

# STORMWATER MANAGEMENT ORDINANCE FOR WASHINGTON COUNTY, MARYLAND

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# STORMWATER MANAGEMENT ORDINANCE FOR WASHINGTON COUNTY, MARYLAND

## 1.0 PURPOSE AND AUTHORITY

The purpose of this Ordinance is to protect, maintain and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with increased stormwater runoff. Proper management of stormwater runoff will minimize damage to public and private property, reduce the effects of development on land, control stream channel erosion, reduce local flooding, and maintain after development, as nearly as possible, the pre-development runoff characteristics.

The provisions of this Ordinance are adopted under the authority of and pursuant to the Environment Article, Title 4, Subtitle 2, Annotated Code of Maryland, 1996 replacement volume and 2000 Supplement, Code of Maryland Regulations Title 26, Subtitle 17, Chapter 2 (26.17.02.01 et seq.), and §7-105 of the Code of the Public Local Laws for Washington County, Maryland.<sup>1</sup> This Ordinance shall apply to all development occurring within the unincorporated areas of Washington County. The application of this Ordinance and the provisions expressed herein represent the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by statute. The Chief Engineer for the Engineering Department of the Washington County Division of Public Works shall be primarily responsible for the coordination and enforcement of the provisions of this Ordinance.

## 1.1 Incorporation by Reference

For the purposes of this Ordinance, the following documents are incorporated by reference:

A. The 2000 Maryland Stormwater Design Manual, Volumes I & II (Maryland Department of the Environment, April 2000) shall serve as the official guide for stormwater principles, methods, and practices.

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1. 1-701. Drainage; sewage systems authorized. The County Commissioners may establish, construct, and improve and generally regulate stormwater drainage, sanitary sewers, sewage disposal systems, and refuse disposal along the county roads, streets, alleys, and public rights of way in the county. (1957 Code, sec. 188. 1955, ch. 313; 1970 ed. sec. 8-22; 1984, ch. 289; 1984 ed. sec. 1-701; 1991, ch. 211)

B. USDA Natural Resources Conservation Service, Maryland Conservation Practice, Standard Pond Code 378 (January 2000).

C. The document dates listed above are for the edition in effect at the time of the adoption of this Ordinance. The latest edition incorporated by reference into the Code of Maryland Regulations 26.17.02.01-1, as amended from time to time, shall be applied in performing all work required by this Ordinance.

## 2.0 DEFINITIONS

A. For the purposes of this Ordinance, the following definitions describe the meaning of the terms used in this Ordinance:

**“Administration”** means the Maryland Department of the Environment (MDE) Water Management Administration (WMA).

**“Adverse impact”** means any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability, or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

**“Agricultural land management practices”** means those methods and procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources. Specifically excluded from this definition are those large-scale animal husbandry facilities that are required to have a preliminary consultation with the Washington County Planning Department in order to comply with § 22.93(b)(5) of the Washington County Zoning Ordinance, as amended from time to time.

**“Applicant”** means any person, firm, or governmental agency that executes the necessary forms to procure official approval of a project or a permit to carry out construction of a project.

**“Aquifer”** means porous water bearing geologic formation generally restricted to materials capable of yielding an appreciable supply of water.

**“Best Management Practice (BMP)”** means a structural device or nonstructural practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce pollution, and provide other amenities.

**“Certifying Engineer”** means the professional engineer, professional land surveyor or registered landscape architect who will be responsible for signing and sealing the “Engineer’s Stormwater Management Certification” required on all stormwater management plans.

**“Channel Protection Storage Volume (Cpv)”** means the volume used to design structural management practices to control stream channel erosion. Methods for calculating the channel protection storage volume are specified in the Design Manual.

**“Chief Engineer”** means the Chief Engineer of the Washington County Division of Public Works, Engineering Department, or a duly authorized representative.

**“Clearing”** means the removal of trees and brush from the land above the ground surface but shall not include the ordinary mowing of grass.

**“County”** means those departments, agencies, and employees to whom the authority to perform governmental functions has been delegated by the Board of County Commissioners of Washington County, Maryland, including but not limited to the enforcement of this and other ordinances.

**“County Commissioners”** means the elected County Commissioners of Washington County, or a duly authorized representative.

**“Design Manual”** means the 2000 Maryland Stormwater Design Manual, Volumes I & II that serves as the official guide for stormwater management principles, methods, and practices, including all addenda and revisions.

**“Detached Dwelling”** means a building containing only dwelling units surrounded by yards or other open space on the same zoning lot.

**“Detention structure”** means a permanent structure for the temporary storage of runoff, which is designed so as not to create a permanent pool of water.

**“Development”** means any activity, other than normal agricultural activity, which materially changes or affects the existing runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial, or institutional construction or alteration. For the purpose of this Ordinance, large-scale animal husbandry facilities required to comply with § 22.93(b) of the Washington County Zoning Ordinance, as amended from time to time, shall be considered “development” rather than normal agricultural activity.

**“Director”** means the Director of the Washington County Division of Public Works or a duly authorized representative.

**“Disturb”** or any derivative thereof, such as “disturbance” refers to any activity causing a permanent or temporary physical change to the grades or cover of the ground surface.

**“Drainage area”** means that area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.

**“Dwelling Unit”** means one or more rooms in a residential building or in a mixed building, which are arranged, designed, used or intended for use by one or more persons living together and maintaining a common household, and which includes lawful cooking space and lawful sanitary facilities reserved for the occupants thereof.

**“Easement”** means a grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement.

**“Engineering Department”** means the Engineering Department of the Washington County Division of Public Works, or a duly authorized representative.

**“Exemption”** means those land development activities that are not subject to the stormwater management requirements contained in this Ordinance.

**“Extended detention”** means a stormwater design feature that provides gradual release of a volume of water in order to increase settling of pollutants and protect downstream channels from frequent storm events. Methods for designing extended detention BMPs are specified in the Design Manual.

**“Extreme flood volume (Q<sub>f</sub>)”** means the storage volume required to control those infrequent but large storm events in which overbank flows reach or exceed the boundaries of the 100-year floodplain.

