

THE CITY OF FREDERICK
MAYOR AND BOARD OF ALDERMEN
ORDINANCE NO: G-10-11

AN ORDINANCE concerning

Stormwater management

FOR the purpose of establishing minimum requirements and procedures to control the adverse impacts of stormwater runoff; requiring stormwater management methods that use environmental site design to the maximum extent practicable; providing for administrative waivers for certain approved development projects; to provide for qualitative and quantitative control waivers to certain development projects; requiring the submission of stormwater management plans; providing for variances; allowing for the suspension or revocation of certain permits under certain circumstances; requiring guarantees of construction projects; requiring that fences be installed around certain retention ponds; requiring inspection of stormwater management systems; providing for the maintenance of stormwater facilities; allowing the City to establish review fees; prohibiting the discharge of certain substances into storm drains and other outlets; creating an enforcement process and establishing penalties; providing for a right of appeal; clarifying language, and otherwise pertaining to stormwater management.

BY repealing

Article VIII
Chapter 25
Frederick City Code, 1966 (as amended)

BY adding

Article VIII
Chapter 25
Frederick City Code, 1966 (as amended)

SECTION I. BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK that Chapter 25, Article VIII of The Code of The City of Frederick, 1966 (as amended) is hereby repealed, and a new Chapter 25, Article VIII is added to read as follows:

ARTICLE VIII. STORMWATER MANAGEMENT

§ 25-56. Purpose. The purpose of this article is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures that control the adverse impacts associated with increased stormwater runoff. The goal is to manage stormwater by using environmental site design (ESD) to the maximum extent practicable (MEP) to maintain after development as nearly as possible, the predevelopment runoff characteristics, and to reduce stream channel erosion, pollution, siltation and sedimentation, and local flooding, and to use appropriate structural best management practices (BMPs) only when necessary. This will restore, enhance, and maintain the chemical, physical, and biological integrity of streams, minimize damage to public and private property, and reduce the impacts of land development.

§ 25-57. Authority and Reference. This article is adopted under the authority of the Environment Article, Title 4, Subtitle 2, Annotated Code of Maryland and shall apply to all development occurring within the City. The provisions of this article are the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by State statute. This article may be cited as the Stormwater Management Ordinance of The City of Frederick.

§ 25-58. Definitions. In this article, the following terms have the meanings indicated:

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

"Administrative waiver" means a decision by the City Engineer pursuant to this article to allow the construction of a development to be governed by the stormwater management ordinance in effect as of May 4, 2009 in the City. "Administrative waiver" is distinct from a waiver granted pursuant to § 25-63 of this article.

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

"Agricultural land management practices" means those methods and procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.

"Applicant" means any person, firm, or governmental agency who executes the necessary forms to procure official approval of a project or a permit to carry out construction of a project. The "applicant" may be a property owner, developer, or other person.

"Approval" means a documented action by the City following a review to determine and acknowledge the sufficiency of submitted material to meet the requirements of a specified stage in a local development review process. "Approval" does not mean an acknowledgement by the City that submitted material has been received for review.

"Approving Agency" means the City's Engineering Department, the entity responsible for the review and approval of stormwater management plans.

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

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

"Channel protection storage volume (Cp_v)" means the volume used to design structural management practices to control stream channel erosion. Methods for calculating the channel protection storage volume are specified in the 2000 Maryland Stormwater Design Manual.

"City Engineer" means the City Engineer of The City of Frederick, also known as the Deputy Director for Engineering, or the City Engineer's designee.

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

"Concept Plan" means the first of three required plan approvals that includes the information necessary to allow an initial evaluation of a proposed project.

"Design Manual" means the 2000 Maryland Stormwater Design Manual, and all subsequent revisions, that serves as the official guide for stormwater management principles, methods, and practices.

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

"Develop land" means to change the runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial, or institutional construction or alteration.

"Director" means the Director of Public Works of The City of Frederick or the Director's designee.

"Direct discharge" means the concentrated release of stormwater to tidal waters or vegetated tidal wetlands from new development or redevelopment projects in the critical area.

"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 site design (ESD)" means using small-scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources. Methods for designing ESD practices are specified in the Design Manual.

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

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

"Extreme flood volume (Q_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.

"Final project approval" means approval of the final stormwater management plan and erosion and sediment control plan required to construct a project's stormwater management

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

"Final stormwater management plan" means the last of three required plan approvals that includes the information necessary to allow all approvals and permits to be issued by the approving agency.

"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.

"Impervious area" means any surface that does not allow stormwater to infiltrate into the ground.

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

"Limit of disturbance (LOD)" means the boundary of a development project wherein grading activities are designed to take place.

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

"Off-site stormwater management" means the design and construction of a facility necessary to control stormwater from areas that are not part of the development that the stormwater management facility is located within.

"On-site stormwater management" means the design and construction of systems necessary to control stormwater within an immediate development.

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

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

"Planning techniques" means a combination of strategies employed early in project design to reduce the impact from development and to incorporate natural features into a stormwater management plan.

"Preliminary project approval" means an approval as part of a local preliminary development or planning review process that includes, at a minimum:

- (a) The number of planned dwelling units or lots;
- (b) The proposed project density;

- (c) The proposed size and location of all land uses for the project;
- (d) A plan that identifies:
 - (i) The proposed drainage patterns;
 - (ii) The location of all points of discharge from the site; and
 - (iii) The type, location, and size of all stormwater management measures based on site-specific stormwater management requirement computations; and
- (e) Any other information required by the City including, but not limited to:
 - (i) The proposed alignment, location, and construction type and standard for all roads, access ways, and areas of vehicular traffic;
 - (ii) A demonstration that the methods by which the development will be supplied with water and wastewater service are adequate; and
 - (iii) The size, type, and general location of all proposed wastewater and water system infrastructure.

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

"Redevelopment" means any construction, alteration, or improvement performed on sites where existing land use is commercial, industrial, institutional, or multifamily residential and existing site impervious area exceeds 40 percent.

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

"Retrofitting" means the implementation of ESD practices, the construction of a structural BMP, or the modification of an existing structural BMP in a previously developed area to improve water quality over current conditions.

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

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

"Site development plan" means the second of three required plan approvals that includes the information necessary to allow a detailed evaluation of a proposed project.

