
Appendix E

Relief
For
Extraordinarily
Difficult
Site
Conditions

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E.1 Relief from Extraordinarily Difficult Site Conditions

Note that major land disturbing activity in the existing Public Right of Way (PROW) should use the maximum extent practicable process detailed in Appendix B to apply for relief from extraordinarily difficult site conditions.

All development sites are required to address the Stormwater Retention Volume (SWRv), as described in Chapter 2. If compliance with the minimum on-site retention requirement is technically infeasible or environmentally harmful, the applicant may apply for relief from extraordinarily difficult site conditions. In cases where an applicant claims extraordinarily difficult site conditions, it is the responsibility of the applicant to provide sufficient evidence to support the claim.

Once granted relief from extraordinarily difficult site conditions, an applicant is allowed to provide less than the minimum compliance requirements on-site by managing a greater retention volume through off-site mitigation. This process does not relieve the applicant from the obligation to manage the full SWRv determined through compliance calculations. Additionally, stormwater runoff not receiving the minimum on-site retention shall receive treatment to remove 60 percent of total suspended solids. When the Department finds the evidence presented is sufficient and compelling, the relief granted shall be conditioned upon the Stormwater Management Plan (SWMP) for the project demonstrating the treatment practices, as defined in Chapter 3 of this guidance manual, will remove 60 percent of total suspended solids and identifying the requirement for the use of off-site retention to offset the entire on-site retention deficit.

E.2 Submission requirements for Relief from Extraordinarily Difficult Site Conditions

The applicant shall submit a memo with supporting evidence to demonstrate the claim of technical infeasibility or environmental harm. The memo shall provide a detailed explanation of each opportunity for on-site installation of retention BMPs that was considered and rejected, and the reasons for each rejection. The applicant shall address each retention practice specified in this guidance manual in BMP groups 1 through 13, specifically,

BMP Group 1	Green Roofs
BMP Group 2	Rainwater Harvesting
BMP Group 3	Impermeable Surface Disconnection
BMP Group 4	Permeable Pavement Systems
BMP Group 5	Bioretention
BMP Group 7	Infiltration
BMP Group 8	Open Channel Systems
BMP Group 13	Tree Planting

Evidence of site conditions limiting each opportunity for a retention BMP include,

- a) Data on soil and groundwater contamination.
- b) Data from infiltration testing.
- c) Documentation of the presence of utilities requiring impermeable protection.
- d) Evidence of the applicability of a statute, regulation, court order, pre-existing covenant, or other restriction having the force of law.

In an application for Relief from Extraordinarily Difficult Site Conditions, a completed application and proof of payment of the applicable fee are required to begin the review of the request.

E.3 Review of requests for Relief from Extraordinarily Difficult Site Conditions

The Department shall not render a final decision if an application for relief is incomplete. However, if an application is substantially complete, the Department may begin consideration of the request for relief.

Upon accepting an application, the Department shall review and determine if the application meets the requirements of this section, including:

- (a) Require additional information;
- (b) Grant relief;
- (c) Grant relief, with conditions;
- (d) Deny relief; or
- (e) Deny relief in part.

In determining whether to grant relief, the Department may consider:

- (a) The applicant's submittal;
- (b) Other site-related information;
- (c) An alternative design;
- (d) The Department's Stormwater Management Guidebook (SWMG);
- (e) Another BMP that meets the SWMG's approval requirements; and
- (f) Relevant scientific and technical literature, reports, guidance, and standards.