

Appendix E Relief for Extraordinarily Difficult Site Conditions

E.1 Relief from Extraordinarily Difficult Site Conditions

Note that major land-disturbing activity in the existing public right-of-way (PROW) uses the maximum extent practicable process detailed in Appendix B to determine sizing criteria used to achieve the stormwater management performance requirements for regulated activity. These projects are not required to apply for relief from extraordinarily difficult site conditions.

Regulated activity located in the Anacostia Waterfront Development Zone (AWDZ) that are governed by the Anacostia Waterfront Environmental Standards Amendment Act of 2012 (see D.C. Official Code §§ 2-1226.36(c)(1)) must have all off-site retention and all off-site water quality treatment volume approved by DDOE through the process defined in this appendix, even if the District-wide minimum 50 percent on-site retention requirement is met. All development sites are required to address the Stormwater Retention Volume (SWRv), as described in Chapter 2. All development sites in the Anacostia Waterfront Development Zone (AWDZ), governed by the Anacostia Waterfront Environmental Standards Amendment Act of 2012, are required to address the Water Quality Treatment Volume (WQTV), as described in Chapter 2. If compliance with the minimum on-site retention requirement or on-site water quality treatment requirement is technically infeasible or environmentally harmful, the applicant may apply for relief from extraordinarily difficult site conditions. Additionally, if the regulated activity is in the Anacostia Waterfront Development Zone (AWDZ), governed by the Anacostia Waterfront Environmental Standards Amendment Act of 2012, consideration for a request for relief will include the limited appropriateness of on-site compliance in terms of impact on surrounding landowners or overall benefit to District waterbodies. 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 or water quality treatment volume through off-site mitigation. This process does not relieve the applicant from the obligation to manage the full SWRv or the WQTV determined through compliance calculations. Additionally, stormwater runoff not receiving the minimum on-site retention must receive treatment to remove 80 percent of total suspended solids based on the treatment practices, as defined in Chapter 3 of this guidance manual. When DDOE finds the evidence presented is sufficient and compelling to grant relief, the Stormwater Management Plan (SWMP) for the project must the two conditions for relief have been satisfied: (1) removing 80 percent of total suspended solids from 50 percent of the SWRv and (2) 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

A request for relief is made through a “relief request memo.” The memo is submitted in advance of a final SWMP, but not before the 65 percent design stage of the SWMP, of the SWMP 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 the following:

1. Data on soil and groundwater contamination;
2. Data from soils testing consistent with the geotechnical requirements in Appendix O;
3. Documentation of the presence of utilities requiring impermeable protection or a setback;
4. Evidence of the applicability of a statute, regulation, court order, preexisting covenant, or other restriction having the force of law;
5. Evidence that the installation of a retention BMP would conflict with the terms of a non-expired approval, applied for prior to the end of Transition Period Two A for a major land-disturbing activity or before the end of Transition Period Two B for a major substantial improvement activity, of a:
 - (a) Concept review by the Historic Preservation Review Board;
 - (b) Concept review by the Commission on Fine Arts;
 - (c) Preliminary or final design submission by the National Capital Planning Commission;
 - (d) Variance or special exception from the Board of Zoning Adjustment; or
 - (e) Large Tract Review by the District Office of Planning; and
6. For a utility, evidence that a property owner on or under whose land the utility is conducting work objects to the installation of a BMP; and

7. For a major substantial improvement activity, evidence that the structure cannot accommodate a BMP without significant alteration, because of a lack of available interior or exterior space or limited load-bearing capacity.

Projects in the AWDZ, governed by the Anacostia Waterfront Environmental Standards Amendment Act of 2012, may also discuss the limited appropriateness of on-site compliance verses a combination of off-site and on-site retention and or water quality treatment in terms of the impact on surrounding landowners or the overall benefit to District waterbodies.

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

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. DDOE cannot render a final decision until an application for relief is considered complete. However, if an application is substantially complete, DDOE may begin consideration of the request for relief. Upon accepting an application, DDOE will review and determine whether the application meets the requirements of this section, including the following:

- 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, DDOE may consider the following:

- a. The applicant's submittal;
- b. Other site-related information;
- c. An alternative design;
- d. DDOE'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.

