

TITLE 4. STORMWATER MANAGEMENT

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§ 33-4-101. DEFINITIONS.

- (a) *In general.* In this title the following words have the meanings indicated.

(b) *Administration*. “Administration” means the Water Management Administration of the State Department of the Environment.

(c) *Adverse impact*. “Adverse impact” means any deleterious effect on waters, nontidal wetlands, or tidal 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, biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

(d) *Agricultural Land Management Practices*. “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.

(e) *Applicant*. “Applicant” means any person who is an owner, contract purchaser, or the legally authorized representative of either, requesting approval of development in accordance with this article or Article 32 of the Code.

(f) *Best Management Practice (BMP)*. “Best Management Practice (BMP)” means a structural device or non-structural practice designed to store stormwater runoff temporarily, treat stormwater runoff, or both store and treat stormwater runoff for the purpose of providing water resource benefits, including reducing pollution, minimizing erosion, and mitigating flooding.

(g) *Channel Protection Storage Volume (CPV)*.

(1) “Channel Protection Storage Volume” (CPV) means the design storage volume for a structural BMP, required to minimize stream channel erosion.

(2) Methods for calculating the CPV are specified in the Design Manual.

(h) *Concept Stormwater Management Plan*. “Concept Stormwater Management Plan” means the first of three required plan approvals that contains information necessary to allow an initial evaluation of a proposed project.

(i) *Department*. “Department” means the Department of Environmental Protection and Resource Management.

(j) *Design Manual*. “Design Manual” means the “2000 Maryland Stormwater Design Manual, Volumes I and II”, Supplement 1 and any subsequent supplements, which is incorporated by reference in COMAR 26.17.02.01-1.

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

(l) *Development*. “Development” means to change the stormwater runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial, institutional, or governmental construction or alteration.

(m) *Development Stormwater Management Plan*. “Development Stormwater Management Plan” means the second of three required plan approvals that contains information necessary to allow a detailed evaluation of a proposed project.

(n) *Direct discharge*. “Direct discharge” means the concentrated release of stormwater to tidal waters or vegetated tidal wetlands from new development or redevelopment projects in the Chesapeake Bay Critical Area.

(o) *Director*. “Director” means the Director of Environmental Protection and Resource Management or the Director’s designee.

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

(q) *Easement*.

(1) “Easement” means any interest in the property of another created by grant or by express or implied agreement.

(2) “Easement” includes any interest vested in the county by dedication, which confers a right to some advantage, benefit, or lawful use in or over the property.

(r) *Environmental Site Design (ESD)*.

(1) “Environmental Site Design (ESD)” means using small-scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources.

(2) Methods for designing ESD practices are specified in the Design Manual.

(s) *Exemption*. “Exemption” means those land activities not subject to the requirements of this title.

(t) *Extended detention*. “Extended detention” means a structural BMP that provides gradual release of stormwater over a 12- to 48-hour period.

(u) *Extreme flood storage volume (QF)*.

(1) “Extreme flood storage volume (QF)” means the design storage volume, for a structural BMP, required to mitigate flooding in the one-hundred-year frequency rainfall event.

(2) Methods for calculating the QF are specified in the Design Manual.

(v) *Final Stormwater Management Plan*. “Final Stormwater Management Plan” means the last of three required plan approvals that contains the information necessary to allow approvals and permits to be issued by the Department.

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

(x) *Forest buffer*.

(1) “Forest buffer” means a wooded area that exists or is established to protect a stream system.

(2) “Forest buffer” includes trees, shrubs, and herbaceous vegetation.

(y) *Grading*.

(1) “Grading” means any act by which soil is cleared, stripped, stockpiled, excavated, scarified, or filled.

(2) “Grading” includes any combination of the acts referenced in paragraph (1) of this subsection.

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

(aa) *Maximum extent practicable (MEP)*. “Maximum extent practicable (MEP)” means designing stormwater management systems so that all reasonable opportunities for using ESD planning techniques and treatment practices are exhausted and, only where absolutely necessary, a structural BMP is implemented.

(bb) *Off-site stormwater management*. “Off-site stormwater management” means the BMPs necessary to control stormwater from more than one site.

(cc) *On-site stormwater management*. “On-site stormwater management” means the BMPs necessary to control stormwater within a site.

(dd) *Overbank flood protection storage volume (QP)*.

(1) “Overbank flood protection storage volume (QP)” means the design storage volume for a structural BMP, required to mitigate out-of-bank stream channel flooding.

(2) Methods for calculating the QP are specified in the Design Manual.

(ee) *Person*. “Person” means an individual, corporation, partnership, trust, joint venture, estate, association, the state, a political subdivision of the state, or any agency or instrumentality of the state or a political subdivision of the state.

(ff) *Planning techniques*. “Planning techniques” means a combination of strategies employed early in project design to reduce the impact from development and to incorporate natural features into a stormwater management plan.

(gg) *Recharge storage volume (REV)*.

(1) “Recharge storage volume (REV)” means that portion of the water quality storage volume required to recharge groundwater.

(2) Methods for calculating the REV are specified in the Design Manual.

(hh) *Redevelopment*. “Redevelopment” means any construction, alteration, or improvement performed on sites where existing land use is multi-family residential, commercial, industrial, or institutional and existing site impervious area exceeds 40%.

