APPENDIX D.7 SPECIAL CIRCUMSTANCES AND APPEALS SUBMITTAL GUIDE

Special Circumstances

Special circumstances on a proposed site may make it impractical to implement onsite pollution reduction or flow control to the standards specified in Chapter 1 of this manual. In that case, the Bureau of Environmental Services (BES) will determine if all or a portion of the stormwater management obligations may be fulfilled offsite. See the **Special Circumstances Form** in this appendix to request offsite management.

No exceptions to meeting the stormwater management obligations are allowed. The applicant must account for the management of all stormwater runoff from the site. Onsite stormwater management must be achieved to the maximum extent feasible, as approved by BES, in all cases before any offsite facilities or fees will be allowed.

Properties are not eligible for special circumstances if they were divided or partitioned after this *Stormwater Management Manual* was adopted (July 1, 1999) and the division or partition resulted in the special circumstance (e.g., structural or other physical limitations at the site).

If BES approves a special circumstances claim, the applicant must construct an appropriately sized offsite facility or pay a fee to the City to construct offsite facilities. This offsite management fee is currently **$2.76** per square foot of unmanaged impervious surface. The fee may be pro-rated to account for portions of the stormwater management obligation met onsite (as determined by the City's review of proposed onsite facilities).

Special circumstances review will be conducted by an Administrative Review Committee of City staff and the BES Systems Development Manager.

How to Prepare a Special Circumstances Application

A complete special circumstances application consists of:

- Completed **Form 3: Special Circumstances.**
- One set of plans (site plan and any necessary details).
- Fee of $100.
- Supplemental information specific to the project circumstances.

It is critical that information provided in the special circumstances application be clear, concise, accurate, and completely written. Each special circumstances request must stand on its own merit and will be reviewed based on the specific conditions related to the project under consideration.

Form: The **Special Circumstances Form** (provided in this appendix) consists of the following sections:

1. **Project Information.** Provide information about the project, its location, the property owner, and the project team.

2. **Special Circumstance.** Specify the request being made and the features of the project that make it a special circumstance.

3. **Stormwater Management Information**. Generally explain the proposed stormwater management facilities. Summarize how stormwater will be managed for pollution reduction, flow control, and infiltration, and indicate the proposed discharge point.

Plans: One set of plans (in addition to any plans submitted for permit processing) must accompany the special circumstance application. Plans should provide sufficient information to detail the areas considered to be a special circumstance, as well as any areas that may be affected by or that may affect those circumstances.

Fee: A fee of $100 is required.

Supplemental information (optional): Submitting supplemental information (engineering analyses, test data, etc.) that will help clarify the request or make it easier to understand is encouraged.

How to File a Special Circumstances Application

The complete special circumstances application must be received by 4:00 pm on Friday to be considered the following week. Applications will be screened for completeness, and the applicant will be notified within 3 working days that the application has been received and is complete. Submittal of inaccurate or incomplete applications may cause a delay in considering the request.

Note: If the owner is different from the applicant, both the owner and the applicant are required to sign any required forms and attend any meetings as arranged.

Application packets should be mailed or delivered to:

Bureau of Environmental Services
Attention: Stormwater Management Special Circumstances
1120 SW 5th Avenue, Suite 1000
Portland, OR 97204

For questions regarding the special circumstances submittal, call 503-823-7761.

Decisions

Administrative reviews will be completed within 21 days of receipt of the submittal. An appointed staff member will review the submittal before calling an Administrative Review Committee meeting to present a brief overview. Decisions are reached by consensus. The decisions will be recorded and mailed to the appellant within 5 business days of the decision.

Appeals

Applicability

This appeals process applies to special circumstances decisions, as described above. It also applies to administrative or technical decisions related to other requirements of Chapters 1 through 3 (except Section 1.3.3). **Appendix D.9** describes a separate appeals process for Section 1.3.3 and for the source control requirements in Chapter 4.

The appeals process allows applicants to appeal staff interpretation of the City Code and of adopted policies and procedures that guide the review of development proposals. Applicants may appeal any issue related to interpretation of the stormwater management policy. For example, an applicant may appeal staff assessment of a site's stormwater management level or a permit denial. Applicants may not appeal the content or requirements of the policy, or technical parameters such as design storms, coefficients, and other technical criteria through this process.

This appeals process is not intended to address requested changes to technical specifications as adopted in the 2007 *Portland Standard Construction Specifications* or the Bureau of Environmental Services (BES) *Sewer and Drainage Facilities Design Manual*. In those cases, applicants should contact the BES Development Review Team (503-823-7761) to request consideration by the BES Standards and Practices Committee. That committee has a separate process to consider changes to technical standards.

Process

Appellants not satisfied with administrative or technical decisions may request in writing a public hearing by the BES Appeals Board, which comprises the Chief Engineer, Systems Development Manager, Pollution Prevention Services Manager, and Watershed Services Manager (or their designees). An outside member may also be included at the discretion of the Chief Engineer, depending on the nature of the appeal. The Systems Development Manager will schedule a BES Appeals Board meeting to occur within 14 working days of receipt of the written appeal application. The applicant will be notified of the meeting date, place, and time. Public notice of the appeal request is given. At least three members of the board must be present for the meeting to take place. A member of the Administrative Review Committee or Technical Review Committee will present an overview of the request and the decision.

The applicant, if present, may briefly address the board. Decisions are reached by a majority opinion of the board and are binding.

How to Prepare an Appeal Application

A complete appeal review application consists of:

- A written request to the Systems Development Manager explaining the reason for the appeal.
- A copy of the Administrative Review Committee's or Technical Review Committee's original determination.
- Appeal fee of $250.
- One set of plans.
- Supplemental information specific to the project circumstances.

