
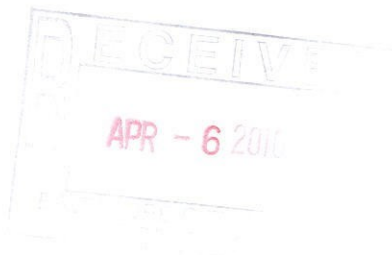


FROM	NAME & TITLE	David E. Scott, P.E., Director	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Department of Public Works 600 Abel Wolman Municipal Building		
	SUBJECT	CITY COUNCIL BILL 10-0434		

TO DATE:
April 5, 2010

The Honorable President and Members
of the Baltimore City Council
c/o Karen Randle
Room 400 – City Hall



I am herein reporting on City Council Bill 10-0434 introduced by the Council President on behalf of the Administration.

The purpose of the Bill is to modify the provisions governing stormwater management to comply with new requirements of State law; require the development, review, and approval of phased plans for stormwater management; establish certain minimum control requirements to manage stormwater by using environmental site design to the maximum extent practicable; require certain site design techniques and certain structural and nonstructural practices; require certain reports and inspections; provide for certain exemptions, waivers, and variances; impose certain fees; define and redefine certain terms; correct, clarify, and conform related language; provide for a special effective date; and generally relating to the protection, maintenance, and enhancement of the public health, safety, and welfare through the management of stormwater.

The Maryland Stormwater Act of 2007 updated the requirements and standards development must follow to control the effects of runoff and sediment and erosion control when these sites disturb 5,000 square feet or more of land through development activity. Jurisdictions delegated to review and approve stormwater plans and practices must adopt local laws that at a minimum meet the requirements of State law, any State guidance documents and the State design manual. The 2007 revisions require stronger controls for runoff and must use Environmental Site Design practices to the maximum extent practicable to control the quantity and quality of stormwater runoff. Structural best management practices (e.g. stormwater detention pond) and alternative practices may be used only when necessary. The intent is to mimic, as much as is possible, the pre-development hydrologic characteristics of the development site through the use of multiple small scale nonstructural green technologies (e.g. swales, rain gardens, limited impervious areas) to optimize conservation of natural features, minimize impervious areas, prevent soil erosion, maintain the integrity of stream channels, and minimize pollutants in stormwater runoff. Environmental Site Design practices and structural stormwater management measures used to satisfy the minimum control requirements must be recorded in the land records of the City, must be binding on subsequent property owners, and may not be altered without the Department's prior approval. Under current

FLA

The Honorable President and Members
of the Baltimore City Council
April 5, 2010
Page 2

State law, jurisdictions have until May 4, 2010 to adopt State approved changes to their stormwater management programs or risk loss of their delegated stormwater program responsibilities.

By way of background, Ordinance 78-869 first established a mechanism to enforce provisions of a Baltimore City Erosion and Sediment Control Manual. Ordinance 84-84 established a Baltimore City Stormwater Management Program and was the beginning of the City's delegated responsibility for stormwater management. The first stormwater management ordinance focused on controlling stream channel erosion and localized flooding, siltation and sedimentation, and water pollution. Ordinance 02-367 is the most recent amendment to the City's stormwater provisions under Article 7 {Natural Resources} Sections 21 through 28 of the Baltimore City Code. The 2002 ordinance revisions addressed nonstructural alternatives to controlling runoff from impervious surfaces, the use of Best Management Practices (BMPs) for redevelopment sites, enforceable operation and maintenance agreements for BMPs, and the protection of stream channels by controlling what is known as the one-year storm event.

City Council Bill 10-0434 would incorporate changes made to the State law under the Maryland Stormwater Management Act of 2007. The City ordinance must meet with the approval of the Maryland Department of the Environment (MDE) and be enacted by May 4, 2010. While passage is required by State law, updating these stormwater management provisions will also assist the City in meeting other obligations and mandates for environmental protection purposes.

The proposed changes incorporate the concept of Environmental Site Design techniques to control the quantity and quality of stormwater runoff from a developed site, with a goal to maintain 100% of predevelopment groundwater recharge. The degree of these controls depends on whether a development is new development or redevelopment. Under today's standards, redevelopment sites are more loosely defined and must treat or reduce existing impervious areas by at least 20%, using offset fees if the stormwater criteria cannot be met on the site. The new stormwater management criteria would define a redevelopment site as having more than 40% impervious area (of the total area of the site) and would require treating or reducing existing impervious area by 50%, a significant increase from the current 20% standard. Any increase in impervious area as a result of the development activity must be addressed according to the new development requirements. Offset fees may only be applied as a last resort for site restricted projects.

Under today's standards, new development relies on the use of structural practices to comply with stormwater management, usually with a single large facility managing stormwater for an entire site. Site design is usually done independent of designing for stormwater management; however, new criteria would require the use of Environmental Site Design, resulting in multiple smaller nonstructural green technology practices throughout the site. These smaller methods to control runoff only work if a site design is integrated with the stormwater management plan. An applicant would have to submit concept, site development, and final stormwater management construction phases as part of the project design process. The new stormwater management criteria would require any sites classified as new development to demonstrate Environmental Site Design to the maximum extent practicable to treat at least 1" and up to 2.7" of rainfall on site.

The stormwater management law does take into consideration the following land disturbance activities that would not be required to comply with stormwater management controls:

- agricultural land management practices;
- a single family detached dwelling if the activity does not disturb more than 2,500 square feet of land area and has not previously been the subject of an exemption;
- construction, grading or development (other than for single family dwellings) that does not disturb more than 5,000 square feet of land area and has not previously been the subject of an exemption;
- a single family dwelling that disturbs more than 2,500 square feet of land but less than 5,000 square feet of land, subject to a "small-project" fee; or
- a development that will be regulated under specific State laws that provide for managing stormwater runoff.

