

Ordinance No. 13-10 ORDINANCE: To amend Chapter 19 of the Rockville City Code, Entitled "Sediment Control and Stormwater Management" so as to comply with the requirements of the Maryland Stormwater Management Act of 2007 by requiring stormwater management plans to implement Environmental Site Design to the maximum extent practicable and creating a comprehensive procedure for review and approval of stormwater management plans; providing for, among other things, a more detailed description of enforcement actions, maintenance and inspection of stormwater management systems, a more refined system of Stormwater Management Utility Fee credits; and to further amend Chapter 19 by adding certain new definitions, and by generally revising and amending the provisions of Chapter 19 of the Rockville City Code.

WHEREAS, state law instructs the Mayor and Council to adopt a local ordinance requiring that stormwater management plans implement Environmental Site Design to the maximum extent practicable in conformance with the provisions of the Maryland Stormwater Management Act of 2007, Md. Code Ann. Env. §§4-201, 203.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, that Chapter 19 of the Rockville City Code, entitled "Sediment Control and Stormwater Management" is hereby repealed and reenacted in part and amended in part to read as follows:

SECTION 1. That Article 1, "In General," is hereby repealed and reenacted with amendments as follows:

**CHAPTER 19****SEDIMENT CONTROL AND STORMWATER MANAGEMENT****ARTICLE I. IN GENERAL****Sec. 19-1. Purpose and Authority.**

(a) The purpose of this Chapter is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements, procedures, and maintenance responsibilities that control the adverse impacts associated with increased stormwater runoff, sedimentation, grading and other land disturbing activities. The goal of this Chapter is to maintain the predevelopment runoff characteristics of land after development, and to reduce stream channel erosion, pollution, siltation and sedimentation, and flooding. These goals will be achieved by identifying and assessing the natural characteristics on a site, and then using Environmental Site Design to the maximum extent practicable and appropriate Structural Stormwater Management Practices when necessary. Proper management of development-related stormwater runoff and construction-related erosion will restore, enhance, and maintain the chemical, physical, and biological integrity of streams and other natural resources, minimize damage to public and private property, and reduce the impacts of land development.

(b) This Chapter satisfies the minimum requirements of Environment Article, Title 4, Subtitles 1 and 2, Annotated Code of Maryland, 2009 replacement volume, pertaining to Stormwater Management and Sediment Control.

(c) This Chapter also establishes a system of charges in accordance with Section 4-204(d), Environmental Article, Annotated Code of Maryland, as amended, to adequately and equitably finance the City's stormwater management, storm drainage, and water resources programs.

**Sec. 19-2. Definitions.**

For the purposes of this Chapter, and any regulations established hereunder, certain words and terms used herein are defined as follows:

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

*Alternative Surface* means any surface discussed in section 5.3 of the Design Manual. For the purposes of this Chapter, such surfaces are considered to be both Impervious Area and Stormwater Management Systems.

*Applicant* means any person, firm, or governmental agency who executes the necessary forms to procure official approval of a Development Project or a permit to

carry out construction of a Development Project.

Approval means a documented action by a reviewing body following a review to determine and acknowledge the sufficiency of submitted material to meet the requirements of a specified stage in the City of Rockville's development review process.

*Approved Plan* means, depending on the context in which the term is used, a Pre-application Stormwater Management Concept, a Development Stormwater Management Concept, Stormwater Management Construction Plan or Sediment Control Construction Plan approved by the Rockville Department of Public Works as being adequate to meet the requirements of this Chapter.

*Approving Agency* means the Department of Public Works of the City of Rockville.

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

*Assessment Roll* means the official listing of assessments of real property maintained by the Maryland State Department of Assessments and Taxation.

*Builder* means a general contractor or subcontractor who performs Land Disturbing Activities.

*Building* means any structure that is built with walls and a roof.

[[*Best Management Practice* means a structural device or Environmental Site Design Practices practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce pollution and recharge the water table.]]

*Channel Protection Storage Volume (Cpv)* means stormwater management of the runoff volume to provide 1-year, 24-hour extended detention control in the Stormwater Management System to minimize stream channel erosion. Methods for calculating the channel protection storage volume are specified in the Design Manual.

*City* means the Mayor and Council of Rockville, a municipal corporation of that name chartered by the state. When appropriate, the term also refers to the legal boundaries of such municipal corporation and the land within it.

*City Attorney* means the City Attorney for the City of Rockville, or any authorized representative.

*City Manager* means the City Manager for the City of Rockville, or any authorized representative.

*City Waterway* means Watts Branch, Rock Creek, Cabin John Creek and any of their named and unnamed tributaries as well as other streams, brooks, creeks, ponds, lakes, impoundments, springs, seeps, marshes, swamps, bogs, wetlands, ditches, channels, canals, conduits, culverts, drains, gullies, ravines or washes, including any adjacent area that is subject to periodic inundation from overflow or flood water, whether natural or man-made, located in whole or in part within the boundaries of the City of Rockville, Maryland. City waterways include waterways with intermittent flows.

*Clearing* means the removal of trees and brush from the land but does not include the ordinary mowing of grass.

*Common Area* means any land owned by a Homeowners Association or any similar organization.

*Community Association* means a mandatory membership organization created for the maintenance of commonly owned real estate and improvements where the members

are required to adhere to a set of rules and the payment of assessments. Community Associations typically pertain to residential developments where they are commonly referred to as homeowners' associations (HOA), they may also include commercial or office developments, or any combination thereof.

*Condominium* means a residential property that is subject to a condominium regime established under the Maryland Condominium Act.

*Conveyance* means, depending on the context in which it is used, either the transfer by deed in a form approved by the City Attorney, of a fee simple title in land at no cost to the City or *Conveyance* means the process of safely carrying Stormwater through Storm Drainage, Streams, Stormwater Management System or other means.

*Department* means the Department of Public Works of the City of Rockville.

*Design Manual* means the 2000 Maryland Stormwater Design Manual, Volumes I and II (Maryland Department of the Environment, April 2000), Supplement I and all subsequent revisions, that serves as the official guide for stormwater management principles, methods, and practices, except where altered by this Chapter, its regulations or Department guidance.

*Developer* means a person undertaking any or all the activities covered by this Chapter, or for whose benefit such activities are commenced or carried on. General contractors and subcontractors without a proprietary interest in the development are not included within this definition.

*Development* means any construction, alteration, grading or improvement occurring on a specific area of land. Unless where the context indicates otherwise, the term *Development* includes Redevelopment.

*Development Project* means a project for the grading or construction of buildings, structures, paving, utilities or other improvements, or components thereof, upon a defined area of land consisting of one (1) or more lots, tracts or parcels to be developed or redeveloped as an integrated whole.

*Development Stormwater Management Concept* means the second of three required approvals that includes the information necessary to allow a detailed evaluation of a proposed Development Project for its conformity with this Chapter.

*Director* means the Director of the Department of Public Works or the Director's authorized representative.

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

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

*Environmental Guidelines* means the latest adopted version of the City of Rockville's Environmental Guidelines.

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

*Environmental Site Design Practices* means the Alternative Surfaces, Nonstructural Practices and Micro-Scale [[stormwater management p]]Practices described in Chapter 5 of the Design Manual.

*Equivalent Residential Unit (ERU)* means the statistical median impervious surface measurement associated with an improved single unit detached dwelling residential lot in the City that serves as the base unit of assessment for the Stormwater Management Utility Fee. The designated Equivalent Residential Unit for the City is two thousand three hundred thirty (2,330) square feet of impervious surface measurement.

*Equivalent Residential Unit Rate (ERU Rate)* means the fee amount established by the Mayor and Council that when multiplied by the number of ERUs on a parcel, derives the annual Stormwater Management Utility Fee.

*Erosion* means the process by which the ground surface is worn by the action of wind, water, ice or gravity.

*Erosion and Sediment Control* [[Measures]] means a system of structural and vegetative measures that minimize soil erosion and sediment transport.

*Excavation* means any act, or the conditions resulting therefrom, by which soil, earth, sand, gravel, rock or similar material is, removed cut into, dug, quarried, uncovered, displaced or relocated.

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

*Existing Condition* means, for the purpose of calculating  $C_p$  and  $Q_{P10}$ , the hydrologic conditions for the current land use cover on a piece of land.

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

*Extreme Flood Volume ( $Q_f$ )* means the storage volume required to control those infrequent but large storm events in which overbank flows reach or exceed the boundaries of the 100-year floodplain.

*Floodplain* means, depending on the context:

- (1) Any drainage area for more than 30 acres of land;
- (2) A relatively flat or low land area adjoining a City Waterway which is subject to partial or complete inundation by the storm occurring, on average, once every one hundred (100) years;
- (3) An area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

*Flow Attenuation* means prolonging the flow time of runoff to reduce the peak discharge.

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

*Grubbing* means tree stump and root removal.

*Impervious Area* means an area covered by compacted soil, gravel, paving, structures or other features that prevent, restrict, or inhibit the downward passage of stormwater into the underlying soil. Impervious area includes that portion of the land surface covered by an elevated structure, such as a bridge or deck, regardless of whether

the land surface itself remains pervious or impervious. For the purposes of calculating Stormwater Management Utility Fees, Impervious Area also includes the "Alternative Surfaces" discussed in Section 5.3 of the Design Manual, even if such surfaces allow stormwater to infiltrate into the underlying soil.

*Impervious Surface Measurement* means, for purposes of Article VI of this Chapter, the number of square feet of horizontal impervious area.

*Improved Single Unit Detached Dwelling Lot* means a parcel, regardless of zoning, improved with a single detached residential dwelling. This term includes dwellings that are modified to include an accessory apartment approved by Special Exception. This term does not include the following: parcels improved with townhouses, or other semi-detached or attached dwelling units, or multi-unit dwellings; residentially zoned parcels not used for residential purposes or any common area owned by a community association or similar entity.

*Improved Townhouse or Semi-Detached Dwelling Lots* means a parcel, regardless of zoning, improved with an existing single townhouse or semi-detached residential dwelling. This term does not include residentially zoned parcels not used for residential purposes, or any common area owned by a Community Association or similar entity.

*Infill* means development on a site surrounded by existing development and served by an improved storm drainage system.

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

*Land Disturbing Activity* means any earth movement or land use changes which may result in soil erosion or the movement of sediments into a City Waterway or onto other lands, including but not limited to, grading, clearing, and related activities.