**“Flow attenuation”** means prolonging the flow time of runoff to reduce the peak discharge.

**“Grading”** means any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled, or any combination thereof.

**“Grubbing”** means the removal of roots, stumps and similar material to a nominal depth below the surface of the ground.

**“In-fill development”** means new development that occurs on vacant, bypassed, or underutilized lands within existing developed areas. The site on which the in-fill development is occurring shall not be part of an overall development plan such as that

found in industrial and business parks. In-fill development is typically limited to sites with an area less than three (3) acres in size.

**“Infiltration”** means the passage or movement of water into the soil surface.

**“Multi-Family Dwelling”** means a building containing three or more dwelling units (e.g., an apartment house).

**“Off-site stormwater management”** means the design and construction of a facility necessary to control stormwater from more than one site.

**“On-site stormwater management”** means the design and construction of systems necessary to control stormwater within a site.

**“Overbank flood protection volume (Qp)”** means the volume controlled by structural practices to prevent an increase in the frequency of out-of-bank flooding generated by development. Methods for calculating the overbank flood protection volume are specified in the Design Manual.

**“Owner/developer”** means any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity or agent thereof commencing proceedings under this Ordinance to effect development or redevelopment for himself or others.

**“Person”** means any individual, firm, association, syndicate, co-partnership, corporation, business, trust, general or limited partnership, limited liability company, limited liability partnership, joint stock company, unincorporated association, trust, estate, or other legal entity.

**“Post-development”** means the conditions of the site that will exist after the development occurs that is subject to the requirements of this Ordinance.

**“Pre-development”** means the conditions of the site that exist prior to the development that is subject to the requirements of this Ordinance.

**“Recharge volume (Rev)”** means that portion of the water quality volume used to maintain groundwater recharge rates at development sites. Methods for calculating the recharge volume are specified in the Design Manual.

**“Redevelopment”** means any construction, alteration, or improvement exceeding 5000 square feet of land disturbance performed on sites where existing land use is commercial, industrial, institutional or multifamily residential.

**“Retention structure”** means a permanent structure that provides for the storage of runoff by means of a permanent pool of water.

**“Retrofitting”** means the construction of a structural BMP in a previously developed area, the modification of an existing structural BMP, or the implementation of a nonstructural practice to improve water quality over current conditions.

**“Sediment”** means soils or other surficial materials transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.

**“Semi-Detached Dwelling”** means one of two buildings arranged or designed as dwelling units, located on abutting lots, separated from each other by a party wall without openings extending from the cellar floor to the highest point of the roof along the dividing lot line, and separated from any other building or structures by space on all sides.

**“Site”** means:

(a) For new development - any tract, lot or parcel of land or combination of tracts, lots, or parcels of land that are in one ownership, or are contiguous and in diverse ownership where development is to be performed as part of a unit, subdivision, or project; or

(b) For redevelopment - the disturbed area of the new construction as shown on the approved construction plan, the area contained within a newly-created subdivision related to the redevelopment, or the original parcel, as determined by the Chief Engineer.

**“Soil Conservation District”** means the Washington County Soil Conservation District or a duly authorized representative.

**“Stabilization”** means the prevention of soil movement by any of various vegetative or structural means.

**“Stormwater management”** means:

(a) For quantitative control, a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land; and

(b) For qualitative control, a system of vegetative, structural and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.

**“Stormwater management plan”** means a set of drawings or other documents submitted by a person as a prerequisite to obtaining a stormwater management approval, which contains all of the information and specifications pertaining to the stormwater management.

**“Stripping”** means any activity that removes the vegetative surface cover including tree removal, clearing, grubbing and storage or removal of topsoil.

**“Substantially complete”** means BMPs that are nearly complete in construction, typically lacking only the establishment of vegetation or the removal of temporary erosion and sediment control measures within the device, able to provide most of the intended stormwater management. The final determination as to the meaning of “substantially complete” for specific BMPs shall be subject to the approval of the Chief Engineer.

**“Variance”** means a modification of the requirements of the Ordinance that:

- (a) Because of conditions peculiar to the property, would result in unnecessary hardship;
- (b) Denying the variance would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief;
- (c) Granting the variance would observe the spirit of the Ordinance and secure public safety and welfare; and
- (d) The hardship is not the result of the applicant’s own actions.

**“Waiver”** means the full or partial exemption from or modification of stormwater management requirements by the Chief Engineer for a specific development on a case-by-case basis.

(a) **“Qualitative waiver”** includes water quality volume and recharge volume design parameters.

(b) **“Quantitative waiver”** includes channel protection storage volume, overbank flood protection volume, and extreme flood volume design parameter.

**“Watercourse”** means any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash, in and including any adjacent area that is subject to inundation from overflow or flood water.

**“Watershed”** means the total drainage area contributing runoff to a single point.

**“Water quality volume (WQv)”** means the volume needed to capture and treat the runoff from 90 percent of the average annual rainfall at a development site. Methods for calculating the water quality volume are specified in the Design Manual.

B. Words or terms not specifically defined herein shall have the definition accepted amongst the majority of experts trained in the field of engineering.

### **3.0 APPLICABILITY**

#### **3.1 Scope**

No person shall develop any land for residential, commercial, industrial, institutional or limited large-scale agricultural uses without having provided stormwater management measures that control or manage runoff from such developments, except as provided within this section. The stormwater management measures must be consistent with the Design Manual and constructed according to an approved plan for new development or the policies stated in § 3.4 for redevelopment.

#### **3.2 Exemptions**

A. The following development activities are exempt from the provisions of this Ordinance and the requirement of providing stormwater management:

- (1) Agricultural land management practices;
- (2) Additions or modifications to existing single family detached dwellings if they comply with Subsection 3.2A.(3);
- (3) Developments that do not disturb over 5,000 square feet of land area; and
- (4) Land development activities that the Administration determines will be regulated under specific State laws that which provide for managing stormwater runoff.