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

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

"Stormwater management system" means natural areas, ESD practices, stormwater management measures, and any other structure through which stormwater flows, infiltrates, or discharges from a site.

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

"Variance" means the modification of the minimum stormwater management requirements for specific circumstances such that strict adherence to the requirements would result in unnecessary hardship and not fulfill the intent of this article.

"Waiver" means the reduction of stormwater management requirements by the City for a specific development on a case-by-case review basis.

"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.

"Water quality volume (WQ_v)" means the volume needed to capture and treat 90 percent of the average annual rainfall events at a development site. Methods for calculating the water quality volume are specified in the Design Manual.

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

§ 25-59. Administration. The City Engineer is responsible for the administration of the development review and permit provisions of this Section. The Director is responsible for enforcement of the provisions of this article.

§ 25-60. Incorporation by Reference. For the purpose of this article, the following documents are incorporated by reference:

- (a) The 2000 Maryland Stormwater Design Manual Volumes I and II (Maryland Department of the Environment, April 2000) as amended are incorporated by reference and shall serve as the official guide for stormwater principles, methods and practices; and
- (b) USDA Natural Resources Conservation Service Maryland Conservation Practice Standard Pond Code 378 (January 2000).

§ 25-61. Applicability.

(a) **Scope.**

- (1) Except as otherwise provided in this article, this article applies to all development projects and redevelopment projects that did not receive final approval for erosion and sediment control and stormwater management plans before May 4, 2010.
- (2) Except as otherwise provided in this article, a person may not develop any land without providing stormwater management measures that control or manage

runoff from such developments, except as provided within this article. Stormwater management measures must be designed consistent with the Design Manual and constructed according to an approved plan for new development or the policies stated in § 25-64 of this article for redevelopment.

- (b) **Exemptions.** The following development activities are exempt from the provisions of this article and the requirements of providing stormwater management:
 - (1) Agricultural land management practices;
 - (2) Additions or modifications to existing single family detached residential structures that do not disturb more than 5,000 square feet of land area;
 - (3) Any development that does not disturb more than 5,000 square feet of land area; and
 - (4) Land development activities that the Administration determines will be regulated by the Administration.
- (c) **Variations.** The City Engineer may grant a written variance from any requirement of §§ 25-65, 25-66, or 25-67 if there are exceptional circumstances applicable to the site such that strict adherence will result in unnecessary hardship and not fulfill the intent of this article. A written request for variance shall be provided to the City Engineer and shall state the specific variances sought and reasons for their granting. The City Engineer shall not grant a variance unless and until sufficient justification is provided by the person developing land that the implementation of ESD to the MEP has been investigated thoroughly.

§ 25-62. Administrative Waivers.

- (a) **Issuance.** The City Engineer may grant an administrative waiver to a development that received a preliminary project approval before May 4, 2010. Administrative waivers expire according to subsection (b) of this section and may be extended according to subsection (c) of this section.
- (b) **Expiration.**
 - (1) Except as provided for in subsection (c) of this section, an administrative waiver shall expire on:
 - (A) May 4, 2013, if the development does not receive final project approval prior to that date; or
 - (B) May 4, 2017, if the development receives final project approval prior to May 4, 2013.
 - (2) All construction authorized by an administrative waiver must be completed by May 4, 2017 or, if the waiver is extended as provided in subsection (c) of this section, by the expiration date of the waiver extension.

(c) Extension.

- (1)** Except as provided in subsection (c)(2) of this section, an administrative waiver shall not be extended.
- (2)** An administrative waiver may only be extended if, by May 4, 2010 the development:
 - (A)** Has received a preliminary project approval; and
 - (B)** Was subject to a development rights and responsibilities agreement, a tax increment financing approval, or an annexation agreement.
- (3)** Administrative waivers extended according to subsection (c)(2) of this section shall expire when the development rights and responsibilities agreement, tax increment financing approval, or annexation agreement expires.

§ 25-63. Waivers/Watershed Management Plans

- (a) Waiver Requests.** Except as otherwise provided in this article, written applications for quantitative control waivers shall be submitted that contain sufficient descriptions, drawings, and any other information that is necessary to demonstrate that ESD has been implemented to the MEP. A separate written application shall be submitted in accordance with the provisions of this section if there are subsequent additions, extensions, or modifications to a development receiving a waiver.
- (b) Grant of Waivers.** A waiver may be granted only if:
 - (1)** The applicant has demonstrated that ESD has been implemented to the MEP;
 - (2)** The cumulative effects of waivers previously granted have been considered; and
 - (3)** The development will not adversely impact stream quality.
- (c) Quantitative Control Waivers.** Except as otherwise provided in this article, the City Engineer may grant stormwater management quantitative control waivers only to:
 - (1)** Those projects within areas where watershed management plans have been developed consistent with subsection (f) of this section; or
 - (2)** It has been demonstrated that ESD has been implemented to the MEP; and
 - (A)** The City Engineer determines that circumstances exist that prevent the reasonable implementation of quantity control practices;
 - (B)** The project has direct discharges to tidally influenced receiving waters; or
 - (C)** The project is an infill development located in a priority funding area where the economic feasibility of the project is tied to the planned density,

and where implementation of the 2009 regulatory requirements would result in a loss of the planned development density, provided that:

- (i) Public water and sewer and stormwater conveyance exist;
- (ii) The quantitative waiver is applied to the project for the impervious cover that previously existed on the site only;
- (iii) ESD to the MEP is used to meet the full water quality treatment requirements for the entire development; and
- (iv) ESD to the MEP is used to provide full quantity control for all new impervious surfaces.

(d) **Qualitative Control Waivers.** Except as otherwise provided in this article, the City Engineer may grant stormwater management qualitative control waivers only to:

- (1) Infill development projects where ESD has been implemented to the MEP and it has been demonstrated that other BMPs are not feasible;
- (2) Redevelopment projects if the requirements of § 25-64 of this article are satisfied; or
- (3) Sites where the City Engineer has determined that circumstances exist that prevent the reasonable implementation of ESD to the MEP.

