

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 12-0153

Introduced by: The Council President
At the request of: The Administration (Department of Public Works)
Introduced and read first time: October 22, 2012
Assigned to: Judiciary and Legislative Investigations Committee
Committee Report: Favorable with amendments
Council action: Adopted
Read second time: January 28, 2013

AN ORDINANCE CONCERNING

Soil Erosion and Sediment Control

1
2 FOR the purpose of establishing minimum requirements and procedures to control the adverse
3 impacts associated with land disturbances; minimizing soil erosion and preventing off-site
4 sedimentation by using soil erosion and sediment control practices; reducing the negative
5 impacts of land development on water resources, maintaining the chemical, physical, and
6 biological integrity of streams, and minimizing damage to public and private property;
7 correcting, clarifying, and conforming related provisions; providing for a special effective
8 date; and generally relating to soil erosion and sediment control.

9 BY repealing

10 Article 7 - Natural Resources
11 Division III
12 Baltimore City Code
13 (Edition 2000)

14 BY adding

15 Article 7 - Natural Resources
16 Division III
17 Baltimore City Code
18 (Edition 2000)

19 BY repealing and reordaining, with amendments

20 Article 7- Natural Resources
21 Section(s) 21-1(b-1), (u), and (w-2), 22-5(c)(3) and (d)
22 Baltimore City Code
23 (Edition 2000)

24
25 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That**
26 Article 7, Division III, of the Baltimore City Code is repealed.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by
amendment or deleted from existing law by amendment.

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1 (H) *EROSION AND SEDIMENT CONTROL.*

2 “EROSION AND SEDIMENT CONTROL” MEANS A SYSTEM OF STRUCTURAL AND VEGETATIVE
3 MEASURES THAT MINIMIZES SOIL EROSION AND OFF-SITE SEDIMENTATION.

4 (I) *GRADE.*

5 “GRADE” MEANS TO DISTURB EARTH BY ANY ONE OR COMBINATION OF METHODS,
6 INCLUDING EXCAVATING, FILLING, STOCKPILING, GRUBBING, OR REMOVING ROOT MAT OR
7 TOPSOIL.

8 (J) *INCLUDES; INCLUDING.*

9 “INCLUDES” OR “INCLUDING” MEANS BY WAY OF ILLUSTRATION AND NOT BY WAY OF
10 LIMITATION.

11 (K) *INTERESTED PERSON.*

12 “INTERESTED PERSON” MEANS A PERSON WHO HAS A LEGAL RIGHT THAT COULD BE
13 DIRECTLY AND ADVERSELY AFFECTED BY A SPECIFIC EROSION OR SEDIMENT CONTROL
14 ISSUE.

15 (L) *OWNER; DEVELOPER.*

16 (1) *GENERAL.*

17 “OWNER” OR “DEVELOPER” MEANS A PERSON:

18 (I) UNDERTAKING ACTIVITIES COVERED BY THIS DIVISION III; OR

19 (II) FOR WHOSE BENEFIT ACTIVITIES COVERED BY THIS DIVISION III ARE
20 UNDERTAKEN.

21 (2) *EXCLUSIONS.*

22 “OWNER” OR “DEVELOPER” DOES NOT INCLUDE A GENERAL CONTRACTOR OR
23 SUBCONTRACTOR THAT DOES NOT HAVE A PROPRIETARY INTEREST IN THE PROJECT.

24 (M) *PERSON.*

25 (1) *IN GENERAL.*

26 “PERSON” MEANS:

27 (I) AN INDIVIDUAL;

28 (II) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION OR OTHER ENTITY OF ANY
29 KIND; OR

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1 (III) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY,
2 OR REPRESENTATIVE OF ANY KIND.

3 (2) *INCLUSIONS.*

4 "PERSON" INCLUDES, EXCEPT AS USED IN § 35-13(B) {"CRIMINAL PENALTIES"} OF THIS
5 DIVISION III:

6 (I) THE FEDERAL GOVERNMENT;

7 (II) THE STATE GOVERNMENT;

8 (III) ANY COUNTY, MUNICIPAL CORPORATION, OR OTHER POLITICAL SUBDIVISION OF
9 THE STATE; OR

10 (IV) ANY OF THE ENTITIES, INSTRUMENTALITIES, OR OTHER UNITS OF THESE
11 GOVERNMENTS.

12 (N) *RESPONSIBLE PERSONNEL.*

13 "RESPONSIBLE PERSONNEL" MEANS ANY FOREPERSON, SUPERINTENDENT, PROJECT
14 ENGINEER, OR OTHER INDIVIDUAL WHO IS IN CHARGE OF:

15 (1) ON-SITE CLEARING AND GRADING OPERATIONS; OR

16 (2) THE IMPLEMENTATION AND MAINTENANCE OF AN EROSION AND SEDIMENT
17 CONTROL PLAN.

18 (O) *SEDIMENT.*

19 "SEDIMENT" MEANS SOILS OR OTHER SURFICIAL MATERIALS THAT ARE THE PRODUCT OF
20 EROSION AND ARE TRANSPORTED OR DEPOSITED BY THE ACTION OF WIND, WATER, ICE,
21 GRAVITY, OR ARTIFICIAL MEANS.

22 (P) *SITE.*

23 "SITE" MEANS ANY TRACT, LOT, PARCEL OF LAND, OR AREA OF CONSTRUCTION, OR ANY
24 COMBINATION OF TRACTS, LOTS, PARCELS OF LAND, OR AREAS OF CONSTRUCTION THAT
25 ARE:

26 (1) IN ONE OWNERSHIP; OR

27 (2) IN DIVERSE OWNERSHIP, BUT WHERE:

28 (I) DEVELOPMENT IS TO BE PERFORMED AS PART OF A UNIT, SUBDIVISION OR
29 PROJECT; AND

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1 (II) EITHER:

2 A. THE TRACTS, LOTS, OR PARCELS OF LAND ARE CONTIGUOUS; OR

3 B. THE DEVELOPER IS A COOPERATIVE PUBLIC-PRIVATE UNDERTAKING.

4 (Q) *STANDARDS AND SPECIFICATIONS.*

5 “STANDARDS AND SPECIFICATIONS” MEANS THE *2011 MARYLAND STANDARDS AND*
6 *SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL* OR ANY SUBSEQUENT
7 REVISIONS.

8 (R) *STORMWATER.*

9 “STORMWATER” MEANS WATER THAT ORIGINATES FROM A PRECIPITATION EVENT.

10 (S) *STORMWATER MANAGEMENT SYSTEM.*

11 “STORMWATER MANAGEMENT SYSTEM” MEANS A SYSTEM OF NATURAL AREAS,
12 ENVIRONMENTAL SITE DESIGN PRACTICES, STORMWATER MANAGEMENT PRACTICES, AND
13 ANY STRUCTURE THROUGH WHICH STORMWATER FLOWS, INFILTRATES, OR DISCHARGES
14 FROM A SITE.

15 **§ 31-2. RULES OF CONSTRUCTION.**

16 (A) *IN GENERAL.*

17 IN INTERPRETING AND APPLYING THIS DIVISION III, THE FOLLOWING RULES OF
18 CONSTRUCTION APPLY.

19 (B) *CAPTIONS OR HEADINGS.*

20 THE CAPTIONS OR HEADINGS OF THE VARIOUS SECTIONS AND SUBSECTIONS:

21 (1) ARE FOR CONVENIENCE AND REFERENCE ONLY, INTENDED TO SUMMARIZE THE
22 STATUTORY PROVISIONS THAT FOLLOW; AND

23 (2) ARE NOT LAW AND ARE NOT TO BE TAKEN AS AFFECTING THE MEANING OR EFFECT
24 OF THE LAW.

25 (C) *CONFLICTING PROVISIONS.*

26 (1) *DIVISION SETS MINIMUM REQUIREMENTS.*

27 IN THEIR INTERPRETATION AND APPLICATION THE PROVISIONS OF THIS DIVISION III
28 MUST BE TAKEN TO BE THE MINIMUM REQUIREMENTS FOR THE PROMOTION OF THE
29 PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE.

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1 (2) *MOST RESTRICTIVE PROVISION GOVERNS.*

2 IF ANY CONDITION IMPOSED BY A PROVISION OF THIS DIVISION III IS EITHER MORE OR
3 LESS RESTRICTIVE THAN A COMPARABLE CONDITION IMPOSED BY ANY OTHER
4 PROVISION OF THIS DIVISION OR BY ANY OTHER LAW, RULE, OR REGULATION OF ANY
5 KIND, THE CONDITION THAT IS THE MORE RESTRICTIVE GOVERNS.