B. Nothing in this section shall prohibit the Chief Engineer from requiring stormwater management controls based upon an evaluation of the cumulative effects of previous exemptions. Similarly, if the site in question falls within the exemptions identified in Subsections 3.2A.(1)-(4) and said site is covered under an existing stormwater management plan, any development shall be consistent with that existing plan.

C. For the purpose of Subsection 3.2A.(3), “disturb” means a permanent physical change to the ground cover that results in an increase to the Runoff Curve Number

(RCN) for the area changed. The RCN shall be determined in accordance with the requirements of Technical Release No. 55 (TR-55).

### 3.3 Waivers / Watershed Management Plans

The Chief Engineer may grant a waiver of stormwater management requirements for individual sites. All such requests shall be evaluated in accordance with the following:

- A. Stormwater management quantitative control waivers shall be granted to sites within areas where watershed management plans have been developed consistent with Subsection 3.3G, and where the sites are in conformance with the assumptions found in the watershed management plans.
- B. Stormwater management quantitative control waivers for Overbank Flood Protection Volume (Qp) may be granted to sites where watershed management plans do not exist for the area or where watershed management plans have been developed, but are not in conformance with Subsection 3.3G, provided that:
  - (1) Said sites do not increase the post-development peak discharge for the 10-year storm event by more than 10 percent of the calculated pre-development peak discharge; or
  - (2) A determination is made by the Chief Engineer that existing circumstances prevent the reasonable implementation of quality control BMPs.
- C. Stormwater management qualitative control waivers may be granted to:
  - (1) In-fill development projects where stormwater management implementation is not feasible in the professional judgment of the Chief Engineer;
  - (2) Redevelopment projects if the requirements of § 3.4 are satisfied; or
  - (3) Sites where the Chief Engineer determines that existing circumstances prevent the reasonable implementation of quality control BMPs.
- D. A person seeking a quantitative or qualitative stormwater management control waiver must submit a written request to the Engineering Department containing descriptions, drawings, calculations, and any other information that is necessary to evaluate the proposed development and waivers sought. Waivers shall not be deemed granted until authorized by the Engineering Department, in writing, on a form approved by the Chief Engineer. If there are subsequent additions, extensions, or modifications to a site after a waiver has been granted, a separate written waiver request must be submitted and authorization obtained in accordance with the provisions of this section.

E. Requests for waivers granted shall:

- (1) Be considered on a case-by-case basis;
- (2) Consider the cumulative effects of exemptions and waivers granted for other sites within the affected area; and
- (3) Reasonably ensure that the development will not adversely affect stream quality, increase undesirable flooding, or fail to address downstream drainage deficiencies in a reasonable manner.

F. If the County establishes or approves an overall watershed management plan consistent with Subsection 3.3G. for a specific watershed, then the Chief Engineer may develop quantitative waiver and redevelopment provisions that differ from Sections 3.3B. and 3.4.

G. A watershed management plan developed for the purpose of implementing different stormwater management policies shall:

- (1) Include detailed hydrologic and hydraulic analyses to determine hydrograph timing;
- (2) Evaluate both quantity and quality management;
- (3) Include cumulative impact assessment of watershed development;
- (4) Identify existing flooding and receiving stream channel conditions;
- (5) Be conducted at a reasonable scale;
- (6) Specify where on-site or off-site quantitative and qualitative BMPs are to be implemented;
- (7) Include any other conditions not specifically addressed herein but considered necessary by the Chief Engineer in order to fully evaluate the study area;
- (8) Be consistent with the General Performance Standards for Stormwater Management in Maryland found in § 1.2 of the Design Manual; and
- (9) Be approved by the Administration.

### **3.4 Redevelopment**

A. The recharge, channel protection storage volume, overbank flood protection volume, and extreme flood volume requirements specified in the Design Manual do not apply to redevelopment projects unless required by the Chief Engineer. Should any of these requirements be considered necessary, the Chief Engineer will determine the appropriate level of control. Stormwater management requirements for redevelopment that are part of a watershed management plan developed in accordance with Subsection 3.3G. shall be performed in accordance with the requirements of that plan.

- B. Water quality runoff characteristics for redevelopment shall reflect a 20% decrease in impervious area of the previously-developed site. To obtain this level of control, water quality volume requirements shall be addressed as follows:
- (1) Redevelopment projects shall reduce existing site impervious areas by at least 20%, in which case BMPs will not be required; or
  - (2) Where site conditions prevent the reduction of impervious area, BMPs shall be implemented to provide water quality volume control for the site that results in a redevelopment site discharge equivalent to at least a 20% reduction of the existing site's impervious area; or
  - (3) Where site conditions prevent the exclusive use of either of the methods of Subsections 3.4B.(1) or 3.4B.(2), they may be used in combination so that the redevelopment site discharge is equivalent to at least a 20% reduction of the existing site's impervious area.
- C. Where conditions prevent impervious area reduction or on-site stormwater management, practical alternatives may be considered, including but not limited to:
- (1) Off-site BMP implementation for a drainage area comparable in size and percentage impervious area to that of the project;
  - (2) Watershed or stream restoration;
  - (3) Retrofitting; or
  - (4) Other practices approved by the Chief Engineer with priority being given to those alternatives located within the same general area.
- D. The required reduction of 20% impervious area shall be considered for each and every redevelopment project that may occur on a single site.

### **3.5 Variance**

The Chief Engineer may grant a variance from any requirement of § 4.0 for individual sites. All such requests shall be evaluated in accordance with the following:

- A. A person seeking a variance must submit a written request to the Engineering Department containing descriptions, drawings, calculations and any other information that is necessary to evaluate the proposed development or redevelopment of the site and waivers sought. Variances shall not be deemed granted until authorized by the County on a form approved by the Chief Engineer. If there are subsequent additions, extensions, or modifications to a site after a variance has been granted, a separate written variance request must be submitted and authorization obtained in accordance with the provisions of this section.

