

DRAFT
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**Article 16. Floodplain Management,
Erosion and Sediment Control, and Stormwater Management**

TITLE 1. DEFINITIONS AND GENERAL PROVISIONS

§ 16-1-101. Definitions.

In this article, the following words have the meanings indicated.

- (1) "Accessory" has the meaning stated in Article 18 of this Code.
- (2) "Acceptable outfall" has the meaning stated in the Public Works Manual
- (3) "Administration" for the purpose of Title 4 means the Maryland Department of the Environment Water Management Administration.
- (4) "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 which are or may potentially be harmful or injurious to human health, welfare, safety or property to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.
- (5) "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. Import and export of fill material, logging and timber removal operations or the conversion of woodlands to pasture are not part of this definition.
- (6) "Agricultural structure" means a structure designed and constructed to house farm implements, hay, grain, poultry, livestock or horticultural products. The structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public.
- (7) "As-built plan" means a plan drawn to the same scale as the approved plans which shows that the location, dimensions, elevations, and status of the resulting grading, drainage structures, drainage systems, and erosion and sediment control practices are in substantial conformance with the previously approved plans, noting any substantial deviations.
- (8) "Basement" for the purpose of Title 2 means that portion of a structure having its lowest floor below ground or grade elevation on all four sides.

(9) "Best management practice" has the meaning stated in COMAR 26.17.02.02.

(10) "Certificate of occupancy" means an official form issued by the Director certifying that a structure has been built in accordance with approved plans and providing that the structure may be inhabited or used for the intended purpose.

(11) "Certification" means a statement signed and sealed by a design professional that specific construction, inspections, or tests have been performed and that they comply with the applicable requirements of this article.

(12) "Channel protection storage volume" (CPv) has the meaning stated in COMAR 26.17.02.02.

(13) "Clearing" has the meaning stated in Article 17 of this Code.

(14) "Coastal Plain Outfall" has the same meaning as stated in the DPW Design Manual

(15) "Concept Plan" has the same meaning as COMAR 26.17.02.02

(16) "County Procedures Manual" means the Anne Arundel County Stormwater Management Practices and Procedures Manual.

(17) "Critical area" has the meaning stated in Article 18 of this Code.

(18) "Department" means the Department of Inspections and Permits.

(19) "Design professional" means a professional engineer, professional land surveyor, or professional landscape architect licensed by the State.

(20) "Design Manual" has the same meaning as COMAR 26.17.02.02

(21) "Developer" has the meaning stated in Article 17 of this Code.

(22) "Development" has the meaning stated in Article 17 of this Code.

(23) "Direct discharge" has the meaning stated in COMAR 26.17.02.02.

(24) "Director" means the Director of the Department of Inspections and Permits or the Director's designee.

(25) "Disturbance" has the meaning stated in Article 17 of this Code.

(26) "DPW Manual" means the Department of Public Works Design Manual and the Standards and Specifications for Construction

(27) "Drainage area" has the meaning stated in COMAR 26.17.02.02.

(28) "Easement" has the meaning stated in Article 17 of this Code.

(29) "Elevation certificate" means an official FEMA form used to certify the elevation of a structure that is prepared by a design professional authorized to certify elevations.

(30) "Environmental site design (ESD)" has the same meaning as COMAR 26.17.02.02

(31) "Erosion" has the meaning stated in COMAR 26.17.01.01.

(32) "Estimated cost" means the total cost estimated by the Department based on unit prices adopted by the Director.

(33) "Exemption" for the purposes of Title 4 means those land development activities that are not subject to the stormwater management requirements contained in this ordinance.

(34) "Extreme flood volume" (Q_f) has the meaning stated in COMAR 26.17.02.02.

(35) "Federal Emergency Management Agency" (FEMA) means the federal agency responsible for floodplain management.

(36) "Fill" means a deposit of soil, rock, or other materials placed by humans.

(37) "Final Stormwater management plan" has the same meaning as COMAR 26.17.02.02

(38) "Flood" for the purpose of Title 2 means a temporary inundation of normally dry land.

(39) "Flooding" for the purpose of Title 4 means stormwater runoff from a natural or human-made stormwater runoff conveyance system that inundates an existing structure or that overflows onto land that lies outside of floodplain easements, drainage easements, or areas shown on federal insurance rate maps as flood-prone areas.

(40) "Floodplain" has the meaning stated in Article 17 of this Code and also means any land area, including watercourse, susceptible to partial or complete inundation by water from any source.

(41) "Floodproofing" means any combination of structural or nonstructural changes, adjustments, or actions, which reduce or eliminate flood damage to a structure, contents, utilities, and equipment.

(42) "Floodproofing certificate" means an official FEMA form prepared by a design professional and used to certify that a non-residential structure has been designed and constructed to be floodproofed to the flood protection elevation.

(43) "Flood protection elevation" means the elevation of the 100-year flood plus one foot freeboard.

(44) "Freeboard" means an additional height used as a factor of safety in determining the elevation of a structure or floodproofing to compensate for factors that may increase the flood heights.

(45) "Grading" means to cause the disturbance of the earth, and the term includes clearing, excavating, filling, including hydraulic fill, stockpiling of earth materials, grubbing, rootmat or top soil disturbance, or a combination of any of these operations, and logging and timber removal operations that disturb more than 5,000 square feet of land.

(46) "Historic structure" means a structure that is listed on the Maryland Inventory of Historic Properties, the National Register of Historic Places, or the National Historic Landmarks.

(47) "Impervious surface" has the meaning stated in Article 18 of this Code.

(48) "Individual lot development" means development on a site for which subdivision approval is not required.

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

(50) "Lowest floor" means the lowest floor of the lowest enclosed area including basements, except that an unfinished or flood-resistant enclosure used solely for parking, building access, or storage may not be considered the lowest floor.

(51) "Manufactured home" means a structure transportable in one or more sections that is built on a permanent chassis and is designed for use as a dwelling with or without a permanent foundation when connected to the required utilities, and the term includes manufactured homes, trailers, and other similar vehicles placed on a site for more than 180 consecutive days.

(52) "Maximum extent practicable (MEP)" has the same meaning as COMAR 26.17.02.02

(53) "Mean high-water line" has the meaning stated in Article 18 of this Code.

(54) "New development" means development on a site where subdivision approval is required or on a portion of a site on which there is an existing commercial, industrial, institutional, or multifamily residential use if that portion of the site has not been part of the existing use.

(55) "Nonstructural stormwater management practice" means those practices set forth in COMAR 26.17.02.08.

(56) "One-hundred year flood" means a flood that has a 1% chance of being equaled or exceeded in a given year.

(57) “Outfall” means the point at which a proposed stormwater conveyance system carrying stormwater runoff from a site discharges into an existing stormwater conveyance system.

(58) “Overbank flood protection volume” (Qp) has the meaning stated in COMAR 26.17.02.02.

(59) “Planning Techniques” has the same meaning as COMAR 26.17.02.02

(60) “Point of Investigation” means the point located downstream from a site discharge where the post development runoff is less than or equal to 10 percent of the total runoff to that point. All runoff computations based on the 10 year storm, curve number and time of concentration based on ultimate development and no peak management for the total runoff to that point.

(61) “Private Stormwater Management” means the ESD Planning Techniques, treatment practices and structural stormwater measures used to satisfy the Minimum Control requirements of this Title that are not considered Public Stormwater Management

(62) “Public Stormwater Management” means the ESD Planning Techniques, treatment practices and structural stormwater measures used to satisfy the Minimum Control requirements of this Title for projects where the stormwater management system is owned or maintained by the Department of Public Works, the Department of Recreation and Parks, the Department of Central Services or any other County Agency or Department.