(e) **Phased Development Projects.** Stormwater management quantitative and qualitative control waivers may be granted for phased development projects if a system designed to meet the 2000 regulatory requirements and this article for multiple phases has been constructed by May 4, 2010. If the 2009 regulatory requirements cannot be met for future phases constructed after May 4, 2010, all reasonable efforts to incorporate ESD in future phases must be demonstrated.

(f) **Watershed Management Plans.** If the City has established an overall watershed management plan for a specific watershed, then the City may develop quantitative waiver and redevelopment provisions that differ from §§ 25-63 and 25-64 of this article. A watershed management plan developed for the purpose of implementing different stormwater management policies for waivers and redevelopment shall:

- (1) Include detailed hydrologic and hydraulic analyses to determine hydrograph timing;
- (2) Evaluate both quantity and quality management and opportunities for ESD implementation;
- (3) Include a cumulative impact assessment of current and proposed watershed development;
- (4) Identify existing flooding and receiving stream channel conditions;
- (5) Be conducted at a reasonable scale;

- (6) Specify where on-site or off-site quantitative and qualitative stormwater management practices are to be implemented;
- (7) Be consistent with the General Performance Standards for Stormwater Management in Maryland as set forth in the Design Manual; and
- (8) Be approved by the Administration.

§ 25-64. Redevelopment.

- (a) **Plans and Requirements.** Unless otherwise specified by watershed management plans developed according to § 25-63 of this article, stormwater management plans are required for all redevelopment. Stormwater management measures must be consistent with the Design Manual.
- (b) **Impervious Area Reduction.** All redevelopment designs shall:
 - (1) Reduce existing impervious area within the LOD by at least 50 percent according to the Design Manual;
 - (2) Implement ESD to the MEP to provide water quality treatment for at least 50 percent of the existing impervious area within the LOD; or
 - (3) Use a combination of subsections (b)(1) and (b)(2) of this section for at least 50 percent of the existing site impervious area.
- (c) **Alternative Stormwater Management Measures.** Alternative stormwater management measures may be used to meet the requirements in subsection (b) of this section if the applicant satisfactorily demonstrates to the City Engineer that impervious area reduction has been maximized and ESD has been implemented to the MEP. Alternative stormwater management measures include, but are not limited to:
 - (1) An on-site structural BMP;
 - (2) An off-site structural BMP to provide water quality treatment for an area equal to or greater than 50 percent of the existing impervious area; or
 - (3) A combination of impervious area reduction, ESD implementation, and an on-site or off-site structural BMP for an area equal to or greater than 50 percent of the existing site impervious area within the LOD.
- (d) **Alternatives for Providing Water Quality Treatment.**
 - (1) The City may develop separate policies for providing water quality treatment for redevelopment projects if the requirements of subsections (b) and (c) cannot be met. Any separate redevelopment policy shall be reviewed and approved by the Administration and may include, but not be limited to:
 - (A) A combination of ESD and an on-site or off-site structural BMP;

- (B) Retrofitting including existing BMP upgrades, filtering practices, and off-site ESD implementation;
 - (C) Participation in a stream restoration project;
 - (D) Pollution trading with another entity;
 - (E) Payment of a fee-in-lieu; or
 - (F) A partial waiver of the treatment requirements if ESD is not practicable.
- (2) The determination of what alternatives will be available may be made by the City Engineer at the appropriate point in the development review process. The City Engineer shall consider the prioritization of alternatives in subsection (d) of this section after it has been determined that it is not practicable to meet the 2009 regulatory requirements using ESD. In deciding what alternatives may be required, the City Engineer may consider factors including, but not limited to:
- (A) Whether the project is in an area targeted for development incentives such as a Priority Funding Area, a designated Transit Oriented Development area, or a designated Base Realignment and Closure Revitalization and Incentive Zone;
 - (B) Whether the project is necessary to accommodate growth consistent with the City's comprehensive plan; or
 - (C) Whether bonding and financing have already been secured based on an approved development plan.
- (e) **Net Increase in Impervious Area.** Stormwater management shall be addressed according to the new development requirements in the Design Manual for any net increase in impervious area.

§ 25-65. Minimum Control Requirements. The minimum control requirements established in this section and the Design Manual are as follows:

- (a) **Design Criteria.** The planning techniques, nonstructural practices, and design methods specified in the Design Manual shall be used to implement ESD to the MEP. Stormwater management plans shall be designed using ESD sizing criteria, recharge volume for sites not located in karst, water quality volume, and channel protection storage volume criteria according to the Design Manual.
- (b) **MEP Standard.** The use of ESD planning techniques and treatment practices must be exhausted before any structural BMP is implemented. The MEP standard is met when channel stability is maintained, predevelopment groundwater recharge is replicated for sites not located in karst, nonpoint source pollution is minimized, and structural stormwater management practices are used only if absolutely necessary.
- (c) **Additional Management to Control Historical Flooding.** If the City Engineer determines that additional stormwater management is necessary because historical flooding problems exist, control of the 2-year and 10-year frequency storm event is

required according to the Design Manual and all subsequent revisions and downstream floodplain development and conveyance system design cannot be controlled.

- (d) **Greater than Minimum Control may be Required.** The City Engineer may require more than the minimum control requirements specified in this article if hydrologic or topographic conditions warrant or if flooding, stream channel erosion, or water quality problems exist downstream from a proposed project.
- (e) **Alternative Minimum Control Requirements.** Alternate minimum control requirements may be adopted subject to Administration approval. The Administration shall require a demonstration that alternative requirements will implement ESD to the MEP and control flood damages, accelerated stream erosion, water quality, and sedimentation. Comprehensive watershed studies may also be required.
- (f) **Interjurisdictional Flood Hazard Watersheds.** The Carroll Creek (including its tributaries) watershed is designated as an interjurisdictional flood hazard watershed by COMAR 26.17.02.07. Development in the Carroll Creek watershed may not increase the downstream peak discharge for the 100-year frequency storm event. Additionally, development shall comply with flood management plans as approved by the Administration in accordance with the Flood Hazard Management Act of 1976 (Maryland Code, Environment Article, Title 5, Subtitle 8).

§ 25-66. Stormwater Management Techniques and Practices.