(ii) *Retention structure*. “Retention structure” means a permanent structure that provides for the

storage of stormwater runoff by means of a permanent pool of water.

(jj) *Retrofitting*. “Retrofitting” means, for the purpose of improving water quality:

- (1) The construction of a structural BMP for a previously developed site;
- (2) The modification of an existing structural BMP; or
- (3) The implementation of a non-structural BMP for a previously developed site.

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

(ll) *Site*. “Site” means 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 done as part of a unit, subdivision, or project.

(mm) *Stabilization*. “Stabilization” means the prevention of soil movement by vegetative means, structural means, or both.

(nn) *Stormwater management*. “Stormwater management” means:

- (1) For quantitative control, a system of ESD practices, or other BMPs that control the increased volume and rate of surface stormwater runoff caused by man-made changes to the land; and
- (2) For qualitative control, a system of BMPs, other practices, or both that reduce or eliminate pollutants and provide other water resource benefits.

(oo) *Stormwater management plan*. “Stormwater management plan” means a set of drawings or other documents, submitted by an applicant as a prerequisite to obtaining stormwater management approval, that contains all the information and specifications relating to stormwater management.

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

(qq) *Variance*. “Variance” means the modification of or partial or total relief from the minimum stormwater management requirements for specific circumstances.

(rr) *Waiver*.

(1) “Waiver” means, on a case-by-case basis, partial or total relief from stormwater management quantitative or qualitative control requirements for a site.

(2) “Waiver” includes:

(i) A quantitative waiver, which means partial or total relief from requirements for channel protection storage volume, overbank flood protection storage volume, or extreme flood storage volume; and

(ii) Qualitative waiver, which means partial or total relief from requirements for water

quality storage volume or recharge storage volume.

(ss) *Water quality storage volume (WQV).*

(1) “Water quality storage volume (WQV)” means the design storage volume for a structural BMP, required for treatment of 90% of the average annual rainfall.

(2) Methods for calculating the WQV are specified in the Design Manual.

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

(1988 Code, § 14-152) (Bill No. 53-01, § 1, 7-2-2001; Bill No. 94-02, § 2, 7-1-2004; Bill No. 25-10, § 1, 6-1-2010)

Editor’s note:

Section 3 of Bill No. 25-10 provides that the legislation is retroactive to May 4, 2010.

§ 33-4-102. PURPOSE AND AUTHORITY.

(a) *In general.* The purpose of this title 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.

(b) *Goal.* The goal of this title is to:

(1) Manage stormwater through the use of environmental site design (ESD) to the maximum extent practicable (MEP); and

(2) Utilize appropriate structural best management practices (BMPs) only as necessary.

(c) *Scope.*

(1) This title applies to development or redevelopment of land for residential, commercial, industrial, institutional, or governmental use.

(2) This title does not apply to agricultural land management practices.

(d) *Benefits.* Proper management of stormwater runoff will:

(1) Minimize damage to public and private property;

(2) Reduce the effects of development on land;

(3) Reduce stream channel erosion;

(4) Assist in the attainment and maintenance of water quality standards;

(5) Reduce local flooding; and

(6) Maintain after development, as nearly as possible, the predevelopment stormwater runoff characteristics.

(e) *Force and effect.*

(1) This title is adopted in accordance with COMAR 26.17.02 and applies to all development and redevelopment occurring within the county.

(2) The application of this title and the procedures expressed in this title:

(i) Are the minimum stormwater management requirements; and

(ii) Are not deemed a limitation or repeal of any other powers granted by state statute.

(f) *Enforcement responsibility.* The Department is responsible for coordinating and enforcing the provisions of this title with assistance from the Department of Public Works.

(1988 Code, § 14-151) (Bill No. 53-01, § 1, 7-2-2001; Bill No. 94-02, § 2, 7-1-2004; Bill No. 25-10, § 1, 6-1-2010)

Editor's note:

Section 3 of Bill No. 25-10 provides that the legislation is retroactive to May 4, 2010.

§ 33-4-103. DESIGN STANDARDS.

The Director shall adopt design standards that comply with the requirements of:

(1) Title 4, Subtitle 2 of the Environment Article of the Annotated Code of Maryland; and

(2) All regulations and standards adopted by the administration in accordance with the Environment Article necessary to the purpose of this title.

(1988 Code, § 14-153) (Bill No. 53-01, § 1, 7-2-2001; Bill No. 94-02, § 2, 7-1-2004)

§ 33-4-104. APPLICABILITY AND EXEMPTIONS.

(a) *General prohibition.*

(1) Except as provided in this title, a person may not develop or redevelop any site without providing for appropriate stormwater management measures that control or manage stormwater runoff from the site.

(2) The stormwater management measures shall be:

(i) Consistent with the Design Manual; and

(ii) Constructed in accordance with a plan approved by the Department.

(b) *Exemptions — Authorized.* The following development activities are exempt from this title and the requirement to provide stormwater management:

(1) Agricultural land management practices;

(2) Additions or modifications to existing single-family, detached, or semidetached residential structures, if the additions or modifications comply with paragraph (3) of this subsection;

(3) Developments that do not disturb more than 5,000 square feet of land area; and

(4) Land development activities that the administration determines will be regulated under specific state laws which provide stormwater management no less stringent than the provisions of this title.

(c) *Same — Certification.*

(1) The Director shall certify an exemption when requested in writing.