(63) “Recharge volume (REv)” has the meaning stated in COMAR 26.17.02.02.

(64) “Redevelopment” has the meaning stated in COMAR 26.17.02.02.

(65) “Regenerative Conveyance System” has the same meaning as that DPW Manual

(66) “Responsible personnel” has the meaning stated in COMAR 26.17.01.01.

(67) “Retrofit” has the meaning stated in COMAR 26.17.02.02.

(68) “Sediment” has the meaning stated in COMAR 26.17.01.01.

(69) “Site” has the same meaning stated in COMAR 26.17.02.02

(70) “Stormwater Site Development Plan” has the same meaning as COMAR 27.17.02.02.34

(71) “Site improvement” means storm drains, roads, curbs and gutters, concrete work, stabilization, stormwater management facilities, and other structural improvements.

(72) “Slope” means an inclined surface of a fill, excavation, or natural terrain.

(73) "Stabilization" means the prevention of soil movement by vegetative or structural means.

(74) "Stormwater" has the same meaning as COMAR 26.17.02.02

(75) "Stormwater management system" has the same meaning as COMAR 26.17.02.02

(76) "Stormwater runoff" means any increase in stormwater resulting from an increase in the imperviousness of the site, including all additions to buildings, roads, and parking lots; changes in permeability caused by compaction during construction or modifications in contours, including the filling or drainage of small depression areas; alteration of drainageways or regrading of slopes; destruction of forest; or installation of collection systems to intercept street flows or to replace swales or other drainageways.

(77) "Structural stormwater management practice" means those practices set forth in COMAR 26.17.02.08.

(78) "Structure" has the meaning stated in Article 17 of this Code.

(79) "Subdivision" has the meaning stated in Article 17 of this Code.

(80) "Substantial improvement" means any reconstruction, rehabilitation, addition or other improvement to a structure other than an historic structure, the cost of which equals or exceeds 50% of the State's assessed value of the structure or, an appraisal performed by a professional real estate appraiser of the market value of the structure (less land value) before commencement of the reconstruction, rehabilitation, addition or other improvement or, if the structure has been damaged and is being restored, before the damage occurred, but the term does not include the minimum repairs needed to correct violations of State or County health, safety, or sanitary codes.

(81) "Tributary outfall" means the point, downstream of an outfall, at which the site drainage area equals or exceeds the drainage area of the watercourse that conveys the drainage from a site and the outfall.

(82) "Water quality volume" (WQv) has the meaning stated in COMAR 26.17.02.02.

(83) "Watercourse" means any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows continuously or intermittently, and the term includes any adjacent area that is subject to inundation from overflow or floodwater.

(84) "Watershed" has the meaning stated in COMAR 26.17.02.02.

(85) "Woodland" means any naturally occurring or planted group of 2 or more trees

§ 16-1-102. Scope.

The provisions of this article are minimum requirements that apply in addition to other requirements of this Code and other law and regulations.

§ 16-1-103. Conflict of laws.

If any provision of this article conflicts with other County law, the provision that establishes the higher standard for protection shall prevail.

§ 16-1-104. Compliance with other law.

Except as otherwise provided by this article, all development, grading, and other activity under this article shall comply with all applicable federal, State, and County law and regulations, the Design Manual, and the DPW Manual

§ 16-1-105. Federal and State permits.

The County may issue a permit conditioned on the applicant having obtained all necessary permits from all applicable State and federal agencies. The issuance of federal or State permits does not exempt development from compliance with this article.

§ 16-1-106. Right of entry.

It is a condition of a permit applied for or issued under this article that officers and employees of the County and, for purposes of Title 4, the Administration may enter onto the site to inspect for compliance with the provisions of this article.

§ 16-1-107. Liability for damages.

The issuance of a permit under this article or compliance with this article does not relieve a person from responsibility for damage to persons or property otherwise imposed by law or impose liability on the County for damages.

§ 16-1-108. Unit prices.

The Director shall adopt unit prices to be used by applicants in connection with the submission of cost estimates required by this article.

16-1-109. Denial of permits after notice of violation.

- (a) **Denial of permit.** The county may deny the issuance of permits under this article if it determines that the applicant has been served with notice of any violation on the property for which the permit is sought and the violation has not been resolved.

(b) **Notice of intent.** The Director of Inspection and Permits shall give notice of intent to enforce this section by including in any notice of violation a provision stating that the property may be subject to denial of additional permits under this section until the violation is corrected.

(c) **Remedies and penalties.** The remedies and penalties set forth in this section are in addition to and do not supersede remedies and penalties provided in Title 5 of this article or elsewhere in this Code or imposed by a court.

(d) **No appeal.** The applicant may not appeal the denial of additional permits based on enforcement of this section.

TITLE 2. FLOODPLAIN MANAGEMENT

SUBTITLE 1. GENERAL PROVISIONS

§ 16-2-101. Scope; overlay.

(a) **Scope.** This title applies to all development in a floodplain district. An application for subdivision or for a building or grading permit is an application for development under this title.

(b) **Overlay.** This title is an overlay that applies to all land located in the County.

§ 16-2-102. Disclaimer of County's liability.

The degree of flood protection provided by this title is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. Nothing in this title means that land outside the areas of special flood hazard or that development within those areas will be free from flooding or flood damage. Larger floods can and will occur on rare occasions, and flood heights may be increased by manmade or natural causes. The issuance of a permit or the grant of any other approval is not a representation, guarantee, or warranty and does not create liability on the part of the County, its officials, or employees.

§ 16-2-103. Establishment of floodplain district and sub-districts.

(a) **Establishment of floodplain district.** A floodplain district is established. It includes the areas in the County subject to inundation by the waters of the 100-year flood as determined and delineated by:

(1) the Flood Insurance Study and Wave Height Study for Anne Arundel County, Maryland (Unincorporated Areas), dated November 2, 1982, and the Flood Insurance Study and Wave Height Study for the Town of Highland Beach, Maryland (Incorporated Area), dated April 15, 1982, with accompanying flood insurance rate and floodway maps by FEMA and all subsequent revisions; or

(2) more restrictive floodplain studies or data approved in connection with an application for a building or grading permit or for subdivision.

(b) **Sub-districts.** The floodplain district consists of the following sub-districts:

(1) "nontidal 100-year floodplain," designated as zones A2, A3, A4, A5, A6, A7, A8, A9, A10, A13, A14, and A15 on the flood insurance rate maps;

(2) "approximated floodplain," designated as zone A on the flood insurance rate maps, and with an approximated boundary because a detailed study has not been performed and water surface elevations have not been provided;

(3) "coastal floodplain," designated as zones A2, A3, A4, A5, A6, A7, A8, A9, A10, A13, A14, and A15 with an elevation number (EL-) on the flood insurance rate maps and based on detailed study information and profiles;

(4) "coastal high-hazard areas," designated within coastal floodplains as zones V9, V10, V11, and V12 with an elevation number (EL-) on the flood insurance rate maps and subject to inundation by high-velocity waters and wave action based on a detailed wave height study; and

(5) "floodway," designated as floodway within the 100-year nontidal floodplain on maps titled "flood boundary and floodway maps".

(c) **Revisions to floodplain district.** The floodplain district boundaries may vary periodically as revisions to the flood insurance study and flood insurance rate maps are made and, upon receipt of changes by the Office of the County Executive, the changes automatically constitute changes to the boundaries of the floodplain district. The Office of Planning and Zoning may revise the delineation of the floodplain district only in compliance with the National Flood Insurance Program (NFIP) and the requirements of the State and only when there are changes through natural or other causes as indicated by detailed hydrologic and hydraulic studies. Changes to the delineation of the floodplain district shall be subject to the review and approval of FEMA and the State, except that approval is not required and elevations shall be used if there is a conflict between map boundaries and elevations plotted on a topographic map.

