

ARTICLE I
Purpose and Authority

§ 123-1. Purpose; Authority

- A. 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. The goal is to manage stormwater by using environmental site design (ESD) to the maximum extent practicable (MEP) to maintain after development as nearly as possible, the predevelopment runoff characteristics, and to reduce stream channel erosion, pollution, siltation and sedimentation, and local flooding, and use appropriate structural best management practices (BMPs) only when necessary. This will restore, enhance, and maintain the chemical, physical, and biological integrity of streams, minimize damage to public and private property, and reduce the impacts of land development.
- B. The purpose of this Ordinance is to provide for the health, safety, and general welfare of citizens by reducing pollutants in storm water discharges and the regulation of non-storm water discharges to the environment to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the environment or the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process and the Federal Clean Water Act. The objectives of this ordinance are:
1. To regulate the contribution of pollutants to the environment or the municipal separate storm sewer system (MS4) by stormwater and non-stormwater discharges by any user.
 2. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system.
 3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance
- C. The provisions of this Ordinance, pursuant to the Environment Article, Title 4, Subtitle 2, Annotated Code of Maryland, are adopted under the authority of the Calvert County Public Code and shall apply to all development occurring within the unincorporated/incorporated area of Calvert County. The application of this Ordinance and provisions expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by State statute. The Calvert County Department of Public Works shall be responsible for the coordination and enforcement of the provisions of this Ordinance. This Ordinance applies to all new and redevelopment projects that have not received final approval for erosion and sediment control and stormwater management plans by May 4, 2010.

§ 123-2. Incorporation by Reference

For the purpose 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), and all subsequent revisions, is incorporated by reference by Calvert County Department of Public Works and shall serve as the official guide for stormwater principles, methods, and practices.
- B. USDA Natural Resources Conservation Service Maryland Conservation Practice Standard Pond Code 378 (January 2000).

§ 123-3. Grandfathering

A. In this section, the following terms have the meanings indicated:

ADMINISTRATIVE WAIVER:

- (1) A decision by the Department pursuant to this Ordinance to allow the construction of a development to be governed by the stormwater management ordinance in effect as of May 4, 2009 in the local jurisdiction where the project will be located.
- (2) Administrative waiver is distinct from a waiver granted pursuant to Section 123-7 of this Ordinance.

APPROVAL:

- (1) 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 a local development review process.
- (2) Approval does not mean an acknowledgement by the Department that submitted material has been received for review.

FINAL PROJECT APPROVAL:

- (1) Approval of the final stormwater management plan and erosion and sediment control plan required to construct a project's stormwater management facilities.
- (2) Final Project Approval also includes securing bonding or financing for final development plans if either is required as a prerequisite for approval.

PRELIMINARY PROJECT APPROVAL:

- (1) An approval as part of a local preliminary development or planning review process that includes, at a minimum:
 - (a) The number of planned dwelling units or lots;

- (b) The proposed project density;
- (c) The proposed size and location of all land uses for the project;
- (d) A plan that identifies:
 - (i) The proposed drainage patterns;
 - (ii) The location of all points of discharge from the site; and
 - (iii) The type, location, and size of all stormwater management measures based on site-specific stormwater management requirement computations; and
- (e) Any other information required by the Department including, but not limited to:
 - (i) The proposed alignment, location, and construction type and standard for all roads, access ways, and areas of vehicular traffic;
 - (ii) A demonstration that the methods by which the development will be supplied with water and wastewater service are adequate; and
 - (iii) The size, type, and general location of all proposed wastewater and water system infrastructure.
- (2) The Calvert County Department of Public Works may grant an administrative waiver to a development that received a preliminary project approval prior to May 4, 2010. Administrative waivers expire according to 123-3 B. of this Ordinance and may be extended according to 123-3 C. of this Ordinance.

B. EXPIRATION OF ADMINISTRATIVE WAIVERS:

- (1) Except as provided for in Section 123-3 C of this Ordinance, an administrative waiver shall expire on:
 - (a) May 4, 2013, if the development does not receive final project approval prior to that date; or
 - (b) May 4, 2017, if the development receives final project approval prior to May 4, 2013.
- (2) All construction authorized pursuant to an administrative waiver must be completed by May 4, 2017 or, if the waiver is extended as provided in Section 123-3 C of this Ordinance, by the expiration date of the waiver extension.

C. EXTENSION OF ADMINISTRATIVE WAIVERS:

- (1) Except as provided in Section 123-3 C (2) of this Ordinance, an administrative waiver shall not be *extended*.
- (2) An administrative waiver may only be extended if, by May 4, 2010 the development:
 - (a) Has received a preliminary project approval; and
 - (b) Was subject to a Development Rights and Responsibilities Agreement, a Tax Increment Financing approval, or an Annexation Agreement.
- (3) Administrative waivers extended according to Section 123-3 C (2) of this Ordinance shall expire when the Development Rights and Responsibilities Agreement, the Tax Increment Financing approval, or the Annexation Agreement expires.

ARTICLE II Definitions

§ 123-4. Terms Defined

For the purpose of this Ordinance, the following definitions describe the meaning of the terms used in this Ordinance:

ACCEPTABLE OUTFALL – Tidewater, or the point, as determined by the Engineering Bureau, at which stormwater can be released to a channel without causing scouring, erosion or sedimentation to the receiving channel or its floodplain.

ADMINISTRATION – The Maryland Department of the Environment (MDE) Water Management Administration (WMA).

ADVERSE IMPACT – 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 - 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.

APPLICANT - Any person, firm, or governmental agency who executes the necessary forms to procure official approval of a project or a permit to carry out construction of a project.

APPROVED PLANS – A set of representational drawings or other documents submitted by an applicant as a prerequisite to obtaining a stormwater management approval and containing such information and specifications as required by the Department of Public Works of Calvert County, Maryland and the Calvert Soil Conservation District under the regulations adopted in accordance with the law.

APPROVING AGENCY - The entity responsible for the review and approval of stormwater management plans.

AQUIFER – A porous water-bearing geologic formation generally restricted to materials capable of yielding an appreciable supply of water.

BEST MANAGEMENT PRACTICE (BMP) – Activities, practices, and procedures to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices or operating procedures designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce

pollution, provide other amenities and to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

BOARD - The Board of County Commissioners of Calvert County, Maryland.