*Maximum Extent Practicable (MEP)* means designing Stormwater Management Systems so that all reasonable opportunities for using Environmental Site Design planning techniques and treatment practices are exhausted and only where necessary, a Structural Stormwater Management Practice is implemented.

*Mayor and Council* means the Mayor and Council of Rockville, Maryland.

*NRCS* means the Natural Resources Conservation Service of the United States Department of Agriculture. The Natural Resources Conservation Service is a federal agency that reviews and approves the technical design of small ponds in certain cases in conjunction with the Montgomery Soil Conservation District and in addition to the Department.

*Off-site Stormwater Management* means the design and construction of a Stormwater Management System necessary to control stormwater from a development but not located within the development

*On-site Stormwater Management* means the design and construction of systems necessary to control stormwater within an immediate development.

*Other Improved Lot*, for purposes of Article VI of this Chapter, means any improved lot or parcel in the City that is not an improved single unit dwelling detached lot or an improved townhouse or semi-detached dwelling lot. This includes, but is not limited to, condominium properties, common areas owned by a homeowners' association, multi-family dwellings, commercial properties, industrial properties, parking lots, hospitals, schools, government buildings, recreational and cultural facilities, hotels, offices, and places of worship.

*Overbank Flood Protection Volume* ( $Q_{p10}$ ) means stormwater management of the runoff volume to provide ten-year post-development discharge detained to ten-year pre-development discharge control by structural practices to prevent an increase in the frequency of out-of-bank or storm drain surcharge flooding generated by development. Methods for calculating the Overbank Flood Protection Volume are specified in the Design Manual.

*Owner* means the owner, owners, lessee, or other agent in control of a property on which development is, will be, or has been done.

*Permit* means either a Stormwater Management Permit, Sediment Control Permit, Public Works Permit, or Building Permit, as may be appropriate within the context of the specific provision of this Chapter.

*Person* means the federal government, the State of Maryland, 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 individual, partnership, company, firm, association, nonprofit organization, public or private corporation, or any other legally recognized entity.

*Planning Techniques* means a combination of strategies employed early in Development Project design to reduce the environmental impact from development and to incorporate natural features into a stormwater management plan.

*Post-Developed Conditions* means hydrologic conditions projected for the site after the approved development has occurred.

*Pre-Application Stormwater Management Concept* means the first of three required approvals that includes the information necessary to allow a preliminary evaluation of a proposed Development Project and its conformance with this Chapter.

*Pre-Developed Conditions* means hydrologic conditions for land under meadow or forest cover prior to development.

*Private Storm Drainage* means a the system that is not maintained by the City of storm drain pipes, inlets, outlets, structures, channels, swales and drainage easements through which stormwater is collected and conveyed to a watercourse [which is not maintained by the City].

*Private Stormwater Management System* means any Stormwater Management System serving one (1) or more properties that is not structurally maintained by the City.

*Professional Engineer* means an engineer duly licensed by the State of Maryland to practice professional engineering in accordance with provisions of Article 75 1/2 of the Annotated Code of Maryland (1957 Edition, as amended), and as may hereafter be amended.

*Professional Land Surveyor* means a land surveyor duly licensed by the State of Maryland to practice professional surveying in accordance with provisions of Article 75 1/2 of the Annotated Code of Maryland (1957 Edition, as amended), and as may hereafter be amended.

*Public Stormwater Management System* means a Stormwater Management System that is operated and structurally maintained by the City, whether it is located on publicly or privately-owned land.

*Qualified Preparer* means, in the case of stormwater management plans, a

Professional Engineer unless otherwise defined by the regulations, and in the case of sediment control plans, a Professional Engineer, Professional Land Surveyor, Registered Landscape Architect or Licensed Architect, all duly licensed by the State of Maryland, or other person approved by the Department as qualified.

*Recharge Volume* ( $Re_v$ ) means that portion of the water quality volume used to maintain groundwater recharge rates at a site. Methods for calculating the Recharge Volume are specified in the Design Manual.

*Redevelopment* means any construction, alteration, grading or improvement performed on a site with existing completed commercial, industrial, institutional or multi-family residential land uses and existing site impervious area exceeds 40 percent. This term does not include subsequent phases of a multi-phase development.

*Regional Stormwater Management System* means a public or private Stormwater Management System that serves multiple properties.

*Regulations* means the regulations to implement the provisions of this Chapter adopted by the Department and approved by the Mayor and Council.

*Responsible Personnel* means any person, regardless of title, who is in charge of Land Disturbing Activities.

*Retrofitting* means the construction of a new, or the modification of an existing Stormwater Management System[[Practice]] in a previously developed area.

*Runoff* means water from storm events that flows across a site without infiltrating into the ground.

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

*Sediment Control Construction Plan* means a drawing and other documents pertaining to minimizing erosion and preventing off-site sedimentation, which contains all information necessary to support a Sediment Control Permit.

*Sediment Control Permit* means the permit issued by the Department authorizing land-disturbing activities in accordance with the provisions of this Chapter.

*Site* means any tract, lot, or parcel of land, or combination of tracts, lots, parcels of land that are in common ownership, or are contiguous and in diverse ownership, where development is to be performed as part of a unit, subdivision, or Development Project.

*Slope* means:

(1) The inclined exposed or vegetated slope of a fill, excavation, or natural terrain; or

(2) The steepness of a surface, expressed in terms of the ratio of horizontal distance to vertical rise, or in terms of percentage of that ratio.

*Soil* means any earth, sand, gravel, rock or other similar material.

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

*Standards* means the laws, regulations, and guidance relating to Stormwater Management and [[Sediment and ]]Erosion and Sediment Control that may now or hereafter be established or adopted by the Department or the Administration.

*Stop Work Order* means an order by the Department to cease all grading and construction work on a Development Project until permit violations have been corrected.

Work necessary to correct the violation or to protect against damage to the site or City Waterways is allowed.

*Storm Drainage* means the system of storm drain pipes, inlets, outlets, structures, channels, swales and drainage easements through which stormwater is conveyed to Stormwater Management Systems and City Waterways.

*Stormwater* means water that originates from a precipitation event.

*Stormwater Management* means any measure designed to manage, treat, control, or mitigate surface runoff from storms, including but not limited to Stormwater Management Systems, nonstructural stormwater management practices, and better site planning techniques.

*Stormwater Management Alternatives* means measures approved by the City in lieu of on-site stormwater management to provide equivalent stormwater management benefits or mitigate the effects of uncontrolled stormwater.

*Stormwater Construction Plan* means a drawing and other documents pertaining to a Stormwater Management System or other watershed improvement that contain all information necessary to support a Stormwater Management Permit.

*Stormwater Management Fund* means a dedicated enterprise fund established and maintained by the City to support the City's stormwater management, storm drainage, and related water quality programs and services.

*Stormwater Management Permit* means the last of three required approvals that includes the information necessary to allow all approvals and permits to be issued by the Department in accordance with the City's stormwater management requirements.

*Stormwater Management, Quality Control* means a system of vegetative, structural, or other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff by managing Water Quality Volume or the Recharge Volume, or by other measures as may be approved by state law or regulation.

*Stormwater Management, Quantity Control* means a system of vegetative or structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land by managing Channel Protection Storage Volume, Overbank Flood Protection Volume, or Extreme Flood Volume, or by other measures as may be approved by state law or regulation.

*Stormwater Management System* means a single, or a group of, Environmental Site Design Practices or Structural Stormwater Management Practices used to control or treat stormwater runoff to mitigate flooding and erosion or reduce pollution. It includes all land, materials, outfalls, inlets, drainage pipes and appurtenances used in construction and operation of the system.

*Stormwater Management Utility Fee* means a fee charged by the City based on a property's impervious surface measurement to support the City's stormwater management, storm drainage, and water quality programs and services.

*Stream Buffer* means the area of a perennial or intermittent stream and the land adjacent to the stream as defined by Section 23.5-1 of the Water Quality Protection Ordinance (2007).

*Stream Restoration* means implementation of techniques to stabilize and repair streambank erosion, [[channel enhancement]] enhance the channel, improve aquatic habitat and protect natural features near the stream banks.

*Structural Maintenance* means the periodic inspection, construction, reconstruction, maintenance, modification or repair of any part of a Stormwater Management System to ensure that the system remains in proper working order to serve its intended purpose.

*Structural Stormwater Management Practice* means constructed stormwater management methods, including but not limited to ponds, wetlands, infiltration systems, filtering systems, open channel systems, and underground storage systems, that are designed to meet the requirements in Chapter 3 of the Design Manual.

*Unimproved Lot* means any parcel, regardless of zoning or land use, that has less than one hundred (100) square feet of impervious surface measurement.

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

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

*Watershed Improvements* mean the implementation of structural or Environmental Site Design Practices to protect water quality, improve aquatic habitat, or reduce stream erosion. Such improvements may include stream restoration, fish passage barrier removal, wetland enhancement or other measures as approved by the Department.

*Water Quality Program* means programs the City undertakes to improve, restore, and maintain City Waterways and the wildlife habitat therein.

*Water Quality Protection Ordinance* means Chapter 23.5 of the Rockville City Code.

*Water Quality Volume Control (WQ<sub>v</sub>)* means stormwater management of the volume needed to capture and treat the runoff from ninety (90) percent of the average annual rainfall on a site. Methods for calculating the Water Quality Volume are specified in the Design Manual.

*Wetland* means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

### **Sec. 19-3. Exemptions.**

(a) The stormwater management provisions of this Chapter and the regulations do not apply to the following development projects:

- (1) Agricultural land management activities;
- (2) Land development activities that the Administration determines will be regulated under specific state laws, which provide for managing stormwater runoff, or
- (3) Land disturbing activity not designated in Section 19-49 of this Chapter.

(b) [[ (2) ]] The erosion and sediment control provisions of this Chapter and the regulations do not apply to work performed by a utility contractor under a Washington Suburban Sanitary Commission utility sediment control permit which has been issued to

the contractor pursuant to rules and regulations adopted by the Commission under Title 4, Subtitle 1, Environmental Article of the Annotated Code of Maryland.

(c) ~~[[b]]~~ Except as otherwise provided, the stormwater management utility fee provisions of this Chapter and the Regulations apply to all real property in the City, including government owned real property and real property that is tax exempt from property tax by Title 7 of the Tax Property Article of the Annotated Code of Maryland, as amended.

**Sec. 19-4. Interpretation.**

The requirements contained herein are minimum requirements that are imposed and are to be conformed to and are in addition to, and not in lieu of, all other legal requirements. These requirements must be liberally construed to accomplish the purposes set forth herein.