(d) **Request for map amendment.** A developer or owner who believes that property has been erroneously included in a designated floodplain district on the flood insurance rate maps may submit scientific or technical information to FEMA for review for a possible map amendment. Any development in a floodway that may result in an increase in water surface elevations or a change to the floodway shall be submitted to FEMA for a conditional letter of map revision.

(e) **Boundary disputes in approximated floodplain.** As promptly as possible after receipt of written notice of a dispute concerning a district boundary in an approximated floodplain, the Planning and Zoning Officer shall make an interpretation and render a decision in writing.

§ 16-2-104. Amendments.

This title and all amendments to it are subject to the approval of FEMA and the State.

§ 16-2-105. Unsafe structures.

The Department shall declare a structure that is constructed, enlarged, altered, or relocated in violation of this title to be an unsafe structure and abatable as an unsafe structure under Article 15-2-101 and Article 15-1-105 and immediately notify FEMA and the State Water Resources Administration in writing of any structure or property in violation of this title.

SUBTITLE 2. DEVELOPMENT

§ 16-2-201. Required information.

An application for a building or grading permit for land located in a floodplain district shall contain or be accompanied by the following information:

(1) a demonstration that new structures cannot be located outside the floodplain and that encroachments into the floodplain are minimized;

(2) the elevations of the proposed final grading; the lowest floor levels; the existing ground contours; the 100-year flood elevation; and the high-velocity water and wave action elevation, including its relation to a stream channel, shoreline, floodplain district, and floodplain sub-district, as certified by a design professional;

(3) the method of elevating a proposed structure, including details of proposed fills, pile structures, retaining walls, foundations, and erosion protection measures, as prepared by a design professional; and

(4) the methods used to protect electrical, plumbing, and mechanical systems and utilities from flooding;

(5) for a substantial improvement to an existing structure, the State's assessed value or, at the developer's option, an "as is" appraisal performed by a professional real estate appraiser of the market value of the structure, excluding land value;

(6) for a relocation, alteration, or modification of all or part of a watercourse or stream, evidence that notice has been sent as required by § 16-2-204 and an engineering study prepared by a design professional that analyzes all reasonable alternatives and fully evaluates the effects of the construction, using applicable 100-year flood and floodway data prepared by FEMA, and that includes a certification that the flood-carrying capacity within the watercourse or stream will not be affected;

(7) an acknowledgment that flood insurance for a structure not elevated or floodproofed in conformance with this title may be available only at prohibitive rates or not at all and that construction below the level of the 100-year flood increases risk to life and property; and

(8) for accessory structures, a statement on the building plans that reads as follows: “No conversion of this area to habitable space is to occur unless the lowest floor is elevated to one foot above the 100 year flood elevation. At this site the 100-year flood elevation is _____.”

§ 16-2-202. Development requirements.

(a) **Scope.** This section does not apply to piers or structures for the wet storage of watercraft if the piers or storage structures do not contain habitable space.

(b) **Generally.** Development may not occur in the floodplain if an alternative location for the development exists. All development shall be consistent with applicable flood hazard and watershed management plans and shall be undertaken in a manner that minimizes adverse impact on aquatic or terrestrial habitats and related flora and fauna. Grading, necessary provisions for drainage, erosion, and sediment control, and vegetative establishments may not increase flooding. Structures shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow and height of floodwater. Materials that are hazardous, buoyant, flammable, or explosive, or that in times of flooding could be injurious to human, animal, or plant life, are prohibited below the flood protection elevation. Basements are prohibited. Reconstruction, rehabilitation, or restoration of a historic structure may not cause an increase in the elevation of the 100-year flood level.

(c) **Elevation to flood protection elevation; exceptions.** All structures shall have the lowest floor elevated to the flood protection elevation, except that:

(1) an expansion that increases the footprint of a structure is not required to have the lowest floor elevated to the flood protection elevation if the expansion is the minimum necessary to correct violations of State or County health, safety, or sanitary codes;

(2) an accessory structure or attached garage is not required to have the lowest floor elevated to the flood protection elevation if the provisions of this section and § 16-2-203 are met; and

(3) new construction of or substantial improvements to nonresidential structures may be floodproofed in lieu of having the lowest floor elevated to the flood protection elevation if:

(i) the floodproofing designs ensure that areas below the flood protection elevation are watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy for flooding to the flood protection elevation; and

(ii) a FEMA floodproofing certificate is provided.

(d) **Water equalizing vents.** New construction of or substantial improvements to a lowest floor that is not required under this section to be elevated to the flood protection elevation shall

be constructed with water equalizing vents in accordance with the requirements of the Building Code adopted by Article 15, Title 2, of this Code.

(e) **Electrical, plumbing, and mechanical systems; utilities.** Electrical, plumbing, and mechanical systems shall be installed in accordance with §15-2-101 of this Code for commercial structures and §15-2-102 of this Code for residential structures. New or replacement water and sewer connections shall be designed and floodproofed to eliminate or minimize the potential for flood damage, including infiltration of floodwater into the connections and discharges from the connections into floodwater. Onsite waste disposal connections shall be located to avoid impairment to them or contamination from them during flooding. Gas, electrical, and other facility and utility connections shall be located, constructed, and floodproofed to eliminate or minimize potential for flood damage. New storm drainage facilities within or leading to or from a floodplain shall be adequately designed, floodproofed, and installed to eliminate or minimize potential for property damage from the floodwaters of the 100-year flood and to minimize adverse environmental impact of their installation and use.

(f) **Coastal high hazard areas.** Manufactured homes and the placement of fill are prohibited in coastal high-hazard areas. New construction of or a substantial improvement to a structure in a coastal high hazard area is prohibited unless the construction or improvement is in accordance with the Federal Emergency Management Agency's Coastal Construction Manual (FEMA 55) and NFIP Technical Bulletin 5.

(g) **Floodways.** Manufactured homes and the placement of fill are prohibited in a floodway. New construction of or a substantial improvement to a structure in a floodway is prohibited unless hydrologic and hydraulic analyses based on floodway models and performed in accordance with standard engineering practices demonstrate that the construction or improvement will not cause an increase in downstream or upstream flooding or erosion. Structures that impede, retard, or change the direction of the flow of water, that catch or collect debris carried by water, or that are placed where the natural flow of the stream or floodwaters will carry debris downstream are prohibited.

§ 16-2-203. Attached garages; accessory structures.

(a) **Scope.** This section applies to attached garages and to all accessory structures, including detached garages, of less than 600 square feet, except that it does not apply to piers or structures for the wet storage of watercraft if the piers or storage structures do not contain habitable space.

(b) **One-story structures of 300 square feet or less.** A one-story accessory structure of 300 square feet or less and a one-story attached garage of 300 square feet or less may be constructed below the flood protection elevation if:

(1) the structure is used for parking, storage, or access only;

(2) the floor elevation is at or above grade and does not qualify as a basement and is equipped with flood equalization vents in accordance with the applicable provisions of the

International Building Code or the International Residential Code as required by Article 15 of this Code;

(3) the structure is constructed and located so as to minimize flood damage; and

(4) the structure is firmly anchored to prevent flotation.

(c) **Other accessory structures and garages; non-conversion agreement.** The developer of a two-story accessory structure, a two-story attached garage, or an accessory structure or attached garage that has more than 300 square feet shall comply with the requirements of subsection (b) and execute a non-conversion agreement provided by the County that prohibits conversion of the area to habitable space unless elevated to the flood protection elevation. The agreement shall be recorded among the land records.