CHANNEL PROTECTION STORAGE VOLUME (C_p_v) – 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 2000 Maryland Stormwater Design Manual, Volumes I & II.

CLEAN WATER ACT – The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CLEARING - The removal of trees and brush from the land but shall not include the ordinary mowing of grass.

CONCEPT PLAN – The first of three required plan approvals that includes the information necessary to allow an initial evaluation of a proposed project.

DAMS AND RESERVOIRS – A structure which has one or more of the following attributed: 640 acres (one square mile) or larger in drainage area; a dam height of 20 feet (measured from the upstream toe to the structure top), and is a low hazard.

DEPARTMENT – The Department of Public Works of Calvert County, Maryland.

DESIGN MANUAL – The 2000 Maryland Stormwater Design Manual Volumes I & II, and all subsequent revisions that serves as the official guide for stormwater management principles, methods, and practices.

DETENTION STRUCTURE – A permanent structure for the temporary storage of runoff, which is designed so as not to create a permanent pool of water.

DEVELOP LAND – To change the runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial, or institutional construction or alteration.

DEVELOPER – A person, partnership, corporation, firm, or governmental agency undertaking or proposing the construction of a building, a project consisting of interrelated buildings, or other construction, and who is primarily financially responsible for the proposed work.

DIRECT DISCHARGE - The concentrated release of stormwater to tidal waters or vegetated tidal wetlands from new development or redevelopment projects in the Critical Area.

DIRECTOR – Employees or designees of the Director of the Calvert County Department of Public Works designated to enforce this ordinance.

DISTRICT - The Calvert County Soil Conservation District.

DOWNSTREAM REACH - The downstream watercourse to a point where the increase in ten and one-hundred year flow due to development is no greater than 10% of the existing flow.

DRAINAGE AREA - That area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridge line.

DRAINAGE BASIN - The area drained by a river and all its tributaries; also called "drainage area."

EASEMENT – 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.

ENVIRONMENTAL SITE DESIGN (ESD) - 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. Methods for designing ESD practices are specified in the Design Manual.

ENGINEER – The Bureau Chief, Engineering Bureau, administrator of the Calvert County Stormwater Management Ordinance or duly authorized representative.

ENGINEERING BUREAU - The division of the Department of Public Works responsible for administering the Calvert County Stormwater Management Ordinance.

EROSION - The process by which the ground surface is worn by the action of wind and/or water.

EXCAVATING - Any act by which soil, earth, sand, gravel, rock or any similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed, and includes the conditions resulting from such actions.

EXEMPTION - Those land development activities that are not subject to the stormwater management requirements contained in this Ordinance.

EXTENDED DETENTION – 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_f) – 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.

FILL - Any act, by which soil, earth, sand, gravel, rock, or any similar material is deposited, placed, pushed, pulled, or transported and shall include the conditions resulting from such actions.

FINAL STORMWATER MANAGEMENT PLAN – The last of three required plan approvals that includes the information necessary to allow all approvals and permits to be issued by the approving agency.

FINISHED GRADE - The final grade or elevation of the ground surface, which conforms to the approved grading plan.

FIVE-YEAR STORM – A storm with a 20% chance of being equaled or exceeded in any given year.

FLOODPLAIN:

- A. A flat area along the course of a stream that is naturally subject to flooding.
- B. That area along or adjacent to a stream or body of water within the waters of the state.
- C. That area adjacent to a stream or river that is flooded as a natural occurrence when flow exceeds the capacity of the stream channel, and whose boundary is generally defined by the frequency of the flood event, i.e., one-hundred year, fifty year, etc.

FLOODPLAIN MANAGEMENT – A program of identifying areas prone to flooding and providing regulation for the use of those areas by a number of possible alternatives, including building codes, land use regulations and public acquisition.

FLOODPLAIN, REGULATORY - The area adjoining a particular river or stream, which would be inundated by the discharge of the regulatory flood. The regulatory flood is that of a one-hundred year frequency storm.

FLOODWAY, REGULATORY - The river or stream channel and portions of the floodplain immediately adjacent, which are required to convey the discharge of the regulatory flood without increasing flood heights more than one foot.

FLOW ATTENUATION - Prolonging the flow time of runoff to reduce the peak discharge.

GRADING - Any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled or any combination thereof.

HAZARDOUS MATERIAL – Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed

ILLEGAL DISCHARGE – Any direct or indirect non-storm water discharge to the storm drain system, except as exempted by this Ordinance.

ILLCIT CONNECTIONS – Either of the following:

- A. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,
- B. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

IMPERVIOUS AREA - Any surface that does not allow stormwater to infiltrate into the ground.

INDUSTRIAL ACTIVITY – Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

INFILL - Existing platted lots within an existing subdivision (considered new development, not redevelopment).

INFILTRATION - The passage or movement of water into the soil surface.

LAND-DISTURBING ACTIVITY - Any fill, grading or excavation, which may result in soil erosion or the covering of land surfaces with an impermeable material.

LAND SURVEYOR - A professional land surveyor duly registered by the State of Maryland to practice professional land surveying in accordance with the provisions of the Annotated Code of Maryland, as currently amended.

MAXIUM EXTENT PRACTICABLE (MEP) - 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.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT – A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

NATURAL RESOURCE CONSERVATION SERVICE - The United States Department of Agriculture, Natural Resource Conservation Service.

NATURAL GROUND SURFACE – The ground surface in its existing state before grading, stripping, excavating or filling, and other land-disturbing activities commencing or continuing after the effective date of this Ordinance.

NON-STORM WATER DISCHARGE – Any discharge to the storm drain system that is not composed entirely of storm water.

OFF-SITE STORMWATER MANAGEMENT - The design and construction of a facility necessary to control stormwater from more than one development.

ON-SITE STORMWATER MANAGEMENT - The design and construction of systems necessary to control stormwater within an immediate development.

ONE HUNDRED-YEAR STORM – A storm with a 1% chance of being equaled or exceeded in any given year.

OVERBANK FLOOD PROTECTION VOLUME (Q_p) – 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 – A person or business entity that has as an objective the promotion of the development of land for nonpublic uses, or the construction of structures on parcels of land.

PARKING LOT WATER DETENTION - The controlled shallow surface ponding on parking lots.

PERSON - The federal government, the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.

PLANNING TECHNIQUES – 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.

POLLUTANT – Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete rinsates); and noxious or offensive matter of any kind.

