



**AGENDA  
CLEAN WATER SERVICES  
BOARD OF DIRECTORS**

**Agenda Category:** Public Hearing All CPOs

**Agenda Title:** **HOLD A PUBLIC HEARING AND ADOPT AN  
IMPLEMENTATION POLICY FOR FUTURE REVISIONS TO THE  
DESIGN AND CONSTRUCTION STANDARDS PERTAINING TO  
RUNOFF TREATMENT AND CONTROL**

**Presented by:** Diane Taniguchi-Dennis, Chief Executive Officer (dwr)

**SUMMARY**

Clean Water Services' (District) Design and Construction Standards (Standards) set the minimum standards for constructing components of the sanitary sewer, storm and surface water management systems within the District's boundary and are adopted pursuant to Ordinance 27. District periodically updates the Standards to maintain compliance with federal and state regulatory requirements, clarify policies and procedures and reflect new technologies. The District's last update to the Standards occurred in March 2017. The current Standards are contained in Resolution and Order No. 17-5 (RO 17-5), adopted by the District's Board of Directors (Board) on March 28, 2017.

Under RO 17-5, development and engineering construction plans are reviewed using the Standards that are in effect at the time an applicant submits a Site Development and/or Erosion Control Permit Application to the District or one of the co-implementing cities, regardless of when the land use review and approval process started. It is this process that is proposed to be modified as part of the proposed Implementation Policy.

(Continued)

Attachment: Resolution and Order

**REQUESTED ACTION**

Hold a public hearing on the proposed Implementation Policy for future revisions to Clean Water Services Design and Construction Standards Pertaining to Runoff Treatment and Control, and after considering any testimony received, adopt the Implementation Policy.

CWS RO 18-28

Agenda Item No.	<u>3.b.</u>
Date:	<u>11/27/18</u>

**HOLD A PUBLIC HEARING AND ADOPT AN IMPLEMENTATION POLICY FOR  
FUTURE REVISIONS TO THE DESIGN AND CONSTRUCTION STANDARDS  
PERTAINING TO RUNOFF TREATMENT AND CONTROL**

**11/27/18**

The purpose of adopting the Implementation Policy described in the attached Resolution and Order is to establish which set of standards, existing or future, will apply to a project in process once planned revisions to the Standards are effective, anticipated to be adopted prior to April 22, 2019. The revisions to the Standards are necessary to comply with District's National Pollutant Discharge Elimination System (NPDES) Permit, more specifically to implement strategies and priorities for preventing or reducing hydromodification impacts as part of District's post-construction stormwater quantity control program.

District recognizes that the revisions to the Standards have the potential to impact the layout and design of projects that are currently in the land use review process or projects that are being pre-planned with the intent to enter into the development process over the next few months. Adopting a policy that outlines an implementation strategy for the future update to the Standards can provide a level of certainty to applicants as to which version of the Standards will be applied to proposed projects.

As part of District's outreach efforts to help ensure that the proposed Implementation Policy can be implemented in a way that will work for the majority of projects across all land use jurisdictions within the service area, District staff met with planning and engineering groups in each of the co-implementing cities and Washington County to better understand the specifics of their processes. In October and November 2018, the District provided the Clean Water Advisory Commission (CWAC) with written information and a presentation regarding the Implementation Policy. In addition to the regular public notice procedures for this Public Hearing, the District emailed notice of this proposed action to over 300 individuals and groups on its Design and Construction Standards Update interested parties list.

Based on this process, District staff determined that the potential impact to a project in process from a new hydromodification standard was significant enough that it might result in substantive changes to site layout or design. It was recognized that these changes would likely require a project in process to resubmit to land use. In order to avoid this impact, the proposed Implementation Policy would allow for project applications submitted for land use review prior to the effective date of a future standard to be vested under the current Standards.

District staff also considered the potential impact to planned projects that would not require a land use process. In order to address these types of projects, the proposed Implementation Policy includes a grace period after revised standards are adopted. Initially, District staff had included a 90-day grace period for projects not requiring land use that begin construction within one year. Based on feedback from CWAC and the co-implementing cities, District staff modified the grace period to be 180 days from the effective date of future revised standards for projects that begin construction within the time allowed by the local jurisdictions' construction permit, but not more than two years.

1 **BEFORE THE BOARD OF DIRECTORS OF CLEAN WATER SERVICES**

2 In the Matter of Adopting a Policy For )  
3 Implementing Future Revisions to Design and ) RESOLUTION AND ORDER  
4 Construction Standards Pertaining to Runoff ) NO. CWS 18-28  
5 Treatment and Control; Pursuant to Ordinance )  
6 27 )

6 The above-entitled matter came before the Board of Directors of Clean Water Services  
7 (Board) at its regular meeting of November 27, 2018; and

8 It appearing that this Board adopted Ordinance 27 pertaining to the use and operation of the  
9 sanitary sewerage system and the storm and surface water management system throughout urban  
10 Washington County (County); that this ordinance provides authority to adopt additional rules by  
11 resolution and order pertaining to design and construction of public sanitary sewerage and storm  
12 and surface water management facilities, erosion control, provision of permanent water quantity and  
13 quality control facilities, regulation of activities affecting discharges of stormwater and nonpoint  
14 sources of pollution to protect the Tualatin River, its tributaries and other waters of the state within  
15 the Clean Water Services (District) boundary, requirements for permits for connection to the  
16 sanitary and stormwater system and related matters; and