Prior to introducing City Council Bill 10-0434, the Bureau of Water and Wastewater worked closely with stakeholders to get input into its drafting of the legislation. Much of the development that will occur within Baltimore will be classified as redevelopment. As an urban jurisdiction with a lot of existing impervious area and limited site flexibility, this proposed stormwater ordinance targets restoration practices using a watershed approach. A stormwater management plan would be developed using Environmental Site Design techniques to the maximum extent practicable, and only when all opportunities to use these design techniques are exhausted could structural best management practices or alternative practices be considered. Ultimately, if the requirements cannot be completely met on site, off site practices may be permitted or an offset fee paid that would contribute toward an identified stormwater project within the watershed area where the project is located. These stormwater mitigation projects could include retrofitting, stream restoration, pollution trading, or payment of offset fees dedicated to stormwater management. As noted previously, stormwater management controls are not required if the land area to be disturbed is less than 5,000 square feet. Under this legislation, a


The Honorable President and Members
of the Baltimore City Council
April 5, 2010
Page 4

“small project fee” would be established for developments disturbing between 2,500 and 5,000 square feet, to offset the cumulative effects of smaller projects that add to the impervious areas of the City.

MDE must approve the provisions of the Baltimore City ordinance to be in compliance with State law. This Department and MDE have exchanged information about the draft ordinance and the approaches embodied in it, and MDE is requesting a series of technical amendments for consistency purposes, as well as adjustments in the ordinance to reflect their expectations on how the City will implement its actions in granting offsite remediation or offset fees [now in Subtitle 23. Waivers §§ 23-6(a)(3) and 23-7(e)]. These amendments will be presented at the Committee hearing for recommended adoption in the form of a committee reprint.

Finally, there has been a lot of discussion in the State Legislature and legislative activity this session to provide for administrative waivers in implementing the new stormwater provisions. These waivers would allow for a transitional period for projects that have reached a certain point in their approval process, qualifying them to meet the existing, not new, stormwater requirements. As of this writing, the language that describes this grandfathering process has been amended into House Bill 1125, which received a favorable vote in that body, and which is now being considered in the Senate. Identical language is contained in proposed regulations that will be considered by the Joint Committee on Administrative, Executive, and Legislative Review. Should the Legislature approve this administrative waiver language, either through regulations or in legislation, MDE would issue model language that jurisdictions could consider including in their local ordinances. A copy of the legislation is attached to this memorandum for informational purposes.

The Department of Public Works supports the passage of City Council Bill 10-0434, including the amendments required by the MDE.



David E. Scott, P.E.
Director

Attachments

DES/MMC

Examples of Stormwater Management Structural and Nonstructural Practices

Stormwater Management	Structural and Nonstructural Practices
Environmental Site Design Planning Techniques § 22-4(b)(1)	Preserving & protecting natural resources; conserving natural drainage patterns; minimizing impervious areas; reducing runoff volume; using ESD design practices to maintain 100% of annual predevelopment groundwater recharge volume; using green roofs, permeable pavement, reinforced turf, & other alternative surfaces; limiting soil disturbance, mass grading & compaction; clustering development
Environmental Site Design Treatment Practices § 22-4(b)(2)	Disconnection of roof runoff & non-roof runoff; sheet flow to conservation areas; rainwater harvesting; submerged gravel wetlands; landscape infiltration; infiltration berms; dry wells; micro-bioretenion; rain gardens; swales; enhanced filters
Structural Stormwater Management Measures § 22-4(c)	Stormwater management ponds; stormwater management wetlands; stormwater management infiltration; stormwater management filtering systems; stormwater management open channel systems
Alternative Practices § 22-4(d)(1)	Structural and nonstructural practices may be used for water quality control for new development if they meet performance criteria established in State's Design Manual and are approved by the State Water Management Administration
Alternative Practices § 22-4(d)(2)	Separate polices for water quality control may be used for new development projects if reviewed & approved by State Water Management Administration and could include retrofitting, stream restoration, pollution trading, design criteria based on watershed management plans developed under § 23-6(b), or fees paid & dedicated exclusively to provide stormwater management

HOUSE BILL 1125

M3

EMERGENCY BILL

0lr1581
CF 0lr3414

By: Delegates Holmes, Barkley, Beidle, Cane, G. Clagett, Elmore, James, Jameson, Love, McConkey, Norman, O'Donnell, Serafini, Sossi, Stull, and Wood

Introduced and read first time: February 17, 2010

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 2010

CHAPTER _____

1 AN ACT concerning

2 Stormwater Management – Development Projects – ~~Redevelopment and~~
3 ~~Preliminary Plan Approval Requirements~~

4 FOR the purpose of ~~establishing certain requirements for a certain redevelopment~~
5 ~~project design; authorizing a certain developer to pay a certain fee in lieu~~
6 ~~payment to a certain local government to offset certain stormwater~~
7 ~~management requirements; requiring a certain fee in lieu payment to be in an~~
8 ~~amount determined by a local government and used for certain purposes;~~
9 ~~authorizing a person to submit a certain stormwater management plan that~~
10 ~~complies with certain laws and regulations if a certain development project~~
11 ~~receives certain approvals before a certain date; requiring an approving body to~~
12 ~~require a redevelopment project design to meet certain requirements;~~
13 ~~authorizing a certain approving body to authorize certain alternative~~
14 ~~stormwater measures for certain redevelopment projects under certain~~
15 ~~circumstances; authorizing certain quantitative control waivers be granted to~~
16 ~~certain projects under certain circumstances; authorizing certain quantitative~~
17 ~~and qualitative control waivers be granted to certain phased development~~
18 ~~projects under certain circumstances; requiring the developer of a certain~~
19 ~~phased development project that has been granted a certain waiver to meet~~
20 ~~certain requirements under certain circumstances; authorizing a certain~~
21 ~~approving body to grant a certain administrative waiver to a certain~~
22 ~~development project that received certain preliminary approval from a certain~~
23 ~~approving body by a certain date; specifying that certain administrative waivers~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 are subject to certain expiration; authorizing a certain approving body to grant
 2 an extension to a certain administrative waiver under certain circumstances;
 3 defining certain terms; providing for the construction of this Act; making this
 4 Act an emergency measure; and generally relating to stormwater management.