POND, SMALL - Structures classified as a "small pond" under state law which have all the following attributes: less than 640 acres drainage area; a dam height less than 20 feet (measured from the upstream toe to the structure top); and is not a low hazard.

PROFESSIONAL ENGINEER - An engineer duly licensed by the State of Maryland to practice professional engineering under the requirements of the Annotated Code of Maryland, as currently amended.

PROJECT MANAGEMENT DIVISION - The Division of the Department of Public Works responsible for the construction and maintenance inspection of stormwater management facilities in accordance with this Ordinance.

RECEIVING BODIES OF WATER - Any water bodies, watercourses or wetlands into which surface waters flow either naturally, in man-made ditches, or in a closed conduit system.

RECHARGE VOLUME (Re_v) - 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 – Any construction, alteration, or improvement performed on sites where existing land use is commercial, industrial, institutional or multifamily residential and existing site impervious area exceeds 40%.

RETENTION STRUCTURE – A permanent structure that provides for the storage of runoff by means of a permanent pool of water.

RETROFITTING - The implementation of ESD practices, 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 – Soils or other surficial materials transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.

SITE - Any tract, lot, or parcel of land, or combination of tracts, lots, 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.

SITE DEVELOPMENT PLAN – The second of three required plan approvals that includes the information necessary to allow a detailed evaluation of a proposed project.

SLOPE – The inclined surface of a fill, excavation or natural terrain.

SOIL – Any earth, sand, gravel, rock or any other similar material.

STABILIZATION – The prevention of soil movement by any of various vegetative and/or structural means.

STORM – A rainfall event.

STORM DRAINAGE SYSTEM – Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

STORMWATER – That water that originates from a precipitation event.

STORMWATER MANAGEMENT:

- 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 CONSTRUCTION COSTS – Expenses incurred in constructing stormwater management systems.

STORMWATER MANAGEMENT PLAN – 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 stormwater management.

STORMWATER MANAGEMENT SYSTEM - Natural areas, ESD practices, stormwater management measures, and any other structure through which stormwater flows, infiltrates, or discharges from a site.

STORMWATER POLLUTION PREVENTION PLAN – A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

STRIPPING - Any activity which removes the vegetative surface cover including tree removal, clearing, grubbing and storage or removal of topsoil.

TEN-YEAR STORM – A storm with a 10% chance of being equaled or exceeded in any given year.

TWENTY-YEAR STORM – A storm with a 5% of being equaled or exceeded in any given year.

VARIANCE - The modification of the minimum stormwater management requirements for specific circumstances such that strict adherence to the requirements would result in unnecessary hardship and not fulfill the intent of the Ordinance.

WAIVER - The reduction from stormwater management requirements by the Department of Public Works for a specific development on a case-by-case review basis.

A. QUALITATIVE STORMWATER MANAGEMENT WAIVER - Includes water quality volume and recharge volume design parameters.

B. QUANTITATIVE STORMWATER MANAGEMENT WAIVER - Includes channel protection storage volume, overbank flood protection volume, and extreme flood volume design parameter.

WASTEWATER – Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

WATERCOURSE - 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 - The total drainage area contributing runoff to a single point.

WATER QUALITY VOLUME (WQ_v) - 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.

WETLANDS - An area that has saturated soils and vegetation adapted to wet conditions and periodic flooding.

ARTICLE III Applicability

§ 123-5. Scope

No person shall develop any land for residential, commercial, industrial, or institutional 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 designed consistent with the Design Manual and constructed according to an approved plan for new development or the policies stated in Section 123-8 for redevelopment.

§ 123-6. Exemptions

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

- A. Agricultural land management activities;
- B. Additions or modifications to existing single family detached residential structures if they comply with C of this section;
- C. Developments that do not disturb over 5,000 square feet of land area; including new and redevelopment.
- D. Land development activities that the Administration determines will be regulated under specific State laws, which provide for managing stormwater runoff.

§ 123-7. Waivers/Watershed Management Plans

- A. Except where provided in Section 123-7 B. and 123-7 D. of this Ordinance, the Department shall grant stormwater management quantitative control waivers only to those projects within areas where watershed management plans have been developed consistent with Section 123-7 G. of this Ordinance. Written requests for quantitative stormwater management waivers shall be submitted that contain sufficient descriptions, drawings, and any other information that is necessary to demonstrate that ESD has been implemented to the MEP. A separate written waiver request shall be required in accordance with the provisions of this section if there are subsequent additions, extensions, or modifications to a development receiving a waiver.
- B. Except where provided in Section 123-7 D. of this Ordinance, if watershed management plans consistent with Section 123-7 G. of this Ordinance have not been developed, then stormwater management quantitative control waivers may be granted to the following projects provided that it has been demonstrated that ESD has been implemented to the MEP:

- (1) That have direct discharges to tidally influenced receiving waters;
- (2) That are in-fill development located in a Priority Funding Area where the economic feasibility of the project is tied to the planned density, and where implementation of the 2009 regulatory requirements would result in a loss of the planned development density provided that:
 - (a) Public water and sewer and stormwater conveyance exist;
 - (b) The quantitative waiver is applied to the project for the impervious cover that previously existed on the site only;
 - (c) ESD to the MEP is used to meet full water quality treatment requirements for the entire development; and
 - (d) ESD to the MEP is used to provide full quantity control for all new impervious surfaces; or
- (3) When the approving agency determines that circumstances exist that prevent the reasonable implementation of quantity control practices.

C. Except where provided in Section 123-7 D. of this Ordinance, stormwater management qualitative control waivers apply only to:

- (1) Infill development projects where ESD has been implemented to the MEP and it has been demonstrated that other BMPs are not feasible;
- (2) Redevelopment projects if the requirements of Section 123-8 of this Ordinance are satisfied; or
- (3) Sites where the approving agency determines that circumstances exist that prevent the reasonable implementation of ESD to the MEP.

D. Stormwater management quantitative and qualitative control waivers may be granted for phased development projects if a system is designed to meet the 2000 regulatory requirements and the Department's ordinance for multiple phases has been constructed by May 4, 2010. If the 2009 regulatory requirements cannot be met for the future phases constructed after May 4, 2010, all reasonable efforts to incorporate ESD must be demonstrated.