B. In considering variance requests, the Chief Engineer shall:

- (1) Consider each request on a case-by-case basis;
- (2) Consider the cumulative effects of prior exemptions, waivers, and variances granted for other sites within the impacted area;
- (3) Evaluate circumstances specific to the site that may dictate that strict adherence to this Ordinance would result in unnecessary hardship to the person seeking the variance; and
- (4) Determine whether granting the variance would fulfill the intent of this Ordinance and protect public safety and welfare.

C. Financial considerations alone are not sufficient cause for the granting of a variance.

#### **4.0 STORMWATER MANAGEMENT CRITERIA**

##### **4.1 Minimum Control Requirements**

A. The minimum control requirements established in this section and the Design Manual are as follows:

- (1) Recharge volume, water quality volume, and channel protection storage volume sizing criteria shall be used to design BMPs in accordance with the Design Manual. The overbank flood protection volume shall be calculated in accordance with the Design Manual using the 10-year frequency storm event. The extreme flood volume calculated for the 100-year frequency storm event shall only be used as sizing criteria if directed by the Chief Engineer. Regardless of the level of control provided by a BMP, it shall be designed in such a manner as to minimize damage and flooding to it or the surrounding area caused by 100-year storm events.
- (2) The Chief Engineer may require more than the minimum control requirements specified in this Ordinance if hydrologic or topographic conditions warrant or if flooding, stream channel erosion, or water quality problems exist downstream from a proposed project. For such cases, the following requirements apply:
  - (a) The owner/developer shall submit to the Chief Engineer an analysis of the impacts of stormwater flows downstream in the watershed. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications of the proposed development upon a dam, highway, structure, or other point of restricted streamflow. **NOTE:** Due to the significant amount of road overtopping that occurs in the County, numerous highways and structures may not be considered as having a sufficiently restricted streamflow to establish the study point.

- (b) The point of investigation is to be established with the concurrence of the Chief Engineer, and at a minimum shall extend downstream of the first downstream tributary whose drainage area equals or exceeds the contributing area to the project or BMP.
  - (c) Undeveloped property within the drainage area being studied that is not under the direct control of the owner/developer performing the subject analysis cannot be assumed to remain undeveloped indefinitely. Unless development controls have been enacted, all such property shall be included in this analysis in a developed condition for the Extreme Flood (Q<sub>100</sub>), and in the existing condition for the Overbank Flood (Q<sub>10</sub>).
  - (d) The Chief Engineer may direct or the owner/developer may elect to correct the noted deficiencies in order to obtain relief from the more stringent criteria. However, nothing in this section shall be considered as waiving the necessity for a development to comply with the minimum requirements identified herein.
- B. Stormwater management and development plans, where applicable, shall be consistent with adopted and approved watershed management plans or flood management plans that have been approved by the Maryland Department of the Environment in accordance with the Flood Hazard Management Act of 1976.
- C. For those sites that received stormwater management waivers under the 1984 Ordinance, their pre-development condition under this Ordinance shall be that which existed on the site prior to July 28, 1984, the effective date of the 1984 Ordinance. This requirement shall not apply to redevelopment. Redevelopment shall comply with the provisions found in § 3.4.

## **4.2 Stormwater Management Measures**

The structural and nonstructural stormwater management measures established in this Ordinance shall be used, alone or in combination, in developing a stormwater management plan.

### **A. Structural Stormwater Management Measures.**

- (1) The following structural BMPs shall be designed according to the Design Manual to satisfy the applicable minimum control requirements in § 4.1:
  - (a) Stormwater management ponds;
  - (b) Stormwater management wetlands;

- (c) Stormwater management infiltration;
  - (d) Stormwater management filtering systems; and
  - (e) Stormwater management open channel systems.
- (2) The performance criteria specified in the Design Manual with regard to general feasibility, conveyance, pretreatment, treatment and geometry, environment and landscaping, and maintenance shall be considered when selecting structural BMPs.
- (3) Structural BMPs shall be selected to accommodate unique hydrologic or geologic regions of Washington County. Special attention is directed to the existence of significant areas of Karst geology within Washington County and the influence these areas have on acceptable means of stormwater management.
- (4) The Certifying Engineer and the owner/developer are responsible for considering safety and access to all proposed facilities. The Design Manual includes several possible design safety considerations. Measures to be considered may include fencing, slope benching, flattened side slopes, access roads, etc. Permanent pools greater than 4 feet or structures with 100-year ponding depths greater than 4 feet shall incorporate appropriate safety measures approved by the Chief Engineer.

#### B. Nonstructural Stormwater Management Measures.

- (1) The following nonstructural BMPs shall be applied according to the Design Manual to minimize increases in new development runoff:
- (a) Natural area conservation;
  - (b) Disconnection of rooftop runoff;
  - (c) Disconnection of non-rooftop runoff;
  - (d) Sheet flow to buffers;
  - (e) Grass channels; and
  - (f) Environmentally sensitive development.
- (2) The use of nonstructural BMPs shall be encouraged to minimize reliance on structural BMPs.
- (3) The minimum control requirements listed in § 4.1 may be reduced when nonstructural BMPs are incorporated into site designs according to the Design Manual.

- (4) The use of nonstructural BMPs may not conflict with existing State or local laws, ordinances, regulations, or governmental policies.
- (5) Nonstructural BMPs used to reduce the minimum control requirements must be recorded in the land records of Washington County, including but not limited to (use all that apply): notes on the subdivision plats; notes on site plans; descriptions and conditions in deeds; and descriptions and conditions in homeowner association documents. These BMPs shall not be altered by subsequent property owners. Prior approval from the Chief Engineer shall be obtained before nonstructural BMPs are altered.
- (6) It is the owner/developer's responsibility to adequately address the long-term maintenance of nonstructural BMPs as much as possible through maintenance sensitive design and appropriate notification for future property owners in accordance with the requirements stated in Subsection 4.2B.(5).

C. Alternative structural and nonstructural BMPs may be used for new development and in-fill development water quality and quantity control if they meet the performance criteria established in the Design Manual and are approved by the Administration. BMPs used for redevelopment projects shall be approved by the Chief Engineer.

### **4.3 Specific Design Criteria**

The basic design criteria, methodologies, and construction specifications shall be those of the Design Manual.