**Sec. 19-5. Severability.**

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

**Secs. 19-6. through 19-10. Reserved.**

SECTION 2. That Article II, "Administration," is hereby repealed and reenacted with amendments as follows:

**ARTICLE II. ADMINISTRATION**

**DIVISION 1. ADMINISTRATION**

**Sec. 19-11. Department of Public Works.**

(a) The Department, under the supervision of its Director, will administer the provisions of this Chapter, and will have such other powers and perform such other duties as are set forth in other sections of this Chapter and the Regulations and as may be conferred or imposed from time to time.

(b) The Department may exercise such inspection and enforcement authority for erosion and sediment control as is delegated to it by the Administration. If this authority is not delegated to the Department, the Administration shall retain such authority in accordance with COMAR 26.17.01.

(c) The Department must adopt regulations for the implementation of the provisions of this Chapter, which will take effect upon approval by resolution of the Mayor and Council. Said regulations may incorporate by reference appropriate federal, state, or local government documents.

(d) The Department may develop guidelines, by whatever title, for the implementation of this Chapter and the adopted resolutions.

**Sec. 19-12. Mayor and Council.**

The Mayor and Council will by resolution:

- (1) Establish all fees deemed necessary to cover the cost of administering the provisions of this Chapter, including but not limited to concept fees, permit fees, inspection fees, and plan review fees.
- (2) Establish the schedule for stormwater management monetary contributions pursuant to the provisions of Section 19-62 of this Chapter regarding Stormwater Management Alternatives.
- (3) Establish the Equivalent Residential Unit Rate to be used for calculating the Stormwater Management Utility Fee.
- (4) Approve regulations adopted by the Department.

**DIVISION 2. ENFORCEMENT AND PENALTIES**

**Sec. 19-13. Inspections.**

(a) All work performed pursuant to a permit issued pursuant to this Chapter will be periodically inspected for compliance with the terms and conditions of the permit, approved supporting plans, this Chapter, and the regulations. The inspection will be performed by the Department or its authorized representative who must certify the work's compliance.

(b) The Department may, after proper identification, enter any private property being developed, business, commercial premises or multi-family dwelling at any time when construction, operation or business is occurring, to determine whether this Chapter or any permits issued under this Chapter are being complied with.

(c) In emergency situations where there is an immediate threat or hazard to public health, safety or the environment, the Department may, at any time, and after such identification as may be reasonable under the circumstances, enter any premises without further notice.

(d) The Owner of the premises must allow the Department ready access to all parts of the premises for the purposes of observation, inspection, and sampling, and examination and copying of records relating to compliance with this Chapter or any permit issued thereunder.

(e) If the Owner withholds or withdraws consent to enter or remain on private property, the Department may obtain an administrative or criminal search warrant, as may be applicable, from a court with jurisdiction to authorize such entry, except that entry may be made without a search warrant where there are conditions on the premises that represent an immediate hazard to public health or safety or such other exigent circumstances exist that justify a warrantless search under the law.

(f) Any temporary or permanent obstruction that in whole or in part prevents safe access to a Stormwater Management System to be inspected must be promptly removed by, and at the expense of, the Owner upon the written or verbal request of the Department and may not be replaced.

(g) Any person who makes a false statement or report to the Department shall be deemed to have committed a separate violation of this Chapter for each such false report.

(h) The Department will issue written notification of any violations to either the Owner, on-site personnel, Applicant, or other appropriate person describing the nature of the violation and the required corrective action.

(i) The Department may require additional engineering design or construction to bring the site into compliance with the approved permit or relevant law or regulation.

**Sec. 19-14. Violations.**

(a) The following are violations of this Chapter:

- (1) Failure to comply with any provision of this Chapter or the regulations.
- (2) Failure to comply with the terms or conditions of any permits issued, agreements executed, or plans approved pursuant to this Chapter.
- (3) Failure to comply with the terms of any order, notice, or directive of the Department to stop work or to take corrective action.

(b) Each day that a violation continues constitutes a separate and repeat violation.

(c) Unless otherwise provided, a violation of this Chapter constitutes a municipal infraction for which a municipal infraction citation may be issued under section 1-9 of the Rockville City Code.

**Sec. 19-15. Enforcement Responses, Corrective Actions and Penalties.**

(a) When a violation of this Chapter is identified, the Department may, in its sole discretion, take any or all of the following actions against the person(s) causing the violation:

(1) Administrative orders and fines

a. Issue an abatement order to the person responsible for a violation to abate and eliminate the violation at the responsible person's own expense.

b. Issue a stop work order requiring all construction, business operation, and other activities relating to the violation to be halted until the violation is corrected to the satisfaction of the Department. Work necessary to correct the violation is allowed.

c. Issue a Compliance Order establishing a specific schedule for achieving compliance with monitoring and sampling requirements, management practices, pollution prevention practices, watershed improvements, treatment approaches, the abatement of pollution, the repair of any damages to Rockville infrastructure, additional monitoring requirements, and other corrective actions established in the order as the Department deems necessary. Any records, including sampling results, measurements, photos, videos, and other documentation required to be generated by the compliance order will be retained and made available upon request by the Department for a period of no less than three (3) years.

d. Issue a directive or order imposing an administrative fine of \$1,000 per violation per day.

e. The issuance of any administrative order or fine under this section does not relieve liability for any previous or continuing violations, and issuance of the order will not bar the Department from pursuing additional action against a person in violation of this Chapter.

(2) Additional administrative remedies

a. The City may deny, suspend, or revoke any permit issued under this Chapter, Public Works Permits, Building Permits, Occupancy Permits, and any other permits related to the activity resulting in the violation or to the site on which the violation is occurring.

b. The City may withhold bonds or other securities if reasonable efforts to correct the violation have not been undertaken.

c. The City may withhold or reduce bonds or other securities to satisfy fines owed for violations of this Chapter and to recoup costs incurred by the City to correct violations of this Chapter.

d. Impose additional engineering design, permits or construction requirements to bring the site into compliance with the approved permit or relevant law or regulation, and may require a permit revision to accomplish this.

e. In lieu of, or in addition to, other corrective measures authorized by this Chapter, the Department and the person in violation may agree to pursue watershed improvements in lieu of paying some or all of the administrative fine.

(3) Judicial enforcement

a. Issue a municipal infraction citation imposing a fine of one thousand dollars (\$1,000.00) per violation per day.

b. Institute any appropriate civil or criminal action or proceeding to prevent, restrain, correct or abate any violation of this Chapter or any administrative orders or directives issued hereunder.

(4) Costs

a. Any person found to have violated this Chapter must reimburse the City for all costs associated with the inspection, sampling, analyses, abatement, and enforcement action resulting from the violation(s).

b. All fines, penalties, and costs owed to the City pursuant to this section may be reduced to a judgment, filed as a lien on the property of the person responsible for the violation, and added to the tax rolls for collection in the same manner as City taxes.

c. The penalties, fines, and costs recovered by the City will be deposited into the City Stormwater Management Fund.

(b) The remedies listed in this Chapter are not sequential or exclusive. The Department may take any, all, or any combination of these actions. Further, the Department may pursue any other remedies available under any applicable federal, state or local law.

(c) All decisions, findings, orders or directives issued by the Department pursuant to subsections (a)(1), (2) or (4) of this section, except for a final decision of the Department on an appeal, must contain a notice of the right to appeal set forth in section 19-18 of the Rockville City Code.

(d) When a permit issued pursuant to this Chapter is suspended or revoked or a stop work order is issued, the City may also suspend Public Works Permits, Building Permits and any other City permits related to the Sediment Control or Stormwater Management Permit and stop work on those permits until the violation is corrected to the satisfaction of the Department.

**Sec. 19-16. Stop Work Order, Permit Suspension and Revocation.**

(a) In addition to any other remedy, sanction or penalty provided in this Chapter, the Department has the authority to issue a stop work order, suspend or revoke any permit issued under this Chapter for any of the following reasons:

- (1) Any violation(s) of the conditions of a permit issued under this Chapter;
- (2) Changes in site characteristics upon which an approval or modification of requirements was granted;

- (3) Excessive deviation from the approved construction plan in grading, construction methods or sequencing;
- (4) Any unsafe or unworkman-like condition;
- (5) Noncompliance with correction notice(s) or stop work order(s) issued for the construction of any stormwater management practice; and
- (6) The Department determines an immediate danger exists in a downstream area.

**Sec. 19-17. Additional Penalties and Remedies.**

(a) In addition to any other sanction, penalty or remedy provided for by this Chapter, the City may institute any enforcement measures authorized by state law for violations of stormwater management requirements or sediment control or refer any suspected violations to the appropriate state or federal agencies for enforcement.

(b) Pursuant to Section 4-215 (a) of the Environmental Article, Annotated Code of Maryland, as amended, any person violating the provisions of this Chapter is guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction is subject to a fine of not more than Ten Thousand Dollars (\$10,000.00) or imprisonment not exceeding 1 year or both for each violation with costs. Each day that a violation continues is a separate offense. In addition, the City of Rockville may institute injunctive, mandamus or other appropriate action or proceedings of law to correct violations of this Chapter. Any court of competent jurisdiction may issue temporary or permanent restraining orders, injunctions or mandamus, or other appropriate forms of relief.

(c) Civil action. Pursuant to Section 4-215 (c) of the Environmental Article, Annotated Code of Maryland, as amended, the City may bring a civil action against any person for any violation of this subtitle or any regulation or stormwater management plan adopted or approved under this Chapter. The action may seek the imposition of a civil penalty of not more than \$10,000 against the person, an injunction to prohibit the person from continuing the violation or both. For purposes of a civil action brought under this section, each day during which a violation continues constitutes a separate offense.

(d) In addition to any other sanction, penalty, or remedy provided for by this chapter, this Code, or by state law, any person who fails to install or maintain stormwater management measures or erosion and sediment controls in accordance with approved plans will be liable to the City for damages in an amount equal to double the cost of installing or maintaining the measures or controls. All damages recovered in accordance with this subsection must be deposited in the Stormwater Management Fund.

**Sec. 19-18. Appeals.**

(a) Any person aggrieved by any decision, finding, order, or directive of the Department may file an appeal therefrom in accordance with the following procedure.

(1) Any person wishing to appeal must, within five (5) business days of receiving written notice of any decision, finding, order, or directive, submit by certified mail to the Director a written request for reconsideration.