- (a) **ESD Techniques and Practices.** The ESD planning techniques and practices and structural BMPs established in this section and the Design Manual shall be used to develop a stormwater management plan. An applicant shall demonstrate that ESD has been implemented to the MEP before the use of a structural BMP is considered in developing the stormwater management plan.
- (b) **Infiltration.** Infiltration is not permitted on sites where it has been demonstrated through geotechnical investigations consistent with Appendix D.2. (Geotechnical Methods for Karst Feasibility Testing) of the 2000 Maryland Stormwater Design Manual that infiltration practices may increase the risk of sinkhole activity on or adjacent to the site. In such instances, ESD to the MEP shall be provided through the use of non-infiltration practices and the remainder of stormwater management requirements shall be provided via lined structural facilities.
- (c) **ESD Planning Techniques.** The following planning techniques shall be applied according to the Design Manual to satisfy the applicable minimum control requirements established in this article, and shall not conflict with existing State law or local ordinances, regulations, or policies:
 - (1) Preserving and protecting natural resources;
 - (2) Conserving natural drainage patterns;
 - (3) Minimizing impervious area;
 - (4) Reducing runoff volume;

- (5) Using ESD practices to maintain 100 percent of the annual predevelopment groundwater recharge volume for sites not located in karst;
 - (6) Using green roofs, permeable pavement, reinforced turf, and other alternative surfaces;
 - (7) Limiting soil disturbance, mass grading, and compaction;
 - (8) Clustering development; and
 - (9) Any practices approved by the Administration.
- (d) **ESD Treatment Practices.** The following ESD treatment practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in this article, and shall not conflict with existing State law or local ordinances, regulations, or policies:
- (1) Disconnection of rooftop runoff;
 - (2) Disconnection of non-rooftop runoff;
 - (3) Sheetflow to conservation areas;
 - (4) Rainwater harvesting;
 - (5) Submerged gravel wetlands for sites not located in karst;
 - (6) Landscape infiltration for sites not located in karst;
 - (7) Infiltration berms for sites not located in karst;
 - (8) Dry wells for sites not located in karst;
 - (9) Micro-bioretenion;
 - (10) Rain gardens;
 - (11) Swales;
 - (12) Enhanced filters; and
 - (13) Any practices approved by the Administration.
- (e) **Structural BMPs.**
- (1) Structural BMPs shall be designed in accordance with the Design Manual to satisfy the applicable general requirements established in this article:
 - (A) Stormwater management wetlands;
 - (B) Stormwater management infiltration for sites not located in karst;

- (C) Stormwater management filtering systems; and
 - (D) Stormwater management open channel systems.
- (2) The performance criteria specified in the Design Manual with regard to general feasibility, conveyance, pretreatment, treatment and geometry, environment and landscaping, and maintenance shall be considered when selecting structural stormwater management practices. Structural stormwater management practices shall be selected to accommodate the unique hydrologic or geologic features of the City.
- (f) **Recorded Practices.** ESD planning techniques and treatment practices and structural stormwater management measures used to satisfy the minimum requirements of § 25-65 of this article must be recorded in the Land Records of Frederick County and remain unaltered by subsequent property owners. Prior approval from the City Engineer shall be obtained before any stormwater management practice is altered.
- (g) **Alternative ESD Planning Techniques and Practices and Structural BMPs.** Alternative ESD planning techniques and treatment practices and structural stormwater measures may be used for new development runoff control if they meet the performance criteria established in the Design Manual and all subsequent revisions and are approved by the Administration. Practices used for redevelopment projects shall be approved by the City Engineer.
- (h) **Stormwater Flow Analysis.** For the purposes of modifying the minimum control requirements or design criteria, an applicant shall submit to the City Engineer an analysis of the impacts of stormwater flows downstream in the watershed. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications of the proposed development upon a dam, highway, structure, or natural point of restricted streamflow. The point of investigation is to be established with the concurrence of the City Engineer downstream of the first downstream tributary whose drainage area equals or exceeds the contributing area to the project or stormwater management facility.

§ 25-67. Specific Design Criteria. The basic design criteria, methodologies, and construction specifications shall be those contained in the Design Manual and are subject to the approval of the City Engineer and the Administration.

§ 25-68. Stormwater Management Plans.

- (a) **Review and Approval.** Prior to any subdivision or development activity, an applicant shall submit stormwater management plans to the City Engineer for review and approval. Plan review shall be a three-step process, including:
- (1) A stormwater management concept plan;
 - (2) A stormwater management development plan; and
 - (3) A final stormwater management plan, including a final erosion and sediment control plan.

(b) **Coordinated Comments.** The City Engineer shall perform a comprehensive review of the stormwater management plans for each phase of site design. Coordinated comments will be provided for each plan phase that reflect input from all appropriate agencies and departments, including but not limited to the Soil Conservation District (SCD) and the City's Departments of Planning and Public Works. The applicant must address all comments from the agencies and departments and obtain approval at each phase of project design before subsequent submissions.

(c) **Contents and Submission.**

(1) **Concept Plan.** Prior to or concurrent with submitting an application to the Planning Department for approval of a sketch plan, site plan, preliminary subdivision plat, or master plan (whichever may occur first), an applicant shall submit a concept plan that provides sufficient information for an initial assessment of the proposed project and whether stormwater management can be provided in accordance with this article and the Design Manual. Plans submitted for concept approval shall include:

(A) A map at a scale specified by the City Engineer showing site location, existing natural features, rock outcroppings, sinkholes and depressions, water and other sensitive resources, topography, and natural drainage patterns;

(B) The anticipated location of all proposed impervious areas, buildings, roadways, parking, sidewalks, utilities, and other site improvements;

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

(D) Preliminary estimates of stormwater management requirements, the selection and location of ESD practices to be used, and the location of all points of discharge from the site;

(E) A narrative that supports the concept design and describes how ESD will be implemented to the MEP; and

(F) Any other information required by the City Engineer.