§ 16-2-204. Relocation, alteration, or modification of a watercourse or stream.

(a) **Prohibition.** Relocation, alteration, or modification of a watercourse or stream in a floodplain district is prohibited.

(b) **Notice.** If a modification granted under this title allows development that includes the relocation, alteration, or modification of a watercourse or stream, the developer shall provide notice of the relocation, alteration, or modification by certified mail to the Federal Emergency Management Agency, to the State, and to all lot owners within 175 feet of the portion of the watercourse or stream to be relocated or altered.

§ 16-2-205. Certificate of occupancy.

A certificate of occupancy may not be issued in a floodplain district until the Director has been provided with a completed FEMA elevation certificate that verifies the as-built elevation of the construction.

§ 16-2-206. Record of permit actions; tracking.

(a) **Record.** The Department shall maintain a record of all floodplain district permit actions and shall make the record available on request by FEMA or by the State. The record shall include the date the permit was issued, the as-built lowest floor elevation of all new construction or substantial improvement, the issuance date of a certificate of occupancy, a copy of the completed elevation certificate, and any map amendments issued by FEMA.

(b) **Tracking.** All permits subject to this title shall be tracked by property location to determine if the cumulative value of improvements over a three-year period constitutes a substantial improvement of the structure.

SUBTITLE 3. MODIFICATIONS

§ 16-2-301. Modifications.

(a) **Where application is filed.** An application for a modification from the requirements of this title shall be filed with the Office of Planning and Zoning if it relates to roads, utilities, stormdrains, stormwater structures, or other infrastructure proposed in the subdivision process. Otherwise, the application shall be filed with the Department.

(b) **Contents.** An application for a modification shall:

- (1) set forth good cause accompanied by an engineering analysis;
- (2) demonstrate that no reasonable alternative exists outside the floodplain district;
- (3) explain the non-economic hardship to the applicant if relief is not granted; and
- (4) demonstrate that the grant of a modification will not result in increased flood heights.

(c) **Determination.** The County may not grant a modification until it has received comments and a copy of any required modification or variance from the State. The County may grant a modification, with or without conditions, if it determines that:

- (1) the applicant has demonstrated good cause;
- (2) no reasonable alternative exists outside the floodplain district;
- (3) a failure to grant the modification would result in non-economic hardship to the applicant;
- (4) the granting of the modification will not result in increased flood heights, a threat to public safety, extraordinary public expense, a nuisance, a fraud on or victimization of the public, or a conflict with State or County law; and
- (5) the modification is consistent with sound g management and is the minimum necessary, considering the flood hazard, to afford relief.

(d) **Prohibited modifications.** A modification to the provisions contained in § 16-2-202 (f) and (g) relating to development in coastal high hazard areas and floodways is prohibited. A modification to the requirement that the lowest floor of a new or substantially improved residential structure be elevated to the flood protection elevation is prohibited.

TITLE 3. EROSION AND SEDIMENT CONTROL

SUBTITLE 1. GENERAL PROVISIONS

§ 16-3-101. Scope.

This title applies to all clearing and grading in the County.

§ 16-3-102. Repair or restoration.

Erosion, sediment deposition, disturbance of vegetative cover, or other damage that occurs as a result of development or a violation of this title shall be repaired and restored to meet the minimum requirements of this title.

§ 16-3-103. Maintenance of protective measures.

A permittee shall conduct or provide for daily inspections and shall maintain continually in effective operational condition all surfaces, erosion control measures, vegetative covers, and other protective measures in accordance with the approved grading permit plans or standard grading plan until removed with the permission of the Department. Any measures that are disturbed or destroyed in the course of operations shall be immediately repaired.

For the purpose of compliance with this section the permittee shall conduct following inspections

1. For each day any construction activity is underway, conduct daily monitoring inspections of the approved erosion and sediment controls
2. For sites where no construction activities are taking place, conduct weekly inspections of the approved erosion and sediment controls
3. Conduct monitoring inspections of the approved erosion and sediment controls the next day after a rainfall event resulting in runoff

During construction the permittee shall maintain at the site written reports of all monitoring inspections to include:

1. The date and time of the inspection
2. the name of the individual who performed the inspection
3. The Certificate of Training number of the individual who performed the inspection
4. An assessment of the conditions of the approved erosion and sediment controls
5. A description of any erosion and sediment control implementation and maintenance performed
6. A description of the present phase of construction

At any time during the construction the written reports must be made available to the Department for review and evaluation or submitted to the Department as may be required

§ 16-3-104. Enclosure of sediment basins and traps.

(a) **Sediment basins.** A sediment basin located in a residential zoning district shall be enclosed with a chain link fence that is not less than six feet above the ground. Gates shall be securely closed so that only authorized personnel can gain access. Other types of enclosures may be used only with the approval of the Department before installation. The Department also may require that a sediment basin located in a zoning district other than a residential zoning district is enclosed if the basin is located within 500 feet of a residential use.

(b) **Sediment traps.** The Department may require a sediment trap to be enclosed if the Department determines that enclosure is necessary to ensure public safety.

§ 16-3-105. Revolving fund.

There is a revolving fund to support the cost of work done by the County after an owner or permittee fails, neglects, or refuses to do the required work. The Controller shall allow an expenditure from the general County capital projects fund on a revolving basis to support the cost of the work.

§ 16-3-106. Stay pending appeal.

(a) **Applicability.** This section applies to an appeal from the issuance of a grading permit for grading on land within 100 feet of the mean high-water line, a tributary stream, or the edge of a tidal wetland or within the expanded buffer provided for in § 18-13-104(a) of this Code. This section also applies to an appeal from the issuance of a grading permit for disturbance of one acre or more on any lot other than one that is part of a larger site with an active or completed grading permit that provides for site improvements and future development of lots on that site.

(b) **Stay pending decision by the Board of Appeals.** The timely filing of an appeal automatically stays all action under the permit pending a final decision by the Board of Appeals. The Board shall hear and decide the appeal within 45 days of the filing of the appeal. If the Board fails to issue a final written decision within 45 days, the stay shall be terminated and may not be reinstated.

SUBTITLE 2. GRADING PERMIT

§ 16-3-201. Approval required; exceptions.

(a) **Approval required.** Except as provided in subsection (b), a person may not:

(1) grade without a grading permit issued by the Department; or

(2) clear in the critical area buffer, expanded buffer or buffer modification area described in §18-13-104 without a buffer management plan or forest management plan

(b) **Exceptions.** Approval is not required for clearing or grading associated with:

(1) accepted agricultural land management practices

(2) the construction of agricultural structures

(3) the laying of gas, electrical, telephone, or cable television lines that disturbs less than 100 linear feet;

(4) activities that are subject exclusively to State approval and enforcement under State law;

(5) activities under a standard grading plan approved by the Department under § 16-3-202; or

(6) routine yard or garden maintenance disturbing less than 5,000 square feet of land or unless prohibited by subsection (a) (2) of this section or other applicable State or Federal law.

§ 16-3-202. Standard grading plan.

A standard grading plan may be used in lieu of a grading permit if:

(1) the applicant files a standard grading plan application that is approved by the Department; and

(2) the applicant certifies that construction will meet the conditions and limitations established on the standard grading plan and will be carried out in compliance with this title.

§ 16-3-203. Application.

(a) **Who may file.** Any person may file an application for a grading permit, but the application shall be accompanied by an affidavit of the owner stating that the proposed work is authorized if the application is filed by a person other than the owner.