6 (D) *GENDER.*

7 WORDS DENOTING ONE GENDER INCLUDE AND APPLY TO THE OTHER GENDERS AS WELL.

8 (E) *MANDATORY, PROHIBITORY, AND PERMISSIVE TERMS.*

9 (1) *MANDATORY TERMS.*

10 “MUST” AND “SHALL” ARE EACH MANDATORY TERMS USED TO EXPRESS A
11 REQUIREMENT OR TO IMPOSE A DUTY.

12 (2) *PROHIBITORY TERMS.*

13 “MUST NOT,” “MAY NOT,” AND “NO ... MAY” ARE EACH MANDATORY NEGATIVE
14 TERMS USED TO ESTABLISH A PROHIBITION.

15 (3) *PERMISSIVE TERMS.*

16 “MAY” IS PERMISSIVE.

17 (F) *NUMBER.*

18 THE SINGULAR INCLUDES THE PLURAL AND VICE VERSA.

19 (G) *REFERENCES TO OTHER LAWS.*

20 WHENEVER A PROVISION OF THIS DIVISION III REFERS TO ANY PART OF THE CITY CODE OR
21 TO ANY OTHER LAW, THE REFERENCE APPLIES TO ANY SUBSEQUENT AMENDMENT OF THE
22 LAW REFERRED TO, UNLESS THE REFERRING PROVISION EXPRESSLY PROVIDES OTHERWISE.

23 (H) *SEVERABILITY.*

24 ALL PROVISIONS OF THIS DIVISION III ARE SEVERABLE. IF A COURT DETERMINES THAT A
25 WORD, PHRASE, CLAUSE, SENTENCE, PARAGRAPH, SUBSECTION, SECTION, OR OTHER
26 PROVISION IS INVALID OR THAT THE APPLICATION OF ANY PART OF THE PROVISION TO ANY
27 PERSON OR CIRCUMSTANCES IS INVALID, THE REMAINING PROVISIONS AND THE
28 APPLICATION OF THESE PROVISIONS TO OTHER PERSONS OR CIRCUMSTANCES IS NOT
29 AFFECTED BY THAT DECISION.

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1 (i) *TIME COMPUTATIONS.*

2 (1) *COMPUTATION OF TIME AFTER AN ACT, EVENT, OR DEFAULT.*

3 (i) IN COMPUTING ANY PERIOD OF TIME PRESCRIBED BY THIS DIVISION III, THE DAY OF
4 THE ACT, EVENT, OR DEFAULT AFTER WHICH THE DESIGNATED PERIOD OF TIME
5 BEGINS TO RUN IS NOT INCLUDED.

6 (ii) IF THE PERIOD OF TIME ALLOWED IS MORE THAN 7 DAYS, INTERMEDIATE
7 SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS ARE COUNTED.

8 (iii) IF THE PERIOD OF TIME ALLOWED IS 7 DAYS OR LESS, INTERMEDIATE SATURDAYS,
9 SUNDAYS, AND LEGAL HOLIDAYS ARE NOT COUNTED.

10 (iv) THE LAST DAY OF THE PERIOD SO COMPUTED IS INCLUDED UNLESS IT IS A
11 SATURDAY, SUNDAY, OR LEGAL HOLIDAY, IN WHICH EVENT THE PERIOD RUNS
12 UNTIL THE END OF THE NEXT DAY THAT IS NOT A SATURDAY, SUNDAY, OR LEGAL
13 HOLIDAY.

14 (2) *COMPUTATION OF TIME BEFORE A DAY, ACT, OR EVENT.*

15 (i) IN DETERMINING THE LATEST DAY FOR PERFORMING AN ACT THAT IS REQUIRED BY
16 THIS DIVISION III TO BE PERFORMED A PRESCRIBED NUMBER OF DAYS BEFORE A
17 CERTAIN DAY, ACT, OR EVENT, ALL DAYS PRECEDING THAT DAY, INCLUDING
18 INTERVENING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, ARE COUNTED IN
19 THE NUMBER OF DAYS SO PRESCRIBED.

20 (ii) THE LATEST DAY IS INCLUDED IN THE DETERMINATION UNLESS IT IS A SATURDAY,
21 SUNDAY, OR LEGAL HOLIDAY, IN WHICH EVENT THE LATEST DAY IS THE FIRST
22 PRECEDING DAY THAT IS NOT A SATURDAY, SUNDAY OR LEGAL HOLIDAY.

23 **§ 31-3. INCORPORATION BY REFERENCE.**

24 (A) *IN GENERAL.*

25 FOR THE PURPOSES OF THIS DIVISION III, THE FOLLOWING DOCUMENTS ARE
26 INCORPORATED BY REFERENCE:

27 (1) THE 2011 MARYLAND STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND
28 SEDIMENT CONTROL OR ANY SUBSEQUENT REVISIONS OF IT, WHICH SERVES AS THE
29 OFFICIAL CITY GUIDE FOR SOIL EROSION AND SEDIMENT CONTROL PRINCIPLES,
30 METHODS, AND PRACTICES; AND

31 (2) THE CITY'S EROSION AND SEDIMENT CONTROL MANUAL, WHICH SUPPLEMENTS
32 THE STATE'S STANDARDS AND SPECIFICATIONS AS IT RELATES TO SOIL EROSION
33 AND SEDIMENT CONTROL PRINCIPALS, METHODS, AND PRACTICES IN THE CITY.

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1 (B) *DEFINED TERMS.*

2 (1) TERMS USED IN THE STANDARDS AND SPECIFICATIONS HAVE THE MEANINGS ASCRIBED
3 TO THEM IN THAT DOCUMENT OR OTHERWISE BY THE MARYLAND DEPARTMENT OF
4 THE ENVIRONMENT.

5 (2) THESE TERMS INCLUDE, AMONG OTHERS:

6 (I) "ADVERSE IMPACT".

7 (II) "GRADING UNIT".

8 (III) "MAXIMUM EXTENT PRACTICABLE".

9 (IV) "WATERSHED".

10 **§ 31-4. PURPOSE, GOAL, AUTHORITY.**

11 (A) *PURPOSE.*

12 THE PURPOSE OF THIS DIVISION III IS TO PROTECT, MAINTAIN, AND ENHANCE THE PUBLIC
13 HEALTH, SAFETY, AND GENERAL WELFARE BY ESTABLISHING MINIMUM REQUIREMENTS
14 AND PROCEDURES TO CONTROL THE ADVERSE IMPACTS ASSOCIATED WITH LAND
15 DISTURBANCES.

16 (B) *GOAL.*

17 THE GOAL OF THIS DIVISION III IS TO MINIMIZE SOIL EROSION AND PREVENT OFF-SITE
18 SEDIMENTATION BY USING SOIL EROSION AND SEDIMENT CONTROL PRACTICES DESIGNED
19 IN ACCORDANCE WITH GOVERNING LAW AND REGULATIONS.

20 (C) *AUTHORITY.*

21 THIS DIVISION III IS ADOPTED UNDER THE AUTHORITY OF STATE ENVIRONMENT ARTICLE,
22 TITLE 4, SUBTITLE 1.

23 **§ 31-5. ADMINISTRATION.**

24 (A) *IN GENERAL.*

25 THE BALTIMORE CITY DEPARTMENT OF PUBLIC WORKS IS RESPONSIBLE FOR
26 ADMINISTERING AND ENFORCING THIS DIVISION III.

27 (B) *RULES AND REGULATIONS.*

28 (1) THE DEPARTMENT MAY ADOPT RULES AND REGULATIONS TO CARRY OUT THIS
29 DIVISION III.

30 (2) A COPY OF THESE RULES AND REGULATIONS MUST BE FILED WITH THE DEPARTMENT
31 OF LEGISLATIVE REFERENCE BEFORE THEY BECOME EFFECTIVE.

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1 **§ 31-6 TO 31-8. {RESERVED}**

2 **§ 31-8. PROHIBITED CONDUCT GENERALLY.**

3 EXCEPT AS OTHERWISE PROVIDED IN THIS DIVISION III, NO PERSON MAY DISTURB LAND
4 WITHOUT IMPLEMENTING SOIL EROSION AND SEDIMENT CONTROLS IN ACCORDANCE WITH THIS
5 DIVISION III AND THE STANDARDS AND SPECIFICATIONS.

