



Legislation Details (With Text)

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Type:	Resolution	Status:		Second Reader	
File created:	1/21/2022	In control:		City Council	
On agenda:	1/24/2022	Final action:		1/24/2022	
Title:	An Emergency Declaration Concerning Pollution Discharges - For the purpose of declaring that any amount of pollution, including but not limited to, sediment, muddy water, cloudy water, turbid water, that is discharged from a construction site is unacceptable and clearly prohibited under the Annapolis City Code and the Maryland Department of the Environment (MDE) sediment and erosion control standards and regulations; and affirming the imposition of stricter enforcement for violations of the City Code and the MDE sediment and erosion control standards and regulations.				
Sponsors:	Rob Savidge, Elly Tierney, Ross Arnett, Brooks Schandelmeier, Karma O'Neill, Rhonda Pindell Charles				
Indexes:					
Code sections:					
Attachments:	1. R-7-22 First Reader, 2. R-7-22 Staff Report, 3. R-7-22 Fiscal Impact Note, 4. R-7-22 Amendment 1 - Savidge WITHDRAWN, 5. R-7-22 Amendment 2 - Tierney, 6. R-7-22 Amendment 3 - Buckley, 7. R-7-22 Amendments 4-6 - Savidge, 8. R-7-22 Amendments 7-10 - Finlayson, 9. R-7-22 Amendments 11-12 - Savidge, 10. R-7-22 Amendments 13-14 - Savidge, 11. R-7-22 SIGNED				

Date	Ver.	Action By	Action	Result
7/14/2022	1	Environmental Matters Committee		
2/14/2022	1	City Council	adopt on second reader	Pass
2/14/2022	1	City Council	presented	
2/14/2022	1	City Council	amended	Pass
2/14/2022	1	City Council	amended	Pass
2/14/2022	1	City Council	amended	Pass
2/14/2022	1	City Council	amended	Pass
2/14/2022	1	City Council	amended	Pass
2/14/2022	1	City Council	amended	Fail
2/14/2022	1	City Council	amended	Pass
2/14/2022	1	City Council	amended	Pass
2/14/2022	1	City Council	amended	Pass
2/14/2022	1	City Council	amended	Pass
2/14/2022	1	City Council	adopt as amended	Pass
1/24/2022	1	City Council	adopt on first reader	Pass
1/24/2022	1	City Council	rules suspended	Fail
1/24/2022	1	City Council	Continue	Pass

An Emergency Declaration Concerning Pollution Discharges - For the purpose of declaring that any amount of pollution, including but not limited to, sediment, muddy water, cloudy water, turbid water, that is discharged

from a construction site is unacceptable and clearly prohibited under the Annapolis City Code and the Maryland Department of the Environment (MDE) sediment and erosion control standards and regulations; and affirming the imposition of stricter enforcement for violations of the City Code and the MDE sediment and erosion control standards and regulations.

CITY COUNCIL OF THE
City of Annapolis

Resolution 7-22

Introduced by: Alderman Savidge

**Co-sponsored by: Alderwoman Tierney, Alderman Arnett,
Alderman Schandelmeier, Alderwoman O'Neill, Alderwoman Pindell Charles**

A RESOLUTION concerning

An Emergency Declaration Concerning Pollution Discharges

FOR the purpose of declaring that any amount of pollution, including but not limited to, sediment, muddy water, cloudy water, turbid water, that is discharged from a construction site is unacceptable and clearly prohibited under the Annapolis City Code and the Maryland Department of the Environment (MDE) sediment and erosion control standards and regulations; and affirming the imposition of stricter enforcement for violations of the City Code and the MDE sediment and erosion control standards and regulations.

WHEREAS, The State of Maryland and the City of Annapolis regulate sediment because it is a pollutant that carries nutrients, which causes dead zones in waterways, kills aquatic vegetation, stresses wildlife and oysters, and negatively warms up waterways; and

WHEREAS, Quiet Waters Park is a prized public park that is enjoyed by the Annapolis Community and, therefore, must be protected from pollution by application of the City Code, Chapter 17.08, the main purpose of which is to prevent pollution of City waterways; and

WHEREAS, City Code Sections 17.08.010 and 17.08.180 manifestly state that “any [sediment] pollutant

entering our waterways is a violation of this Chapter”; and

WHEREAS, On or about December 13, 2020, a discharge of sediment pollution left the Parkside Preserve development site in Annapolis, which was caused by Reliable Contracting Company, Inc.’s failure to adhere to City Code standards; and

WHEREAS, On or about July 15, 2021, a second preventable discharge of sediment pollution entered into non-tidal wetlands near Quiet Waters Park, which was caused by Reliable Contracting Company, Inc.’s failure to adhere to City Code standards at the Parkside Preserve development site; and

WHEREAS, On or about September 26, 2021, a third preventable discharge of sediment pollution entered into an ephemeral stream leading into Quiet Waters Park, that was again caused by Reliable Contracting Company, Inc.’s failure to adhere to City Code standards at the Parkside Preserve development site; and

WHEREAS, In its October 7, 2021 report, the MDE confirmed that there were numerous violations and unauthorized discharges of sediment pollution at that site; and

WHEREAS, On January 17, 2022, a fourth preventable discharge of sediment pollution entered into an ephemeral stream that drained into the forest at Quiet Waters Park, which was again caused by Reliable Contracting Company, Inc.’s failure to adhere to City Code standards at the Parkside Preserve development site; and