(2) **Development Plan.**

(A) After the City Engineer approves the concept plan, the applicant shall submit a development plan consistent with the approved concept plan and all conditions of approval; and any written waiver or variance request. The development plan must be approved prior to scheduling a Planning Commission hearing on an application for a site plan, preliminary subdivision plat, final plat, or master plan. A development plan shall include:

(i) All details developed during the concept plan review phase;

- (ii) Final site layout, exact impervious area locations and acreages, proposed topography, delineated drainage areas at all points of discharge from the site, sufficient offsite information to substantiate drainage areas and safe conveyance computations, and stormwater volume computations for ESD practices and quantity control structures;
 - (iii) A proposed erosion and sediment control plan that contains the construction sequence, any phasing necessary to limit earth disturbances and impacts to natural resources and an overlay plan showing the types and locations of ESD and erosion and sediment control practices to be used;
 - (iv) A narrative that supports the site development design, describes how ESD will be used to meet the minimum control requirements, and justifies any proposed structural stormwater management measure;
 - (v) Geotechnical investigations and recommendations including soil maps, borings, site specific recommendations, and any additional information necessary for the site development stormwater management design. Geotechnical testing must be sufficient to ensure any proposed infiltration practices are feasible. Sites that have demonstrated through geotechnical investigations consistent with Appendix D.2. (Geotechnical Methods for Karst Feasibility Testing) of the Design Manual to be located in karst shall not propose ESD practices that include infiltration. Geotechnical reports shall be signed and sealed by a Maryland Licensed professional engineer; and
 - (vi) Any other information required by the approving agency.
- (B) A development plan shall be submitted in a format as directed by the City Engineer and shall include a report with the narrative and all supporting computations. The plans and report shall be signed and sealed by a Maryland licensed professional engineer with the following statement:
- “Professional Engineer’s Certification - This Site Development Stormwater Management Plan and Report has been designed in accordance with COMAR 26.17.02 and the Stormwater Management Ordinance of The City of Frederick, and in my professional opinion, meets or exceeds the intent and requirements of ESD to the MEP.”

(3) Final Stormwater Management Plan.

- (A) After a development plan has been approved, an applicant shall submit a final erosion and sediment control plan (in accordance with COMAR 26.17.01) and a final stormwater management plan that is consistent with the approved development plan and all conditions of approval. A final stormwater management plan shall be submitted as a part of the improvement plans for the applicable subdivision or development and

must be approved before the City Engineer issues a grading permit for the project. A final stormwater management plan shall be submitted in the form of construction drawings and shall include:

- (i)** A vicinity map;
- (ii)** Existing and proposed topography (including survey source and date) including any interim grading and proposed drainage areas, including areas necessary to determine downstream analysis for proposed stormwater management facilities;
- (iii)** Any proposed improvements including location of buildings or other structures, impervious surfaces, storm drainage facilities, and all grading;
- (iv)** The location of existing and proposed structures and utilities;
- (v)** All existing and proposed easements and rights-of-way, including recording references where applicable;
- (vi)** The delineation, if applicable, of the 100-year floodplain, floodway, and any on-site wetlands;
- (vii)** Structural and construction details including representative cross sections for all components of the proposed drainage system or systems, and stormwater management facilities;
- (viii)** All necessary construction specifications;
- (ix)** A sequence of construction;
- (x)** Data for total site area, disturbed area, existing impervious area, new impervious area, total impervious area, impervious area to be treated under redevelopment requirements, and impervious area to be treated under new development requirements;
- (xi)** A table showing the ESD and unified sizing criteria volumes required in the Design Manual;
- (xii)** A table of materials to be used for stormwater management facility planting;
- (xiii)** All soil boring logs and locations;
- (xiv)** An inspection and maintenance schedule;
- (xv)** All proposed sediment and erosion control measures including necessary details;
- (xvi)** Certification by the applicant that all stormwater management and erosion and sediment control construction will be done

according to this plan;

- (xvii) An as-built certification signature block to be executed after project completion;
 - (xviii) A construction inspection checklist; and
 - (xix) Any other information required by the City Engineer.
- (B)** The final stormwater management plan shall also include a report that includes:
- (i) Geotechnical investigations and recommendations including soil maps, borings, site specific recommendations, and any additional information necessary for the final stormwater management design;
 - (ii) Drainage area maps depicting predevelopment and post development runoff flow path segmentation and land use. The maps shall adequately show adjacent and downstream properties to the extent of any affected runoff or adverse affects;
 - (iii) Hydrologic computations of the applicable ESD and unified sizing criteria according to the Design Manual for all points of discharge from the site;
 - (iv) Hydraulic and structural computations for all ESD practices and structural stormwater management measures to be used;
 - (v) A narrative that supports the final stormwater management design;
 - (vi) Sediment and erosion control computations including, but not limited to, sediment trap and sediment basin sizing, interim sediment control drainage and area maps; and
 - (vii) Any other information required by the City Engineer.
- (C)** Geotechnical testing must be sufficient to ensure that any proposed infiltration practices are feasible. Sites that have demonstrated through geotechnical investigations consistent with Appendix D.2. (Geotechnical Methods for Karst Feasibility Testing) of the Design Manual to be located in karst shall not propose ESD practices that include infiltration.
- (D)** Geotechnical reports shall be signed and sealed by a Maryland licensed professional engineer. A final stormwater management and erosion and sediment control plan and report shall include the following certification signed and sealed by a Maryland licensed professional engineer with the following statement:

“Professional Engineer's Certification - This Final Stormwater Management and Sediment and Erosion Control Plan and Report has been designed in accordance with COMAR 26.17.01 and 26.17.02 and the Stormwater Management Ordinance of The City of Frederick, and in my professional opinion, meets or exceeds the intent and requirements of ESD to the MEP”

- (E) If a stormwater management plan involves an increase of runoff from the site to a specific study point or collectively, the applicant must obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water. Approval of a stormwater management plan does not create or affect any right to change runoff patterns or volume onto adjacent property without that property owner's permission.

(d) Preparation of the Stormwater Management Plan.