6 **§ 31-9. EXEMPTIONS.**

7 (A) *DEFINITIONS.*

8 (1) *IN GENERAL.*

9 IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

10 (2) *AGRICULTURAL LAND MANAGEMENT PRACTICES.*

11 (1) *IN GENERAL.*

12 “AGRICULTURAL LAND MANAGEMENT PRACTICES” MEANS THOSE METHODS AND
13 PROCEDURES USED IN THE CULTIVATION OF LAND TO FURTHER CROP AND
14 LIVESTOCK PRODUCTION AND CONSERVATION OF RELATED SOIL AND WATER
15 RESOURCES.

16 (II) *EXCLUSIONS.*

17 “AGRICULTURAL LAND MANAGEMENT PRACTICES” DOES NOT INCLUDE LOGGING
18 AND TIMBER REMOVAL OPERATIONS.

19 (3) *BEST MANAGEMENT PRACTICE.*

20 “BEST MANAGEMENT PRACTICE” MEANS A STRUCTURAL DEVICE OR NONSTRUCTURAL
21 PRACTICE DESIGNED TO TEMPORARILY STORE OR TREAT STORMWATER RUNOFF IN
22 ORDER TO MITIGATE FLOODING, REDUCE POLLUTION, AND PROVIDE OTHER AMENITIES.

23 (B) *EXEMPT ACTIVITIES.*

24 THE FOLLOWING ACTIVITIES ARE EXEMPT FROM THIS DIVISION III:

25 (1) AGRICULTURAL LAND MANAGEMENT PRACTICES;

26 (2) AGRICULTURAL BEST MANAGEMENT PRACTICES;

27 (3) CLEARING OR GRADING ACTIVITIES THAT DISTURB LESS THAN 5,000 SQUARE FEET
28 OF LAND AREA AND DISTURB LESS THAN 100 CUBIC YARDS OF EARTH; AND

29 (4) CLEARING OR GRADING ACTIVITIES THAT ARE SUBJECT EXCLUSIVELY TO STATE
30 APPROVAL AND ENFORCEMENT UNDER STATE LAW AND REGULATIONS.

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1 **§ 31-10. VARIANCES.**

2 (A) *WHEN AUTHORIZED.*

3 THE DEPARTMENT MAY GRANT A VARIANCE FROM ANY REQUIREMENT OF THIS DIVISION
4 III IF, BECAUSE OF EXCEPTIONAL CIRCUMSTANCES APPLICABLE TO THE SITE, STRICT
5 ADHERENCE TO THAT REQUIREMENT WILL RESULT IN EXCEPTIONAL HARDSHIP AND NOT
6 FULFILL THE INTENT OF THIS DIVISION III.

7 (B) *APPLICATION FOR VARIANCE.*

8 THE APPLICATION FOR VARIANCE MUST:

9 (I) BE IN THE FORM THAT THE DEPARTMENT REQUIRES;

10 (II) STATE THE SPECIFIC VARIANCE SOUGHT;

11 (III) EXPLAIN WHY THE VARIANCE IS NEEDED;

12 (IV) CONTAIN ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES; AND

13 (V) BE SUBMITTED TO THE DEPARTMENT WITH THE APPLICANT’S PROPOSED SITE
14 DEVELOPMENT PLAN.

15 **SUBTITLE 32. EROSION AND SEDIMENT CONTROL PLANS**

16 **§ 32-1. DEFINITIONS.**

17 (A) *IN GENERAL.*

18 IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

19 (B) *APPROVAL.*

20 (1) *IN GENERAL.*

21 “APPROVAL” MEANS A DOCUMENTED ACTION BY THE DEPARTMENT FOLLOWING A
22 COMPREHENSIVE REVIEW TO DETERMINE AND ACKNOWLEDGE THAT SUBMITTED
23 MATERIALS DEMONSTRATE COMPLIANCE WITH THE REQUIREMENTS OF A SPECIFIED
24 STAGE IN A PROJECT’S DEVELOPMENT PROCESS.

25 (2) *EXCLUSIONS.*

26 “APPROVAL” DOES NOT INCLUDE AN ACKNOWLEDGMENT BY THE DEPARTMENT THAT
27 MATERIAL HAS BEEN RECEIVED FOR REVIEW.

28 (C) *DRAINAGE AREA.*

29 “DRAINAGE AREA” MEANS AN AREA, MEASURED IN A HORIZONTAL PLANE, THAT:

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1 (1) CONTRIBUTES RUNOFF TO A SINGLE POINT; AND

2 (2) IS ENCLOSED BY A RIDGE LINE.

3 (D) *STABILIZATION.*

4 “STABILIZATION” MEANS THE PROTECTION OF EXPOSED SOILS FROM EROSION BY THE
5 APPLICATION OF SEED AND MULCH, SEED AND MATTING, SOD, OTHER VEGETATIVE
6 MEASURES, OR STRUCTURAL MEANS.

7 **§ 32-2. PLANS REQUIRED.**

8 EXCEPT AS OTHERWISE PROVIDED IN THIS DIVISION III, NO PERSON MAY GRADE LAND
9 WITHOUT EROSION AND SEDIMENT CONTROL PLANS APPROVED BY THE DEPARTMENT.

10 **§32-3. REVIEW AND APPROVAL OF PLANS.**

11 (A) *REVIEW AND COMMENT.*

12 (1) THE DEPARTMENT MUST COMPREHENSIVELY REVIEW EROSION AND SEDIMENT
13 CONTROL PLANS FOR EACH PHASE OF THE SITE DESIGN TO DETERMINE COMPLIANCE
14 WITH THIS DIVISION III.

15 (2) FOR EACH PLAN PHASE, COORDINATED COMMENTS WILL BE PROVIDED THAT REFLECT
16 INPUT FROM ALL APPROPRIATE AGENCIES, INCLUDING PLANNING, ZONING, AND
17 PUBLIC WORKS.

18 (3) AT EACH PHASE OF PROJECT DESIGN, COMMENTS FROM THE DEPARTMENT AND OTHER
19 APPROPRIATE AGENCIES MUST BE ADDRESSED BY THE APPLICANT AND APPROVAL
20 RECEIVED BEFORE SUBSEQUENT SUBMISSIONS.

21 (B) *CONDITIONS.*

22 IN APPROVING A PLAN, THE DEPARTMENT MAY IMPOSE CONDITIONS THAT THE
23 DEPARTMENT CONSIDERS NECESSARY OR APPROPRIATE TO ENSURE:

24 (1) COMPLIANCE WITH THIS DIVISION III; AND

25 (2) THE PRESERVATION OF PUBLIC HEALTH AND SAFETY.

26 (C) *NOTIFICATION.*

27 AFTER THE DEPARTMENT HAS COMPLETED ITS COMPREHENSIVE REVIEW FOR EACH PHASE
28 OF SITE DESIGN, THE DEPARTMENT MUST NOTIFY THE APPLICANT OF EITHER:

29 (1) THE DEPARTMENT’S APPROVAL OF THE PLAN;

30 (2) THE DEPARTMENT’S DISAPPROVAL OF THE PLAN, TOGETHER WITH:

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- 1 (I) THE REASONS FOR DISAPPROVAL; AND
- 2 (II) ANY MODIFICATIONS THAT THE DEPARTMENT REQUIRES FOR APPROVAL; OR
- 3 (3) IF NO DECISION HAS BEEN MADE:
 - 4 (I) THE STATUS OF THE REVIEW PROCESS; AND
 - 5 (II) THE ANTICIPATED DATE OF COMPLETION.
- 6 (D) *ENDORSEMENT.*
 - 7 (1) THE FINAL EROSION AND SEDIMENT CONTROL PLAN MAY NOT BE CONSIDERED
 - 8 APPROVED WITHOUT THE INCLUSION OF THE DEPARTMENT’S DATED SIGNATURE ON
 - 9 THE PLAN.
 - 10 (2) APPROVED PLANS REMAIN VALID FOR 2 YEARS FROM THE DATE OF APPROVAL, UNLESS
 - 11 EXTENDED OR RENEWED BY THE DEPARTMENT.
- 12 (E) *“GRANDFATHERING” OF APPROVED PLANS.*
 - 13 (1) ANY PLANS THAT RECEIVE FINAL APPROVAL AFTER JANUARY 9, 2013, MUST BE IN
 - 14 COMPLIANCE WITH THE REQUIREMENTS OF THIS DIVISION III AND THE STANDARDS
 - 15 AND SPECIFICATIONS.
 - 16 (2) A PLAN THAT RECEIVES FINAL APPROVAL ON OR BEFORE JANUARY 9, 2013, MAY BE
 - 17 REAPPROVED UNDER ITS EXISTING CONDITIONS, EXCEPT FOR STABILIZATION
 - 18 REQUIREMENTS, IF GRADING ACTIVITIES BEGIN ON THE SITE ON OR BEFORE JANUARY 9,
 - 19 2015.
 - 20 (3) STABILIZATION PRACTICES ON ALL SITES MUST BE IN COMPLIANCE WITH THE
 - 21 REQUIREMENTS OF THIS DIVISION III AND THE STANDARDS AND SPECIFICATIONS ON OR
 - 22 BEFORE JANUARY 9, 2013, REGARDLESS OF WHEN AN APPROVED EROSION AND
 - 23 SEDIMENT CONTROL PLAN WAS APPROVED.