17 It appearing to the Board that the District is responsible for sanitary sewer service and storm  
18 and surface water management throughout County pursuant to Oregon Revised Statutes (ORS)  
19 Chapter 451 and subject to the rules and orders of the state Department of Environmental Quality,  
20 that the District is a permittee on the National Pollutant Discharge Elimination System (NPDES)  
21 Permit for the County, and that the District has adopted master plans for sanitary sewer and  
22 management of storm and surface water throughout County, as authorized by ORS Chapter 451;  
23 and

24 It appearing to this Board that the District has entered into intergovernmental agreements  
25 with County and the cities within the District's boundaries primarily affected by the District's  
26 master plans to provide for an integrated system pursuant to the District's master plan for sanitary

1 sewer and storm and surface water management, and that these agreements provided that the cities  
2 and County will observe the orders promulgated by the District; and

3 It appearing to the Board that on March 28, 2017, the Board adopted District Resolution  
4 and Order (RO) 17-5, which contains the current version of the Design and Construction Standards  
5 (Standards) pertaining to the sanitary sewerage and storm and surface water management systems;  
6 and

7 It appearing to the Board that the existing rules and regulations contained in RO 17-5 are  
8 anticipated to be revised on or prior to April 22, 2019 to maintain compliance with the District's  
9 NPDES permit, more specifically the requirement to implement strategies and priorities for  
10 preventing or reducing hydromodification impacts as part of a post-construction stormwater  
11 quantity control program, and that these revised rules and regulations (Revised Standards) have the  
12 potential to impact layout and design of projects that are currently in the land use process or that are  
13 being pre-planned with the intent to enter into the development process or to begin construction  
14 shortly after the Revised Standards are adopted; and

15 It appearing to the Board that the effectiveness date of future revisions to the Runoff  
16 Treatment and Control portions of the Standards have the potential to compromise the feasibility of  
17 a development or project after significant resources have been expended by applicants; and

18 It appearing to the Board that the new implementation policy will provide a level of  
19 certainty to applicants while continuing to aid the District in achieving compliance with the rules  
20 and requirements of the Oregon Department of Environmental Quality; and

21 It appearing to the Board that it has conducted a public hearing regarding the adoption of the  
22 implementation policy this date in accordance with District Ordinance No. 27, Section 8 and that  
23 public notice was given as required and interested persons were given an opportunity to appear and  
24 be heard; and

25 It appearing to this Board that it is appropriate to adopt the implementation policy described  
26 below; and the Board being fully advised; now, therefore it is

Page 2 of 4 – RESOLUTION AND ORDER

1           RESOLVED AND ORDERED that the Runoff Treatment and Control standards adopted by  
2 RO 17-5 shall apply to all development and construction permit applications for projects that make  
3 application for land use approval prior to the effective date of the Revised Standards and for which  
4 land use approval is granted based upon such application, and that those Standards shall continue to  
5 apply for all development, construction and building permit applications made pursuant to the  
6 original land use approval and any valid extensions thereof, unless specifically requested by the  
7 applicant to use the Revised Standards; and it is further

8           RESOLVED AND ORDERED that the District and permitting jurisdiction shall determine  
9 whether the Revised Standards should apply to any major modifications of the original land use  
10 approval that result in a change to site layout that will increase impervious surface, runoff quantity  
11 or flow duration; and it is further

12           RESOLVED AND ORDERED that the Runoff Treatment and Control standards adopted by  
13 RO 17-5 shall apply to all development and construction permit applications for projects that are not  
14 required to obtain land use approval provided application for construction permits is made within  
15 180 days of the effective date of the Revised Standards and construction has started pursuant to the  
16 local jurisdiction's permit, but no more than two years from the construction permit date; and it is  
17 further

18           RESOLVED AND ORDERED that the Revised Standards in effect at the time a  
19 development or construction permit application is made to District will apply to all projects which  
20 do not meet the explicit criteria listed above for application of the Runoff Treatment and Control  
21 standards adopted by RO 17-5; and it is further

22           RESOLVED AND ORDERED that the resolutions and orders made above only apply to the  
23 storm and surface water management portions of the Revised Standards and that all projects are  
24 required to comply with all other aspects of the Revised Standards in effect at the time application is  
25 made for development, construction and building permits; and it is further

26 ///

Page 3 of 4 – RESOLUTION AND ORDER

1 RESOLVED AND ORDERED that administration of the rules and regulations contained in  
2 this Resolution and Order may be delegated to individual cities and to the counties as the District's  
3 designees only pursuant to intergovernmental agreements that specifically provide for such  
4 delegation.

5 DATED this 27<sup>th</sup> day of November, 2018.

6  
7 CLEAN WATER SERVICES  
By its Board of Directors

	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>
8 <b>DUYCK</b>	<u>✓</u>	<u>—</u>	<u>—</u>
9 <b>SCHOUTEN</b>	<u>—</u>	<u>—</u>	<u>✓</u>
10 <b>MALINOWSKI</b>	<u>✓</u>	<u>—</u>	<u>—</u>
11 <b>ROGERS</b>	<u>✓</u>	<u>—</u>	<u>—</u>
12 <b>TERRY</b>	<u>✓</u>	<u>—</u>	<u>—</u>

Chairman

Recording Secretary