(2) When an exemption is certified, the exemption shall be final and conclusive.

(3) A separate written request is required if there are subsequent additions, extensions, or modifications to sites receiving an exemption.

(1988 Code, § 14-155) (Bill No. 53-01, § 1, 7-2-2001; Bill No. 94-02, § 2, 7-1-2004)

§ 33-4-105. REDEVELOPMENT SITES.

(a) *General requirements.* Redevelopment sites shall meet the minimum control requirements specified in § 33-4-106 of this title, except that recharge storage volume, channel protection storage volume, and overbank flood protection storage volume are not required unless specified by the Department.

(b) *Site impervious requirements.*

(1) All redevelopment designs shall:

(i) Reduce impervious area within the limit of disturbance by at least 50% according to the Design Manual;

(ii) Implement ESD to the MEP to provide water quality treatment for at least 50% of the existing impervious area within the limit of disturbance; or

(iii) Use a combination of subparagraphs (i) and (ii) of this paragraph for at least 50% of the existing site impervious area.

(2) (i) Alternative stormwater management measures may be used to meet the requirements of this section if the applicant satisfactorily demonstrates to the Department that impervious area

reduction has been maximized and ESD has been implemented to the MEP.

(ii) Alternative stormwater management measures include:

1. An on-site structural BMP;
2. An off-site structural BMP to provide water quality treatment for an area equal to or greater than 50% of the existing impervious area; or
3. A combination of impervious area reduction, ESD implementation, and an on-site or off-site structural BMP for an area equal to or greater than 50% of the existing site impervious area within the limit of disturbance.

(c) *Water quality requirements.*

- (1) A redevelopment site shall meet its water quality requirements using ESD to the MEP.
- (2) If the Department determines that ESD to the MEP has not satisfied the water quality requirements, the Department may accept on-site structural BMPs, off-site BMPs, or retrofitting.
- (3) Stream restorations that provide water quality control equal to or greater than on-site stormwater management may be considered by the Department when all other options in paragraph (2) of this subsection have been exhausted.

(d) *Requirements for increase in impervious areas.* Stormwater management shall be addressed according to the new development requirements in the Design Manual for any net increase in impervious area.

(e) *Fee-in-lieu.*

(1) If the Department determines that a redevelopment site cannot meet the requirements of subsection (b) or subsection (c) of this section, either in full or in part, the applicant shall pay a fee into the Stormwater Management Fund as established in Article 10, Title 13 of the Code.

(2) The County Administrative Officer shall establish the amount of the fee.

(1988 Code, § 14-155) (Bill No. 53-01, § 1, 7-2-2001; Bill No. 94-02, § 2, 7-1-2004; Bill No. 25-10, § 1, 6-1-2010)

Editor's note:

Section 3 of Bill No. 25-10 provides that the legislation is retroactive to May 4, 2010.

§ 33-4-106. MINIMUM CONTROL REQUIREMENTS.

(a) *In general.* The minimum control requirements are the use of planning techniques and design methods using ESD to the MEP in accordance with the Design Manual, which provide:

- (1) Recharge storage volume;

- (2) Water quality storage volume; and
- (3) Channel protection storage volume.

(b) *Department may require other controls.* The Department may require controls exceeding the minimum if it determines that downstream conditions so warrant.

(1988 Code, § 14-155.1) (Bill No. 53-01, § 1, 7-2-2001; Bill No. 94-02, § 2, 7-1-2004; Bill No. 25-10, § 1, 6-1-2010)

Editor's note:

Section 3 of Bill No. 25-10 provides that the legislation is retroactive to May 4, 2010.

§ 33-4-106.1. SATISFYING MINIMUM CONTROL REQUIREMENTS.

(a) *Demonstrating implementation of ESD.* An applicant shall demonstrate that ESD is being implemented to the MEP and, only where absolutely necessary, is a structural BMP being used in developing a stormwater management plan.

(b) *Planning techniques.*

(1) The following planning techniques shall be applied in accordance with the Design Manual to satisfy the minimum control requirements established in § 33-4-106 of this title:

- (i) Preserving and protecting natural resources;
- (ii) Conserving natural drainage patterns;
- (iii) Minimizing impervious areas;
- (iv) Reducing runoff volume;
- (v) Using ESD practices to maintain 100% of the average annual predevelopment groundwater recharge volume for the site;
- (vi) Limiting soil disturbance, mass grading, and compaction;
- (vii) Using green roofs, permeable pavement, reinforced turf, and other alternative surfaces;
- (viii) Clustering development; and
- (ix) Any practices approved by the Department and the administration.

(2) The following ESD treatment practices shall be designed according to the Design Manual to satisfy the minimum control requirements established in § 33-4-106 of this title:

- (i) Disconnection of rooftop runoff;

- (ii) Disconnection of nonrooftop runoff;
- (iii) Sheetflow to conservation areas;
- (iv) Rainwater harvesting;
- (v) Submerged gravel wetlands;
- (vi) Landscape infiltration;
- (vii) Infiltration berms;
- (viii) Dry wells;
- (ix) Micro-bioretenion;
- (x) Rain gardens;
- (xi) Swales;
- (xii) Enhanced filters; and
- (xiii) Any practices approved by the Department and the administration.

(3) Alternate ESD planning techniques and treatment practices may be used for development projects provided they:

- (i) Meet the performance criteria established in the Design Manual; and
- (ii) Are approved by the Department and the administration.