24 **§ 32-4. CONTENTS OF PLANS.**

- 25 (A) *SUBMISSION.*

26 AN APPLICANT IS RESPONSIBLE FOR SUBMITTING EROSION AND SEDIMENT CONTROL PLANS

27 THAT MEET THE REQUIREMENTS OF THE DEPARTMENT, THIS DIVISION III, AND ALL OTHER

28 APPLICABLE PROVISIONS OF THE BALTIMORE CITY CODE.
- 29 (B) *TENOR OF PLANS.*

30 THE PLANS MUST INCLUDE SUFFICIENT INFORMATION TO EVALUATE:

 - 31 (1) THE ENVIRONMENTAL CHARACTERISTICS OF THE AFFECTED AREAS;
 - 32 (2) THE POTENTIAL IMPACTS OF THE PROPOSED GRADING ON WATER RESOURCES; AND

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1 (3) THE EFFECTIVENESS AND ACCEPTABILITY OF MEASURES PROPOSED TO MINIMIZE
2 SOIL EROSION AND OFF-SITE SEDIMENTATION.

3 (C) *MINIMUM INFORMATION.*

4 AT A MINIMUM, APPLICANTS MUST SUBMIT THE FOLLOWING INFORMATION FOR THE
5 CONCEPT, SITE DEVELOPMENT, AND FINAL EROSION AND SEDIMENT CONTROL PHASES OF
6 PROJECT DESIGN:

7 (1) A LETTER OF TRANSMITTAL OR APPLICATION;

8 (2) A VICINITY MAP INDICATING NORTH ARROW, SCALE, SITE LOCATION, AND OTHER
9 INFORMATION NECESSARY TO EASILY LOCATE THE PROPERTY;

10 (3) PLAN SUBMITTALS AS SPECIFIED IN § 32-5 {"CONCEPT PLAN"}, § 32-6 {"SITE
11 DEVELOPMENT PLAN"}, AND § 32-7 FINAL ... PLANS"; AND

12 (4) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF:

13 (I) THE OWNER OF THE PROPERTY WHERE THE GRADING IS PROPOSED;

14 (II) THE DEVELOPER; AND

15 (III) THE APPLICANT.

16 **§ 32-5. CONCEPT PLAN.**

17 (A) *IN GENERAL.*

18 THE APPLICANT MUST SUBMIT A CONCEPT PLAN THAT PROVIDES SUFFICIENT INFORMATION
19 FOR AN INITIAL ASSESSMENT OF THE PROPOSED PROJECT AND WHETHER EROSION AND
20 SEDIMENT CONTROL CAN BE PROVIDED ACCORDING TO THIS DIVISION III.

21 (B) *MINIMUM CONTENTS.*

22 PLANS SUBMITTED FOR CONCEPT APPROVAL MUST INCLUDE:

23 (1) A MAP, AT A SCALE SPECIFIED BY THE DEPARTMENT, SHOWING:

24 (I) THE PROPOSED LIMIT OF DISTURBANCE;

25 (II) TOPOGRAPHY;

26 (III) EXISTING NATURAL RESOURCES;

27 (IV) WETLANDS;

28 (V) FLOODPLAINS;

29 (VI) WATER BODIES;

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- 1 (VII) HIGHLY ERODIBLE SOILS;
- 2 (VIII) NATURAL DRAINAGE PATTERNS; AND
- 3 (IX) ANY OTHER SENSITIVE AREAS TO BE PROTECTED DURING CONSTRUCTION;
- 4 (2) A GENERAL DESCRIPTION OF THE PREDOMINANT SOIL TYPES ON THE SITE, AS
- 5 DESCRIBED BY THE APPROPRIATE SOIL SURVEY INFORMATION AVAILABLE THROUGH
- 6 THE LOCAL SOIL CONSERVATION DISTRICT OR THE USDA NATURAL RESOURCES SOIL
- 7 CONSERVATION SERVICE;
- 8 (3) THE ANTICIPATED LOCATION OF ALL:
 - 9 (I) IMPERVIOUS AREAS;
 - 10 (II) BUILDINGS;
 - 11 (III) ROADWAYS;
 - 12 (IV) PARKING;
 - 13 (V) SIDEWALKS;
 - 14 (VI) UTILITIES; AND
 - 15 (VII) OTHER SITE IMPROVEMENTS; AND
- 16 (4) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

18 **§ 32-6. SITE DEVELOPMENT PLAN.**

19 (A) *IN GENERAL.*

20 UNLESS OTHERWISE DIRECTED BY THE DEPARTMENT, AFTER APPROVAL OF THE CONCEPT
21 PLAN, THE APPLICANT MUST SUBMIT SITE DEVELOPMENT PLANS THAT REFLECT COMMENTS
22 RECEIVED DURING THE PREVIOUS REVIEW PHASE.

23 (B) *MINIMUM CONTENTS.*

24 PLANS SUBMITTED FOR SITE DEVELOPMENT APPROVAL MUST BE OF SUFFICIENT DETAIL TO
25 ALLOW SITE DEVELOPMENT TO BE REVIEWED AND MUST INCLUDE:

- 26 (1) ALL INFORMATION PROVIDED DURING THE CONCEPT PLAN REVIEW PHASE;
- 27 (2) DRAINAGE AREA MAPS THAT SHOW, AT A MINIMUM SCALE OF 1" = 200':
 - 28 (I) EXISTING, INTERIM, AND PROPOSED TOPOGRAPHY;
 - 29 (II) PROPOSED IMPROVEMENTS;

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- 1 (III) STANDARD SYMBOLS FOR PROPOSED SEDIMENT CONTROL FEATURES; AND
- 2 (IV) PERTINENT DRAINAGE INFORMATION, INCLUDING PROVISIONS TO PROTECT
- 3 DOWNSTREAM AREAS FROM EROSION FOR A MINIMUM OF 200 FEET
- 4 DOWNSTREAM OR TO THE NEXT CONVEYANCE SYSTEM;
- 5 (3) A PROPOSED EROSION AND SEDIMENT CONTROL PLAN THAT CONTAINS:
- 6 (I) THE EXISTING AND PROPOSED TOPOGRAPHY AND IMPROVEMENTS, AT A
- 7 SCALE BETWEEN 1" = 10' AND 1" = 50' WITH 2 FOOT CONTOURS OR OTHER
- 8 APPROVED CONTOUR INTERVAL;
- 9 (II) INTERIM CONTOURS FOR PROJECTS WITH MORE THAN MINOR GRADING, IF
- 10 REQUIRED BY THE DEPARTMENT;
- 11 (III) SCALE, PROJECT, AND SHEET TITLE, AND NORTH ARROW ON EACH PLAN
- 12 SHEET;
- 13 (IV) THE LIMIT OF DISTURBANCE, INCLUDING:
- 14 A. LIMIT OF GRADING (GRADING UNITS, IF APPLICABLE); AND
- 15 B. INITIAL, INTERIM, AND FINAL PHASES;
- 16 (V) STORM DRAINAGE FEATURES, INCLUDING:
- 17 A. EXISTING AND PROPOSED BRIDGES, STORM DRAINS, CULVERTS,
- 18 OUTFALLS, ETC.;
- 19 B. VELOCITIES AND PEAK FLOW RATES AT OUTFALLS FOR THE 2-YEAR
- 20 AND 10-YEAR FREQUENCY STORM EVENTS; AND
- 21 C. SITE CONDITIONS AROUND POINTS OF ALL SURFACE WATER
- 22 DISCHARGE FROM THE SITE;
- 23 (VI) ANY PHASING NECESSARY TO LIMIT EARTH DISTURBANCES AND IMPACTS
- 24 TO NATURAL RESOURCES; AND
- 25 (VII) AN OVERLAY PLAN THAT SHOWS THE TYPES AND LOCATIONS OF
- 26 STORMWATER PRACTICES AND EROSION AND SEDIMENT CONTROL
- 27 PRACTICES TO BE USED;
- 28 (4) A NARRATIVE THAT INDICATES HOW PROPOSED EROSION AND SEDIMENT CONTROL
- 29 PRACTICES WILL BE INTEGRATED WITH PROPOSED STORMWATER MANAGEMENT
- 30 STRATEGY USING ENVIRONMENTAL SITE DESIGN IN ACCORDANCE WITH DIVISION II
- 31 OF THIS ARTICLE; AND
- 32 (5) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

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§ 32-7. FINAL EROSION AND SEDIMENT CONTROL AND STORMWATER MANAGEMENT PLANS.