(b) **Contents.** An application shall include all information required by the Department. The information ordinarily shall include:

(1) a site development plan in accordance with the requirements of §§ 17-4-101 et seq. of this Code;

(2) an erosion and sediment control plan;

(3) the application fee and the permit fee; and

(4) a cost estimate prepared by a design professional for all site improvements not covered by a public works agreement.

§ 16-3-204. Erosion and sediment control plan.

An erosion and sediment control plan shall contain all information required by COMAR 26.17.01.07. In addition, an erosion and sediment control plan shall contain all information required by the Department. The information required by the Department ordinarily shall include:

- (1) the signature and seal of a design professional;
- (2) a boundary line survey tied to the County coordinate system;
- (3) a detailed plan (plan sheet 24" x 36") at a scale that is no smaller than a 1" = 40';
- (4) the elevations, dimensions, location, extent, and slope of proposed grading and, if applicable, the 100-year flood elevation;
- (5) the estimate of the quantity of excavation and fill involved;
- (6) complete storm drainage studies and stormwater management analysis if not previously submitted in accordance with the provisions of Article 17 of this Code;
- (7) an appropriate legend;
- (8) a 100-foot adjacent peripheral strip, showing existing topography at a contour interval as specified by the Department;
- (9) an acknowledgement that all clearing, grading, construction, and development will be done pursuant to the plan;
- (10) an identification of responsible personnel;
- (11) the use and extent of fills;
- (12) a statement that inspections will be requested as required by § 16-3-302;
- (13) any enclosure of sediment basins or traps required by § 16-3-104; and
- (14) an outfall survey for any piped outfall, sediment basin outfall, sediment trap outfall, and open channel outfall.

§ 16-3-205. Outfall surveys.

(a) **Submission.** The outfall survey that accompanies an erosion and sediment control plan shall include all information required by the Department and the Anne Arundel Soil Conservation District at all locations required by the Department and the Anne Arundel Soil Conservation District.

The outfall survey is an analysis of the site discharge using cross sections and borings every 100 hundred feet downstream from the site outfall for a distance of 500 feet. The outfall survey will be coordinated with the analysis required for the Point of Investigation for the site outfalls.

(b) **Update.** At any time during operations under a grading permit, the Department may require the permittee to update the outfall survey.

(c) **Post Construction.** A certificate of completion under §16-3-306 may not be issued for a grading permit unless a post-construction outfall survey is submitted that compares the pre-construction conditions against post-construction conditions and it is determined that the outfall has not experienced sediment deposition or erosion damage. If the post construction outfall survey reflects any sediment deposition or erosion damage, the permittee shall repair the damage under § 16-3-209 as a major revision of the erosion and sediment control plan.

§ 16-3-206. Criteria for issuance.

The Department may not issue a grading permit unless:

(1) an erosion and sediment control plan is approved by the Office of Planning and Zoning and the Anne Arundel Soil Conservation District;

(2) the State Highway Administration approves the application for the grading permit, if applicable;

(3) the applicant agrees in writing that all development will comply with the approved erosion and sediment control plan;

(4) a stormwater management plan is approved in accordance with the requirements of this article;

(5) a site development plan is recommended for approval as provided in § 17-4-203 of this Code;

(6) the Department approves the cost estimate filed with the application; and

(7) the applicant pays the grading fee and provides the security required by §§16-3-207 and 16-3-208.

§ 16-3-207. Fees; refunds.

(a) **Fees.** The fees set forth in the chart in this subsection apply to all grading permits other than those issued for work on property owned or leased and developed by the County or the Board of Education.

Grading Permit Category	Fee
Application	\$25
Single family dwelling on lot of 20,000 square feet or less	\$400
Single family dwelling on lot over 20,000 square feet	\$650

Forest harvest operation	\$100
Grading permit other than for a single family dwelling or standard logging plan is based on an approved cost estimate, as follows: \$0 to \$500 \$500.01 to \$1,250 over \$1,250	\$45 \$90 \$90 plus 7% of costs over \$1,250
Additional work	Difference between the fee for the original permit and the fee required for the fee required for the entire grading and sediment control project

(b) **Refunds.** On request of the applicant, the Department may refund 50% of a permit fee if for any reason the permit is not issued. The maximum amount retained by the County may not exceed \$1000. Application fees are nonrefundable.

§ 16-3-208. Security.

(a) **Security required.** An applicant other than the County or a public utility or an applicant for a forest harvest operation shall provide the County with security in an amount equal to the approved cost estimate **as shown on the approved grading and sediment control computation sheet.** The security shall be in the form of a cash deposit, certified check, cashier’s check, irrevocable letter of credit, or bond from a bonding company or financial institution acceptable to the County. A public utility shall provide a letter of guarantee in a form approved by the Office of Law.

(b) **Full release.** Security given under this section shall be released if the Department issues a certificate of completion after having determined that the minimum requirements of this title have been met.

(c) **Partial release.** The Department may allow a partial release of the security given under this section, not to exceed 50% of the obligations or remaining obligations under the permit, if the applicant has performed at least 50% of the obligations or remaining obligations under the permit and the County determines that a partial release of the security will not impair implementation of the provisions of this title.

(d) **Forfeiture.** If an applicant fails to comply with any term or condition of the permit, the County may declare that the security is forfeited to the County.

(e) **Costs in excess of security.** The cost of work performed under the provisions of this article in excess of that for which the County is compensated by security shall be an obligation of the owner of the property. The costs shall be levied and collected from the owner in the same manner as County real property taxes and shall have the same priority rights, bear the same interest and penalties, and in every respect be treated as County real property taxes. The interest rate charged to the property owner shall be the maximum legal rate. This subsection does not apply to a bona fide purchaser of a subdivided lot who had no financial interest in the

development of the lot prior to acquiring legal title unless the violation is attributable to that purchaser.

§ 16-3-209. Revisions.

(a) **Department authorized to require revisions.** If the Department finds that an approved plan, site development plan, or stormwater management plan is not adequate to effect compliance with the law because of design errors, unanticipated site conditions, failure to follow the approved phasing, or other conditions, the Department may require revisions to the plan.

(b) **Major revisions.** The Department will process major revisions of approved plans in the same procedural manner as the initial application for the grading permit. The approved revision shall be dated by the Soil Conservation District and noted on the erosion and sediment control plan.

(c) **Minor revisions.** The Department may approve minor revisions to the approved Erosion and Sediment Control Plan based on a list of minor revisions approved by the Anne Arundel Soil Conservation District. To apply for a minor revision, the design professional responsible for the grading permit plans must prepare five sets of the permit plans showing the plan changes in red for review. These plans must be transmitted to the Department at 2664 Riva Road. If approved, the plan sets will be stamped with the dated approved and distributed.

§ 16-3-210. Posting.

A permittee shall post the approved grading permit in a conspicuous onsite location during construction and shall maintain a copy of the approved plan and any approved revisions onsite.

§ 16-3-211. When application abandoned.

An application for a permit shall be deemed abandoned 180 days after the date of filing unless the application has been pursued in good faith or a permit has been issued. On written application that demonstrates good cause, the Director may grant one or more extensions of time not exceeding 90 days each.

§ 16-3-212. Expiration of issued permit.

A grading permit expires:

(1) if installation and inspection of all erosion and sediment control measures shown as Phase I on the approved plans has not occurred within one year from the date of issuance;

(2) two years after approval by the Anne Arundel Soil Conservation District unless a renewal of the Anne Arundel Soil Conservation District approval is obtained;

(3) one year after work has stopped with respect to a permit under which work has begun and stopped;

(4) upon the transfer of a permit to another person without approval from the Department;
or

(5) six years after issuance.

SUBTITLE 3. INSPECTIONS AND COMPLETION OF WORK

§ 16-3-301. Pre-construction meeting.