5 BY repealing and reenacting, with amendments,
 6 Article – Environment
 7 Section ~~4-203(b) and 4-204~~ 4-201.1, 4-203(b), and 4-204(a)
 8 Annotated Code of Maryland
 9 (2007 Replacement Volume and 2009 Supplement)

10 BY adding to
 11 Article – Environment
 12 Section ~~4-203(e)~~ 4-203.1 through 4-203.3
 13 Annotated Code of Maryland
 14 (2007 Replacement Volume and 2009 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 16 MARYLAND, That the Laws of Maryland read as follows:

17 Article – Environment

18 ~~4-203.~~

19 ~~(b) [The] SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE~~
 20 ~~Department shall adopt rules and regulations which establish criteria and procedures~~
 21 ~~for stormwater management in Maryland. The rules and regulations shall:~~

22 ~~(1) Indicate that the primary goal of the State and local programs will~~
 23 ~~be to maintain after development, as nearly as possible, the predevelopment runoff~~
 24 ~~characteristics;~~

25 ~~(2) Make allowance for the difference in hydrologic characteristics and~~
 26 ~~stormwater management needs of different parts of the State;~~

27 ~~(3) Specify that watershed wide analyses may be necessary to prevent~~
 28 ~~undesirable downstream effects of increased stormwater runoff;~~

29 ~~(4) Specify the exemptions a county or municipality may grant from~~
 30 ~~the requirements of submitting a stormwater management plan;~~

31 ~~(5) (i) Specify the minimum content of the local ordinances or the~~
 32 ~~rules and regulations of the affected county governing body to be adopted which may~~
 33 ~~be done by inclusion of a model ordinance or model rules and regulations; and~~

34 ~~(ii) Establish regulations and a model ordinance that require:~~

1 ~~1. The implementation of environmental site design to~~
2 ~~the maximum extent practicable;~~

3 ~~2. The review and modification, if necessary, of planning~~
4 ~~and zoning or public works ordinances to remove impediments to environmental site~~
5 ~~design implementation; and~~

6 ~~3. A developer to demonstrate that:~~

7 ~~A. Environmental site design has been implemented to~~
8 ~~the maximum extent practicable; and~~

9 ~~B. Standard best management practices have been used~~
10 ~~only where absolutely necessary;~~

11 ~~(6) Indicate that water quality practices may be required for any~~
12 ~~redevelopment, even when predevelopment runoff characteristics are maintained;~~

13 ~~(7) Specify the minimum requirements for inspection and~~
14 ~~maintenance of stormwater practices;~~

15 ~~(8) Specify all stormwater management plans shall be designed to:~~

16 ~~(i) Prevent soil erosion from any development project;~~

17 ~~(ii) Prevent, to the maximum extent practicable, an increase in~~
18 ~~nonpoint pollution;~~

19 ~~(iii) Maintain the integrity of stream channels for their biological~~
20 ~~function, as well as for drainage;~~

21 ~~(iv) Minimize pollutants in stormwater runoff from new~~
22 ~~development and redevelopment in order to:~~

23 ~~1. Restore, enhance and maintain the chemical,~~
24 ~~physical, and biological integrity of the waters of the State;~~

25 ~~2. Protect public health;~~

26 ~~3. Safeguard fish and aquatic life and scenic and~~
27 ~~ecological values; and~~

28 ~~4. Enhance the domestic, municipal, recreational,~~
29 ~~industrial, and other uses of water as specified by the Department;~~

30 ~~(v) Protect public safety through the proper design and~~
31 ~~operation of stormwater management facilities;~~

1 ~~(vi) Maintain 100% of average annual predevelopment~~
2 ~~groundwater recharge volume for the site;~~

3 ~~(vii) Capture and treat stormwater runoff to remove pollutants~~
4 ~~and enhance water quality;~~

5 ~~(viii) Implement a channel protection strategy to reduce~~
6 ~~downstream erosion in receiving streams; and~~

7 ~~(ix) Implement quantity control strategies to prevent increases~~
8 ~~in the frequency and magnitude of out of bank flooding from large, less frequent~~
9 ~~storm events; AND~~

10 ~~(D) (i) Establish a comprehensive process for approving grading~~
11 ~~and sediment control plans and stormwater management plans; and~~

12 ~~(ii) Specify that the comprehensive process established under~~
13 ~~subparagraph (i) of this paragraph takes into account the cumulative impacts of both~~
14 ~~plans.~~

15 ~~(E) (1) IN THIS SUBSECTION, "REDEVELOPMENT" MEANS:~~

16 ~~(I) ANY CONSTRUCTION, ALTERATION, OR IMPROVEMENT~~
17 ~~PERFORMED ON A SITE IN WHICH EXISTING LAND USE IS COMMERCIAL,~~
18 ~~INDUSTRIAL, INSTITUTIONAL, OR RESIDENTIAL, INCLUDING MULTIFAMILY~~
19 ~~RESIDENTIAL; AND~~