(A) IN GENERAL.

AFTER SITE DEVELOPMENT PLAN APPROVAL, THE APPLICANT MUST SUBMIT FINAL EROSION AND SEDIMENT CONTROL PLANS AND STORMWATER MANAGEMENT PLANS THAT REFLECT THE COMMENTS RECEIVED DURING THE PREVIOUS REVIEW PHASE.

(B) MINIMUM CONTENTS.

PLANS SUBMITTED FOR FINAL APPROVAL MUST BE OF SUFFICIENT DETAIL TO ALLOW ALL APPROVALS AND PERMITS TO BE ISSUED AND MUST INCLUDE:

(1) ALL INFORMATION PROVIDED DURING THE CONCEPT AND SITE DEVELOPMENT PLAN REVIEW PHASE;

(2) EROSION AND SEDIMENT CONTROL PRACTICES TO MINIMIZE ON-SITE EROSION AND PREVENT OFF-SITE SEDIMENTATION, INCLUDING:

(I) THE SALVAGE AND REUSE OF TOPSOIL;

(II) PHASED CONSTRUCTION AND IMPLEMENTATION OF GRADING UNIT(S) TO MINIMIZE DISTURBANCES, BOTH IN EXTENT AND DURATION;

(III) LOCATION AND TYPE OF ALL PROPOSED SEDIMENT CONTROL PRACTICES;

(IV) DESIGN DETAILS AND DATA FOR ALL EROSION AND SEDIMENT CONTROL PRACTICES; AND

(V) SPECIFICATIONS FOR TEMPORARY AND PERMANENT STABILIZATION MEASURES, INCLUDING AT A MINIMUM:

A. THE "STANDARD STABILIZATION NOTE" ON THE PLAN STATING:

"FOLLOWING INITIAL SOIL DISTURBANCE OR RE-DISTURBANCE, PERMANENT OR TEMPORARY STABILIZATION MUST BE COMPLETED WITHIN:

1. 3 CALENDAR DAYS AS TO THE SURFACE OF ALL PERIMETER DIKES, SWALES, DITCHES, PERIMETER SLOPES, AND ALL SLOPES STEEPER THAN 3 HORIZONTAL TO 1 VERTICAL (3:1); AND

2. 7 CALENDAR DAYS AS TO ALL OTHER DISTURBED OR GRADED AREAS ON THE PROJECT SITE NOT UNDER ACTIVE GRADING.";

B. DETAILS FOR AREAS REQUIRING ACCELERATED STABILIZATION; AND

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1 C. MAINTENANCE REQUIREMENTS AS DEFINED IN THE STANDARDS AND
2 SPECIFICATIONS;

3 (3) A SEQUENCE OF CONSTRUCTION THAT:

4 (I) DESCRIBES THE RELATIONSHIP BETWEEN THE IMPLEMENTATION OF
5 CONTROLS AND THE MAINTENANCE OF CONTROLS, INCLUDING PERMANENT
6 AND TEMPORARY STABILIZATION, AND THE VARIOUS STAGES OR PHASES OF
7 EARTH DISTURBANCE AND CONSTRUCTION; AND

8 (II) INCLUDES THE FOLLOWING, AT A MINIMUM:

9 A. REQUEST FOR A PRE-CONSTRUCTION MEETING WITH THE
10 DEPARTMENT;

11 B. CLEARING AND GRUBBING AS NECESSARY FOR THE INSTALLATION
12 OF PERIMETER CONTROLS;

13 C. CONSTRUCTION AND STABILIZATION OF PERIMETER CONTROLS;

14 D. REMAINING CLEARING AND GRUBBING WITHIN INSTALLED
15 PERIMETER CONTROLS;

16 E. ROAD GRADING;

17 F. GRADING FOR THE REMAINDER OF THE SITE;

18 F. UTILITY INSTALLATION AND CONNECTIONS TO EXISTING
19 STRUCTURES;

20 G. CONSTRUCTION OF BUILDINGS AND ROADS;

21 H. OTHER CONSTRUCTION;

22 I. FINAL GRADING, LANDSCAPING, AND STABILIZATION;

23 J. INSTALLATION OF STORMWATER MANAGEMENT MEASURES;

24 K. OBTAINING APPROVAL BY THE DEPARTMENT BEFORE REMOVAL OF
25 SEDIMENT CONTROLS; AND

26 L. REMOVAL OF SEDIMENT CONTROLS AND STABILIZATION OF AREAS
27 THAT ARE DISTURBED BY THE REMOVAL;

28 (4) A STATEMENT REQUIRING THE OWNER, DEVELOPER, OR REPRESENTATIVE TO
29 CONTACT THE DEPARTMENT OR ITS AGENT AT THE FOLLOWING STAGES OF THE
30 PROJECT OR IN ACCORDANCE WITH THE APPROVED EROSION AND SEDIMENT
31 CONTROL PLAN, GRADING PERMIT, OR BUILDING PERMIT:

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- 1 (I) BEFORE THE START OF EARTH DISTURBANCE;
- 2 (II) AFTER THE INSTALLATION OF PERIMETER EROSION AND SEDIMENT
3 CONTROLS IS COMPLETE, BUT BEFORE PROCEEDING WITH ANY OTHER
4 EARTH DISTURBANCE OR GRADING;
- 5 (III) BEFORE THE START OF ANOTHER PHASE OF CONSTRUCTION OR THE
6 OPENING OF ANOTHER GRADING UNIT; AND
- 7 (IV) BEFORE THE REMOVAL OF SEDIMENT CONTROL PRACTICES;
- 8 (5) CERTIFICATION BY THE OWNER OR DEVELOPER THAT:
 - 9 (I) ANY CLEARING, GRADING, CONSTRUCTION, OR DEVELOPMENT WILL BE
10 DONE PURSUANT TO THE APPROVED EROSION AND SEDIMENT CONTROL
11 PLAN; AND
 - 12 (II) THE RESPONSIBLE PERSONNEL INVOLVED IN THE CONSTRUCTION PROJECT
13 WILL HAVE, BEFORE THE PROJECT BEGINS, A CERTIFICATE OF TRAINING
14 FROM AN MDE APPROVED TRAINING PROGRAM FOR THE CONTROL OF
15 EROSION AND SEDIMENT; AND
 - 16 (III) THE CITY DEPARTMENT OF PUBLIC WORKS, CITY DEPARTMENT OF
17 HOUSING AND COMMUNITY DEVELOPMENT, AND MARYLAND
18 DEPARTMENT OF THE ENVIRONMENT WILL BE ALLOWED RIGHT OF ENTRY
19 FOR PERIODIC ON-SITE EVALUATION; AND
- 20 (6) IF REQUIRED BY THE DEPARTMENT OR THE MARYLAND DEPARTMENT OF THE
21 ENVIRONMENT, CERTIFICATION BY A PROFESSIONAL ENGINEER, LAND SURVEYOR,
22 LANDSCAPE ARCHITECT, ARCHITECT, OR FORESTER (FOR FOREST HARVEST
23 OPERATIONS ONLY) REGISTERED IN THE STATE THAT THE PLANS HAVE BEEN
24 DESIGNED IN ACCORDANCE WITH EROSION AND SEDIMENT CONTROL LAWS,
25 REGULATIONS, AND STANDARDS; AND
- 26 (7) ANY ADDITIONAL INFORMATION CONSIDERED APPROPRIATE BY THE DEPARTMENT.