(c) *Design of structural stormwater management practices.*

(1) The following structural stormwater management practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in § 33-4-106 of this title:

- (i) Stormwater management ponds;
- (ii) Stormwater management wetlands;
- (iii) Stormwater management infiltration;
- (iv) Stormwater management filtering systems; and
- (v) Stormwater management open channels.

(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 stormwater management practices.

(d) *Department approval for changes.* Except for maintenance, no stormwater management measures may be altered without Department approval.

(Bill No. 25-10, § 2, 6-1-2010)

Editor's note:

Section 3 of Bill No. 25-10 provides that the legislation is retroactive to May 4, 2010.

§ 33-4-107. STORMWATER MANAGEMENT PLANS.

(a) *In general.* Unless an exemption, waiver, or variance has been granted and except as provided in subsection (f) of this section, before any grading or building permit is issued or any grading or building is conducted, the applicant shall comply with the requirements for the concept, development, and final stormwater management plans.

(b) *Concept stormwater management plan.*

(1) An applicant shall submit a concept stormwater management plan that provides sufficient information for an initial assessment of the proposed project and determination as to whether stormwater management can be provided in accordance with § 33-4-106.1 of this title.

(2) The concept stormwater management plan shall include:

(i) A plan at 1 inch = 100 feet or smaller showing site location, existing man-made and natural features, water and other sensitive resources, topography and existing drainage patterns;

(ii) All proposed impervious areas, buildings, roadways, parking, sidewalks, utilities, and other site improvements;

(iii) The proposed limit of disturbance, erodible soils, steep slopes, and areas to be protected during construction;

(iv) Preliminary determination of stormwater management requirements, including type, size and location of proposed ESD practices, supporting computations, and all points of discharge from the site;

(v) A narrative supporting the concept stormwater management design and demonstrating that ESD will be implemented to the MEP; and

(vi) Any other information required by the Department.

(c) *Development stormwater management plan.*

(1) Following concept stormwater management plan approval by the Department, the applicant shall submit a development stormwater management plan that addresses comments received during the concept stormwater management plan review phase.

(2) The development stormwater management plan shall include:

(i) All information submitted during the concept stormwater management plan review phase;

(ii) Final site layout, exact impervious area locations and acreages, existing and proposed topography, delineated drainage areas at all points of discharge from the site, and stormwater volume computations for ESD and other stormwater management practices and structures;

(iii) An erosion and sediment control plan that includes the sequence of construction, any phasing necessary to minimize earth disturbances and impacts to the natural resources, and an overlay plan showing the types and locations of ESD and erosion and sediment control practices to be used;

(iv) A narrative supporting the development stormwater management plan demonstrating that ESD will be implemented to the MEP and justifying any proposed structural stormwater management measures; and

(v) Any other information required by the Department.

(d) *Submission of final plans for approval.*

(1) Following development stormwater management plan approval by the Department, the applicant shall submit for approval a final erosion and sediment control plan and a final stormwater management plan to both the Department and the Soil Conservation District (SCD) that addresses comments received during the development stormwater management phase.

(2) The final stormwater management plan shall serve as the basis for all subsequent construction.

(3) The applicant shall submit a final stormwater management plan that:

(i) Meets the design requirements of this title;

(ii) Includes sufficient information to evaluate the effectiveness and acceptability of measures proposed for protecting water resources; and

(iii) Contains supporting computations, drawings, and sufficient information describing the manner, location, and type of measures in which stormwater runoff will be managed from the entire site, including ESD.

(e) *Same — Minimum.*

(1) The minimum information to be submitted in support of a stormwater management plan shall be as provided in paragraphs (2) through (8) of this subsection.

(2) Site characteristics:

(i) Topography showing existing and proposed contours, including area downstream from the site necessary to analyze the adverse impact to property and resources, resulting from development of the site;

(ii) Geotechnical investigation, including borings for construction and borings or test pits for infiltration practices;

(iii) Location of all watercourses, impoundments, nontidal wetlands, tidal wetlands, and forest buffers on or adjacent to the site or into which stormwater flows; and

(iv) Delineation of riverine floodplains, if applicable;

(3) Computations:

(i) Hydrology;

(ii) Hydraulic;

(iii) Structural; and

(iv) Dam breach analysis, if required;

(4) A narrative supporting the final stormwater management plan design;

(5) Other information:

(i) Vicinity map;

(ii) Drainage area map showing:

1. The watershed boundaries;
2. Drainage area;
3. Stormwater flow paths;
4. Existing and proposed land use; and
5. Hydrologic soil groups;

(iii) Proposed improvements, including:

1. Locations of buildings or other structures;
2. Impervious surfaces; and
3. Storm drainage facilities;

(iv) Location of all utilities pertinent to the design;

(v) Structural details for all components of the proposed stormwater management devices and practices;