20 ~~(II) 1. THE EXISTING SITE IMPERVIOUS AREA EXCEEDS~~
21 ~~30%; OR~~

22 ~~2. THE PROPOSED DEVELOPMENT IS FOR AN~~
23 ~~AFFORDABLE HOUSING OR A TRANSIT-ORIENTED DEVELOPMENT.~~

24 ~~(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS~~
25 ~~SUBSECTION, A REDEVELOPMENT PROJECT DESIGN SHALL:~~

26 ~~(I) REDUCE EXISTING IMPERVIOUS AREA WITHIN THE~~
27 ~~LIMIT OF DISTURBANCE, AS DETERMINED BY THE MARYLAND STORMWATER~~
28 ~~DESIGN MANUAL, BY AT LEAST 20% AND UP TO 50%, TO BE DETERMINED BY A~~
29 ~~LOCAL GOVERNMENT AFTER A CONSIDERATION OF:~~

30 ~~1. THE TOTAL SQUARE FOOTAGE OF THE PROPOSED~~
31 ~~DEVELOPMENT PROJECT; AND~~

1 ~~(2)~~ A grading or building permit may not be issued for a property
 2 unless a stormwater management plan has been approved that is consistent with this
 3 subtitle.

4 ~~(B)~~ ~~(1)~~ ~~(1)~~ IN THIS SUBSECTION THE FOLLOWING WORDS HAVE
 5 THE MEANINGS INDICATED.

6 ~~(II)~~ "DEVELOPMENT PROJECT" INCLUDES:

- 7 1. A DEVELOPMENT OR REDEVELOPMENT PROJECT;
 8 OR
 9 2. ANY PHASE OF A DEVELOPMENT OR
 10 REDEVELOPMENT PROJECT.

11 ~~(III)~~ "PRELIMINARY PLAN APPROVAL" INCLUDES:

- 12 1. AN APPROVAL OF:
 13 A. A DEVELOPMENT PLAN;
 14 B. A PROJECT PLAN;
 15 C. A SKETCH PLAN;
 16 D. A CONCEPT PLAN; OR
 17 E. A SITE PLAN; OR
 18 2. AN ADEQUATE PUBLIC FACILITIES APPROVAL; OR
 19 3. ANY OTHER EQUIVALENT APPROVAL UNDER THE
 20 LOCAL LAWS OR REGULATIONS OF THE JURISDICTION IN WHICH THE
 21 DEVELOPMENT PROJECT IS SITUATED.

22 ~~(2)~~ IF A DEVELOPMENT PROJECT RECEIVES PRELIMINARY PLAN
 23 APPROVAL BEFORE MAY 4, 2010, A PERSON MAY SUBMIT A STORMWATER
 24 MANAGEMENT PLAN, IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION,
 25 THAT COMPLIES WITH THE LAWS AND REGULATIONS IN EFFECT AT THE TIME
 26 THE PERSON RECEIVED PRELIMINARY PLAN APPROVAL FOR THE
 27 DEVELOPMENT PROJECT.

28 ~~(b)~~ ~~(c)~~ The developer shall certify that all land clearing, construction,
 29 development, and drainage will be done according to the plan.

1 ~~[(c)] (D) Each county or municipality may provide by ordinance for the~~
 2 ~~review and approval of stormwater management plans by the local soil conservation~~
 3 ~~district.~~

4 ~~[(d)] (E) (1) Each governing body of a county or municipality may adopt~~
 5 ~~a system of charges to fund the implementation of stormwater management programs,~~
 6 ~~including the following:~~

7 ~~(i) Reviewing stormwater management plans;~~

8 ~~(ii) Inspection and enforcement activities;~~

9 ~~(iii) Watershed planning;~~

10 ~~(iv) Planning, design, land acquisition, and construction of~~
 11 ~~stormwater management systems and structures;~~

12 ~~(v) Retrofitting developed areas for pollution control;~~

13 ~~(vi) Water quality monitoring and water quality programs;~~

14 ~~(vii) Operation and maintenance of facilities; and~~

15 ~~(viii) Program development of these activities.~~

16 ~~(2) The charges shall take effect upon enactment by the local~~
 17 ~~governing body.~~

18 ~~(2) The charges may be collected in the same manner as county and~~
 19 ~~municipal property taxes, have the same priority, and bear the same interest and~~
 20 ~~penalties.~~

21 4-201.1.

22 (a) In this subtitle the following words have the meanings indicated.

23 (B) (1) "ADMINISTRATIVE WAIVER" MEANS A DECISION BY AN
 24 APPROVING BODY TO ALLOW THE CONSTRUCTION OF A DEVELOPMENT PROJECT
 25 TO BE GOVERNED BY THE STORMWATER MANAGEMENT ORDINANCE IN EFFECT
 26 AS OF MAY 4, 2009, IN THE LOCAL JURISDICTION WHERE THE DEVELOPMENT
 27 PROJECT WILL BE LOCATED.

28 (2) "ADMINISTRATIVE WAIVER" DOES NOT INCLUDE A
 29 QUANTITATIVE OR QUALITATIVE CONTROL WAIVER ISSUED IN ACCORDANCE
 30 WITH § 4-203.2 OF THIS SUBTITLE OR IN ACCORDANCE WITH REGULATIONS
 31 ADOPTED BY THE DEPARTMENT.

1 (C) (1) "APPROVAL" MEANS A DOCUMENTED ACTION BY AN
2 APPROVING BODY THAT FOLLOWS A REVIEW AND DETERMINATION BY AN
3 APPROVING BODY THAT THE MATERIAL SUBMITTED BY A DEVELOPER IS
4 SUFFICIENT TO MEET THE REQUIREMENTS OF A SPECIFIED STAGE IN A LOCAL
5 DEVELOPMENT REVIEW PROCESS.