It is critical for information provided in the appeal application to be clear, concise, accurate, and complete. Each appeal must stand on its own merit and will be reviewed based on the specific conditions related to the project under consideration.

Written Request: The written request must include:

- Information about the project, its location, the property owner, and the project team.
- The decision being appealed.
- General reasons for the denial and new information rebutting the denial.
- General summary of the proposed stormwater management approach, including how stormwater is being managed for pollution reduction, flow control, and infiltration and the discharge point.

Plans: One set of plans (in addition to any plans submitted for permit processing) must accompany the appeal application. Plans should provide sufficient information to detail the areas that are being appealed, as well as any areas that may be affected by or affect the appeal.

Fee: A fee of $250 is required.

Supplemental information (optional): Supplemental information (engineering analyses, test data, etc.) that will help clarify the appeal is a welcome accompaniment to the submittal.

How to File an Appeal

The complete appeal application must be received by 4:00 pm on Friday to be heard the following Wednesday. Applications will be screened for completeness. Submittal of inaccurate or incomplete applications may cause a delay in hearing the appeal.

Note: If the owner is different from the applicant, both the owner and the applicant are required to sign any required forms and attend any meetings as arranged.

Application packets should be mailed or delivered to:

Bureau of Environmental Services
Attention: Stormwater Management Appeals
1120 SW 5th Avenue, Suite 1000
Portland, OR 97204

For questions regarding the appeal packet submittal, call 503-823-7761.

Decisions

Decisions will be recorded and mailed to the appellant within 5 business days.

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FORM

3 SPECIAL CIRCUMSTANCES

Office use only
Received by: _____
Date: _____

This form is required when applicant proposes to:

✔ **Pay an offsite stormwater management fee**

Please fill this form out completely. For assistance completing it, consult with the Bureau of Environmental Services (BES) reviewer assigned to your project or with BES staff in the Development Services Center. The details of your special circumstance or requirement you are appealing must appear on this sheet. Additional information may be included if pertinent to the item being considered. Refer to Appendix D.7 of the 2008 Stormwater Management Manual for more information.

A fee of $100 along with one (1) set of plans (**exclusive of any plans submitted for plan check**) must be submitted along with this form. Plans are to clearly indicate the new or redeveloped impervious area and proposed facilities.
Checks are to be made payable to City of Portland

Special Circumstances applications must be submitted by no later than 4:00 PM on Friday. Applications received by this deadline will be scheduled for the next available hearing date. In most cases, applications submitted by the Friday deadline will be considered the following Wednesday. However, an application may be deferred to a later date due to the number of applications scheduled for hearing, the complexity of the application being submitted, an incomplete submittal, or other unforeseen factors. Information about the status of your application may be obtained by calling the BES hotline at 503-823-7761. Results of the hearing will not be available until the day following the hearing. Applicants will receive a copy of final decision in the mail.

PROJECT INFORMATION

1 Project Information

Permit/LUR Number: **Site Tax Account Number (s):** R

Project/Site Street Address:

City/State/Zip:

Cross Streets:

Project Name (if applicable):

Applicant Name: Firm Name:

Applicant Street Address:

City/State/Zip:

Applicant Phone Number(s):

Owner Name (if different than applicant):

Owner Street Address:

City/State/Zip:

Owner Phone Number(s):

May we contact you by email to respond to this request? ☐ Yes ☐ No

Email Address:

Form 3 - SPECIAL CIRCUMSTANCES

PROJECT INFORMATION continued

Engineer Name (if applicable): Firm Name:

Engineer Street Address:

City/State/Zip:

Engineer Phone Number(s):

Architect Name (if applicable): Firm Name:

Architect Street Address:

City/State/Zip:

Architect Phone Number(s):

Describe the development or redevelopment project *(one set of plans must be submitted with this form)*:

SPECIAL CIRCUMSTANCE INFORMATION

2 Special Circumstances Information

I would like to pay an offsite management fee for a ☐ portion ☐ all of the stormwater requirements
(check one)

Explain the request in more detail:

Form 3 - SPECIAL CIRCUMSTANCES

3 Stormwater Management

Describe your proposed stormwater management plan if this special circumstances request is approved:

Indicate the proposed infiltration and discharge method:

Infiltration onsite ☐ _____%
(refer to Section 1.3.1 of the Manual)

Discharge offsite ☐ 100% ☐ _____%
(refer to Section 1.3.1 of the Manual)

Overflow will be directed to *(check all that apply)*:

- ☐ **Subsurface facility**
- ☐ **Surface water**
- ☐ **Stormwater sewer**
- ☐ **Combined Sewer**

Describe the method and location:

Form 3 - SPECIAL CIRCUMSTANCES

STORMWATER MANAGEMENT continued

For the following requirements, indicate the percentage of impervious area that you plan to meet onsite:

Flow Control ☐ 100% ☐ ____ % ☐ N/A *(explain below)*
(refer to Section 1.3.2 of the Manual)

Pollution Reduction ☐ 100% ☐ ____ % ☐ N/A *(explain below)*
(refer to Section 1.3.3 of the Manual)

If you checked N/A for either pollution reduction or flow control, please explain:

Signed: *(Applicant)* _____ Date: _____

Signed: *(Owner if different)* _____ Date: _____

TO BE COMPLETED BY SYSTEM DEVELOPMENT DIVISION

4 To Be Completed By The System Development Division

Date Received: _____

☐ Approved ☐ Denied ☐ Other *(see comments below)*

Date: _____ Signature: _____

City Comments: _____

_____

_____

_____

_____

_____

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