(2) If reconsideration is denied, the aggrieved person may within ten (10) business days thereof, submit by certified mail a written appeal of the Director's decision, finding, order, or directive to the City Manager. The City Manager may designate another individual to hear the appeal, provided that such designee had no significant involvement in the decision, finding, order, or directive from which the appeal is being taken.

(3) The decision of the City Manager or the City Manager's designee is a final decision from which an aggrieved party may appeal to the Circuit Court for the County in accordance with the Maryland Rules as set forth in Title 7, Chapter 200.

(b) The City Manager may establish procedures for administering this appeal process.

(c) The appeal process provided by this section is the exclusive and sole method of review of any such decision, finding, order, or directive issued pursuant to this Chapter. The failure of an aggrieved person to file an appeal in accordance with the provisions of this section will be deemed a waiver of these appeal rights and of the right to challenge the decision, finding, order, or directive in any other forum or in any other manner.

(d) While any request for reconsideration or appeal filed under this section is pending, no person charged with being in violation of this Chapter may continue to engage in the conduct alleged to violate this Chapter.

**Secs. 19-20 through 19-25. Reserved.**

SECTION 3. That Article III, "Permits," is hereby repealed and reenacted with amendments as follows:

**ARTICLE III. PERMITS**

**Sec. 19-26. Permits Required.**

No person may engage in any development activity covered by this Chapter without a Stormwater Management Permit or a Sediment Control Permit issued by the Department, as required by this Chapter and the regulations.

**Sec. 19-27. Fees.**

(a) Fees may be collected at each stage of stormwater management and sediment control review, approval, permitting, and inspection. Fees will provide for the cost of plan review, administration, and management of the permitting process, and inspection of all Development Projects subject to this Chapter. A fee schedule may be established by the Mayor and Council and may be amended from time to time. Unless otherwise

provided, all fees are non-refundable.

### **Sec. 19-28. Permit Application.**

(a) An application for a permit must be filed with the Department on forms supplied by the Department. A separate application is required for each permit, but a permit and application may cover any number of contiguous lots being developed as a single Development Project.

(b) Each permit application will be supported by the following:

- (1) Supporting plans and information required by this Chapter and the Regulations;
- (2) Required fees. Unless otherwise provided, all fees are non-refundable;
- (3) Required bonds or other securities;
- (4) Required agreements, maintenance plans, covenants, or easements;
- (5) Any other information and documentation that the Department may deem necessary.

(c) By filing a permit application, the Applicant gives implicit consent to the City, its staff and consultants, to enter upon the subject property during the review process.

### **Sec. 19-29. Permit Review and Issuance.**

(a) All supporting plans will be reviewed for compliance with this Chapter, the Regulations and any applicable state or federal law~~[[,]]~~. ~~[[no]]~~ No Stormwater Management or Sediment Control Construction Plan is deemed approved until signed and dated by the Director. No permit is issued until the Applicant receives a permit signed and dated by the Director.

(b) All easements, dedications and agreements, as may be required by the City, must be approved by the City Attorney and, where appropriate, recorded among the Land Records for Montgomery County by the Applicant prior to the issuance of the permit.

(c) All necessary state permits or approvals for work within a watercourse, 100-year floodplain, stream buffer as defined in Chapter 23.5 of the Rockville City Code, or a wetland or wetland buffer regulated by the state must be issued prior to issuance of the City's Sediment Control Permit and Stormwater Management Permit.

(d) An Applicant may not transfer a permit to another person without the written consent of the Department and the posting of a new security by the new Applicant.

(e) ~~[[No Stormwater Management or Sediment Control Construction Plan will be deemed approved until signed and dated by the Director. All supporting]]~~ Stormwater Management or~~[[and]]~~ Sediment Control Construction Plan approvals expire six months

after the plan approval date if the corresponding Stormwater Management Permit or Sediment Control Permit is not issued within that period. The Department may require plans to be revised to address changes in Standards before the plans are re-approved. No permit will be issued if supporting construction plans have expired.

#### **Sec. 19-30. Modification of Permit Requirements.**

At its sole discretion, the Director may grant a written modification of any requirement, standard, or specification of this ~~[[Chapter, excluding Article VI, Stormwater Management Fee,]]~~ Article if there are exceptional circumstances applicable to the site such that strict adherence will result in unnecessary hardship or not fulfill the intent of the Chapter. A written request must be provided to the Department stating the specific modifications sought and offering supporting justification. The Department will not grant a modification unless, and until, the Applicant provides sufficient justification.

#### **Sec. 19-31. Permit Denial.**

(a) No permit will be issued if the Department determines that the work proposed by the Applicant is likely to endanger any property or public right-of-way.

(b) If the land for which the land disturbing activity is proposed lies within the 100-year floodplain of any City Waterway, the Department will deny a permit except where such land disturbing activity is authorized by the Administration, if required, and a floodplain variance is obtained pursuant to the provisions of Chapter 10 of the Rockville City Code.

(c) Failure of the Department to observe or recognize hazardous conditions or failure to deny the permit will not relieve the permittee from the responsibility for the hazardous conditions or damages resulting therefrom and will not result in the City or its officers or agents being responsible for the damages resulting therefrom.

#### **Sec. 19-32. Permit Conditions**

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

#### **Sec. 19-33. Conditions of Permit Approval.**

(a) All permits and approvals are conditioned on the following:

SECTION 6(1) ~~That article with the approved Paris and Dwelling Code is hereby repealed and re-enacted and regulations standards for laws federal, state or local government agency, including any standards established by the Department and the Administration relating to erosion and sediment control stormwater management.~~  
**ARTICLE XVI ONE AND TWO FAMILY DWELLING CODE**

(2) The agreement and obligation of the Applicant to hold the City harmless from any expense incurred through the failure of the Applicant, or the Applicant's agents and servants, to complete any required erosion and sediment control or stormwater management measures, or from any damages growing out of the negligence of the Applicant or the Applicant's agents or servants;

**Sec. 5-96. Scope.**

(3) Proper operation and maintenance. The Applicant must properly operate and maintain all stormwater management systems and sediment control measures. This article shall govern the minimum requirements to safeguard the health, safety, and welfare of the public by regulating and controlling:

(a) ~~Duty to re-apply.~~ If the Applicant wishes to continue any activity regulated by a permit after the expiration date of the permit, the applicant must apply for an extension or a new permit.  
The design, construction, prefabrication, equipment or appliance installation,

(5) ~~Duty to mitigate.~~ The Applicant must take all reasonable steps to minimize or prevent any deterioration of dwellings and townhouses not more than three (3) stories in height with or without a loft per Section R101.2.1; and  
affecting human health or the environment.

b) (6) ~~New Construction, Additions and Alterations as defined in Section R202~~ Inspection and entry. The Applicant and the Applicant's agents and servants must grant access to the property to City staff and consultants at reasonable times for purposes of observation, inspection, to make copies of records, to take samples or alterations to existing buildings that do not meet the definition of New Construction or Addition, or any substances or parameters at any location on the property.  
New Construction as defined in Section R202 shall also comply with the provisions of Article XIV.

(7) ~~Duty to provide information.~~ The Applicant must furnish to the Director any information that the Director may request to determine whether cause exists for modifying or terminating the permit or to determine compliance with the permit.

**Sec. 5-97. 5-100. Reserved.**

(8) Reporting requirements. The Applicant must report the following to the Director in the ~~Division 2~~ **DIVISION 2 SPECIFICATIONS AND ENFORCEMENT**

**Sec. 5-101. International Residential Code for One and Two Family Dwellings - Adopted.**

ii. Changes to the permitted site conditions must be reported immediately.  
The International Code Council (ICC) International Residential Code for One and Two-Family Dwellings, 2009 Edition ~~is hereby adopted as the residential code for the City. This Chapter that the current situation has adopted shall be maintained by the City Clerk in the office of the Applicant and made available for inspection by the public during regular office hours. Any amendment or change in such publication promulgated by the International Code Council shall in addition to the Department's major code adopted by ordinance. Reference to other ordinances shall be deemed to refer to the code adopted by ordinance. The Department shall be deemed to have adopted the code applied in accordance with the terms and conditions of such ordinance as necessary at the time of such application as follows: Chapter 14. The Regulations, including, but not limited to, the imposition of a time sequence or time limit for performance of work.~~

**Sec. 5-102. Same—Amendments.**

**Sec. 19-34. Permit Revisions.**

The ICC International Residential Code for One and Two-Family Dwellings, 2009 Edition (IRC) ~~is hereby adopted as follows:~~ applicant, or at the City's initiative based on new information, permits may be revised after issuance with such conditions as the City may impose and in accordance with the regulations.

(b) Requests for revisions to an issued permit must be submitted in writing to the Department. Requests must include revisions clearly shown on the approved plans, revisions to supporting computations, and such other information as may be required by the Department. Except as provided for in Article V, Sediment and Erosion Control, the Department must approve revisions in writing before the changes are constructed or implemented in the field.

(c) Permit revisions may be required by the Department where deemed necessary to address new information and changes in site conditions; to correct a violation of the permit or applicable law, ordinance, or regulation; or to correct plan inadequacies as revealed through inspection.

(d) Permit revision fees must be paid and any bond adjustments made prior to approval of the revision request.

**Sec. 19-35. Expiration; Extension.**

(a) Every permit issued pursuant to this Chapter will expire two (2) years from the date of issuance or at the end of any shorter period of time designated by the permit.

(b) If unable to complete the work within the specified time, the permittee may, within thirty (30) days prior to expiration of the permit, present in writing to the Department a request for an extension of time, setting forth the reasons for the requested extension and demonstrating that the applicant still has the necessary bonds or other security to support a permit. For good cause, the Director may grant up to two (2), one-year permit extensions.

(c) Where deemed necessary, the Department may condition a permit extension on the submission and approval of revised supporting plans and documentation, or a permit revision.

(d) Permit extension fees must be paid prior to extension approval.

[[ (e) No permit extension will be granted for Stormwater Management Permits issued pursuant to a previous edition of this Chapter unless the permit holder has begun construction of the permitted stormwater system. ]]

**Sec. 19-36. [[Transition Provisions.]] Grandfathering Provisions.**

[[ (a) Where a Development Project has received a Stormwater Management Construction Plan approval but failed to receive a Stormwater Management Permit prior to May 3, 2010, such project must complete all required actions necessary to receive a Stormwater Management and Sediment Control Permit within six months from the date of approval. Otherwise, such projects must resubmit the required documents for the Pre-

application Concept, Development Concept and Stormwater Management Permit review under this Chapter demonstrating that the project has implemented environmental site design to the maximum extent practicable.