E. Waivers granted must:

- (1) Be on a case-by-case basis;
- (2) Consider the cumulative effects of the Department's waiver policy; and

- (3) Reasonably ensure the development will not adversely impact stream quality.
- F. If the Department has established an overall watershed management plan for a specific watershed, then the Department may develop quantitative waiver and redevelopment provisions that differ from Sections 123-7 B and 123-8 of this Ordinance.
- G. A watershed management plan developed for the purpose of implementing different stormwater management policies for waivers and redevelopment shall:
 - (1) Include detailed hydrologic and hydraulic analyses to determine hydrograph timing;
 - (2) Evaluate both quantity and quality management and opportunities for ESD implementation;
 - (3) Include cumulative impact assessment of current and proposed 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 stormwater management practices are to be implemented;
 - (7) Be consistent with the General Performance Standards for Stormwater Management in Maryland found in the Design Manual; and
 - (8) Be approved by the Administration.

§ 123-8. Redevelopment

- A. Stormwater management plans are required by the Department for all redevelopment, unless otherwise specified by watershed management plans developed according to section 123-7 F. of this Ordinance. Stormwater management measures must be consistent with the Design Manual.
- B. All redevelopment designs shall:
 - (1) Reduce impervious area within the limit of disturbance (LOD) by at least 50 percent according to the Design Manual;
 - (2) Implement ESD to the MEP to provide water quality treatment for at least 50 percent of the existing impervious area within the LOD; or

- (3) Use a combination of Section 123-8 B. (1) and (2) of this Ordinance for at least 50 percent of the existing site impervious area.
- C. Alternative stormwater management measures may be used to meet the requirements in Section 123-8 B. of this Ordinance if the owner/developer satisfactorily demonstrates to the Department that impervious area reduction has been maximized and ESD has been implemented to the MEP. Alternative stormwater management measures include, but are not limited to:
- (1) An on-site structural BMP;
 - (2) An off-site BMP to provide water quality treatment for an area equal to or greater than 50 percent of the existing impervious area;
 - (3) A combination of impervious area reduction, ESD implementation, and on-site or off-site structural BMP for an area equal to or greater than 50 percent of the existing site impervious area within the LOD.
- D. If the owner/developer satisfactorily demonstrates to the Department that the requirements of Section 123-8 A and 123-8 B cannot be fully met through the alternatives proposed in Section 123-8 C, then the following measures will be accepted to satisfy the remaining treatment requirement:
- (1) Retrofitting of existing structural stormwater management facilities that were designed and constructed before the adoption of the Design Manual to meet current qualitative requirements of the Design Manual. The original facility that is proposed to be retrofitted must treat an area of imperviousness at least as large as 100% of the impervious area within the redevelopment site;
 - (2) Retrofitting of an existing commercial, residential or industrial lot that was designed and constructed before the adoption of the Design Manual to provide ESD to the MEP. The lot proposed for retrofitting must contain an area of imperviousness at least as large as 100% of the impervious area within the redevelopment site;
 - (3) Stream restoration at a ratio of at least 2:1;
 - (4) Design criteria based on watershed management plans developed according to Section 123-7 F of this Ordinance; or
 - (5) Fees-in-lieu at the rate prescribed in Section 123-9 B based on 100% of the impervious area within the redevelopment site.
- E. The determination of what alternatives will be available may be made by the Department at the appropriate point in the development review process. The Department shall consider the prioritization of alternatives in Section 123-8 D. of this Ordinance after it has determined that it is not practicable to meet the 2009 regulatory requirements using ESD. In deciding what

alternatives may be required, the Department may consider factors including, but not limited to:

- (1) Whether the project is in an area targeted for development incentives such as a Priority Funding Area, a designated Transit Oriented Development area, or a designated Base Realignment and Closure Revitalization and Incentive Zone;
- (2) Whether the project is necessary to accommodate growth consistent with comprehensive plans; or
- (3) Whether bonding and financing have already been secured based on an approved development plan.

F. Stormwater management shall be addressed according to the new development requirements in the Design Manual for any net increase in impervious area.

§ 123-9. Variances

The Department may grant a written variance from any requirement of Article IV (Stormwater Management Criteria) of this Ordinance if there are exceptional circumstances applicable to the site such that strict adherence will result in unnecessary hardship and not fulfill the intent of the Ordinance. A written request for variance shall be provided to the Department and shall state the specific variances sought and reasons for their granting. The Department shall not grant a variance unless and until sufficient justification is provided by the person developing land that the implementation of ESD to the MEP has been investigated thoroughly.

- A. All recorded lots or parcels shall institute ESD practices to the MEP (unless already addressed at time of subdivision or provisions of SWM stated on the recorded Final Plat). If ESD volumes can be met fully on site, an R&I form shall be submitted to this Department for approval and associated fee paid (see Section 123-17). If ESD volumes cannot be managed fully on site, a Variance form shall be submitted for approval and a fee-in-lieu shall be paid per the schedule below.
- B. Fees in lieu of stormwater management practices shall be required at the discretion of the Engineer when a written variance is issued in accordance with the provisions of this Ordinance. The Board has established a fee schedule for fees in lieu of stormwater management practices based on the following (which may be amended from time to time):

<u>Type of Development</u>	<u>Fee</u>
Single Family Residential	\$600.00/Dwelling Unit
Commercial Development	\$8,000.00/Impervious Acre

ARTICLE IV
Stormwater Management Criteria

§ 123-10. Minimum Control Requirements

- A. The minimum control requirements established in this section and the Design Manual are as follows:
- (1) Calvert County and its incorporated municipalities shall require that the planning techniques, nonstructural practices, and design methods specified in the Design Manual be used to implement ESD to the MEP. The use of ESD planning techniques and treatment practices must be exhausted before any structural BMP is implemented. Stormwater management plans for development projects subject to this Ordinance shall be designed using ESD sizing criteria, recharge volume, water quality volume, and channel protection storage volume criteria according to the Design Manual. The MEP standard is met when channel stability is maintained, predevelopment groundwater recharge is replicated, nonpoint source pollution is minimized, and structural stormwater management practices are used only if determined to be absolutely necessary.
 - (2) Control of the 2-year and 10-year frequency storm event is required according to the Design Manual and all subsequent revisions if the Department determines that additional stormwater management is necessary because historical flooding problems exist and downstream floodplain development and conveyance system design cannot be controlled.
 - (3) The Department 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.
- B. Alternate minimum control requirements may be adopted subject to Administration approval. The Administration shall require a demonstration that alternative requirements will implement ESD to the MEP and control flood damages, accelerated stream erosion, water quality, and sedimentation. Comprehensive watershed studies may also be required.
- C. Stormwater management and development plans where applicable, shall be consistent with adopted and approved watershed management plans or flood management plans as approved by the Maryland Department of the Environment in accordance with the Flood Hazard Management Act of 1976.