## **5.0 STORMWATER MANAGEMENT PLANS**

### **5.1 Review and Approval of Stormwater Management Plans**

A. For any proposed development, the owner/developer shall submit a stormwater management plan or waiver/variance application to the Engineering Department for review and approval, unless otherwise exempted. Waiver and variance applications shall be submitted and approved in accordance with Sections 3.3 and 3.5, respectively. The stormwater management plan shall contain supporting computations, drawings, and sufficient information describing the manner, location, and types of BMPs that will manage stormwater from the entire development. The Chief Engineer shall review the plan to determine compliance with the requirements of this Ordinance prior to approval. The plan shall serve as the basis for all subsequent construction.

- B. Notification of approval or reasons for disapproval or modification shall be given to the applicant within 30 days after submission of the completed stormwater management plan or waiver/variance application. If a decision is not made within 30 days, the applicant shall be informed of the status of the review process and the anticipated completion date. The stormwater management plan shall not be considered approved without the inclusion of the signature and date of signature of the Chief Engineer on the plan.
- C. Stormwater management approval by the Chief Engineer does not constitute or grant any other approvals that may be required by any other local, State or Federal agencies.
- D. Should permission of adjacent property owners be required by the Chief Engineer in accordance with § 5.2.A., stormwater management plan approval will not be granted until suitable evidence of this permission is provided to the Engineering Department. This evidence of permission and stormwater management plan approval shall not create or affect any property rights of the adjacent property owner.

## **5.2 Contents of the Stormwater Management Plan**

- A. The owner/developer is responsible for submitting a complete stormwater management plan that meets the design requirements of this Ordinance. The plan shall be accompanied by a bound report that includes sufficient information to evaluate the environmental characteristics of affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures proposed for managing stormwater runoff. The owner/developer shall certify on the drawings that all clearing, grading, drainage, construction, and development shall be conducted in strict accordance with the plan. If a stormwater management plan involves redirection or changes to some or all of the runoff from the site, it is the responsibility of the developer to obtain any necessary easements or property interests concerning flowage of water from adjacent property owners. Approval of a stormwater management plan shall not create or affect any right to direct runoff onto adjacent property without that property owner's permission.
- B. The minimum information submitted for support of a stormwater management plan or application for waiver shall include:
  - (1) A brief narrative description of the project;
  - (2) Geotechnical investigations including soil maps, borings, site specific recommendations, and any additional information necessary for the proposed stormwater management design;

- (3) Descriptions of all water courses, impoundments, and wetlands on or adjacent to the site or into which stormwater directly flows;
- (4) Hydrologic computations including drainage area maps depicting pre-development and post-development runoff flow path segmentation and land use;
- (5) Hydraulic computations;
- (6) Structural computations;
- (7) Unified sizing criteria volume computations according to the Design Manual; and
- (8) Any other information required by the Chief Engineer.

C. Construction drawings submitted for stormwater management plan approval shall include the following:

- (1) Vicinity map;
- (2) Topography survey showing existing and proposed contours, including the area necessary to determine downstream analysis for proposed stormwater management facilities;
- (3) Any proposed improvements including location of buildings or other structures, impervious surfaces, storm drainage facilities, and all grading;
- (4) The location of existing and proposed structures and utilities;
- (5) Any easements and rights-of-way;
- (6) The delineation, if applicable, of the 100-year floodplain and any on-site wetlands;
- (7) Structural and construction details for all components of the proposed drainage system or systems, and BMPs.
- (8) All necessary construction specifications;
- (9) A sequence of construction;
- (10) Data for total site area, disturbed area, new impervious area, and total impervious area;
- (11) A table showing unified sizing criteria volumes required by the Design Manual;
- (12) A table of materials to be used for BMP plantings;
- (13) All soil boring locations and logs;
- (14) A maintenance schedule;
- (15) Certification by the owner/developer that all stormwater management construction will be done in accordance with this plan;
- (16) A standard as-built certification signature block that is in accordance with the standard established by the Chief Engineer, to be executed after project completion, verifying construction has been done in accordance with the approved plans; and
- (17) Any other information required by the Chief Engineer.

- D. All easements and fee simple property transactions associated with stormwater management construction and maintenance shall be shown and made by way of recorded plats and deeds of easement. Stormwater management easements shall not be required for those BMPs meeting the requirements of Subsection 9.3.D.
- E. The extent of the geotechnical investigations required and the qualifications of the personnel performing them will vary considerably depending upon the type of BMPs proposed and the unique characteristics of the proposed site. These determinations shall be made on a case-by-case basis by the Chief Engineer.

### **5.3 Preparation of the Stormwater Management Plan**

- A. The Chief Engineer may require, if deemed necessary to protect the public or the environment, that the design be prepared by one of the following professionals, licensed in the State of Maryland: professional engineer, professional land surveyor, or registered landscape architect. Such determinations will be made on a case-by-case basis and will depend upon the circumstances surrounding the project under consideration. Items to be considered shall include but not be limited to: complexity of BMPs being proposed; potential for on- and off-site damage from failed designs; and unique geologic and topographic features of the area.
- B. If a stormwater BMP requires either a dam safety permit from the Administration or small pond approval from the Soil Conservation District, the Chief Engineer shall require that the design be prepared by a professional engineer licensed in the State.