6 (2) "APPROVAL" DOES NOT INCLUDE AN ACKNOWLEDGEMENT BY
7 AN APPROVING BODY THAT MATERIAL SUBMITTED BY A DEVELOPER HAS BEEN
8 RECEIVED FOR REVIEW.

9 (D) "APPROVING BODY" MEANS A COUNTY, MUNICIPALITY, OR OTHER
10 UNIT OF GOVERNMENT THAT EXERCISES FINAL PROJECT APPROVAL OR
11 PRELIMINARY PROJECT APPROVAL AUTHORITY.

12 [(b)] (E) "Environmental site design" means using small-scale stormwater
13 management practices, nonstructural techniques, and better site planning to mimic
14 natural hydrologic runoff characteristics and minimize the impact of land development
15 on water resources.

16 [(c)] (F) "Environmental site design" includes:

17 (1) Optimizing conservation of natural features, such as drainage
18 patterns, soils, and vegetation;

19 (2) Minimizing use of impervious surfaces, such as paved surfaces,
20 concrete channels, roofs, and pipes;

21 (3) Slowing down runoff to maintain discharge timing and to increase
22 infiltration and evapotranspiration; and

23 (4) Using other nonstructural practices or innovative stormwater
24 management technologies approved by the Department.

25 (G) "FINAL PROJECT APPROVAL" MEANS:

26 (1) FINAL APPROVAL BY AN APPROVING BODY OF A STORMWATER
27 MANAGEMENT PLAN AND EROSION AND SEDIMENT CONTROL PLAN REQUIRED
28 TO CONSTRUCT A DEVELOPMENT PROJECT'S STORMWATER MANAGEMENT
29 FACILITIES; AND

30 (2) BONDING OR OTHER FINANCING HAS BEEN SECURED BASED
31 ON A FINAL PLAN FOR THE DEVELOPMENT PROJECT IF REQUIRED AS A
32 CONDITION OF APPROVAL.

1 (H) "PRELIMINARY PROJECT APPROVAL" MEANS PRELIMINARY
2 APPROVAL BY AN APPROVING BODY MADE AS PART OF A LOCAL PRELIMINARY
3 DEVELOPMENT OR PLANNING REVIEW PROCESS THAT INCLUDES:

4 (1) THE PROPOSED:

5 (I) NUMBER OF DWELLING UNITS OR LOTS;

6 (II) PROJECT DENSITY; AND

7 (III) SIZE AND LOCATION OF ALL PLANNED USES OF THE
8 DEVELOPMENT PROJECT;

9 (2) PLANS THAT IDENTIFY:

10 (I) PROPOSED SITE DRAINAGE PATTERNS;

11 (II) THE LOCATION OF ALL POINTS OF DISCHARGE FROM
12 THE SITE; AND

13 (III) THE TYPE, LOCATION, AND SIZE OF ALL STORMWATER
14 MANAGEMENT MEASURES BASED ON SITE-SPECIFIC STORMWATER
15 MANAGEMENT CALCULATIONS; AND

16 (3) ANY OTHER INFORMATION REQUIRED BY THE APPROVING
17 BODY, INCLUDING:

18 (I) THE PROPOSED ALIGNMENT, LOCATION, AND
19 CONSTRUCTION TYPE AND STANDARD FOR ALL ROADS, ACCESS WAYS, AND
20 AREAS OF VEHICULAR TRAFFIC;

21 (II) A DEMONSTRATION THAT THE METHODS FOR
22 DELIVERING WATER AND WASTEWATER SERVICE TO THE DEVELOPMENT
23 PROJECT ARE ADEQUATE; OR

24 (III) THE SIZE, TYPE, AND GENERAL LOCATION OF ALL
25 PROPOSED WASTEWATER AND WATER SYSTEM INFRASTRUCTURE.

26 (I) "QUALITATIVE CONTROL" MEANS A SYSTEM OF VEGETATIVE,
27 STRUCTURAL, AND OTHER MEASURES THAT REDUCES OR ELIMINATES
28 POLLUTANTS THAT MIGHT OTHERWISE BE CARRIED BY SURFACE RUNOFF.

29 (J) "QUANTITATIVE CONTROL" MEANS A STORMWATER MANAGEMENT
30 SYSTEM OF VEGETATIVE AND STRUCTURAL MEASURES THAT CONTROL THE

1 INCREASED VOLUME AND RATE OF SURFACE RUNOFF CAUSED BY MAN-MADE
2 CHANGES TO THE LAND.

3 (K) "REDEVELOPMENT" MEANS:

4 (1) ANY CONSTRUCTION, ALTERATION, OR IMPROVEMENT
5 PERFORMED ON A SITE IN WHICH EXISTING LAND USE IS COMMERCIAL,
6 INDUSTRIAL, INSTITUTIONAL, OR MULTIFAMILY RESIDENTIAL; AND

7 (2) THE EXISTING IMPERVIOUS AREA OF THE SITE EXCEEDS 40%.

8 4-203.