§ 123-11. Stormwater Management Measures

The ESD planning techniques and practices and structural stormwater management measures established in this Ordinance and the Design Manual shall be used, either alone or in combination in a stormwater management plan. A developer shall demonstrate that ESD has

been implemented to the MEP before the use of a structural BMP is considered in developing the stormwater management plan.

A. ESD Planning Techniques and Practices.

- (1) The following planning techniques shall be applied according to the Design Manual to satisfy the applicable minimum control requirements established in Section 123-10 of this Ordinance:
 - (a) Preserving and protecting natural resources;
 - (b) Conserving natural drainage patterns;
 - (c) Minimizing impervious area;
 - (d) Reducing runoff volume;
 - (e) Using ESD practices to maintain 100 percent of the annual predevelopment groundwater discharge volume;
 - (f) Using green roofs, permeable pavement, reinforced turf, and other alternative surfaces;
 - (g) Limiting soil disturbance, mass grading and compaction;
 - (h) Clustering development; and
 - (i) Any practice approved by the Administration.
- (2) The following ESD treatment practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in Section 123-10 of this Ordinance:
 - (a) Disconnection of rooftop runoff;
 - (b) Disconnection of non-rooftop runoff;
 - (c) Sheetflow to conservation areas;
 - (d) Rainwater harvesting;
 - (e) Submerged gravel wetlands;
 - (f) Landscaped infiltration;
 - (g) Infiltration berms;

- (h) Drywells;
 - (i) Micro-bioretenion;
 - (j) Rain gardens;
 - (k) Swales;
 - (l) Enhanced filters; and
 - (m) Any practices approved by the Administration.
- (3) The use of ESD planning techniques and treatment practices specified in this section shall not conflict with existing State law or local ordinances, regulations, or policies. Calvert County and its municipalities shall modify planning and zoning ordinances and public works codes to eliminate any impediments to implementing ESD to the MEP according to the Design Manual.

B. Structural Stormwater Management Measures.

- (1) The following structural stormwater management practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in Section 123-10 of this Ordinance:
- (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 stormwater management practices.
- (3) Structural stormwater management practices shall be selected to accommodate the unique hydrologic or geologic regions of the State.

C. ESD planning techniques and treatment practices and structural stormwater management measures used to satisfy the minimum requirements in Section 123-10 of this Ordinance must be recorded in the land records of Calvert County and remain unaltered by subsequent

property owners. Prior approval from the Department shall be obtained before any stormwater management practice is altered.

- D. Alternative ESD planning techniques and treatment practices and structural stormwater management measures may be used for new development runoff control if they meet the performance criteria established in the Design Manual, and all subsequent revisions, and are approved by the Administration. Practices used for redevelopment projects shall be approved by the Department.
- E. For the purposes of modifying the minimum control requirements or design criteria, the owner/developer shall submit to the Department 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 natural point of restricted streamflow. The point of investigation is to be established with the concurrence of the Department, downstream of the first downstream tributary whose drainage area equals or exceeds the contributing area to the project or stormwater management facility.

§ 123-12. Specific Design Criteria

The basic design criteria, methodologies, and construction specifications, subject to the approval of the Department and the Administration, shall be those of the Design Manual.

ARTICLE V
Stormwater Management Plans

§ 123-13. Review and Approval

- A. For any proposed development, the owner/developer shall submit phased stormwater management plans to the Department for review and approval. At a minimum, plans shall be submitted for the concept, site development, and final stormwater management construction phases of project design. Each plan submittal shall include the minimum content specified in Section 123-14 of this Ordinance and meet the requirements of the Design Manual and Article IV of this Ordinance.
- B. The Department shall perform a comprehensive review of the stormwater management plans for each phase of site design. Coordinated comments will be provided for each plan phase that reflects input from all appropriate agencies including, but not limited to the Soil Conservation District (SCD) and the Departments of Planning and Zoning and Public Works. All comments from the Department and other appropriate agencies shall be addressed and approval received at each phase of project design before subsequent submissions.
- C. Notification of approval, reasons for disapproval or modification of the completed stormwater plan shall be given to the applicant after review by the Department. The stormwater management plan shall not be considered approved without the inclusion of the signature and date of signature of the Calvert County Department of Public Works on the plan.

§ 123-14. Contents

- A. The owner/developer shall submit a concept plan that provides sufficient information for an initial assessment of the proposed project and whether stormwater management can be provided according to Section 123-11 of this Ordinance and the Design Manual. Plans submitted shall include but are not limited to:
 - (1) A map at a scale specified by the Department showing site location, existing natural features, water and other sensitive resources, topography, and natural drainage patterns;
 - (2) The anticipated location of all proposed impervious areas, buildings, roadways, parking, sidewalks, utilities, and other site improvements;
 - (3) The location of the proposed limit of disturbance, erodible soils, steep slopes, and areas to be protected during construction;
 - (4) Preliminary estimates of stormwater management requirements, the selection and location of ESD practices to be used;

- (5) The location of all points of discharge from the site and the topography and location of all structures at a minimum of 200' downstream of said points of discharge.
 - (6) A narrative that supports the concept design and describes how ESD will be implemented to the MEP; and
 - (7) Any other information requested by the Department or the District for the purpose of assessing the impact of the proposed development.
- B. Following concept plan approval by the Department, the owner/developer shall submit site development plans that reflect comments received during the previous review phase. Plans submitted for site development approval shall be of sufficient detail to allow site development to be reviewed and include but not limited to:
- (1) All information provided during the concept plan review phase;
 - (2) A narrative that supports the site development design, describes how ESD will be used to meet the minimum control requirements, and justifies any proposed structural stormwater management measure;
 - (3) Final site layout, exact impervious area locations and acreages, proposed topography, delineated drainage areas at all points of discharge from the site, and stormwater volume computations for ESD practices and quantity control structures;
 - (4) A proposed erosion and sediment control plan that contains the construction sequence, any phasing necessary to limit earth disturbances and impacts to natural resources and an overlay plan showing the types and locations of ESD and erosion and sediment control practices to be used; and
 - (5) Permissions from adjacent property owners if necessary including easements and rights to discharge; and
 - (6) Any other information required by the Department or the District.
- C. Following site development approval by the Department, the owner/developer shall submit final erosion and sediment control and stormwater management plans that reflect the comments received during the previous review phase. Plans submitted for final approval shall be of sufficient detail to allow all approvals and permits to be issued according to the following:
- (1) Final erosion and sediment control plans shall be submitted according to COMAR 26.17.01.05; and
 - (2) Final stormwater management plans shall be submitted for approval in the form of construction drawings and be accompanied by a report that includes sufficient information to evaluate the effectiveness of the proposed runoff control design.