- (1) The design of stormwater management plans shall be prepared by a Maryland licensed professional engineer. Any changes in design will require approval by the City Engineer and, where applicable, the SCD.
- (2) Landscaping within a BMP or pond shall be designed and specified by a Maryland licensed landscape architect. The City Engineer may waive this requirement if the design is in accordance with the standards and design practices of the MDE Design Manual, Appendix A.
- (3) If a stormwater BMP requires either a dam safety permit from the Administration or small pond approval from the SCD, the design shall be prepared by a Maryland licensed professional engineer.
- (4) Certified as-built surveys are required for all structural and nonstructural stormwater management practices. As-builts must be signed and sealed by a Maryland licensed professional surveyor for any elevations and for field run topography, and by a Maryland licensed professional engineer for all other aspects of the as-built, including but not limited to: proper installation of all materials, rebar, concrete, filter fabric, stone, sand, filter media, underdrains, and pervious concrete.
- (5) When a facility has been designed to meet Soil Conservation Service, Maryland Standards and Specifications, Pond Code 378-1 certification, as-built certification of construction methods and materials (378-1 specs) must be provided and sealed by a Maryland licensed professional engineer.

§ 25-69. Permits.

- (a) **Permit Requirement.** The City Engineer may not issue a grading or building permit for any site unless the development is exempt from this article; or:
 - (1) Final erosion and sediment control and stormwater management plans have been approved;

- (2) Easements for the stormwater management facility and easements to provide adequate access for inspection and maintenance from a public right-of-way have been approved and recorded in the Land Records of Frederick County;
 - (3) A stormwater management maintenance agreement as described in § 25-73 has been submitted;
 - (4) The applicant evidences permission from adjacent affected property owners, in accordance with § 25-68(c)(3)(E) of this article; and
 - (5) Security as described in § 25-70 of this article has been provided.
- (b) **Suspension and Revocation.** The Director may suspend or revoke a grading or building permit, in accordance with the procedures set forth in the Building Code (chapter 5 of this Code) or Erosion and Sediment Control Ordinance (article VI of this chapter), as applicable, for any of the following reasons:
- (1) Violation of any condition of the final stormwater management plan approval;
 - (2) Change in site runoff characteristics upon which an approval or waiver was granted;
 - (3) Construction not in accordance with the approved plan;
 - (4) Noncompliance with correction notice or stop work order issued for the construction of any stormwater management practice; or
 - (5) Existence of an immediate danger in a downstream area.
- (c) **Conditions.** In granting an approval for any phase of site development, the City Engineer may impose conditions to ensure compliance with the provisions of this article and the preservation of public health and safety.

§ 25-70. Guarantee and Design Requirements

- (a) **Public Works Agreement.** A public works agreement between the owner and the City is required for all approved construction projects. The public works agreement must set forth the owner's responsibility during the project. Before the execution of a public works agreement, the owner or applicant shall provide evidence that all necessary permits and approvals have been obtained from the appropriate state and federal agencies.
- (b) **Security Required.** The City Engineer shall not issue a building or grading permit unless the applicant first provides a security in the form of an irrevocable letter of credit, or other form acceptable to the City Attorney. The security shall be in an amount equal to or greater than the total estimated construction cost of all stormwater management facilities.
- (c) **Forfeiture.** The security required in subsection (a) of this section is subject to forfeiture if the owner or applicant fails to:

- (1) Complete the work specified in the applicable Public Works Agreement or final stormwater management plan; or
 - (2) Comply with any applicable law or regulation or any time limitation.
- (d) **Release.** The City may release parts of the security after various stages of construction have been completed and accepted. The security shall not be fully released until after:
- (1) The City Engineer has performed a final inspection of the completed work; and
 - (2) The applicant has submitted, and the City Engineer has approved, "as-built" plans and a certification of completion confirming that all stormwater management facilities comply with the approved plan and the provisions of this article.

§ 25-71. Fencing.

- (a) **Retention Ponds.** This subsection (a) applies to any retention pond, whether or not it is constructed after the effective date of this article. A fence may be required for a retention pond more than 1000 square feet in area with water more than 18 inches deep if alternative safety measures including benching or interior slopes flatter than 4:1 are not provided. A fence must:
- (1) Be constructed of masonry, metal or wood material;
 - (2) Be at least 42 inches high;
 - (3) Resist, from any direction, a horizontal force of at least 20 pounds per square foot applied normally to and over the gross area of the fence;
 - (4) Not be easily scaled or climbed and not be penetrable;
 - (5) Completely enclose the pond; and
 - (6) Include a gate, which must be **(A)** kept closed at all times; and **(B)** equipped with a lock that can only be opened from the inside.
- (b) **Detention Ponds.** A detention pond is not required to be fenced, provided that the pond is designed to retain water no more than three feet deep for no more than 24 hours and has side slopes of 3:1 or flatter

§ 25-72. Inspection.

(a) **Inspection Schedule and Reports.**

- (1) No grading or other site work may be started until after a pre-construction meeting between the City Engineer, a City projects inspector, and the applicant. The applicant shall contact the Engineering Department to request this meeting.

- (2) Regular inspections shall be made and documented for each ESD planning technique and practice at the stages of construction specified in the Design Manual by the City, its authorized representative, or certified by a Maryland licensed professional engineer. At a minimum, all ESD and other nonstructural systems shall be inspected upon completion of final grading, the establishment of permanent stabilization, and before issuance of use and occupancy approval.
 - (3) Written reports shall be prepared for every inspection and must include:
 - (A) The date and location of the inspection;
 - (B) The inspector's name and observations of the site;
 - (C) Whether construction was in compliance with the approved stormwater management plan;
 - (D) Any observed variations from the approved construction specifications; and
 - (E) Any violations that exist.
 - (4) No work may proceed on a subsequent phase of development until the City Engineer inspects and approves the work completed on the previous phase. The City Engineer will provide copies of the inspection reports to the applicant.
 - (5) Once construction is complete, "as-built" plan certification shall be prepared by a Maryland licensed professional engineer or Maryland licensed professional land surveyor to ensure that ESD planning techniques, treatment systems, and structural stormwater management measures and conveyance systems comply with the specifications contained in the approved plans. "As-built" certification shall include a set of drawings comparing the approved stormwater management plan with what was constructed. The City Engineer may require additional information or certifications.
 - (6) The owner or applicant and on-site personnel shall be notified in writing when violations are observed. Written notification shall describe the nature of the violation and the required corrective action.
 - (7) Within 45 days of construction completion, the City Engineer shall submit notice of construction completion to the Administration on a form supplied by the Administration for each structural stormwater management practice. The type, number, total drainage area, and total impervious area treated by all ESD techniques and systems shall be reported to the Administration on a site by site basis. If BMPs requiring SCD approval are constructed, notice of construction completion shall also be submitted to the appropriate SCD.
- (b) **Inspection Requirements During Construction.** Regular inspections shall be made and documented at the following stages of construction:

- (1) For ponds:**
 - (A)** Upon completion of excavation to sub-foundation and when required, installation of structural supports or reinforcement for structures, including but not limited to:
 - (i)** Core trenches for structural embankments;
 - (ii)** Inlet and outlet structures, anti-seep collars or diaphragms, and watertight connectors on pipes; and
 - (iii)** Trenches for enclosed storm drainage facilities;
 - (B)** During placement of structural fill, concrete, and installation of piping and catch basins;
 - (C)** During backfill of foundations and trenches;
 - (D)** During embankment construction; and
 - (E)** Upon completion of final grading and establishment of permanent stabilization.
- (2) For wetlands:**
 - (A)** At the stages specified for pond construction in subsection (b)(1)(A) of this section;
 - (B)** During and after wetland reservoir area planting; and
 - (C)** During the second growing season to verify a vegetation survival rate of at least 50 percent.
- (3) For infiltration trenches:**
 - (A)** During excavation to subgrade;
 - (B)** During placement and backfill of under drain systems and observation wells;
 - (C)** During placement of geotextiles and all filter media;
 - (D)** During construction of appurtenant conveyance systems such as diversion structures, pre-filters and filters, inlets, outlets, and flow distribution structures; and
 - (E)** Upon completion of final grading and establishment of permanent stabilization.
- (4) For infiltration basins:**
 - (A)** At the stages specified for pond construction in this section; and

- (B) During placement and backfill of under drain systems.
- (5) For filtering systems:
- (A) During excavation to subgrade;
 - (B) During placement and backfill of under drain systems;
 - (C) During placement of geotextiles and all filter media;
 - (D) During construction of appurtenant conveyance systems such as flow diversion structures, pre-filters and filters, inlets, outlets, orifices, and flow distribution structures; and
 - (E) Upon completion of final grading and establishment of permanent stabilization.
- (6) For open channel systems:
- (A) During excavation to subgrade;
 - (B) During placement and backfill of under drain systems for dry swales;
 - (C) During installation of diaphragms, check dams or weirs; and
 - (D) Upon completion of final grading and establishment of permanent stabilization.

§ 25-73. Maintenance and Compliance.

- (a) **Responsible Parties.** Stormwater facilities for residential, commercial, and industrial developments, and all other private properties, shall be owned and maintained by a homeowners association (HOA), a private property owner, or another private party. All privately owned stormwater facilities shall comply with all provisions of this article. Only those stormwater facilities that are approved by the Mayor and Board of Aldermen upon affirmative recommendation by the City Engineer at the preliminary improvement plan phase and that provide a recreational benefit and access for the general public shall be considered for acceptance and maintenance by the City. Those facilities to be dedicated to the City shall be maintained by the applicant until such time as they are finished, stabilized and accepted by the Mayor and Board of Aldermen.
- (b) **Maintenance Inspection.**
- (1) The Director shall ensure that preventative maintenance is performed by inspecting all ESD treatment systems and structural BMPs. Inspection shall occur during the first year of operation and at least once every three years thereafter, as well as after severe storms.

(2) Inspection reports shall be maintained by the City for all ESD treatment systems and structural BMPs. Reports shall include:

- (A) The date of the inspection;
- (B) The name of the inspector;
- (C) An assessment of the quality of the stormwater management system related to ESD treatment practice efficiency and the control of runoff to the MEP;
- (D) The condition of:
 - (i) Vegetation or filter media;
 - (ii) Fences or other safety devices;
 - (iii) Spillways, valves, or other control structures;
 - (iv) Embankments, slopes, and safety benches;
 - (v) Reservoir or treatment areas;
 - (vi) Inlet and outlet channels or structures;
 - (vii) Underground drainage;
 - (viii) Sediment and debris accumulation in storage and forebay areas;
 - (ix) Any nonstructural systems to the extent practicable; and
 - (x) Any other item that could affect the proper function of the stormwater management system; and
- (E) A description of any needed maintenance.

(3) Upon notifying an owner of the inspection results, the owner shall have 30 days, or other time frame mutually agreed to between the Director and the owner, to correct the deficiencies discovered. The Director shall conduct a subsequent inspection to ensure completion of the repairs. If repairs are not properly undertaken and completed, the Director shall take enforcement action in accordance with § 24-75.1 of this article.

(c) Maintenance Agreements.

(1) Prior to release of security, for any development of property which will require stormwater management, a maintenance agreement shall be executed by all those having an interest in the property to be affected and shall be recorded among the Land Records of Frederick County. Covenants that include the requirements of this section may be substituted for maintenance agreements if

approved by the City. A maintenance agreement must be binding on all subsequent property owners. The maintenance agreement must:

- (A) Provide for the creation of an easement for all stormwater management facilities;
 - (B) Provide for the City or its authorized representatives to have access to the facility, including any required easements; for inspection to facility to ensure that the facility is maintained in proper working condition to meet design standards;
 - (C) Specify the party or entity that is responsible for maintenance of the facility;
 - (D) Provide that upon receipt of notice of any problems or deficiencies in the stormwater management facilities, the responsible party will correct problems as ordered by the City; and
 - (E) Require that the owner of a property that contains private stormwater management facilities installed pursuant to this article maintain in good condition and promptly repair and restore all ESD systems, grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures, and other protective devices.
- (d) **Maintenance Schedule.** Maintenance shall be in accordance with approved final stormwater management plans. A plan shall include a maintenance schedule developed for the life of any structural stormwater management facility or system of ESD systems and shall state the maintenance to be completed, the time period for completion, and the party responsible for the maintenance.
- (e) **City Facilities.** If the Mayor and Board of Aldermen agree to accept ownership of a stormwater facility in accordance with subsection (a) of this section, the facilities will be maintained by the Department of Public Works. The Mayor and Board of Aldermen may create storm drainage districts to pay for this service.

§ 25-74. Fees.