- (vi) Sequence of construction;
 - (vii) Maintenance responsibility;
 - (viii) Material specifications;
 - (ix) Construction specifications;
 - (x) Location of easements;
 - (xi) Certifications;
 - (xii) Required landscaping and planting material;
 - (xiii) Table of required and proposed storage volumes;
 - (xiv) Table showing total site area, disturbed area, new impervious area, and total impervious area;
 - (xv) Structure classification;
 - (xvi) Maintenance inspection schedule;
 - (xvii) Certification by the applicant that all stormwater management construction shall be in accordance with the final stormwater management plan; and
 - (xviii) Certification by a Maryland registered professional engineer, a Maryland registered land surveyor, or a Maryland registered landscape architect that the final stormwater management plan meets the minimum design standards set forth in the Code, subject to the following:
 1. Pond designs requiring Soil Conservation District or Administration Dam Safety Division approval shall be certified by a professional engineer;
 2. A land surveyor may not certify geotechnical or structural components of a structural stormwater BMP; and
 3. A landscape architect may not certify a structural stormwater BMP that requires hydraulic or structural design of system components;
- (6) Estimate of stormwater management construction costs;
 - (7) An as-built certification signature block to be executed after project completion; and
 - (8) Other information as required by the Director or the Design Manual.
- (f) *Alternate procedure.* A project may proceed directly from the concept stormwater management plan phase to the final stormwater management plan phase when the applicant demonstrates to the satisfaction of the Department that ESD to the MEP has been used to address stormwater management, including:

(1) A narrative that supports the concept stormwater management plan and final design plan and which demonstrates that ESD will be achieved to the MEP and that land use and runoff discharges are minimized; and

(2) CPV is addressed by treating runoff from the 1-year, 24-hour design storm with ESD.

(1988 Code, § 14-156) (Bill No. 53-01, § 1, 7-2-2001; Bill No. 94-02, § 2, 7-1-2004; Bill No. 25-10, § 1, 6-1-2010)

Editor's note:

Section 3 of Bill No. 25-10 provides that the legislation is retroactive to May 4, 2010.

§ 33-4-108. PERMITS.

(a) *Grading or building permits.* A grading or building permit may not be issued for any site unless the security required under Article 32 of the Code has been posted, an environmental agreement has been executed, and:

(1) A final erosion and sediment control plan has been approved by the Soil Conservation District;

(2) A final stormwater management plan has been approved by the Department and the County Soil Conservation District; or

(3) An exemption, waiver, or variance has been granted under this title.

(b) *Issuance of a stormwater management permit.* A stormwater management permit may not be issued without:

(1) Processing of on-site easements for the stormwater devices, practices, or both and easements to provide adequate access for inspection and maintenance from a public right-of-way;

(2) Completion of an environmental agreement;

(3) The posting of security as required by § 32-4-312 of the Code;

(4) Acquisition of all necessary off-site easements and rights-of-way; and

(5) Issuance of all required federal or state permits.

(c) *Stormwater management permit – Application.*

(1) When stormwater management devices, practices, or both are required, the applicant shall apply for a stormwater management permit with the Department of Permits and Development Management.

(2) (i) The application shall be accompanied by the permit fee and plans approved by the Department of Environmental Protection and Resource Management.

(ii) The County Administrative Officer shall:

1. Establish the permit fee with a view toward off-setting the cost of inspections, reviews, and administrative costs associated with processing applications; and
2. Review the fee annually.

(iii) The Department of Permits and Development Management may not accept the permit application for processing until the fee has been paid to the county.

(d) *Same — Conditions.* In approving any permit or an extension of a permit, the Department of Environmental Protection and Resource Management may impose conditions on a permit or extension of a permit to ensure:

- (1) Compliance with the provisions of this title; and
- (2) The preservation of the public health and safety.

(e) *Same — Expiration.*

- (1) All permits issued expire 2 years after the issue date.
- (2) If the permittee is unable to complete the work within the specified time, the Department of Permits and Development Management may grant extensions of 1 year on written request.

(f) *Same — Revocation.* After written notice to the permittee, at the request of the Director of Environmental Protection and Resource Management, the Department of Permits and Development Management may revoke or suspend a stormwater management permit for:

- (1) Any violation of the conditions of the permit;
- (2) Construction that is not in accordance with the approved plans; or
- (3) Noncompliance with a correction notice or a stop work order issued for the construction of the structure.

(g) *Same — Additional work.* Before starting any additional work necessitated by a revision in the approved final stormwater management plans, the permittee shall amend the permit and pay the additional fee caused by an increase in the scope of the work to be performed.

(1988 Code, § 14-157) (Bill No. 49, 1996, § 6; Bill No. 38-98, § 1, 6-20-1998; Bill No. 53-01, § 1, 7-2-2001; Bill No. 94-02, § 2, 7-1-2004; Bill No. 25-10, § 1, 6-1-2010)

Editor's note:

Section 3 of Bill No. 25-10 provides that the legislation is retroactive to May 4, 2010.

§ 33-4-109. CONSTRUCTION INSPECTION.

(a) *Department to enforce.*

(1) The Department has primary responsibility for the enforcement of construction requirements related to stormwater management devices and practices.

(2) The Department of Public Works and the County Soil Conservation District shall assist the Department.

(b) *Required notification.* The permittee shall notify the Department at least 48 hours before beginning construction on the stormwater management devices and practices.

(c) *Periodic inspections.* The Department may make periodic inspections during the course of construction activities.

(d) *Correction notice and stop work orders.*

(1) If the construction is not being accomplished in accordance with the approved final stormwater management plan and permit, the Department shall, in a timely manner, notify the permittee, owner, or a responsible person at the job site.

(2) The notification shall be in the form of a written correction notice or stop work order from the Department stating:

(i) The violations; and

(ii) The time within which the permittee, owner, or responsible person shall make the necessary corrections.