- D. Reports submitted for final stormwater management plan approval shall include but are not limited to:
- (1) Geotechnical investigations including soil maps, borings, site specific recommendations, and any additional information necessary for the final stormwater management design;
 - (2) Drainage area maps depicting predevelopment and post development runoff flow path segmentation and land use;
 - (3) Hydrologic computations for the applicable ESD and unified sizing criteria according to the Design Manual for all points of discharge from the site;
 - (4) Hydraulic and structural computations for all ESD practices and structural stormwater management measures to be used;
 - (5) A narrative that supports the final stormwater management design; and
 - (6) Any other information requested by the Department.
- E. Construction drawings submitted for stormwater management plan approval shall include but are not limited to:
- (1) A 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 including those within at least 200' of proposed points of discharge;
 - (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 stormwater management facilities.
 - (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 the unified sizing criteria volumes required in the Design Manual;
- (12) A table of materials to be used for stormwater management facility planting;
- (13) All soil boring logs and locations;
- (14) A maintenance schedule;
- (15) Certification by the owner/developer that all stormwater management construction will be done according to this plan;
- (16) An as-built certification signature block to be executed after project completion; and
- (17) Any other information required by the Department or the District.

F. If a stormwater management plan involves direction of some or all runoff off of the site, it is the responsibility of the developer to obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water. Approval of a stormwater management plan does not create or affect any right to direct runoff onto adjacent property without that property owner's permission.

§ 123-15. Preparation

- A. The design of stormwater management plans shall be prepared by any individual whose qualifications are acceptable to the Department. The Department may require that the design be prepared by either a professional engineer, professional land surveyor, or landscape architect licensed in the State, as necessary to protect the public or the environment.
- B. If a stormwater BMP requires either a dam safety permit from MDE or small pond approval from the District, the Department shall require that the design be prepared by a professional engineer licensed in the State.

ARTICLE VI
Permits

§ 123-16. Permit Requirement

A grading or building permit may not be issued for any parcel or lot unless a stormwater management plan has been approved by the Department as meeting all the requirements of this Ordinance. Where appropriate, a building permit may not be issued without:

- A. Recorded easements for the stormwater management facility and easements to provide adequate access for inspection and maintenance from a public right-of-way;
- B. A recorded stormwater management maintenance agreement as described in Section 123-24 of this Ordinance;
- C. A performance bond as described in Sections 123-20 of this Ordinance; and
- D. Permission from adjacent property owners as necessary.

§ 123-17. Review and Inspection Fee

- A. A nonrefundable review and inspection (R&I) fee will be collected at the time the stormwater management plan or application for waiver is submitted. The review and inspection (R&I) fee will provide for the cost of plan review, administration, and management of the permitting process, and inspection of all projects subject to this Ordinance. The review and inspection (R&I) fee for review of stormwater management plans is fixed at 2% of the estimated cost of construction of the facility, with a minimum fee of \$200.
- B. The fee for review of waiver applications under Section 123-7 shall be \$50.
- C. The fee for stormwater management facilities associated with public road construction shall be computed with the engineering and inspection (E&I) fee for roads.

§ 123-18. Permit Suspension and Revocation

Any grading or building permit issued by the Department may be suspended or revoked after written notice is given to the permittee for any of the following reasons:

- A. Any violation(s) of the conditions of the stormwater management plan approval;
- B. Changes in site runoff characteristics upon which an approval or waiver was granted;
- C. Construction is not in accordance with the approved plan;

- D. Noncompliance with correction notice(s) or stop work order(s) issued for the construction of the stormwater management facility; and
- E. An immediate danger exists in a downstream area in the opinion of the Department.

§ 123-19. Permit Conditions

In granting the plan approval for any phase of site development, the Department may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this Ordinance and the preservation of public health and safety.

ARTICLE VII
Performance Bond

§ 123-20. Bond Required; Amount

The Department shall require from the developer a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the Department prior to the issuance of any building and/or grading permit for the construction of a development requiring stormwater management. The amount of the security shall not be less than the total estimated construction cost of all stormwater management facilities. The bond required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all of the provisions of this Ordinance, and other applicable laws and regulations, and any time limitations. The bond shall not be fully released without a final inspection of the completed work by the Department, submission of "As-built" plans, and certification of completion by the Department that the stormwater management facilities comply with the approved plan and the provisions of this Ordinance. A procedure may be used to release parts of the bond held by the Department after various stages of construction have been completed and accepted by the Department. The procedures used for partially releasing performance bonds must be specified by the Department in writing prior to stormwater management plan approval.

ARTICLE VIII
Inspection

§ 123-21. Schedule and Reports

- A. The developer shall notify the Department at least 48 hours before commencing any work in conjunction with site development, the stormwater management plan and upon completion of the project when a final inspection will be conducted.
- B. Regular inspections shall be made and documented for each ESD planning technique and practice at the stages of construction specified in the Design Manual by the Department, its authorized representative, or certified by a professional engineer licensed in the State of Maryland. At a minimum, all ESD and other nonstructural practices shall be inspected upon completion of final grading, the establishment of permanent stabilization, and before issuance of use and occupancy approval.
- 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 and on-site personnel shall be notified in writing when violations are observed. Written notification shall describe the nature of the violation and the required corrective action.
- E. No work shall proceed on the next phase of development until the Department inspects and approves the work previously completed and furnishes the developer with the results of the inspection reports as soon as possible after completion of each required inspection.