27 **§ 32-8. MODIFICATIONS TO PLANS.**

28 (A) *IN GENERAL.*

29 THE DEPARTMENT MAY APPROVE MODIFICATIONS TO APPROVED PLANS AS NECESSARY.

30 (B) *WHO MAY REQUEST.*

31 MODIFICATIONS MAY BE REQUESTED BY THE OWNER OR DEVELOPER OR BY THE
32 DEPARTMENT.

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1 (C) *MINOR MODIFICATIONS*

2 (1) THE DEPARTMENT MAY INCLUDE IN ITS EROSION AND SEDIMENT CONTROL MANUAL
3 A LIST OF MINOR MODIFICATIONS THAT THE DEPARTMENT MAY APPROVE AS FIELD
4 REVISIONS.

5 (2) THE MARYLAND DEPARTMENT OF THE ENVIRONMENT MUST APPROVE THE LIST
6 BEFORE ITS IMPLEMENTATION.

7 **§ 32-9. STANDARD EROSION AND SEDIMENT CONTROL PLAN.**

8 (A) *DEPARTMENT MAY ADOPT.*

9 THE DEPARTMENT MAY INCLUDE IN ITS EROSION AND SEDIMENT CONTROL MANUAL A
10 STANDARD EROSION AND SEDIMENT CONTROL PLAN FOR ACTIVITIES WITH MINOR EARTH
11 DISTURBANCES, SUCH AS SINGLE-FAMILY RESIDENCES, SMALL COMMERCIAL AND OTHER
12 SIMILAR BUILDING SITES, MINOR MAINTENANCE GRADING, AND MINOR UTILITY
13 CONSTRUCTION.

14 (B) *REQUIREMENTS.*

15 (1) A STANDARD EROSION AND SEDIMENT CONTROL PLAN MUST MEET THE REQUIREMENTS
16 OF THIS DIVISION III AND THE STANDARDS AND SPECIFICATIONS.

17 (2) THE MARYLAND DEPARTMENT OF THE ENVIRONMENT MUST APPROVE THE STANDARD
18 PLAN BEFORE ITS ADOPTION.

19 **SUBTITLE 33. PERMITS; FEES; SECURITY**

20 **§ 33-1. APPROVED PLAN PREREQUISITE TO PERMITS.**

21 FOR ANY DEVELOPMENT THAT REQUIRES AN EROSION AND SEDIMENT CONTROL PLAN UNDER
22 THIS DIVISION III, A GRADING OR BUILDING PERMIT MAY NOT BE ISSUED OR EXTENDED UNLESS
23 A FINAL EROSION AND SEDIMENT CONTROL PLAN HAS BEEN APPROVED BY THE DEPARTMENT.

24 **§ 33-2. FEES.**

25 (A) *PAYABLE AT EACH PHASE.*

26 NON-REFUNDABLE FEES WILL BE ASSESSED AND COLLECTED IN ADVANCE BY THE
27 DEPARTMENT FOR EACH PHASE OF A DEVELOPMENT.

28 (B) *FEE SCHEDULE.*

29 (1) THE FEES ASSESSED UNDER THIS DIVISION III ARE IN ADDITION TO THE USUAL FEES
30 CHARGED FOR GRADING AND BUILDING PERMITS.

31 (2) FEES ARE ASSESSED FOR PLAN REVIEWS, ADMINISTRATION AND MANAGEMENT OF THE
32 APPROVAL PROCESS, INSPECTIONS, AND THE LIKE.

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1 (3) THE AMOUNT OF THE FEES ARE AS SET FORTH IN THE FEE SCHEDULE ESTABLISHED
2 FROM TIME TO TIME BY THE BOARD OF ESTIMATES. THE FEE SCHEDULE SHALL BE
3 BASED ON THE RELATIVE COMPLEXITY OF A PROJECT.

4 **§ 33-3. PERFORMANCE BOND.**

5 (A) *REQUIRED.*

6 FOR ANY DEVELOPMENT THAT REQUIRES AN EROSION AND SEDIMENT CONTROL PLAN
7 UNDER THIS DIVISION III, A GRADING OR BUILDING PERMIT MAY NOT BE ISSUED UNTIL THE
8 APPLICANT POSTS A SURETY OR CASH BOND OR OTHER MEANS OF SECURITY ACCEPTABLE
9 TO THE DEPARTMENT.

10 (B) *AMOUNT.*

11 (1) THE AMOUNT OF THE SECURITY MUST BE EQUAL TO AT LEAST THE ESTIMATED COST OF
12 THE INSTALLATION, MAINTENANCE, AND REMOVAL OF THE EROSION AND SEDIMENT
13 CONTROLS SHOWN ON THE APPROVED PLAN.

14 (2) THIS ESTIMATE MUST BE PREPARED BY THE APPLICANT AND SUBMITTED WITH THE
15 PLAN.

16 (C) *TENOR.*

17 THE SECURITY REQUIRED BY THIS SECTION MUST PROVIDE FOR FORFEITURE ON FAILURE
18 TO:

19 (1) COMPLETE ALL WORK SPECIFIED IN THE APPROVED EROSION AND SEDIMENT
20 CONTROL PLAN;

21 (2) COMPLY WITH ANY PROVISION OF THIS DIVISION III OR OF ANY OTHER APPLICABLE
22 LAW, RULE, OR REGULATION; OR

23 (3) COMPLY WITH ANY APPLICABLE TIME LIMITATIONS.

24 (D) *RELEASE.*

25 THE SECURITY MAY NOT BE RELEASED UNTIL THE DEPARTMENT CONDUCTS A FINAL
26 INSPECTION OF THE COMPLETED WORK.

27 **SUBTITLE 34. INSPECTIONS; INVESTIGATIONS**

28 **§ 34-1. INSPECTIONS REQUIRED.**

29 (A) *IN GENERAL*

30 EVERY ACTIVE SITE HAVING AN APPROVED EROSION AND SEDIMENT CONTROL PLAN
31 SHOULD BE INSPECTED FOR COMPLIANCE WITH THE PLAN ON AN AVERAGE OF ONCE EVERY
32 2 WEEKS.

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1 (B) *PLAN TO BE MAINTAINED ON SITE.*

2 THE OWNER OR DEVELOPER MUST MAINTAIN A COPY OF THE APPROVED EROSION AND
3 SEDIMENT CONTROL PLAN ON SITE.

4 **§ 34-2. BY WHOM CONDUCTED.**

5 ALL INSPECTIONS UNDER THIS DIVISION III MUST BE CONDUCTED BY:

6 (1) THE DEPARTMENT; OR

7 (2) THE DEPARTMENT'S AUTHORIZED REPRESENTATIVE.

8 **§ 34-3. REPORTS ON INSPECTIONS.**

9 (A) *REQUIRED.*

10 THE DEPARTMENT MUST PREPARE A WRITTEN REPORT AFTER EVERY INSPECTION.

11 (B) *CONTENTS.*

12 THE REPORT MUST DESCRIBE:

13 (1) THE DATE AND LOCATION OF THE SITE INSPECTION;

14 (2) WHETHER THE APPROVED PLAN HAS BEEN PROPERLY IMPLEMENTED AND
15 MAINTAINED;

16 (3) PRACTICE DEFICIENCIES OR EROSION AND SEDIMENT CONTROL PLAN DEFICIENCIES;

17 (4) IF A VIOLATION EXISTS, THE TYPE OF ENFORCEMENT ACTION TAKEN; AND

18 (5) IF APPLICABLE, A DESCRIPTION OF ANY MODIFICATIONS TO THE PLAN.

19 **§§ 34-4 TO 34-5. {RESERVED}**

20 **§ 34-6. RIGHT OF ENTRY.**

21 IT IS A CONDITION OF EVERY GRADING OR BUILDING PERMIT THAT THE DEPARTMENT HAS THE
22 RIGHT TO ENTER PROPERTY PERIODICALLY TO INSPECT FOR COMPLIANCE WITH THE APPROVED
23 PLAN AND THIS DIVISION III.