(b) Where a Development Project has received Site Development Plan approval but not a Stormwater Management Construction Plan approval prior to the effective date of this Chapter, that project must integrate environmental site design to the maximum extent practicable without causing a major site plan amendment under Chapter 25, Zoning and Planning, Article 5, Section 7 of the Rockville City Code.]]

(a) In this section, *Preliminary Project Approval* means an approval as part of Rockville's preliminary development or planning review process that includes, at a minimum:

- (1) The number of planned dwelling units or lots;
- (2) The proposed project density;
- (3) The proposed size and location of all land uses for the project;
- (4) A plan that identifies:

- a. The proposed drainage patterns;
- b. The location of all points of discharge from the site; and
- c. The type, location, and size of all stormwater management measures based on site-specific stormwater management requirement computations; and

(5) Any other information required including, but not limited to:

- a. The proposed alignment, location, and construction type and standard for all roads, access ways, and areas of vehicular traffic;
- b. A demonstration that the methods by which the development will be supplied with water and wastewater service are adequate; and
- c. The size, type, and general location of all proposed wastewater and water system infrastructure.

(b) The following approvals, as defined in Chapter 25, Zoning, qualify as Preliminary Project Approvals so long as they contain the minimum elements in (a), this list is non-exclusive:

- (1) Site Plans;
- (2) Site Plan Amendments;
- (3) Use Permits; and
- (4) Use Permit Amendments;
- (5) Detailed Application approvals associated with Comprehensive Planned Developments and Planned Residential Units; and
- (6) Stormwater Management Concept Plans.

(c) Projects that receive Preliminary Project Approval prior to May 4, 2010 may make a written request to the Department to be governed by the stormwater management ordinance in the Rockville City Code that was in effect immediately preceding the adoption of this Chapter.

(d) Any project granted a request under (c) of this section must obtain both a Stormwater Management Permit and Sediment Control Permit prior to May 4, 2013 or conform to the requirements of this Chapter.

(e) All projects granted stormwater management permits pursuant to this section must complete all construction before May 4, 2017.

(f) Extension of permission to be governed by the previous stormwater ordinance.

(1) Except as provided in (f)(2) of this section, the Department will not extend permission to be governed by the previous stormwater ordinance beyond the dates listed in (d) and (e) of this section.

(2) Permission to proceed under the previous stormwater ordinance may only be extended if, prior to 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) Extensions granted according to (f)(2) of this section will expire when the Development Rights and Responsibilities Agreement, the Tax Increment Financing approval, or the Annexation Agreement expires.

### **Sec. 19-37. Bonds and Other Security.**

(a) A performance bond or letter of credit issued by a surety company or financial institution authorized to do business in the State of Maryland must be posted in a form acceptable to the Department and the City Attorney prior to the issuance of any permit authorized by this Chapter. The Department, in its sole discretion, may accept a cash bond or other security satisfactory to the Department and the City Attorney.

(b) The required security must run to the City and must secure the full and complete compliance with the permit.

(c) The required securities must be in an amount equal to the total estimated cost of the stormwater management or sediment control costs, including, but not limited to, the cost of materials, delivery costs to the construction site, and labor. A separate security must be posted for each permit.

(d) The Department will not release any security until:

- (1) It conducts a final inspection of the completed work, including required landscaping, and determines that all covered work complies with the applicable permit;
- (2) Satisfactory as-built plans of the permitted stormwater management measures are submitted to, and approved by, the Department; and
- (3) It receives recorded copies of any required agreements, covenants and easements.
- (4) All fines and penalties for violations of this Chapter are paid.

(e) The City may proceed to do whatever is necessary to cause the permitted work to be completed and to comply with the applicable permit, law, regulation, or condition, including but not limited to declaring a forfeiture of the bond or other security, and the permittee will be liable for all expenses incurred thereby.

**Secs. 19-38 through 19-45. Reserved.**

SECTION 4. That Article IV, "Stormwater Management," is hereby repealed and reenacted with amendments as follows:

## **ARTICLE IV. STORMWATER MANAGEMENT**

### **DIVISION I. IN GENERAL**

**Sec. 19-46. Stormwater Management Policy.**

(a) Development has occurred within the City for which no stormwater management has been provided. It is the legislative goal and policy of the City that eventually stormwater management will be provided for all new and existing developed land within the City. To this end, no person may engage in development activity without providing for stormwater management for such development as required by this Chapter and the regulations.

(b) Furthermore, the City recognizes the requirements of the Maryland Stormwater Act of 2007, and administrative rules promulgated thereunder. Further, the City acknowledges the policies of the Chesapeake Bay Agreement, to which the State of Maryland is a signatory. The City supports effective and innovative stormwater management policies and practices to protect the Bay and its tributaries. Accordingly, the City seeks opportunities to implement stormwater and watershed management by requiring environmental site design to the maximum extent practicable in both existing communities and new development with input from the state, civic associations, residents, businesses and developers where appropriate.

**Sec. 19-47. Watershed Management Plans:**

The Department may develop or update watershed management plans to identify specific stormwater management and stream protection goals, evaluate natural resource conditions, assess opportunities for watershed improvement, and develop a schedule for City-managed watershed improvements to be implemented through the Capital Improvement Program. [[The Department may consider watershed improvements recommended in watershed management plans as acceptable alternatives to on-site stormwater management in accordance with this Chapter and the regulations.]]

**Sec. 19-48. Qualified Preparer for Stormwater Management Submittals.**

(a) Except as provided below, as part of the Pre-Application Stormwater Management Concept, Development Stormwater Management Concept and Stormwater Management Permit application, all plans, details and computations shall be prepared and certified by a Professional Engineer unless otherwise permitted by the Director.

(b) All plans, details and computations pertaining to Green Roofs may be prepared and certified by a Licensed Architect to the extent permitted by state law.

(c) [(b)]As part of the Pre-Application Stormwater Management Concept, Development Stormwater Management Concept and Stormwater Management Permit application that includes a landscaping component, plans, details and necessary information for landscaping must be certified by a Registered Landscape Architect.

[[ (c) Pre-application Stormwater Management Concepts based solely on payment of a fee in lieu may be prepared by a Professional Engineer, Professional Land Surveyor, Licensed Architect, or Licensed Landscape Architect, all of which must be licensed in the State of Maryland, or other qualified preparer. ]]

(d) Pre-Application Stormwater Management Concept, Development Stormwater Management Concept and Stormwater Management Permit applications which contain structural stormwater management systems must be certified by a Professional Engineer with experience and competency in the design of such systems.

**DIVISION 2. STORMWATER MANAGEMENT REQUIREMENTS****Sec. 19-49. Scope.**

(a) Except as otherwise provided, the stormwater management provisions of this Chapter and its regulations apply to any land disturbing activity within the corporate boundaries of the City that:

- (1) Involves five thousand (5,000) square feet or more of disturbed area; or
- (2) Creates or replaces two thousand (2,000) square feet or more of impervious area on an improved single unit detached dwelling lot or an improved townhouse or semi-detached dwelling lot; or
- (3) Creates or replaces any amount of impervious area on property other than an improved single unit detached dwelling lot or an improved townhouse or semi-detached lot; or
- (4) Requires a federal or state authorization for alteration of any floodplain, waterway, wetland or wetland buffer.

(b) Construction of new impervious area over existing impervious area shall be included in the impervious area calculations. Examples include bridges, elevated walkways, construction of additional stories on a building, and conversion of paving to building.

(c) Resurfacing or milling of existing pavement will not be included in a land disturbing activity or impervious area calculation unless such resurfacing exposes the ground or subgrade.

(d) Nothing in this section may be construed to change the scope or applicability of the Erosion and Sediment Control provisions of this Chapter.

**Sec. 19-50. Stormwater Management Requirements for Areas Outside the Limits of Disturbance and for Contiguous Rights-of-Way [[Required]].**

(a) Stormwater management must be provided [[is required]] for the following areas on new development or redevelopment projects [[as follows]]:

(1) If the proposed land disturbing activity involves less than fifty percent (50%) of the total site area, then stormwater management must be provided [[is required]] only for [[activity]] development within the disturbed area and [[for the rights-of-way contiguous to the site]] contiguous rights-of-way as required by (b) of this section.

(2) If the land disturbing activity involves fifty percent (50%) or more of the total site area, then stormwater management must be provided [[is required]] for the entire site and contiguous rights-of-way as required by (b) of this section. including all impervious areas previously existing on the site that do not have currently acceptable stormwater management provided for them.

[[ (b) Stormwater management is required in accordance with this Chapter even if redevelopment activity results in less impervious area than previously existed. In all cases, Redevelopment sites must reduce imperviousness below Existing Conditions wherever feasible. ]]

(b) [(c)] Stormwater management must also be provided for public or private street rights-of-way contiguous to the site as follows:

(1) New development and redevelopment must also provide for stormwater management of the impervious area contained in either one-half of the width or thirty feet of width, whichever is less, of the rights-of-way of existing and planned non-state roads, and of state owned rights-of-way. If stormwater management for a right-of-way has previously been provided through currently acceptable stormwater management facilities or stormwater management alternatives, then this area may be excluded from the computations.

(2) The length of the right-of-way to be included must be measured along all property lines abutting the rights-of-way. In the case of one single-family-detached residential lot development on a corner lot, only the road that has the primary physical access will be included in this computation. Development of properties on cul-de-sacs must provide stormwater management for a wedge-shaped section of right-of-way.

(3) In cases of redevelopment involving less than fifty percent (50%) of the total site area, the length of the right-of-way included in the stormwater management computation will be proportional to the disturbed area. Redevelopment involving fifty percent (50%) or more of the total site area must provide stormwater management for the entire frontage of all contiguous rights-of-way.

**Sec. 19-51. [[Onsite Stormwater Management]] Environmental Site Design Required.**

[[Stormwater management obligations must be met by providing stormwater controls on-site wherever feasible in accordance with this Chapter and the regulations.]] All development and redevelopment projects must meet the minimum stormwater management criteria established in Section 19-52 using the following methods, which are listed below in order of priority:

(a) Onsite environmental site design practices and planning techniques must be implemented to the maximum extent practicable; then

(b) Onsite structural stormwater management practices where feasible; then

(c) Stormwater management alternatives as described in Sec. 19-61 of this Chapter.