§ 123-22. Requirements during Construction

- A. At a minimum, regular inspections shall be made and documented at the following specified 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:

- [1] Core trenches for structural embankments
 - [2] Inlet and outlet structures, anti-seep collars or diaphragms, and watertight connectors on pipes; and
 - [3] 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 – at the stages specified for pond construction in Section 123-22 A (1) of this Ordinance, during and after wetland reservoir area planting, and 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 and filters, inlets, outlets, and flow distribution structures; and
 - (e) Upon completion of final grading and establishment of permanent stabilization;
 - (4) For infiltration basins – at the stages specified for pond construction in Section 123-22 A (1) of this Ordinance and 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
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- (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.
 - B. The Department may, for enforcement purposes, use any one or a combination of the following actions:
 - (1) A notice of violation shall be issued specifying the need for a violation to be corrected if stormwater management plan noncompliance is identified;
 - (2) A stop work order shall be issued for the site by the Department if a violation persists;
 - (3) Bonds or securities may be withheld or the case may be referred for legal action if reasonable efforts to correct the violation have not been undertaken; or
 - (4) In addition to any other sanctions, a civil action or criminal prosecution may be brought against any person in violation of the Stormwater Management Subtitle, the Design Manual, 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, "as-built" plan certification shall be submitted by either a professional engineer or professional land surveyor licensed in the State of Maryland to ensure that ESD planning techniques, treatment practices, and structural stormwater management measures and conveyance systems comply with the specifications contained in the approved plans. At a minimum, "as-built" certification shall include a set of drawings comparing the approved stormwater management plan with what was constructed. The Department may require additional information.
 - E. The Department shall submit notice of construction completion to the Administration on a form supplied by the Administration for each structural stormwater management practice within 45 days of construction completion. The type, number, total drainage area, and total impervious area treated by all ESD techniques and practices shall be reported to the Administration on a site by site basis. If BMPs requiring SCD approval are constructed, notice of construction completion shall also be submitted to the appropriate SCD.
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ARTICLE IX
Maintenance

§ 123-23. Maintenance Inspection

- A. The Department shall ensure that preventative maintenance is performed by inspecting all ESD treatment systems and structural stormwater management measures. Inspection shall occur during the first year of operation and at least once every 3 years thereafter. In addition, a maintenance agreement between the owner and the Department shall be executed for privately owned ESD treatment systems and structural stormwater management measures as described in Section 123-24 of this article.
- B. Inspection reports shall be maintained by the Department for all ESD treatment systems and structural stormwater management systems.
- C. Inspection reports for ESD treatment systems and structural stormwater management systems shall include the following:
 - (1) The date of inspection;
 - (2) Name of inspector;
 - (3) An assessment of the quality of the stormwater management system related to ESD treatment practice efficiency and the control of runoff to the MEP;
 - (4) 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 stormwater management system.

(5) Description of needed maintenance.

- D. After notification is provided to the owner of any deficiencies discovered from the inspection of ESD treatment systems and structural stormwater management measures, the owner shall have 30 days, or other time frame mutually agreed to between the Department and the owner, to correct the deficiencies. The Department shall conduct a subsequent inspection to ensure completion of the repairs.
- E. If repairs are not undertaken and completed, or are not found to be done properly, enforcement procedures following Section 123-24 C of this Ordinance shall be followed by the Department.
- F. If, after an inspection by the Department, the condition of a stormwater management facility presents an immediate danger to the public health or safety because of an unsafe condition, improper construction or improper maintenance, the Department 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(s), as provided in Section 123-24 C of this Ordinance.

§ 123-24. Maintenance Agreement

- A. Prior to the issuance of any building permit for which stormwater management is required, the Department shall require the applicant or owner to execute an inspection and maintenance agreement binding on all subsequent owners of land served by a private stormwater management facility. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the Department or its authorized representative to ensure that the facility is maintained in proper working condition to meet design standards.
- B. The agreement shall be submitted to the Department by the applicant and/or owner and recorded by the Department in the Land Records of Calvert County.
- C. The agreement shall also provide that, if after notice by the Department to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within a reasonable period of time (30 days maximum), the Department may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties. This may be accomplished by placing a lien on the property, which may be placed on the tax bill and collected as ordinary taxes by the County.

§ 123-25. Maintenance Responsibility

- A. The owner of a property that contains private stormwater management facilities installed pursuant to this Ordinance, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all ESD practices, grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures, and other protective devices in perpetuity. Such repairs or restoration and maintenance shall be in accordance with previously approved or newly submitted plans.

- B. A maintenance schedule shall be developed for the life of any structural stormwater management facility or system of ESD practices and shall state the maintenance to be completed, the time period for completion, and the responsible party what will perform the maintenance. This maintenance schedule shall be printed on the approved stormwater management plan.

ARTICLE X
Illicit Discharge and Connections

§ 123-26. Prohibition of Illegal Discharges

- A. No person shall discharge or cause to be discharged into the municipal storm drain system, watercourses, or environment any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.
- B. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:
- (1) Discharges from the following activities will not be considered a source of pollutants to the storm drain system and to waters of the U.S. when properly managed to ensure that no potential pollutants are present, and therefore they shall not be considered illegal discharges unless determined to cause a violation of the provisions of the Clean Water Act, or this ordinance: water line flushing, uncontaminated pumped groundwater and other discharges from potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, foundation or footing drains (not including active groundwater dewatering systems) which are not causing an erosive condition or contaminated with process materials such as solvents, crawl space pumps, air conditioning condensate, springs, residential and non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), firefighting activities, uncontaminated street wash waters, and any other water source not containing Pollutants.
 - (2) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety other non-storm water discharges which are not a source of pollutants to the storm drain system nor waters of the U.S.
 - (3) Dye testing is an allowable discharge.
 - (4) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the State of Maryland under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.
 - (5) The following discharges are also prohibited:
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- (a) Wastewater from the washout of concrete, unless managed by an appropriate control in accordance with the 2011 Standards and Specification for Soil Erosion and Sediment Control or any updated standards issued by MDE.
 - (b) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials.
 - (c) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance.
 - (d) Soaps or solvents used in vehicle and equipment washing.
- C. A person must not improperly store, handle, or apply any pollutant in a manner that will cause its exposure to rainfall or runoff and discharge as point pollution or nonpoint source pollution into waters of the state in the County except in concentrations and quantities authorized by and approved National Pollutant Discharge Elimination System discharge permit or by a plan for compliance, or as results from approved best management practices.