## **6.0 PERMITS**

### **6.1 Permit Requirement**

- A. Except as provided for in Subsection 6.1B, a grading or building permit shall not be issued for any parcel or lot subject to this Ordinance until, as applicable:
  - (1) A stormwater management plan has been approved, waiver or variance issued, or exemption granted by the Chief Engineer;
  - (2) Plats clearly showing and describing the easements/fee simple property for the BMPs and adequate access for inspection and maintenance from a public right-of-way have been recorded in the land records for Washington County;
  - (3) The maintenance agreement in conformance with § 9.2 has been provided;
  - (4) A performance security in conformance with § 7.0 has been provided.
- B. Where it is desired to proceed with site construction in advance of final plan approval, sometimes referred to as an “early start”, and accordingly contrary to the

requirements of Subsection 6.1A., the required grading or building permits may be issued providing that the following conditions are met, as applicable:

- (1) The stormwater management plan is at least 75% complete, in the opinion of the Chief Engineer;
- (2) A waiver or variance issued or exemption is granted by the Chief Engineer;
- (3) Performance security in conformance with Section 7.0 has been provided;
- (4) The Chief Engineer agrees, in writing, to the early start;
- (5) Erosion and sediment control approval has been granted by the Soil Conservation District;
- (6) Plats clearly showing and describing the easements/fee simple property for the BMPs and adequate access for inspection and maintenance are recorded within thirty (30) days of final site plan or plat approval;
- (7) The maintenance agreement (§ 9.2) has been provided; and
- (8) The owner/developer is warned in writing that he/she is proceeding at his/her own risk with no guarantee of final project approval and that substantial changes to the incomplete plans may be required.

## **6.2 Review Fee**

Non-refundable review fees may be collected as part of the County's stormwater management program. A review fee schedule may be established by the County Commissioners and may be amended from time to time.

## **6.3 Permit Suspension and Revocation**

- A. Any grading or building permit issued by the County may be suspended or revoked after written notice is given to the permittee for any of the following reasons:
  - (1) Any violation(s) of the conditions of the stormwater management plan approval.
  - (2) Changes in site characteristics upon which an approval or waiver was granted.
  - (3) Construction is not in accordance with the approved plan.
  - (4) Noncompliance with correction notices or stop work orders issued for the construction of the stormwater management facility.
  - (5) An immediate danger exists in a downstream area in the opinion of the Chief Engineer.
- B. A revocation or suspension of such permits will only be released upon correcting all deficiencies to the satisfaction of the Chief Engineer.

## 6.4 Permit Conditions

In granting the plan approval, the Chief Engineer may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this Ordinance and the preservation of the public health and safety.

## 7.0 PERFORMANCE SECURITY

A. For those BMPs in conformance with Subsection 9.3C and 9.3E, the County shall require from the owner/developer a performance security prior to the issuance of any building or grading permit for the construction of a development requiring stormwater management. The amount of the security shall be equal to 100% of the construction cost estimate based on a detailed construction take-off from the approved construction plans for the BMPs required. The estimate shall be prepared by the owner/developer and subject to the approval of the Chief Engineer. The security shall be either an irrevocable standby letter of credit or performance bond on forms approved by the County, or certified check. Partial release of the performance security may be granted upon substantial completion of the BMPs and when conditions beyond the control of the owner/developer prevent full completion of the BMPs. Full release of the security for constructed BMPs will be made once the following conditions are met (as applicable):

- (1) A final inspection has been performed by the Engineering Department;
- (2) The "as-built" plans including the completed "Engineer's Stormwater Management Certification" in conformance with Subsection 8.2.D. have been submitted and accepted by the Engineering Department;
- (3) The maintenance security in conformance with § 9.4 has been provided;
- (4) The stormwater management maintenance agreement in conformance with § 9.2 has been recorded;
- (5) A property agreement in conformance with Subsection 7.0.C, effective for the maintenance period identified in Subsection 9.4 B, has been provided;
- (6) Approval has been granted by the Soil Conservation District, the Army Corps of Engineers and the Administration, as applicable; and
- (7) The Chief Engineer has certified that the stormwater management facilities comply with the approved plan and the provisions of this Ordinance

B. The performance security requirements of this Ordinance shall not apply to those BMPs built by the County. Performance security for such projects is addressed separately within the contract documents.

C. Included with and considered part of the performance security shall be a property agreement granting the County the ability to enter onto the property owned by others to construct or complete the BMP in accordance with the conditions and

requirements of the security and approved stormwater management plan. This property agreement shall be in a form approved by the County.

- D. The performance security may be released for those projects that were never started, provided that all existing local permits associated with the BMPs and all development to be served by these BMPs are withdrawn or revoked.
- E. Should the County need to act on the performance security provided for a project, the County shall address construction, ownership and maintenance concerns on a case-by-case basis in a manner that protects the interests of the County and preserves the spirit and intent of this Ordinance.

## **8.0 INSPECTION**

### **8.1 Inspection Schedule and Reports**

- A. The owner/developer shall notify the Engineering Department at least five (5) calendar days before commencing any work in conjunction with the stormwater management plan and upon completion of the project when a final inspection will be conducted.
- B. Inspections shall be conducted by the Engineering Department and by the Certifying Engineer. Inspections performed by the Engineering Department are not to be considered a substitute for those inspections required by the Certifying Engineer. Written inspection reports shall be prepared by the Certifying Engineer during construction of stormwater management systems to ensure compliance with the approved plans. Copies of all inspection reports shall be provided to the Engineering Department by the person performing the inspection and kept on file with the Engineering Department.
- C. Written inspection reports shall include:
  - (1) The date and location of the inspection;
  - (2) Whether construction was in compliance with the approved stormwater management plan;
  - (3) Any variations from the approved construction specifications; and
  - (4) Any violations that exist.
- D. The owner/developer, Engineering Department, Certifying Engineer, and on-site personnel shall be notified in writing when violations are observed. Written notification shall be made by the person discovering the violation and shall describe the nature of the violation and the required corrective action. No further work

affected by the violation shall proceed until the corrective action is inspected and approved in writing by the Engineering Department and the Certifying Engineer.

- E. No work shall proceed beyond the construction stages specified in § 8.2 until the Engineering Department and the Certifying Engineer inspect and approve the work previously completed and furnish the owner/developer with the results of the inspection after completion of each required inspection.

## **8.2 Inspection Requirements During Construction**

- A. Construction inspections shall be required for those BMPs that comply with Subsections 9.3 C, 9.3 D and 9.3 E. It is the responsibility of the Certifying Engineer to determine the full extent of the inspection effort required for BMPs under construction. However, at a minimum, regular inspections shall be made and documented at the following stages of construction:

- (1) For Ponds:

- (a) Upon completion of excavation to sub-foundation and when required, installation of structural supports or reinforcement for structures, including but not limited to:
  - (i) Core trenches for structural embankments
  - (ii) Inlet and outlet structures, anti-seep collars or diaphragms, and watertight connectors on pipes; and
  - (iii) Trenches for enclosed storm drainage facilities;
- (b) During placement of structural fill, concrete, and installation of piping and catch basins;
- (c) During backfill of foundations and trenches;
- (d) During embankment construction; and
- (e) Upon completion of final grading and establishment of permanent stabilization.