**Sec. 19-52. Minimum Stormwater Management Criteria.**

[[a) All Development Projects requiring stormwater management must incorporate environmental site design to the maximum extent practicable. Once reasonable opportunities for environmental site design have been exhausted, an applicant may use Structural Stormwater Management System practices to meet the requirements of this Chapter, its regulations, and the Design Manual.]]

~~[[b]]~~ (a) Stormwater Management Systems for development activity covered by this Chapter must include the following controls ~~that~~ that ~~[[, which must]]~~ meet the minimum requirements, specifications and methodologies set forth in the regulations, the Design Manual, and Department guidelines:

(1) Stormwater management controls for water quality volume ( $WQ_v$ ), channel protection volume ( $CP_v$ ), and Overbank flood protection volume ( $QP_{10}$ ).

~~[[2]]~~ Recharge measures. The Department will review developments on a case-by-case basis and may omit the recharge requirement for situations that limit the practicality of recharge measures.]

~~[[3]]~~ (2) Extreme flood volume control where the Department determines that historical flooding or the threat of flooding under ultimate land use conditions exists.

~~[[c]]~~ (b) All development projects must provide for an adequate stormwater conveyance system for the ten-year discharge from the site to any offsite Stormwater Management System or to the receiving stream. In the case of a stream outfall, the receiving stream must be able to safely convey the additional runoff without undue risk of overbank flooding or increased stream erosion. In the case of a system outfall, the system must be able to safely collect and convey the additional runoff to a study point deemed appropriate by the Department.

~~[[d]]~~ (c) The Department may, on a case-by-case basis, modify the minimum stormwater management requirements, specifications or methodologies to address environmental, hydrologic, hydraulic, topographic, or other technical conditions or limitations.

### **Sec. 19-53. Redevelopment Stormwater Management Criteria.**

(a) All redevelopment must address stormwater management. All redevelopment must either:

(1) Reduce impervious area within the limit of disturbance by at least fifty percent (50%) according to the Design Manual, regardless of whether the redevelopment project disturbs 50% or more of the total site area. If this impervious area reduction is achieved, no further quality or quantity control treatment is required; or

(2) Provide WO<sub>v</sub>, CP<sub>v</sub> and Op<sub>10</sub> treatment for the area designated to address stormwater management in Sec. 19-50 of this Chapter.

a. WO<sub>v</sub> controls must be provided via environmental site design to the maximum extent practicable. Any remaining WO<sub>v</sub> control volume not treated by environmental site design practices must be treated via structural stormwater management practices where feasible and then stormwater management alternatives; and

b. For redevelopment that meets WO<sub>v</sub> through onsite methods, the City may, at its sole discretion, approve a stormwater management alternative as described in

Sec. 19-61 of this Chapter. [[stormwater management consistent with all sections, regulations and Department guidance applicable to new development.]]

(b) Where a redevelopment project has an existing on-site Stormwater Management System that [[meets current treatment standards]] provides for WOv, CPv and Op10 controls, the Department may consider the area treated by such system as meeting stormwater management requirements.

(c) Where a redevelopment project has an existing on-site Stormwater Management System which does not meet the minimum controls listed in Sec. 19-52.(b), the Department may consider the area treated by such system as meeting stormwater management requirements if the applicant retrofits the system to meet current treatment standards for WOv, CPv and Op10.

#### **Sec. 19-54. Stormwater Management Systems.**

(a) The Environmental Site Design practices and the Structural Stormwater Management Practices established in this Chapter, Regulations, and the Design Manual must be used, either alone or in combination in a stormwater management plan. An applicant must demonstrate that Environmental Site Design has been implemented to the maximum extent practicable before the use of a Structural Stormwater Management Practices are considered in developing the stormwater management plan.

(b) Except as otherwise provided, the basic design criteria, methodologies, and construction specifications, subject to the approval of the Department and the Administration, will be those of the Design Manual.

(c) Environmental site design practices and Structural Stormwater Management Practices not specifically included in the Design Manual may be used for new development only if they meet the performance criteria established in the Design Manual and are approved by the Administration and accepted by the Department [[Director]]. Practices used for redevelopment must be approved by the Department.

#### **[[Sec. 19-55. Structural Stormwater Management Practices.**

(a) The following Structural Stormwater Management Practices must be designed according to the Design Manual and regulations to satisfy the stormwater management requirements established in this Chapter:

- (1) Stormwater management ponds;
- (2) Stormwater management wetlands;
- (3) Stormwater management infiltration;
- (4) Stormwater management filtering systems; and
- (5) Stormwater management open channel systems.

Structural Stormwater Management Practices used to satisfy the minimum requirements in section 19-52, Minimum Stormwater Management Criteria, of this Chapter must be recorded in the land records of Montgomery County and remain unaltered by subsequent property owners. Prior approval from the Department must be obtained before any Structural Stormwater Management Practice is altered. ]]

### **Sec. 19-55. Multi-phased Developments**

For projects approved as multi-phased developments, a stormwater management system constructed before May 4, 2010 and designed to provide water quality volume (WQv), channel protection volume (CPv), and/or overbank flood protection volume (Op10) may fulfill stormwater management requirements for future phases that cannot be met by reasonable efforts to incorporate environmental site design.

**Secs. 19-56 through 19-60. Reserved.**

## **DIVISION 3. STORMWATER MANAGEMENT ALTERNATIVES**

### **Sec. 19-61. Stormwater Management Alternatives.**

[[a)The Department, in its sole discretion, may accept or require stormwater management alternatives in lieu of some or all on-site stormwater quality or quantity control requirements where it determines that on-site controls are not practical or appropriate, or cannot meet the requirements of the design manual.]]

(a) On a case-by-case basis, the Department may approve Stormwater management alternatives for some or all quantity control requirements (CPv and/or Op10 volume control) where it determines that environmental site design has been implemented to the maximum extent practicable and circumstances exist that prevent the reasonable implementation of on-site quantity control practices.

(b) On a case-by-case basis, the Department may approve Stormwater management alternatives for some or all quality control requirements (WQv and/or recharge volume control) where it determines that environmental site design has been implemented to the maximum extent practicable and circumstances exist that prevent the reasonable implementation of on-site quality control practices.

(c) Stormwater management alternatives may include, but are not necessarily limited to, one or more of the following:

- (1) Granting of an easement or land conveyance for a regional Stormwater Management System or other watershed improvements;
- (2) Design, permitting or construction of a regional Stormwater Management System or retrofit of an existing Stormwater Management System;

(3) Design, permitting or construction of watershed improvements on private or public land;

(4) Watershed improvements recommended in watershed management plans developed in accordance with §19-47.

(5) Design, permitting; or construction of off-site storm drain improvements identified in a safe conveyance study on private or public land only to be used as an alternative to Overbank Flood Protection:

[(5)](6) A monetary contribution to the City's Stormwater Management Fund in accordance with the regulations or;

[(6)](7) Such other measures that the Department deems appropriate to meet the intent of this Chapter and the regulations.

(d) [(b)] The City will not approve the use of stormwater management alternatives unless it is determined, on a case-by-case basis and at the sole discretion of the City, to be in the best interest of the City, considering, among other things, cost to the City, effectiveness, safety concerns, potential maintenance problems, potential benefits to stream systems, and past experience or lack thereof with the alternatives, the on-site control measures, or the applicant. In addition, no stormwater management alternative may be approved if the City determines that the absence of on-site stormwater management presents unacceptable risk of flooding or other stormwater damage.

(e) [(c)] Use of stormwater management alternatives will not relieve the applicant of the responsibility of providing additional improvements for storm drainage, stream stabilization or other facilities, either on-site or off-site, as may be deemed necessary by the Department to provide safe conveyance and to avoid or minimize damage to other properties and waterways.

(f) [(d)] The regulations will contain criteria for reviewing and approving requests to use stormwater management alternatives.

**Sec. 19-62. Stormwater Management Alternatives; Stormwater Management Monetary Contribution.**

(a) Monetary contributions to the City's Stormwater Management Fund may be used by the City for those purposes set forth in Section 19-83, Stormwater Management Fund.

(b) The payment of a stormwater management monetary contribution in connection with prior development on the site does not:

(1) Relieve the applicant of the responsibility of providing on-site stormwater management for redevelopment where on-site measures are deemed to be most effective and appropriate; nor

(2) Obligate the City to accept a monetary contribution for new development or redevelopment on the site.

(3) Relieve the applicant or any other property owner of the obligation to pay the annual stormwater management utility fee.

(c) Neither the cost of providing on-site stormwater management nor the loss of development density resulting from on-site stormwater management is sufficient justification for a stormwater management monetary contribution without other evidence demonstrating that on-site stormwater management is ineffective or inappropriate in light of other alternatives.

#### **DIVISION 4. STORMWATER MANAGEMENT APPROVALS**

##### **Sec. 19-63. Review and Approval of Stormwater Management Plans.**

(a) For any proposed Development Project, the applicant must submit stormwater management plans to the Department for review and approval. Plans must be submitted at the Pre-Application Stormwater Management concept, Development Stormwater Management concept, and Stormwater Management Permit stages of project design. Each plan submittal must meet the requirements of this Chapter, the regulations and the Design Manual.

(b) The Department will perform a comprehensive review of the stormwater management plans for each stage of site design and provide coordinated comments to the applicant that reflect input from other City departments. All comments from the City must be addressed prior to any subsequent submittal.

(c) The Department may require amendments to any approved plans to address applicable changes to stormwater management standards as approved by the Department or the Administration.

(d) The Department may allow a combined Pre-Application/Development Stormwater Management Concept [[grant Stormwater Management Permits]] for development projects that do not require a Pre-Application Meeting under Chapter 25 of the Rockville City Code [[through a streamlined approval process for Stormwater Management Permits.]]. The combined Pre-Application/Development Stormwater Management Concept must be submitted at the earliest stage of planning review and contain all the information required for the Development Stormwater Management Concept review.

##### **Sec. 19-64. Pre-application Stormwater Management Concept.**

(a) The applicant must submit a Pre-Application Stormwater Management Concept at the earliest stage of the development review process. The applicant must receive approval of a Pre-Application Stormwater Management Concept before submitting a Development Stormwater Management Concept unless the applicant submits a combined Pre-Application/Development Concept under Section 19-63(d).

(b) The Pre-Application Stormwater Management Concept must be accompanied by a form provided by the Department and must include all information required by the regulations.