9 (b) [The] SUBJECT TO §§ 4-203.1, 4-203.2, AND 4-203.3 OF THIS
10 SUBTITLE, THE Department shall adopt rules and regulations which establish criteria
11 and procedures for stormwater management in Maryland. The rules and regulations
12 shall:

13 (1) Indicate that the primary goal of the State and local programs will
14 be to maintain after development, as nearly as possible, the predevelopment runoff
15 characteristics;

16 (2) Make allowance for the difference in hydrologic characteristics and
17 stormwater management needs of different parts of the State;

18 (3) Specify that watershed-wide analyses may be necessary to prevent
19 undesirable downstream effects of increased stormwater runoff;

20 (4) Specify the exemptions a county or municipality may grant from
21 the requirements of submitting a stormwater management plan;

22 (5) (i) Specify the minimum content of the local ordinances or the
23 rules and regulations of the affected county governing body to be adopted which may
24 be done by inclusion of a model ordinance or model rules and regulations; and

25 (ii) Establish regulations and a model ordinance that require:

26 1. The implementation of environmental site design to
27 the maximum extent practicable;

28 2. The review and modification, if necessary, of planning
29 and zoning or public works ordinances to remove impediments to environmental site
30 design implementation; and

31 3. A developer to demonstrate that:

1 A. Environmental site design has been implemented to
2 the maximum extent practicable; and

3 B. Standard best management practices have been used
4 only where absolutely necessary;

5 (6) Indicate that water quality practices may be required for any
6 redevelopment, even when predevelopment runoff characteristics are maintained;

7 (7) Specify the minimum requirements for inspection and
8 maintenance of stormwater practices;

9 (8) Specify all stormwater management plans shall be designed to:

10 (i) Prevent soil erosion from any development project;

11 (ii) Prevent, to the maximum extent practicable, an increase in
12 nonpoint pollution;

13 (iii) Maintain the integrity of stream channels for their biological
14 function, as well as for drainage;

15 (iv) Minimize pollutants in stormwater runoff from new
16 development and redevelopment in order to:

17 1. Restore, enhance and maintain the chemical,
18 physical, and biological integrity of the waters of the State;

19 2. Protect public health;

20 3. Safeguard fish and aquatic life and scenic and
21 ecological values; and

22 4. Enhance the domestic, municipal, recreational,
23 industrial, and other uses of water as specified by the Department;

24 (v) Protect public safety through the proper design and
25 operation of stormwater management facilities;

26 (vi) Maintain 100% of average annual predevelopment
27 groundwater recharge volume for the site;

28 (vii) Capture and treat stormwater runoff to remove pollutants
29 and enhance water quality;

30 (viii) Implement a channel protection strategy to reduce
31 downstream erosion in receiving streams; and

1 (ix) Implement quantity control strategies to prevent increases
2 in the frequency and magnitude of out-of-bank flooding from large, less frequent
3 storm events;

4 (9) (i) Establish a comprehensive process for approving grading
5 and sediment control plans and stormwater management plans; and

6 (ii) Specify that the comprehensive process established under
7 subparagraph (i) of this paragraph takes into account the cumulative impacts of both
8 plans.

9 4-203.1.

10 (A) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS
11 SECTION, AN APPROVING BODY SHALL REQUIRE A REDEVELOPMENT PROJECT
12 DESIGN TO:

13 (1) REDUCE EXISTING IMPERVIOUS AREA WITHIN THE LIMIT OF
14 DISTURBANCE BY AT LEAST 50% AS DETERMINED BY THE 2000 MARYLAND
15 STORMWATER DESIGN MANUAL, VOLUMES I AND II;

16 (2) IMPLEMENT ENVIRONMENTAL SITE DESIGN TO THE MAXIMUM
17 EXTENT PRACTICABLE TO PROVIDE WATER QUALITY TREATMENT FOR AT LEAST
18 50% OF THE EXISTING IMPERVIOUS AREA WITHIN THE LIMIT OF DISTURBANCE,
19 AS DETERMINED BY THE 2000 MARYLAND STORMWATER DESIGN MANUAL,
20 VOLUMES I AND II; OR

21 (3) USE A COMBINATION OF THE STORMWATER STRATEGIES
22 UNDER ITEMS (1) AND (2) OF THIS SUBSECTION FOR AT LEAST 50% OF THE
23 EXISTING SITE IMPERVIOUS AREA.

24 (B) (1) AN APPROVING BODY MAY AUTHORIZE ALTERNATIVE
25 STORMWATER MANAGEMENT MEASURES FOR REDEVELOPMENT PROJECTS IF
26 THE DEVELOPER DEMONSTRATES TO THE SATISFACTION OF THE APPROVING
27 BODY THAT IMPERVIOUS AREA REDUCTION AND ENVIRONMENTAL SITE DESIGN
28 HAVE BEEN IMPLEMENTED TO THE MAXIMUM EXTENT PRACTICABLE, AND STILL
29 THE REQUIREMENT OF SUBSECTION (A) OF THIS SECTION CANNOT BE MET.

30 (2) ALTERNATIVE STORMWATER MANAGEMENT MEASURES
31 UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY INCLUDE:

32 (I) ON-SITE STRUCTURAL BEST MANAGEMENT PRACTICES;

1 (II) OFF-SITE STRUCTURAL BEST MANAGEMENT PRACTICES
2 TO PROVIDE WATER QUALITY TREATMENT FOR AN AREA GREATER THAN OR
3 EQUAL TO 50% OF THE EXISTING SITE IMPERVIOUS AREA; OR

4 (III) A COMBINATION OF IMPERVIOUS AREA REDUCTION,
5 ENVIRONMENTAL SITE DESIGN, AND ON-SITE OR OFF-SITE STRUCTURAL BEST
6 MANAGEMENT PRACTICES FOR AN AREA GREATER THAN OR EQUAL TO 50% OF
7 THE EXISTING SITE IMPERVIOUS AREA WITHIN THE LIMIT OF DISTURBANCE, AS
8 DETERMINED BY THE 2000 MARYLAND STORMWATER DESIGN MANUAL,
9 VOLUMES I AND II.