§ 123-27. Prohibition of Illicit Connections

- A. A person must not connect any apparatus discharging any pollutant, in any quantity, to any part of the waters of the state in the County except as explicitly authorized by an approved National Pollutant Discharge Elimination System discharge permit or by a plan for compliance, or as results from approved best management practices.
- B. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- C. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- D. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage or other pollutant to the MS4 or allows such a connection to continue.

§ 123-28. Waste Disposal Prohibitions

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system, or water of the U.S., any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition. Proper waste receptacles shall be covered and free of wholes.

§ 123-29. Watercourse Protection

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse

§ 123-30. Industrial or Construction Activity Discharges

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Public Works Director prior to or as a condition of a subdivision plat, site plan, building or grading permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

A person who is the operator of a facility commits an offense if the person discharges, or causes to be discharged, storm water associated with industrial activity without first having obtained a NPDES permit to do so.

A facility shall be operated in strict compliance with the requirements of its NPDES permit to discharge storm water associated with industrial activity.

A person commits an offense if the person operates a facility in violation of a requirement of the facility's NPDES permit to discharge storm water associated with industrial activity.

§ 123-31. Control of Water Quality

A. The Director must regulate waters of the state in the County according to state water quality standards and designated water uses set forth in state regulations.

B. The Director may order:

- (1) The abatement of any discharge and correction of any pollution of waters of the state in the County; and
- (2) The abatement and correction of any degradation of riparian habitat and aquatic life, caused by a failure to design, install, operate, or maintain sediment control, stormwater management, or agricultural best management practices in accordance with an approved sediment control plan, stormwater plan, sediment control permit, Soil Conservation and Water Quality Plan, or plan for compliance.

C. Best management practices used to comply with this ordinance must be designed, installed, operated, and maintained in accordance with sediment control plans, stormwater

management plans, or sediment control permits approved by the Department or the District. Agricultural best management practices must be designed, installed, operated, and maintained in accordance with Soil Conservation and Water Quality Plans approved by the District.

§ 123-32. Requirement to Remediate

Whenever the Director finds that a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollution of storm water, the storm drain system, or the environment, the Director may require by written notice to the owner of the property and/or the responsible person that the pollution be remediated and the affected property restored within a specified time.

§ 123-33. Notification of Spills

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. from said facility, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of a hazardous material said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). In the event of a release of non-hazardous materials, said person shall notify the Department in person or by phone no later than 4:00 p.m. of the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Department within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, including construction activity, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§ 123-34. Inspection and Monitoring of Discharges

A. Applicability

- (1) This section applies to all facilities within the County that have storm water discharges associated with industrial activity, including construction activity;
- (2) Potential illicit discharges visible from public property or spaces; or
- (3) Potential illicit discharges reported to the Department.

B. Whenever necessary to make an inspection to enforce any provision of this Ordinance, or whenever the Director has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Ordinance, the Director may

enter such premises at all reasonable times to inspect the same and to inspect and copy records related to storm water compliance.

- C. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Department.
- D. Facility operators shall allow the Department ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
- E. The Department shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.
- F. The Department has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- G. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Department and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- H. Unreasonable delays in allowing the Department access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
- I. If the Department has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

§ 123-35. Enforcement

- A. Notice of Violation.

Whenever the Director finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the Department may order compliance by written notice of violation to the responsible person via certified mail. Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- (5) Payment of a fine to cover administrative and remediation costs; and
- (6) The implementation of source control or treatment BMPs.
- (7) In addition to any other remedy allowed by law, the Department may seek injunction or other appropriate judicial relief to prevent or stop any violation of this Ordinance.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the Department or their representative and the expense thereof shall be charged to the violator.

B. Compliance.

- (1) A person who has submitted a plan for compliance that has been approved by the Director is not in violation of this Ordinance as long as the person acts in accordance with the plan for compliance.
- (2) Each day a violation continues shall be a separate offense.
- (3) The Director may issue a stop work order to any person who violates this Ordinance when performing activities authorized by a building permit or grading permit.

§ 123-36. Violations Deemed a Public Nuisance

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

§ 123-37. Acts Potentially Resulting in a Violation of the Federal Clean Water Act

Any person who violates any provision of this Article or any provision of any requirement issued pursuant to this chapter, may also be in violation of the Clean Water Act and may be subject to the sanctions of those acts including civil and criminal penalties. Any enforcement action authorized under this Ordinance shall also include written notice via certified mail to the violator of such potential liability.

§ 123-38. Suspension of MS4 Access

A. Emergency Cease and Desist Orders

When the Director finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Director may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

- (1) Immediately comply with all ordinance requirements; and
- (2) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Director may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The Director may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Director within 3 days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

B. Suspension due to Illicit Discharges in Emergency Situations

The Director may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Director may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

C. Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Director will notify a violator of the proposed termination of its MS4 access. The violator may petition Director for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Director.

ARTICLE XI
Miscellaneous

§ 123-40. Appeals

Any person aggrieved by the action of any official charged with the enforcement of this Ordinance, as the result of the disapproval of a properly filed application for a permit, issuance of a written notice of violation, or an alleged failure to properly enforce this Ordinance in regard to a specific application, shall have the right to appeal the action to the Board. The appeal shall be filed in writing within 30 days of the date of official transmittal of the final decision or determination to the applicant, shall state clearly the grounds on which the appeal is based.

Any party adversely affected by a decision of the Board may appeal to the Circuit Court of Calvert County in the manner set forth in the Annotated Code of Maryland within 30 days of the date of official transmittal of the final decision or determination to the applicant.

§ 123-41. 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 of this Ordinance. It is the intent of the Board that this Ordinance shall stand, even if a section, subsection, sentence, clause, phrase, or portion may be found invalid.

§ 123-42. Violations and 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 1 year or both for each violation with costs imposed in the discretion of the court and not to exceed Fifty Thousand Dollars (\$50,000.00). Each day that a violation continues shall be a separate offense. In addition, the Board may institute injunctive, mandamus or other appropriate action or proceedings of law 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.

§ 123-43. Effective Date

This Ordinance shall take effect May 4, 2010. For projects submitted before May 4, 2010, or the enactment date of this Ordinance where stormwater management is addressed or approved under the previous guidelines, that approval shall remain valid if a grading permit is issued within one year of the effective date of approval of the stormwater management concept otherwise the new Ordinance will prevail.