(3) Failure to comply with any correction notice or stop work order within the time specified in the correction notice or stop work order constitutes a violation of this title and may result in the forfeiture of the security or an enforcement action under § 33-4-115 of this title.

(e) *Inspections and certifications.* The permittee shall provide inspections and certifications by a Maryland registered professional engineer, a Maryland registered land surveyor, or a Maryland registered landscape architect, as described in § 33-4-107(e)(5)(xviii) of this title covering the following stages of construction:

(1) Ponds.

(i) Upon completion of excavation to sub-foundation and, when required, installation of structural supports or reinforcement for structures, including:

1. Core trenches and impervious cores;

2. Inlet and outlet structures, anti-seep collars or diaphragms, and watertight pipe connections; and

3. Trenches for enclosed facilities, concrete, and pipe culverts;

(ii) During placement of structural fill;

- (iii) During backfilling of foundations and trenches;
 - (iv) During embankment construction; and
 - (v) Upon completion of final grading and establishment of permanent stabilization.
- (2) Wetland systems.
- (i) At the stages specified for ponds in paragraph (1) of this subsection;
 - (ii) Upon completion of nontidal wetland planting; and
 - (iii) At the end of the planting warranty period.
- (3) Infiltration systems.
- (i) During excavation to subgrade and permeability testing;
 - (ii) During placement and backfill of underdrain and observation wells;
 - (iii) During placement of geotextiles and all filter media;
 - (iv) During construction of appurtenant conveyance and pre-treatment systems; and
 - (v) Upon completion of final grading and establishment of permanent stabilization.
- (4) Filtering systems.
- (i) During excavation to subgrade;
 - (ii) During placement and backfill of underdrain systems;
 - (iii) During placement of geotextiles and all filter media;
 - (iv) During construction of appurtenant conveyance and pre-treatment systems; and
 - (v) Upon completion of final grading and establishment of permanent stabilization.
- (5) Open channel systems.
- (i) During excavation to subgrade;
 - (ii) During placement and backfill of underdrain systems for dry swales;
 - (iii) During installation of diaphragms, check dams, or weirs; and
 - (iv) Upon completion of final grading and establishment of permanent stabilization.
- (6) ESD and other nonstructural practices.

- (i) At stages of construction specified in the Design Manual;
- (ii) Upon completion of final grading and establishment of permanent stabilization; and
- (iii) At the end of the planting warranty period.

(f) *Contents of reports.*

(1) The certifying professional shall prepare written reports for each inspection and shall submit the reports to the Department with as-built plans.

(2) Inspection reports shall include:

- (i) The date and location of inspection;
- (ii) Variations from approved construction specifications and plans; and
- (iii) Documentation of known violations.

(g) *Copy of plan on job site.* The permittee shall maintain a copy of the approved final stormwater management plan on the job site at all times.

(h) *Final approval.*

(1) Final approval of the stormwater management devices, practices, or both by the county and the County Soil Conservation District is subject to a final inspection of the stormwater management devices and practices and the submittal and approval, within 30 days after completion, of an as-built plan prepared by a Maryland registered professional engineer, a Maryland registered land surveyor, or a Maryland registered landscape architect, as described in § 33-4-107(e)(5)(xviii) of this title.

(2) With the as-built plan, the permittee shall submit a completed construction completion form for each stormwater management device, practice, or both.

(i) *Notification to administration.*

(1) The Department shall submit notice of construction completion to the administration on a form supplied by the administration for each stormwater management practice within 45 days after construction completion.

(2) If BMPs requiring Soil Conservation District approval are constructed, notice of construction shall also be submitted to the Soil Conservation District.

(1988 Code, § 14-158) (Bill No. 53-01, § 1, 7-2-2001; Bill No. 94-02, § 2, 7-1-2004; Bill No. 25-10, § 1, 6-1-2010)

Editor's note:

Section 3 of Bill No. 25-10 provides that the legislation is retroactive to May 4, 2010.

§ 33-4-110. MAINTENANCE RESPONSIBILITY.

Upon completion and acceptance of the stormwater management devices, practices, or both:

- (1) The county shall take in-fee ownership of the stormwater management devices and practices designated for public maintenance; and
- (2) For privately maintained stormwater management devices, practices, or both:
 - (i) The property owner shall be responsible for maintenance; and
 - (ii) The property owner's specific maintenance responsibilities shall be detailed in a recorded deed of declaration for maintenance and access.

(1988 Code, § 14-159) (Bill No. 53-01, § 1, 7-2-2001; Bill No. 94-02, § 2, 7-1-2004)

§ 33-4-111. MAINTENANCE INSPECTION.

(a) *Department to inspect.* The Department shall inspect all ESD treatment systems and structural stormwater management devices and practices to ensure that they are functioning properly:

- (1) During the first year of operation; and
- (2) At least once every 3 years after the first year.

(b) *Repair procedures.*

(1) The following procedures shall apply:

(i) The owner or owners of any property on which ESD treatment systems and structural stormwater management devices or practices are found to be deficient and in need of maintenance shall be notified of the required repairs and given a reasonable time in which to comply;

(ii) A follow-up inspection shall be made to determine if the repairs have been completed in a satisfactory manner; and

(iii) The county and its agent may enter on the property of persons who do not comply with a maintenance notification requiring repairs to any stormwater management devices or practices to perform the necessary maintenance and to assess any direct or indirect cost involved to the owner or owners of the property, including the owners of all property served by the device or practice, which cost shall be a lien on the property of the owner or owners in the same manner as real property taxes, and shall be collected in the same manner provided by law for the collection of real property taxes.