- (2) Wetlands:

- (a) At the stages specified for pond construction in Subsection 8.2A. (1);
- (b) During and after wetland reservoir area planting; and
- (c) During the second growing season to verify a vegetation survival rate of at least 50 percent.

- (3) For Infiltration Trenches:

- (a) During excavation to subgrade;
- (b) During placement and backfill of underdrain systems and observation wells;

- (c) During placement of geotextiles and all filter media;
- (d) During construction of appurtenant conveyance systems such as diversion structures, pre-filters, filters, inlets, outlets, and flow distribution structures;
- (e) Upon completion of final grading and establishment of permanent stabilization.

(4) For Infiltration Basins:

- (a) At the stages specified for pond construction in Subsection 8.2A (1); and
- (b) During placement and backfill of underdrain systems.

(5) For Filtering Systems:

- (a) During excavation to subgrade;
- (b) During placement and backfill of underdrain systems;
- (c) During placement of geotextiles and all filter media;
- (d) During construction of appurtenant conveyance systems such as flow diversion structures, pre-filters and filters, inlets, outlets, orifices, and flow distribution structures; and
- (e) Upon completion of final grading and establishment of permanent stabilization.

(6) For Open Channel Systems:

- (a) During excavation to subgrade;
- (b) During placement and backfill of underdrain systems for dry swales;
- (c) During installation of diaphragms, check dams, or weirs; and
- (d) Upon completion of final grading and establishment of permanent stabilization.

(7) For Nonstructural Practices:

- (a) Upon completion of final grading;
- (b) The establishment of permanent stabilization; and
- (c) Before issuance of use and occupancy approval.

B. The Engineering Department may, for enforcement purposes, use any one or a combination of the following actions to assure timely and appropriate response to noted violations of the approved stormwater management plan:

- (1) A notice of violation specifying the need for a violation to be corrected if stormwater management plan noncompliance is identified;

- (2) A stop work order issued by the Chief Engineer for the site, inclusive of all buildings served by the affected BMPs, if a violation persists;
- (3) Claims against the security posted or referral for legal action if reasonable efforts to correct violations have not been undertaken; or
- (4) In addition to any other sanctions, a civil action or criminal prosecution brought against any person in violation of the Stormwater Management subtitle (Md. Code, Environment Article, § 4-201, et seq.) or this Ordinance.

C. Any step in the enforcement process may be taken at any time, depending on the severity of the violation.

D. Once construction is complete, the as-built plans containing the “Engineer’s Stormwater Management Certification” completed by the Certifying Engineer shall be submitted to the Engineering Department. The Certifying Engineer need not be the design professional. However, the Certifying Engineer shall be technically proficient and able to accept the professional responsibilities created by the certification statement required under Maryland law. The as-built plans shall consist of the original construction plans marked in red showing all differences between designed and constructed grades, dimensions and features. The “Engineer’s Stormwater Management Certification” shall be of a form approved by the Chief Engineer and shall certify that the facility as constructed meets or exceeds the requirements of the approved plan and that the professional certifying the plan is accepting responsibility for the construction inspection performed and the as-built information shown.

E. The Engineering Department shall submit a Notice of Construction Completion (NOCC) for each stormwater management practice to the Administration within 45 days of construction completion on a form supplied by the Administration. If BMPs requiring Soil Conservation District approval are constructed, notice of construction completion shall also be submitted to the Soil Conservation District.

## **9.0 MAINTENANCE**

### **9.1 Maintenance Inspection**

A. The Engineering Department shall ensure that preventative maintenance is performed by inspecting all stormwater management systems. For those BMPs in conformance with Subsections 9.3 C and 9.3 E, inspection shall occur during the first year of operation and at least once every 3 years thereafter. For those BMPs in conformance with Subsection 9.3 D, inspections shall occur on an as-needed basis. The County is not precluded from making more frequent maintenance inspections as may be appropriate.

- B. Inspection reports shall be maintained by the Engineering Department for all BMPs.
- C. Inspection reports for BMPs shall include the following:
- (1) The date of inspection;
  - (2) Name of inspector;
  - (3) The condition of:
    - (a) Vegetation or filter media;
    - (b) Fences or other safety devices;
    - (c) Spillways, valves, or other control structures;
    - (d) Embankments, slopes, and safety benches;
    - (e) Reservoir or treatment areas;
    - (f) Inlet and outlet channels or structures;
    - (g) Underground drainage;
    - (h) Sediment and debris accumulation in storage and forebay areas;
    - (i) Any nonstructural practices to the extent practicable; and
    - (j) Any other item that could affect the proper function of the BMPs.
  - (4) Description of needed maintenance.
- D. After notification of any deficiencies discovered from an inspection of a stormwater management system, the owner/developer shall have 30 days or other time frame acceptable to the Engineering Department to correct the deficiencies. The Engineering Department shall then conduct a subsequent inspection to ensure completion of the repairs.
- E. If repairs are not undertaken or are deemed by the Engineering Department to have been performed in an incorrect manner for those BMPs according to Subsection 9.3.C, enforcement procedures in Subsection 9.2.C and § 12.0 may be undertaken by the County.
- F. If repairs are not undertaken or are deemed by the Engineering Department to have been performed in an incorrect manner for those BMPs according to Subsections 9.3 D and 9.3 E, enforcement procedures in Subsection 9.4 G and § 12.0 may be undertaken by the County.
- G. If, after an inspection by the Engineering Department, the condition of a BMP presents an immediate danger to the public health or safety because of an unsafe condition or improper maintenance, the County shall take such action as may be necessary to protect the public and make the facility safe. Any cost incurred by the County shall be assessed against the owner/developer, as provided in Subsections 9.2 C and 9.4 G and § 12.0.