10 (C) (1) AN APPROVING BODY MAY AUTHORIZE ALTERNATIVE
11 STORMWATER MANAGEMENT MEASURES FOR REDEVELOPMENT PROJECTS IF
12 THE DEVELOPER DEMONSTRATES TO THE SATISFACTION OF THE APPROVING
13 BODY THAT THE REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF THIS SECTION
14 CANNOT BE MET.

15 (2) ALTERNATIVE STORMWATER MANAGEMENT MEASURES
16 AUTHORIZED BY THE APPROVING BODY UNDER PARAGRAPH (1) OF THIS
17 SUBSECTION MAY INCLUDE, IN ORDER OF PRIORITY:

18 (I) A COMBINATION OF IMPERVIOUS AREA REDUCTION,
19 ENVIRONMENTAL SITE DESIGN, AND ON-SITE OR OFF-SITE STRUCTURAL BEST
20 MANAGEMENT PRACTICES;

21 (II) RETROFITTING, INCLUDING EXISTING BEST
22 MANAGEMENT PRACTICE UPGRADES, FILTERING PRACTICES, AND
23 IMPLEMENTATION OF OFF-SITE ENVIRONMENTAL SITE DESIGN;

24 (III) PARTICIPATION IN A STREAM RESTORATION PROJECT;

25 (IV) POLLUTION TRADING WITH ANOTHER ENTITY;

26 (V) DESIGN CRITERIA BASED ON WATERSHED
27 MANAGEMENT PLANS DEVELOPED IN ACCORDANCE WITH REGULATIONS
28 ADOPTED BY THE DEPARTMENT;

29 (VI) PAYMENT OF A FEE-IN-LIEU; OR

30 (VII) A PARTIAL WAIVER OF THE TREATMENT
31 REQUIREMENTS IF ENVIRONMENTAL SITE DESIGN IS NOT PRACTICABLE.

32 (3) WHEN DETERMINING WHICH ALTERNATIVE MEASURES TO
33 AUTHORIZE UNDER THIS SUBSECTION, THE APPROVING BODY:

1 (I) SHALL, AFTER IT HAS BEEN DETERMINED THAT
2 ENVIRONMENTAL SITE DESIGN HAS BEEN IMPLEMENTED TO THE MAXIMUM
3 EXTENT PRACTICABLE, CONSIDER THE ORDER OF PRIORITY OF THE
4 ALTERNATIVE MEASURES IN PARAGRAPH (2) OF THIS SUBSECTION; AND

5 (II) MAY CONSIDER WHETHER:

6 1. THE REDEVELOPMENT PROJECT IS LOCATED IN
7 AN AREA DESIGNATED AS:

8 A. A PRIORITY FUNDING AREA UNDER TITLE 5,
9 SUBTITLE 7B OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

10 B. A TRANSIT ORIENTED DEVELOPMENT AREA
11 UNDER TITLE 7, SUBTITLE 1 OF THE TRANSPORTATION ARTICLE; OR

12 C. A BASE REALIGNMENT AND CLOSURE
13 REVITALIZATION AND INCENTIVE ZONE UNDER TITLE 5, SUBTITLE 13 OF THE
14 ECONOMIC DEVELOPMENT ARTICLE;

15 2. THE REDEVELOPMENT PROJECT IS NECESSARY
16 TO ACCOMMODATE GROWTH CONSISTENT WITH THE COMPREHENSIVE PLAN
17 FOR THE AREA WHERE THE DEVELOPMENT PROJECT WILL BE LOCATED; OR

18 3. BONDING AND FINANCING HAVE BEEN SECURED
19 BASED ON AN APPROVAL OF A REDEVELOPMENT PLAN BY THE APPROVING
20 BODY.

21 4-203.2.

22 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A
23 QUANTITATIVE CONTROL WAIVER MAY BE GRANTED TO A DEVELOPMENT
24 PROJECT THAT IS LOCATED IN AN AREA WHERE A WATERSHED MANAGEMENT
25 PLAN HAS NOT BEEN DEVELOPED IN ACCORDANCE WITH REGULATIONS
26 ADOPTED BY THE DEPARTMENT IF:

27 (1) THE DEVELOPMENT PROJECT DISCHARGES DIRECTLY INTO
28 TIDALLY INFLUENCED RECEIVING WATERS; OR

29 (2) THE DEVELOPMENT PROJECT IS AN INFILL DEVELOPMENT
30 LOCATED IN AN AREA DESIGNATED AS A PRIORITY FUNDING AREA UNDER
31 TITLE 5, SUBTITLE 7B OF THE STATE FINANCE AND PROCUREMENT ARTICLE
32 WHERE:

1 (I) THE ECONOMIC FEASIBILITY OF THE PROJECT IS TIED
2 TO THE PLANNED DENSITY OF THE DEVELOPMENT PROJECT;

3 (II) IMPLEMENTATION OF THE STORMWATER MANAGEMENT
4 REGULATORY REQUIREMENTS ADOPTED BY THE DEPARTMENT IN 2009 WOULD
5 RESULT IN A LOSS OF PLANNED DEVELOPMENT DENSITY; AND

6 (III) THE FOLLOWING CONDITIONS ARE MET:

7 1. PUBLIC WATER, SEWER, AND STORMWATER
8 CONVEYANCE EXISTS;

9 2. THE QUANTITATIVE WAIVER IS APPLIED ONLY TO
10 THE EXISTING IMPERVIOUS COVER ON THE SITE OF THE DEVELOPMENT
11 PROJECT;

12 3. ENVIRONMENTAL SITE DESIGN IS USED TO THE
13 MAXIMUM EXTENT PRACTICABLE TO MEET THE FULL WATER QUALITY
14 TREATMENT REQUIREMENTS OF THE ENTIRE DEVELOPMENT PROJECT; AND

15 4. ENVIRONMENTAL SITE DESIGN IS USED TO THE
16 MAXIMUM EXTENT PRACTICABLE TO PROVIDE FOR FULL QUANTITY CONTROL
17 FOR ALL NEW IMPERVIOUS SURFACES.

