Single Family Homes and Duplexes.

Anything that is private BMP is privately maintained.

Santa Clara Valley

Thresholds are 10,000 sq ft of impervious for new projects, and addition or replacement of 10,000 sq ft impervious for redevelopment projects. If more than 50% of existing impervious is replaced or added, then

entire project must be considered, if less than 50% of existing impervious is replaced or added, only affected portion needs to meet requirements.

Montgomery County, MD

Exemptions include any addition or modification to an existing single family detached residential structure if the addition or modification does not disturb more than 5,000 square feet of land area; and any development not associated with the construction of a new residential or commercial building if the development does not disturb more than 5,000 square feet of land area.

BMPs are privately owned and inspected triennially.

Seattle

Single family residential projects with total new plus replaced impervious less than 2,000 to 10,000 sq ft are exempt.

BMPs are privately owned. Maximum fine is \$5000.

Charlotte/Mecklenburg

In Charlotte, the designer and engineer can design from 10 BMPs. DOT opposed to BMPs in ROW, but might be open to idea in certain scenarios – single family residential.

Single family homes can apply to have the City maintain their BMP, but until that happens, it is privately owned and maintained. They require easements.

Stafford County, VA

Single family homes that are not built as part of a subdivision, including additions and modifications are exempt from requirements.

The property owner or owner's association is responsible for inspecting and performing all necessary maintenance and repairs to the stormwater management facility. The responsible party shall keep written records of inspections and maintenance/repairs and make them available to the county upon request. If there is a deficiency, the property owner will be notified in writing of the type of work and timeframe to complete it. If it is not completed, the County has the authority to perform the work and recover the costs from the responsible party

Prince George's County

Additions to single family homes that do not disturb more than 5000 sq ft. are exempt. Owners of privately owned BMPs are required to maintain them and will be subject to periodic inspection.

Maryland

Additions or modifications to single family homes, and developments that do not disturb more than 5000 sq ft of land are exempt.

Philadelphia

Developments that do not disturb 15,000 sq ft, or 5,000 sq ft in the Darby-Cobbs Creek Watershed, are exempt but are strongly encouraged to complete a voluntary small sites checklist. The owner of the land is responsible for performing long term maintenance. In the case of a single property owner, that owner is responsible for maintenance.