## **9.2 Maintenance Agreement**

- A. For those BMPs in conformance with Subsection 9.3 C, except as provided for in Subsection 6.1 B, prior to the issuance of any building or grading permit for which stormwater management is required, the Chief Engineer shall require the owner/developer to execute an inspection and maintenance agreement binding on the current and all subsequent owners of the land on which the private BMP is located. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the Engineering Department to ensure that the facility is maintained in proper working condition to meet design standards. The agreement shall be of a form and type approved by the County.
- B. The agreement shall be recorded by the Engineering Department in the land records for Washington County, Maryland.
- C. The agreement shall also provide that, if after notice by the Engineering Department to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner/developer within a reasonable period of time (30 days maximum), the County may perform all necessary work to place the facility in proper working condition. The owner/developer of the facility may be assessed the cost of the work and any penalties. This may be accomplished in any manner determined appropriate by the County in accordance with Maryland law.

## **9.3 Maintenance Responsibility**

- A. The owner/developer of the property on which work has been done pursuant to this Ordinance for private BMPs, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures, and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans and good construction practices.
- B. A maintenance schedule shall be developed for the life of all BMPs and shall state the maintenance to be completed, the time period for completion, and who shall perform the maintenance. This maintenance schedule shall be printed on the approved stormwater management plan.
- C. BMPs serving commercial, industrial, institutional, agricultural or residential developments consisting of multi-family dwellings shall be privately owned and maintained.

- D. BMPs serving a single residential lot for either a detached or semi-detached dwelling shall be privately owned and maintained.
- E. BMPs serving multi-lot residential developments consisting of detached or semi-detached dwellings shall be owned and maintained by the County after the successful completion of the required maintenance period.
- F. Where BMPs serve a combination of the development types listed in Subsections 9.3 C. and 9.3 E., the requirements of Subsection C shall apply.
- G. The Chief Engineer reserves the right to make the final determination regarding the applicability of Subsections 9.3C., 9.3.D. and 9.3.E. for each stormwater management plan submitted.

#### **9.4 Maintenance Security**

- A. For those BMPs in conformance with Subsection 9.3 E, the County shall require from the owner/developer a maintenance security prior to the release of the performance security described in § 7.0
- B. The maintenance security shall be equal to 10% of the face value of the performance security previously posted and shall be for a minimum two (2) year maintenance period. The Chief Engineer may require a longer maintenance period if determined necessary due to unique characteristics associated with the BMPs involved. The maintenance period shall commence upon the completion of the requirements contained in Subsection 7.0 A.
- C. The maintenance security shall be either an irrevocable standby letter of credit or maintenance bond on forms approved by the County, or certified check.
- D. Approximately sixty (60) days prior to the end of the maintenance period, the Engineering Department shall perform an inspection in conformance with § 9.1. Should the BMPs be in good condition and in compliance with the approved stormwater management plan and all deeds required for the property transfer necessary for those BMPs have been delivered to and accepted by the County, the County shall release the maintenance security and the property agreement provided at the end of the maintenance period. Should the BMPs require maintenance effort, then the owner/developer and the County shall proceed in accordance with the applicable provisions of Subsection 9.1. The maintenance security shall not be released until any and all outstanding issues pertaining to the subject BMPs are addressed to the satisfaction of the Chief Engineer.

- E. During the maintenance period, all maintenance responsibilities are those of the owner/developer, including, but not limited to: mowing, replanting, reseeding, insect and animal control, structure/fence repair and trash removal.
- F. The maintenance security requirements of this Ordinance shall not apply to those BMPs built by the County. Maintenance security requirements for such projects are addressed separately in the contract documents.
- G. Should the County need to act on the maintenance security provided for a project, the County shall address construction, ownership and maintenance concerns on a case-by-case basis and not necessarily consistent with the specific requirements of the Ordinance. Such actions shall be taken to protect the interests of the County and they shall be done to preserve the spirit and intent of this Ordinance.
- H. During the maintenance period, the owner/developer shall supply an agreement granting the County the ability to enter onto the property owned by others to perform required maintenance on the BMPs in accordance with the conditions and requirements of the security and approved stormwater management plan. This property agreement shall be in a form approved by the County.

## **10.0 APPEALS**

- A. Any person aggrieved by a decision of an official charged with the enforcement of this Ordinance shall have the right to appeal to the County Commissioners or their designee (collectively and for the purpose of this section, the "Board"). Upon request, any oral decision to be appealed from shall be rendered in writing by the official who made the decision.
- B. An appeal under this Ordinance shall be taken within thirty (30) days after the issuance of the official's written decision by filing with the Board a notice of appeal with a copy of the official's written decision appealed from and a clear statement of the grounds of the appeal.
- C. The written decision of the Board shall be issued within thirty (30) days after completion of a public hearing held on the record. The Board's decision shall be considered final, except that any person, whether or not a party to the appeal before the Board, shall have the right to file a petition for judicial review in the Circuit Court for Washington County pursuant to Title 7, Chapter 200 of the Maryland Rules, entitled "Judicial Review of Administrative Agency Decisions."
- D. Judicial review of disputed issues of fact shall be confined to the record of the hearing before the Board in accordance with Maryland law governing judicial review of administrative decisions. No appeals shall be heard *de novo*.

## **11.0 SEVERABILITY**

If any portion of this Ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such portion shall not affect the validity of the remaining portions. It is the intent of the County Commissioners that this Ordinance shall stand, even if a section, subsection, sentence, clause, phrase, or portion may be found invalid.

## **12.0 PENALTIES**

Any person convicted of violating the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) or imprisonment not exceeding one (1) year or both for each violation with costs imposed in the discretion of the court. Each day that a violation continues shall be a separate offense. In addition, the County Commissioners may institute injunctive, mandamus or other appropriate action or proceedings to correct violations of this Ordinance. Any court of competent jurisdiction shall have the right to issue temporary or permanent restraining orders, injunctions or mandamus, or other appropriate forms of relief.

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