



PUBLIC WORKS

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Jennifer D. Walker, Director

MEMORANDUM

DATE: July 11, 2022

TO: Thurston County Drainage Design and Erosion Control Manual Users

FROM: Tim Wilson *TW*
Thurston County Drainage Design and Erosion Control Manual Administrator

SUBJECT: Interim Stormwater Vesting Guidance Under the Municipal Stormwater Permit

SUMMARY

Effective June 30, 2022, new and redevelopment projects located within the County's Municipal Stormwater Permit boundary must adhere to the requirements set forth by the 2022 edition of the Thurston County Drainage Design and Erosion Control Manual (DDECM) for applications submitted:

1. On or after July 1, 2022.
2. Prior to January 1, 2017, that have not started construction by January 1, 2022.
3. Prior to July 1, 2022, that have not started construction by July 1, 2027.

The contents and requirements of a complete application must be as described in the applicable sections of Thurston County Code, State Law (where applicable), and any Thurston County-required application forms and checklists.

Start of construction is defined as the totality of actions taken, equipment mobilized, earth moved, clearing of vegetation, and installation of sediment and erosion control features associated with and directly related to the improvements required by the underlying approved application type and consistent with a permit issued by Thurston County such as a construction permit or grading permit that implements the plan of development described in the underlying permit approval (e.g., preliminary plat or building permit approval). Work such as clearing under a forest practices permit, installation of franchise utilities, or land clearing not part of an approved grading permit or construction permit is not sufficient, in itself, to be considered *start of construction*.

BACKGROUND

Washington's vesting laws allow developers to rely on zoning or other land use control ordinances in effect on the date of application (RCW 19.27.095 and RCW 58.17.033). A 2016 Washington State Supreme Court decision, *Snohomish v. PCHB*, determined state vesting law does not apply to the Washington State Department of Ecology's Municipal Stormwater Permit and any implementing local ordinances. Because such regulations are the result of state and federal mandates, they were deemed by the Court to be outside a municipality's discretion and beyond the purview of state vesting laws.

CONCLUSIONS

As a result of the Court's decision, Washington vesting laws do not apply to Municipal Stormwater Permit requirements, and application of permit requirements, including rules for projects which received prior acceptance, are governed only by the language contained within the Municipal Stormwater Permit itself.