

LID ELEMENT #16: DEFINITIONS

OBJECTIVE

To provide consistent definitions of low impact development terms through all regulations/codes.

CONSIDERATIONS


This element addresses consistency of definitions. It is not a discussion regarding the definition of terms.

RELATED ELEMENTS

Element 17 Adopt New DDECM

TRADITIONAL APPROACH TO CONSISTENCY WITHIN REGULATIONS AND CODES

Development within the City of Olympia is governed by many codes including the Olympia Municipal Code (OMC), Drainage Design and Erosion Control Manual (DDECM), Engineering Design and Development Standards (EDDS) and other codes. As with any City, these codes were written and adopted at different times, and are also updated on different timelines. Although every effort is made to try and make the codes consistent, sometimes inconsistencies are missed or overlooked.



“Success is neither magical nor mysterious. Success is the natural consequence of consistently applying basic fundamentals.”

- Jim Rohn

CODES AND STANDARDS REVIEWED

City of Olympia Drainage Design and Erosion Control Manual (DDECM) Volume 1

Engineering Design and Development Standards (EDDS) Chapter 2

Olympia Municipal Code (OMC) 18.02.180

Department of Ecology 2012 Stormwater Management Manual for Western Washington (Ecology Manual)

BENEFITS OF CONSISTENCY

Consistency between codes helps the City and its community apply regulations with uniformity. Consistency is especially critical with definitions. If a term is defined in multiple codes and the definitions vary between codes, it can be confusing to both City staff trying to implement code requirements as well as the development community in trying to apply the code. When a particular section of code is unclear, the definition section of the code can often help provide clarity. For instance, in determining which requirements of the DDECM apply to a specific project, the amount of land disturbing activity must be determined. Therefore, in order to implement specific requirements of the DDECM, a clear understanding of what is considered a land disturbing activity is needed. When questions arise, it is the definition section that both City staff and developers review to gain clarity.

OLYMPIA CODE ANALYSIS

The DDECM, EDDS, and OMC all include a definition section. Most terms specific to stormwater, including low impact development terms, are only located within the DDECM. OMC 13.16.017 states that the DDECM shall control and prevail over other ordinances, standards, and policies where there is conflict. However, there are many terms that affect low impact development that are defined in multiple locations. For instance impervious surface is defined differently in the DDECM, EDDS and OMC. Understanding what is considered an impervious surface is critical to effective application of LID.

- The DDECM defines impervious surface as – *A hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.*
- The OMC defines impervious surface as – *Pavement, including, but not limited to, asphalt, concrete, and compacted gravel, roofs, revetments, and any other man-made surfaces which substantially impede the infiltration of precipitation. Exceptional pavements and other materials may be exempted in whole or in part by the Director.*
- The EDDS defines impervious surface as – *Pavement (compacted gravel and concrete), roofs, revetments, and any other man-made surface that substantially impedes the infiltration of precipitation.*

Based on the definitions of the OMC and EDDS, it is not clear that a compacted earthen area that prevents infiltration of stormwater could be considered impervious area as defined by the DDECM. The amount of impervious area on a site affects many things including project design, stormwater utility rates, permitting fees, and other factors. Although a review of codes for additional term inconsistency was not performed, it is likely there are many terms with inconsistent definitions between codes.



The amount of impervious area on a site affects many aspects of LID. Therefore, understanding what is considered an impervious surface is critical to effective application of LID. The DDECM, EDDS and OMC all define impervious surface differently.

It is also beneficial to be consistent not just with City code but the Ecology manual. For successful implementation of LID, the most current definitions of terms should be used. For instance, the Ecology Manual defines impervious surface as:

- *A non-vegetated surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.*



For successful implementation of LID, the most current definitions of terms are needed.

The updated definition provides additional specificity over the current DDECM definition of impervious surface. The Ecology Manual also provides definitions for LID terms not currently provided in the DDECM.

HURDLES TO DEFINITION CONSISTENCY

Not Just Olympia - Terms such as impervious area are not limited to local, Olympia codes. There are also state and federal codes that use these terms as well. Achieving local consistency of terms may create inconsistency with codes outside of local codes.

Not That Easy - Codes that affect projects are not limited to the DDECM or EDDS where changes are fairly straight forward. Changing definitions, for instance, in the OMC would require a zoning code change which can be a long process. Other changes are outside of Olympia's sole control. Updating definitions, for instance, in the Shoreline Regulations would require review and approval from the Department of Ecology. Amending definitions related to flood regulations requires the approval of FEMA.

Some Terms are Tailored for a Specific Regulation – Sometimes definitions are “terms of art”, i.e., their meaning is not the common meaning. Instead the meaning may be specific to the regulation. Revising such definitions could have substantive consequences.

OPTIONS CONSIDERED

As discussed in Element 17 (Adopt New DDECM), adoption of the new requirements of the Ecology Manual is not optional. Because definitions are not requirements, it is possible the City could adopt the Ecology Manual requirements but not its definitions. For this memorandum it is assumed the City will adopt the updated 2012 Ecology Manual definitions. It is also assumed that consistency of definitions between codes is desired. Therefore, the options being considered pertain to achieving consistency in how terms are defined within the codes.



- Option 1: Do not update definitions within codes.
- Option 2: Align all definitions common to DDECM and other City codes where practical.
- Option 3: Align definitions within the DDECM. Terms that are defined in both the DDECM and in other codes will only be defined in the DDECM. Definitions of such terms in other codes will refer the reader to the DDECM.

ANALYSIS

Option 1 (No change)- Inconsistencies in definitions will continue between codes. This could lead to confusion and inconsistent application of codes. While this option does not demand additional staff time and thus is the most cost effective in the short term, it could have long term costs associated with inconsistent interpretation of definitions and application of standards. This option puts the City at most risk for potential appeals of decisions or even legal challenges.

Option 2 (Update codes for all cross-over definitions) - This option would require updating the EDDS OMC and to provide consistent definitions for all terms that are present in the DDECM. This option would ensure consistency at the outset as focus would be given to making sure terms are defined in the same manner in all City codes. However, with this option, future definition updates in the DDECM would also require updates of the other City codes. Similarly, future changes to definitions in the OMC or EDDS could result in inconsistencies between these documents and those in the DDECM.

Option 3 (Cross reference definition of terms contained in two or more codes to DDECM). Option 3 would result in each term being defined in only one code document. For terms specific to LID, the DDECM is likely the best location for the definitions. Other codes that contain the same LID terms would refer to the definition in the DDECM. This option provides the best opportunity to avoid the same terms being defined differently across various city regulatory documents. With definitions for terms only contained in one document, future updates to the codes would be less likely to create unintended inconsistencies. For instance, if Impervious Surface is defined in the DDECM, the OMC and EDDS definition sections would contain the term Impervious Surface, but the definition would say “please refer to the DDECM for definition”. This would reduce staff time for future definition updates and reduce the chances that future changes result in the same term being defined differently within each code.

RECOMMENDATION

Staff recommends Option 2. Consistency between codes will provide clarity and eliminate confusion. This option allows for consistency to be developed but allows definitions to remain within each code. It also recognizes that some inconsistencies may still exist when definitions are serving a specific regulatory purpose. Option 1 would continue to allow inconsistency while Option 3 would be difficult to achieve and maintain.