WHEREAS, To date, there have been more than thirty inspections conducted at the Parkside Preserve development site where the City has found that the site was not in full compliance with sediment control standards; and

WHEREAS, The repeat aforementioned violations of the City Code, which have cumulatively caused severe damage to the fragile ecosystem, have been well-documented by Public Works inspectors, the Arundel Rivers Federation, and a multitude of City and County residents; and

WHEREAS, there have been recent and repeated discharges of pollution into Quiet Waters Park that could have been minimized or prevented through strict adherence to our Code and standards; and

WHEREAS, certain contractors have repeatedly violated our sediment control and pollution prevention Code provisions and standards, which conduct demonstrates a need for increased enforcement to deter such violations; and

WHEREAS, the enforcement agency has at times provided a contractor 5 days or more to resolve violations, while the City Code requires daily compliance; and

WHEREAS, because of recent violations of sediment control and pollution prevention Code provisions, it is clear that the City's enforcement agency needs to increase its facilitation of compliance, pro-activeness, and attentiveness by contractor's on development sites to prevent further violations; and,

WHEREAS, stop work orders were not issued by the enforcement agency for repeat violations and failures to adhere to the City's compliance orders and corrective notices; and

WHEREAS, City Code Chapter 17.08 allows the City to issue fines and stop work orders at "any step in the enforcement process [and] at any time, depending on the severity of the violation" and Section 17.08.120 specifically allows the Director of Public Works to "suspend or revoke" any permits for "any violation of this chapter or rules and regulations"; and

WHEREAS, Reliable Contracting Company, Inc., on multiple occasions, has not adhered to City traffic control safety standards, paving standards, noise requirements, dust control standards, and working hours limitations, which violations have also been documented by many City residents, especially by those residing in Ward 7 who have been the most impacted; and

WHEREAS, Since 2016 through the end of 2019 the Department of Public Works, the City's pollution violation enforcement agency, has issued ONE stop work order per year, which is in stark contrast to that agency's enforcement protocol during 2012 and 2013 when it issued 24 and 18 stop work orders respectively.

NOW, THEREFORE,

BE IT RESOLVED BY THE ANNAPOLIS CITY COUNCIL that the following enforcement standards shall be strictly adhered to:

1. A stop work order shall immediately be issued on any project that has an off-site discharge of pollution where the site was not 100% in compliance with the standards in Chapter 17.08 or the MDE sediment and erosion control standards and regulations. A Stop Work Order shall be issued to any project that has an off-site illicit discharge caused by contractor negligence.
2. A stop work order shall immediately be issued if any orders given by the City inspectors are not adhered to, or if a deadline for compliance is not met by the contractor, no matter the severity of the correction.

A Stop Work Order shall be issued if the contractor makes no effort to remediate the conditions identified in the Field Correction Order within the timeframe given.

3. Stop work orders are an effective enforcement tool that shall be issued for Code violations to establish a clear message that pollution prevention work must be a priority for any contractor.
4. If an inspection finds a site to be out of compliance with any of the provisions in Chapter 17.08 or MDE Standards, it is then considered to be a failed inspection.
5. Depending on the severity of the violation, multiple and daily fines shall be issued for any off-site discharges of pollution or failure to keep a site in compliance with the sediment control standards in Title 17 and the MDE sediment and erosion control standards and regulations.
6. Photographs and videos submitted by the general public shall be accepted by the City and used to assist in enforcement activities, even in instances where an Inspector did not observe the violation when it occurred.
7. City departments shall implement enforcement actions against Code violations despite the risk of being challenged in court, because City Code Section 17.08.010 provides that the Code “shall be construed liberally to accomplish [pollution prevention] purposes”.
8. Pursuant to City Code Sections 1.08.22.E, 17.08.260.A, and 17.08.260.E.2, when violations or deficiencies are observed at a site, a field correction notice shall be issued detailing the required corrective action(s). This shall include providing the “ways and means” of correcting those deficiencies or violations if needed to achieve rapid compliance or avoid pollution. If field correction notices are issued, corrective actions shall be discussed with the enforcement agency to determine the effectiveness of the corrective actions.
9. Field correction notices should require corrections within 24 hours. If a longer period is needed for corrections, this must be reviewed and approved by the Director and posted on eTrakit. Field correction notices shall require corrections within at least 24 hours. If a longer period of time is needed for corrections, this must be reviewed and approved by the Director and posted at a location accessible to the general public.
10. If three or more instances of off-site pollution occur, where such discharges were compounded by negligence on the part of a contractor at a site that was not in 100% compliance with State and City Code requirements, involving a contractor that has continually failed to meet the standards after being issued field correction notices, and thus is a threat to public safety and the environment, then the grading permit shall be immediately suspended or revoked pursuant to City Code Section 17.08.120 and a complete review by the Department shall be conducted, as is currently required by the City Code, during which time the general public will be allowed to provide comments on any such suspension or revocation prior to the reinstatement of any permits or authorization to resume work at the site.
11. If a permit is suspended or revoked, an agreement shall be drafted with the existing or replacement contractor to ensure that all applicable standards and regulations are met, and that a third-party inspector conducts inspections of the site on a daily basis.

AND BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY COUNCIL that a copy of this resolution shall be sent to the MDE.

AND BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY COUNCIL that the City will work with the MDE toward increasing the fine amounts that the City may impose for violations of stormwater pollution regulations.

EXPLANATION

Underlining indicates matter added.

~~[Strikethrough]~~ indicates matter stricken