(2) The county may collect the costs imposed under paragraph (1) of this section:

- (i) In annual installments not exceeding three in number;

- (ii) With interest at the rate of 6% per annum, on an amortized basis; and
- (iii) On such other terms and conditions as considered appropriate by the county.

(c) *Department to maintain inspection reports.* The Department shall maintain inspection reports for ESD treatment systems and structural stormwater management devices and practices that include the following information:

- (1) The date of inspection;
- (2) The name of inspector;
- (3) The condition of:
 - (i) Vegetation and landscaping;
 - (ii) Fences;
 - (iii) Spillways, valves, or other control structures;
 - (iv) Embankments, slopes, and safety benches;
 - (v) Reservoir and treatment areas;
 - (vi) Inlet and outlet channels or structures;
 - (vii) Underground drainage;
 - (viii) Sediment and debris accumulation in reservoir and forebay areas;
 - (ix) ESD treatment systems and structural stormwater management devices and practices, to the extent practicable; and
 - (x) Any other item which could affect the proper function of the stormwater management system; and
- (4) A description of needed maintenance.

(1988 Code, § 14-160) (Bill No. 53-01, § 1, 7-2-2001; Bill No. 94-02, § 2, 7-1-2004; Bill No. 75-03, § 45, 7-1-2004; Bill No. 84-08, § 1, 8-15-2008; Bill No. 25-10, § 1, 6-1-2010)

Editor's note:

Section 3 of Bill No. 25-10 provides that the legislation is retroactive to May 4, 2010.

§ 33-4-112. WAIVERS.

- (a) *Authority to grant.* The Director may grant a waiver of the stormwater management

requirements for individual sites, if the applicant submits a written request containing descriptions, drawings, calculations, and any other information necessary to evaluate the proposed waiver request, including documentation that ESD has been implemented to the MEP.

(b) *Review of comments.*

(1) The Director shall review comments from the Department of Public Works, as necessary, before approving or denying a waiver request.

(2) If there is a dispute, decisions of the Director shall be final and conclusive.

(c) *Subsequent modifications.* A separate written request is required if there are subsequent additions, extensions, or modifications to a site receiving a waiver.

(d) *Factors to evaluate.* In making a decision on a waiver request, the Director shall evaluate the cumulative effect of other sites that are partially or totally relieved from the requirements of this title.

(e) *Quantitative waivers.* The Director may grant a quantitative waiver, provided ESD is implemented to the MEP and if the applicant can demonstrate that:

(1) Site stormwater runoff is discharged directly to tidal waters or tidal wetlands;

(2) The Department determines that circumstances exist that prevent the reasonable implementation of quantity control practices; or

(3) The site is identified for a quantity waiver in a watershed management plan approved by the Department and the administration under COMAR 26.17.02.05.E.

(f) *Project in priority funding area.* The Director may grant a quantitative waiver for a project that is in-fill development located within the priority funding area where the economic feasibility of the project is tied to planned density and the implementation of the requirements of this title would result in a loss of planned density, provided that:

(1) Public water and sewer and stormwater conveyance exist;

(2) The quantitative waiver is applied to the project for the impervious cover that previously existed on the site only;

(3) ESD to the MEP is used to meet the full water quality treatment requirements for the entire development; and

(4) ESD to the MEP is used to provide full quantity control for all new impervious surfaces.

(g) *Regulatory requirements.*

(1) Stormwater management quantitative and qualitative control waivers may be granted for phased development projects if a system designed to meet the 2000 regulatory requirements and the requirements of this title in effect on May 4, 2009 for multiple phases has been constructed by May 4, 2010.

(2) If the 2009 regulatory requirements cannot be met for future phases constructed after May 4, 2010, all reasonable efforts to incorporate ESD in future phases must be demonstrated.

(h) *Chesapeake Bay Critical Area*. All sites within the Chesapeake Bay Critical Area:

(1) Are also subject to §§ 33-2-602 and 33-2-603 of this article; and

(2) Shall comply with the more restrictive requirements.

(1988 Code, § 14-155) (Bill No. 53-01, § 1, 7-2-2001; Bill No. 94-02, § 2, 7-1-2004; Bill No. 25-10, § 1, 6-1-2010)

Editor's note:

Section 3 of Bill No. 25-10 provides that the legislation is retroactive to May 4, 2010.

§ 33-4-112.1 ADMINISTRATIVE WAIVERS.

(a) *Definitions.*

(1) In this section, the following terms have the meanings indicated.

(2) "Administrative waiver" means a waiver that allows a site to be governed by the provisions of this title that were in effect on May 4, 2009.

(3) (i) "Approval" means a documented action by the Department following a review to determine and acknowledge the sufficiency of submitted material to meet the requirements of a specified stage in the development review process.

(ii) "Approval" does not mean an acknowledgment by the Department that submitted material has been received for review.

(4) (i) "Final project approval" means approval of the final stormwater management plan and erosion and sediment control plan required to construct a project's stormwater management facilities.

(ii) "Final project approval" includes securing bonding or financing for final development plans if either is required as a prerequisite for approval.