- (a) **Amount.** The fees to be collected for review and approval of stormwater management facilities and plans, waiver and variance requests shall be established by resolution of the Mayor and Board of Aldermen.
- (b) **Waivers.** For waivers that are granted from either quantitative or qualitative requirements, the waiver fee established by the Mayor and Board of Aldermen will be applied per new impervious acre using a 2:1 ratio of quantity to quality. An applicant shall pay a waiver fee at the time of a grading permit or building permit application.

§ 25-75. Prohibited Activities.

(a) Prohibitions. A person shall not:

- (1) Cause to be discharged into any storm drain system any pollutant, hazardous material or waste material;
- (2) Cause to be discharged into any storm drain system any pesticide, fungicide, or herbicide prohibited by the U.S. EPA;
- (3) Cause to be discharged into any storm drain system any refuse, rubbish, food waste, garbage, or any other discarded or abandoned objects;
- (4) Cause any refuse, rubbish, food waste, garbage, or any other discarded or abandoned object to be littered, thrown, deposited, placed, accumulated, maintained or kept in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit, drainage structure, or place of business, or upon any other public or private property, except when such materials are placed in containers, bags, recycling bins, or other lawfully established waste disposal facilities protected from stormwater and runoff;
- (5) Cause the accumulation of pollutants, leaves, dirt, or other landscape debris into any street, alley, catch basin, culvert, curb, gutter, inlet, ditch, natural watercourse, flood control channel, canal, storm drain, or any fabricated or natural conveyance; or
- (6) Cause the disposal of sanitary or septic waste or sewage into a stormwater management system or the City's storm drain system from any property or residence or any type of recreational vehicle, camper, bus, boat, holding tank, portable toilet, vacuum truck or other mobile source of waste holding tank, container or device.

- (b) Criminal Penalty.** Any person who willfully violates any provision of this § 25-75.1 is guilty of a misdemeanor and, upon conviction thereof, is subject to a fine of not more than \$ 5,000 or imprisonment not exceeding one year or both for each violation, with costs imposed in the discretion of the court. Each day a violation continues is a separate offense.

§ 24-75.1. Enforcement and Penalties

(a) Enforcement.

- (1) The Director may enter and inspect any property in order to verify that the property complies with the provisions of this article. This subsection (a) does not apply to violations of § 24-75 of this article.
- (2) If the Director determines that a property is in violation of any provision of this article, the Director shall issue a written notice of violation to all record owners of the property. A notice of violation is deemed to be properly served if a copy is delivered personally to the person to be served or the person's authorized agent by first class mail to the person's last known mailing address. For purposes of

this section, the last known mailing address of a property owner is the address on file with the Maryland Department of Assessments and Taxation. Such notice will state the nature of the violation and order such lawful action as will abate the violation. The Director shall allow a reasonable period of time for compliance with the written order before imposing any penalty. A notice of violation issued in accordance with this section is not subject to the provisions of section 2-27.5 of this Code.

- (3)** The Director may immediately suspend or revoke the grading or building permit and issue a stop work order on the project if the violation is of such a nature that continuing work will worsen the situation or cause a more severe violation. Violations of this nature include, but are not limited to, the following:
 - (A)** Any violation of the conditions of the stormwater management plan approval;
 - (B)** Changes in site runoff characteristics upon which a waiver was granted;
 - (C)** Grading or construction of stormwater management facilities not in accordance with approved plans;
 - (D)** Noncompliance with any correction notice or stop work order issued for the construction of a stormwater management facility; or
 - (E)** Violations that, in the opinion of the City Engineer, create an immediate danger in a downstream area.

(b) Penalties.

- (1)** Except as otherwise provided in this article, violation of any provision of this article is hereby declared a municipal infraction punishable by a fine of \$500.00. Each day a violation continues is a separate offense.
- (2)** In addition to any other penalty or sanction established in this article, the City may seek any other remedy available to it at law or in equity to abate, restrain or correct a violation of this section. Any court of competent jurisdiction may issue temporary or permanent restraining orders, injunctions or mandamus, or other appropriate forms of relief.
- (3)** In addition to any other penalty or sanction established in this article, any person who fails to install or maintain stormwater management controls and facilities in accordance with a plan approved by the City shall be liable to the City or state in a civil action for damages.
- (4)** Any action instituted under subsection (b)(2) or (b)(3) of this section shall include the recovery of all costs incident to such enforcement action, including attorneys, consultants and witness fees, discovery and administration costs and any court of competent jurisdiction shall have the authority to award such fees and costs in any enforcement-related proceeding.

- (5) Corrections required under subsection (a)(2) of this section must be made within five days or other time period specified by the Director, or the City may perform all the necessary work to bring the facility into compliance with statutory requirements.
- (6) Any costs incurred in connection with any action taken by the City to abate, restrain or correct a violation of this article shall be charged to the owner of the property. Until the expenses are paid by the owner, they will constitute a lien upon the property to be collected in the same manner as other City taxes.

Sec. 25-75.2. Appeals. Any person aggrieved by the action of the City Engineer or other individual charged with the administration and interpretation of this article, as the result of the disapproval of a properly filed application for a permit, issuance of a written notice of violation, or an alleged failure to properly enforce the provisions of this article in regard to a specific application, may appeal the action within 30 days to the Circuit Court for Frederick County in accordance with the Maryland Rules governing judicial review of administrative agency actions. An appeal does not stay enforcement of this article by the City.

SECTION II. In the event any provision, article, sentence, clause, or part of this ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, article, sentence, clause, or part of this ordinance, it being the intent of the City that such remainder shall be and shall remain in full force and effect.

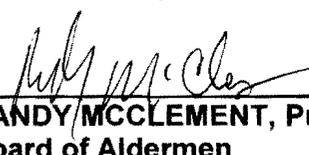
SECTION III. This ordinance shall take effect on July 15, 2010 and all other ordinances or parts of ordinances inconsistent with the provisions of this ordinance will as of that date be repealed to the extent of such inconsistency.

APPROVED: July 15, 2010



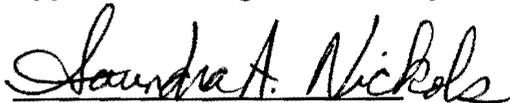
RANDY MCCLEMENT, Mayor

PASSED: July 15, 2010



**RANDY MCCLEMENT, President,
Board of Aldermen**

Approved for Legal Sufficiency:



Legal Department