At least 48 hours before commencing work under a grading permit and approved plans, a permittee shall notify the Department of the intended date of commencement. Work may not commence until the permittee or responsible personnel have met on the site with a representative of the Department to review the approved plans.

§ 16-3-302. Requests for inspections.

A permittee shall request that the Department inspect work upon:

(1) completion of installation of all erosion and sediment control measures shown as Phase I on the approved plans and before proceeding with any other grading or building construction;

(2) stabilization at the time of foundation backfill; and

(3) final stabilization before the removal of erosion and sediment controls.

§ 16-3-303. Supervision of inspections and tests.

The Department may require that inspections and testing of a grading operation be performed under the direction of a design professional and that the design professional provide certifications as required by the Department.

§ 16-3-304. Records.

On completion of work for which a grading permit was issued, the Department shall require the following for its files and shall also require copies for the Anne Arundel Soil Conservation District and the Department of Public Works:

(1) an as-built plan as required by § 16-4-302;

(2) an acknowledgement by the permittee that grading, drainage, structures, systems, and erosion and sediment control practices have been completed in substantial conformance with the approved plans and all required specifications as required by COMAR 26.17.01.07B 3h; and

(3) a report summarizing the inspection reports, field and laboratory tests, and locations of tests and field observations.

§ 16-3-305. Notification of completion.

The permittee shall notify the Department when the grading operation is ready for final inspection. The Department will not give final approval unless all work and required stabilization, including the installation of all drainage structures, stormwater management facilities and erosion protective devices, has been completed and all required reports and other information have been submitted.

§ 16-3-306. Certificate of completion.

The Department shall issue a certificate of completion for a project for which a grading permit is required within 60 days after it receives a written notice of completion of the project if after an inspection the Department finds that the permittee has complied with the provisions of this title.

SUBTITLE 4. MODIFICATIONS

§ 16-3-401. Modifications.

(a) **Filing of request.** An applicant shall file a written request for a modification with the Director and, if required, with the Anne Arundel Soil Conservation District. The request shall state the specific modification requested and the reasons for the request.

(b) **Approval.** The Director may approve an application for a modification to a provision of this title that is not required by State law upon an affirmative written finding that:

(1) practical difficulties or unnecessary hardship will result from strict application of this title;

(2) the purposes of this title will be served by an alternative proposal;

(3) the request is not based on financial considerations; and

(4) the modification is not detrimental to the public health, safety, or welfare or injurious to other properties.

(c) **Conditions.** In modifying a provision of this title, the Director may require conditions to secure the objectives of the provision that has been modified.

TITLE 4. STORMWATER MANAGEMENT

SUBTITLE 1. GENERAL PROVISIONS

§ 16-4-101. Applicability.

(a) **Applicability of this title.** This Title applies to all new development and redevelopment projects that have not submitted a grading permit or subdivision application by October 1, 2009 and do not have final approval for erosion and sediment control and stormwater management plans by May 4, 2010.

(b) **Inapplicability of this title.** If this title is not made applicable by subsection (a), a developer shall provide stormwater management in accordance with the law as it existed prior to the enactment of Bill No. __-09 [53-01].

(c) **Exemptions** The following types of development are exempt from the provisions of this title:

- (1) agricultural land management practices and the construction of agricultural structures
- (2) a development that does not disturb over 5,000 square feet of land area and that is not located in an intensely developed area in the critical area
- (3) Institutional, commercial and industrial uses that have not received a prior stormwater management exemption
- (4) Land disturbances less than 5,000 square feet on residential property where the total existing and proposed impervious surfaces does not exceed 40% of the total lot area
- (5) development regulated under State law that provides for managing stormwater runoff.

§ 16-4-102. Administration and enforcement.

The Department and the Office of Planning and Zoning shall administer and enforce this title.

§ 16-4-103. County Procedures Manual.

(a) **Preparation.** The Office of Planning and Zoning shall prepare and regularly update the County Procedures Manual for Stormwater Management Design, Construction, and Maintenance in furtherance of the provisions of this title (may change to reference State Manual or DPW Manual).

(b) **Written interpretations.** The Department and the Office of Planning and Zoning may issue written interpretations to clarify the requirements of the County Procedures Manual.

§ 16-4-104. Compliance with design standards, the County Procedures Manual, watershed management studies, and flood management plans.

(a) **Documents adopted.** The following documents, referred to in this title as design standards, are adopted as establishing requirements for stormwater management principles, methods, and practices in this County:

(1) the 2000 Maryland Stormwater Design Manual Volumes I and II (Maryland Department of the Environment, April 2000) or latest edition;

(2) USDA Natural Resources Conservation Service Maryland Conservation Practice Standard Pond Code 378 (January 2000) or latest edition; and

(3) the County Procedures Manual or latest edition.

(4) DPW Manual or latest edition

(b) **Compliance with title and design standards required; conflicting standards.** Each developer required to submit a stormwater management plan and provide stormwater management shall comply with this title and the design standards. In the event of a conflict among the design standards, the more restrictive provision shall govern.

(c) **Consistency with watershed management studies or flood management plans.** If applicable, stormwater management plans shall be consistent with approved watershed management studies or with flood management plans as approved by the Administration in accordance with the Flood Hazard Management Act of 1976.

§ 16-4-105. General prohibitions.

It is unlawful to discharge or permit the discharge of stormwater runoff from a site into any storm drain or watercourse without first obtaining the approval of the County or to spill, dump, or dispose of any material or substance other than natural stormwater runoff into a storm drain or watercourse unless authorized by a valid NPDES permit issued by the State of Maryland.

SUBTITLE 2. STORMWATER MANAGEMENT PLANS

§ 16-4-201. Stormwater management plans required.

(a) **Requirement.** A developer subject to the provisions of this title may not undertake any development in the County without an approved stormwater management plan.

(b) **Preparation.** A stormwater management plan shall be prepared by a design professional, as permitted by the State Code for the type of stormwater management plan required.

(1) **ESD Planning Techniques and Practices.** Stormwater management plans must demonstrate that ESD has been implemented to the MEP using the ESD Planning Techniques and Practices in COMAR 26.17.02.08.B, 26.17.02.17.C and the Design Manual

(2) **Contents and Submission of Stormwater Management Plans.** The developer is responsible for submitting phased stormwater management plans for development projects according to the comprehensive review and approval process in COMAR 26.17.02.09.E including but not limited to the Concept Plan, Stormwater Site Development Plan, the Final Stormwater Management Plan and an operations and maintenance plan

(c) **Review;** The Office of Planning and Zoning shall review the stormwater management plan to determine whether the plan meets the requirements of this title and give notification of approval or reasons for disapproval. In granting approval of a stormwater management plan, the Office of Planning and Zoning may impose such conditions as it considers necessary to ensure compliance with the provisions of this title and the preservation of the public health and safety.

(d) **Additional approvals required.** In addition to approval by the Office of Planning and Zoning, a stormwater management plan shall be approved by the Maryland Dam Safety Administration if the stormwater management plan includes stormwater management practices that require dam safety approval and by the Anne Arundel Soil Conservation District if the stormwater management plan includes stormwater management practices that require small pond approval.

(e) **Easements, right-to-discharge and other property interests.** If a stormwater management plan involves direction or relocation of some or all of the stormwater runoff from the site in a manner that materially alters the flow characteristics of depth, velocity, width, or rate by more than 10%, or concentrates the discharge, a developer shall obtain from abutting and adjacent property owners any necessary easement, right-to-discharge, or other property interest concerning flow of water. This shall not relieve the developer from obtaining any necessary easements, right to discharge, or other property interest concerning flow of water from adjacent property owners.