24 **§ 34-7. INVESTIGATIONS.**

25 (A) *ON COMPLAINT.*

26 THE DEPARTMENT MUST:

27 (1) ACCEPT AND INVESTIGATE COMPLAINTS FROM INTERESTED PERSONS ABOUT
28 EROSION AND SEDIMENT CONTROL ISSUES;

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1 (2) CONDUCT AN INITIAL INVESTIGATION WITHIN 3 WORKING DAYS FROM RECEIPT OF
2 THE COMPLAINT;

3 (3) NOTIFY THE COMPLAINANT OF THE INITIAL INVESTIGATION AND FINDINGS WITHIN
4 7 DAYS FROM RECEIPT OF THE COMPLAINT; AND

5 (4) TAKE APPROPRIATE ACTION WHEN VIOLATIONS ARE DISCOVERED DURING THE
6 COURSE OF THE COMPLAINT INVESTIGATION.

7 (B) *ON OWN INITIATIVE.*

8 THE DEPARTMENT MAY ALSO UNDERTAKE, ON ITS OWN INITIATIVE, INVESTIGATIONS OF
9 SUSPECTED EROSION AND SEDIMENT CONTROL ISSUES ON ALL PROPERTIES.

10 (C) POSTING OF FINDINGS.

11 THE DEPARTMENT MUST POST ON ITS WEBSITE THE DEPARTMENT'S FINDINGS ON ALL
12 INVESTIGATIONS, WHETHER INITIATED BY INTERESTED PERSONS OR ON THE
13 DEPARTMENT'S OWN INITIATIVE.

14 **SUBTITLE 35. ENFORCEMENT; REVIEWS; PENALTIES**

15 **§ 35-1. VIOLATION NOTICES.**

16 (A) *NOTICE REQUIRED.*

17 IF A VIOLATION IS FOUND, THE DEPARTMENT MUST PROVIDE WRITTEN NOTICE OF THE
18 VIOLATION TO:

19 (1) THE OWNER OR DEVELOPER; AND

20 (2) THE RESPONSIBLE PERSONNEL.

21 (B) *CONTENTS.*

22 THE NOTICE MUST DESCRIBE:

23 (1) THE NATURE OF THE VIOLATION;

24 (2) THE REQUIRED CORRECTIVE ACTION; AND

25 (3) THE TIME PERIOD WITHIN WHICH THE VIOLATION MUST BE CORRECTED.

26 (C) POSTING OF VIOLATION NOTICES.

27 THE DEPARTMENT MUST POST ON ITS WEBSITE A COPY OF ALL NOTICES OF
28 VIOLATIONS ISSUED UNDER THIS SECTION.

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1 **§ 35-2. ENFORCEMENT OF NOTICE.**

2 (A) *IN GENERAL.*

3 ANY ONE OR A COMBINATION OF THE FOLLOWING ACTIONS MAY BE TAKEN TO ENFORCE A
4 VIOLATION NOTICE.

5 (B) *STOP WORK ORDER.*

6 IF A VIOLATION PERSISTS AFTER ISSUANCE OF A VIOLATION NOTICE, THE DEPARTMENT
7 MAY ISSUE A STOP WORK ORDER FOR THE SITE.

8 (C) *BOND FORFEITURE; OTHER ACTION.*

9 IF REASONABLE EFFORTS TO CORRECT THE VIOLATION HAVE NOT BEEN UNDERTAKEN, THE
10 DEPARTMENT MAY:

11 (1) CAUSE THE PERFORMANCE BOND OR OTHER SECURITY TO BE FORFEITED; AND

12 (2) REFER THE MATTER FOR LEGAL ACTION, INCLUDING PURSUIT OF CRIMINAL AND
13 CIVIL PENALTIES UNDER § 35-9 OF THIS SUBTITLE.

14 (D) *CIVIL LIABILITY.*

15 IN ADDITION TO ANY OTHER SANCTION UNDER THIS DIVISION III, A PERSON WHO FAILS TO
16 INSTALL OR MAINTAIN EROSION AND SEDIMENT CONTROLS IN ACCORDANCE WITH AN
17 APPROVED PLAN IS LIABLE IN A CIVIL ACTION TO THE CITY OR THE STATE, AS THE CASE
18 MAY BE, FOR DAMAGES IN AN AMOUNT EQUAL TO DOUBLE THE COST OF INSTALLING OR
19 MAINTAINING THE CONTROLS.

20 **§ 35-3. INJUNCTIVE RELIEF.**

21 ANY STATE OR CITY AGENCY OR ANY INTERESTED PERSON MAY SEEK AN INJUNCTION
22 AGAINST ANY PERSON WHO VIOLATES OR THREATENS TO VIOLATE ANY PROVISION OF THIS
23 DIVISION III.

24 **§ 35-4. {RESERVED}**

25 **§ 35-5. ADMINISTRATIVE REVIEW – IN GENERAL.**

26 (A) *RIGHT OF APPEAL.*

27 ANY PERSON AGGRIEVED BY THE ACTION OF ANY OFFICIAL CHARGED WITH THE
28 ENFORCEMENT OF THIS DIVISION III, WHETHER AS THE RESULT OF THE DISAPPROVAL OF AN
29 APPLICATION, THE ISSUANCE OF A VIOLATION NOTICE, AN ALLEGED FAILURE TO PROPERLY
30 ENFORCE THIS DIVISION III, OR OTHERWISE, MAY APPEAL THE ACTION TO THE DIRECTOR
31 OF PUBLIC WORKS.

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1 (B) *WHEN AND HOW TAKEN.*

2 THE APPEAL MUST:

- 3 (1) BE IN WRITING;
- 4 (2) CLEARLY STATE THE GROUNDS ON WHICH THE APPEAL IS BASED; AND
- 5 (3) BE FILED WITH THE DIRECTOR WITHIN 10 DAYS OF THE ACTION IN DISPUTE.

6 **§ 35-6. ADMINISTRATIVE REVIEW – DELEGATION OF HEARING AUTHORITY.**

7 (A) *IN GENERAL.*

8 HEARINGS MAY BE CONDUCTED BY:

- 9 (1) THE DIRECTOR OF PUBLIC WORKS; OR
- 10 (2) A HEARING OFFICER DESIGNATED BY THE DIRECTOR.

11 (B) *SCOPE OF DELEGATION.*

12 THE DIRECTOR MAY DELEGATE TO A HEARING OFFICER THE AUTHORITY TO ISSUE:

- 13 (1) PROPOSED ~~OR FINAL~~ FINDINGS OF FACT;
- 14 (2) PROPOSED ~~OR FINAL~~ CONCLUSIONS OF LAW;
- 15 (3) PROPOSED ~~OR FINAL~~ FINDINGS OF FACT AND CONCLUSIONS OF LAW; OR
- 16 (4) PROPOSED ~~OR FINAL~~ ORDERS; OR
- 17 (5) ~~THE FINAL ADMINISTRATIVE DECISION OF THE DEPARTMENT.~~

18 **§ 35-7. ADMINISTRATIVE REVIEW – CONDUCT OF HEARING.**

19 (A) *NOTICE.*

- 20 (1) THE DIRECTOR OF PUBLIC WORKS MUST PROVIDE ALL PARTIES REASONABLE WRITTEN
- 21 NOTICE OF THE HEARING.
- 22 (2) THE NOTICE MUST STATE:
- 23 (I) THE DATE, TIME, PLACE, AND NATURE OF THE HEARING;
- 24 (II) THE RIGHT OF A PARTY TO BE REPRESENTED, AT THE PARTY'S OWN EXPENSE,
- 25 BY AN ATTORNEY OR, IF PERMITTED BY LAW, OTHER REPRESENTATIVE;
- 26 (III) THE RIGHT OF A PARTY TO CALL WITNESSES AND SUBMIT DOCUMENTS OR
- 27 OTHER EVIDENCE UNDER § 35-8 OF THIS SUBTITLE; AND

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1 (IV) THAT FAILURE OF A PARTY TO APPEAR FOR THE SCHEDULED HEARING MAY
2 RESULT IN AN ADVERSE ACTION AGAINST THE PARTY.

3 (B) *HEARINGS TO BE OPEN AND INFORMAL.*

4 EXCEPT AS OTHERWISE PROVIDED BY LAW OR BY RULE OR REGULATION OF THE
5 DEPARTMENT, ALL HEARINGS MUST BE:

6 (1) OPEN TO THE PUBLIC; AND

7 (2) CONDUCTED IN AN ORDERLY BUT INFORMAL MANNER.

8 **§ 35-8. ADMINISTRATIVE REVIEW – EVIDENCE.**

9 (A) *IN GENERAL.*

10 EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION OR BY RULE OR REGULATION OF THE
11 DEPARTMENT, FORMAL RULES OF EVIDENCE AND TRIAL PROCEDURES DO NOT APPLY.