18 (B) (1) A QUANTITATIVE AND QUALITATIVE CONTROL WAIVER MAY
19 BE GRANTED FOR PHASED DEVELOPMENT PROJECTS IF, BY MAY 4, 2010, A
20 STORMWATER SYSTEM HAS BEEN CONSTRUCTED THAT IS DESIGNED TO MEET:

21 (I) THE REGULATORY REQUIREMENTS FOR STORMWATER
22 ADOPTED BY THE DEPARTMENT IN 2000; AND

23 (II) THE LOCAL ORDINANCE REQUIREMENTS IN EFFECT
24 FOR PHASED DEVELOPMENT AT THE TIME THE STORMWATER SYSTEM WAS
25 CONSTRUCTED.

26 (2) (I) THIS PARAGRAPH APPLIES TO A PHASED
27 DEVELOPMENT PROJECT THAT HAS RECEIVED A WAIVER UNDER PARAGRAPH
28 (1) OF THIS SUBSECTION.

29 (II) IF THE REGULATORY REQUIREMENTS FOR
30 STORMWATER ADOPTED BY THE DEPARTMENT IN 2009 CANNOT BE MET FOR
31 FUTURE PHASES OF A PHASED DEVELOPMENT PROJECT THAT ARE
32 CONSTRUCTED AFTER MAY 4, 2010, THE DEVELOPER SHALL DEMONSTRATE TO
33 AN APPROVING BODY THAT ALL REASONABLE EFFORTS WERE MADE TO

1 INCORPORATE ENVIRONMENTAL SITE DESIGN INTO THESE PHASES OF
2 DEVELOPMENT.

3 4-203.3.

4 (A) AN APPROVING BODY MAY GRANT AN ADMINISTRATIVE WAIVER TO
5 A DEVELOPMENT PROJECT THAT RECEIVED PRELIMINARY PROJECT APPROVAL
6 FROM THE APPROVING BODY ON OR BEFORE MAY 4, 2010.

7 (B) EXCEPT AS PROVIDED BY SUBSECTION (C) OF THIS SECTION, AN
8 ADMINISTRATIVE WAIVER GRANTED UNDER SUBSECTION (A) OF THIS SECTION
9 SHALL EXPIRE ON:

10 (1) MAY 4, 2013, IF THE DEVELOPMENT PROJECT DOES NOT
11 RECEIVE FINAL PROJECT APPROVAL ON OR BEFORE THAT DATE; OR

12 (2) MAY 4, 2017, IF THE DEVELOPMENT PROJECT RECEIVES
13 FINAL PROJECT APPROVAL ON OR BEFORE MAY 4, 2013.

14 (C) (1) AN APPROVING BODY MAY GRANT AN EXTENSION TO AN
15 ADMINISTRATIVE WAIVER IF, BY MAY 4, 2010, A DEVELOPMENT PROJECT:

16 (I) HAS RECEIVED PRELIMINARY PROJECT APPROVAL; AND

17 (II) WAS SUBJECT TO:

18 1. A DEVELOPMENT RIGHTS AND RESPONSIBILITIES
19 AGREEMENT;

20 2. A TAX INCREMENT FINANCING APPROVAL; OR

21 3. AN ANNEXATION AGREEMENT.

22 (2) AN ADMINISTRATIVE WAIVER THAT IS EXTENDED UNDER THIS
23 SUBSECTION EXPIRES WHEN AN AGREEMENT OR APPROVAL UNDER PARAGRAPH
24 (1)(II) OF THIS SUBSECTION TERMINATES.

25 (D) CONSTRUCTION AUTHORIZED BY AN ADMINISTRATIVE WAIVER
26 GRANTED UNDER THIS SECTION SHALL BE COMPLETED:

27 (1) ON OR BEFORE MAY 4, 2017; OR

28 (2) BY THE EXPIRATION DATE OF THE EXTENSION TO AN
29 ADMINISTRATIVE WAIVER GRANTED UNDER SUBSECTION (C) OF THIS SECTION.

1 4-204.

2 (a) (1) [After July 1, 1984, unless] UNLESS OTHERWISE exempted
 3 FROM THE REQUIREMENTS OF THIS SECTION, AND SUBJECT TO §§ 4-203.1 AND
 4 4-203.2 OF THIS SUBTITLE, a person may not develop any land for residential,
 5 commercial, industrial, or institutional use without [submitting]:

6 (I) SUBMITTING a stormwater management plan to the
 7 [county or municipality] APPROVING BODY that has jurisdiction[.]; and

8 (II) [obtaining] OBTAINING approval of the plan from the
 9 [county or municipality] APPROVING BODY.

10 (2) A grading or building permit may not be issued for a property
 11 unless a stormwater management plan has been approved that is consistent with this
 12 subtitle.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be
 14 construed to affect the requirements for a development project located in an intensely
 15 developed area of the Chesapeake and Atlantic Coastal Bays Critical Area to comply
 16 with the 10 percent pollution reduction requirement, as required by regulations
 17 adopted in accordance with Title 8, Subtitle 18 of the Natural Resources Article.

18 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act is an
 19 emergency measure, is necessary for the immediate preservation of the public health
 20 or safety, has been passed by a yea and nay vote supported by three-fifths of all the
 21 members elected to each of the two Houses of the General Assembly, and shall take
 22 effect from the date it is enacted.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.