(f) **Summary Sheet.** There shall be a summary sheet that lists the types of practices being utilized, their street location, addresses, grid coordinates in NAD 83 and size of drainage area being treated.

§ 16-4-202. Minimum control requirements – In general.

(a) New development

(1) The planning techniques, nonstructural practices and design methods specified in the Design Manual shall be used to implement ESD to the MEP. The use of ESD planning techniques and treatment practices must be exhausted before any structural BMP is implemented. All stormwater management plans must be designed using the ESD sizing criteria, recharge volume, water quality volume and stream channel protection storage volume criteria according to the Design Manual. The MEP standard is met when channel stability is maintained, predevelopment groundwater recharge is replicated non point source pollution is minimized, coastal plain outfalls and regenerative conveyance systems are employed to the extent possible on all public stormwater systems and structural management practices are used only if determined to be absolutely necessary.

(2) Overbank flood protection volume (Q_p) unless the development has a direct discharge or the developer demonstrates to the Office of Planning and Zoning, through an analysis in conformance with §16-4-207, that an unmanaged 10-year storm event for the proposed development will not cause flooding, or any other adverse impact on the receiving watercourse, a downstream property, a downstream drainage structure designed for the 10 year storm event or downstream stormwater conveyance system; and

(3) extreme flood volume (Q_f) if there is evidence of overbank flows reaching or exceeding the boundaries of the 100 year floodplain

(b) **Redevelopment.** Unless otherwise specified in an approved Watershed Management Plan, the minimum control requirements for redevelopment are

- (1) The reduction of existing impervious area within the limits of disturbance by at least 50% according to the Design Manual; or
- (2) The implementation of ESD to the MEP to provide water quality treatment for at least 50% of the existing impervious area within the limits of disturbance; or
- (3) The use a combination of both 1 and 2 for at least 50% of the existing site impervious area
- (4) Providing impervious area reduction and ESD have been implemented to the MEP, the use of an on-site structural BMP
- (5) Providing impervious area reduction and ESD have been implemented to the MEP, the use of a off-site structural BMP to provide water quality for an area equal to or greater than 50% of the existing impervious area
- (6) The use of 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% of the existing site impervious area within the limits of disturbance
- (7) Where site conditions prevent the reduction of impervious area, stormwater management practices shall be implemented to provide water quality control for 50% of the existing impervious area
- (8) Stormwater management shall be addressed according to the New Development requirements in the Design Manual for any net increase in impervious area

- (9) Where conditions prevent impervious area reduction or on-site stormwater management, then acceptable alternatives, in the same watershed, may be considered, including watershed or stream restoration, retrofitting or design criteria based on an approved Watershed Management Plan that meets the requirements in COMAR 26.17.02.08 for a drainage area comparable in size and percentage of impervious surface area to that of the development

§ 16-4-203. Requirements in addition to the minimum control requirements.

The approving authority may require more than the minimum control requirements specified in this subtitle if:

- (1) hydrologic or topographic conditions warrant;
- (2) flooding, stream channel erosion, or water quality problems exist between the site outfall and the designated Point of Investigation
- (3) the County has completed a watershed management study that indicates additional requirements are necessary.

§ 16-4-204. Alternative stormwater management practices.

Alternative stormwater management practices that meet the performance criteria established in the design standards may be used if they are approved by the Administration.

§ 16-4-206. Reduction of pollutant loadings from new impervious surface in the IDA.

(a) **Scope.** This section applies to intensely developed areas (IDA) in the critical area. The provisions of this section are in addition to other requirements of this subtitle.

(b) **Disturbance of less than 5,000 square feet in the buffer and expanded buffer.** For development sites in the IDA on which disturbance is less than 5,000 square feet in the buffer and expanded buffer, pollutant loadings from new impervious surface shall be reduced as follows and in the following order of priority:

- (1) for disturbance of less than 1,000 square feet:
 - (i) planting in the buffer and expanded buffer at a ratio of two times the area of new impervious surface;
 - (ii) planting onsite in the critical area outside the buffer and expanded buffer at a ratio of two times the area of new impervious surface; or
 - (iii) payment of a fee-in-lieu in the amount of \$1.20 per square foot of new impervious surface; or

(2) for disturbance of between 1,000 and 5,000 square feet:

(i) planting in the buffer and expanded buffer at a ratio of two times the area of new impervious surface;

(ii) planting onsite in the critical area outside the buffer and expanded buffer at a ratio of two times the area of new impervious surface;

(iii) planting at an offsite location in the critical area at a ratio of two times the area of new impervious surface; or

(iv) payment of a fee-in-lieu of \$1.20 per square foot of new impervious surface; and

(c) Disturbance of less than 5,000 square feet outside the buffer and expanded buffer. For development sites in the IDA on which disturbance is less than 5,000 square feet outside the buffer and expanded buffer, pollutant loadings from new impervious surface shall be reduced as follows and in the following order of priority:

(1) for disturbance of less than 1,000 square feet:

(i) planting onsite in the critical area at a ratio equal to the area of new impervious surface; or

(ii) payment of a fee-in-lieu in the amount of \$0.60 per square foot of new impervious surface; or

(2) for disturbance of between 1,000 and 5,000 square feet:

(i) planting onsite in the critical area at a ratio equal to the area of new impervious surface;

(ii) planting offsite in the critical area at a ratio equal to the area of new impervious surface; or

(iii) payment of a fee-in-lieu of \$0.60 per square foot of new impervious surface.

(d) Disturbance of 5,000 square feet or more. For development sites of 5,000 square feet or more, pollutant loadings from impervious surfaces shall be reduced by at least 10% below the level of pollution from the site prior to development. This requirement will be met by implementing ESD to the MEP. Offsets permitted by the design standards and the technical report may be used either onsite or offsite in the same critical area watershed to reach the 10% pollutant reduction requirement of this section.

(e) Fees-in-lieu. Fees paid in lieu under this section shall be maintained in a separate fund to be used by the County for projects that improve water quality within the same major watershed as the property for which the fees were collected.

§ 16-4-207. Modifications to minimum control requirements

A developer may request a modification of the minimum control requirements only if the modification request is consistent with the recommendations or design criteria contained in a County approved Watershed Plan that meets the requirements of COMAR 26.17.02.08

SUBTITLE 3. INSPECTIONS, COMPLETION OF WORK, AND MAINTENANCE

§ 16-4-301. Inspections.

(a) **Notification by developer.** A developer shall notify the Department at least 48 hours before commencement and on completion of any work in conjunction with the stormwater management plan.

(b) **Inspections by the County.** The Department shall make and document regular inspections, at a minimum, at the stages of construction and include the information specified in COMAR 26 17 02.10.

(c) **Violations.** The Department shall provide written notice to the developer and when possible to the onsite personnel of any violations observed, describing the nature of the violation and the required corrective action. The developer may not proceed with work until the Department inspects and approves the work previously completed.

§ 16-4-302. Completion.

(a) **As-built plans and certification.** When construction is complete, a design professional shall submit to the Department as-built plans and an as-built certification .At a minimum, the as-built certification shall include a set of drawings comparing what was constructed against the approved stormwater management plan. The Department may require any additional information that it considers necessary to determine that the work complies with the approved stormwater management plan.

(b) A Certificate of Occupancy may not be issued until the required stormwater management system is completed to the satisfaction of the Department

§ 16-4-303. Maintenance.

(a) **Generally.** The owner of a stormwater management system shall perform preventive maintenance to ensure proper functioning. The Department shall ensure that preventative or routine maintenance is performed by inspecting all stormwater management practices during the first year of operation and every three years thereafter.