(5) "Preliminary project approval" means approval by the Department of a plan that, at a minimum, depicts:

(i) The number and configuration of proposed lots, dwellings or buildings;

(ii) The proposed project density;

(iii) Roads, parking and other infrastructure;

(iv) The type, size, and location of stormwater management based on site-specific stormwater management computations;

- (v) Drainage patterns and points of discharge; and
- (vi) Any other information required by the Department.

(b) *Grant by Director.* The Director may grant an administrative waiver, if the applicant received preliminary project approval before May 4, 2010.

(c) *Validity.* An administrative waiver shall remain valid provided:

- (1) Final project approval is granted by May 4, 2013; and
- (2) Construction authorized by the administrative waiver is completed by May 4, 2017.

(Bill No. 25-10, § 2, 6-1-2010)

Editor's note:

Section 3 of Bill No. 25-10 provides that the legislation is retroactive to May 4, 2010.

§ 33-4-113. VARIANCES.

(a) *Authority to grant.*

(1) The Director may grant a variance from any requirement of this title or design standards if there are exceptional circumstances applicable to the site.

(2) Exceptional circumstances must be such that strict adherence to the provisions of this title or design standards would result in unreasonable hardship or practical difficulty and not fulfill the intent of this title.

(b) *Applicant to request.*

(1) The applicant shall submit a written request for variance to the Director stating the specific variance sought and rationale for the request.

(2) The Director may not grant a variance unless and until the applicant provides specific justification for the variance, including justification that ESD to the MEP has been investigated thoroughly.

(c) *Review of comments.*

(1) The Director shall review comments from the Department of Public Works, as necessary, before approving or denying a variance request.

(2) If there is a dispute, decisions of the Director shall be final and conclusive.

(d) *Subsequent modifications.* A separate written variance request may be required if there are subsequent additions, extensions, or modifications to a site receiving a variance.

(e) *Conditions.*

(1) (i) In approving a variance, the Director may impose conditions that will mitigate water quality adverse impacts.

(ii) The conditions may include payment of a fee to the stormwater management fund as established in Article 10, Title 13 of the Code.

(2) The County Administrative Officer shall establish the amount of the fee.

(1988 Code, § 14-155) (Bill No. 53-01, § 1, 7-2-2001; Bill No. 94-02, § 2, 7-1-2004; Bill No. 25-10, § 1, 6-1-2010)

Editor's note:

Section 3 of Bill No. 25-10 provides that the legislation is retroactive to May 4, 2010.

§ 33-4-114. MISCELLANEOUS EXCEPTIONS.

(a) *Plat recordation.* Plats may be recorded in advance of final stormwater management plan approval if the recording is approved by the Department based upon sufficient evidence that stormwater management can be achieved in the locations designated on the plat.

(b) *Approval for planned unit developments.* Notwithstanding any other provision of law, a planned unit development shall receive development stormwater management plan approval before final approval under § 32-4-245 of the code.

(c) *Authority to comply with former requirements.*

(1) Any site with an approved erosion and sediment control plan and stormwater management plan approved by the Department before May 4, 2010 shall be governed by the stormwater management law and regulations in effect at the time of the approval.

(2) A stormwater management permit issued before May 4, 2010 shall remain valid in accordance with its terms, provided a final erosion and sediment control plan has been approved by the Soil Conservation District.

(d) *Exemption, waiver, variance.*

(1) Any exemption, waiver, or variance granted by the Department to a site before May 4, 2010 shall remain valid in accordance with its terms provided:

(i) A grading or building permit has been issued; or

(ii) An erosion and sediment control plan has been approved.

(2) All subsequent site development shall comply with this title.

(3) Any modification to a previously approved exemption, waiver, or variance shall require

compliance with this title.

(1988 Code, § 14-155) (Bill No. 53-01, § 1, 7-2-2001; Bill No. 94-02, § 2, 7-1-2004; Bill No. 75-03, § 42, 7-1-2004; Bill No. 25, § 1, 6-1-2010)

§ 33-4-115. PENALTIES.

(a) *Criminal.* A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 for each violation.

(b) *Civil.*

(1) As an alternative to a criminal action, the county may bring a civil action against any person for any violation of this title.

(2) The action may seek the imposition of a civil penalty of not more than \$5,000 against the person, an injunction to prohibit the person from continuing the violation, or both.

(c) *Continuing violation as separate offense.* Each day that a violation continues constitutes a separate offense.

(d) *Enforcement.* The Director of Environmental Protection and Resource Management may enforce the provisions of this title in accordance with Article 3, Title 6 of the Code.

(1988 Code, § 14-154) (Bill No. 94-02, § 2, 7-1-2004; Bill No. 82-06, § 4, 8-24-2006; Bill No. 25-10, § 1, 6-1-2010)

Editor's note:

Section 3 of Bill No. 25-10 provides that the legislation is retroactive to May 4, 2010.

§ 33-4-116. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or portion of this title is, for any reason, held invalid or unconstitutional by a court of competent jurisdiction, the portion is deemed a separate, distinct, and independent provision. The holding does not affect the validity of the remaining portion of this title. It is the intent of the county that this title would have been enacted notwithstanding the invalidity of any section, subsection, sentence, clause, phrase, or portion of the title.

(1988 Code, § 14-161) (Bill No. 94-02, § 2, 7-1-2004)

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