[[ (c) Any proposal to use stormwater management alternatives, including stormwater management monetary contributions, in lieu of on-site stormwater management will be reviewed by the Department as part of the Pre-Application Stormwater Management Concept. ]]

**Sec. 19-65. Development Stormwater Management Concept Plans.**

(a) Following Pre-Application Stormwater Management Concept approval by the Department, the applicant must submit Development Stormwater Management Concept plans that reflect comments received during the Pre-application Stormwater Management Concept review stage. The applicant must receive approval of a Development Stormwater Management Concept before submitting an application for a Stormwater Management Permit.

(b) The Development Stormwater Management Concept plan must be accompanied by a form provided by the Department and must include all information required by the regulations.

**Sec. 19-66. Stormwater Management Permit.**

(a) No Stormwater Management System or watershed improvement may be installed prior to issuance of a Stormwater Management Permit.

(b) No permit allowing construction of impervious area may be issued prior to issuance of any related Stormwater Management Permit required by this Chapter and the regulations.

(c) Subject to section 19-36, Transition Provisions, a Stormwater Management Permit must comply with stormwater management standards and requirements in effect at the time of permit issuance.

(d) The approved Stormwater Construction Plans must serve as the basis for all subsequent construction. Construction contrary to the approved plan and any approved revision is prohibited.

(e) Environmental Site Design Practices and Structural Stormwater Management Practices used to satisfy this Chapter's requirements must be protected by a stormwater management easement or covenant and maintenance agreement recorded in the land records of Montgomery County prior to issuance of the Stormwater Management Permit.

(f) It is the responsibility of the developer to obtain any easements or other necessary

property interests from adjacent property owners concerning flowage of runoff from the subject property. Approval of a stormwater construction plan or issuance of a stormwater management permit does not create or affect any right to direct concentrated runoff onto adjacent property without that property owner's permission.

(g) ~~[[e]]~~ After Stormwater Management Permit issuance and once construction is complete, the permittee must ~~[[shall]]~~ submit as-built plan certifications for approval by the Department to ensure that constructed stormwater management practices and conveyance systems comply with the specifications contained in the approved plans and any approved revisions.

#### **Sec. 19-67. Expiration of Stormwater Management Approvals and Plans.**

(a) All approvals of Development Stormwater Management Concept plans will expire upon the expiration of the development project's Site ~~[[Development]]~~ Plans under Chapter 25 of the Rockville City Code. Where the Department approves a Development Stormwater Management Concept but the applicant fails to obtain Site ~~[[Development Plan]]~~ approval within one year, the Department may review the Development Stormwater management Concept plan and require the applicant to update the submission as the Department deems necessary.

(b) Applicants must fulfill all requirements to obtain a permit, and obtain a Stormwater Management Permit from the Department within six months of approval of Stormwater Management Construction Plans. If a Stormwater Management Permit is not issued within six months of the Stormwater Management Construction Plan approval, then the Department may require the applicant to update the plans to meet current state and City standards as the Department deems necessary.

(c) All Stormwater Management submittals under review may be required to address any new City policy or guidance that becomes effective during the review period.

### **DIVISION 5. MAINTENANCE AND INSPECTION AFTER CONSTRUCTION**

#### **Sec. 19-68. Maintenance Responsibility.**

(a) The owner of a private Stormwater Management System or watershed improvement, or any other person or agent in control of such feature, must maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, and other devices. Such repair, restoration, and maintenance must be in accordance with approved plans and current standards.

(b) The owner of a private Stormwater Management System may not remove or adversely alter any component of the system ~~[[on their property]]~~ without prior written approval from the Department. If a private Stormwater Management system is approved

for removal by the Department, the owner is responsible for obtaining any necessary City permits and extinguishing any stormwater management easement, covenant and maintenance agreement prior to removal, as directed by the Department.

(c) The owner of a Private Stormwater Management System must maintain in good condition and promptly repair and restore any private Storm Drain system associated with the system.

(d) The owner of a private Stormwater Management System is responsible for the removal, control and eradication of noxious or invasive plant species identified in the regulations.

### **Sec. 19-69. Public Stormwater Management Systems**

(a) At its sole discretion, the City may assume structural operation and maintenance responsibilities for the private Stormwater Management Systems described in (a)(1)c. of this section, which upon such acceptance may thereafter be considered Public Stormwater Management Systems and may subsequently be retrofitted or improved to meet the stormwater management objectives of the City.

(b) ~~[[1]]~~ The City may accept a Private Stormwater Management System for public structural operation and maintenance only under the following conditions:

(1) ~~[[a.]]~~ The Stormwater Management System must be certified by a Professional Engineer, at no expense to the City, as functioning properly in accordance with the original design specifications.

(2) ~~[[b.]]~~ The property owner must grant the City an easement, in a form acceptable to the City Attorney, that provides access for inspection and maintenance, and requires that the property owner remain responsible for the aesthetic maintenance of the system, including but not limited to, landscaping, minor trash removal, and mowing.

(3) ~~[[c.]]~~ The Private Stormwater Management System must either be a:

(i) System that provides stormwater management primarily for properties improved with single unit dwellings, whether detached, semi-detached, or townhouses, provided that each dwelling is located on a separate record lot; or a

(ii) System that provides stormwater management for multiple properties other than those described in subsection (a)(1) c.(i) above, and that has been identified for priority stormwater management improvements in a City watershed study.

(4) ~~[[2]]~~ The regulations contained standards and requirements to implement the provisions of this section, and may delegate to the Director the authority to approve

City acceptance for maintenance and operation of certain Stormwater Management Systems.

**Sec. 19-70. Correction of unsafe/improper condition.**

If the Director determines that the condition of any Stormwater Management System, watershed improvement, or storm drainage system presents an immediate danger to the public health or safety because of an unsafe condition or improper maintenance, the Director may take such actions as may be necessary to protect the public and make the system safe. Any costs incurred by the City as a result of the Director's action will be assessed against any or all of the owners of the property served by said system who will be jointly and severally liable for all said costs and whose property will jointly and severally be subject to a lien for said costs which may be placed on the tax bill of any and all such property and collected as ordinary taxes.

**Sec. 19-71. Maintenance Agreement and Easement for Private Stormwater Management Systems.**

(a) Except as otherwise provided, the applicant or owner must execute an inspection and maintenance agreement and a stormwater management easement acceptable to the City Attorney and binding on all subsequent owners of land served by the system prior to the issuance of any Stormwater Management Permit for a private Stormwater Management System. Such agreement must provide for access to the system at reasonable times for regular inspections by the City or its authorized representative to ensure that the system is maintained in proper working condition. The easement must include sufficient provisions for access from a public road or right-of-way.

(b) The agreement must also provide that if after notice by the City to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within a reasonable period of time as determined by the Department, the City may perform all necessary work to place the system in proper working condition. The owner(s) of the system will be assessed the cost of the work and any penalties, which may be enforced by a lien on the property or which may be placed on the tax bill for all such property and collected as ordinary taxes by the City. The owners of all property served by the system will be jointly and severally responsible to the City for the maintenance of the system and liable for any costs incurred by the City pursuant to the agreement, and all such properties are jointly and severally subject to the imposition of liens for said costs.

(c) The agreement may contain any other provision as may be required by the Department or the City Attorney.

(d) The agreement and easement must be recorded by, and at the expense of, the applicant or owner in the Land Records of Montgomery County. Where the easement

area can be determined prior to the recordation of the plat, it must be shown on the record plat.

**Sec. 19-72. Maintenance Agreement and Covenants Required For Certain Environmental Site Design Practices on Single-Family Lots.**

(a) Prior to the issuance of any Stormwater Management Permit for the following environmental site design practices located on a single-family Lot, the City will require the applicant or owner to enter into a maintenance agreement and covenant that run with the land and bind future owners to provide maintenance for, and refrain from removing or adversely altering the following practices:

- (1) Rain barrels
- (2) Landscape Infiltration
- (3) Dry Wells
- (4) Rain Gardens
- (5) Pervious Pavers

(b) The agreement must also provide that if after notice by the City to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within a reasonable period of time as determined by the Department, the City may perform all necessary work to place the system in proper working condition. The owner(s) of the system will be assessed the cost of the work and any penalties, which may be enforced by a lien on the property or which may be placed on the tax bill for all such property and collected as ordinary taxes by the City. The owners of all property served by the system will be jointly and severally responsible to the City for the maintenance of the system and liable for any costs incurred by the City pursuant to the agreement, and all such properties are jointly and severally subject to the imposition of liens for said costs.

(c) The agreement may contain any other provision as may be required by the Department or the City Attorney.

(d) The agreement and covenant must be recorded by, and at the expense of, the applicant or owner in the Land Records of Montgomery County.

**Secs. 19-73 through 19-74. Reserved.**

SECTION 5. That Article V, "Erosion and Sediment Control," is hereby amended as follows:

**ARTICLE V. EROSION AND SEDIMENT CONTROL****Sec. 19-75. Scope.**

(a) Except as otherwise provided, the sediment control provisions of this Chapter and the regulations apply to any development activity within the corporate boundaries of the City that:

- (1) Involves five thousand (5,000) square feet or more of disturbed area; or
- (2) Involves one hundred (100) cubic yards or more of grading; or
- (3) Results in the construction of a new building; or
- (4) Results in land disturbing activity within a stream buffer, as defined in the City's Environmental Guidelines.

**Sec. [19-72.] 19-76. Qualified Preparer for Sediment Control Permit.**

As part of a Sediment Control Permit application, all sediment control plans and computations [shall] must be prepared and certified by a Professional Engineer, Professional Land Surveyor, Licensed Architect, or Licensed Landscape Architect, all of which must be licensed in the State of Maryland, or other qualified preparer. The plan [shall] must meet the requirements of this Chapter and the regulations.

**Sec. [19-73.] 19-77. Referral.**

Where required by state law, a copy of the sediment control plan [shall] will be referred to the Administration for review, recommendations, and approval of the proposed sediment control measures.

**Sec. [19-74.] 19-78. Sediment Control Permit; Sediment Control Plan.**

(a) The Sediment Control Permit must be issued prior to the issuance of any Building Permit or Public Works Permit and prior to the land-disturbing activity subject to the requirements of this Chapter.

(b) The City's inspector may approve minor modifications in the field to an approved sediment control plan in accordance with a list of allowable field modifications approved by the Department and the Administration. Minor field modifications [shall] must be documented in a field inspection report by the Department's inspector.

[SECS. 19-75--19-79. RESERVED.] SECTION 19-79. RESERVED.