(b) **Inspection reports.** The Department shall prepare and keep maintenance inspection records for all stormwater management systems as required by COMAR 26.17.02.11.

(c) **Immediate danger.** If, on inspection by the Department, the condition of a stormwater management practice presents an immediate danger to the public health or safety because of an unsafe condition or improper maintenance, the Department shall take such action as may be necessary to protect the public and make the practice safe. Any cost incurred by the County shall be assessed against the owner, as provided in § 1-9-101 of this Code.

SUBTITLE 4. STORMWATER PRACTICES

§ 16-4-401. Private stormwater management

(a) **Inspection and maintenance agreement.** Before the issuance of a grading permit for property that will have private stormwater management, the owner of the property shall execute an inspection and maintenance agreement with the County.

(b) **Scope of agreement.** The inspection and maintenance agreement shall:

(1) provide that the owner is responsible for installation of the private stormwater management;

(2) adopt by reference and incorporate the final stormwater management plan and the maintenance schedule required by § 16-4-201(c);

(3) Provide that the owner is responsible for maintaining inspection records for the stormwater management system and must supply them to the Department every three years or upon request;

(4) prohibit the owner from altering the private stormwater management without prior approval from the Department;

(5) provide for access to the private stormwater management as necessary for inspection by the County or its agents or contractors to ensure that the private stormwater management is properly still in place, properly maintained and functioning as intended;

(6) provide that if the owner of the property, after reasonable notice from the Department, fails to correct a violation, the Department may perform the necessary work to correct the violation and return the stormwater management practice to proper working condition;

(7) provide that the cost of work performed by the Department be levied and collected from the owner of the property in accordance with subsection (d); and

(8) bind subsequent owners of the property to the agreement and be recorded among the land records of the County.

(c) **Liability for cost of work performed by the Department.** The cost of work performed by the Department under the provisions of this section shall be levied and collected as provided

in § 1-9-101 of this Code.

(d) **Repairs, restoration, and maintenance by owner.** The owner of property with a private stormwater management practice, and any other person or agent in control of the property, shall maintain the private stormwater management and promptly repair and restore it so that it remains at all times in a condition that is in accordance with the Final stormwater management plan.

§ 16-4-402. Revolving fund - private stormwater management practices.

(a) **Establishment.** There is a revolving fund to support the cost of repairs or reconstruction of private stormwater management practices undertaken by the County.

(b) **Expenditures.** The Controller may allow an expenditure of up to \$100,000 for each fiscal year from the general County capital projects funds on a revolving fund basis to support the cost of repairs or reconstruction undertaken by the County.

16-4-403 Public Stormwater Management

(a) In addition to the Design Manual, all public stormwater management must comply with the DPW Manual

(b) All new public stormwater outfalls shall be Coastal Plain Outfalls as detailed in the DPW Manual unless is not possible to meet the applicable design standards contained in the DPW Manual

(c) All new roadside stormwater conveyance systems shall be Regenerative Conveyance Systems as detailed in the DPW Manual unless is not possible to meet the applicable design standards contained in the DPW Manual

TITLE 5. VIOLATIONS, ENFORCEMENT, AND PENALTIES

§ 16-5-101. Violations.

(a) **Generally.** It is a violation of this article to:

- (1) use property in violation of this article;
- (2) permit another person to use property in violation of this article;
- (3) perform work for another person in violation of this article; or
- (4) violate any notice or order issued by the Department.

(5) discharge or permit the discharge of stormwater runoff from a site to a storm drain or watercourse without first obtaining the approval of the Department

(6) spill, dump or dispose of any material or substance other than natural stormwater runoff to a stormdrain or watercourse

(7) alter the ESD Planning Techniques, treatment practices and structural stormwater measures used to satisfy the Minimum Control requirements of this Title

(8) alter the site runoff characteristics on which a prior approval was based without the prior approval of the Department

(9) occupy a building or dwelling prior to the completion of the stormwater management system to the satisfaction of the Department

(10) clear a woodland in the Critical Area unless authorized under an issued grading permit, building permit, Vegetative management Plan or Standard Grading Plan

§ 16-5-102. Enforcement.

(a) **Remedies independent.** The enforcement measures set forth in this title are independent remedies and may be utilized in any manner considered necessary by the Department.

(b) **Duty to correct after fine or imprisonment.** The imposition of a fine or imprisonment for a violation of this article does not excuse the violation, and a person convicted of a violation of this article shall correct or remedy the violation within a reasonable time.

(c) **Persons who have liability for violations.** A property owner is liable for a violation of this article that occurs at or from the owner's property, whether or not committed by the property owner.

(d) **Enforcement measures available.** For a violation of this article or any term or condition of a permit, the Department may take enforcement measures through any appropriate means, including:

(1) injunctive or any other appropriate court proceedings;

(2) the suspension or revocation of the permit, denial of Certificates of Occupancy or the denial of the issuance of additional permits until the violation is cured;

(3) the issuance of a stop-work order;

(4) the issuance of notice of a violation;

(5) the imposition of civil fines; and

(6) the pursuit of a criminal prosecution.

§ 16-5-103. Stop work order.

(a) **Grounds for issuance.** The Department may issue a stop work order if it determines that a person has violated this article or any term or condition of a permit.

(b) **Content.** A stop work order shall describe the violation and prohibit all construction onsite other than work expressly designated in the order to environmentally or materially secure the site

(c) **Notice; compliance.** The Department shall notify the permittee of a stop work order by first class mail, postage prepaid, or by an electronic or facsimile communication. The Department shall post the order at the work site and the permittee shall comply immediately.

(d) **Removal.** A stop work order may not be removed from the site by anyone other than the Department.

§ 16-5-104. Notice of violation.

(a) **Grounds for issuance.** The Department may issue a notice of violation to an owner or permittee who has violated this article or any term or condition of a permit that order the person to cure the violation within the time specified in the notice.

(b) **Content.** A notice of violation shall describe the violation and shall require the owner or permittee to cure the violation within a specified time.

(c) **Notice.** The Department shall serve a notice of violation on the owner or permittee by first class mail, postage prepaid, or by an electronic or facsimile communication.

(d) **Noncompliance; completion of work by County.** If the owner or permittee fails, neglects, or refuses to comply with a notice of violation, the Department may complete the work in a manner that the Department deems appropriate, and the owner and permittee shall compensate the Department for all costs incurred, including costs for administration, construction, consultants, equipment, inspection, notification, remediation, repair, and restoration.

§ 16-5-105. Civil fines – stormwater management.

(a) **Generally.** A violation of any provision of this article is a civil offense, punishable by a civil fine as provided by § 9-2-101 of this Code.

1. **Disturbance of more than 5,000 square feet in the critical area.** It is a Class A civil offense to perform any grading in whole or in part in the critical area if the disturbance exceeds 5,000 square feet and is performed in violation of Title 4 of this article.

2. **Disturbance of 5,000 square feet or less in the critical area.** It is a Class B civil offense to perform any grading in whole or in part in the critical area if the disturbance is 5,000 square feet or less and the grading is performed in violation of Title 4 of this article.

3. It is a Class B civil offense to violate any provision of Article 17 Title 8
4. It is a Class B civil offense to violate any provision of Title 4 of this article
5. It is a Class A civil offense to violate any provision of Title 4 of this article in the critical area
6. **Other violations.** It is a Class C civil offense to violate any other provision of this article.

§ 16-5-106. Clearing in violation of the law. A person who clears in violation of the law shall plant at a ratio of three times the area cleared. Any fee in lieu of planting shall be the one for clearing in violation of the law, as set forth in title 11, and the fee shall be paid on demand.