12 (B) *RIGHT TO SUBMIT.*

13 ~~ON A GENUINE ISSUE OF FACT, A~~ A PARTY IS ENTITLED TO:

14 (1) CALL WITNESSES;

15 (2) OFFER EVIDENCE, INCLUDING REBUTTAL EVIDENCE;

16 (3) CROSS-EXAMINE ANY WITNESS THAT ANOTHER PARTY OR THE DEPARTMENT
17 CALLS; AND

18 (4) PRESENT SUMMATION AND ARGUMENT.

19 (B) *SCOPE.*

20 THE DIRECTOR OR HEARING OFFICER:

21 (1) MAY ADMIT PROBATIVE EVIDENCE THAT REASONABLE AND PRUDENT INDIVIDUALS
22 COMMONLY ACCEPT IN THE CONDUCT OF THEIR AFFAIRS AND GIVE PROBATIVE
23 EFFECT TO THAT EVIDENCE;

24 (2) MAY NOT EXCLUDE EVIDENCE SOLELY ON THE BASIS THAT IT IS HEARSAY;

25 (3) MUST GIVE EFFECT TO A PRIVILEGE RECOGNIZED BY LAW;

26 (4) MAY RECEIVE DOCUMENTARY EVIDENCE IN THE FORM OF COPIES OR EXCERPTS OR
27 THROUGH INCORPORATION BY REFERENCE;

28 (5) MAY TAKE OFFICIAL NOTICE OF A FACT THAT IS JUDICIALLY NOTICEABLE OR THAT
29 IS GENERAL, TECHNICAL, OR SCIENTIFIC AND WITHIN THE SPECIALIZED
30 KNOWLEDGE OF THE DEPARTMENT; AND

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1 (6) MAY EXCLUDE EVIDENCE THAT IS:

2 (I) INCOMPETENT;

3 (II) IRRELEVANT;

4 (III) IMMATERIAL; OR

5 (IV) UNDULY REPETITIOUS.

6 **§ 35-9. ADMINISTRATIVE REVIEW – FINAL DECISIONS.**

7 (A) DIRECTOR TO ISSUE.

8 (1) ONLY THE DIRECTOR MAY ISSUE THE FINAL ADMINISTRATIVE DECISION OF THE
9 DEPARTMENT.

10 (2) IF A HEARING OFFICER CONDUCTED THE HEARING, THE DIRECTOR MUST REVIEW AND
11 CONSIDER THE HEARING OFFICER’S PROPOSED FINDINGS AND CONCLUSIONS BEFORE
12 ISSUING THE FINAL DECISION.

13 (B) ~~(A)~~ FORM AND CONTENTS.

14 A THE FINAL DECISION MUST:

15 (1) BE IN WRITING; AND

16 (2) CONTAIN SEPARATE STATEMENTS OF:

17 (I) THE FINDINGS OF FACT;

18 (II) THE CONCLUSIONS OF LAW; AND

19 (III) THE DECISION OR ORDER.

20 (C) ~~(B)~~ DISTRIBUTION.

21 A COPY OF THE FINAL DECISION MUST BE MAILED OR DELIVERED TO EACH PARTY OR THAT
22 PARTY’S ATTORNEY OF RECORD.

23 **§ 35-10. {RESERVED}**

24 **§ 35-11. JUDICIAL AND APPELLATE REVIEW.**

25 (A) *JUDICIAL REVIEW.*

26 A PARTY AGGRIEVED BY A FINAL DECISION OF THE DEPARTMENT MAY SEEK JUDICIAL
27 REVIEW OF THAT DECISION BY PETITION TO THE CIRCUIT COURT FOR BALTIMORE CITY IN
28 ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

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1 (B) *APPELLATE REVIEW.*

2 A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT’S FINAL JUDGMENT TO THE
3 COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND RULES OF
4 PROCEDURE.

5 **§ 35-12. {RESERVED}**

6 **§ 35-13. PENALTIES.**

7 (A) *CIVIL FINES.*

8 (1) THE DEPARTMENT MAY IMPOSE CIVIL FINES FOR VIOLATIONS OF THIS DIVISION III.

9 (2) THE AMOUNT OF THE FINES ARE AS SET FORTH IN THE FINE SCHEDULE ESTABLISHED
10 FROM TIME TO TIME BY THE DEPARTMENT WITH THE APPROVAL OF THE BOARD OF
11 ESTIMATES.

12 (3) NO FINE MAY EXCEED \$1,000 FOR ANY 1 OFFENSE.

13 (B) *CRIMINAL PENALTIES.*

14 ANY PERSON WHO VIOLATES ANY PROVISION OF THIS DIVISION III OR OF ANY RULE OR
15 REGULATION ADOPTED UNDER OR INCORPORATED INTO THIS DIVISION III IS GUILTY OF A
16 MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR
17 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR BOTH FINE AND IMPRISONMENT FOR EACH
18 OFFENSE.

19 (C) *EACH DAY A SEPARATE OFFENSE.*

20 EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE.

21 **SECTION 3 AND BE IT FURTHER ORDAINED,** That the Laws of Baltimore City read as
22 follows:

23 **Baltimore City Code**

24 **Article 7. Natural Resources**

25 ***Division II. Stormwater Management***

26 **Subtitle 21. Definitions; General Provisions**

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1 **§ 21-1. Definitions.**

2 (b-1) *Approval.*

3 (1) *In general.*

4 “Approval” means a documented action by the Department following a
5 comprehensive review to determine and acknowledge [the sufficiency of] THAT
6 submitted materials [to] demonstrate compliance with the requirements of a specified
7 stage in [the development] A PROJECT’S process [of a project].

8 (2) *Exclusions.*

9 “Approval” does not include an acknowledgment by the Department that material has
10 been received for review.

11 (u) *Sediment.*

12 “Sediment” means soils or other surficial materials that are the product of erosion and are
13 transported or deposited by the action of wind, water, ice, [or] gravity, OR ARTIFICIAL
14 MEANS.

15 (w-2) *Stormwater management [systems] SYSTEM.*

16 “Stormwater management [systems] SYSTEM” means A SYSTEM OF natural areas,
17 environmental site design practices, stormwater management [measures] PRACTICES, and
18 any [other] structure through which stormwater flows, infiltrates, or discharges from a
19 site.

20 **Subtitle 22. Stormwater Management Plans**

21 **§ 22-5. Contents of plan.**

22 (c) *Site development plan.*

23 (3) These plans must include the following, minimum information:

24 (i) all information provided during the concept plan review phase;

25 (ii) final site layout, including:

26 A. exact impervious area locations and acreages;

27 B. proposed topography;

28 C. delineated drainage areas at all points of discharge from the site; and

29 D. stormwater volume computations for environmental site design
30 practices and quantity control structures;

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1 [(iii) a proposed erosion and sediment control plan that contains:

2 A. the construction sequence;

3 B. any phasing necessary to limit earth disturbances and impacts to
4 natural resources; and

5 C. an overlay plan that shows the types and locations of environmental
6 site design practices and erosion and sediment control practices to be
7 used;]

8 (III) [(iv)] a narrative that:

9 A. supports the site development design;

10 B. describes how environmental site design will be used to meet the
11 minimum control requirements; and

12 C. justifies any proposed structural stormwater management or alternative
13 practice measure; and

14 (IV) [(v)] any other information the Department requires.

15 (d) *Final [erosion and sediment control and] stormwater management plans.*

16 (1) After site development approval, the applicant must submit final [erosion and
17 sediment control and] stormwater management plans that reflect the comments
18 received during the previous review phase.

19 (2) [Plans submitted for final approval must be of sufficient detail to allow all approvals
20 and permits to be issued as follows: (i) final erosion and sediment control plans must
21 be submitted according to COMAR 26.17.01.05; and (ii) final stormwater]
22 STORMWATER management plans SUBMITTED FOR FINAL APPROVAL must be
23 [submitted] in the form of construction drawings, IN SUFFICIENT DETAIL TO ALLOW
24 ALL APPROVALS AND PERMITS TO BE ISSUED, AND accompanied by a report that
25 includes sufficient information to evaluate the effectiveness of the proposed runoff
26 control design.

27 **SECTION 4. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
28 are not law and may not be considered to have been enacted as a part of this or any prior
29 Ordinance.

30 **SECTION 5. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on February 6,
31 2013.

Council Bill 12-0153

Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,
this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City