SECTION 6. That Article VI, "Stormwater Management Utility," is hereby amended as follows:

**ARTICLE VI. STORMWATER MANAGEMENT UTILITY****DIVISION 1. IN GENERAL****Sec. 19-80. Stormwater Management Utility Purpose**

To protect the public health, safety, and welfare, the City's stormwater management, storm drainage, and water quality programs must be supported by an adequate, sustainable source of revenue. All real property in the City, including property owned by public and tax-exempt entities, benefits from these City programs and services. Further, those with higher amounts of impervious area contribute greater amounts of stormwater or pollutants to the City's stormwater management facilities, storm drains, and streams, and therefore should carry a proportionate burden of the cost. Therefore, the City has determined that it is in the interest of the public to enact a Stormwater Management Utility Fee that allocates program costs to all property owners based on impervious surface measurement, as described in this Article.

**Secs. 19-81-19-82. Reserved**

**DIVISION 2. STORMWATER MANAGEMENT FUND****Sec. 19-83. Stormwater Management Fund.**

(a) The City's Stormwater Management Fund is a dedicated enterprise fund. It shall only be used to fund stormwater management, storm drainage, and water resources programs and services.

(b) The following revenue will be deposited into the Stormwater Management Fund:

(1) All fees established by the Mayor and Council to cover the cost of administering the provisions of this chapter, including but not limited to application and permit fees and fines;

(2) All stormwater management monetary contributions to meet the provisions of Sec. 19-49 regarding stormwater management alternatives;

(3) All monetary fines, penalties, and costs collected during water quality protection enforcement activities as described in City Code Chapter 23.5-42, Water Quality Protection;

(4) All revenue collected from the imposition of the Stormwater Management Utility Fee pursuant to Division 3 of this Article;

- (5) All interest from deposits in the Stormwater Management Fund;  
and,
  - (6) Any other revenue as may be determined by the Mayor and Council or the Director, including but not limited to grants and special appropriations.
- (c) The Stormwater Management Fund shall only be used for the following expenses:
- (1) Regulatory review and inspection of stormwater management, sediment control, and storm drainage for development permits;
  - (2) Watershed, stormwater management, floodplain, and storm drainage conveyance studies and planning;
  - (3) The study, design, purchase, construction, expansion, retrofit, repair, maintenance, landscaping, operation and/or inspection of stormwater management [facilities]practices, storm drainage, and other watershed improvements;
  - (4) Land acquisition (including easements and rights-of-way) for stormwater management [facilities]practices or storm drainage;
  - (5) Water quality programs related to state or federal laws, including requirements for the City's National Pollution Discharge Elimination System (NPDES) permit;
  - (6) Water quality monitoring, inspection, and enforcement activities, including illicit discharge and illicit connection investigations;
  - (7) Water quality and pollution prevention education and outreach activities, including the City's Rainscapes Program;
  - (8) Program administration and implementation, including reasonable operating and capital reserves to meet unanticipated or emergency requirements for stormwater management, storm drainage and water quality; and,
  - (9) Other stormwater management, storm drainage, and water quality programs that are reasonably required to protect public safety or meet applicable regulatory requirements.

**Secs. 19-84-19-85. Reserved**

**DIVISION 3. STORMWATER MANAGEMENT UTILITY FEE**

**Sec. 19-86. Stormwater Management Utility Fee.**

(a) The City shall charge an annual Stormwater Management Utility Fee on all improved real property in the City. The fee shall be based on: (1) the amount of impervious area on each property as determined by Sec. 19-87; and (2) the cost of implementing the City's stormwater management, storm drainage, and water quality programs.

(b) Except as otherwise provided, the minimum assessed Stormwater Management Utility Fee will be equal to the fee for one Equivalent Residential Unit (i.e., the Equivalent Residential Unit Rate) for all properties.

(c) Except as otherwise provided in Sec. 19-87(b), the Stormwater Management Utility Fee shall be based on whole increments, rounded to the next highest number, of Equivalent Residential Units calculated for properties.

(d) Except as otherwise provided in Sec. 19-87(b), the Stormwater Management Utility Fee shall be calculated as follows:

(1) Determine the impervious surface measurement in square feet for the property.

(2) Divide the property's impervious surface measurement by the Equivalent Residential Unit in square feet.

(3) Round the resulting ratio to the next highest whole number. This whole number is the number of Equivalent Residential Units on the property.

(4) Multiply the Equivalent Residential Unit Rate by the number of Equivalent Residential Units for the property to obtain the fee in dollars.

(e) Except as otherwise provided, impervious surface measurements for properties shall be determined by the City using aerial photography, as-built drawings, field surveys or other appropriate engineering and mapping analysis tools.

**Sec. 19-87. Classification of Property for Purposes of Determining the Stormwater Management Utility Fee.**

(a) Improved Single Unit Detached Dwelling Lot Fee. Except as otherwise provided, owners of all improved single unit detached dwelling lots will pay the fee equal to one Equivalent Residential Unit (i.e., the Equivalent Residential Unit Rate), regardless of the size of the lot or the impervious surface measurement of the improvements.

(b) Townhouse and Semi-Detached Dwelling Lot Fee. Owners of townhouses and semi-detached dwellings located on separate record lots and operated under a community association shall be charged a fee calculated as follows:

(1) Determine the sum total impervious surface measurement in square feet for all townhouse and/or semi-detached dwelling lots within the community association, excluding common areas held in joint ownership.

(2) Divide the sum total impervious surface measurement by the Equivalent Residential Unit in square feet, rounding up to the next whole number, to obtain the total number of Equivalent Residential Units.

(3) Multiply the Equivalent Residential Unit Rate by the total Equivalent Residential Units to determine the total fee due for the aggregated lots.

(4) Divide the total fee for the aggregated lots by the number of townhouse and/or semi-detached dwelling lots within the community association. This is the amount billed to each lot lot's tax account.

(c) Condominium Properties. Owners of residential or commercial Condominium shall be charged a fee calculated as follows:

(1) The Stormwater Management Utility Fee for a Condominium property shall be calculated as determined in Section 19-86 (d).

(2) The property's fee shall be divided equally among the property tax accounts for all units assigned to that Condominium by the State Assessment Office or Montgomery County Department of Finance.

(3) The City, at its sole discretion, may utilize alternative methodologies for billing fees associated with Condominiums.

[[c]d) Other Improved Lot Fee. All other improved lots in the City shall be charged in accordance with Sec. 19-86(d).

[[d]e) Unimproved Lot Fee. No Stormwater Management Utility fee shall be charged to an unimproved lot.

[[e]f) Common Areas. Common areas owned by a community association shall be charged based on the sum total impervious surface measurement of the common areas in the manner prescribed in Sec. 19-86(d). The fee shall be billed directly to the community association. The City, at its sole discretion, may utilize alternative methodologies for billing fees associated with common areas.

[[f]g) Roads and Rights-of-way. No stormwater utility fee shall be charged to public roads or other property within a public right-of-way. A stormwater utility fee shall be charged to owners of private alleys, streets and roads, except that no fee shall be charged for a private street or road where the Director determines that a private street or road functions primarily as a public road or street and meets City Road Code standards.

(h) Mainline Tracks. No stormwater utility fee shall be charged to mainline tracks

devoted to movement of subway, rapid transit and railroad traffic. The fee will be charged for all other impervious areas associated with rail traffic, including parking lots, maintenance yards, buildings, bridges and storage areas.

**Sec. 19-88. Credits.**

The City shall adopt Regulations establishing a system of credits against the Stormwater Management Utility Fee for private stormwater management [facilities]systems owned and maintained by the property owner.

**Sec. 19-89. Method of Collection; Interest and Penalties; Abatement.**

(a) The City shall prepare and forward to the Director of the Montgomery County Department of Finance the necessary data for collecting the Stormwater Management Utility Fee from owners of City property. The data must include the identification of every parcel to be charged and the amount of the fee. The fee will be included as a separate line item on the real estate tax bill for each property subject to the fee. The bill shall include information on whom to contact for questions and appeals.

(b) The Stormwater Management Utility Fee shall be considered delinquent if not paid on or before the due date shown on the bill.

(c) Unless the charge billed to a property owner is under active appeal, interest on an overdue payment accrues according to the same schedule and at the same rate charged for delinquent real property taxes until the owner has remitted the outstanding payment and interest. An unpaid charge is subject to all penalties and remedies that apply to unpaid real property taxes. If the unpaid charge becomes a lien against the property, the lien has the same priority as a lien imposed for nonpayment of real property taxes.

**Sec. 19-90. Adjustment of the Stormwater Management Utility Fee and Credits.**

(a) Any property owner may request an adjustment of the Stormwater Management Utility Fee by submitting a request in writing to the Director within 30 days after the date the bill is [mailed or] issued to the property owner. Grounds for adjustment of the Stormwater Management Utility Fee are limited to the following:

- (1) The property was incorrectly classified pursuant to Sec. 19-87;
- (2) An error was made regarding the square footage of the impervious surface measurement of the property for lots other than improved single unit detached dwelling lots;
- (3) There is a mathematical error in calculating the Stormwater Management Utility Fee; or

- (4) The identification of the property owner invoiced for the fee is in error.

[[b) Any property owner may request an adjustment of the Stormwater Utility Fee Credit by submitting a request in writing to the Director within 30 days after  
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(b)[(c)] The application submittal requirements for adjustment shall be specified in the Regulations.

(c)[(d)] The Director's decision on a Stormwater Management Utility Fee ofr Credit adjustment is a final decision from which an aggrieved party may appeal to the Circuit Court for Montgomery County in accordance with the Maryland Rules as set forth in Title 7, Chapter 200.

**Secs. 19-91 – 19-100. Reserved.**

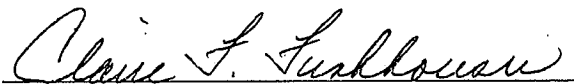
SECTION 7: This Chapter will take effect [[on Monday, May 3, 2010]] immediately upon adoption.

NOTE: Underlining indicates material added in SECTION 5 and SECTION 6.  
 [Brackets] indicate material deleted in SECTION 5 and SECTION 6.

NOTE: Double underlining indicates material added in SECTION 1 through SECTION 7 after introduction. [[Double Brackets]] indicate material deleted in SECTION 1 through SECTION 7 after introduction.

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I hereby certify that the foregoing is a true and correct copy  
 of an Ordinance adopted by the Mayor and Council at its  
 meeting of June 7, 2010.

  
 Claire F. Funkhouser, CMC, City Clerk